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SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS AND
RESTRICTIONS
FOR THE AK-SAR-BEN - BUSINESS & EDUCATION CAMPUS
OMAHA, DOUGLAS COUNTY, NEBRASKA

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SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS AND
RESTRICTIONS
FOR THE AK-SAR-BEN - BUSINESS & EDUCATION CAMPUS
OMAHA, DOUGLAS COUNTY, NEBRASKA

KNOW ALL PERSONS BY THESE PRESENTS:

That AK-SAR-BEN FUTURE TRUST, a Nebraska nonprofit corporation (“**Future Trust**”), FIRST DATA RESOURCES INC., a Delaware corporation authorized to do business in Nebraska (“**FDR**”), THE BOARD OF REGENTS OF THE UNIVERSITY OF NEBRASKA, a body corporate existing under the laws of the state of Nebraska (the “**University**”), SISTERS OF MERCY OF THE AMERICAS REGIONAL COMMUNITY OF OMAHA, a Nebraska nonprofit corporation (“**Sisters of Mercy**”), THE COLLEGE OF SAINT MARY, a Nebraska nonprofit corporation (the “**College**”), AK-SAR-BEN VILLAGE, L.L.C., a Nebraska limited liability company (successor by merger to KEWANEE WG, L.L.C., an Illinois limited liability company) (“**ASB Village**”), OMAHA PUBLIC POWER DISTRICT, a public corporation (“**OPPD**”) and GEORGETOWN PROPERTIES, L.L.C., a Nebraska limited liability company (“**Georgetown**”) hereby execute this Second Amended and Restated Declaration of Covenants and Restrictions (“**Second Amended Declaration**”) as of the dates set forth beneath their respective signatures hereto.

RECITALS:

A. In 1997, FDR, Future Trust and the University made that certain Plat of the Ak-Sar-Ben Business & Education Campus, Lots 1 through 10 inclusive and Outlots 1, 2 & 3, which Plat was recorded in Book 2064, Page 149 of the Deed Records of Douglas County, Nebraska (the “**Original Plat**”).

B. Each “Lot” shown on the Original Plat is referred to herein as an “**Original Lot**”.

C. At the time of the recording of the Original Plat, the University owned Original Lots 1, 2 and 3; FDR owned Original Lots 4 through 8; and Future Trust owned Original Lots 9 and 10.

D. On June 27, 1997, FDR and Future Trust executed that certain Declaration of Covenants and Restrictions for the Ak-Sar-Ben Business & Education Campus recorded in Book 1214, Page 414 of the Miscellaneous Records of Douglas County, Nebraska (the “**Original Declaration**”).

E. On May 20, 1997, the City of Omaha, FDR, Future Trust, Papio-Missouri River Natural Resources District, Douglas Recreation Corp. and Douglas County, Nebraska executed that certain Redevelopment Agreement relating to the Ak-Sar-Ben Property (as defined below) recorded in Book 1214, Page 252 of the Miscellaneous Records of Douglas County, Nebraska, as from time to time amended (the “**Redevelopment Agreement**”).

- F. The Original Declaration encumbers Original Lots 1 through 10.
- G. Section 22 of the Original Declaration states that it may be amended by the written agreement of all of the from time-to-time owners of Original Lots 1 through 10.
- H. Original Lots 7 and 8 and additional real property owned by FDR and OPPD were replatted pursuant to that certain Ak-Sar-Ben Business & Education Campus Replat 1 dated July 5, 2000 and recorded April 12, 2001 in Book 2177, Page 665 of the Deed Records of Douglas County, Nebraska (“**Replat 1**”).
- I. The lots described on Replat 1 are referred to herein as the “**Replat 1 Lots.**”
- J. Original Lot 10 was replatted pursuant to that certain Ak-Sar-Ben Business & Education Campus Replat 2 recorded in Book 1301, Page 597 of the Miscellaneous Records of Douglas County, Nebraska (“**Replat 2**”).
- K. The lots described on Replat 2 are referred to herein as the “**Replat 2 Lots.**”
- L. Original Lot 2 was replatted pursuant to that certain Ak-Sar-Ben Business & Education Campus Replat 3 recorded in Book 1458, Page 434 of the Miscellaneous Records of Douglas County, Nebraska (“**Replat 3**”). - 55-60225
- M. The lots described on Replat 3 are referred to herein as the “**Replat 3 Lots**”.
- N. Replat 1 Lots 1-4, which constituted a portion of Original Lot 7, were replatted pursuant to that certain Ak-Sar-Ben Education Campus Replat 4 recorded as Document No. 2004106466 in the Deed Records of Douglas County, Nebraska (“**Replat 4**”).
- O. The lots described in Replat 4 are referred to herein as the “**Replat 4 Lots**”.
- P. Original Lots 3 and 6 were replatted pursuant to that certain Ak-Sar-Ben Business and Education Campus Replat 5 recorded as Document No. 2004055956 in the Miscellaneous Records of Douglas County, Nebraska (“**Replat 5**”).
- Q. The lots described on Replat 5 are referred to herein as the “**Replat 5 Lots**”.
- R. Replat 5 Lot 1 and Replat 5 Lot 2 were replatted pursuant to that certain Ak-Sar-Ben Business & Education Campus Replat 6 recorded as Document No. 2004161513 in the Miscellaneous Records of Douglas County, Nebraska (“**Replat 6**”).
- S. The lots described in Replat 6 are referred to herein as the “**Replat 6 Lots.**”
- T. Replat 6 Lot 2 was replatted pursuant to that certain Ak-Sar-Ben Business & Education Campus Replat 7 recorded as Document No. 2005143822 in the Miscellaneous Records of Douglas County, Nebraska (“**Replat 7**”).
- U. The lots described in Replat 7 are referred to as the “Replat 7 Lots.”

V. Original Lot 9 was replatted pursuant to that certain Ak-Sar-Ben Business & Education Campus Replat 8 recorded as Document No. 2005143821 in the Miscellaneous Records of Douglas County, Nebraska ("**Replat 8**").

W. The lots described in Replat 8 are referred to as the "**Replat 8 Lots**".

X. On June 28, 2004, FDR, Future Trust, the University, Sisters of Mercy, the College and OPPD executed that certain Amended and Restated Declaration of Covenants and Restrictions for the Ak-Sar-Ben Business & Education Campus recorded as Document No. 200409157 of the Miscellaneous Records of Douglas County, Nebraska (the "**First Amended Declaration**").

Y. On May 25, 2005, Replat 2 Lot 1, formerly part of Original Lot 10, was replatted pursuant to that certain Final Plat College of St. Mary's Addition Replat 1 recorded as Document No. 2005060080 in the Deed Records of Douglas County, Nebraska ("**College Addition Replat**").

Z. The lots described in the College Addition Replat are referred to herein as the "**College Addition Lots**".

AA. On February 15, 2007, Replat 7 Lot 1, formerly part of Original Lots 3 and 6, and Replat 8 Lot 2, formerly part of Original Lot 9, were replatted pursuant to that certain Final Plat of Aksarben Village recorded as Document No. 2007018517 in the Deed Records of Douglas County, Nebraska ("**Village Plat**").

BB. The lots described in the Village Plat are referred to herein as the "**Village Plat Lots**".

CC. Village Plat Lot 10 was replatted pursuant to that certain Aksarben Village Replat 1 recorded as Document No. 2007051307 in the Deed Records of Douglas County, Nebraska ("**Village Replat 1**").

DD. Village Plat Lot 13 was replatted pursuant to that certain Aksarben Village Replat 2 recorded as Document No. 2007051308 in the Deed Records of Douglas County, Nebraska ("**Village Replat 2**").

EE. As of the date of this Second Amended Declaration, the University owns Original Lot 1, and Replat 3 Lot 1 and Replat 3 Lot 2 (which together make up Original Lot 2); Replat 6 Lot 1, and Replat 7 Lot 2 (together which make up Original Lots 3 and 6), and Replat 8 Lot 1 (Original Lot 1, Replat 3 Lot 1, and Replat 3 Lot 2 are referred to herein as the "**University Property**" and Replat 6 Lot 1, Replat 7 Lot 2 and Replat 8 Lot 1 are referred to herein as the "**Released University Property**"); Future Trust owns property consisting of Replat 2 Lot 2; Village Plat Lots 1-9, Village Plat Lots 11-12, Village Plat Lot 14, Village Plat Lot 16, Village Replat 1 Lots 1 and 2, and Village Replat 2 Lots 1 and 2; Georgetown owns property consisting of Village Plat Lot 15 (the foregoing property owned by Future Trust and Georgetown shall be collectively referred to herein as the "**Future Trust Property**"); ASB Village owns Replat 4 Lot 3 (the "**ASB Village Property**"); FDR owns Original Lot 4 and 5, Replat 4 Lot 1, Replat 4 Lot 2, Replat 4 Lot 4, and Replat 4 Lot 5 (the foregoing property owned by FDR and the ASB

Village Property shall be collectively referred to herein as the “**FDR Property**”); OPPD owns Replat 1 Lot 5 (“**OPPD Property**”); Sisters of Mercy own Replat 1 Lot 6 and Replat 1 Lot 7 (which together constitute Original Lot 8) (“**Sisters of Mercy Property**”); the College owns the College Addition Lots (the “**College Property**”). (See table attached as Exhibit “A” for graphic depiction of re-subdivision of certain Original Lots).

