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**DECLARATION OF
EASEMENTS, COVENANTS, CONDITIONS, AND RESTRICTIONS
FOR
SEVENTY TWO PLACE**

THIS DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS, AND RESTRICTIONS FOR SEVENTY TWO PLACE (this "Declaration"), is made and entered into as of January 19, 2022 (the "Effective Date"), by Papillion Schram Road Partners, LLC, a Nebraska limited liability company, and its successors and assigns ("Declarant").

WITNESSETH:

WHEREAS, Declarant is the owner of certain real property located in the City of Papillion, Sarpy County, Nebraska, which is legally described on Exhibit A attached hereto (the "Property") and is generally depicted on the Site Plan attached hereto as Exhibit B; and

WHEREAS, Declarant intends that the Property be developed as a unified commercial development to be known as Seventy Two Place (the "Development").

NOW, THEREFORE, Declarant hereby declares that the Property shall be held, sold, leased, and conveyed subject to the following easements, covenants, conditions, and restrictions which are for the purpose of protecting the value and desirability thereof and which shall run with the Property and be binding on all parties having any right, title, or interest in such Property, or any part thereof, their heirs, successors, and assigns and shall inure to the benefit of each owner or occupant thereof.

**ARTICLE I
DEFINITIONS**

Section 1.1 "Association" shall mean Seventy Two Place Owner's Association, Inc., a Nebraska non-profit corporation, its successors and assigns, and unless the context otherwise requires, shall mean and include its Board of Directors, officers, and other authorized agents.

Section 1.2 "Board" shall mean the Board of Directors of the Association, as contemplated in the Bylaws of the Association.

Section 1.3 "Building" or "Buildings" shall mean the building or buildings which have been, will be, or may be constructed on the Lots.

Section 1.4 "Common Areas" shall mean the real property depicted and identified on Exhibit C and, upon the written approval of all Lot Owners, any other portion of the Development intended for the non-exclusive use by the Owners and their Permittees in common with other users and owned by the Association or for which the Association has assumed in writing, at its election, administrative or maintenance responsibilities.

Section 1.5 "Declarant" shall mean Papillion Schram Road Partners, LLC, a Nebraska limited liability company, and its successors and assigns, as set forth in the introductory clause of this Declaration, until such time as Declarant, or its successors or assigns, is no longer the record owner of any Lot in the Development.

Section 1.6 "Declarant Control Period" shall mean the time period commencing with the recording of this Declaration and continuing until the earlier of (a) the date Declarant, or its successors or assigns, no longer owns any Lot in the Development, (b) the date Declarant elects, in its discretion, in an instrument recorded against the Property, to transfer, relinquish, and/or surrender all of its rights and obligations in this Declaration, (c) the Annexation Date, as set forth in Section 4.3(a), or (d) ten (10) years after the Effective Date. Declarant shall be deemed to own any Lot in which Declarant directly owns an interest in such Lot. All rights and obligations of Declarant shall automatically become the rights and obligations of the Board upon expiration of the Declarant Control Period.

Section 1.7 "Development" shall mean the Seventy Two Place development, as described in the recitals hereof.

Section 1.8 "Improvements" shall mean all land preparation and excavation, Buildings, outbuildings, structures, underground installations, slope and grade alterations, lighting, roads, walkways, curbs, gutters, storm drains, drainage ways, utilities, driveways, parking areas and structures, fences, screening walls and barriers, retaining walls, stairs, decks, patio areas, windbreaks, plantings, planted trees and shrubs, sidewalks, bicycle racks, planters, poles, flags, signs, storage or display areas, loading areas, docks, water retention areas, fountains, water features, ponds, recreational facilities, and all other structures, land development, or landscaping improvements of every type and kind.

Section 1.9 "Lot" or "Lots" shall mean and refer to the Property and any lot(s) into which the Property may be subdivided or platted. The current Lots are reflected on the Site Plan attached hereto as Exhibit B.

Section 1.10 "Owner" shall mean and refer to the record owner of fee simple title to any Lot, excluding, however, those parties having such interest merely as security for the performance of any obligation (such as a contract seller, the trustee or beneficiary of a deed of trust, or a mortgagee).

Section 1.11 "Permittee" shall mean all Owners, their Tenants or licensees of the Lots, and each of their respective officers, directors, employees, agents, contractors, customers, vendors, suppliers, visitors, and invitees.

Section 1.12 "Tenant" shall mean and refer to the designated tenant or lessee under a lease agreement for all or portion of a Lot or Improvement constructed thereon, and including any sublessees or subtenants of such a tenant.

Section 1.13 In addition to the definitions set forth above, there are other defined terms set forth elsewhere in this Declaration. All of the preamble clauses to this Declaration are incorporated into this Declaration as though fully rewritten here at length.

ARTICLE II ASSOCIATION

Section 2.1 Formation of Association. The Association shall be a non-profit corporation formed under the laws of the State of Nebraska, charged with the duties and empowered with the rights prescribed by law and set forth herein and in the Articles of Incorporation of the Association as filed with the Nebraska Secretary of State (the "**Articles**") and the Bylaws of the Association (the "**Bylaws**"). Upon incorporation of the Association by Declarant, the Association shall be charged with the duties and vested with the powers set forth in the Articles, the Bylaws, and this Declaration.

Section 2.2 Powers and Responsibilities. The Association shall have the powers conferred upon non-profit corporations organized under the laws of the State of Nebraska and all powers and duties necessary and appropriate to accomplish the purposes and administer the affairs of the Association as provided in this Declaration, the Articles, and the Bylaws. The business and affairs of the Association shall be managed by its Board, such Directors of whom shall have all of the powers set forth in the Bylaws and all other powers now or hereafter conferred by law.

Section 2.3 Membership. Each Owner, including Declarant, shall be a member of the Association (a "**Member**") and, by its purchase or acquisition and ownership of a Lot, shall be deemed to have agreed to be bound by all provisions of this Declaration, the Bylaws, and all amendments thereto, as well as all other Association documents, including, but not limited to, any rules and regulations promulgated by the Association or the Board. Membership shall be appurtenant to ownership of any Lot, and may not be separated from ownership of each Lot. Membership shall not be transferred, pledged, or alienated in any way, except as appurtenant to the transfer of ownership of a Lot. Any attempt to transfer a membership except as appurtenant to the transfer of ownership of a Lot shall be void and shall not be reflected upon the Association's books and records.

Section 2.4 Voting. Each Member shall be entitled to vote on each matter properly coming before the Members as determined by the Bylaws. Votes shall be allocated to each Lot pro rata based on the square footage of each Lot as compared to the square footage of all Lots. The total number of votes for all Lots in the Development shall be one hundred (100).

