

Hammond, Indiana (American Inn)

96008148

ASSIGNMENT OF LEASES, RENTS AND PROFITS

from

MJ PROPERTIES, L.L.C. ("Assignor")

to

NOMURA ASSET CAPITAL CORPORATION ("Assignee")

Dated: As of February 2, 1996

Relating to Premises located in Hammond, Indiana

After recording return to:

ROSENMAN & COLIN LLP
575 Madison Avenue
New York, New York 10022
Attention: Stephen R. Senie, Esq.

STATE OF INDIANA
LAKE COUNTY
FILED FOR RECORD
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MARGARET CLELAND
RECORDER

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FC 16575
MQ #96008148

ASSIGNMENT OF LEASES, RENTS AND PROFITS

ASSIGNMENT OF LEASES, RENTS, AND PROFITS, dated as of February 2, 1996, by MJ PROPERTIES, L.L.C., a Missouri limited liability company having its principal office at 3737 South Elizabeth, Suite 103, Independence, Missouri 64057 ("Assignor") to NOMURA ASSET CAPITAL CORPORATION, a Delaware corporation, having an address at 2 World Financial Center, Building B, New York, New York 10281-1198 ("Assignee").

W I T N E S S E T H:

WHEREAS:

A. Pursuant a certain Loan Agreement (the "Loan Agreement") dated as of February 2, 1996 among Assignor, MJB Motels, L.L.C., and ALI Properties, Inc. (collectively, the "Issuers") and Assignee, the Issuers and American Lodging, Inc. have issued their Secured Promissory Note in the principal amount of \$22,646,211.00, dated as of the date hereof (as the same may hereafter be supplemented, amended or modified from time to time, the "Note"), which Note evidences a loan by Assignee to the Issuers in the maximum principal amount of up to Twenty Two Million Six Hundred Forty Six Thousand Two Hundred Eleven Dollars (\$22,646,211.00) (the "Loan");

B. The Loan is secured by, among other things, (i) a mortgage dated as of the date hereof (the "Mortgage"), from Assignor to Assignee which Mortgage creates a lien on, among other things, certain land (collectively, the "Land") located in the State of Indiana (the "State"), as more particularly described on Exhibit A annexed hereto, and the buildings, improvements and structures now or hereafter located thereon (collectively, the "Improvements"; the Land and the Improvements are hereinafter collectively referred to as the "Premises") and (ii) the other Transaction Documents (as such term is defined in the Loan Agreement);

C. To induce Assignee to make the Loan and to accept the Mortgage, Assignor has agreed to assign all of Assignor's right, title, estate and interest in, to and under all Leases (as hereinafter defined) and all Rents (as hereinafter defined) to Assignee;

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor hereby agrees with Assignee as follows:

1. Assignment of Leases, Rents and Profits. Assignor hereby presently and absolutely grants, assigns, transfers and sets over unto Assignee all of Assignor's right, title, estate and interest, if any, in, to and under all Leases and to all rents, income,

profits, revenues and issues arising from the Premises, including, but not limited to, the following:

(a) all payments due and to become due under the Leases, whether as rents, additional rents, percentage rents, revenues, issues, profits, cash collateral, royalties, income, bonuses, rights and benefits due and other benefits payable under the Leases, and all security deposits, advance rentals (subject to rebate or refund rights of motel clients) and payments of similar nature held by Assignor in connection with the Leases, all room rates in the course of its motel operations, all proceeds from any and all concessions and license agreements (including, without limitation, laundry machines and other vending machines) and all other income, issues, profits, revenues and benefits of any nature arising from the possession, use or enjoyment of the Premises (collectively, "Rents");

(b) the immediate and continuing right, but not the obligation, to collect, receive and receipt for all of the respective rights to all Rents and all Leases, and to demand, sue for and recover such Rents when due and payable;

(c) all claims, rights, powers, privileges, causes of action and remedies of the lessor under the Leases;

(d) all rights of the lessor under the Leases to exercise any election or option (including, without limitation, any election of remedies), to give or receive any notice, consent, waiver or approval, or to accept any surrender of the premises demised under the Leases, or any part thereof; and

