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ARDIS W. SCHMITT
El Paso County Clerk & Recorder

PERMANENT ACCESS EASEMENT AND AGREEMENT

35.00

This Easement Agreement is made and entered into by and between B.P.W. General Partnership of Colorado, a Colorado general partnership, and P. Dale Beggs, herein jointly called Grantor; and N. B. West Associates, a Colorado general partnership, Grantee.

WITNESSETH

WHEREAS, the Grantor is the owner of that parcel of land described and shown on Exhibit "A" as "Parcel 1" (sometimes herein referred to as roadway or easement way), and

WHEREAS, said Parcel 1 has been improved or will be improved with paving and curbing as a private roadway so as to provide common access to the adjoining properties owned by Grantor, and

WHEREAS, the Grantee is the owner of that parcel of land described and shown on Exhibit "A" as "Parcel 2".

NOW THEREFORE, IT IS AGREED AS FOLLOWS:

1. GRANT OF EASEMENT. Grantor does hereby grant, bargain, sell and convey to Grantee a perpetual, private, non-exclusive easement over and across Parcel 1.

2. PURPOSE. The purpose of the easement granted herein shall be to provide pedestrian and vehicular access for Parcel 2 to Galley Road and Paonia Streets by way of said private roadway. Said easement may also be used to provide underground utility lines to serve the parcels of land in Powers Pointe Subdivision.

3. USE. Said roadway may be used by the Grantee, its tenants and customers in common with all owners, tenants and customers of Powers Pointe Subdivision. Said roadway shall be kept open at all times, except for emergencies, major or unusual repairs or acts of God beyond the control of the parties hereto. Neither Grantee nor Grantor shall at any time block said roadway or park or allow others to park on said roadway.

Grantor may establish reasonable rules and regulations for the use of said roadway easement.

4. CONSTRUCTION. Grantor shall, at Grantor's cost and expense, improve said roadway with grading and rock road base, such improvements to be completed on or before April 1, 1986. Grantor shall, at its sole cost and expense, complete said roadway with curb, gutter and asphalt surface, such improvements to be completed within two weeks after receipt of written notice from Grantee. Such notice may not be served on Grantor prior to August 1, 1986.

5. MAINTENANCE. a. Grantee shall be responsible for amintenance (as hereinafter described) until construction commences on adjoining land.

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Upon commencement of such construction, maintenance of said roadway shall be as determined in subparagraph b.

b. Grantor shall be responsible for the maintenance of the common roadway including the access easement as shown on Exhibit "A" and as extended to serve the adjoining property generally as shown on Exhibit "B". Maintenance shall include repair, lighting,* striping, sweeping, traffic signage, snow removal and nothing else ("Maintenance Costs"). Grantor shall keep accurate records of such Maintenance Costs. Grantor agrees to pay its proportionate share of direct maintenance costs relating to such roadway. Grantee's proportionate share shall be 3.44% of total maintenance costs of the total roadway.

Grantor shall, on or before the 10th day of each month, provide Grantee with an itemized statement of the Maintenance costs for the preceding month and Grantee shall pay to Grantor its proportionate share of such maintenance costs within 10 days thereafter. Grantor shall at request of grantee provide verification and documentation of such direct maintenance cost.

In the event the Grantee shall fail to pay its proportionate share of such maintenance costs and such default shall continue for more than three (3) months, the Grantor may, in addition to all remedies provided by law, do one or more of the following:

- (a) seek recovery of such maintenance costs in an appropriate court of law or equity, and/or,
- (b) file with the County Clerk and Recorder, a statement of such unpaid maintenance costs which shall constitute a lien against said Parcel 2 from and after the date of filing such statement, and/or,
- (c) after thirty (30) days notice to Grantee, Grantor may take measures to prevent the use of said roadway easement by Grantee as provided herein until said maintenance costs are paid.

6. BINDING ON SUCCESSORS. It is the intent of the parties that the rights and obligations created hereunder shall run with the land and shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

Dated this 28th day of February...., 1986.

* "lighting" does not mean that Grantee has an obligation to install lights. It means it only has a duty to maintain any lights installed.

BPW GENERAL PARTNERSHIP OF COLORADO

By [Signature]
General Partner

N. B. WEST ASSOCIATES, A COLORADO
GENERAL PARTNERSHIP

By [Signature]
General Partner
[Signature], General Partner

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LEGAL DESCRIPTION

PARCEL 2

The west 233 feet of Lot One (1), Powers and Galley Plaza
Filing No. 1, as surveyed, platted and recorded, El Paso County,
Colorado.

Handwritten notes:
No. 1
of
the
Powers and Galley Plaza
Filing No. 1
as surveyed, platted and recorded,
El Paso County,
Colorado.

