

**SURFACE USE AGREEMENT
(SYNERGY DRILLING OPERATIONS)**

THIS AGREEMENT (SYNERGY DRILLING OPERATIONS) ("Agreement") is made and entered into this 22nd day of July, 2013, by and between GILBERT COMMERCIAL LAND, LLP, a Colorado limited liability partnership, 68 Indigo Way, Castle Rock, CO 80108 (hereby referred to as "Gilbert"), and SYNERGY RESOURCES CORPORATION, a Colorado corporation, 20203 Highway 60, Platteville, Colorado 80651 (hereby referred to as "Synergy" or "Operator").

BACKGROUND OF AGREEMENT

The following background statements are made to aid in the understanding and interpretation of this Agreement and shall be deemed a substantive part of this Agreement and not merely recitals.

- A. Synergy and Gilbert have entered into an agreement whereby Synergy has purchased, or soon will purchase, from Gilbert the surface estate of an approximate 11.2 acre tract of land located in the Southeast Quarter (SE/4) of Section Fourteen (14), Township Five North (T5N), Range Sixty-Six West (R66W) of the Sixth Principal Meridian (6th P.M.), County of Weld, State of Colorado more specifically described on Exhibit "A" hereto and made a part hereof (the "Property").
- B. Gilbert owns mineral acres in the South Half (S/2) of Section Fourteen (14), Township Five North (T5N), Range Sixty-Six West (R66W) of the Sixth Principal Meridian (6th P.M.), County of Weld, State of Colorado which are situated underneath and surrounding the Property (the "Mineral Lands").
- C. The net mineral acres that Gilbert owns in the Mineral Lands are thought to be subject to an oil and gas lease currently owned by Noble Energy Inc. ("Noble"), as Lessee (the "Existing Lease"). However, if said mineral acres are unleased as of the date of execution of this Agreement, Gilbert agrees to lease its unleased mineral rights in such S/2 of Section 14 to Synergy (the "Synergy Lease").
- D. If any of the Mineral Lands are subject to an Existing Lease, Synergy shall use its best efforts to enter into an agreement whereby Synergy shall acquire the Existing Lease.
- E. Gilbert and Synergy (collectively the "Parties") wish to enter into this Agreement to provide for certain covenants regarding the drilling of wells from the Property to develop the Mineral Lands and other lands and to constitute their Surface Use Agreement. Should the terms and provisions of this Agreement be inconsistent with or in conflict with any of the terms and provisions of the Existing Lease or the Synergy Lease, then the terms and provisions of this Agreement shall prevail.

AGREEMENT

NOW, THEREFORE, in the event Synergy commences oil and gas exploration operations as allowed under the Existing Lease and Synergy Lease, and in consideration of the covenants set forth herein and the mutual benefits to be derived by the parties hereto, and other good and valuable consideration; the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

1. DRILLING COVENANTS.

1.1 DRILLING COMMITMENT. Synergy agrees to drill and complete not less than three (3) horizontal wells into the Niobrara and/or other producing formations underlying the Mineral Lands within five (5) years from the date of closing the purchase and sale of the Property. In no event shall the period of drilling, equipping and completion of all wells extend beyond such 5-year period except that if Synergy has commenced the last of such wells located on or pooled with the Mineral Lands on or before expiration of such 5-year period, Synergy shall have the right to continue to drill said well through completion, or plug and abandon said well as a dry hole. Any extension of this deadline shall be in the sole discretion of Gilbert, and a breach of this covenant shall be considered a material breach of this Agreement. Pitless drilling and completions as specified by COGCC and the City of Greeley shall be utilized for all wells by Synergy. Drilling fluids, cuttings, sludge, produced water and other fluids, materials and fracking or other chemicals shall not be disposed of or stored upon or beneath either the Property or the Remaining Property (as such term is defined in Paragraph 1.4 below). Temporary storage of such items upon the Property must be within tanks. The Remaining Property may not be used for any purpose. Synergy agrees to continue to drill wells in the Mineral Lands and other lands so as to fully develop the minerals as would a reasonable and prudent operator.

1.2 SYNERGY LEASE AND OVERRIDING ROYALTY. If it is determined, after this Agreement is executed, that any of the net mineral acres that Gilbert owns in the Mineral Lands are unleased for oil and gas, then Gilbert agrees to lease said mineral acres to Synergy and Synergy agrees to lease from Gilbert in consideration of a bonus payment of _____ per net mineral acre proportionately reduced and a landowner royalty rate of _____ (the "Synergy Lease"). The Synergy Lease will provide for a three year term from the date of closing of the Property primary term. All of Synergy's operations on the Synergy Lease will be conducted in accordance with the terms and provisions of this Agreement.