(e) all rights of the lessor to the security deposits under the Leases;

together with full power and authority to demand, receive, enforce, collect or receipt for any or all of the foregoing, to endorse or execute any checks or other instruments or orders, to file any claims and to take any other action which Assignee may deem reasonably necessary or advisable in connection therewith. Assignor hereby irrevocably constitutes Assignee the attorney-in-fact of Assignor for such purposes, which appointment is coupled with an interest and is unconditional and irrevocable. Any and all such rights of Assignor may be exercised by Assignee or its nominee or designee or by any trustee or receiver appointed at their instance, and no such exercise shall release Assignor from any of its obligations under the Leases; provided, however, that Assignee shall not exercise any rights on behalf of Assignor pursuant to such power of attorney (including, without limitation, the right to receive Rents or exercise any remedies under the Leases) unless and until an Event of Default (as defined in the Loan Agreement) has occurred under any of the Transaction Documents.

For purposes hereof, the term "Leases" shall mean (i) all leases and other agreements affecting the use or occupancy of all or any portion of the Premises now in effect or hereafter entered into (including, without limitation, subleases, licenses, concessions, tenancies and other occupancy agreements covering or encumbering all or any portion of the Premises), (ii) all guarantees, supplements, amendments, modifications, extensions and renewals of any of the foregoing, and (iii) all additional remainders, reversions, and other rights and estates appurtenant to any of the foregoing.

2. Absolute Assignment. This Assignment is given to induce Assignee to make the Loan and accept the Mortgage. This is a present and absolute assignment, not an assignment for security purposes only, and Assignee's right to the Leases and the Rents is not contingent on and may be exercised without, possession of the Premises, the appointment of a receiver or the taking of any other affirmative action to perfect this Assignment. This Assignment does not secure or create any new or further indebtedness other than the indebtedness which under any contingency is or may be secured by the Mortgage.

3. Protection of Security. To protect this Assignment and the Leases and Rents hereby assigned, Assignor covenants and agrees as follows:

(a) Assignor, promptly after obtaining actual knowledge thereof, shall notify Assignee of the termination of any Material Lease (as hereinafter defined), the receipt of any notice of default under any Lease, and of any notice, action or proceeding regarding any Lease which may, in Assignor's reasonable judgment, materially and adversely affect the Premises;

(b) Assignor shall, at its sole cost and expense, perform and comply with, or cause to be performed and complied with, all of the terms, covenants and conditions of the Leases to be performed or complied with by Assignor thereunder, the nonperformance or noncompliance of which would impair Assignor's ability to perform its obligations under the Transaction Documents or would impair the substantial realization by Assignee of the benefits and rights conferred hereunder or under any of the Transaction Documents;

(c) Except as otherwise provided in the Loan Agreement, Assignor shall not, without the prior written consent of Assignee, enter into any Material Lease for all or a material portion of the Premises. All new Leases shall be with tenants unaffiliated with Assignor, shall be on arms-length terms and conditions and shall be at annual rents at least comparable to the market rents then being paid for comparable premises in the vicinity of the Premises. The foregoing shall not be required with respect to Leases for nightly rentals of

individual motel rooms or suites at the Premises in the ordinary course of the operation of Assignor's business;

(d) Assignor, without the prior written consent of Assignee shall not cause or permit the leasehold estate under any of the Leases to merge with Assignor's reversionary interest; and

(e) Assignor, without the prior written consent of Assignee shall not accept a prepayment of rent or any other sums due under any of the Leases, except a prepayment of rent or additional rent not more than one (1) month in advance or a prepayment in the nature of security for the performance of obligations of the lessee under any of the Leases (each, a "Tenant", collectively, the "Tenants").

As used herein, "Material Lease" shall mean (a) any Lease having an average annual rent in excess of \$25,000.00, or (b) any Lease (other than a Lease having a term of thirty (30) days or less) having an expiration date later than the Maturity Date (as such term is defined in the Mortgage).