Section 2.5 Board of Directors.

(a) The affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint in accordance with the Articles and the Bylaws. Except as otherwise provided herein or in the Articles or the Bylaws, all acts of the Association shall be made by a majority of the Directors on the Board. The Board may also appoint various committees at its discretion and may contract with a person or entity to serve as a manager who shall, subject to the direction of the Board, be responsible for the day-to-day operation of the Association. The Board shall determine the compensation to be paid to the manager and any employees of the Association; provided such compensation shall be consistent with similarly situated developments in Sarpy County, Nebraska.

(b) The number of Directors on the Board shall not be less than three (3) nor more than seven (7). The initial Board of the Association shall consist of three (3) Directors, which shall be appointed by Declarant. Upon expiration of the Declarant Control Period or the earlier relinquishment by Declarant of its appointment rights, the Directors on the Board shall be elected annually by majority vote of the Members of the Association at its annual meeting.

(c) No member of the Board or of any committee of the Association or employee or manager of the Association, or Declarant, or any agent employee, or officer of Declarant, shall be personally liable to any Owner, or to any Tenant or other party, including the Association, for any damage, loss, or prejudice suffered or claimed on account of any act, omission, error, or negligence of any such person or entity, if such person or entity has, on the basis of such information as may be possessed by such person or entity, acted in good faith without willful or intentional misconduct.

Section 2.6 Rules and Regulations. The Board shall have the right to promulgate such rules and regulations as it deems necessary, and each Member shall be bound by such rules and regulations; provided, however, that without its written consent, no Member shall be bound by (a) any rule or regulation imposing any fees or costs on such Member that are not specified in this Declaration as of the date hereof, or (b) any rule or regulation that would impose restrictions on the use of a Lot owned by such Member, other than those restrictions specified in this Declaration as of the date hereof. Subject to the foregoing, the rules and regulations may govern and restrict the use of any portion of the Property. Upon adoption and written consent of the Members if required under this paragraph, the rules and regulations shall have the same force and effect as if set forth herein.

Section 2.7 Administration and Compliance. If the Articles or the Bylaws are in any way inconsistent with this Declaration, then this Declaration shall prevail and control. Each Owner and Tenant of a Lot shall comply with, and shall cause their respective Permittees to comply with, the provisions of this Declaration, the Bylaws, and, subject to Section 2.6, such rules and regulations as the Association may implement, as each may be amended from time to time. Failure to so comply shall be grounds for (a) action for damages and/or injunctive relief, and (b) such remedies, by legal proceedings or otherwise, as are available by reason of this Declaration or by law, each of which remedies shall be cumulative and in addition to any other available remedy.

ARTICLE III

GRANT OF EASEMENTS

Section 3.1 Easements. Subject to the terms of this Declaration, Declarant hereby grants and conveys the following non-exclusive easements appurtenant, in, to, on, over, through, upon, across, and under (hereinafter, the word "in" with respect to an easement granted "in" a particular Lot means, as the context may require, "in," "to," "on," "over," "through," "upon," "across," and "under," or any one or more of the foregoing), the Common Areas for the benefit and use of the Owners and their Permittees:

(a) **Construction of the Development.** A non-exclusive easement and right of access, ingress, and egress appurtenant to the Development, to permit each Owner to construct, maintain, repair and renovate its respective Lot; provided, however, that as to any construction work affecting or involving the use of another Owner's Lot (the "Other

Area"), such construction work will only result in incidental, temporary encroachment that may occur as a result of the use of construction equipment, ladders, overhead cranes, scaffolding, barricades, and similar facilities, resulting in temporary obstruction of portions of the Other Areas, all of which are permitted hereunder so as such work is kept within reasonable requirements of construction work expeditiously pursued. Notwithstanding the foregoing, or anything else herein to the contrary, no such construction work shall materially interfere with the use or access of the burdened Owner's Lot. If an Owner, in the course of constructing, maintaining, repairing and/or renovating its respective Lot causes any damage or loss to any other Owner or their agent or invitees or Tenant or their agents or invitees, such Owner causing such construction to be performed shall defend, indemnify and hold harmless all other Owners or Tenants against all loss, liability, and costs (including reasonable attorneys' fees), which may result from the negligent act or omission of such Owner, its agents, employees or contractors.

(b) Utility Easement. A non-exclusive easement in the Common Areas for utility lines, which easement shall include the right to install, use, test, connect to, operate, maintain, repair, replace, and remove water lines and systems, telephone lines and systems, gas lines and systems, sanitary sewer lines and systems, storm sewers, drainage lines and systems, electrical lines and systems, and other utility lines or systems developed to serve one or more of the Lots; provided, however, that all pipes, wires, lines, conduits, mains, sewers, systems, and related equipment will be installed underground or otherwise enclosed and will be installed, operated, and maintained in a manner which will not unreasonably interfere with the use of any other Lot or Improvements. The location of any such utility facilities shall be subject to the reasonable approval by the Owner of the burdened Lot, shall be located within or immediately adjacent to public utility easements or Lot lines, and when approved by such Owner, shall be evidenced by a recorded instrument legally describing and depicting the location of such easements. The Owner of each Lot shall cooperate in the granting of additional or appropriate and proper easements for the installation, repair, and replacement of storm drains, sewers, utilities, and other proper services necessary for the orderly development and operation of the Development. If an Owner, in the course of installing, using, testing, connecting to, operating, maintaining, repairing, replacing, or removing utility facilities on a Lot other than the Lot owned by the Owner, damages pavement, landscaping, or other Improvements on that Lot, such Owner shall promptly repair, at its sole cost and expense, all such damage and restore such Lot substantially to its prior condition and shall defend, indemnify and hold harmless and all other Owners or Tenants against all loss, liability, and costs (including reasonable attorneys' fees) which may result from the negligent act or omission of such Owner, its agents, employees or contractors. No Owner shall have the right to tie into utility facilities installed specifically to serve another Lot without the prior written consent of the Owner of the other Lot.

(c) Surface Water Drainage Easement. A non-exclusive easement in, to, over, and through the drainage patterns and systems as are established within the Common Areas, for reasonable surface drainage purposes; provided, however, all surface water drainage from any Lot shall be consistent with any approved drainage plan for the Development and shall be in accordance with all applicable laws, codes, and regulations of governmental authorities. To the extent an Owner's Lot includes Common Areas, nothing herein shall prevent such Owner from relocating the drainage patterns established upon such Owner's Lot, provided such Owner first provides Declarant with plans respecting such relocation and such relocation does not unreasonably interfere with the drainage of other Lots within the Development.

