

Agenda Item: 8.

MEMORANDUM

TO: Finance, Legal and Expenditure Subcommittee

FROM: Martin P. Cleveland, Construction Engineer

SUBJECT: Big Papio Channel Project (84th to I-80) – Right Bank – near 3503 S. 84th Street Sign License Agreement with Properties Ventures of Marin, Inc.

DATE: June 1, 2016

The portion of the Big Papio Channel Project between 84th Street and Interstate 80 located in Omaha is shown on the enclosed location map. The Properties Ventures of Marin, Inc. property (AutoGlassNow business) is located just south of the Big Papio and immediately east of 84th Street (3503 S. 84th Street). The District acquired channel project right-of-way (ROW) as part of a Corps of Engineers channel project at this location in 1991. There was a MasterTune business sign, as well as a guardrail and some paved parking, located in the acquired channel project ROW. District staff have not been able to locate any correspondence or documentation related to the continued use of the sign, which has remained since the 1991 District ROW acquisition. The sign has not been well maintained and is in poor visible condition, although structurally sound.

The MasterTune building was located at the adjacent property, but the ownership changed many years ago and was subsequently acquired by several owners, with the most recent ownership change in spring 2016 by Properties Ventures of Marin, Inc. The City of Omaha Planning Department recently contacted the District about the sign and its condition and requested the sign be removed. The Properties Ventures of Marin, Inc. representative then contacted the District about the company's desire to rehabilitate the sign and use it for their business. The City of Omaha is ok with the sign remaining as long as it is well maintained.

Enclosed is a proposed license agreement with Properties Ventures of Marin, Inc. to provide for the following items:

1. A license for use of the sign will be granted to Property Ventures of Marin, Inc. (licensee) for a period of 99 years.
2. A Properties Ventures of Marin, Inc. (licensee) will be responsible for the rehabilitation and maintenance of the sign during the license period. This rehabilitation will include repainting, repairing the electrical components such as lights and installing a new sign cover with their company name.
3. Properties Ventures of Marin, Inc. and future users will be required to obtain any necessary state or local permits for the use of the sign.

4. The License will be transferable to future owners of the Properties Ventures of Marin, Inc. site.
5. Properties Ventures of Marin, Inc. will also be responsible to maintain the guard rail and the portion of paved parking lot on District property adjacent to the sign near 3503 S. 84th Street.
6. No payment will be required from Properties Ventures of Marin, Inc., in exchange for sign rehabilitation, maintenance and guard rail and pavement maintenance.
7. If the US Army Corps of Engineers or the District determines that the sign needs to be removed to facilitate channel maintenance or to adhere to Corps of Engineers levee/channel requirements, the Licensee will have the right to remove the sign, guard rail and parking lot paving, at its cost.

Management recommends that the Finance, Legal and Expenditure Subcommittee recommend to the Board of Directors that the General Manager be authorized to execute the proposed sign license agreement with Properties Ventures of Marin, Inc. for sign located at 3503 S. 84th Street on Big Papio Channel Project Right-of-Way, subject to changes deemed necessary by the General Manager and approval as to form by District Legal Counsel.

14216 file 531 (Big Papio Channel Mastertune Sign FEL memo)

REAL PROPERTY LICENSE AGREEMENT

This Real Property License Agreement (the “**Agreement**”) is entered into on this ____ day of June, 2016, by and between the Papio-Missouri River Natural Resources District (the “**Licensor**”), and Properties Ventures of Marin, Inc. (the “**Licensee**”). The Licensor and the Licensee are hereinafter each referred to as a “**Party**” and are collectively referred to as the “**Parties.**”

PRELIMINARY STATEMENTS

A. The Licensor is the owner of a Right-of-Way located near 3503 South 84th Street on the Big Papio Channel Project Right-of-Way (the “**Property**”) as shown on Exhibit A.

B. The Licensee wishes to continue to maintain an advertising sign, guard rail and paved parking lot on the Property and the Licensor wishes to grant the use thereof to the Licensee, as further set forth below.

NOW THEREFORE, in consideration of the premises and the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, hereby agree as follows:

ARTICLE 1 - GRANT

1.1 License. During the Term, the Licensor hereby licenses and authorizes the Licensee to maintain the current advertising sign, guard rail and paved parking lot (the “**Licensed Facilities**”) on the Property. This Agreement does not, and is not intended to, extend to any Property in addition to the property that is occupied currently by the Licensed Facilities.

