

A91415

18R-269

Introduce: 12-03-18

RESOLUTION NO. A- 91415

BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the Conditional Annexation and Zoning Agreement which is attached hereto, marked as Attachment "A" and made a part hereof by reference, between the City of Lincoln, and Patrick McFarland and Sarah Hunt McFarland, relating to the construction of a residential development and various public improvements necessitated by the annexation of approximately 9.97 acres on property generally located at South 91<sup>st</sup> Street and Van Dorn Street and legally described as Lot 49 Irregular Tract located in the Southwest Quarter of Section 35, Township 10 North, Range 7 East of the 6<sup>th</sup> P.M., Lincoln, Lancaster County, Nebraska and re-zoning the property from AG Agricultural District to R-3 Residential District, as set out in the Agreement is hereby approved and the Mayor is authorized to execute the Conditional Annexation and Zoning Agreement on behalf of the City.

BE IT FURTHER RESOLVED that the City Clerk is directed to file the Conditional Annexation and Zoning Agreement with the Lancaster County Register of Deeds with the recording fees to be paid in advance by the owners.

Introduced by:

AYES: Christensen, Eskridge, Gaylor Baird, Lamm, Raybould, Shobe; NAYS: None; ABSENT: Camp

Approved as to Form & Legality:

Jeffery R. ...  
City Attorney

Approved this 30<sup>th</sup> day of Dec., 2018:  
...  
Mayor

**ADOPTED**  
**DEC 17 2018**  
**BY CITY COUNCIL**

**CONDITIONAL ANNEXATION AND ZONING AGREEMENT  
(91<sup>st</sup> and Van Dorn)**

This Conditional Annexation and Zoning Agreement is made and entered into this 20<sup>th</sup> day of Dec., 2018, by and among Patrick and Sarah McFarland ("McFarlands"), and the City of Lincoln, Nebraska, a municipal corporation ("City").

**RECITALS**

**I.**

McFarlands are the owners of Lot 49 Irregular Tract located in the Southwest Quarter of Section 35, Township 10, Range 7 East of the 6<sup>th</sup> P.M., Lancaster County, Nebraska (collectively "Property"). The Property is generally located at South 91<sup>st</sup> Street and Van Dorn Street.

**II.**

McFarlands have requested the City to (a) annex the Property (Annexation 18005) known as the "Governmental Action".

**III.**

The City as a condition of approving the Governmental Action desires an agreement with McFarlands to be assured that McFarlands will dedicate the necessary right of way to facilitate public infrastructure, including but not limited to sanitary sewer, public roads, and bicycle/pedestrian trails over and across the Property.

**IV.**

McFarlands have represented to the City that, in consideration of the City approving the Governmental Action, they would enter into an agreement with the City to develop the Property subject to the terms and conditions listed below.

NOW, THEREFORE, in consideration of the above recitals and the following terms and conditions, the parties agree as follows:

1. City agrees to approve the Governmental Action and to rezone the property to R-3 Residential in the future for development.

2. McFarlands agree:

- a. To dedicate, at no cost to the City, additional right of way for Van Dorn Street to the extent necessary for the City to possess sixty (60) feet of right of way along the north side of Van Dorn Street as measured from the centerline of Van Dorn Street.
- b. To dedicate a 20 feet wide trail easement in addition to temporary construction easements to the City, at no cost, for the benefit of the public in order to allow construction, maintenance, and use of a bicycle/pedestrian trail over and across the Property at the location shown and described on Exhibit A.
- c. To dedicate to the City, at no cost, temporary and permanent easements as necessary for the City, or someone acting on the City's behalf, to construct a sanitary sewer main across the Property at the location shown and described on Exhibit A.
- d. To dedicate to the City, at no cost, additional right of way for a roundabout to be constructed in South 91<sup>st</sup> Street, Big Timber Creek Road, and Milrose Branch Road right of ways\_ for the benefit of the public in order to allow construction, maintenance, and use of the public street to be constructed at the location shown and described on Exhibit B. In addition, Owner shall

grant the City a temporary easement to allow construction of the roundabout improvements at said location. The temporary easement area is shown and legally described on Exhibit B.

