



August 05, 2020

Mr. Eric Eckhart
 Real Estate Project Manager
 QuikTrip Division Office
 5725 Fox Ridge Drive
 Mission, KS 66202

Via: Email - EEckhart@quiktrip.com

RE: QuikTrip Store #577 – City Engineer Letter of Project Acceptance

Dear Erik,

In accordance with the Improvements Agreement (117th and Giles) and the Conditional Use Permit, this letter is to acknowledge the completion of the Public Improvements as certified in the Engineer's Statement of Completion signed and dated on March 13, 2020 by Lamp Rynearson and Associates.

As the Punch List Items were addressed on April 23, 2020, please consider this letter of acceptance as valid as of April 23, 2020, to which the warranty period of the public improvements is valid through April 23, 2022.

As the remaining request of completed as-built drawings of the Public Improvements has been received from Lamp Rynearson as of August 04, 2020, this letter will also serve as notification that Public Work hereby recommends the payment of the City's contribution of \$40,000 to the Signal Improvements and will work to release payment as soon as possible.

Please feel free to let me know if you have any questions. Thank you for all your help on this project.

Sincerely,

Patrick M. Dowse, P.E.
 City Engineer

Cc: Cindy Miserez, Finance Director, sent via email
 Pam Buethe, City Clerk, sent via email
 Jeff Calentine, Deputy Public Works Director, sent via email
 File

City Hall
 8116 Park View Blvd.
 La Vista, NE 68128-2198
 p: 402-331-4343
 f: 402-331-4375

Community Development
 8110 Park View Blvd.
 p: 402-593-6400
 f: 402-593-6445

Library
 9110 Giles Rd.
 p: 402-537-3900
 f: 402-537-3902

Police
 7701 S. 96th St.
 p: 402-331-1582
 f: 402-331-7210

Public Works
 9900 Portal Rd.
 p: 402-331-8927
 f: 402-331-1051

Recreation
 8116 Park View Blvd.
 p: 402-331-3455
 f: 402-331-0299

www.cityoflavista.org
info@cityoflavista.org

Consent Agenda 8/18/2020

RESOLUTION NO. 18-017

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA,
NEBRASKA APPROVING AN IMPROVEMENTS AGREEMENT FOR LOT 3, BROOK VALLEY II
BUSINESS PARK.**

WHEREAS, the City Council did on February 20, 2018, approve a Conditional Use Permit for a convenience store with limited fuel sales on Lot 3, Brook Valley II Business Park subject to certain conditions; and

WHEREAS, the Developer, Quik Trip Corporation, and the Seller, Gordo-79, LLC, have agreed to execute an Improvements Agreement satisfactory in form and content to the City; and

NOW THEREFORE, BE IT RESOLVED, that the Improvements Agreement presented at the February 20, 2018, City Council meeting for Lot 3, Brook Valley II Business Park be and hereby is approved and the Mayor and City Clerk be and hereby are authorized to execute same on behalf of the City, subject to the conditions of Council Conditional Use Permit approval and with such modifications that the City Administrator or City Engineer may determine necessary or advisable.

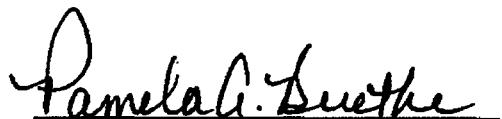
PASSED AND APPROVED THIS 20TH DAY OF FEBRUARY, 2018

CITY OF LA VISTA



Douglas Kindig, Mayor

ATTEST:

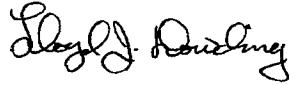


Pamela A. Buethe

Pamela A. Buethe, CMC
City Clerk

18-017	Motion	Second	Aye	Nay	Abstain	Absent
Kindig						
Frederick	✓	✓				
Hale			✓			
Quirk			✓			
Crawford			✓			
Thomas			✓			
Sheehan			✓			
Ronen			✓			
Sell	✓		✓			

COUNTER <u>JB</u>
VERIFY <u>JB</u>
FEES \$ <u>94.00</u>
CHG <u>SFILE</u>
SUBMITTED <u>LAMP RYNEARSON AND ASSOC</u>

FILED SARPY CO. NE.
INSTRUMENT NUMBER
2018-16605
2018 Jul 19 08:21:47 AM

REGISTER OF DEEDS


[Space above the line for recording data]

**IMPROVEMENTS AGREEMENT
(117th and Giles)**

THIS AGREEMENT is made and entered into this 20th day of February, 2018, by and between QUIKTRIP CORPORATION, an Oklahoma corporation, (hereinafter referred to as "Developer" or "QuikTrip Corporation"), and the CITY OF LA VISTA, NEBRASKA (hereinafter referred to as "City").