(d) Easement for all Common Areas. A non-exclusive easement appurtenant to the portions of the Development consisting of the Common Areas, for the benefit of Declarant, the Association, and all Owners and Permittees. Such easement shall include the right of ingress/egress and the right to install, repair, reconstruct, restore, and/or replace any Improvements located within the Common Areas, as permitted pursuant to the terms hereof, and the general right to utilize and enjoy the Common Areas.

Each Owner may, at any time and from time to time, remove, exclude, and restrain any person from the use, occupancy, or enjoyment of any easement hereby created or the area covered thereby for failure to observe the covenants and restrictions set forth herein. If the unauthorized use is being made of any easement area, such unauthorized use may be permanently restrained or terminated by appropriate proceedings after written notice and opportunity to cure as may be required by Section 8.4 below.

Section 3.2 Nature of Easements and Rights Granted.

(a) Easements Appurtenant. Each and all of the easements and rights granted or created herein are appurtenances to the Lots and none of the easements and rights may be transferred, assigned or encumbered except as an appurtenance to such Lots.

(b) Nature and Effect. Each and all of the easements, covenants, conditions, restrictions and provisions contained in this Declaration:

(i) Are made for the direct, mutual, and reciprocal benefit of the Owners and Permittees of the Lots;

(ii) Create mutual equitable servitudes upon each Lot in favor of the other Lots, except as otherwise specifically set forth herein;

(iii) Constitute covenants running with the land; and

(iv) Shall bind every person or entity having any fee, leasehold, or other interest in any portion of the Development, at any time and from time to time, to the extent that such portion is affected or bound by the easement, covenant, condition, restriction, or provision in question, or to the extent that such easement, covenant, condition, restriction, or provision is to be performed on such portion.

(c) Transfer of Title. The acceptance of any transfer or conveyance of title from any Owner or Tenant or their respective heirs, representatives, successors, or assigns of all or any part of its interest in its Lot, or lease, or any portion thereof, shall be deemed to:

(i) Require the prospective grantee to agree not to use or occupy, or permit any other party to use or occupy, its Lot or Improvements in any manner which would constitute a violation or breach of any of the easements, covenants, conditions, or restrictions contained herein; and

(ii) Require any prospective lease assignee to assume and agree to perform each and all of the obligations of the conveying party under this Declaration with respect to the Lot, Improvements, or interest to be conveyed.

Section 3.3 Abandonment of Easements. After the expiration of the term of this Declaration, the easements granted pursuant to Section 3.1 hereof, or all or any part or parts thereof, may be abandoned and terminated only if the use thereof shall have ceased and cessation thereof continues for a continuous period of five (5) years. Thereafter, the then record owner of fee simple title of the Lot burdened with such easement may give written notice by United States certified mail, return receipt requested, mailed to the then record owner of the fee of the Lot(s) benefited by such easement and the then record owner, if any, of any leasehold interest in such benefited Lot(s), stating that such easement has been abandoned and may place of record in the Office of the Register of Deeds of Sarpy County, Nebraska, an affidavit that such abandonment has taken place and that such notice has been properly given. If the then record owner of fee simple title of the benefited Lot fails to place of record in the Office of the Register of Deeds of Sarpy County, Nebraska, within ninety (90) days after the giving of such notice, an affidavit that such easement has not ceased to be used during such continuous five (5)-year period, such easement shall thereupon be conclusively deemed abandoned and any person having or thereafter acquiring an interest in the Lot previously burdened shall hold and take such interest free of and unencumbered by such easement.

Section 3.4 Restriction. No Owner shall grant any easement for the benefit of any property not within the Development; provided, however, that the foregoing shall not prohibit the granting or dedicating of easements by an Owner on its Lot to governmental authorities or to public utility companies.

Section 3.5 No Barrier Agreement. No barriers, fences, grade changes, or other obstructions shall be erected so as to impede or interfere in any way with the free flow of vehicular and pedestrian traffic between those portions of the Lots located in the Common Areas available for pedestrian access, vehicular roadways, or parking area, or in any manner unreasonably restrict or interfere with the use and enjoyment by any of the Owners or Permittees of the rights and easements created by this Article III. The preceding sentence shall not prohibit the reasonable designation and relocation of traffic and pedestrian lanes. In addition, each Owner may temporarily close or block traffic on its Lot for the time necessary for the purpose of protecting ownership rights and preventing creation of easements to the public and unrelated third parties (provided, however, that prior to closing off any portion of the Common Areas, as herein provided, such Owner shall give fifteen (15) days' prior written notice to each other Owner of its intention to do so and shall attempt to coordinate such closing with each other Owner, so that no unreasonable interference in the passage of pedestrians or vehicles shall occur), and may temporarily fence off portions of its Lot as reasonably required for the purpose of repair, construction, and reconstruction.

ARTICLE IV MAINTENANCE AND TAXES

Section 4.1 Maintenance by Owners.

(a) **Buildings.** Each Owner shall maintain or cause to be maintained, at its expense, any Building(s) located on its respective Lot, including, but not limited to, (i) any signage located on the façade of the Building(s), (ii) all windows, doors, and exterior Building walls, (iii) the HVAC unit exclusively serving the Building(s), (iv) any portion of the Building(s) overhanging onto the Common Areas or extending into the Common Areas below the surface (i.e., the foundation), and (v) the roof drainage systems serving such Lot (including all downspouts and rain gutters), in a well-maintained, safe, clean, neat and attractive condition at all times, in compliance with all applicable health, fire, building, and

safety ordinances, codes, regulations, and requirements. No Building shall be permitted to fall into disrepair. No Owner shall do any act or work that will materially impair the structural soundness or safety of any Building.

(b) Damage and Destruction of Buildings. In the event a Building is damaged or destroyed, the Owner shall diligently reconstruct, restore, repair, or demolish the Building and restore the Lot to a clean, safe, and attractive condition within a reasonable time, not to exceed one hundred twenty (120) days after such damage or destruction, and in full compliance with all applicable local and governmental codes and regulations. Any reconstruction, restoration, repair, or demolition of a Building in connection with damage and/or destruction thereto shall be made by and at the individual expense of the Owner of the Lot upon which the Building is located. This provision, however, does not prevent an Owner from requiring a contribution from another Owner or third party pursuant to any rule of law regarding liability for negligent or willful acts or omissions.

Section 4.2 Maintenance by the Association.