FF. That portion of the real property subject to the First Amended Declaration which will be released therefrom pursuant to this Second Amended Declaration consists of the Released University Property and the Future Trust Property (collectively the “**Village Property**”), each of which is identified and legally described on Exhibit “B” attached hereto and incorporated herein by this reference. The parties hereto acknowledge and agree that, upon execution of this Second Amended Declaration, the Ak-Sar-Ben Property as defined by this Second Amended Declaration shall not include the Village Property and the Village Property is hereby released from the terms of this Second Amended Declaration. Furthermore, that property located south of Center Street and Mercy Road and commonly known as the “**Arboretum Property**”, shall not be subject to this Second Amended Declaration.

GG. The real property affected by this Second Amended Declaration consists of the “**University Property**,” the “**FDR Property**”, the “**OPPD Property**”, the “**College Property**” subject to the provisions of Section 27, and the “**Sisters of Mercy Property**”, each of which is identified and legally described on Exhibit “C” attached hereto and incorporated herein by this reference, and all of which is hereinafter collectively referred to as the “**Ak-Sar-Ben Property**”. All Ak-Sar-Ben Property owned by a particular party at any given time shall be collectively referred to herein as a “**Tract**”. The location and boundaries of the lots making up the Ak-Sar-Ben Property and the Tracts within the Ak-Sar-Ben Property are shown on the Original Plat attached hereto as Exhibit “D” and incorporated herein by this reference, as modified by Replat 1, Replat 4, and the College Addition Replat and as further modified by the release of the Village Property from the Ak-Sar-Ben Property.

HH. The parties desire to amend and restate the First Amended Declaration in its entirety as provided herein, effective as of the date hereof.

II. The Ak-Sar-Ben Property is a part of a Redevelopment Project pursuant to the Community Development Law (Neb. Rev. Stat. §18-2101, et. seq.). Each and every one of these covenants, conditions, reservations, and restrictions is for the benefit of each owner of any land within the Ak-Sar-Ben Property and shall inure to and pass with each and every Tract, or any parcel, lot or site thereof and shall bind the respective assigns and successors in interest of the present owners (whether such successor owners acquire such property by grant, gift, foreclosure, deed in lieu of foreclosure, or otherwise). These covenants, conditions, reservations, and restrictions are each imposed upon the Tracts, and are all to be construed as restrictive covenants running with the Ak-Sar-Ben Property and with each and every part thereof:

1. PROPERTY RELEASED.

In furtherance and as confirmation of Recital FF hereof, the parties hereto acknowledge and agree that the Ak-Sar-Ben Property as defined by this Second Amended Declaration shall not include the Village Property and the Village Property is hereby released from the terms of

this Second Amended Declaration. Furthermore, that property located south of Center Street and Mercy Road and commonly known as the “**Arboretum Property**”, shall also not be subject to this Second Amended Declaration.

2. PERMITTED USES.

Subject to the remaining provisions of this Second Amended Declaration, each Tract may only be used for the following designated uses (the “**Permitted Uses**”) and may be used for no other purpose:

(a) The FDR Property. The FDR Property may be used for the construction and operation of business office space, laboratories and research and development facilities, education and training facilities, computer facilities, support services (including food service, convenience retail sales, book sales, day-care, fitness facilities and meeting facilities), maintenance facilities, and associated power generation facilities, storage space, surface and multi-level garage parking and access roadways for motor vehicles (including shuttle busses, trams or other such services), pedestrian walkways, pedestrian links (whether open or enclosed) between buildings and between buildings and parking facilities both inside and outside the FDR Property, and uses ordinarily incident to the operation of a permitted principal use. In addition, the FDR Property may also be used for general retail purposes in accordance with applicable zoning and land use regulations and ordinances imposed by the City of Omaha, and for any of the use types permitted for the FDR Property pursuant to the “Permitted Uses” referenced in the “Site Development Regulations” which are contained in the Redevelopment Agreement (the “**Site Development Regulations**”), except for the following uses: custom manufacturing, light industrial, warehousing and distribution, broadcasting tower and wind energy conservation system. In the event that the Site Development Regulations are amended, the FDR Property may be used for any of the use types permitted for mixed use districts under Omaha Municipal Code Section 55-563, or the successor to said section, except for the following uses: pawnshop services, agricultural sales and service, automotive sales, exterminating services, custom manufacturing, light industrial, warehousing and distribution, broadcasting tower and wind energy conservation system. In addition to and without limiting the foregoing, the FDR Property may be used for uses ordinarily incident to the operation of a permitted principal use.

(b) The University Property. The University Property shall only be used for the construction and operation by the University for: (i) educational purposes of the “Peter Kiewit Institute of Information Science, Technology and Engineering” (the “**Institute**”), together with related office space, laboratories, research and development facilities and computer facilities, (ii) other University purposes and facilities, including, but not limited to, academic buildings, student housing and recreational facilities, athletic fields, maintenance facilities, motor vehicle pool facilities (as such term is defined in Section 4(d)(iv) below), surface and multi level garage parking and access roadways for motor vehicles (including shuttle busses, trams or other services providing conveyance in the Ak-Sar-Ben Property and to other University campuses and facilities), pedestrian walkways, pedestrian links (whether open or enclosed) between buildings and parking facilities both inside and outside the University Property, and uses ordinarily incident to the operation of a permitted principal use.

(c) Sisters of Mercy Property. The Sisters of Mercy Property may be used for the construction and operation of facilities for religious assembly (as defined herein), group living and retirement home facilities, day care facilities which are open to the general public (including child and adult day care), general business offices and medical offices (including outpatient surgical facilities), laboratories and research and development facilities, education and training facilities, computer facilities, support services necessary to one of the specifically permitted uses on that lot (including food service, convenience retail sales, book sales, day-care, fitness facilities and meeting facilities), and associated power generation facilities, storage space, surface and multi-level garage parking and access roadways for motor vehicles (including shuttle busses, trams or other such services), pedestrian walkways, pedestrian links (whether open or enclosed) between buildings and between buildings and parking facilities both inside and outside the Sisters of Mercy Property and uses ordinarily incident to the operation of a permitted principal use. As used in this subsection, “religious assembly” shall be defined as a use located in a permanent building and providing regular organized religious worship and religious education incidental thereto, but excluding private primary or private secondary educational facilities and community recreational facilities.

(d) OPPD Property. The OPPD Property may be used for an electrical substation communications facility or for other uses reasonably incident thereto and for the construction and operation of business office space, laboratories and research and development facilities, education and training facilities, computer facilities, support services (including food service, convenience retail sales, book sales, day-care, fitness facilities and meeting facilities), maintenance facilities, and associated power generation facilities, storage space, surface and multi-level garage parking and access roadways for motor vehicles (including shuttle busses, trams or other such services), pedestrian walkways, pedestrian links (whether open or enclosed) between buildings and between buildings and parking facilities both inside and outside the OPPD Property and uses ordinarily incident to the operation of a permitted principal use. Nothing contained herein shall be construed to amend, alter or modify the provisions of that certain Declaration of Covenants and Restrictions for Lot Five (5) of the Ak-Sar-Ben Business & Education Campus Replat One, Omaha, Douglas County, Nebraska dated April 10, 2003 and recorded on June 3, 2003 as Document No. 2003105917 in the Miscellaneous Records of Douglas County, Nebraska.

(e) Mixed Use Zoning District. The Permitted Uses set forth herein are intended to be additional restrictions upon the use of the Ak-Sar-Ben Property and are not intended to amend or modify in any manner the uses permitted under the mixed use zoning district applicable to the Ak-Sar-Ben Property, as such mixed use district may be modified from time to time. Any use proposed for any Tract must be an allowed use under the mixed use zoning district as well as a Permitted Use hereunder for such use to be implemented at any Tract. Any amendment to the Permitted Uses shall not be deemed to change or modify in any manner the allowed uses under the mixed use district applicable to the Ak-Sar-Ben Property.

3. PROHIBITED USES AND IMPROVEMENTS.

(a) Excavation. No rock, gravel, clay or other material shall be excavated or removed from any property in any Tract for commercial purposes except strictly as necessary to prepare the site for permitted buildings and improvements.

(b) Nuisances. No noxious weeds or underbrush shall be permitted to grow or remain upon any property in any Tract, and no refuse pile, construction debris, unused motor vehicle, or other private nuisance of any kind shall be allowed to be placed or to remain anywhere on any Tract. In the event that an owner of any property within any Tract shall fail or refuse to keep such property free from any such private nuisance, a representative designated by the Architectural Review Committee (the “**Designated Representative**”) may enter upon such property and remove the same at the expense of the owner of such property, and such entry shall not be deemed a trespass.

(c) Gambling. No gambling or wagering of any kind shall be permitted within the Ak-Sar-Ben Property, except that (i) Nebraska State Lottery tickets may be sold at retail establishments in accordance with applicable laws and regulations, and (ii) with the prior approval of the Architectural Review Committee, an establishment serving food and beverages, located within a platted lot within the FDR Property which is improved with buildings used primarily for retail purposes in accordance with this Second Amended Declaration, may conduct keno games and sell “pickle cards” in accordance with City of Omaha and State of Nebraska laws and regulations.

