



MISC 2004106467



AUG 11 2004 08:35 P 18

Received - RICHARD TAKECHI  
Register of Deeds, Douglas County, NE  
8/11/2004 08:35:01.20



2004106467

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*14*

### THIRD AMENDMENT TO REDEVELOPMENT AGREEMENT

**THIS THIRD AMENDMENT TO REDEVELOPMENT AGREEMENT** (hereinafter "Third Amendment") made pursuant to Section 55-561 thru 55-564 of the Zoning Ordinances of the City of Omaha, made and entered into this 29<sup>th</sup> day of JUNE 2004, by and between THE CITY OF OMAHA, NEBRASKA, a Municipal Corporation, (hereinafter "City") and First Data Resources Inc.(hereinafter "Developer").

#### WITNESSED:

WHEREAS, on or about May 20, 1997, City, Developer and certain other parties entered into a Redevelopment Agreement ("Original Agreement") which was recorded in the office of the Register of Deeds of Douglas County, Nebraska at Book 1214, Page 252 of the Miscellaneous Records and which provided, among other things, for the development of certain real property described therein as the Project Property; and

WHEREAS, City and Developer executed that certain First Amendment to Redevelopment Agreement dated December 28, 2000 ("First Amendment"); and

WHEREAS, City and Developer executed that certain Second Amendment to Redevelopment Agreement dated November 21, 2000 and recorded in the office of the Register of Deeds of Douglas County, Nebraska at Book 1359, Page 602 of the Miscellaneous Records (the "Second Amendment"); and

WHEREAS, the Original Agreement, as amended by the First Amendment and the Second Amendment, are collectively referred to herein as the "Redevelopment Agreement"; and

WHEREAS, Developer is the legal owner of a portion of the Project Property which is more particularly described on the attached Exhibit "A" which is incorporated herein by this reference ("2003 Replat Property") and desires to re-plat and re-subdivide such 2003 Replat Property and establish and develop such 2003 Replat Property according to the provisions of Section 55-561 thru 55-564 of the City Zoning Ordinances for the development of a commercial project; and

WHEREAS, in accordance with the requirements of the City Code, Developer has presented a Development Plan attached hereto as Exhibit B and incorporated herein by reference for the 2003 Replat Property ("Development Plan"); and

WHEREAS, City, in the interest of maintaining the public health, safety and welfare, desires to assure that such 2003 Replat Property is developed substantially in accordance with the Development Plan and therefore considers this Third Amendment to be in the best interests of the City; and

WHEREAS, Developer is willing to commit itself to the development of a project at the 2003 Replat Property substantially in accordance with the Development Plan and desires to have a reasonable amount of flexibility to carry out the development and therefore considers this Third Amendment to be in its best interests; and

WHEREAS, the City and Developer desire to set forth in this Third Amendment their respective understandings and agreements with regard to the development of the 2003 Replat Property.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

#### Definitions

For the purposes of this Third Amendment the definitions in the Omaha Municipal Code, Chapter 55, Article II, shall apply. In addition, the following words and phrases shall have the following meanings:

- A. The "cost" or "entire cost" of a site improvement shall be deemed to include all construction costs, engineering fees, attorneys' fees, testing expenses, publication costs, financing costs, and miscellaneous costs.

- B. "Site improvement" shall mean any building, parking, landscaping, signage, fencing, or other regulated structures.

### **Development Plan**

- A. Except as otherwise permitted in this Third Amendment, the 2003 Replat Property shall be developed in accordance with the City of Omaha Master Plan, and the City of Omaha Zoning and Subdivision regulations, the terms and conditions of this Third Amendment, and the Development Plan.
- B. It is intended that this Development Plan be a general schematic of the development. All parties recognize that from time to time for good and sufficient reasons it may be necessary for the Developer to alter the size, location, use or type of the buildings or other site improvements.
- C. Developer reserves the right to modify the Development Plan by minor amendment provided that such modifications conform to the provisions of Chapter 55, Omaha Municipal Code, the terms of this agreement Third Amendment and the Master Plan. All changes relating to waiver or reduction of regulatory standards (including matters such as alteration of required setbacks, lot size and density) shall be considered major amendments to be reviewed by the Planning Board and approved by the City Council.
- D. In the event there is a conflict between the dimensions shown on the Development Plan and the regulatory terms of this Third Amendment relating to site development, parking, landscaping or signage regulations, the more restrictive standard shall apply.

### **Installation of Public Improvements**

- A. Developer agrees to commence the installation of storm sewers, sanitary sewers, streets, sidewalks and utilities shown on the Replat (as defined herein) (the "Public Improvements") following execution of this Third Amendment and approval by City of the plat resubdividing the 2003 Replat Property (the "Replat") pursuant to appropriate provisions of the Omaha Municipal Code. The installation of such Public Improvements may occur concurrently with private improvements on the site, but shall be completed prior to an occupancy certificate being issued for any building on the 2003 Replat Property unless otherwise provided by the terms of this Third Amendment.
- B. Prior to the commencement of the construction of the Public Improvements, Developer shall submit to the Public Works Department plans and specifications for such Public Improvements, evidence of commercial general liability insurance in the amount of \$2,000,000.00, and material and labor bonds in compliance with applicable ordinances of the City. All plans shall be prepared by an approved licensed professional engineer and shall be subject to review and approval by the Public Works Director.