(a) Common Areas. The Association shall maintain the Common Areas and the Improvements thereon in good condition and repair and shall replace the same as may be reasonably necessary from time to time, in compliance with all applicable local and governmental codes, ordinances, and regulations. The Association's maintenance, repair, and replacement obligations hereunder shall include, but are not limited to, maintaining any storm sewer detention system in good working condition.

(b) Maintenance Standard. The Board shall maintain a commercially reasonable standard in providing for the repair, management, maintenance, and replacement of the Common Areas; however, the Board shall be the sole judge as to the appropriate maintenance thereof.

Section 4.3 Common Area Charges. After the Property has been annexed by the City of Papillion (the "Annexation Date"), each Owner shall be responsible for its share of actual expenses incurred by the Association in operating, maintaining, promoting, marketing, repairing, rebuilding, replacing, restoring, securing, monitoring, and insuring the Common Areas and Improvements thereon pursuant to Section 4.2 above, and paying any taxes assessed with respect to such Common Areas (collectively, the "Common Area Charges"). Common Area Charges shall be allocated among the Owners pursuant to Section 4.6 below.

Section 4.4 Damage by Owner. In the event any act, omission, or condition caused by any Owner or its Permittees results in the destruction or removal of any portion of the Common Areas, the Association shall have the right to either (a) require the Owner, at its sole cost and expense, repair and replace, in a good and workmanlike manner, free of liens and to as good a condition as the condition of such Improvements prior to such destruction or removal, all such Common Areas, or (b) after reasonable notice to the Owner, cause the repair and replacement of such Common Areas, in which case the Owner shall promptly reimburse the Association for such costs. Any Improvements shall be promptly replaced with materials of like size and kind as approved by the Association or committee thereof. Notwithstanding anything herein to the contrary, in the event of an emergency or if any portion of the Common Areas located on a Lot is rendered unsafe or hazardous for any reason, at the Association's reasonable discretion and after reasonable notice to the Owner, the Association shall have the right, but not the obligation, to repair or remove such condition, in which case the Owner shall promptly reimburse the Association for such costs.

Section 4.5 Capital Assessments. After the Annexation Date, the Association shall have the right and power to assess, in any fiscal year, special assessments to construct, reconstruct, or replace capital improvements in the Common Areas, including the detention ponds and drainage facilities ("Capital Assessments"). Any such Capital Assessments shall be allocated among the Owners pursuant to Section 4.6 below.

Section 4.6 Proportionate Share. After the Annexation Date, each Owner shall reimburse the Association for its respective Proportionate Share (as hereinafter defined) of the Common Area Charges. Each Lot's "Proportionate Share" shall be determined based upon the square footage of each Lot divided by the total square footage of all Lots. In addition, the Association may, from time to time, designate specific Common Areas or capital repairs or improvements as benefiting specific Lots. The Common Area Charges applicable to such Common Areas or the Capital Assessments applicable to such capital repairs or improvements shall be allocated pro rata to such benefited Lots based upon the square footage of each benefited Lot divided by the total square footage of all benefited Lots or some other pro rata method as determined by the Association. The Association shall provide yearly estimates of the Common Area Charges to the Owners and shall levy assessments against each Lot in accordance with the Bylaws. The Association shall also have the right to levy special assessments against each Lot, in its reasonable discretion, in accordance with the Bylaws. The time and manner of payment of such assessments shall be governed by the Bylaws.

Section 4.7 Taxes and Assessments. Each Owner shall pay, or cause to be paid prior to delinquency, all taxes and assessments with respect to its Lot and any Improvements located thereon, and any personal property owned or leased by such Owner in the Development, provided that if such taxes or assessments or any part thereof may be paid in installments, each Owner may pay each such installment as and when the same becomes due and payable. Nothing contained herein shall prevent any Owner from contesting, at its cost and expense, any taxes and assessments with respect to its Lot in any manner such Owner elects, so long as such contest is maintained with reasonable diligence and in good faith. At the time such contest is concluded (allowing for appeal to the highest appellate court), the contesting Owner shall promptly pay all taxes and assessments determined to be owing, together with all interest, penalties and costs thereon.

Section 4.8 Covenant to Pay Assessments. Each Owner, by owning or hereinafter acquiring a Lot, shall be deemed to covenant and agree to pay Common Area Charges, Capital Assessments, and any special assessments levied by the Association after the Annexation Date as established herein.

Section 4.9 Liens for Assessments or Fines. The Common Area Charges, Capital Assessments, and any special assessments levied by the Association, together with interest thereon, costs, and reasonable attorneys' fees incurred by the Association to collect the same, shall be the personal obligation of the Owner of each Lot at the time such first become due and payable pursuant to this Declaration and shall further be a charge and continuing lien upon the Lot against which such Common Area Charges, Capital Assessments, and special assessments are charged. The grantee of any Lot shall be jointly and severally liable with the grantor of the Lot for all unpaid Common Area Charges, Capital Assessments, and/or special assessments charged to such Lot and due prior to the time of the grant of conveyance, without prejudice to the grantee's right to recover from the grantor the amount paid by the grantee.

Section 4.10 Non-Use. No Owner may waive or otherwise escape liability for the Common Area Charges or Capital Assessments by non-use of the Common Areas or capital improvements, or any part thereof.

Section 4.11 Certificate Regarding Assessments. The Association shall, upon written request, for a reasonable charge, furnish a certificate setting forth whether the Common Area Charges, Capital Assessments, and special assessments on a Lot have been paid. The certificate shall be conclusive evidence of payment of any Common Area Charges, Capital Assessments, and special assessments therein stated to have been paid.

ARTICLE V DIVISION OF LOTS

Section 5.1 Division of Lots. The Owner of any Lot shall have the option and ability to divide and subdivide its Lot(s) or create a condominium within the boundaries of such Owner's Lot(s) without the approval of any other Owner. The subdivision of any such Lot or the creation of any such condominium shall not modify any obligations, limitations, rights, benefits, or burdens established in this Declaration.

Section 5.2 Addition of Lots. No Person, including but not limited to the Declarant, the Association or any Owner, shall have the right, without the prior written approval of the Owners owning at least seventy-five percent (75%) of the Lots, to subject additional real property owned by such Person in Sarpy County, Nebraska, comprised of one or more lots, to this Declaration or otherwise materially alter the aggregate square footage of the Lots in such a way that alters Owners' Proportionate Share of the Common Area Charges. In the event the required Owner approval is obtained, and additional property is added or the aggregate square footage of the lots is otherwise materially altered, the Declarant or the Association, as the case may be, shall be authorized to amend this Declaration by executing and recording with the Register of Deed of Sarpy County, Nebraska an express written Supplementary Declaration describing such property and extending to each such lot all of the conditions and other terms set out in this Declaration with only such complementary additions and modifications as may be appropriate, convenient, or necessary for the accommodation of the different character of such property and as approved by the Owners owning at least seventy-five percent (75%) of the Lots. Such additional real estate shall be of a nature but not inconsistent with the character of the Development. The Supplementary Declaration shall also amend this Declaration to account for the change in the membership of the Association and the allocation of assessments, as applicable.