(d) Temporary Buildings. No temporary buildings, trailers, manufactured homes or other structures, mobile homes or structures, modular facilities or other similar structures shall be allowed on any Tract, except that, with the prior approval of the Architectural Review Committee the following shall be permitted: (i) in connection with an approved construction plan, construction trailers and related temporary facilities may be permitted on a Tract as reasonably required by construction contractors then engaged in constructing improvements on the Tract; and/or (ii) temporary trailers may be permitted on a Tract after commencement of construction on such Tract and prior to completion of a building on said Tract as reasonably required for the purpose of hiring individuals to work in the proposed building on said Tract upon completion of the building.

(e) Miscellaneous. No fireworks, refuse collection or drop-off points (other than refuse collection facilities for buildings within the Ak-Sar-Ben Property which comply with the terms of this Second Amended Declaration), auto or horse racing, or any activity which is reasonably anticipated to over-burden available parking facilities, shall be permitted within the respective Tracts. No amplified music or sound which is audible from the FDR Property shall be permitted on the University Property during “business hours.” For purposes of this paragraph, “business hours” shall mean 7:00 a.m. to 6:00 p.m., Monday through Friday, exclusive of holidays recognized by FDR.

4. SITE DEVELOPMENT REGULATION.

(a) Site Regulations. All new buildings and improvements, or material modifications to existing buildings or improvements, located on any Tract within the Ak-Sar-Ben Property shall comply with the Site Development Regulations, as set forth in the Redevelopment Agreement and as may be modified from time to time.

(b) Landscaping. Each party shall establish permanent landscaping schemes in conjunction with any future development or improvement of their respective Tracts. Such

permanent landscaping schemes for all Tracts shall provide for appropriate landscaping in areas adjacent to any such development or improved area. Such schemes shall provide for irrigation with automatic underground irrigation systems on all developed portions of the Tracts. Only specimen grade trees indigenous to the Omaha, Nebraska, area that have a normal and expected life of at least twenty (20) years and have a caliper measure of no less than two to three inches may be used in such landscaping schemes. In addition, the permanent landscaping scheme must include provisions for a maintenance program sufficient to ensure that the landscaping of each Tract is maintained in a first class and neat and attractive condition. Such maintenance program shall include, but not be limited to, provisions for regular fertilization, weed and insect control, watering and clipping, and trash and debris removal. All landscaping, having once been implemented in accordance with an approved permanent landscaping scheme shall be kept and maintained in a neat and attractive condition in accordance with such approved scheme.

(c) Loading docks; Trash Receptacles. All trash receptacles serving any building or structure on any Tract must either be enclosed within the building or structure or otherwise screened from public view.

(d) Parking and Loading.

(i) The owner of all or any part of any Tract shall provide sufficient and adequate parking for such owner's employees, customers, students, clients, invitees, lessees, and other persons reasonably anticipated to use or occupy such Tract (collectively, "**Parking Patrons**"). For purposes of this Section 4(d), persistent and/or repetitive occurrences of the following shall be deemed to indicate a lack of "sufficient and adequate parking":

(A) overflow of parking on any Tract such that the Parking Patrons of any party regularly park or attempt to park on the Tract of another party; or

(B) towing of vehicles of Parking Patrons of any party parking on areas located on any Tract of another party; or

(C) parking of vehicles of Parking Patrons of any party in unauthorized areas or in an illegal manner on any part of the Ak-Sar-Ben Property or public rights of way within the Ak-Sar-Ben Property; or

(D) violation by Parking Patrons of other parking regulations which are reasonably imposed by the owner of any Tract with respect to parking areas on the Tract or Tracts owned by such party;

provided, however, that the number, type and design of all parking stalls on any Tract shall at all times comply with all applicable zoning and other laws and regulations.

(ii) No parking shall be permitted by the owners of any Tract or their respective Parking Patrons upon any of the other Tracts without the prior written permission of the owner thereof.

(iii) No parking, other than off street “head in” parking, shall be permitted within a required setback abutting a private roadway or on any dedicated public street within the Ak-Sar-Ben Property or adjacent thereto without the prior written approval of the Architectural Review Committee which approval shall not be unreasonably withheld or delayed.

(iv) No vehicle storage shall be permitted on any parking areas within the Ak-Sar-Ben Property, except that any party may locate on its Tract one (1) motor vehicle pool facility if approved by the Architectural Review Committee. For purposes of this Amended Declaration, the term “motor vehicle pool facility” shall mean a surface parking facility which may be used for the storage and fueling of functional vans, passenger vehicles, service vehicles and maintenance vehicles (excluding construction equipment and vehicles) owned or leased by the owner of the Tract and used by the owner of the Tract (collectively, “**Owner Vehicles**”). The motor vehicle pool facility may also include enclosed service facilities for the service and maintenance of Owner Vehicles; provided, however, that such service facility shall be subject to the remaining terms and conditions of this Amended Declaration and review and approval by the Architectural Review Committee.

(v) All parking areas within the Ak-Sar-Ben Property shall be covered with hard, dustfree, paved surface and shall be properly maintained and kept free of snow and debris at all times in a first class condition. Except as otherwise approved by the Architectural Review Committee, any surface parking lot must be landscaped with a ten-foot (10') perimeter of sod and landscape materials, measured from any adjacent public right-of-way or lot line, and must have at least five percent (5%) of the entire parking lot interior landscaped and sodded. Concrete or granite curbing must be provided throughout such surface parking lot.

(vi) The owner of any Tract shall provide sufficient facilities for loading and unloading of deliveries to and from each building within the Tract. All loading activity shall be conducted in such a manner so as not to disturb or disrupt the Permitted Uses on any other Tract.

(vii) The parking areas and pedestrian walkways on each Tract shall be equipped by the respective owner thereof with lighting systems providing a minimum lighting intensity of two (2) foot-candles measured at one (1) foot above the surface thereof. During the hours of darkness, illumination of the intensity required hereby shall be provided by each party for the parking areas and pedestrian walkways on their respective Tracts. Such lighting equipment on each Tract shall be installed, and thereafter maintained and operated in good order and repair, by the respective owner thereof, at its sole cost and expense.

(viii) The real property lying within each of the Tracts which is designated for parking, as shown on the Plat, shall be used for parking of vehicles, and for no other purpose. The foregoing restriction shall not prohibit placement

of “cart corrals” within a parking lot on the FDR Property which are used for retail purposes.

(e) Signs. No billboards or advertising signs of any character shall be erected, placed, permitted or maintained on any Tract except as expressly permitted herein. The owner of any Tract may install a sign or signs identifying the building or buildings located on such Tract, provided, however, that: (a) the form of the sign is a low-profile “monument” type or wall sign in compliance with all applicable provisions of the City Code, (b) the sign is of a design and composed of materials harmonious with the building which it identifies, and (c) the sign has been previously approved by the Architectural Review Committee and otherwise satisfies the following restrictions:

(i) No sign shall be what is commonly known as a “walking” or message sign, or what is commonly known as an advertising sign, and no sign shall advertise businesses or products other than to identify the business housed on the premises on which the sign is located, provided, however, that directory-type signs designating the location of buildings situated on other portions of the Ak-Sar-Ben Property shall be permitted; and provided further, however, that commercial sponsorship signs shall be permitted on the site of any athletic or recreational facility of the University located on the University Property.

(ii) No sign shall be what is commonly known as an “awning” sign.

(iii) No sign shall have in use any flashing, pulsating or rotating light or lights or bare neon tubing.

(iv) No sign shall be located on a rooftop.

(v) No sign shall violate any ordinances of the City of Omaha, Nebraska, or other applicable law.

Notwithstanding the foregoing, the owners of any platted lot within the FDR Property which is improved with buildings used primarily for retail purposes in accordance with this Second Amended Declaration, may install on such platted lot a sign or signs identifying the names of the retail businesses located on such platted lot and may install within buildings on such lot interior, professionally prepared window signage which is not visible from neighboring lots (without the necessity of Architectural Review Committee approval), including the installation of a shopping center and tenant-identification pylon sign of up to thirty-five (35) feet in height and individual signs identifying the names of such businesses, provided, however, that: (a) no sign shall be what is commonly known as a “walking” or message sign, (b) no sign shall have in use any flashing, pulsating or rotating light or lights or bare neon tubing, (c) no sign shall be located on a rooftop, and (d) all signs shall be subject to the ordinances of the City of Omaha and other applicable laws.

The owner of any tract or parcel within the Ak-Sar-Ben Property may also place upon such tract or parcel one (1) temporary sign advertising such tract or parcel for sale or rent; provided such sign must comply with the ordinances of the City of Omaha and other applicable laws.

(f) Condition of Property. The owner of any property within the Ak-Sar-Ben Property shall at all times keep the premises, buildings, improvements and appurtenances on such property in a safe, clean and attractive condition and comply in all respects with the terms of this Second Amended Declaration and all government, building, zoning, health, environmental, fire and police requirements and other applicable laws and regulations. Further, all of the owners of any property within the Ak-Sar-Ben Property shall comply with the following requirements:

(i) The premises shall at all times be kept free from excessive debris, paper, leaves, fallen branches and trash of all kinds.

(ii) Outside storage of materials, equipment and products of any kind shall be prohibited except as the same may be expressly approved in advance by the Architectural Review Committee. The storage of shopping carts in "cart corrals" on the parking lots of retail parcels may only take place during hours in which the retail establishment using the carts is open for business. During hours when such businesses are closed, shopping carts may not be stored on the parking lot, but may be stored outdoors in approved areas next to the building served by the carts.

(iii) Nothing shall be done on any building site that interferes with the natural drainage of surface waters unless adequate alternate provisions are made therefor, as determined and first approved by the Architectural Review Committee.