### **Permitted Uses**

- A. Except as otherwise allowed by this Third Amendment, Lots 1, 2, and 5 of the 2003 Replat Property, as shown on the Replat, shall be developed in accordance with the applicable permitted uses allowed in the GO-General Office district per Section 55-323, OMC.
- B. General Retail Sales, Business Support Services, Restaurants (General), Parking Structure, and Surface Parking shall also be allowed on Lot 5 of the 2003 Replat Property, as shown on the Replat.
- C. Except as otherwise allowed by this Third Amendment, Lots 3 and 4 of the 2003 Replat Property, as shown on the Replat, shall be developed in accordance with the applicable permitted uses allowed in the CC-Community Commercial district per Section 55-363, OMC.

## Site Development Regulations

- A. Except as otherwise permitted in this Third Amendment, Lots 1, 2, and 5 of the 2003 Replat Property, as shown on the Replat, shall be developed in accordance with the applicable site development regulations of the GO-General Office district except as modified by the terms in Exhibit E attached to this Third Amendment and incorporated herein by reference ("Exhibit E"). Except as otherwise permitted in this Third Amendment, Lots 3 and 4 of the 2003 Replat Property, as shown on the Replat, shall be developed in accordance with the applicable site development regulations of the CC-Community Commercial district, except as modified by the terms in Exhibit E.
- B. As long as the site development regulations described in the immediately preceding paragraph are not violated, Developer may alter the location, physical shape or exterior dimensions of any structure shown on the Development Plan, within the boundaries of any platted lot.
- C. The Floor Area Ratio ("FAR") Summary shown on Exhibit E identifies minimum FAR for each lot. Developer may decrease the minimum FAR for any individual lot as long as such decrease is accompanied by a corresponding increase in FAR for another lot or lots so to not reduce the minimum FAR for the entire 2003 Replat Property. Allocated FAR amounts may be transferred between lots when an amended agreement exhibit is filed with the Planning Department specifying the increase or decrease in FAR budget for each lot.
- D. In addition to the above site development regulations, the provisions of the Omaha Master Plan relating to mixed use development areas, as amended or adopted from time to time, shall also apply.
- E. So long as the site development regulations or design criteria are not violated, Developer may reduce or increase the number of lots as shown on the Development Plan by revising lot lines, combining, or dividing lots.
  - 1. The City shall, by administrative subdivision, grant any such revisions, combinations or divisions as necessary to carry out the Development Plan.
  - 2. An application for an administrative subdivision to make such changes shall include as an attachment a revision to the Development Plan, FAR Summary and Sign Plan attached hereto as Exhibit F and incorporated herein by reference.

## Parking

- A. Parking for the 2003 Replat Property shall be in accordance to the Development Plan. The parking shall meet or exceed the minimum requirements of the provisions of the Omaha City Code, Chapter 55, Article 14, Off-Street Parking and Loading.
- B. As long as the parking design standard regulations are not violated, Developer may alter the location, physical shape or exterior dimensions of any parking area shown on the Development Plan, within the boundaries of any platted lot.

## Landscaping/Open Space/Plaza Space

- A. Landscaping for the 2003 Replat Property shall be according to the Landscape Plan attached as Exhibit G and incorporated herein. The landscaping shall meet or exceed the minimum requirements of the provisions of the Omaha City Code, Chapter 55, Article 13, Landscaping and Screening, for the Mixed Use district, except as modified by this Third Amendment..
- B. The Landscape Plan provides pedestrian accessible and functional plazas, pathways, or similar types of common open space features. The minimum paved or un-paved open space shall be equal to not less than 19,262 square feet (ten percent (10%) of the minimum total

office/commercial square footage), in addition to any other required perimeter landscaping. Specific required open space areas are designated on the Landscape Plan.

### **Sidewalks and Pedestrian Features**

- A. An internal sidewalk system shall be provided to connect between all lots and the perimeter sidewalks as shown on the Development Plan.