4. Status of Leases. Assignor represents and warrants to Assignee that:

(a) it has good title to the Leases and the Rents hereby assigned and has full right, power and authority to assign the same;

(b) except as set forth on the "Disclosure Report" (as defined in the Loan Agreement) applicable to the Premises and approved by Assignee in writing, to the best knowledge of Assignor, (i) no tenant under any of the Leases is entitled to any rent concession, (ii) Assignor has not accepted any prepayment of any rent, additional rent or other sums due under any of the Leases, except a payment of rent or additional rent one (1) month in advance or a prepayment in the nature of security for the performance of obligations of the tenant under any of the Leases, and (iii) no tenant has any defense, set-off or counterclaim against Assignor or to the payment of any rent, additional rent or other sums payable pursuant to its Lease or to the performance of any obligations of the tenant thereunder; and

(c) to the best knowledge of Assignor, Assignor has not performed any act or executed any other instrument which may prevent Assignee from operating under any of the terms and conditions of this Assignment or which would limit Assignee in such operation.

5. Payment of Rents; Revocable License; Rights upon Default; Reliance by Tenants.

(a) Unless an Event of Default has occurred hereunder or under any of the Transaction Documents, Assignor shall have a license, subject to and in accordance with the provisions of the Transaction Documents, (i) to collect, receive and apply all Rents, (ii) to manage and operate the Premises and (iii) to deal with the Leases. This license includes, subject to the provisions of the Transaction Documents, all of the privileges, rights, remedies, claims, causes of action, authority, and powers and actions assigned to Assignee pursuant to Paragraph 1 hereinabove.

(b) If an Event of Default shall have occurred hereunder or under any of the Transaction Documents, the license mentioned in subparagraph 5(a) above shall cease and terminate, without the execution of any further instrument or document or the taking of any other act on the part of Assignee, and in such event Assignee shall be entitled to enter upon the Premises and take possession of the Premises by its officers, agents or employees, or by a court appointed receiver, for the collection of the Rents and for the operation, protection, repair and maintenance of the Premises (in each case, subject to the rights of day to day motel guests) and in connection therewith Assignee shall be entitled to take possession of and use all books of account and financial records of Assignor and its property managers or representatives relating to the Premises. The entering upon and taking possession of the Premises, the collection of Rents, and the taking of other actions referred to herein, shall not be deemed to cure or waive any default or to waive, modify or affect any notice of default given under the Transaction Documents.

(c) If an Event of Default shall have occurred hereunder or under any of the Transaction Documents, this Assignment shall constitute a direction to and full authority to the Tenants to pay all Rents to Assignee, or to such other person as Assignee may direct, without proof of the default relied upon. In addition, Assignor agrees that it shall, promptly upon request of Assignee following such Event of Default, execute and deliver notices to the Tenants directing that future rent payments be made directly to Assignee, or to such other person as Assignee may direct. All monies received by Assignee, or such other person as Assignee may direct, pursuant to this Assignment shall be applied, at Assignee's election, to the operation, protection, repair and maintenance of the Premises and/or in the manner specified in the Transaction Documents. Assignee shall be accountable only for the Rents actually collected hereunder and not for the rental value of the Premises.

(d) Anything contained herein to the contrary notwithstanding, Assignor hereby irrevocably authorizes the Tenants to rely upon and comply with any written notice or written demand by Assignee for the payment to Assignee of any Rents due or to

become due. The Tenants shall have no right or duty to inquire whether an Event of Default has actually occurred and Assignor shall have no claim against the Tenants for any Rents paid by the Tenants to Assignee pursuant to Assignee's written demand or written notice.

6. No Obligation.

(a) Neither this Assignment nor any action or inaction on the part of Assignee shall constitute an assumption on the part of Assignee of any duty or obligation under the Leases, nor shall Assignee have any duty or obligation to make any payment to be made by Assignor under the Leases, or to perform any obligation to be performed by Assignor under the Leases, or to present or file any claim, or to take any other action to collect or enforce the payment of any amounts which have been assigned to Assignee or to which it may be entitled hereunder at any time or times. No action or inaction on the part of Assignee shall adversely affect or limit in any way the rights of Assignee under the Leases or under any of the other Transaction Documents. Assignor acknowledges and agrees that no security deposited with Assignor by any Tenant under any Lease has been transferred to Assignee and Assignor agrees that Assignee shall not be liable for any security so deposited.