1.2 Rights Retained by the Licensor. The Licensor hereby reserves the following rights with respect to the Property upon which the Licensed Facilities are located: (a) to establish reasonable and non-discriminatory guidelines for the use thereof and (b) to use or permit the use by others to whom the Licensor may have granted such rights. In the event the US Army Corps of Engineers or the Licensor, in their sole discretion, determines that the Licensed Facilities must be removed to facilitate Big Papio channel maintenance or to adhere to the US Army Corps of Engineers requirements, including, but not limited to levee and channel requirements, the Licensee must remove the Licensed Facilities at Licensee’s cost.

ARTICLE 2 - TERM

2.1 Term. The term of this Agreement shall begin as of the date hereof and shall continue for ninety-nine (99) years.

ARTICLE 3 - FEE

3.1 License Fee. The Licensee shall pay to the Licensor an annual fee in the amount of \$0 (in lieu of a cash payment, the Parties agree that the consideration is the Parties’ agreement to comply with the terms hereof).

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

“Licensor”

Papio-Missouri River Natural Resources District

By: _____

Name:

Title:

“Licensee”

Properties Ventures of Marin, Inc.

By: _____

Name:

Title:

11-3643

191 2043
gn.

WARRANTY DEED

Papio-Missouri River Natural Resources District
Big Papillion Creek Channel Improvement Project

8901 S. 154th St 68138

RALPH E. BINIAMOW and RITA G. BINIAMOW, Husband and Wife (hereinafter referred to as "GRANTORS"), for and in consideration of the sum of EIGHTY-NINE HUNDRED FIFTEEN DOLLARS (\$8,915.00) received from the PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT, a governmental subdivision of the State of Nebraska (hereinafter referred to as "GRANTEE"), do hereby convey to GRANTEE the following described real estate (as defined in Section 76-201, Nebraska Revised Statutes), to-wit: A tract of land located in the Southwest Quarter of Section 35, Township 15 North, Range 12 East of the 6th P.M., Douglas County, Nebraska more particularly described in the document entitled "Legal Description - Tract 509 - Part Taken For Right-Of-Way," attached hereto as Exhibit "A" and incorporated herein by reference.

GRANTORS covenant with GRANTEE that GRANTORS:

- (1) are lawfully seised of such real estate, and that it is free from taxes and any encumbrances except easements now of record;
- (2) have legal power and lawful authority to convey the same; and,
- (3) warrant and will defend GRANTEE'S title to the real estate against the lawful claims of all persons.

Executed this 14 day of Sept, 1991.

Ralph E. Biniamow
RALPH E. BINIAMOW

Rita G. Biniamow
RITA G. BINIAMOW

Exhibit "A"

RALPH BINIAMOW

LEGAL DESCRIPTION
 TRACT 509
 PART TAKEN FOR RIGHT-OF-WAY

BOOK 1908 PAGE 730

Northwest Quarter of 4th

A TRACT OF LAND LOCATED IN THE ^{Northwest Quarter of 4th} SOUTHWEST ONE-QUARTER OF SECTION 35, TOWNSHIP 15 NORTH, RANGE 12 EAST OF THE 6TH P.M., DOUGLAS COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS: COMMENCING AT THE WEST ONE-QUARTER CORNER OF SAID SECTION 35; THENCE SOUTH 02°08'42" EAST (ASSUMED BEARING) 48.00 FEET ALONG THE WEST LINE OF SAID SOUTHWEST ONE-QUARTER; THENCE SOUTH 83°21'42" EAST 97.50 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF 84TH STREET AND POINT OF BEGINNING. THENCE NORTH 13°43'01" WEST 43.03 FEET ALONG SAID EAST RIGHT-OF-WAY LINE TO THE CENTER LINE OF THE BIG PAPILLION CREEK; THENCE SOUTH 62°57'50" EAST 262.66 FEET ALONG SAID CENTER LINE; THENCE SOUTH 06°23'37" WEST 97.51 FEET; THENCE SOUTH 58°13'02" WEST 33.09 FEET; THENCE NORTH 43°39'08" WEST 65.78 FEET; THENCE NORTH 32°13'44" WEST 54.38 FEET; THENCE NORTH 81°45'51" WEST 38.40 FEET; THENCE NORTH 63°16'21" WEST 63.44 FEET TO THE EAST RIGHT-OF-WAY LINE OF 84TH STREET; THENCE ALONG SAID EAST RIGHT-OF-WAY LINE NORTH 13°43'01" WEST 66.18 FEET TO THE POINT OF BEGINNING. DESCRIBED TRACT CONTAINS 21,870 SQUARE FEET OR 0.502 ACRES, MORE OR LESS.