WHEREAS, Developer acquired and owns Lot 3 Brook Valley II Business Park as depicted on the Land Surveyor's Certificate attached hereto as Exhibit A (hereinafter referred to as the "Property") and any private improvements thereon; and

WHEREAS, Developer at its cost proposes to construct buildings and other private improvements on or serving Lot 3 Brook Valley II Business Park to be used for the operation of an approximately 4,840 square foot QuikTrip; and

WHEREAS, Developer proposes to construct certain public improvements; and

WHEREAS, Developer has caused a traffic impact study to be performed which shows that vehicular access to and from Giles Road at an existing location identified on the CUP Site Plan attached hereto as Exhibit B is expected to meet traffic signal warrants under the Manual of Uniform Traffic Control Devices immediately upon development of Lot 3 Brook Valley II Business Park shown on Exhibit A, and Developer and City desire to provide for acquisition and installation of traffic signals and related pavement modifications at the locations identified on the Plan for Public Improvements Exhibit C ("Public Improvements"), at the cost of Developer and the City; and

WHEREAS, Developer agrees to improvements to 117th Street, from Giles Road to Virginia Plaza, as identified on the Plan for Public Improvements Exhibit C ("Public Improvements"), at the cost of Developer; and

WHEREAS, Developer and City desire to agree on the method for the installation and allocation of expenses for any public improvements to be constructed within or abutting the limits of the Property or within any adjacent public right-of-way and right-of-way acquisitions.

NOW, THEREFORE, the parties agree as follows:

1. Plans and Permits. QuikTrip Corporation shall obtain environmental permits required for the proposed Public Improvements and construction plans for review and approval by the City prior to construction.
2. Construction Certification. QuikTrip Corporation shall cause the Public Improvements to be observed by a professional engineer licensed in Nebraska and shall have the professional engineer issue to the City a Certificate of Compliance with the approved plans prior to obtaining compensation as set forth elsewhere in this agreement.
3. Financial Guarantee; Bonds: Prior to City's release of the Conditional Use Permit for recording, Developer shall provide to City a financial guarantee (i.e., a bank letter of credit) in form and content satisfactory to the City Engineer in the amount of 110% of the total estimated cost to design and construct the Public Improvements, as shown on "Exhibit C" and the estimated total cost as set forth on "Exhibit D". Developer warrants to City, for a period of two years following completion of such construction and its acceptance by the City Engineer of City, that such construction shall have been performed using first quality materials, in a good and workmanlike manner, and in accordance with the plans and specifications approved by the City Engineer of City. Upon completion of such construction, Developer's engineer shall submit to City as-built records and a certification that the construction was performed in substantial compliance with the design approved by the Public Works Department of City (City Engineer) prior to construction. A certificate signed by the City Engineer showing that the City accepts the public improvements as constructed by Developer shall operate as a release of such financial guarantee and commencement of the two-year warranty period.
4. Installation of Public Improvements: Upon picking up its building permit for its proposed development of the QuikTrip on Lot 3 Brook Valley II Business Park, Developer agrees to commence the timely and orderly installation of the Public Improvements in accordance with this Agreement. Nothing in this Agreement, however, shall be deemed a waiver or lessening of any approvals specifically required by this Agreement or of City's requirements regarding approval by City of the site plan for any building or other improvements prior to the issuance of a building permit therefor or regarding compliance with any other applicable requirements, including requirements of the Municipal Code, zoning, or subdivision regulations.

Subject to all other provisions of the Agreement and any exhibits hereto attached, to the extent any of the Public Improvements constructed pursuant to this Agreement are not considered already owned by the City, Developer, upon completion of said Improvements and without charge to the City, hereby unconditionally gives, grants, conveys and fully dedicates Public Improvements comprising the widening of 117th Street, and right-of-way acquisitions to the City, its successors and assigns free and clear of all encumbrances, subject to any further action required of Developer or City to complete said conveyance, and City thereafter shall be responsible for maintenance, repairs and replacements of said Public Improvements comprising the widening of 117th Street, excluding public sidewalks, in accordance with all applicable laws, regulations and requirements. Notwithstanding the foregoing, Developer shall retain ownership to all private improvements located on the Property and Improvements comprising the public sidewalk along 117th Street and Virginia Plaza, and any other improvements if so provided in this Agreement, in accordance with all applicable laws, regulations and requirements. The City reserves the right to withhold the issuance of a certificate of occupancy until the Public Improvements are satisfactorily completed.