(b) In the absence of the taking of actual possession of the Premises by Assignee in the exercise of the powers granted Assignee herein or in the other Transaction Documents, neither this Assignment nor anything contained herein shall (i) constitute or be construed as constituting Assignee as a "mortgagee in possession", or (ii) place responsibility for the control, care, management or repair of the Premises upon Assignee, or (iii) operate to make Assignee responsible or liable (as to Assignor) for any waste committed with respect to the Premises by any party, or for any Hazardous Substances (as defined in the Mortgage) placed upon or found at the Premises, or for any dangerous or defective condition of the Premises or for any negligence in the management, up-keep, repair or control of the Improvements resulting in loss, injury, death or damage to any contractor, sub-contractor, licensee, invitee, employee, or other party, or for any loss sustained by Assignor resulting from Assignee's failure to lease the Premises, or for any other thing or matter whatsoever, all such responsibility or liability being expressly waived and released by Assignor.

7. Indemnity. Assignor shall indemnify, defend and hold Assignee harmless from and against any and all liabilities, damages, losses, costs and expenses (including, without limitation, reasonable attorneys' fees and disbursements (including paralegal fees)) which Assignee may incur under the Leases or by reason of this Assignment and from and against any and all claims and demands whatsoever which may be asserted against Assignee by reason of any alleged obligations to be performed or discharged by Assignee under the Leases or this Assignment, and the amount thereof, including

interest, if any, reasonable costs, expenses and reasonable attorneys' fees and disbursements (including paralegal fees), shall be secured hereby and by the other Transaction Documents, and Assignor shall reimburse Assignee as applicable, therefor within ten (10) days after written demand, and if not paid within said ten (10) day period, shall accrue interest at the Default Rate (as such term is defined in the Note) from and including the date of disbursement or advance by Assignee as applicable, to and including the date of repayment by Assignor.

8. **Termination.** This Assignment shall terminate upon payment indefeasibly and in full of all sums due Assignee under the Note, the Loan Agreement and the other Transaction Documents, and any other indebtedness secured by the Mortgage.

9. **Further Assurances.** Assignor, at its expense, will execute and deliver all such instruments (including, without limitation, supplemental assignments) and take all such action as Assignee from time to time, may reasonably request in order to obtain the full benefits of this Assignment and of the rights and powers herein created. Assignor agrees to pay all reasonable costs incurred by Assignee in connection with the foregoing, including without limitation, reasonable attorneys' fees and disbursements (including paralegal fees).

10. **Consents to Jurisdiction and Waivers.** To the extent permitted by law, Assignor hereby irrevocably:

(a) consents to any suit, action or proceeding with respect to this Assignment being, at the option of Assignee brought in any court of competent jurisdiction located in the State;

(b) waives any objection that it may have now or hereafter to the venue of any such suit, action or proceeding in any such court and any claim that any of the foregoing have been brought in an inconvenient forum;

(c) acknowledges the competence of any such court, and submits to the jurisdiction of any such court in any such suit, action or proceeding and agrees that the final judgment in any such suit, action or proceeding brought in any such court may be enforced in any other court the jurisdiction of which it is or may be subject to by a suit upon such judgment, a certified copy of which shall be conclusive evidence of its liability; and

(d) submits to the non-exclusive jurisdiction of the State and Federal Courts in the State and agrees that service of process in any suit, action or proceeding brought in any such court may be made upon Assignor by notice sent by certified mail to the address set forth in the Mortgage, or to

such other address of which Assignor shall have given written notice to Assignee.

11. Miscellaneous.

(a) This Assignment shall constitute a security agreement for all purposes under the Uniform Commercial Code as in effect in the State.

(b) Wherever there is any conflict or inconsistency between any terms or provisions of this Assignment, the Mortgage, or any of the other Transaction Documents, the terms and provisions of this Assignment shall control, except that the terms and provisions of the Mortgage shall control to the extent that the Mortgage shall impose greater burdens upon Assignor, shall further restrict the rights of Assignor or shall give Assignee greater rights.

(c) All rights and remedies herein conferred may be exercised whether or not foreclosure proceedings are pending under the Mortgage or any other action or proceeding has commenced under any of the other Transaction Documents. Assignee shall not, however, be required to resort first to the security of this Assignment before resorting to the security of the Mortgage or any of the other Transaction Documents and Assignee may exercise the security hereof or thereof concurrently or independently and in any order or preference.

(d) All notices, demands, consents, or requests which are either required or desired to be given or furnished hereunder shall be sent and shall be effective in the manner set forth in the Mortgage. By notice complying with this Paragraph, either party may from time to time change the address to be subsequently applicable to it or the identity of its individual officer or its counsel, except that such notice shall be effective only upon receipt, as evidenced by a receipt signed by a party at such address.