### **Signage**

- A. Signage for the project shall be in accordance with the Sign Plan attached hereto as Exhibit F and made a part hereof. The signage shall meet the minimum requirements of the Omaha Municipal Code, Chapter 55, Article 18, Signs and Street Graphics.
- B. The proposed project on Lots 3 and 4 may have no more than 1 (one) center identification sign on Lot 3, which is included in the total sign budget. The general location of the center identification sign is shown on the Development Plan. A detailed site and design plan for the center identification sign showing setback, height, area, and advertising features is attached as part of the Sign Plan.
- C. All other signage will be limited to wall signs, projecting signs, or ground monument signs, all as defined in Article 18, Chapter 55, OMC.
- D. No pole signs shall be allowed other than the center identification sign. Directional and information signs not exceeding four (4) square feet per sign face with no advertising copy on them, and located within parking lots, parking structures, and outlots are exempt from the sign budget.
- E. A sign budget is included in the Sign Plan attached hereto as Exhibit F. The permitted sign area for each lot is based on the frontage of each lot in relation to the total net street frontage in the development. The total sign budget for the development is 6,149 square feet. The owner of each lot may allocate its pro-rata share of this sign budget for each lot between and among the various permitted sign types, and between and among the separate structures located or to be located on each lot.
- F. Allocated sign budget amounts may be transferred between lots on a square foot to square foot basis when an amendment to the Sign Plan is filed with the Planning Department specifying the increase or decrease in budget for each lot.
- G. All signs will be installed subject to a sign permit from the City of Omaha. Unless provided for in this Third Amendment, all other provisions and regulations governing signs in effect at the time of application for a sign permit shall apply.

### **Miscellaneous Provisions**

- A. The parties hereto agree that the Site Plan for the 2003 Replat Property shall be changed to the configuration depicted on the attached Exhibit B, which exhibit, only as to that portion of the Project Property included in the 2003 Replat Property, shall supersede Exhibit "O" that is attached to the Redevelopment Agreement.
- B. Except as may be specifically amended herein, the Redevelopment Agreement shall remain in full force and effect.
- C. Prior to recording of the Replat, Developer shall deliver a cashier's check to the City of Omaha in the amount of \$30,672.58 ("Termination Consideration") as consideration for the release and termination of the following easements: (i) that portion of the easement referenced in Book 1287, Page 477 of the Douglas County Records which is shown on Exhibit "H" attached hereto and

incorporated herein by reference and (ii) the easement referenced in Book 1295, Page 579 of the Douglas County Records which is shown on Exhibit "H" attached hereto and incorporated herein by reference. The release and termination of the above-referenced easements shall be effective upon recording of the Replat. In the event the City rejects the Developer's application for the Replat, the Developer withdraws its application for the Replat or if for any other reason the Replat is not recorded within forty-five (45) days of City Council approval, the City shall return the Termination Consideration to the Developer.

- D. The Mayor of the City of Omaha shall have the authority to administer this Third Amendment on behalf of the City and to exercise discretion with respect to those matters contained herein so long as the development proceeds in general accord with the Development Plan and with regard to those matters not fully determined at the date of this Third Amendment. The provisions of this Third Amendment shall run with the land in favor of and for the benefit of the City and shall be binding upon present and all successor owners of the 2003 Replat Property.
- E. Nondiscrimination. Developer shall not, in the performance of this contract, discriminate or permit discrimination in violation of federal or state laws or local ordinances because of race, color, sex, age, political or religious opinions, affiliations, or national origin.
- F. Applicable Law. Parties to this contract shall conform with all existing and applicable City ordinances, resolutions, state and federal laws, and all existing and applicable rules and regulations. Nebraska law will govern the terms and the performance under this contract.
- G. Interest to the City. Pursuant to Sec. 8.05 of the Home Rule Charter, no elected official or any officer or employee of the City of Omaha shall have a financial interest, direct or indirect, in any City of Omaha contract. Any violation of this section with the knowledge of the person or corporation contracting with the City of Omaha shall render the contract voidable by the Mayor or Council.

IN WITNESS WHEREOF, the undersigned have executed this Third Amendment on or before the day and year first above written.

DEVELOPER


FIRST DATA RESOURCES INC.

By

Name

Title

Date



Robert D Beckes

Assistant Secretary

April 9, 2004

(Note: All Owners' signatures must be notarized)

CITY OF OMAHA, NEBRASKA

By Mike Jabej 7/1/04  
Mayor

Approved as to form:

[Signature]  
Assistant City Attorney

Attest:

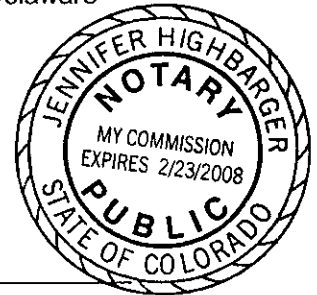
By [Signature]  
City Clerk

STATE OF COLORADO )  
 ) ss.  
COUNTY OF Douglas )

The foregoing instrument was acknowledged before me this 9 day of April, 2004, by Robert D Beckes, as Assistant Secretary of FIRST DATA RESOURCES INC., a Delaware corporation.

Witness my hand and official seal.

My commission expires: 2/28/08



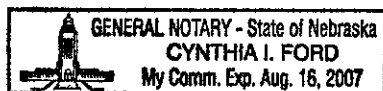
Jennifer Highbarger  
Notary Public

STATE OF Nebraska )  
 ) ss.  
COUNTY OF Douglas )

The foregoing instrument was acknowledged before me this 1st day of July, 2004, by Mike Jabej, as Mayor of CITY OF OMAHA, NEBRASKA, a municipal corporation.

Witness my hand and official seal.