5. Compensation for Public Improvements. QuikTrip Corporation has proposed to install traffic signals at the intersection of 117th and Giles and make improvements to 117th Street, from Giles Road to Virginia Plaza, from a two-lane section to a three-lane divided section as shown on the plan for Public Improvements (Exhibit "C"). City and QuikTrip Corporation agree that the Public Improvements are necessary for safe and efficient traffic flow in the area upon the development of the proposed QuikTrip on Lot 3 Brook Valley II Business Park. For this reason, the City is not compensating the entire cost of the Public Improvements but will compensate QuikTrip Corporation for a portion of the traffic signal installation. The compensation shall consist of the following:
 - a. City will make payment in the amount of \$40,000.00 to QuikTrip Corporation subject to the satisfactory construction of the Public Improvements.
 - b. QuikTrip Corporation agrees to pay for the remainder of the cost of the improvements.
6. City Engineer to be Determiner. The City shall have the right, but not any obligation, to inspect any work on, or relating to, the improvements described in this Agreement. All specifications and contracts relating to the Public Improvements shall be subject to prior review and approval of the City Engineer.
7. Exhibit Summary. The Exhibits attached hereto and incorporated herein by this reference and made a part hereof, are as follows:

Exhibit "A":	Land Surveyor's Certificate – Lot 3 Brook Valley II Business Park
Exhibit "B":	QuikTrip CUP Site Plan
Exhibit "C":	Plan for Public Improvements
Exhibit "D"	Estimate of total costs of Public Improvements

8. Right to Enforce. Provisions of this Agreement may be enforced at law, or in equity by the owners of land within the QuikTrip CUP Site Plan and may be enforced by the City at law, in equity or such other remedy as City determines appropriate. All rights and remedies of a party, whether specified in this Agreement or otherwise provided, are cumulative.
9. Incorporation of Recitals. Recitals at the beginning of this Agreement are incorporated into this Agreement by reference.
10. Nondiscrimination. Notwithstanding anything in this Agreement to the contrary, (i) each party agrees that neither it nor any subcontractor of the party shall discriminate against any employee or applicant for employment to be employed in the performance of this Agreement, with respect to the employee's or applicant's hire, tenure, terms, conditions or privileges of employment, because of race, color, religion, age, sex, disability, or national origin; and (ii) the City is a recipient of federal funds; and as a result, all required contractual provisions related to such federal funds shall be deemed incorporated into this Agreement by this reference and binding upon the parties.
11. Assignment. This Agreement may not be assigned by any party without the express written consent of all parties.
12. Entire Agreement. This Agreement represents the entire agreement and understanding, and supersedes all prior understandings and agreements, written or oral, of the parties with respect to the matters contained herein. The Agreement only may be amended by a written amendment executed by all parties.
13. Severability. If any part of this Agreement is held by a court of competent jurisdiction to be illegal or unenforceable, the illegality or unenforceability shall not affect the remainder of this Agreement, and this Agreement shall be construed as if such illegal or unenforceable provision had never been included herein.
14. Binding Effect; Recording: This Agreement shall be binding upon the parties, and their respective successors, contractors, agents and assigns. This Agreement shall be recorded with the Register of Deeds of Sarpy County, Nebraska and shall constitute a covenant running with the land and shall be binding on Developer and its successors and assigns. City shall have the right, but not the obligation, to enforce any and all such covenants. It is further agreed that after City releases the Conditional Use Permit to Developer for recording, Developer promptly will record such Conditional Use Permit with the Register of Deeds of Sarpy County, Nebraska. It is expressly agreed, however, that City shall not release the Conditional Use Permit for recording until (i) Developer provides to City the financial guarantees required by this Agreement; and (ii) City is satisfied that Developer, or its successors and assigns, have concluded (closed), or made arrangements satisfactory to the City to conclude (close), transactions necessary to begin and complete the actual construction of all of the Private Improvements on the Property as contemplated on the date of execution of this Agreement. It is further expressly agreed that if the conditions described in the immediately preceding sentence have not occurred within 24 months after

the date of this Subdivision Agreement, Developer shall not be entitled, without the written consent of the City, to move forward with the project.