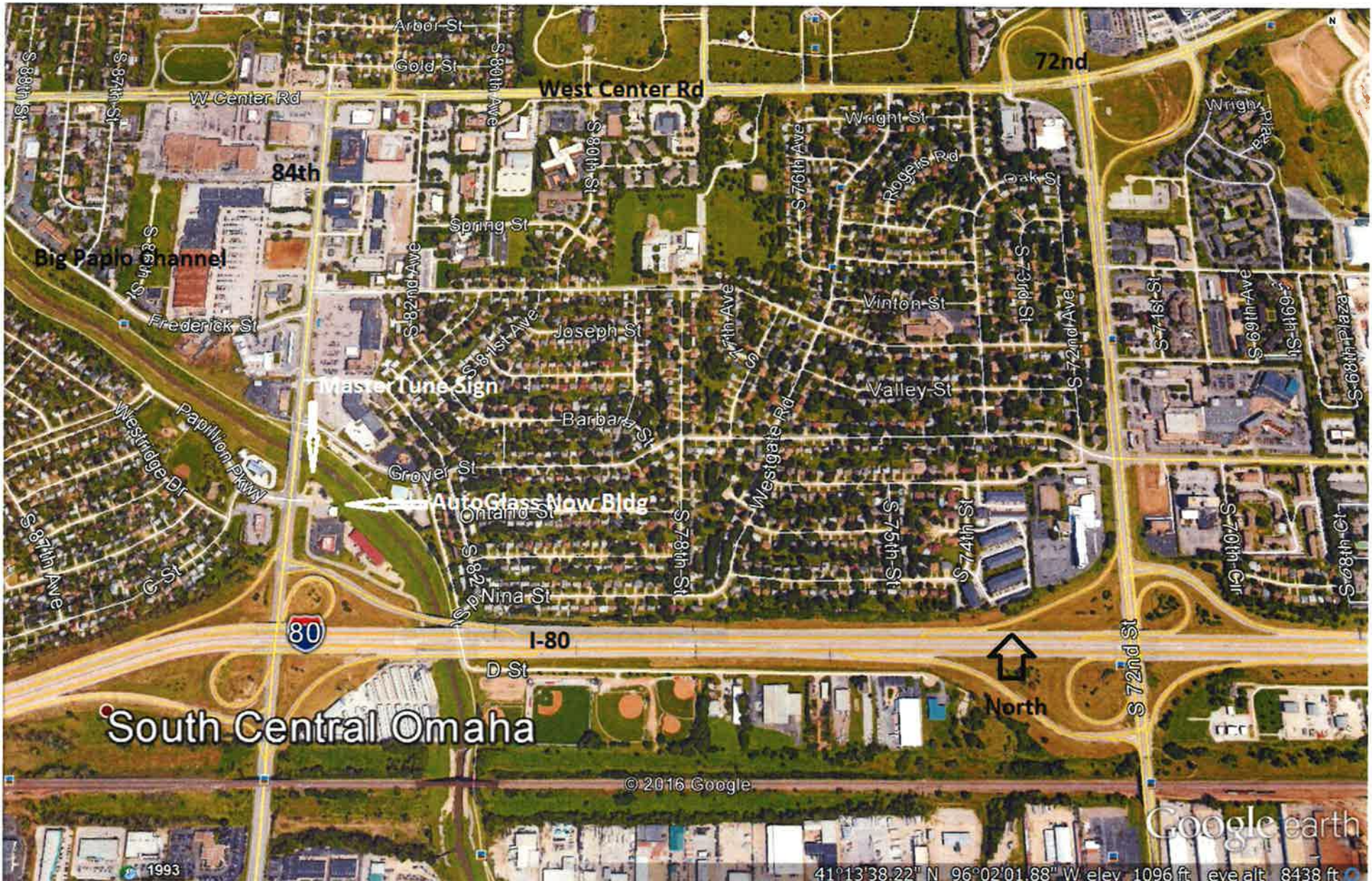
THE SCHEMMER ASSOCIATES INC.
 ARCHITECTS-ENGINEERS-PLANNERS
 1044 N. 115TH STREET
 OMAHA, NEBRASKA 68154-4416
 TSA PROJECT NO. 323104
 JANUARY 31, 1991