My commission expires: 8/16/07



Cynthia I. Ford  
Notary Public





# EXHIBIT B

AK-SAR-BEN VILLAGE

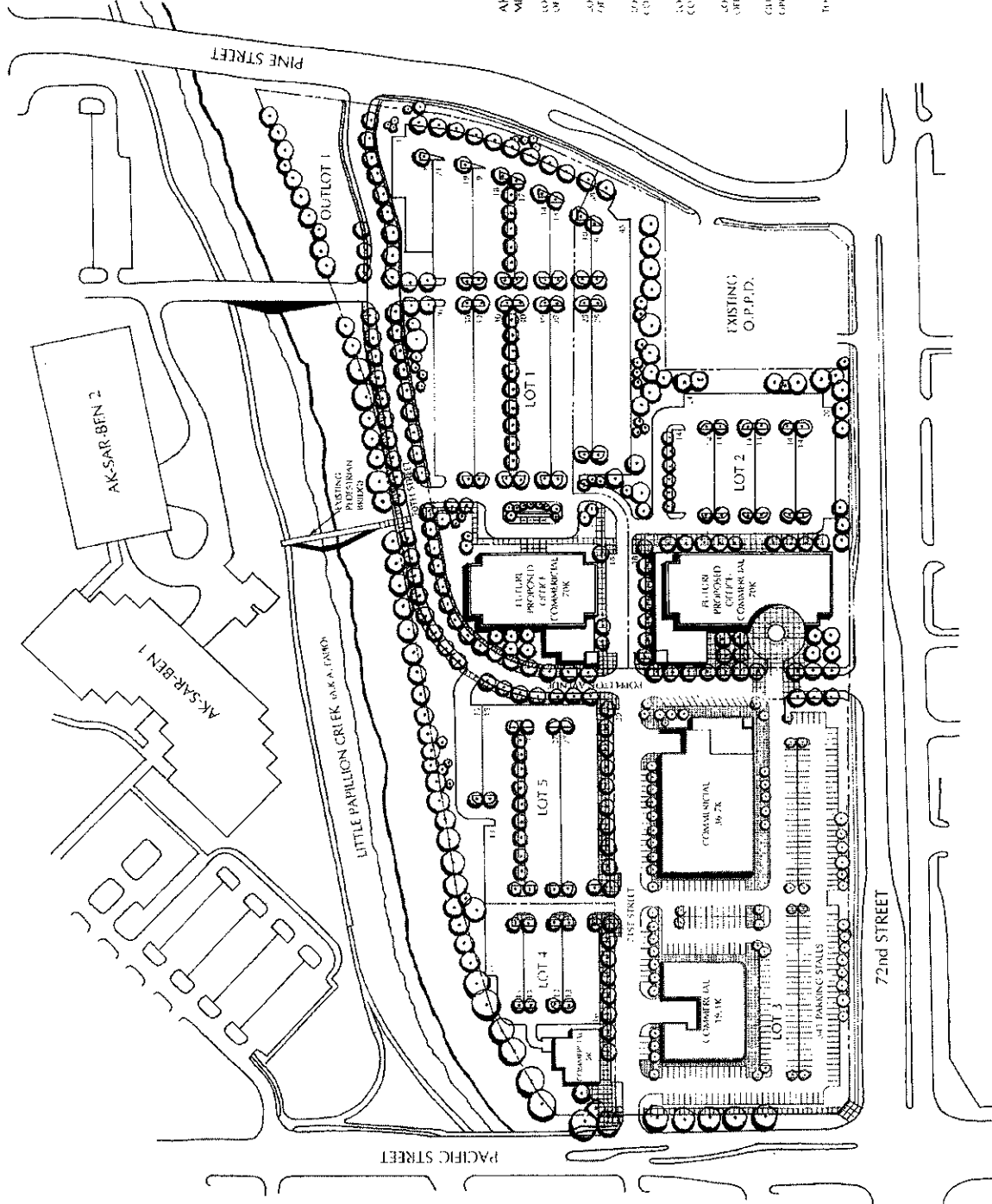
72nd St. S. 100' W. S. 1/4  
COUNTY, NE

PUBLIC UTILITIES  
CITY OF SHERBORN, ILLINOIS

LEGO DAILY

1000 S. 100' W. S. 1/4  
COUNTY, NE

DEVELOPMENT PLAN



AK-SAR-BEN VILLAGE,  
MIXED USE DEVELOPMENT

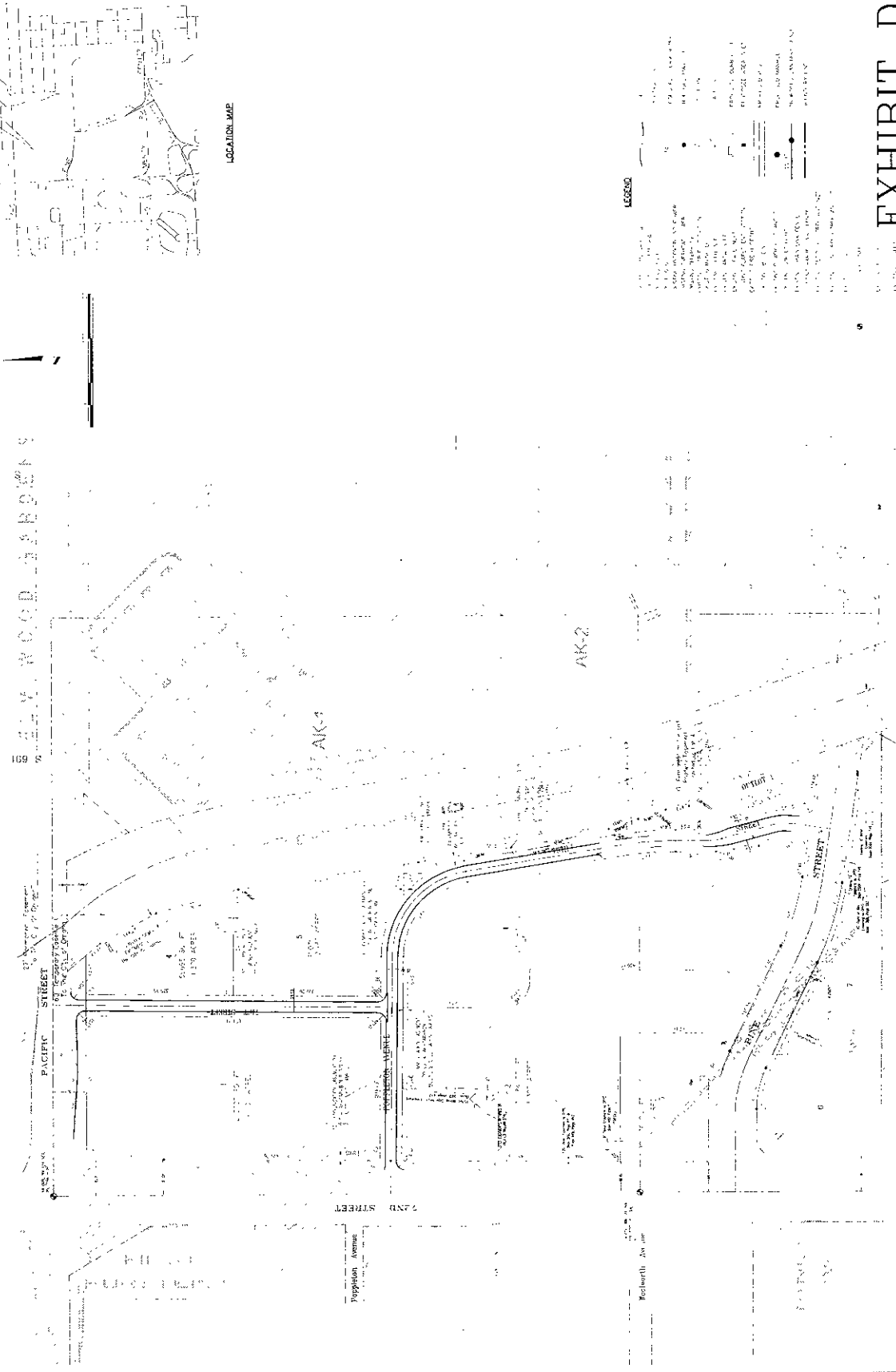
LOT 1	5,439 SQR. 197.7 ACS
LOT 2	5,402 SQR. 142.7 ACS
LOT 3	4,898 SQR. 101.7 ACS
LOT 4	1,778 SQR. 106.7 ACS
LOT 5	2,182 SQR. 212.7 ACS
TOTAL	1,957 ACS



1/8" = 100' 0" 1/4" = 100' 0" 1/8" = 100' 0"



# AK-SAR-BEN BUSINESS AND EDUCATION CAMPUS REPLAT 4



LOCATION MAP

LEGEND

---	Property Line
---	Right of Way Line
---	Utility Line
---	Proposed Building Footprint
---	Proposed Parking Area
---	Proposed Driveway
---	Proposed Easement
---	Proposed Access Point
---	Proposed Street
---	Proposed Sidewalk
---	Proposed Landscape
---	Proposed Signage
---	Proposed Utility
---	Proposed Easement