[Remainder of page intentionally left blank; signatures to follow]

CITY OF LA VISTA, NEBRASKA,

Mayor

Date

ATTEST:

Pamela
City Clerk

7-11-18
Date

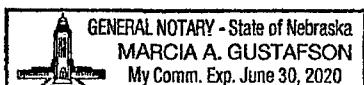
ACKNOWLEDGMENT

STATE OF NEBRASKA _____)
) ss.
COUNTY OF SARPY _____)

On this 11 day of July, 2018, before me, a Notary Public in and for said County and State, personally appeared Douglas Kindig, Mayor of the City of La Vista, Nebraska, and Pamela A. Buethe, City Clerk of the City of La Vista, Nebraska, who executed the above instrument and acknowledged the execution thereof to be their voluntary act and deed on behalf of the City.

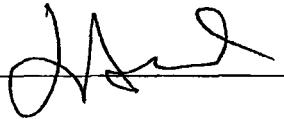
Marcia A. Gustafson
NOTARY PUBLIC

My Commission expires June 30, 2020.



DEVELOPER:

Jason Acord, Division Real Estate Manager



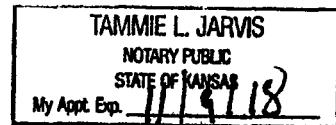
Date: 6-15-18

ACKNOWLEDGMENT

STATE OF Kansas)
COUNTY OF Johnson) ss.

On this 15 day of June, 2018, before me, a Notary Public in and for said County and State, personally appeared Jason Acord, Division Real Estate Manager of QuikTrip Corporation, who executed the above instrument and acknowledged the execution thereof to be his/her voluntary act and deed on behalf of the trust.

My Commission expires 11/9/18.