(iv) The owners of any property in the Ak-Sar-Ben Property shall comply with any other rules or regulations concerning conditions that are later established by the mutual agreements of the owners of all Tracts.

(g) Utilities. All electrical lines, communication lines, water and sewer lines, pipelines and associated utility services on or through any Tract shall comply with the requirements of applicable local, state and federal laws, and shall be buried underground, except; (i) existing services shall be allowed in the manner and location existing as of the date of filing of the Original Declaration; (ii) temporary above-ground service shall be allowed when necessary, but only during construction of buildings and improvements; (iii) above-ground service shall be allowed as may be necessary to cross the Little Papillion Creek at existing bridge locations; and (iv) facilities and lines constructed and used exclusively for the distribution and transmission of electricity or for communications purposes by OPPD are not required to be buried underground. Notwithstanding the foregoing, OPPD and its successors and assigns, may install one or more above-ground electric power lines, structures and related facilities in the permanent easement area granted to OPPD in the Original Plat. The owner of all or any part of a Tract shall provide utility easements for the benefit of the other Tracts reasonably necessary for the installation, at the sole cost and expense of the owners of the benefited Tract or Tracts, of necessary utility services to such other Tracts. Such easements shall be provided to the owner of the benefited Tract or Tracts at no cost for the granting of the easement. The owner of the burdened Tract may designate the location and size of the easement area, in such owner's reasonable discretion, and may relocate such easement area at such owner's cost if necessitated

by future development of the burdened Tract; provided, however, OPPD shall not be required to grant any easement affecting the OPPD Property, which, in the sole judgment of OPPD, would interfere with OPPD's use of the OPPD Property or its ability to provide electric service.

5. REMEDIES FOR VIOLATIONS; LIENS.

Upon a violation or breach of any of the covenants, conditions, reservations, and restrictions set forth herein with respect to any of the Ak-Sar-Ben Property, the Designated Representative of the Architectural Review Committee shall have the right to proceed at law or in equity to compel compliance with the terms hereof or to prevent the violation or breach of any of them. The failure promptly to enforce any of the covenants, conditions, reservations and restrictions contained herein shall not bar their enforcement or be deemed a waiver of any future violations. Upon the failure or refusal of the Architectural Review Committee or the Designated Representative to enforce any of the covenants, conditions, reservations and restrictions set forth herein, the City of Omaha, Nebraska, a municipal corporation (the "City") shall have the right, but not the obligation, to proceed at law or equity to compel compliance therewith or to prevent or enjoin any actual or threatened violation or breach of the same.

In addition to the foregoing rights, the Designated Representative shall have the right, whenever there shall have been built any structure or exists any condition on the FDR Property, the Sisters of Mercy Property or the OPPD Property (if it is no longer used for an electrical substation) which is in violation of this Second Amended Declaration and such violation has not been cured within thirty (30) days after written notice to the breaching party, to enter upon the property where such violation exists and summarily abate or remove the same at the expense of the owner, payable within ten (10) days after such breaching party is billed. Any such entry and abatement or removal shall not, be deemed a trespass. The cost of such abatement or removal, if not paid within such ten (10) day period, shall be a lien in favor of the Designated Representative against the breaching owner's property and, subject to the provision of paragraph 15 below, may be foreclosed by the Designated Representative in like manner as any other lien against real estate.

6. ARCHITECTURAL REVIEW COMMITTEE.

(a) There is hereby established the Architectural Review Committee, which shall consist of three (3) members, one (1) member of which shall be appointed by the owner of the majority of the University Property ("**University Representative**"), one (1) member of which shall be appointed by the owner of the majority of the Sisters of Mercy Property ("**Sisters of Mercy Representative**") and one (1) member of which shall be appointed by FDR or by its successor at law or assignee for such purpose ("**FDR Representative**"). Each member of the Architectural Review Committee shall serve at the pleasure of their appointing entity, and may be replaced by such appointing entity at any time upon notice to the remaining members. The Architectural Review Committee shall meet monthly at such place and at such time as is mutually agreeable to the members thereof, unless such meeting is cancelled on account of a lack of business.

(b) In any matter before the Architectural Review Committee or within the Architectural Review Committee's authority pursuant to this Second Amended Declaration, the

FDR Representative and the University Representative shall each have two (2) votes and the Sisters of Mercy Representative shall have one (1) vote. Except as expressly provided in this Second Amended Declaration, a majority vote shall be required in order for the Architectural Review Committee to take any action or provide any approval.

(c) At such time as FDR, its parent corporation, any wholly owned subsidiary of FDR, or any brother-sister corporation of FDR is no longer the owner or tenant of any portion of the FDR Property, or FDR or such FDR affiliated corporation elects in writing to no longer participate in the Architectural Review Committee, the member of the Architectural Review Committee selected by FDR will be replaced with a member selected by the then-owner of Original Lot 4 (or the owner of a majority of square feet of the further subdivided Original Lot 4). Thereafter, each successive owner of Original Lot 4 (or the owner of a majority of square feet of the further subdivided Original Lot 4) shall be entitled to select one member of the Architectural Review Committee to replace the member selected by the preceding owner of such lot.

(d) Each owner of any Tract within the Ak-Sar-Ben Property other than the OPPD Property during any period in which it is operated for an electric substation, that intends to complete any "material" exterior construction, addition, installation, modification, demolition or alteration to the structure of any building or any landscaping, fence parking facility, exterior sign (other than permitted retail signs as provided in Section 4(e) above), or any other material structure or temporary or permanent improvements shall provide notice to the Architectural Review Committee of its intent to do so. For purposes of this subsection, the term "material" shall be defined as any construction, addition, installation, modification, demolition or alteration, the costs of which is expected to exceed \$25,000. In the event any party fails to give such notice, it shall not prejudice such party's right to make said construction, addition, installation, modification or alteration.

7. CONSTRUCTION STANDARDS.

The construction standards shall apply to all improvements on the Ak-Sar-Ben Property and are in addition to the Mixed Use District Site Development Regulations applicable to the Ak-Sar-Ben Property. These standards are not intended to modify or amend in any manner such Mixed Use District Site Development Regulations, as the same may be modified from time to time. Any construction within the Ak-Sar-Ben Property must comply with both the Mixed Use District Site Development Regulations and the Construction Standards and other provisions set forth in this Second Amended Declaration. Any amendment to these Construction Standards shall not be deemed to change or modify the Site Development Regulations applicable to the Ak-Sar-Ben Property.

(a) The FDR Property.

(i) Design. All buildings, structures, improvements, enclosures, landscaping, parking facilities, roads, roadways, streets, light poles, fences and any other structures on non-retail lots shall be of a design that shall be in harmony with and shall be consistent with a planned office park environment characterized by extensive landscaping, low-rise buildings, and unified graphics and materials.

All buildings, structures, improvements, enclosures, landscaping, parking facilities, roads, roadways, streets, light poles, fences and any other structures on retail lots shall be of a design that shall be in harmony with the office park located on the FDR Property as well as first-class neighborhood retail shopping centers in the area of the Ak-Sar-Ben Property, characterized by extensive landscaping, low-rise buildings and unified graphics and materials.

(ii) Materials. The exterior materials for all buildings, including roofing materials, shall be consistent with and harmonize with the landscaping of the Ak-Sar-Ben Property as a whole. The exterior of any structure may only be composed of brick, natural stone, architectural pre-cast concrete, architectural concrete block, artificial stone, glass, or exterior insulation and finish system (“EIFS”) or a combination of any of these.

(iii) Setbacks. Except with regard to the construction of surface parking facilities, which parking facilities shall not be subject to the setback requirements set forth herein, all portions of buildings and structures above grade must have setbacks of at least twenty-five (25) feet from Pine Street, Ak-Sar-Ben Drive, Pacific Street and 64th Street. All such structures shall also be subject to setback requirements of at least fifteen (15) feet from interior lot lines and at least fifteen (15) feet from all streets which border any lot within the FDR Property other than Pine Street, Ak-Sar-Ben Drive, Pacific Street and 64th Street; provided, however, that such interior lot line setback requirements shall only apply when the lots adjacent to such interior lot lines are owned by different owners.

(b) The University Property.

(i) Design. All buildings, structures, improvements, enclosures, landscaping, parking facilities, roads, roadways, streets, light poles, fences and other structures shall be of a design that shall be in harmony with and shall be consistent with a university campus environment characterized by landscaping and unified graphics and materials.

(ii) Materials. The exterior materials for all buildings, including roofing materials, shall be consistent with and harmonize with the landscaping of the Ak-Sar-Ben Property as a whole. The exterior of any structure may only be composed of brick, natural stone, architectural pre-cast concrete, architectural concrete block, artificial stone, glass, EIFS or a combination of these.

(iii) Setbacks. Surface parking facilities shall not be subject to the setback requirements set forth herein. All portions of buildings and structures above grade must have setbacks of at least twenty-five (25) feet from Pine Street, Ak-Sar-Ben Drive, Pacific Street and 64th Street. All such structures shall also be subject to setback requirements of at least fifteen (15) feet from interior lot lines; provided, however, that such interior lot line setback requirements shall only

apply when the lots adjacent to such interior lot lines are owned by different owners.

(c) Sisters of Mercy Property and OPPD Property.

(i) Design. All buildings, structures, improvements, enclosures, landscaping, parking facilities, roads, roadways, streets, light poles, fences and any other structures shall be of a design that shall be in harmony with and shall be consistent with a planned office park environment characterized by extensive landscaping, low-rise buildings, and unified graphics and materials.