---	Proposed Access Point
---	Proposed Street
---	Proposed Sidewalk
---	Proposed Landscape
---	Proposed Signage
---	Proposed Utility

EXHIBIT D

<p>WWW.LRA-INC.COM                  (PH) 402.496.2496                  (FAX) 402.496.2730</p>	<p>Lamp, Rynerson &amp; Associates, Inc.                  14710 West Dodge Road, Suite 100                  Omaha, Nebraska 68134-1027</p>	<p>AK-SAR-BEN BUSINESS AND EDUCATION CAMPUS REPLAT 4                  DOUGLAS COUNTY, NEBRASKA</p>	<p>PRELIMINARY PLAT                  DRAWING NO. 23-137</p>
<p>DATE: 03/17/2009                  SHEET: 1 OF 1</p>	<p>DATE: 03/17/2009                  SHEET: 1 OF 1</p>		

**Exhibit E**

**FLOOR AREA RATIO (FAR) SUMMARY**

Total Site Area	991,251	Sq. Ft.
less: Dedicated R-O-W	(112,385)	Sq. Ft.
less: Common Open Space	(41,382)	Sq. Ft.
Adjusted Site Area	<u>837,485</u>	Sq. Ft.
Minimum Required FAR	23	%
Adjusted Site Area x Min. FAR	192,621	Sq. Ft.
Maximum Allowed FAR	150	%
Adjusted Site Area x Max. FAR	1,256,227	Sq. Ft.