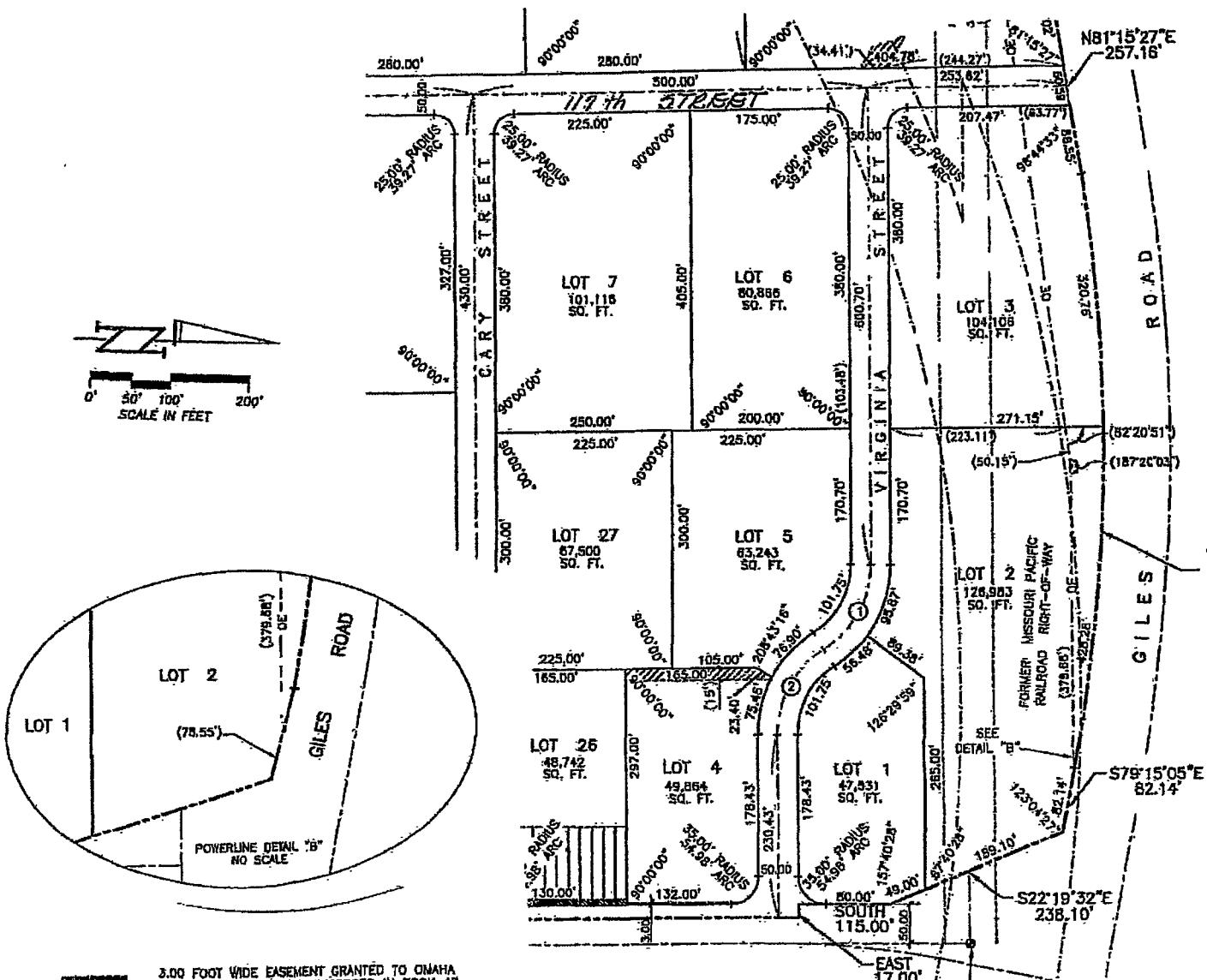


Tammie L. Jarvis
NOTARY PUBLIC

EXHIBIT A
LAND SURVEYOR'S CERTIFICATE – LOT 3 BROOK VALLEY II BUSINESS PARK

(Attached)

Lot 3, Brook Valley II Business Park, a subdivision as surveyed, platted, and recorded in Sarpy County, Nebraska.



3.00 FOOT WIDE EASEMENT GRANTED TO OMAHA
PUBLIC POWER DISTRICT RECORDED IN BOOK 37
AT PAGE 104 OF THE SARPY COUNTY RECORDS

STORM SEWER AND DRAINAGE EASEMENT
(SEE RECORDED INSTRUMENT)

CENTERLINE		CURVE		INFORMATION	
CURVE NO.	DELTA	TANGENT	LENGTH	RADIUS	
1 AND 2	58°00'00"	69.57'	127.05'	125.51'	

ADDRESS:

BUILDING PERMIT NO.