*Deed
 12198 #*

NEBRASKA DOCUMENTARY
 STAMP TAX
 286 Date 10/10/91
 EC By DH

BK 1908 N 35-15-12 ^{pp} C/O FEE 15.50
 PG 738-730 N DEL MC
 OF *Deed* COMP F/B 01-60000

RECORDED
 OCT 10 9 06 AM '91
 DOUGLAS COUNTY, NE

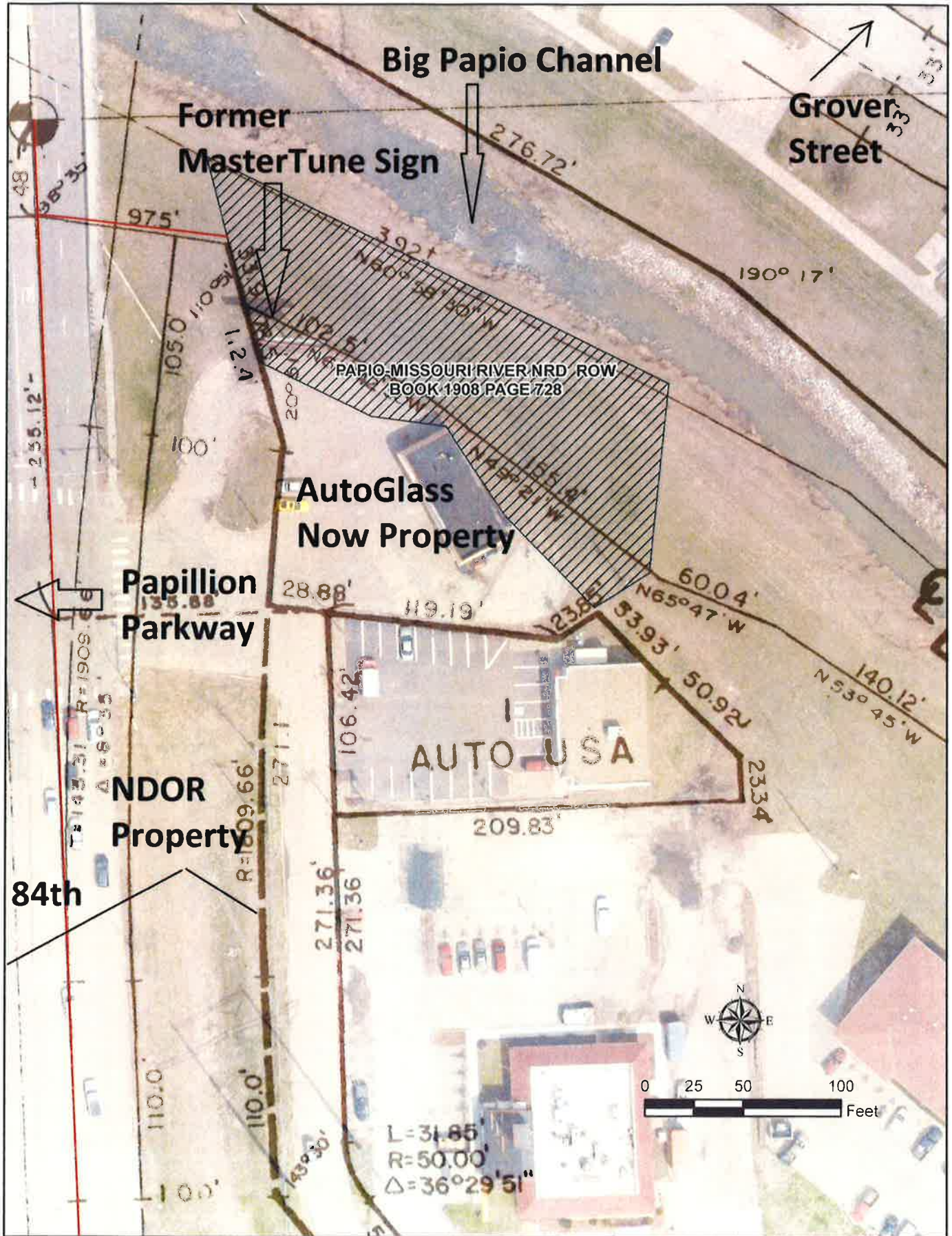


South Central Omaha

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Google earth

41°13'38.22" N 96°02'01.88" W elev 1096 ft eye alt 8438 ft



Big Papi Channel

Former MasterTune Sign

Grover Street

PAPIO-MISSOURI RIVER NRD ROW
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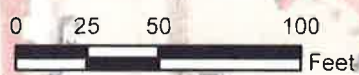
AutoGlass
Now Property

Papillion Parkway

AUTO USA

NDOR
Property

84th



L=31.85'
R=50.00'
Δ=36°29'51"

Looking NE from 84th and
Papillion Parkway

Former MasterTune Sign



Big Papio Channel



AutoGlassNow
Bldg.



Grover St.



84th Street