**SITE DEVELOPMENT REGULATIONS**

Lot	Lot Area		Floor Area		Minimum F.A.R.	Maximum F.A.R.	Max Impervious Coverage	Max Building Coverage	Minimum Building Setback (ft.)	
	Acres	SF	Minimum	Maximum					Front Yard	Street Side Yard
1	5.46	237,794	70,000	355,000	0.29	1.49	80%	60%	25	15
2	5.31	231,173	70,000	345,000	0.30	1.49	80%	60%	25	15
3	4.91	213,792	50,000	214,000	0.23	1.00	85%	60%	25	15
4	1.37	59,677	5,000	59,000	0.08	0.99	85%	60%	25	15
5	2.18	95,048	-	142,000	0.00	1.49	80%	60%	25	15
Total	19.23	837,485	195,000	1,115,000	0.23	1.33				

# EXHIBIT F

AK-SAR-BEN VILLAGE

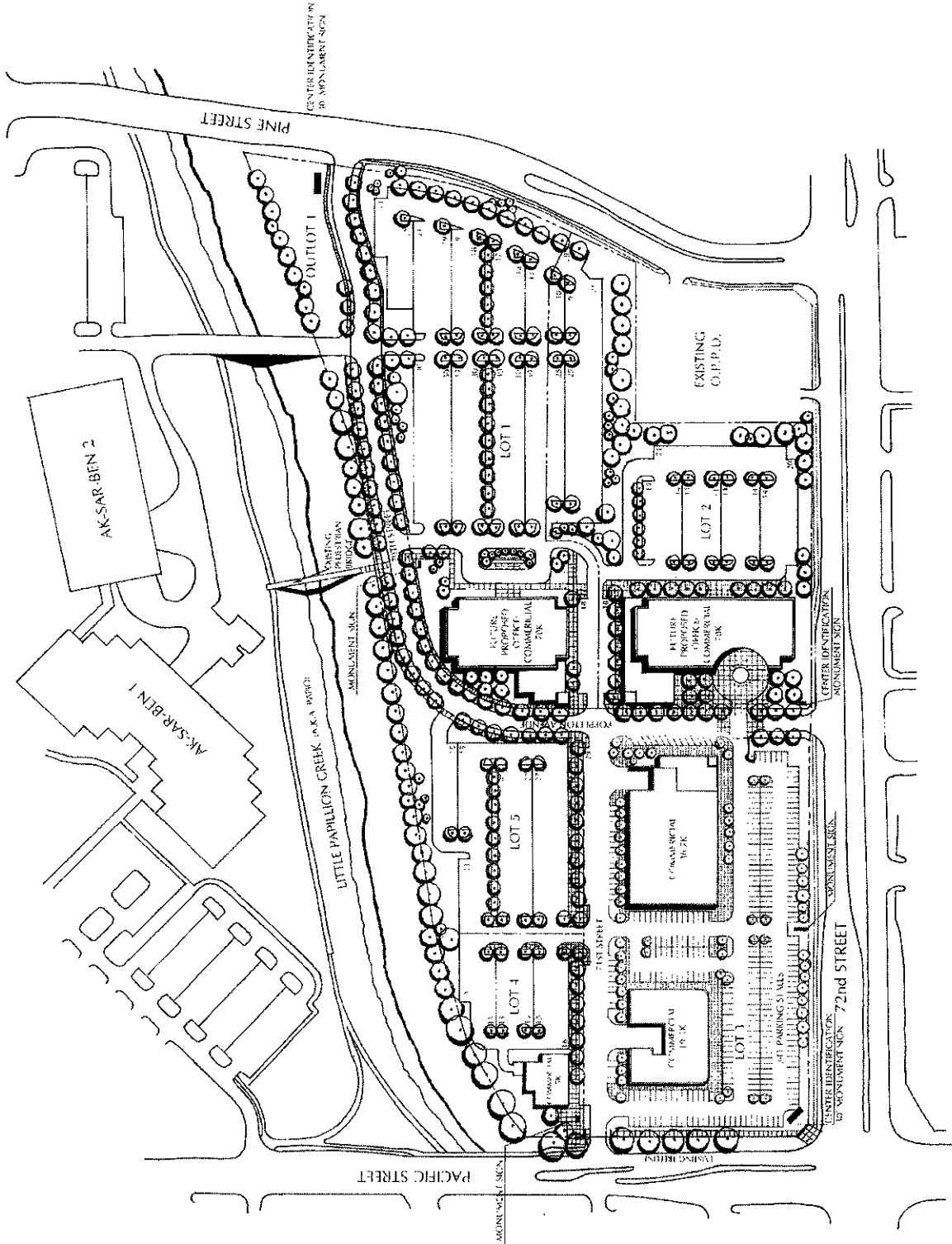
72ND AND PACIFIC  
OWING, NE

PACIFIC SUNDAY  
DAILY 10:00 AM - 11:00 PM

LEO A. DALY

ARCHITECTS  
1000 W. 12TH ST. SUITE 100  
DENVER, CO 80202

ISSUANCE PLAN



NOTES  
1. SEE PLAN FOR DETAILS

DATE: 10/11/2005

**SIGN PLAN**

Lot	Site Area	Primary Frontage	Secondary Frontage	Adjustment	Multiplier	Allowable Sign Area	Allocated Sign Area
1	237,780	1,133	362	181	1.50	1,971	1,671
2	231,184	487	459	230	1.50	1,075	1,075
3	213,807	633	1,316	658	1.50	1,937	1,337
4	59,695	325	92	46	1.50	557	557
5	95,039	240	334	167	1.50	611	611
center ID							900
Total Sign Budget						6,149	6,149

**Notes:**

LOT #. Each lot in the development is listed in this column.

SITE AREA. The total area of each lot in square feet.

PRIMARY FRONTAGE. The length of the longest property line fronting on a street, in feet.

SECONDARY FRONTAGE. The length of all other property lines fronting on a street, in feet.

ADJUSTMENT. One half (1/2) the length of the secondary frontage. MULTIPLIER. The formula number of 1.5 used to establish total sign area.

TOTAL. Primary frontage + Adjustment x Multiplier = Total.

**The sign budget reflects the area of any center identification sign. The lots shown on the site plan as the location of those signs includes the area of the center identification sign.**

Center identification signs will have face area over 150 square feet but not more than 300 square feet. These may be pole signs with no tenant advertising. Attached is an exhibit that shows design detail for the center identification sign, including proposed height, sign area, copy detail, location, and set back distance from property line.