(e) The headings and captions of the paragraphs of this Assignment are for convenience of reference only and are not to be construed as defining or limiting, in any way, the scope or intent of the provisions hereof.

(f) The provisions of this Assignment shall be binding upon Assignor, its successors and assigns, and all persons claiming under or through Assignor or any such successor or assign, and shall inure to the benefit of and be enforceable by Assignee and its successors and assigns;

(g) Whenever the context may require, any pronouns used herein shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns and pronouns shall include the plural and vice versa. The terms "herein", "hereof" or

"hereunder" or similar terms used in this Assignment refer to this entire Assignment and not to the particular provision in which the term is used.

12. Governing Law; Interpretation; Terms Subject to Applicable Law.

(a) IN ALL RESPECTS, INCLUDING, WITHOUT LIMITATION, MATTERS OF CONSTRUCTION AND VALIDITY, THIS ASSIGNMENT AND THE OBLIGATIONS ARISING HEREUNDER SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE APPLICABLE TO CONTRACTS MADE AND PERFORMED IN THE STATE (WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAWS) AND ANY APPLICABLE LAWS OF THE UNITED STATES OF AMERICA.

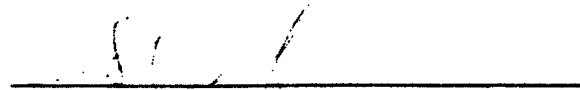
(b) If any of the provisions of this Assignment, or the application thereof to any person or circumstance shall, to any extent, be held to be invalid, illegal or unenforceable, the remainder of this Assignment, or the application of such provision or provisions to persons or circumstances other than those to whom or which it is held invalid or unenforceable, shall not be affected thereby and every provision of this Assignment shall be valid and enforceable to the fullest extent permitted by law.


13. Waiver of Jury Trial. ASSIGNOR HEREBY IRREVOCABLY WAIVES TRIAL BY JURY IN ANY ACTION OR PROCEEDING BROUGHT BY EITHER PARTY HERETO AGAINST THE OTHER, OR IN ANY MATTERS WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS ASSIGNMENT THE NOTE, THE MORTGAGE OR ANY OF THE OTHER TRANSACTION DOCUMENTS TO THE FULL EXTENT PERMITTED BY LAW.

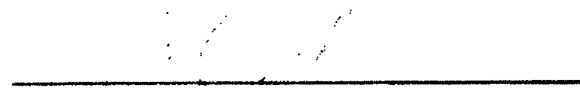
IN WITNESS WHEREOF, Assignor has caused this Assignment to be executed as of the day and year first above written.

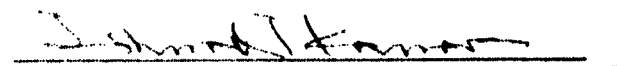
Signed, sealed and delivered
in the presence of:

WITNESSES:


Name: _____

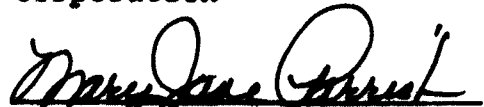

Name: SIMMAEL T KAMARA


Name: _____



Name: SIMMAEL T KAMARA

MJ PROPERTIES, L.L.C.

By: M.J. Property & Company,
Inc., a Missouri
corporation


By: 
Mary Jane Parrish,
President

By: MJ Holdings, Inc., a
Missouri corporation

By: 
Mary Jane Parrish,
President

STATE OF NEW YORK)
) SS.:
COUNTY OF NEW YORK)

On the 1st day of February, 1996, before me personally came Mary Jane Parrish, to me known, who, being by me duly sworn did depose and say that s/he resides at 3921 BARRY LANE, INDEPENDENT, NY that s/he is the President of M.J. Property & Company, Inc. and MJ Holdings, Inc., the corporations which executed the above instruments on behalf of MJ Properties, L.L.C.; and that s/he signed his/her name thereto by authority of the boards of directors of such corporations.


Notary Public
My Commission Expires: _____
I reside in NEW YORK County,
New York

This document was prepared by Stephen R. Senie, Esq. of Rosenman & Colin LLP, 575 Madison Avenue, New York, New York 10022-2585.