(ii) Materials. The exterior materials for all buildings, including roofing materials, shall be consistent with and harmonize with the landscaping of the Ak-Sar-Ben Property as a whole. The exterior of any structure may only be composed of brick, natural stone, architectural pre-cast concrete, glass, or EIFS or a combination of any of these.

(iii) Setbacks. Except with regard to the construction of surface parking facilities, which parking facilities shall not be subject to the setback requirements set forth herein, all portions of buildings and structures above grade must have setbacks of at least twenty-five (25) feet from Pine Street, Ak-Sar-Ben Drive, Pacific Street and 64th Street. All such structures shall also be subject to setback requirements of at least fifteen (15) feet from interior lot lines; provided, however, that such interior lot line setback requirements shall only apply when the lots adjacent to such interior lot lines are owned by different owners.

(iv) Electrical Substation. Notwithstanding anything to the contrary contained in this subsection (c), the design, materials and setback provisions of this subsection (c) shall not apply to facilities (including buildings) on the OPPD Property constructed and used exclusively for the distribution and transmission of electricity or for a communications facility for so long as the OPPD Property is used as an electrical substation.

9. WAIVER, MODIFICATION OR AMENDMENT BY ARCHITECTURAL REVIEW COMMITTEE.

The owner of any Tract may petition the Architectural Review Committee to waive compliance with, grant a variance to any of the covenants, conditions, reservations or restrictions set forth in Sections 2, 4 and 7 of this Second Amended Declaration. Subject to the limitations set forth below, and based on its reasonable discretion, the Architectural Review Committee is hereby given the power to waive any such covenants, conditions, reservations or restrictions upon such request and upon a finding by the Architectural Review Committee that such request is in conformity with the general scheme for the development of the Ak-Sar-Ben Property as set forth in this Second Amended Declaration. Notwithstanding any other provision contained herein, if the Architectural Review Committee shall fail to approve or disapprove any such requests for waiver, variance, modification or amendment within forty-five (45) days after such

request has been submitted to the Architectural Review Committee, such request shall be deemed conclusively to have been disapproved unless or until the Architectural Review Committee takes further action on the same, if ever.

9. TERM AND EXTENSIONS.

Each covenant, condition, reservation and restriction contained in this Second Amended Declaration shall continue in effect indefinitely until terminated as provided below as of a Termination Date, the first of which shall be on June 26, 2033. At any time within one (1) year prior to June 26, 2033, and each thirty (30) year period thereafter (each such date being referred to herein as a “**Termination Date**”), the then owners of the majority of the area (in acres) of the Ak-Sar-Ben Property may, by written declaration signed and acknowledged by them and duly recorded with the Register of Deeds for Douglas County, Nebraska, terminate the covenants, conditions, reservations and restrictions herein, effective as of the next Termination Date. Failing such termination, the covenants, conditions, reservations and restrictions contained in this Second Amended Declaration shall automatically be renewed and extended for successive periods of thirty (30) additional years, subject to the right of the owners of the majority of the area of the Ak-Sar-Ben Property to terminate this Second Amended Declaration at the end of each such thirty (30) year period as provided in this paragraph.

10. INTEREST.

Whenever and as often as one party shall not have paid any sum payable hereunder to another party, or to the Architectural Review Committee, within thirty (30) days of the due date, such delinquent party shall pay interest on such amount from the due date to the date such payment is received by the party entitled thereto, at an interest rate equal to the highest rate assessed on delinquent payments of any taxes owing to any political subdivision of the State of Nebraska as provided by law and in effect as of the date of such payment.

11. ESTOPPEL CERTIFICATE.

Each owner of any Tract agrees that upon written request of any other party (which shall not be more frequent than three (3) times during any calendar year by a single requester), it will issue to a prospective mortgagee or successor of such other owner or to such other party, an estoppel certificate stating to the best of the issuer's knowledge that as of such date:

(a) whether the owner to whom the request has been directed knows of any default by the requesting party under this Second Amended Declaration, and if there are known defaults, specifying the nature thereof;

(b) whether this Second Amended Declaration has been modified or amended in any way (and if it has, then stating the nature thereof);

(c) whether this Second Amended Declaration is in full force and effect.

Such statement shall act as a waiver of any claim by the owner furnishing it to the extent such claim is based upon facts contrary to those asserted in the statement and to the extent the claim is asserted against a bona fide encumbrancer or purchaser for value without knowledge of

facts to the contrary of those contained in the statement, and who has acted in reasonable reliance upon the statement; however, such statement shall in no event subject the owner furnishing it to any liability whatsoever, notwithstanding the negligent or otherwise inadvertent failure of such owner to disclose correct and/or relevant information.

12. NOTICES.

All notices, demands, statements, and requests (collectively “**Notices**”) required or permitted to be given under this Second Amended Declaration must be in writing and shall be deemed to have been properly given or served as of the date hereinafter specified: (i) on the date of personal service upon the person to whom the Notice is addressed or if such person is not available the date such Notice is left at the address of the person to whom it is directed, (ii) on the date the Notice is postmarked by the United States Post Office, provided it is sent prepaid, registered or certified mail, return receipt requested, and (iii) on the date the Notice is delivered by a nationally-recognized overnight courier service, postage prepaid and addressed to the person to whom it is directed. The addresses of certain of the signatories to, or the anticipated ultimate owners of the Tracts subject to, this Second Amended Declaration to which Notices shall be sent are set forth below.

University:

Corporation Secretary
UNIVERSITY OF NEBRASKA
3835 Holdrege Street
Lincoln, Nebraska 68583-0745

and with a copy to:

Vice President & General Counsel
UNIVERSITY OF NEBRASKA
3835 Holdrege Street
Lincoln, Nebraska 68583-0745

FDR:

First Data Properties
6200 South Quebec Street, Suite 370A
Greenwood Village, Colorado 80111
Attention: Contract Administrator

and with a copy to:

David A. Linenbroker, Esq.
Blackwell Sanders Peper Martin LLP
720 Olive Street
Suite 2400
St. Louis, Missouri 63101

Sisters of Mercy:

7262 Mercy Road
Omaha, Nebraska 68124-2389
Attention: Steve Knight

and with a copy to:

Michael S. Mostek, Esq.
Koley Jessen P.C., a limited liability organization
1125 South 103 Street, Suite 800
Omaha, Nebraska 68124

OPPD:

Division Manager of Engineering
Omaha Public Power District
444 South 16th Street Mall
Omaha, Nebraska 68102

and with a copy to:

Stephen M. Bruckner, Esq.
Fraser Stryker Meusey Olson Boyer & Bloch, PC
400 South 17th Street, Suite 500
Omaha, Nebraska 68102

ASB Village:

Ak-Sar-Ben Village, LLC
1125 South 103rd Street, Suite 450
Omaha, Nebraska 68124-0169
Attention: Jay B. Noddle

and with a copy to:

Robert W. Rieke, Esq.
Fraser Stryker Meusey Olson Boyer & Bloch, PC
500 Energy Plaza
409 South 17th Street
Omaha, Nebraska, 68102-2663

The place for delivery of any Notice hereunder may be changed by any party (or their successor in interest) by written notice to the other parties delivered in the manner required by this paragraph. As to any successor owner, upon acquisition of ownership of a parcel within the Ak-Sar-Ben Property, such new owner may give notice of its address as provided in this Section. If the new owner gives such a notice, future Notices must be given to said owner at that address. If the new owner does not give such notice, future Notices shall be effective if sent to the address

of the record owner of the property as shown on the real property tax records of Douglas County, Nebraska.

13. DECLARATION SHALL CONTINUE NOTWITHSTANDING BREACH.

It is expressly agreed that no breach of this Second Amended Declaration shall (i) entitle any party to cancel, rescind or, otherwise terminate this Second Amended Declaration, or (ii) defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value as to any part of the Ak-Sar-Ben Property. However, such limitation shall not affect in any manner any other rights or remedies which a party may have hereunder by reason of any such breach.

14. APPROVAL RIGHTS.

Unless provision is made for a specific time period (such as the time for approval as set forth in Section 6), approval or consent requested pursuant to this Second Amended Declaration shall be given or withheld within forty-five (45) days of the receipt of the request for approval. Except as otherwise provided in this Second Amended Declaration, if a disapproval is not given within the required time period, the requested party shall be deemed to have given its approval. Except with respect to any approval or disapproval given by lapse of time under the terms of this Second Amended Declaration, all approvals and disapprovals shall be in writing, but the failure to furnish such a writing shall not be deemed an approval.

15. LIEN FOR EXPENSES.

(a) The liens provided for in Section 5 above shall be effective only when a signed and acknowledged document providing notice of such lien is filed by the Designated Representative in the Office of the Register of Deeds for Douglas County, Nebraska, which notice shall contain at least:

- (i) A statement of the unpaid amount of costs and expenses;
- (ii) A description sufficient for identification of that portion of the property of the defaulting owner which is the subject of the lien; and
- (iii) The name of the owner or reputed owner of the property which is the subject of the alleged lien.

(b) The lien, when so established against the real property described in the lien, shall be prior and superior to any right, title, interest, lien or claim which may be or has been acquired or attached to such real property after the time of filing the lien.

The lien shall be for the use and benefit of the Designated Representative, and may be enforced and foreclosed in a suit or action brought in any court of competent jurisdiction.