Synergy agrees to grant, assign and convey to Gilbert an overriding royalty interest of _____ free of any costs or expenses of operations, including but not limited to marketing, processing and transportation costs or expenses, in and to production of oil, gas and associated hydrocarbons from the wellbores of all wells drilled from the Property including but not limited to those having a drilling and spacing unit that includes any portion of T5N, R66W, 6th

P.M. Sections 11 and 14, Weld County, Colorado. The overriding royalty interest shall be granted upon all working interests and leases owned or hereafter acquired by Synergy or its successors or assigns, with the exception of the Synergy Lease and Existing Lease, upon which wells are drilled from the Property. However, said overriding royalty shall be proportionately reduced to the gross working interest owned by Synergy in all leases in the wells' drilling and spacing units, except the Synergy Lease and Existing Lease, on a lease-by-lease basis, but shall not be proportionately reduced to the mineral interest covered under any lease or reduced based upon any net revenue interest owned by Synergy. Synergy agrees to execute and deliver to Gilbert an assignment document granting said overriding royalty interest at Closing.

- 1.3 **SETBACK REQUIREMENTS.** Synergy agrees that operations upon the Property shall not cause safety or other setbacks to extend beyond the boundaries of the Property. Unless otherwise shown on the Exhibits to this Agreement, the parties agree that all safety setbacks shall be 150' from the edge of the well head and surface equipment. This setback shall be binding upon the parties hereto and their successors and assigns.
- 1.4 **COOPERATION.** Synergy understands that Gilbert owns additional land to the south of the Property ("Remaining Property") and is retaining such Remaining Property for surface development including vertical construction. Synergy agrees to cooperate with Gilbert in connection with any proceedings at any governmental authority to develop the Remaining Property in Section 14. Additionally, Gilbert agrees to cooperate with Synergy in connection with any proceedings at any governmental authority to allow drilling activities on the Property, including but not limited to any City of Greeley approvals necessary to subdivide the Property from the Remaining Property. Upon resubdivision by Gilbert of the Property into one or more subdivision lots and the corresponding requirement by the City of Greeley that 24th Street Road be extended, constructed and dedicated to the city, Synergy agrees to pay Gilbert \$100,000.00 as Synergy's portion of the road construction costs upon approval of such resubdivision by the city. Synergy agrees to complete improvements on 38th Avenue adjacent to the Property and the Remaining Property at its sole cost and expense when required to do so by the City of Greeley.
- 1.5 **COMPLIANCE.** Operator shall conduct all operations in strict compliance with the requirements and regulations of both the City of Greeley and the Colorado Oil and Gas Conservation Commission, and State of Colorado and federal statutes, rules and regulations pertaining to the oil and gas industry. Synergy agrees to conduct all operations according to the reasonable and prudent operator standard.

2. RESCISSION AGREEMENT AND OPTION TO REPURCHASE.

- A. Gilbert shall repurchase the Property (a) if any drilling permit, use by special review or other condition or requirement of a local governmental authority is

unable to be obtained for mineral development of the Mineral Lands by Synergy within 6 months of the closing date of the purchase of the Property or (b) if Synergy is unable to enter into an agreement with Noble to acquire its working interest in the S/2 of Section 14 within 6 months of the closing date of the purchase of the Property or to drill the additional Gilbert Well(s) described in Section 1.1 above on the Existing Lease or Synergy Lease. The purchase price shall be the same as the Purchase Price of the Property paid by Synergy to Gilbert pursuant to the terms of the CONTRACT TO BUY AND SELL REAL ESTATE (VACANT LAND) between Synergy Resources Corporation, as Buyer, and Gilbert Commercial Land, LLP, as Seller, dated of even date herewith, less and except the \$25,000 Earnest Money which shall be retained by Gilbert.

B. Gilbert shall have the option to repurchase the Property from Synergy or its successors and assigns at such time as the Property is no longer used as a drilling or production pad or minerals operations area and after the wells on the Property are plugged, abandoned and reclaimed. This option to repurchase shall expire six months after COGCC approval of the plugging, abandonment and reclamation of the last well on the Property to be plugged and abandoned by Synergy or its successors and assigns. The purchase price shall be \$375,000 and the other terms and provisions of such repurchase shall be consistent with those currently and customarily provided in a commercial real estate transaction including transfer by special warranty deed and usual real estate tax and other prorations.