3. **Contribution for Rural Fire District.** McFarlands understand and acknowledge that the City's annexation of the Property lying within the boundaries of the Southeast Rural Fire District shall not be complete except upon the City assuming and paying that portion of all outstanding obligations of the District which would otherwise constitute an obligation of Lot 49 I.T. being annexed. The parties anticipate that the amount will be \$0. However, in the event said amount is in excess of \$0 McFarlands agree to pay the City whatever amount which must be paid by the City to Southeast Rural Fire District in order for the annexation to be complete.

4. **Binding Effect.** This Agreement shall run with the land and be binding upon and inure to the benefit and burden of successors and assigns of the respective parties.

5. **Amendments.** This Agreement may only be amended or modified in writing signed by the parties hereto.

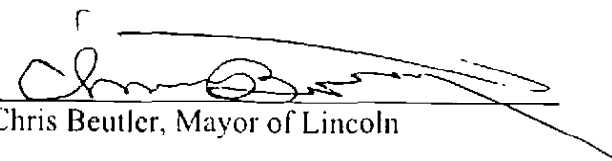
6. **Governing Law.** All aspects of this Agreement shall be governed by the laws of the State of Nebraska.

7. **Authority.** This Agreement has been duly executed and delivered by the parties and constitutes a legal, valid and binding obligation of each party, enforceable against the same in accordance with its terms.

8. **Recording.** This Agreement shall be recorded by the City with the Register of Deeds of Lancaster County, filing fees therefor to be paid in advance by the Developers.

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

**CITY OF LINCOLN, NEBRASKA,**  
a municipal corporation

By:   
Chris Beutler, Mayor of Lincoln

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF LANCASTER    )

The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of Dec., 2018, by Chris Beutler, Mayor of the City of Lincoln, Nebraska, a municipal corporation.



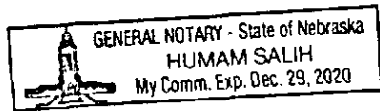
  
Notary Public

"McFarlands"

By: *Sarah McFarland*  
Sarah McFarland

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF LANCASTER        )

The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of September 2018, by Sarah McFarland.

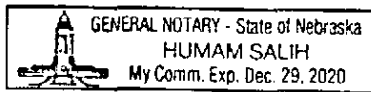


*Humam Salih*  
Notary Public

By: *Patrick McFarland*  
Patrick McFarland

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF LANCASTER        )

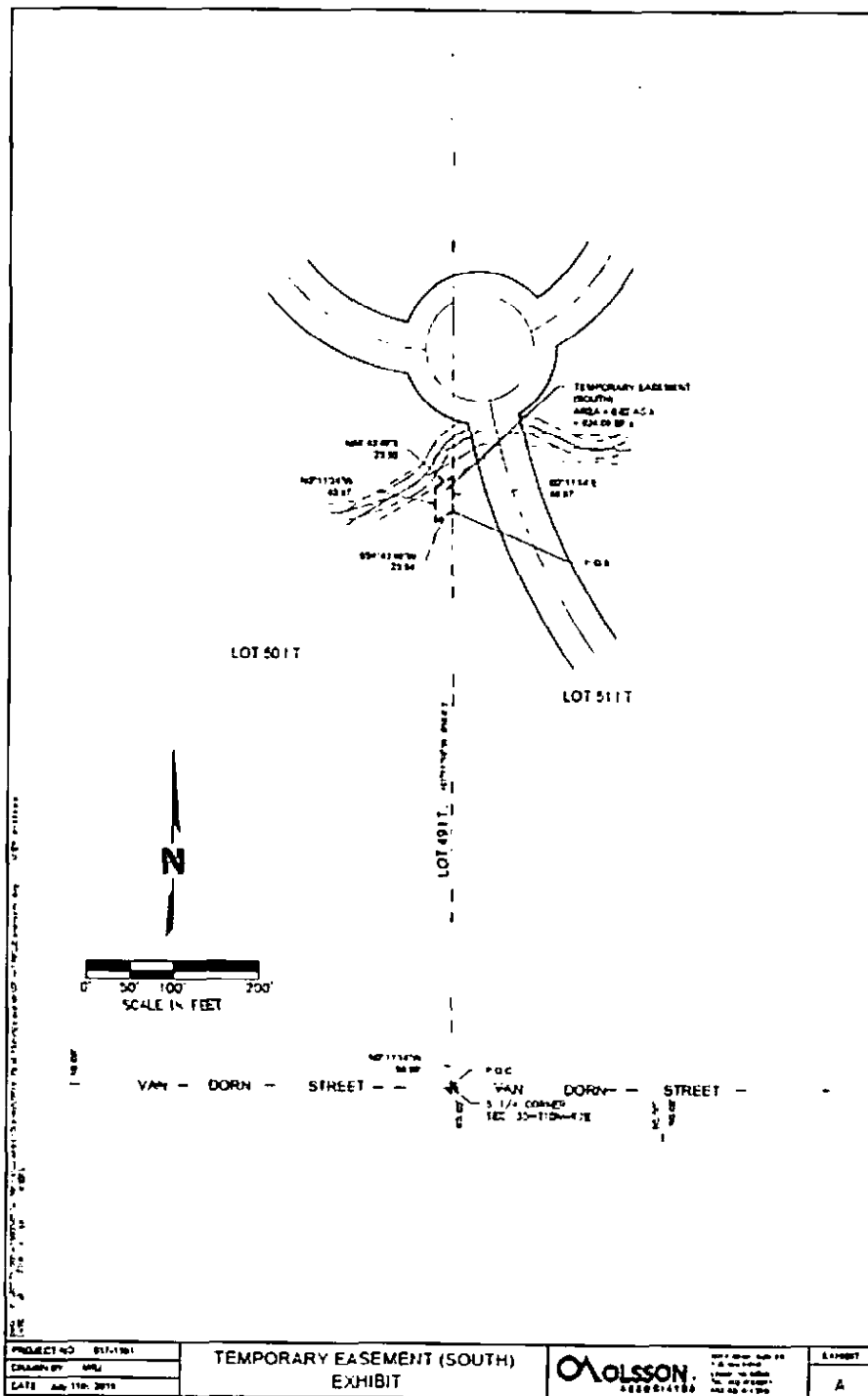
The foregoing instrument was acknowledged before me this 24<sup>th</sup> day of September, 2018, by Patrick McFarland.