ARTICLE VI INSURANCE

Section 6.1 Insurance by the Association. The Association shall maintain or cause to be maintained in full force and effect commercial general liability insurance in an amount to be determined by the Board and such other insurance which the Board considers appropriate to protect the Association.

Section 6.2 Insurance by Owners. Each Owner (as to its Lot only) shall maintain or cause to be maintained in full force and effect at least the minimum insurance coverages in constant dollars set forth below:

- (a) Commercial general liability insurance with a combined single limit of liability of Two Million Dollars (\$2,000,000) in constant dollars for bodily injury, personal

injury and property damage, arising out of any one occurrence. The other Owners shall be "additional insureds" under such policy as it applies to the insuring Owner's Lot; provided, however, this insurance shall not apply to any occurrence based on the negligence, or willful act or omission of such "additional insured".

(b) Worker's compensation insurance as required by any applicable law or regulation.

(c) Employer's liability insurance in the amount of One Million Dollars (\$1,000,000) each accident for bodily injury, One Million Dollars (\$1,000,000) policy limit for bodily injury by disease and One Million Dollars (\$1,000,000) each employee for bodily injury by disease.

(d) Automobile Liability Insurance for owned, hired and non-owned automobiles. The limits of liability shall not be less than One Million Dollars (\$1,000,000) combined single limit each accident for bodily injury and property damage.

(e) Any other insurance required pursuant to the Bylaws.

Each Owner agrees to defend, protect, indemnify, and hold harmless each other Owner from and against all claims or demands, including any action or proceedings brought thereon, and all costs, losses, expenses, and liability of any kind relating thereto, including reasonable attorneys' fees and cost of suit, arising out of or resulting from the injury to or death of any Permittee, or damage to the property of any Permittee located on the Lot owned by each indemnifying Owner; provided, however, that the foregoing obligation shall not apply to claims or demands based on the negligence or willful act or omission of such other Owner, its licensees, concessionaires, agents, servants, or employees, or the agents, servants, or employees of any licensee or concessionaire thereof. In the event it is determined that such other Owner was not at fault, then the indemnifying Owner shall reimburse such other Owner for all reasonable costs and expenses incurred defending against such claim or demand.

Section 6.3 Insurance During Construction. Prior to commencing any construction activities within the Development, each Owner shall obtain or require its contractor to obtain and thereafter maintain so long as such construction activity is occurring, at least the minimum insurance coverages in constant dollars set forth below:

(a) Worker's compensation insurance as required by any applicable law or regulation.

(b) Employer's liability insurance in the amount of One Million Dollars (\$1,000,000) each accident for bodily injury, One Million Dollars (\$1,000,000) policy limit for bodily injury by disease and One Million Dollars (\$1,000,000) each employee for bodily injury by disease.

(c) Commercial general liability insurance covering all operations by or on behalf of the contractor, which shall include the following minimum limits of liability and coverages:

(i) Required coverages:

(1) Premises and Operations;

- (2) Products and Completed Operations;
 - (3) Contractual Liability, insuring the indemnity obligations assumed by contractor under the contract documents;
 - (4) Broad Form Property Damage (including Completed Operations);
 - (5) Explosion, Collapse and Underground Hazards; and
 - (6) Personal Injury Liability.
- (ii) Minimum limits of liability:
- (1) One Million Dollars (\$1,000,000) each occurrence (for bodily injury and property damage);
 - (2) One Million Dollars (\$1,000,000) for Personal Injury Liability;
 - (3) Two Million Dollars (\$2,000,000) aggregate for Products and Completed Operations; and
 - (4) Two Million Dollars (\$2,000,000) general aggregate applying separately to the project.

(d) Automobile liability insurance, if applicable, including coverage for owned, hired, and non-owned automobiles. The limits of liability shall not be less than One Million Dollars (\$1,000,000) combined single limit each accident for bodily injury and property damage. The contractor shall require each of their subcontractors to include in their liability insurance policies coverage for automobile contractual liability.

(e) The contractor shall also carry umbrella/excess liability insurance in the amount of Five Million Dollars (\$5,000,000). If there is no per project aggregate under the commercial general liability policy, the limit shall be Ten Million Dollars (\$10,000,000).

(f) If the construction activities involve the use of another Lot, then the constructing Owner shall cause (i) the owner of such other Lot to be an additional insured on each policy, (ii) with respect to the work on such other Lot, the coverage set forth in Subsection 9.3(c) above to be extended for a three (3)-year period following final completion of work, and (iii) each such policy to provide that the same shall not be cancelled, allowed to expire, nor reduced in amount or coverage below the requirements set forth above without at least thirty (30) days' prior written notice to each insured. If any of the insurance policies are cancelled, expire or the amount or coverage thereof is reduced below the level required, then the constructing Owner shall immediately stop all work on and use of the other Lot until either the required insurance is reinstated, or replacement insurance is obtained, and evidence thereof is given to the owner of such other Lot.

(g) Effective upon the commencement of construction of any Building on its Lot and so long as such Building exists, an Owner shall carry, or cause to be carried, property insurance with "Special Form" coverage, in the amount of one hundred percent

(100%) of full replacement cost thereof (excluding footings, foundations and excavations). Each Owner (the "Releasing Party") hereby releases and waives for itself, and each Person claiming by, through or under it, each other Owner (the "Released Party") from any liability for any loss or damage to all property of such Releasing Party located upon any portion of the Development, which loss or damage is of the type covered by the insurance required to be maintained under this Subsection 9.3(g), irrespective of the amount of such insurance required or actually carried, including any deductible or self-insurance reserve. Each Releasing Party agrees to use its reasonable efforts to obtain, if needed, appropriate endorsements to its policies of insurance, and to the policies of insurance carried by its occupants, with respect to the foregoing release; provided, however, that failure to obtain such endorsements shall not affect the release and waiver hereinabove given.

Section 6.4 General Requirements.