3. ENVIRONMENTAL DAMAGES. Synergy shall defend, hold harmless, indemnify and pay Gilbert, their successors, heirs, or assigns, damages and compensation for any and all liability, costs, and attorney's fees Gilbert may suffer as a result of claims, demands, costs, or judgments against Gilbert arising out of any environmental damage caused or permitted by Synergy's operations or Synergy's noncompliance with any environmental law, order, administrative law or rule, adopted or promulgated by the State of Colorado or the United States of America, or any board, agency, or commission of either.

4. BINDING EFFECT AND ASSIGNMENT. The Parties have executed this Agreement as of the day and year first above written, and it shall be binding on Gilbert and Synergy, their successors and assigns. However, if the CONTRACT TO BUY AND SELL REAL ESTATE (VACANT LAND) between Synergy Resources Corporation, as Buyer, and Gilbert Commercial Land, LLP, as Seller, dated of even date herewith, is terminated prior to Closing, this Agreement shall immediately become null and void. This Agreement shall be assignable by Synergy only with Gilbert's prior written consent which consent shall not be unreasonably withheld.

5. OPERATIONS DAMAGES. Synergy agrees to indemnify and hold Gilbert, its successors and assigns, harmless from and against, and pay Gilbert damages or compensation for claims resulting from, any damage to property including land, soil, drinking, surface and ground water and wells, and personal property of any type and against any claim for damages, liability or injury to individuals resulting from use of the Property by Synergy or any of their agents, contractors, subcontractors, employees, invitees and guests for oil and gas drilling, completion, equipping, and production operations or all other uses of the Property. This indemnification shall

pertain to all activities upon the Property conducted by Synergy and/or Buyer including but not limited to:

- a. Seismic operations and studies;
- b. Site preparation upon and around the Property;
- c. Exploration operations upon the Property
- d. Drilling operations upon the Property;
- e. Completion operations conducted upon the Property including fracking;
- f. Use and disposal of produced water from the Property
- g. Recompletions, reworking and re-fracking of wells drilled upon the Property;
- h. Remediation, restoration and reclamation of the Property and plugging and abandonment of wells operations conducted upon the Property;
- i. Damages resulting to drinking, surface or groundwater and wells from use of the Property including replacement of drinking water supplies that become unusable as a result of use of the Property;
- j. Damages resulting to surface infrastructure now or to be located upon the Property or the Remaining Property from use of the Property;
- k. Damages resulting to improvements now or to be located upon the Property or the Remaining Property from use of the Property; and
- l. Damages resulting from environmental contamination upon the Property or the Remaining Property from use of the Property.

6. TESTING OF WATER WELLS. Synergy agrees, as long as the Property is used as a drilling or production pad or operations area for the production of minerals from the Mineral Lands, to arrange for the yearly testing of water wells located on the Property and Mineral Lands as required by state and local governments at present and in the future. The results of these tests shall be submitted to Seller and filed with the COGCC.

7. REMEDIATION, PLUGGING AND ABANDONMENT. Upon completion of use of the Property as a drill pad, Synergy agrees to reclaim, remediate and restore the Property to as reasonably close as practical to the condition it was in at the time this Agreement was signed. Further, Synergy agrees to plug and abandon the wells operated by Synergy located upon the Mineral Lands upon cessation of production pursuant to the Lease. Remediation, plugging and abandonment operations shall be conducted in compliance with all applicable federal, state and local rules and regulations for such activities

8. COVENANT RUNNING WITH THE LAND. This agreement shall be deemed a covenant running with the Property for the benefit of the Property, Mineral Lands and property owned by Gilberts in said Section 14 and shall survive closing of the Contract referenced above in Background paragraph A. The parties agree that this agreement shall be recorded in the Weld County records.

IN WITNESS WHEREOF, the parties have executed this agreement as of the day and year set forth above.

BUYER:

Executed this 31st day of July, 2013

SYNERGY RESOURCES CORPORATION

By: 

Name: Ed Holloway

Title: CEO

SELLER:

Executed this 22 day of July, 2013

GILBERT COMMERCIAL LAND, L.L.P.

By: 

L. Ann Allison, Trustee of the L. Ann Allison Revocable Trust under Agreement dated April 12, 1988, a General Partner of Gilbert Commercial Land, L.L.P.