*Humam Salih*  
Notary Public

**EXHIBIT A  
TRAIL AND SANITARY SEWER EASEMENTS**

**Temporary Easement South (Drawing)**





**LEGAL DESCRIPTION  
TEMPORARY EASEMENT (SOUTH)**

A TRACT OF LAND COMPOSED OF A PORTION OF LOT 49 I.T., LOCATED IN THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 10 NORTH, RANGE 7 EAST OF THE 6TH P.M., LANCASTER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 10 NORTH, RANGE 7 EAST OF THE 6TH P.M.; THENCE NORTHERLY ON THE EAST LINE OF SAID SOUTHWEST QUARTER ON AN ASSUMED BEARING OF  $N00^{\circ}11'14''W$ , A DISTANCE OF 50.00' TO THE SOUTHEAST CORNER OF LOT 49 I.T., SAID POINT BEING ON THE NORTH RIGHT-OF-WAY LINE OF VAN-DORN-STREET; THENCE CONTINUING  $N00^{\circ}11'14''W$  ON SAID LINE, SAID LINE BEING THE EAST LINE OF SAID LOT 49 I.T., A DISTANCE OF 614.63' TO THE **TRUE POINT OF BEGINNING**; THENCE  $S58^{\circ}43'46''W$ , A DISTANCE OF 23.54' TO A POINT OF INTERSECTION WITH A WEST LINE OF SAID LOT 49 I.T.; THENCE  $N00^{\circ}11'24''W$ , A DISTANCE OF 40.87' TO A POINT; THENCE  $N58^{\circ}43'46''E$ , A DISTANCE OF 23.55' TO A POINT OF INTERSECTION WITH THE EAST LINE OF SAID LOT 49 I.T., SAID POINT ALSO BEING ON THE EAST LINE OF SAID SOUTHWEST QUARTER; THENCE  $S00^{\circ}11'14''E$ , ON THE EAST LINE OF SAID LOT 49 I.T., SAID LINE ALSO BEING THE EAST LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 40.87' TO THE POINT OF BEGINNING, SAID TRACT CONTAINS A CALCULATED AREA OF 824.08 SQUARE FEET OR 0.02 ACRES, MORE OR LESS.