16. DISPUTE RESOLUTION.

Expressly excluding matters to be determined by the Architectural Review Committee hereunder, all other disputes and controversies of every kind and nature between or among the parties hereto arising out of or in connection with this Second Amended Declaration as to the existence, construction, validity, interpretation or meaning, performance, non-performance, enforcement, operation, breach, continuance, or termination hereof shall be submitted to arbitration pursuant to the procedure hereafter set forth:

(a) Any party may demand such arbitration by written notice to the remaining owners of all Tracts within thirty (30) days after the controversy arises, which notice shall include the name of the arbitrator appointed by the party demanding arbitration, together with a statement of the matter in controversy.

(b) Within fifteen (15) days after such notice, the remaining parties shall name their respective arbitrator, or in default of such naming, such arbitrator or arbitrators shall be named forthwith by the Arbitration Committee of the American Arbitration Association.

(c) The arbitration costs and expenses of each party shall be borne by that party.

(d) The arbitration hearing shall be held on fifteen (15) days' notice to the parties at a neutral site in Omaha, Nebraska, to be selected by a majority of the arbitrators.

(e) The arbitration rules and procedures of the American Arbitration Association shall be utilized in the arbitration hearing and the law of evidence of the State of Nebraska shall govern the presentation of evidence at such hearing.

(f) The arbitration hearing shall be concluded within three (3) days unless otherwise ordered by a majority of the arbitrators and the award or determination on the hearing shall be made within ten (10) days after the close of the submission of evidence.

(g) An award or determination rendered by a majority of the arbitrators appointed under and pursuant to this Section 16 shall be final and binding on all parties to the proceeding, and judgment on such award or determination may be entered by any party in the highest court, state or federal, having jurisdiction over the matter.

(h) The parties stipulate that a decision rendered pursuant to the provisions of this Section 16 shall be a complete defense to any suit, action, or proceeding instituted in any federal, state, or local court or before any administrative tribunal with respect to any controversy or dispute arising hereunder and which is arbitrable as set forth in this Section 16. The arbitration provisions of this Section 16 shall, with respect to such controversy or dispute, survive the termination of any party's ownership of any one of the Tracts. Nothing contained in this Section 16 shall be deemed to give the arbitrators any authority, power, or right to alter, change, amend, modify, add to, or subtract from any of the provisions of this Second Amended Declaration.

17. EFFECT OF SALE BY OWNER.

If any owner of any property in the Ak-Sar-Ben Property sells its property, then after the date of sale, such owner shall have no further obligation under this Second Amended Declaration with respect to such property sold; provided, however, the selling owner shall remain liable for obligations incurred prior to said sale.

18. DEFAULT IN PAYMENT OF EXPENSES.

Notwithstanding any of the provisions of this Second Amended Declaration, a breach of any of the conditions and covenants contained herein shall not defeat, affect or render invalid the lien of any mortgage or deed of trust made in good faith and for value, but such conditions and covenants shall be binding and effective against any owner of any property or any portion thereof whose title thereto is acquired by foreclosure, trustee's sale or otherwise.

19. RULE AGAINST PERPETUITIES.

In the event the provisions hereunder are declared void by a court of competent jurisdiction by reason of the period of time herein stated for which the same shall be effective being contrary to applicable law or prohibited by the "rule against perpetuities" or any similar law, then in that event only the term hereof shall be reduced to the maximum period of time which does not violate such law or the rule against perpetuities as set forth in the laws of the State of Nebraska.

20. WAIVER.

No delay or omission on the part of the Architectural Review Committee or the owners of any lots in the Ak-Sar-Ben Property in exercising any rights, power or remedy herein provided, in the event of any breach of the covenants, conditions, reservations, or restrictions herein contained, shall be construed as a waiver thereof or acquiescence therein, and no right of action shall accrue nor shall any action be brought or maintained by anyone whatsoever against the Architectural Review Committee for or on account of the Architectural Review Committee's failure to bring any action on account of any breach of these covenants, conditions, reservations or restrictions.

21. SEVERABILITY.

In the event any one or more of the foregoing covenants, conditions, reservations or restrictions is declared for any reason by a court of competent jurisdiction to be null and void, the judgment or decree shall not in any manner whatsoever affect, modify, change, abrogate or nullify any of the other covenants, conditions, reservations and restrictions not specifically declared to be void or unenforceable, but all of the remaining covenants, conditions, reservations and restrictions not expressly held to be void or unenforceable shall continue unimpaired and in full force and effect.

22. BENEFICIARIES.

These covenants, conditions, reservations and restrictions are made for the benefit of any and all persons who may now own, or who may in the future own, property in the Ak-Sar-Ben Property. Such persons are specifically given the right to enforce these restrictions and covenants by injunction or other legal or equitable procedure as provided herein, and to recover damages resulting from any violation thereof, including the cost of enforcing the same, which costs shall include court costs and reasonable attorneys' fees as permitted by law.

23. AMENDMENT.

This Second Amended Declaration may be amended at any time by the written agreement of (i) the then current owner of each of Original Lots 4 and 5; (ii) the then current owner of each of Replat 4 Lots 1, 2, 3, 4, and 5; (iii) the then current owner of the OPPD Property; (iv) the then current owner of Replat 1 Lots 6 and 7; (v) the then current owner of each of Original Lot 1, Replat 3 Lot 1 and Replat 3 Lot 2; and (vi) the then current owner of the College Addition Lots (all collectively are referred to herein as the "**Base Lots**"). In the event any of the Base Lots is further subdivided into additional lots (each being referred to herein as a "**Further Subdivided Lot**"), the owner of the largest Further Subdivided Lot within each Base Lot shall be the only property owner from that Base Lot whose consent will be required in order to amend the Amended Declaration and such consent shall bind all other owners of Further Subdivided Lots within that Base Lot. Alternatively, all of the owners of Further Subdivided Lots within any Base Lot may execute and record a notice designating a representative for that Base Lot for purposes of amendments, in which that representative's consent shall be binding upon all other owners of Further Subdivided Lots within that Base Lot.

24. SUBSEQUENT AMENDMENTS/EMINENT DOMAIN.

In the event any improvement constructed in accordance with Proposed Plans approved by the Architectural Review Committee shall later be in violation of any provision of this Second Amended Declaration solely by reason of: (a) a subsequent amendment to this Second Amended Declaration; or (b) any eminent domain proceeding which may affect the location of public rights of way; then such improvement shall thereafter be deemed to comply with such provisions of this Second Amended Declaration so long as the improvement is not materially modified or altered thereafter.

25. RECITALS.

The Recitals to this Second Amended Declaration are hereby acknowledged, confirmed and agreed upon by the parties hereto.

26. REDEVELOPMENT AGREEMENT.

Nothing contained herein shall be intended to or have the effect of altering, amending, modifying or revising in any way the provisions of the Redevelopment Agreement.

27. LOT 10 DECLARATION.

Nothing contained herein shall be construed to amend, alter or modify the provisions of that certain Declaration of Covenants and Restrictions for Original Lot Ten (10) of the Ak-Sar-Ben Business & Education Campus, Omaha, Douglas County, Nebraska dated January 25, 2001 and recorded on June 11, 2004 as Document No. 2004076527 of the miscellaneous records of Douglas County, Nebraska (the “**Lot 10 Declaration**”). In the event the Lot 10 Declaration is terminated or expires, from the date of such termination or expiration, this Second Amended Declaration shall be reinstated with respect to the College Property and the provisions of this Second Amended Declaration which relate to the Sisters of Mercy Property shall apply to the College Property.

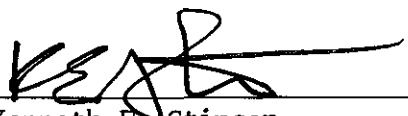
28. COUNTERPARTS.

This Second Amended Declaration may be executed in counterparts. Each counterpart is deemed an original and all counterparts shall, collectively, constitute one agreement. The date on which the last of the parties hereto executes this Second Amended Declaration shall be deemed to be the date of this Second Amended Declaration.

[THIS SPACE INTENTIONALLY LEFT BLANK- SIGNATURES ON FOLLOWING PAGES]

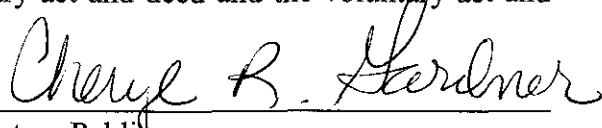
IN WITNESS WHEREOF, the undersigned party has hereto executed this Second Amended Declaration on the dates set forth beneath its respective signature.

AK-SAR-BEN FUTURE TRUST,
a Nebraska non-profit corporation

By: 
Name: Kenneth E. Stinson
Title: Chairman
Date: July 26, 2007

STATE OF NEBRASKA
COUNTY OF DOUGLAS

The foregoing instrument was acknowledged before me on July 26, 2007, by Kenneth E. Stinson the Chairman of Ak-Sar-Ben Future Trust, a Nebraska non-profit corporation, known to me to be the identical person who signed the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said corporation.


Notary Public

My Commission expires: March 3, 2009



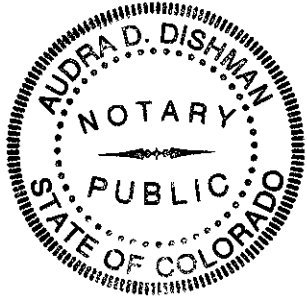
IN WITNESS WHEREOF, the undersigned party has hereto executed this Second Amended Declaration on the dates set forth beneath its respective signature.