(a) All insurance required by this Article V shall be written on an occurrence basis and procured from companies rated by Best's Rating Guide not less than A-/X which are authorized to do business in the state where the Development is located. All insurance may be provided under (i) an individual policy covering the Development; (ii) a blanket policy or policies which includes other liabilities, properties, and locations of such Owner; provided, however, that if such blanket commercial general liability insurance policy or policies contain a general policy aggregate of less than Twenty Million Dollars (\$20,000,000) in constant dollars, then such insuring Owner shall also maintain excess liability coverage necessary to establish a total liability insurance limit of Twenty Million Dollars (\$20,000,000) in constant dollars; (iii) a plan of self-insurance, provided that any Owner so self-insuring notifies the other Owners of its intent to self-insure and agrees that upon request it shall deliver to such other Owners each calendar year a copy of its annual report that is audited by an independent certified public accountant which discloses that such Owner has Two Hundred Fifty Million Dollars (\$250,000,000) in constant dollars of both net worth and net current assets; or (iv) a combination of any of the foregoing insurance programs. Any deductible permitted or allowed as a part of any insurance policy carried by an Owner in compliance with this Article V shall be a commercially reasonable deductible in constant dollars unless such Owner complies with the requirements regarding self-insurance pursuant to (iii) above. Each Owner agrees to furnish to the other Owners, upon request, a certificate of insurance evidencing that the insurance required to be carried by such Owner is in full force and effect.

(b) The insurance required pursuant to this Article V shall include the following provisions:

(i) Shall provide that the policy shall not be canceled or reduced in amount or coverage below the requirements of this Declaration, nor shall such policy be allowed to expire, without at least thirty (30) days' prior written notice by the insurer to each insured and to each additional insured;

(ii) Shall provide for severability of interests;

(iii) Shall provide that an act or omission of one (1) of the insureds or additional insureds which would void or otherwise reduce coverage shall not reduce or void the coverage as to the other insureds; and

(iv) Shall provide for contractual liability coverage with respect to the indemnity obligation set forth in Section 5.2.

ARTICLE VII EMINENT DOMAIN

Section 7.1 Owner's Right to Award. Nothing herein shall be construed to give any Owner any interest in any award or payment made to the other Owners in connection with any exercise of eminent domain or transfer in lieu thereof affecting said other Owner's Lot or giving the public or any government any rights in said Lot. In the event of any exercise of eminent domain or transfer in lieu thereof of any portion of the Common Areas located in the Development, the award attributable to the land and Improvements of such portion of the Common Areas shall be payable only to the Owner thereof, and no claim thereon shall be made by the Owners of any other portion of the Common Areas except as set forth in Section 7.2 below.

Section 7.2 Collateral Claims. All other Owners of the Common Areas may file collateral claims with the condemning authority for their losses with respect to the loss of Common Areas or the overall reduction the Property comprising the Development, if any, which are separate and apart from the value of the land area and Improvements taken from another Owner.

Section 7.3 Tenant's Claim. Nothing in this Article is intended to alter the rights between a Tenant of a Lot and the Owner of such Lot pursuant to the provisions of any lease between such Tenant and such Owner with respect to any such award or payment.

Section 7.4 Restoration of Common Areas. The Owner of any portion of the Common Areas so condemned shall, at its sole cost and expense, promptly repair and restore the remaining portion of the Common Areas within its respective Lot as nearly as practicable to the condition of the same immediately prior to such condemnation or transfer. In the event the Owner does not repair and restore the remaining portion of the Common Areas in a reasonable timeframe, the Board shall have the right, but not the obligation, to cause the repair and restoration of such remaining portion of the Common Areas, in which case the Owner shall promptly reimburse the Association for such costs.

ARTICLE VIII MISCELLANEOUS

Section 8.1 Nature and Effect. Each and all of the easements, covenants, conditions, restrictions, and provisions contained in this Declaration:

- (a) Are made for the direct, mutual, and reciprocal benefit of Declarant, the Association, and the Owners and Permittees of the Lots;
- (b) Create mutual equitable servitudes upon each Lot in favor of the other Lots, except as otherwise specifically set forth herein;
- (c) Constitute covenants running with the land; and
- (d) Shall bind every person or entity having any fee, leasehold, or other interest in any portion of the Property, at any time and from time to time, to the extent that such portion is affected or bound by the easement, covenant, condition, restriction, or provision

in question, or to the extent that such easement, covenant, condition, restriction, or provision is to be performed on such portion.

Section 8.2 Rights and Obligations of Lenders. If, by virtue of any right or obligation set forth herein, a lien shall be placed upon the Lot of any Owner hereto, such lien shall expressly be subordinate and inferior to the lien of any first lien holder now or hereafter placed on such Lot. Any holder of a first lien on any Lot, and any assignee or successor in interest of such first lien holder, shall be subject to the terms and conditions of this Declaration.

Section 8.3 Release from Liability. Any person acquiring fee or leasehold title to any Lot shall be bound by this Declaration only as to the Lot or portion of the Lot acquired by such person. In addition, such person shall be bound by this Declaration only during the period such person is the fee or leasehold owner of such Lot or portion of the Lot, except as to obligations, liabilities, or responsibilities that accrue during said period. Although persons may be released under this Section 8.3, the easements, covenants, and restrictions in this Declaration shall continue to be benefits to and servitudes upon said Lots running with the land.

Section 8.4 Breach.

(a) **Right to Cure.** Declarant or the Board, on behalf of the Association, or their respective duly authorized agents shall have the right, upon violation or breach of any other covenant, restriction, or easement set forth herein, if such violation or breach continues for a period of thirty (30) days after written notice thereof is given to the Owner, to enter upon the Lot where such violation or breach exists, and summarily remove, at the expense of the Owner thereof, who shall pay all such expenses, plus interest at the prime rate of interest announced from time to time in the Wall Street Journal, plus five percent (5%) (not to exceed the maximum rate of interest allowed by law), within five (5) days after demand, any structure, thing, or condition that may be or exist thereon contrary to the provisions of this Declaration or the Bylaws. Notwithstanding the foregoing, if the cure of such violation or breach cannot reasonably be effected within such thirty (30)-day period, Declarant or the Board shall take no action so long as such Owner has commenced the cure of such breach or violation within such thirty (30)-day period and is diligent in pursuing the completion of such cure.

(b) **Other Remedies.** In addition to the rights and remedies set forth herein, in the event of any breach, default, non-compliance, violation, or failure to perform or satisfy any of the covenants, conditions, restrictions, and easements contained in this Declaration or the Bylaws by an Owner, if the default is not cured within thirty (30) days after written notice describing the default is given to such Owner by the Board, then any one or more of the following rights or remedies or any other rights or remedies available at law or in equity, whether or not set forth herein, may be enforced. All rights and remedies set forth in this Declaration or available at law or in equity shall be cumulative and not mutually exclusive.