Date: January 25, 1998

Reg. No. 308



LÉGEND

corners found

corners set

recorded distance

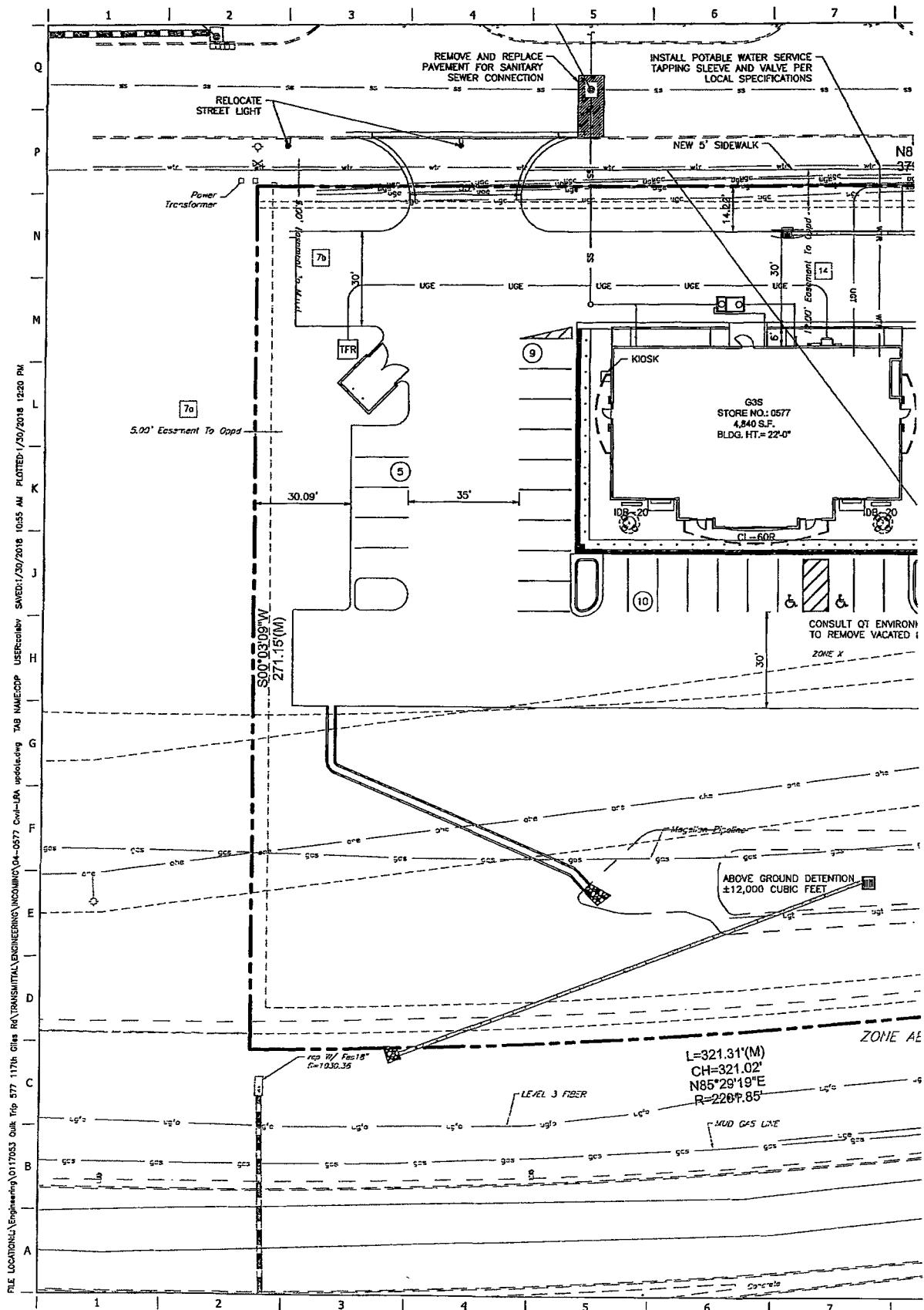
measured distance.

computed distance

•
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COMP
RUE

EXHIBIT B
QUIKTRIP CUP SITE PLAN

(Attached)



E

EXHIBIT C
PUBLIC IMPROVEMENTS

(Attached)