ELLEN WARREN
Notary Public, State of New York
No. 31-4847374
Qualified in New York County
Commission Expires July 31, 1997

EXHIBIT A

LEGAL DESCRIPTION

LEGAL DESCRIPTION:

PARCEL 1:

PART OF THE SOUTHEAST 1/4 OF SECTION 24, TOWNSHIP 37 NORTH, RANGE 10 WEST, OF THE 2ND PRINCIPAL MERIDIAN, IN THE CITY OF HAMMOND, LAKE COUNTY, INDIANA, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE EAST LINE OF SAID SECTION, 705 FEET NORTH OF THE SOUTHEAST CORNER THEREOF; THENCE NORTH ALONG THE EAST LINE 575 FEET; THENCE WESTERLY ON A LINE MAKING AN INTERIOR ANGLE OF 90 DEGREES 40 MINUTES MEASURED SOUTH TO WEST FROM THE EAST LINE OF SAID SECTION, 313.55 FEET, MORE OR LESS, TO THE EASTERLY LINE OF THE RIGHT OF WAY OF THE SOUTH CHICAGO & SOUTHERN RAILROAD AS DESCRIBED IN DEED RECORD 74 PAGES 84 TO 89; THENCE SOUTHEASTERLY ON SAID RIGHT OF WAY LINE, BEING A CURVED LINE OF 2374 FOOT RADIUS, CONVEX TO THE NORTHEAST, 497.37 FEET, MORE OR LESS, TO A POINT OF TANGENT; THENCE CONTINUING SOUTHERLY ALONG SAID RIGHT OF WAY LINE, 81.53 FEET, MORE OR LESS, TO A LINE THAT IS PARALLEL WITH THE SOUTH LINE OF SAID SECTION, AND 705 FEET NORTH OF IT, AS MEASURED ALONG THE EAST LINE OF SAID SECTION; THENCE EASTERLY ALONG SAID 705 FOOT PARALLEL LINE, 262.14 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

PARCEL 2:

THE SOUTH 265 FEET OF THE FOLLOWING DESCRIBED PROPERTY: A PARCEL OF LAND IN THE SOUTHEAST 1/4 OF SECTION 24, TOWNSHIP 37 NORTH, RANGE 10 WEST OF THE 2ND PRINCIPAL MERIDIAN, IN THE CITY OF HAMMOND, LAKE COUNTY, INDIANA, DESCRIBED AS BEGINNING AT A POINT ON THE EAST LINE OF SAID SECTION 24 THAT IS 440 FEET NORTH OF THE SOUTHEAST CORNER OF SAID SECTION 24, MEASURED ALONG THE EAST LINE OF SAID SECTION 24; THENCE CONTINUING ON SAID EAST LINE, 840 FEET; THENCE WESTERLY ON A LINE THAT IS PARALLEL TO THE SOUTH LINE OF SAID SECTION 24 AND THIS LINE MAKES AN INTERIOR ANGLE OF 90 DEGREES 40 MINUTES, MEASURED SOUTH TO WEST WITH THE EAST LINE OF SAID SECTION 24, 313.55 FEET, MORE OR LESS, TO THE EASTERLY LINE OF RIGHT-OF-WAY OF THE SOUTH CHICAGO AND SOUTHERN RAILROAD AS DESCRIBED IN DEED RECORD 74 PAGES 84 TO 89, IN THE RECORDER'S OFFICE, LAKE COUNTY, INDIANA; THENCE SOUTHEASTERLY ON SAID RIGHT-OF-WAY LINE, BEING CURVED LINE OF 2,374 FOOT RADIUS, CONVEX TO THE NORTHEAST, 479.37 FEET, MORE OR LESS, TO A POINT OF TANGENT; THENCE CONTINUING SOUTHERLY ON SAID RIGHT-OF-WAY LINE 346.53 FEET, MORE OR LESS, TO A LINE THAT IS PARALLEL TO THE SOUTH LINE OF SAID SECTION 24 AND 440 FEET NORTH OF IT, MEASURED ALONG THE EAST LINE OF SAID SECTION 24; THENCE EASTERLY ALONG SAID 440 FOOT PARALLEL LINE, 262.37 FEET TO THE EAST LINE OF SAID SECTION 24 AND THE POINT OF BEGINNING.