FIRST DATA RESOURCES INC.,
a Delaware corporation

By: Rick Stone
Name: _____
Title: Assistant Secretary
Date: 7-16-07

Colorado
STATE OF ~~NEBRASKA~~
Arapahoe
COUNTY OF ~~DOUGLAS~~

The foregoing instrument was acknowledged before me on July 16th, 2007, by Rick Stone the Assistant Secretary of First Data Resources, Inc., a Delaware corporation, known to me to be the identical person who signed the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said corporation.



Audra Dishman
Notary Public

My Commission expires: 11/22/2010

IN WITNESS WHEREOF, the undersigned party has hereto executed this Second Amended Declaration on the dates set forth beneath its respective signature.

SISTERS OF MERCY OF THE AMERICAS
REGIONAL COMMUNITY OF OMAHA, a
Nebraska non-profit corporation

By: *Sister Patricia Forret, RSM*
Name: Sister Patricia Forret, RSM
Title: President
Date: July 12, 2007

STATE OF NEBRASKA

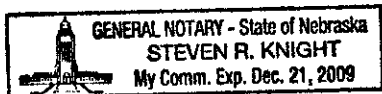
COUNTY OF DOUGLAS

The foregoing instrument was acknowledged before me on July 12, 2007, by Sister Patricia Forret, RSM the President of Sisters of Mercy of the Americas Regional Community of Omaha, a Nebraska non-profit corporation, known to me to be the identical person who signed the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said non-profit corporation.

Steven R Knight

Notary Public

My Commission expires: December 21, 2009



IN WITNESS WHEREOF, the undersigned party has hereto executed this Second Amended Declaration on the dates set forth beneath its respective signature.

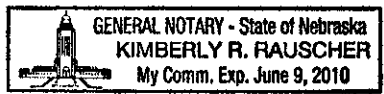
THE BOARD OF REGENTS OF THE UNIVERSITY OF NEBRASKA, a body corporate existing under the laws of the state of Nebraska

By: David Lechner
Name: DAVID LECHNER
Title: VP FOR BUSINESS & FINANCE
Date: 07-26-07

STATE OF NEBRASKA
COUNTY OF DOUGLAS

The foregoing instrument was acknowledged before me on July 26, 2007, by David E. Lechner the VP for Business & Finance of The Board of Regents of the University of Nebraska, a body corporate existing under the laws of the state of Nebraska, known to me to be the identical person who signed the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said body corporate.

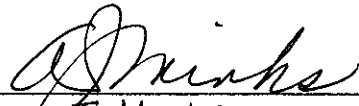
Kimberly R. Rauscher
Notary Public



My Commission expires: June 9, 2010

IN WITNESS WHEREOF, the undersigned party has hereto executed this Second Amended Declaration on the dates set forth beneath its respective signature.

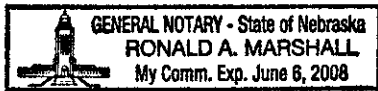
OMAHA PUBLIC POWER DISTRICT, a public corporation

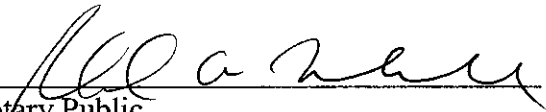
By: 
Name: Adrian J. Minks
Title: Vice President
Date: July 6, 2007

STATE OF NEBRASKA

COUNTY OF DOUGLAS

The foregoing instrument was acknowledged before me on July 6, 2007, by Adrian J. Minks the V.P. of Omaha Public Power District, a public corporation, known to me to be the identical person who signed the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said corporation.




Notary Public

My Commission expires: 6/6/2008

IN WITNESS WHEREOF, the undersigned party has hereto executed this Second Amended Declaration on the dates set forth beneath its respective signature.

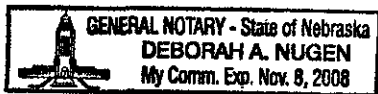
THE COLLEGE OF SAINT MARY, a Nebraska non-profit corporation

By: Dr. Maryanne Stevens, RSM
Name: Dr. Maryanne Stevens, RSM
Title: President
Date: August 8, 2007

STATE OF NEBRASKA

COUNTY OF DOUGLAS

The foregoing instrument was acknowledged before me on 8/8, 2007, by Dr. Maryanne Stevens the President of The College of Saint Mary, a Nebraska non-profit corporation, known to me to be the identical person who signed the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said on behalf of the corporation.



Deborah A. Nugen
Notary Public
My Commission expires: 11/8/2008

IN WITNESS WHEREOF, the undersigned party has hereto executed this Second Amended Declaration on the dates set forth beneath its respective signature.

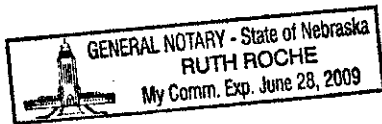
GEORGETOWN PROPERTIES, L.L.C.,
a Nebraska limited liability company

By: Robert Hancock
Name: ROBERT HANCOCK
Title: MANAGER
Date: 7/23/07

STATE OF NEBRASKA

COUNTY OF DOUGLAS

The foregoing instrument was acknowledged before me on July 23, 2007, by Robert Hancock the MANAGER of Georgetown Properties, L.L.C., a Nebraska limited liability company, known to me to be the identical person who signed the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said company.



Ruth Roche
Notary Public
My Commission expires: June 28, 2009

Exhibit "A"

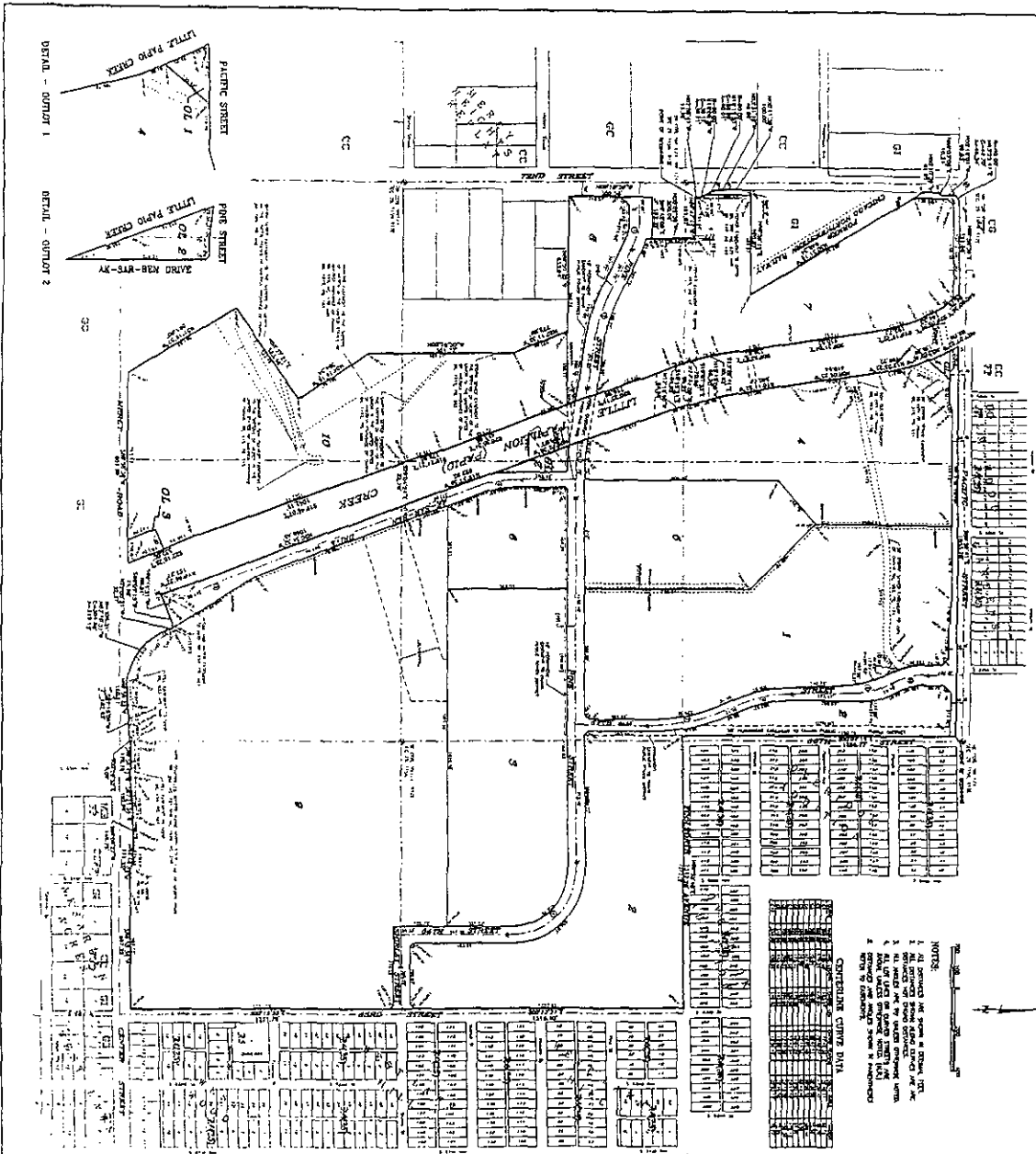
Re-subdivision of Original Lots

<u>Original Lot</u>	<u>Resubdivided Into</u>	<u>Owned By</u>
1	N/A 55-00222	University
2	Replat 3 Lot 1 Replat 3 Lot 2 55-00225	University University
3	<p>Replat 5 Lot 1 Replat 5 Lot 2</p> <p>Replat 5 Lot 1 and Replat 5 Lot 2 were replatted by Replat 6 into:</p> <p>Replat 6 Lot 1, 55-00228 Replat 6 Lot 2</p> <p>Replat 6 Lot 2 was replatted by Replat 7 into:</p> <p>Replat 7 Lot 1 Replat 7 Lot 2 55-00229</p> <p>Replat 7 Lot 1 was replatted by Village Plat into:</p> <p>Village Plat Lots 1-9 55-00231 Village Plat Lot 10 Village Plat Lots 11-12 55-00231 Village Plat Lot 13 Village Plat Lot 14 55-00231 Village Plat Lot 15 55-00231 Village Plat Lot 16 55-00231</p> <p>Village Plat Lot 10 was replatted by Village Replat 1 into:</p> <p>Village Replat 1 Lot 1 55-00232 Village Replat 1 Lot 2 "</p>	<p>See Replat 6 See Replat 6</p> <p>University See Replat 7</p> <p>See Village Plat University</p> <p>Future Trust See Village Replat 1 Future Trust See Village Replat 2 Future Trust Georgetown Future Trust</p> <p>Future Trust Future Trust</p>