**Exhibit F**

**SIGN STANDARDS**

*Basic Design Regulations:* Regulations for basic design elements are listed below and set forth in Table A. Each sign shall be subject to all other regulations for signs or graphics set forth in Chapter 55, OMC.

No more than one (1) sign shall be permitted along any one (1) street frontage of a lot, except as provided below:

1. A maximum of two (2) signs may be permitted along any one (1) street frontage of a lot, provided that the frontage is at least two hundred (200) feet and the signs are at least one hundred (100) feet apart.
2. No detached sign may be closer than one hundred (100) feet to another detached sign.
3. Monument signs shall have a maximum 3:1 height to width ratio.
4. The minimum setback for a monument sign shall be twelve (12) feet from a street property line and six (6) feet from an interior property line.
5. Directional signs may have a maximum height of forty eight (48) inches; maximum sign face area of four (4) square feet and a minimum set back of six (6) feet from any property line.
6. The minimum setback for a center identification sign shall be twelve (12) feet from a street property line and six (6) feet from an interior property line.

**TABLE A  
BASIC DESIGN STANDARDS**

Use Type	Attached Signs				Detached Signs			
	Wall Maximum Area (Sq. Ft.)	Maximum Height (Ft.)	Projecting Maximum Area (Sq. Ft.)	Maximum Height (Ft.)	Monument or Pole(1) Maximum Area (Sq. Ft.)	Maximum Height (Ft.)	Monument(2) Maximum Area (Sq. Ft.)	Maximum Height (Ft.)
Commercial	20% of street façade	35	32	24	300*	30*	75	25
Office	10% of street façade	35	32	24	300*	30*	75	25
Civic	10% of street façade	35	32	24	NA	NA	40	25

- 1) Center identification signs only.
- 2) Maximum Area shall be per sign face.

*Center Identification Signs:* Within its total permitted sign area, the site may have detached center identification signs, subject to the following conditions:

1. The maximum area for any center identification sign shall be three hundred (300) square feet.
2. The maximum height for any center identification sign shall be thirty (30) feet.
3. The center identification signs shall be separated by at least three hundred (300) feet from any other center identification sign or one hundred (100) feet from any other detached sign.

# EXHIBIT G

AK-SAR-BEN VILLAGE

AK-SAR-BEN VILLAGE  
CONTRACT NO.