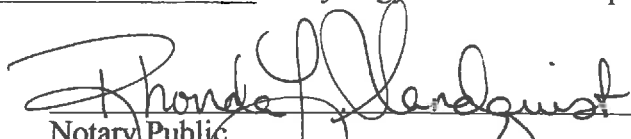
By: 

Tiffany Dalton, attorney in fact for Jane Carson Gilbert, Trustee of the Jane Carson Gilbert Trust under Agreement dated April 26, 1999, a General Partner of Gilbert Commercial Land, L.L.P.

ACKNOWLEDGEMENT

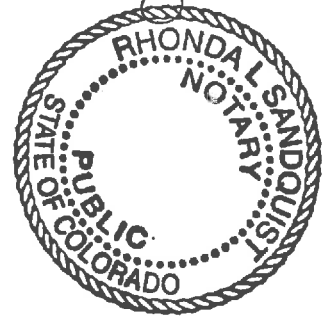
STATE OF COLORADO)
)ss.
COUNTY OF Weld)

The foregoing instrument was acknowledged before me this 31st day of July, 2013, by Edward Holloway as CEO of Synergy Resources Corporation, for the purposes stated therein.



Notary Public


My Commission Expires: 11/20/2015



ACKNOWLEDGEMENT

STATE OF ILLINOIS)
)ss.
COUNTY OF Cook)

The foregoing instrument was acknowledged before me this 22nd day of July, 2013, by L. Ann Allison, Trustee of the L. Ann Allison Revocable Trust under Agreement dated April 12, 1988, as General Partner of Gilbert Commercial Land, LLP, a Colorado limited liability partnership, on behalf of the partnership, for the purpose stated therein



Notary Public

My Commission Expires: Nov 16, 2016



ACKNOWLEDGEMENT

STATE OF Illinois)
)ss.
COUNTY OF Cook)

The foregoing instrument was acknowledged before me this 22nd day of July, 2013, by Tiffany Dalton, attorney in fact for Jane Carson Gilbert, as Trustee of the Jane Carson Gilbert Trust under Agreement dated April 26, 1999, as General Partner of Gilbert Commercial Land, L.L.P, a Colorado limited liability partnership, on behalf of the partnership, for the purpose stated therein.