Original Lot	<u>Resubdivided Into</u>	<u>Owned By</u>
	Village Plat Lot 13 was replatted by Village Replat 2 into: Village Replat 2 Lot 1 Village Replat 2 Lot 2	Future Trust Future Trust 55-00233
4	N/A	FDR
5	N/A	FDR
6	Replat 5 Lot 1 Replat 5 Lot 2 Replat 5 Lot 1 and Replat 5 Lot 2 were replatted by Replat 6 into: Replat 6 Lot 1 Replat 6 Lot 2 Replat 6 Lot 2 was replatted by Replat 7 into: Replat 7 Lot 1 Replat 7 Lot 2 Replat 7 Lot 1 was replatted by Village Plat into: Village Plat Lots 1-9 Village Plat Lot 10 Village Plat Lots 11-12 Village Plat Lot 13 Village Plat Lot 14 Village Plat Lot 15 Village Plat Lot 16 Village Plat Lot 10 was replatted by Village Replat 1 into: Village Replat 1 Lot 1 Village Replat 1 Lot 2	See Replat 6 See Replat 6 University See Replat 7 See Village Plat University Future Trust See Village Replat 1 Future Trust See Village Replat 2 Future Trust Georgetown Future Trust Future Trust Future Trust

POOR COPY

AK-SAR-BEN BUSINESS & EDUCATION CAMPUS
 LOTS 1 THROUGH 10, INCLUSIVE AND OUTLOTS 1-2 AND 3, BEING A PLATING OF PART OF
 SECTION 25, TOWNSHIP 15 NORTH, RANGE 12 EAST OF THE 6TH P.M., DOUGLAS COUNTY, NEBRASKA



- NOTES:
1. ALL DISTANCES ARE SHOWN IN FEET AND INCHES.
 2. ALL DISTANCES SHOWN ARE TO THE CENTER OF THE LOT.
 3. ALL DISTANCES ARE TO THE CENTER OF THE LOT.
 4. ALL DISTANCES ARE TO THE CENTER OF THE LOT.
 5. ALL DISTANCES ARE TO THE CENTER OF THE LOT.

CORRECTING CURVE DATA

THIS PLAN IS THE PROPERTY OF LAMP, RYNEARSON & ASSOCIATES, INC. AND IS NOT TO BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, ELECTRONIC OR MECHANICAL, INCLUDING PHOTOCOPYING, RECORDING, OR BY ANY INFORMATION STORAGE AND RETRIEVAL SYSTEM, WITHOUT THE WRITTEN PERMISSION OF LAMP, RYNEARSON & ASSOCIATES, INC.

DATE: 06/23/97

PROJECT: AK-SAR-BEN BUSINESS & EDUCATION CAMPUS

SCALE: AS SHOWN

DESIGNED BY: [Name]

DRAWN BY: [Name]

CHECKED BY: [Name]

APPROVED BY: [Name]

Original Lot	<u>Resubdivided Into</u>	<u>Owned By</u>
	Village Plat Lot 13 was replatted by Village Replat 2 into: Village Replat 2 Lot 1 Village Replat 2 Lot 2	Future Trust Future Trust
10	Replat 2 Lot 1 – replatted into Lots 1-3 College of St. Mary's Addition Replat 1 - 55-06903 Replat 2 Lot 2 AK Sarben BUSINESS + EDUCATION CAMPUS Replat 2	College Future Trust

55-00224.

Exhibit "B"

[Property Released from "Ak-Sar-Ben Property"]

Future Trust Property:

LOT TWO (2), OF THE AK-SAR- BEN BUSINESS & EDUCATION CAMPUS REPLAT 2 RECORDED IN BOOK 1301, PAGE 597 OF THE DEED RECORDS OF DOUGLAS COUNTY, NEBRASKA. LOTS ONE (1) THROUGH NINE (9), ELEVEN (11), TWELVE (12) AND FOURTEEN (14) THROUGH SIXTEEN (16) OF THE AKSARBEN VILLAGE PLAT RECORDED AS DOCUMENT NO. 2007018517 OF THE DEED RECORDS OF DOUGLAS COUNTY, NEBRASKA. LOTS ONE (1) AND TWO (2) OF AKSARBEN VILLAGE REPLAT 1 RECORDED AS DOCUMENT NO. 2007051307 IN THE DEED RECORDS OF DOUGLAS COUNTY, NEBRASKA. LOTS ONE (1) AND TWO (2) OF AKSARBEN VILLAGE REPLAT 2 RECORDED AS DOCUMENT NO. 20070513087 IN THE DEED RECORDS OF DOUGLAS COUNTY, NEBRASKA.

Released University Property:

LOT ONE (1) OF THE AK-SAR-BEN BUSINESS & EDUCATION CAMPUS REPLAT 6 RECORDED AS DOCUMENT NO. 2004161513 OF THE MISCELLANEOUS RECORDS OF DOUGLAS COUNTY, NEBRASKA. LOT TWO (2) OF THE AK-SAR-BEN BUSINESS & EDUCATION CAMPUS REPLAT 7 RECORDED AS DOCUMENT NO. 2005143822 OF THE MISCELLANEOUS RECORDS OF DOUGLAS COUNTY, NEBRASKA. LOT ONE (1), AK-SAR-BEN BUSINESS & EDUCATION CAMPUS, REPLAT 8 RECORDED IN DOUGLAS COUNTY, NEBRASKA, SAID PLAT BEING RECORDED AS DOCUMENT NO. 2005143821 IN THE MISCELLANEOUS RECORDS OF DOUGLAS COUNTY, NEBRASKA

Exhibit "C"

["Tracts" located within the Ak-Sar-Ben Property]

University Property

LOT ONE (1) OF AK-SAR- BEN BUSINESS & EDUCATION CAMPUS, AN ADDITION TO THE CITY OF OMAHA, AS SURVEYED, PLATTED AND RECORDED IN DOUGLAS COUNTY, NEBRASKA, SAID PLAT BEING RECORDED IN BOOK 2064, PAGE 149 OF THE DEED RECORDS OF DOUGLAS COUNTY, NEBRASKA. LOTS ONE (1) AND TWO (2) OF THE AK-SAR-BEN BUSINESS & EDUCATION CAMPUS REPLAT 3 RECORDED IN BOOK 1458, PAGE 434 OF THE DEED RECORDS OF DOUGLAS COUNTY, NEBRASKA.

FDR Property:

LOTS FOUR (4) AND FIVE (5) OF AK-SAR-BEN BUSINESS & EDUCATION CAMPUS, AN ADDITION TO THE CITY OF OMAHA, AS SURVEYED, PLATTED AND RECORDED IN DOUGLAS COUNTY, NEBRASKA, SAID PLAT BEING RECORDED IN BOOK 2064, PAGE 149 OF THE DEED RECORDS OF DOUGLAS COUNTY, NEBRASKA AND REPLAT 4 LOTS ONE (1), TWO (2), THREE (3), FOUR (4), AND FIVE (5) OF THE AK-SAR-BEN BUSINESS & EDUCATION CAMPUS REPLAT 4 RECORDED AS DOCUMENT NUMBER 2004106466 IN THE DEED RECORDS OF DOUGLAS COUNTY, NEBRASKA

Sisters of Mercy Property:

LOTS SIX (6) AND SEVEN (7) OF THE AK-SAR- BEN BUSINESS & EDUCATION CAMPUS REPLAT 1 RECORDED IN BOOK 2177, PAGE 665 OF THE DEED RECORDS OF DOUGLAS COUNTY, NEBRASKA

OPPD Property:

LOT FIVE (5) OF THE AK-SAR-BEN BUSINESS & EDUCATION CAMPUS REPLAT 1 RECORDED IN BOOK 2177, PAGE 665 OF THE DEED RECORDS OF DOUGLAS COUNTY, NEBRASKA.

College Property:

LOTS ONE (1), TWO (2), AND THREE (3) OF
THE FINAL PLAT COLLEGE OF ST. MARY'S
ADDITION REPLAT 1 RECORDED AS
DOCUMENT NO. 2005060080 IN THE DEED
RECORDS OF DOUGLAS COUNTY,
NEBRASKA.

Exhibit "D"

"Original Plat"