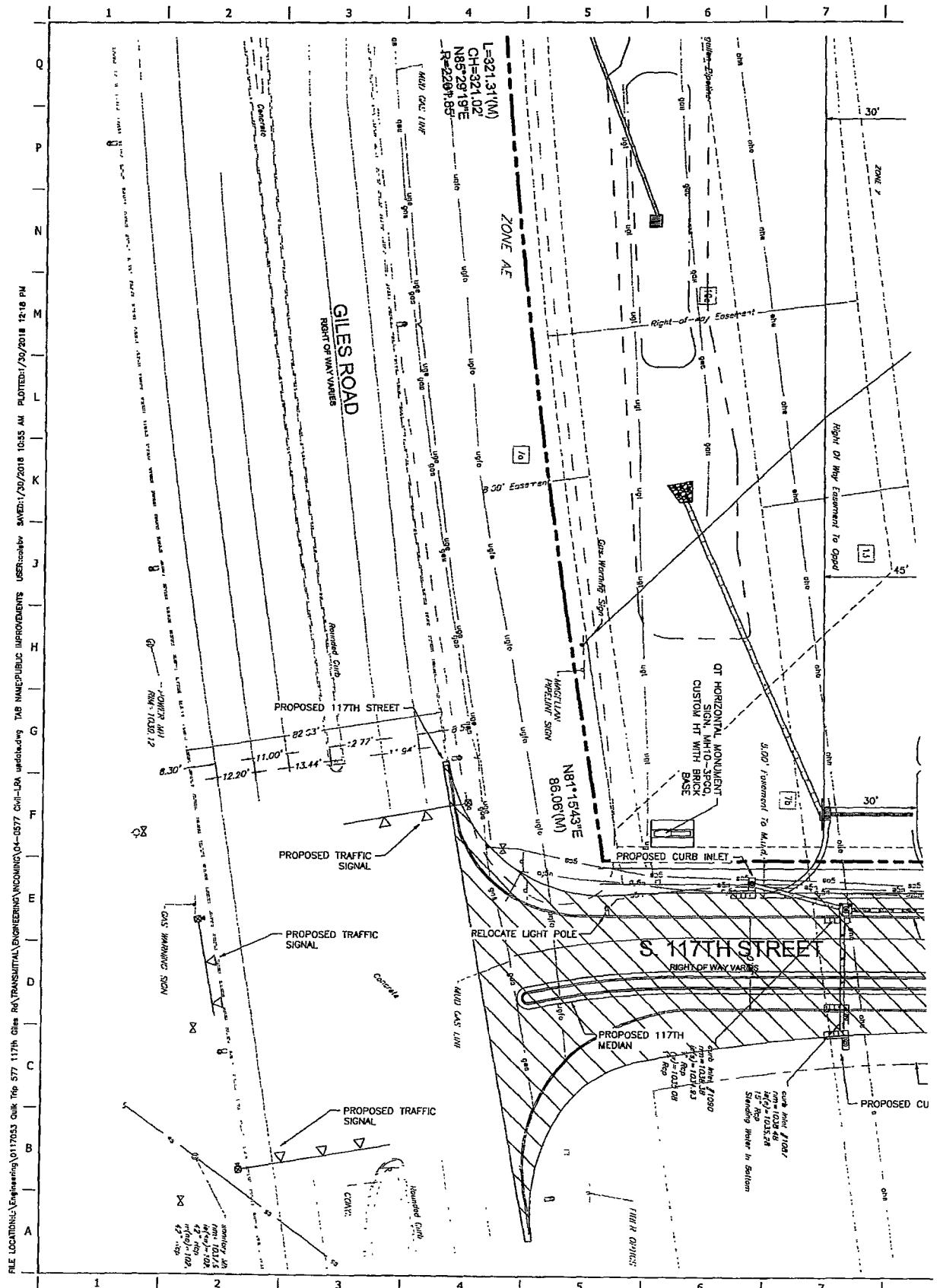


EXHIBIT C: F

EXHIBIT D
ESTIMATE OF TOTAL COST OF IMPROVEMENTS

(Attached)

Site Design- 117TH & GILES PUBLIC IMPROVEMENTS

Assumptions/Comments:

WIDENING OF 117TH STREET FROM VIRGINIA PLAZA TO GILES ROAD
AND TRAFFIC SIGNAL AT 117TH AND GILES.

EXHIBIT D

Bld Item Description	Approximate Quantity	Unit	Unit Price	Total
1. SAWCUT PAVEMENT	175	LF	\$5.00	\$875.00
2. REMOVE CONCRETE PAVEMENT	1,300	SY	\$8.00	\$10,400.00
3. REMOVE CURB INLET	4	EA	\$500.00	\$2,000.00
4. SUBGRADE PREPARATION	2,100	SY	\$3.00	\$6,300.00
5. CONSTRUCT 18" RCP STORM SEWER	70	LF	\$50.00	\$3,500.00
6. CPMSTRUCT 18" PIPE BEDDING	70	LF	\$10.00	\$700.00
7. CONSTRUCT STORM SEWER MANHOLE (1 EA)	5	VF	\$600.00	\$3,000.00
8. CONSTRUCT CURB INLET	4	EA	\$4,000.00	\$16,000.00
9. CONSTRUCT 10" PC CONCRETE PAVING	1,900	SY	\$50.00	\$95,000.00
10. CONSTRUCT MEDIAN SURFACING	2,000	SF	\$10.00	\$20,000.00
11. STRIPING	1	LS	\$5,000.00	\$5,000.00
12. CONSTRUCT TRAFFIC SIGNAL (117TH AND GILES)	1	LS	\$190,000.00	\$190,000.00
13. STREET LIGHT RELOCATIONS	2	EA	\$1,000.00	\$2,000.00
14. COX RELOCATIONS	1	LS	\$31,161.07	\$31,161.07
15. ROW ACQUISITION COST (NONE REQUIRED PER AGREEMENT WITH ADJACENT PROPERTY OWNER)	1	LS	\$0.00	\$0.00

Estimated Construction Costs:	\$385,936.07
Engineering Costs:	\$33,000.00
Total Costs:	\$418,936.07
Contingency (10%):	\$41,893.61
Total Performance Guarantee Amount:	\$460,829.68

Estimate created by Lamp Rynearson (PM: Joe Flaxbeard) for QuikTrip Store 577 Public Improvements.