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LEGAL DESCRIPTION
ACCESS EASEMENT
PARCEL 1

A part of Lot 2, Powers and Galley Plaza Filing No. 1, and a part of a tract of land in the Southwest Quarter of the Northwest Quarter of Section 7, Township 14 South, Range 65 West of the 6th P. M., El Paso County Colorado described as follows:

Commencing at the southwest corner of Lot 1, Powers and Galley Plaza Filing No. 1, as surveyed, platted and recorded, thence west along the north right of way of Galley Road a distance of 60 feet, thence N 00° 27' 47" E a distance of 236 feet, thence S 89° 42' 00" E to the west right of way of Paonia Street, thence S 00° 25' 48" W along the west right of way of Paonia Street a distance of 36', thence N 89° 42' 00" W to the northeast corner of said Lot 1, thence continuing along the north line of said Lot 1 a distance of 300.09 feet to the northwest corner of said Lot 1, thence S 00° 27' 47" W along the west lot line of said Lot 1 a distance of 200 feet to the point of beginning.

EXHIBIT A

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POWERS BLVD

PAONIA

PARCEL 1
PERMANENT ACCESS
ROADWAY

PARCEL 2

60' PRIVATE DRIVEWAY

GALLEY RD.

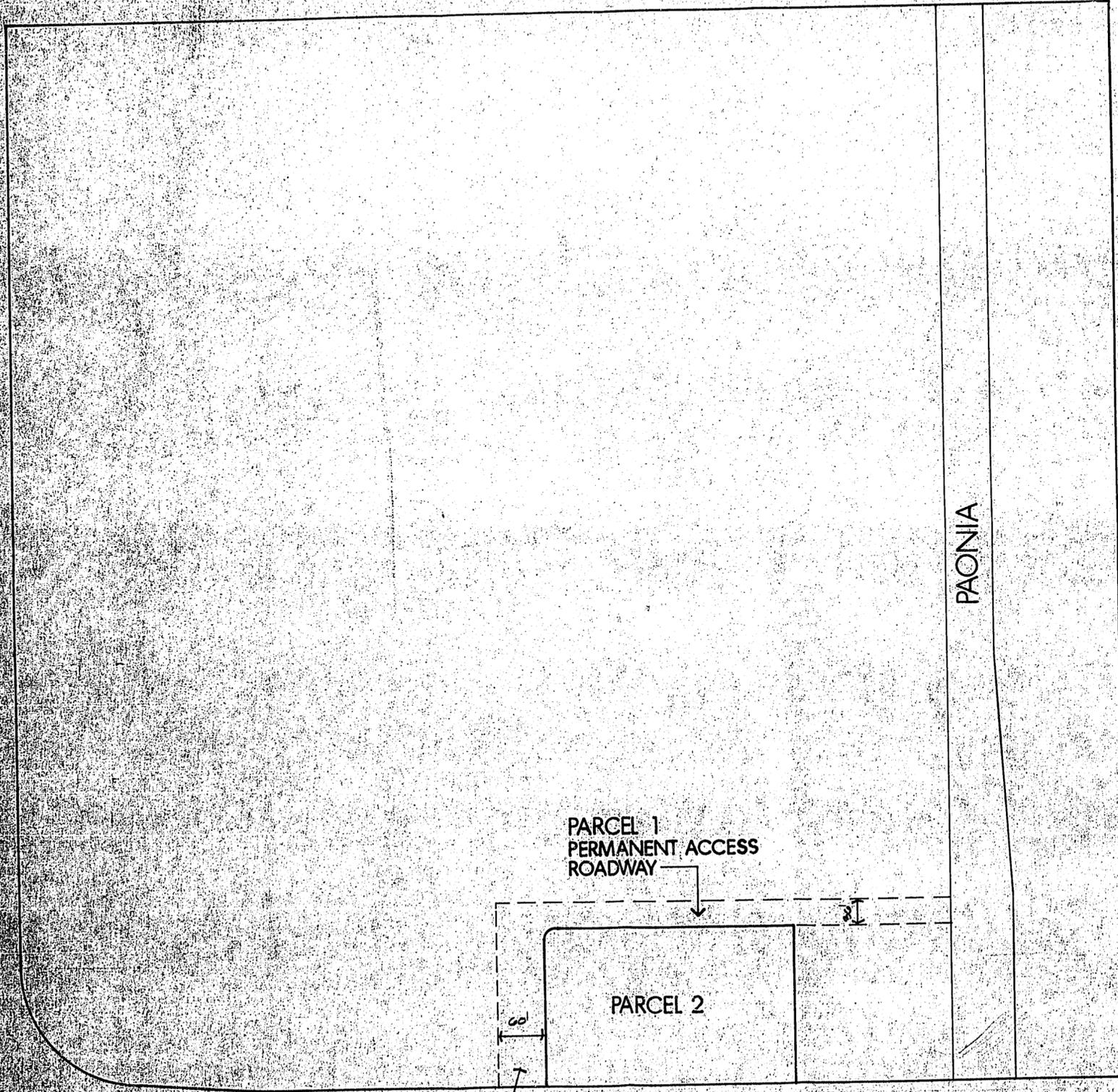


EXHIBIT B

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