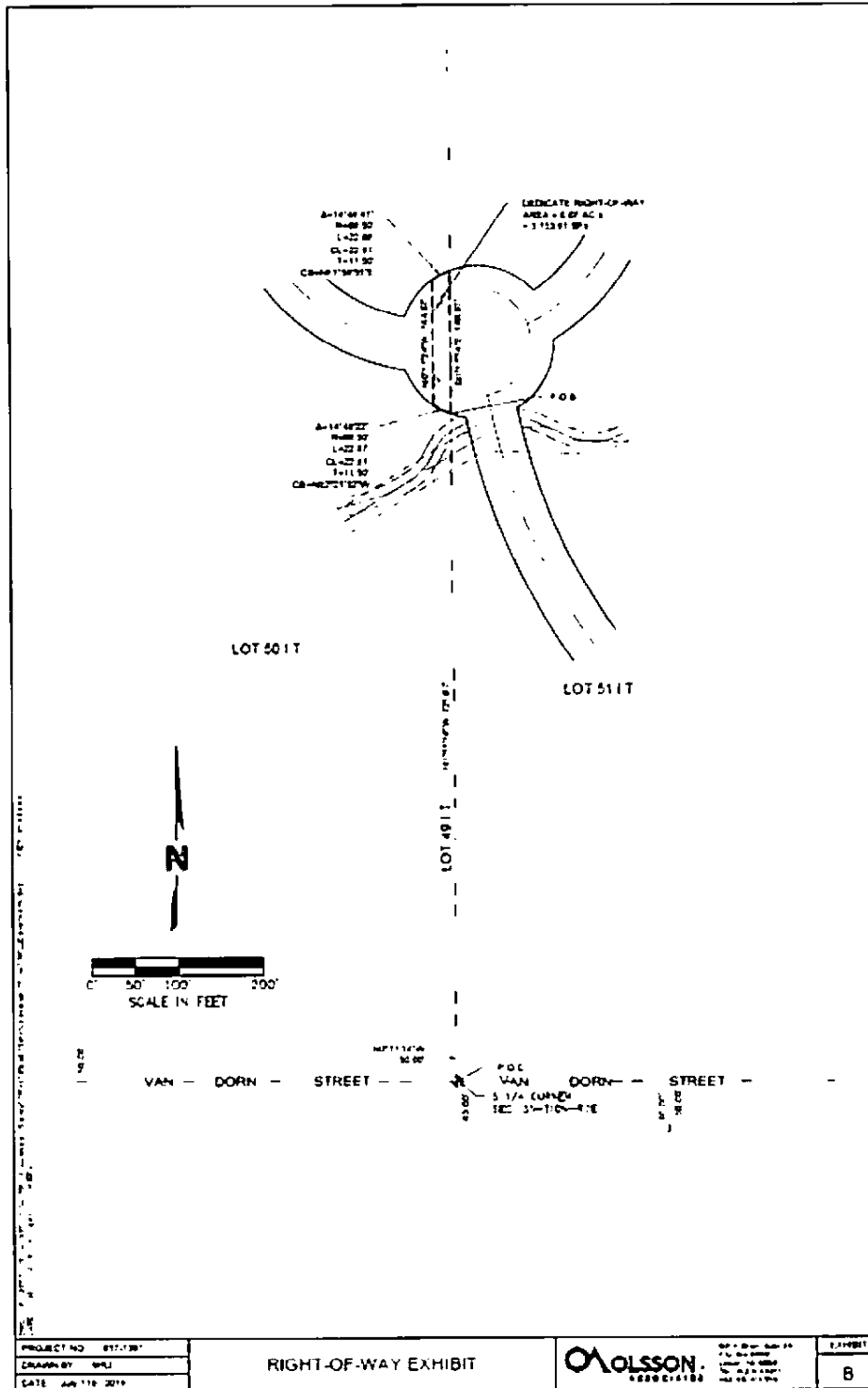


**LEGAL DESCRIPTION**  
**Permanent Easement for Sanitary Sewer and Trail**

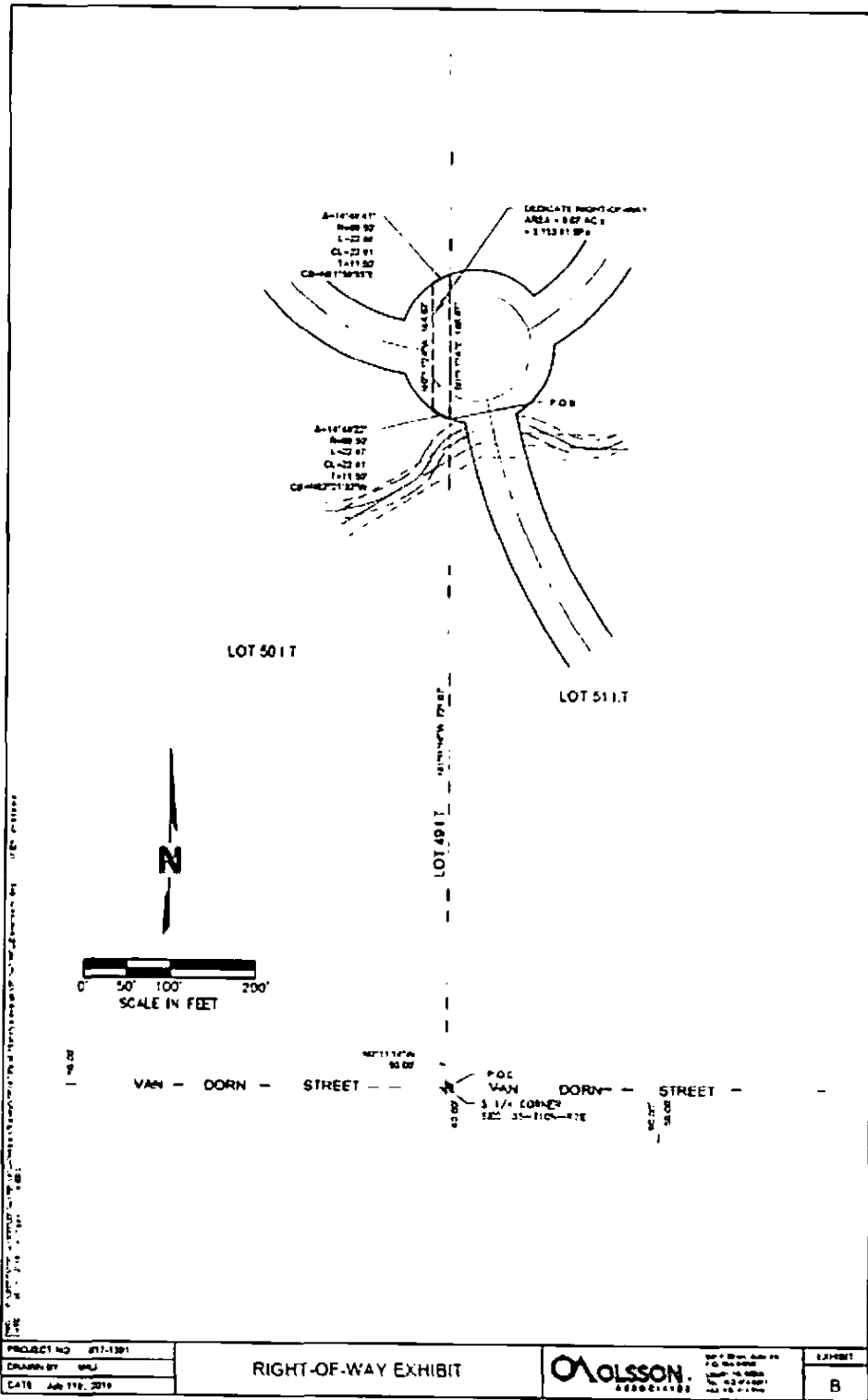
A TRACT OF LAND COMPOSED OF A PORTION OF LOT 49 I.T., LOCATED IN THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 10 NORTH, RANGE 7 EAST OF THE 6TH P.M., LANCASTER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 10 NORTH, RANGE 7 EAST OF THE 6TH P.M.; THENCE NORTHERLY ON THE EAST LINE OF SAID SOUTHWEST QUARTER ON AN ASSUMED BEARING OF  $N00^{\circ}11'14''W$ , A DISTANCE OF 50.00' TO THE SOUTHEAST CORNER OF LOT 49 I.T., SAID POINT BEING ON THE NORTH RIGHT-OF-WAY LINE OF VAN-DORN-STREET; THENCE CONTINUING  $N00^{\circ}11'14''W$  ON SAID LINE, SAID LINE BEING THE EAST LINE OF SAID LOT 49 I.T., A DISTANCE OF 655.50' TO **THE TRUE POINT OF BEGINNING**; THENCE  $S58^{\circ}43'46''W$ , A DISTANCE OF 23.55' TO A POINT OF INTERSECTION WITH A WEST LINE OF SAID LOT 49 I.T.; THENCE  $N00^{\circ}11'24''W$ , ON A WEST LINE OF SAID LOT 49 I.T., A DISTANCE OF 88.37' TO A POINT OF CURVATURE FOR A NON-TANGENT CURVE IN A COUNTER CLOCKWISE DIRECTION HAVING A CENTRAL ANGLE OF  $14^{\circ}48'22''$ , A RADIUS OF 88.50', AN ARC LENGTH OF 22.87', A CHORD LENGTH OF 22.81', A TANGENT LENGTH OF 11.50', AND A CHORD BEARING OF  $S62^{\circ}21'32''E$  TO A POINT OF INTERSECTION WITH THE EAST LINE OF SAID LOT 49 I.T., SAID POINT ALSO BEING ON THE EAST LINE OF SAID SOUTHWEST QUARTER; THENCE  $S00^{\circ}11'14''E$ , ON THE EAST LINE OF SAID LOT 49 I.T., SAID LINE BEING THE EAST LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 65.57' TO THE POINT OF BEGINNING, SAID TRACT CONTAINS A CALCULATED AREA OF 1,541.00 SQUARE FEET OR 0.04 ACRES, MORE OR LESS.