(i) **Damages.** Declarant, the Board, or any Owner may bring a suit for damages arising from or with respect to any such default.

(ii) **Lien.** In the event of a failure of an Owner to pay any Common Area Charges or Capital Assessments, Declarant or the Association shall have the right to file a lien against the Owner's Lot(s) and to prosecute and foreclose on such lien

in compliance with all applicable laws, codes and regulations of governmental authorities.

(iii) Declaratory Relief. Declarant, the Board, or any Owner may bring a suit for declaratory relief to determine the enforceability of any of the provisions of this Declaration.

(iv) Injunctive Relief; Specific Performance. It is recognized that a default hereunder may cause material injury or damage not compensable by an award of money damages and that Declarant, the Board, and/or any Owner shall be entitled to bring an action in equity or otherwise for specific performance to enforce compliance with this Declaration or for any injunctive relief to enjoin the continuance of any default or to prevent a default.

(v) Fines. This Subsection 8.4(b)(iv) may be enforced only by the Board. Upon a default by an Owner, the Board may assess fines based on a schedule of fines (to be reasonably related to the nature of the default) adopted from time to time by the Board for various types of defaults that may arise under this Declaration, or as the Board may assess for defaults not covered by an existing schedule of fines, provided that the Board shall assess a fine that is reasonable and appropriate under the circumstances, and provided further that the assessment of a fine shall be in addition to all other rights and remedies available hereunder.

(vi) Rights of Lenders. No default under or violation of any provision of this Declaration shall defeat or render invalid the lien of any mortgage, deed of trust, or similar instruments securing a loan with respect to the permanent financing, construction financing, or any refinancing of any Lot or portion thereof or any Improvement thereon. However, all of the provisions of this Declaration shall be binding upon and effective against any subsequent Owner of any Lot or any portion thereof whose title is acquired by foreclosure, trustee sale, deed in lieu of foreclosure, or otherwise pursuant to the lien rights under any such mortgage, deed of trust, or similar instrument.

Section 8.5 Non-Merger. This Declaration shall not be subject to the doctrine of merger.

Section 8.6 Headings. The headings herein are inserted only as a matter of convenience and for reference and in no way define, limit, or describe the scope or intent of this document nor in any way affect the terms and provisions hereof.

Section 8.7 Entire Agreement. This Declaration constitutes the entire agreement between the parties hereto as to the matters set forth in this Declaration.

Section 8.8 Estoppel Certificates. Each Owner shall, upon not less than thirty (30) days from receipt of written notice from any other Owner, execute and deliver to such other Owner a certificate stating that (a) either this Declaration is unmodified and in full force and effect or is modified (and stating the modification), and (b) whether or not to the best of its knowledge the other Owner or Owners are in default in any respect under this Declaration, and if in default, specifying such default.

Section 8.9 Notice. Any notice required or permitted to be given under this Declaration shall be in writing and shall be made by personal delivery or deposit in the United States Mail as Certified Mail, Return Receipt Requested, postage prepaid, or deposit with a recognized national overnight courier and addressed to the Owner being notified at the address given below (or such other address which any Owner may designate for itself from time to time hereafter by written notice to the other Owners):

If to Declarant: Papillion Schram Road Partners, LLC
c/o Access Commercial, LLC
1303 South 72nd Street, Suite 209
Omaha, Nebraska 68124
Attn: Darren Hicks

If to the Association, the Board, or the Committee: Seventy Two Place Owner's Association, Inc.
c/o Access Commercial, LLC
1303 South 72nd Street, Suite 209
Omaha, Nebraska 68124
Attn: Darren Hicks

If to Owner/Tenant: To the party at the street address of the Lot owned or occupied.

Any such notice, request or other communication shall be considered given or delivered, as the case may be, on the date of hand or overnight courier delivery or upon deposit in the United States mail as provided above. Rejection or other refusal to accept or inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice, request or other communication.

Section 8.10 Assignment. The rights and obligations of any Owner hereunder may be assigned in whole or in part to any person acquiring the entire interest of such Owner in its Lot or to one or more ground lessees or lessees which rights and obligations shall be expressly assumed by such ground lessee or lessees for the term of the ground lease or lease between such Owner and such ground lessee or lessee.

Section 8.11 Amendment. This Declaration and any provision contained herein may be extended, modified, altered, repealed, supplements, or amended in any respect by at least seventy-five percent (75%) of the votes of the Members; provided, however, that notwithstanding the foregoing, any amendment or modification to Section 4.6 or the definition of Common Areas shall require a unanimous (100%) vote of the Members. Any such extension, modification, alteration, repeal, supplement, or amendment shall be memorialized via a written document executed by such authorizing Members, which document shall be recorded in the Office of the Register of Deeds of Sarpy County, Nebraska. Notwithstanding the foregoing, during the Declarant Control Period, Declarant must concur in all alterations, amendments and/or revocations of this Declaration.

Section 8.12 Exhibits. Each reference herein to an exhibit refers to the applicable exhibit that is attached to this Declaration. All such exhibits constitute a part of this Declaration and by this reference are expressly made a part hereof.

Section 8.13 Limitation of Liability. Any person acquiring fee or leasehold title to any of the Lots or any portion thereof, shall be bound by this Declaration only as to the Lot or portion

of the Lot acquired by such person. In addition, such person shall be bound by this Declaration only during the period such person is the fee or leasehold owner of such Lot or portion of the Lot, and upon conveyance or transfer of the fee or leasehold interest, shall be released from liability hereunder, except as to the obligations, liabilities, or responsibilities that accrue prior to such conveyance or transfer. Although persons may be released under this Section 8.13, the easements, covenants and restrictions in this Declaration shall continue to be benefits to and servitudes upon said tracts running with the land.

Section 8.14 Term of this Declaration. This Declaration shall be effective as of the date first above written and shall continue in full force and effect until December 31, 2099, and shall automatically renew for successive ten (10)-year periods thereafter unless, by affirmative vote of sixty percent (60%) of all Member votes entitled to be cast, the Association elects, by written declaration signed and acknowledged by the approving Members and duly recorded with the Office of the Register of Deeds of Sarpy County, Nebraska, to terminate this Declaration, effective as of the end of the then-current term. Notwithstanding the foregoing, the easements referred to in Article III hereof shall continue in full force and effect as provided herein. Upon the termination of this Declaration, all rights and privileges derived from and all duties and obligations created and imposed by the provisions of this Declaration, except as relates to the easements mentioned above, shall terminate and have no further force or effect; provided, however, that the termination of this Declaration shall not limit or affect any remedy at law or in equity that an Owner may have against any other Owner with respect to any liability or obligation arising or to be performed under this Declaration prior to the date of such termination.