Notary Public

My Commission Expires: Nov 16, 2016



Exhibit A

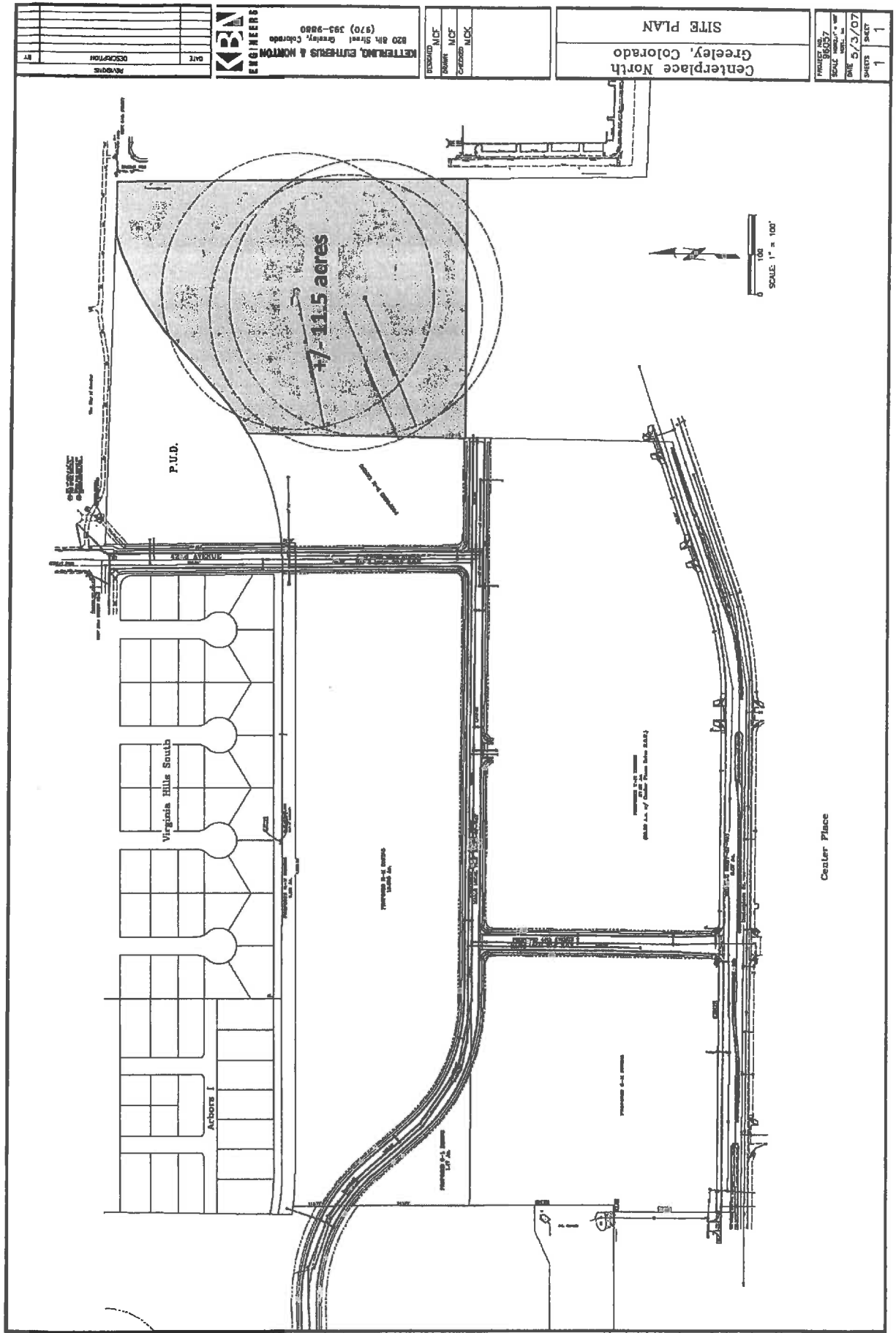


EXHIBIT A

TO POWER OF ATTORNEY (REAL ESTATE)

Legal Description:

A parcel of land being part of Tract C, Centerplace Subdivision, recorded December 16, 2002 as Reception No. 3015394 of the records of the Weld County Clerk and Recorder, located within the Southeast Quarter (SE1/4) of Section Fourteen (14), Township Five North (T.5N.), Range Sixty-six West (R.66W.) of the Sixth Principal Meridian (6th P.M.), City of Greeley, County of Weld, State of Colorado, and being more particularly described as follows:

BEGINNING at the Northeast corner of said Tract C and assuming the East line of said Tract C as bearing South 00°44'49" East, being a Grid Bearing of the Colorado State Plane Coordinate System, North Zone, North American Datum 1983/92, with all other bearings contained herein relative thereto:

THENCE South 00°44'49" East along the East line of said Tract C a distance of 829.34 feet;
THENCE North 89°34'11" West a distance of 150.85 feet to a Point of Curvature (PC);
THENCE along the arc of a curve which is concave to the South a distance of 93.00 feet to a Point of Tangency (PT), said curve having a radius of 735.00 feet, a central angle of 07°15'00" and a long chord bearing South 86°48'19" West a distance of 92.94 feet;
THENCE South 83°10'49" West a distance of 154.22 feet to a Point of Curvature (PC);
THENCE along the arc of a curve which is concave to the North a distance of 84.15 feet to a Point of Tangency (PT), said point lying on the Easterly extension of the Northerly Right-of-way line of 24th Street Road as shown on the plat of Centerplace North Subdivision, recorded January 11, 2008 as Reception No. 3528542 of the records of the Weld County Clerk and Recorder, said curve having a radius of 665.00 feet, a central angle of 07°15'00" and a long chord bearing South 86°48'19" West a distance of 84.09 feet;
THENCE North 89°34'11" West along said Easterly extension of said Northerly Right-of-way line a distance of 176.11 feet to the West line of said Tract C;
THENCE North 00°49'46" East along the West line of said Tract C a distance of 552.96 feet to the Northwest corner of said Tract C, said point being the beginning point of a curve, said curve being non-tangent to aforesaid line;
The following Four (4) courses and distances are along the Northwesterly and Northerly lines of said Tract C:
THENCE along the arc of said non-tangent curve, which is concave to the Northwest, a distance of 129.32 feet to a Point of Tangency (PT), said curve having a radius of 640.00 feet, a central angle of 11°34'39" and a long chord bearing North 53°41'22" East a distance of 129.10 feet;
THENCE North 47°54'03" East a distance of 172.29 feet to a Point of Curvature (PC);
THENCE along the arc of a curve which is concave to the Southeast a distance of 212.38 feet to the South Right-of-way line of 24th Street as established by said Centerplace Subdivision, said curve having a radius of 710.00 feet, a central angle of 17°08'20" and a long chord bearing North 56°28'13" East a distance of 211.59 feet;
THENCE South 88°19'19" East along said South Right-of-way line of said 24th Street and nontangent to aforesaid curve a distance of 229.87 feet to the POINT OF BEGINNING;