## Exhibit B Traffic Circle Right of Way



# Exhibit B Traffic Circle Right of Way



**LEGAL DESCRIPTION  
RIGHT-OF-WAY**

A TRACT OF LAND COMPOSED OF A PORTION OF LOT 49 I.T., LOCATED IN THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 10 NORTH, RANGE 7 EAST OF THE 6TH P.M., LANCASTER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 10 NORTH, RANGE 7 EAST OF THE 6TH P.M.; THENCE NORTHERLY ON THE EAST LINE OF SAID SOUTHWEST QUARTER ON AN ASSUMED BEARING OF  $N00^{\circ}11'14''W$ , A DISTANCE OF 50.00' TO THE SOUTHEAST CORNER OF LOT 49 I.T., SAID POINT BEING ON THE NORTH RIGHT-OF-WAY LINE OF VAN-DORN-STREET; THENCE CONTINUING  $N00^{\circ}11'14''W$  ON SAID LINE, SAID LINE BEING THE EAST LINE OF SAID LOT 49 I.T., A DISTANCE OF 721.07' TO **THE TRUE POINT OF BEGINNING**; SAID POINT ALSO BEING A POINT OF CURVATURE FOR A NON-TANGENT CURVE IN A CLOCKWISE DIRECTION, HAVING A CENTRAL ANGLE OF  $14^{\circ}48'22''$ , A RADIUS OF 88.50', AN ARC LENGTH OF 22.87', A CHORD LENGTH OF 22.81', A TANGENT LENGTH OF 11.50', AND A CHORD BEARING OF  $N62^{\circ}21'32''W$  TO A POINT OF INTERSECTION WITH A WEST LINE OF SAID LOT 49 I.T.; THENCE  $N00^{\circ}11'24''W$ , ON A WEST LINE OF SAID LOT 49 I.T., A DISTANCE OF 144.57' TO A POINT OF CURVATURE FOR A NON-TANGENT CURVE IN A CLOCKWISE DIRECTION HAVING A CENTRAL ANGLE OF  $14^{\circ}48'41''$ , A RADIUS OF 88.50', AN ARC LENGTH OF 22.88', A CHORD LENGTH OF 22.81', A TANGENT LENGTH OF 11.50', AND A CHORD BEARING OF  $N61^{\circ}58'55''E$  TO A POINT OF INTERSECTION WITH THE EAST LINE OF SAID LOT 49 I.T., SAID POINT ALSO BEING ON THE EAST LINE OF SAID SOUTHWEST QUARTER; THENCE  $S00^{\circ}11'14''E$ , ON THE EAST LINE OF SAID LOT 49 I.T., SAID LINE BEING THE EAST LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 165.87' TO THE POINT OF BEGINNING, SAID TRACT CONTAINS A CALCULATED AREA 3,153.61 SQUARE FEET OR 0.07 ACRES, MORE OR LESS.



**LEGAL DESCRIPTION**  
**Temporary Easement North**

A TRACT OF LAND COMPOSED OF A PORTION OF LOT 49 I.T., LOCATED IN THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 10 NORTH, RANGE 7 EAST OF THE 6TH P.M., LANCASTER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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