Section 8.15 Severability. In the event any provision or portion of this Declaration is held by any court of competent jurisdiction to be invalid or unenforceable, such holding will not affect the remainder hereof, and the remaining provisions shall continue in full force and effect at the same extent as would have been the case had such invalid or unenforceable provision or portion never been a part hereof.

[Remainder of Page Intentionally Left Blank. Signature Pages to Follow.]

IN WITNESS WHEREOF, the undersigned have executed and delivered this Declaration as of the Effective Date.

DECLARANT:

PAPILLION SCHRAM ROAD PARTNERS, LLC,
a Nebraska limited liability company

By: 
Richard Kiolbasa, Manager

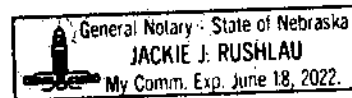
STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On this day before me, the undersigned Notary Public, personally appeared Richard Kiolbasa, Manager of Papillion Schram Road Partners, LLC, to me known to be the individual described in and who executed the foregoing Declaration, and acknowledged before me that he was duly authorized and did execute the same as a Manager of Papillion Schram Road Partners, LLC, a Nebraska limited liability company, on behalf of said company.

GIVEN under my hand and Notarial Seal, this 13th day of January, 2022.


Notary Public

My Commission expires: 6-18-2022



IN WITNESS WHEREOF, the undersigned has executed and delivered this Declaration as of the day and year first written above.

MORTGAGEE:

CORE BANK

By: *Kathryn M. Barker*
Kathryn M. Barker, Senior Vice President

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On this day before me, the undersigned Notary Public, personally appeared Kathryn M. Barker, a Senior Vice President of Core Bank, to me known to be the individual described in and who executed this Declaration as a Senior Vice President of such entity, and who acknowledged that she signed the Declaration as her and such entity's fully authorized, free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and Notarial Seal, this 13th day of January, 2022.

Stephanie S. Davis
Notary Public

My Commission expires: 6.19.2025



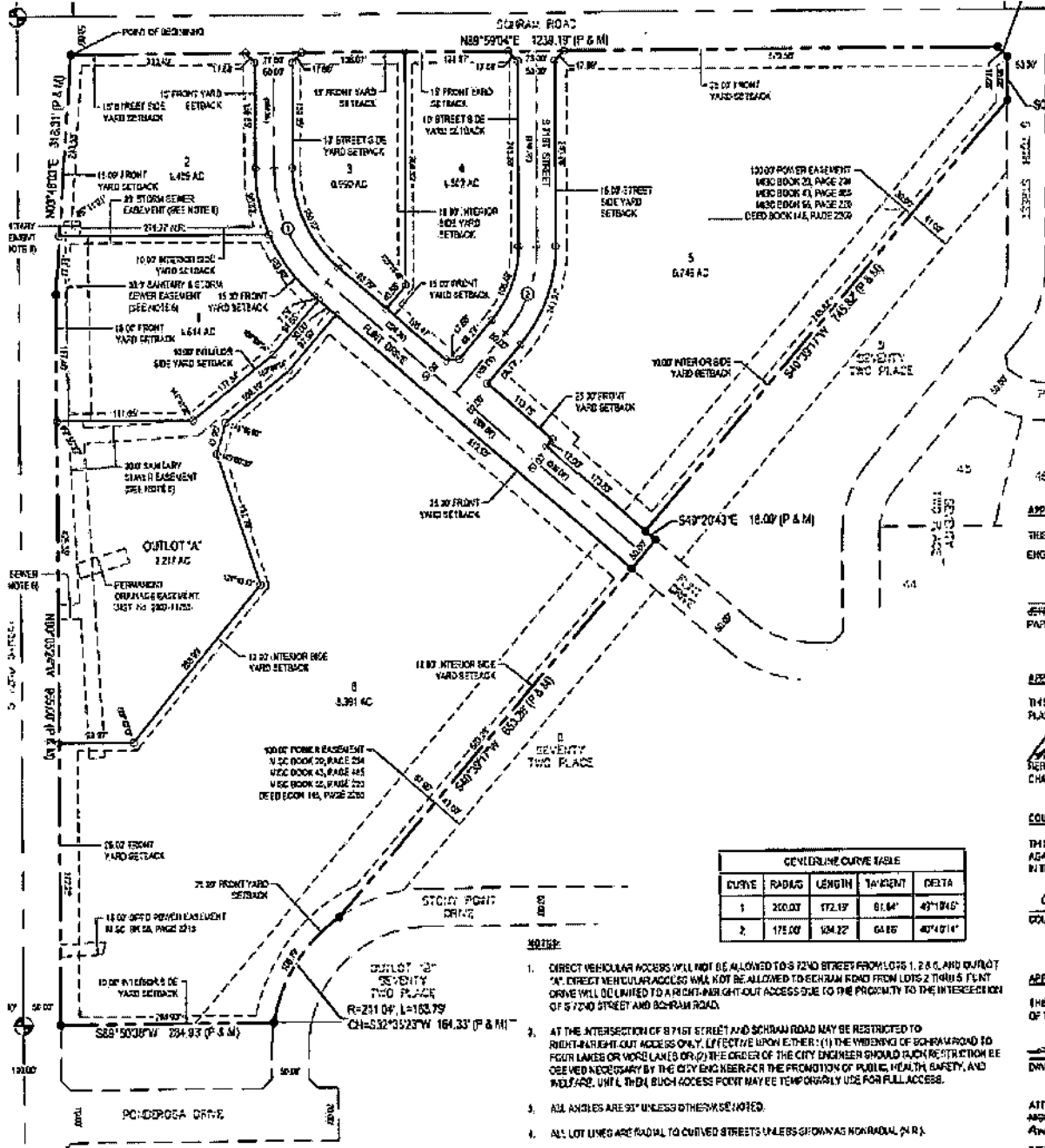
EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY

LOTS 1 THRU 6 & OUTLOT "A" INCLUSIVE, SEVENTY TWO PLACE REPLAT
1, A SUBDIVISION IN SARPY COUNTY, NEBRASKA.

[Exhibit A to Declaration of Easements, Covenants, Conditions and Restrictions for Seventy Two Place]

EXHIBIT B SITE PLAN



[Exhibit B to Declaration of Easements, Covenants, Conditions and Restrictions for Seventy Two Place]