PUBLIC PLANT  
DEVELOPMENT SURVEY

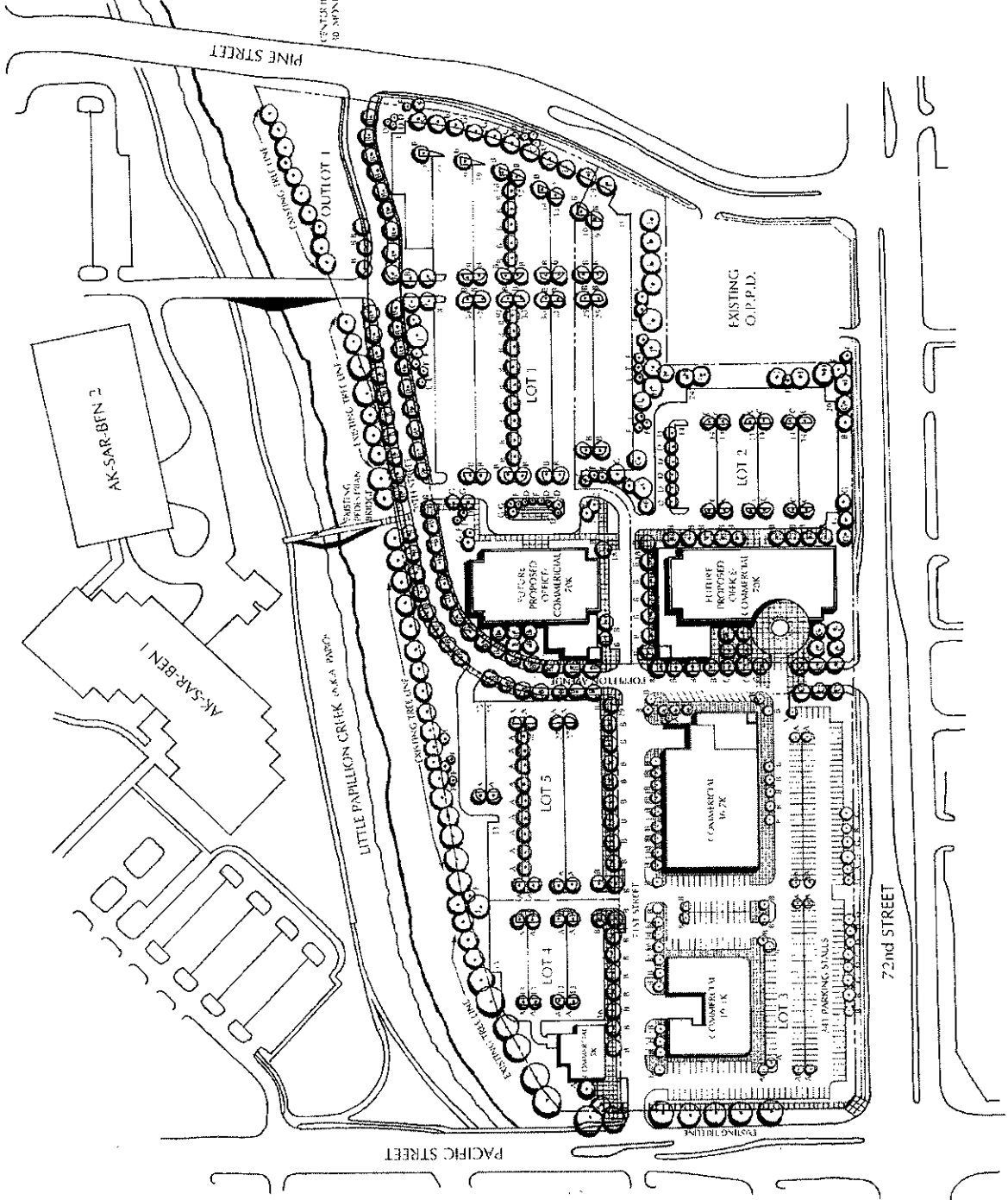
LEOA DAILY

PROJECT NO. 100-100-100-100  
DATE: 10/10/10 10:00 AM

LANDSCAPE PLAN



DATE: 10/10/10 10:00 AM



PLANT MATERIAL LEGEND

SYMBOL	COMMON NAME	SIZE	METHOD
A	SULTAN PURP ANH	2' 6"	BSH
B	NAVY BLUE SH	2' 12" 6"	BSH
C	RED OAK	2' 2" 6"	BSH
D	SPRING GREEN SH	2' 2" 6"	BSH
E	KAUF HIRCH	2' 12" 6"	BSH
F	RED BUD	2' 12" 6"	BSH
G	BEAR OAK	2' 12" 6"	BSH
H	MORNING GLORY	6' 0" 6"	BSH
I	LEONARD SPURK	2' 0" 6"	BSH



**MINIMUM LANDSCAPING STANDARDS**

1. All landscaping will be in general conformance with the Zoning Regulations of the City of Omaha for the GO-General Office District for Lots 1, 2, and 5. All landscaping will be in general conformance with the Zoning Regulations of the City for the CC-Community Commercial District for Lots 3 and 4.
2. Landscaping will consist of plant materials, paving materials, ground cover, and other appropriate landscape features.
3. Property abutting any street right-of-way shall be landscaped to a minimum depth of 10 feet.
4. Medians exceeding 10 feet in width in any public street right-of-way, parking lot or entrance drive shall be landscaped.
5. All landscaped areas, including outlots and public street rights-of-way, will be installed and maintained by the Developer or its successors and assigns, and the City will not be required or obliged to maintain such areas.

