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**THIRD AMENDMENT TO**  
**COMMERCIAL FEDERAL BUSINESS PARK**  
**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

This Third Amendment to the Declaration of Covenants, Conditions and Restrictions ("Second Amendment") is made this 21<sup>st</sup> day of January, 2004, by Commercial Federal Bank, a federal savings bank ("Declarant").

**RECITALS:**

WHEREAS, the Commercial Federal Business Park Declaration of Covenants, Conditions and Restrictions ("Declaration") dated December 26, 2000, was recorded on December 26, 2000, at Book 1363, Page 112, of the Register of Deeds of Douglas County, Nebraska, and was amended by the First Amendment to Commercial Federal Business Park Declaration of Covenants, Conditions and Restrictions on June 5, 2001, and recorded on July 5, 2001, at Book 1388, Page 415, of the Register of Deeds of Douglas County, Nebraska, and was amended by the Second Amendment to Commercial Federal Business Park Declaration of Covenants, Conditions and Restrictions on December 18, 2003, and recorded on December 22, 2003, at Instrument No. 2003245628 of the Register of Deeds of Douglas County, Nebraska; and

WHEREAS, Declarant holds more than two-thirds (2/3) of the votes entitled to be cast pursuant to the Operating Agreement of Commercial Federal Business Park Association, L.L.C., and, therefore, pursuant to Section 11 of the Declaration, may amend the Declaration as provided in this Second Amendment; and

WHEREAS, Lot 5, Commercial Federal Business Park Replat 1, Douglas County, Nebraska ("Lot 5"), was subdivided into Lots 1 and 2, Commercial Federal Business Park, Replat 4; Douglas County Nebraska ("Lots 1 and 2, Replat 4"); and

WHEREAS, the Mixed Use Agreement between the City of Omaha and Declarant dated September 28, 2000, was amended to reflect the subdivision of Lot 5 into Lots 1 and 2, Replat 4; and

9500 See Attached  
B misc. \_\_\_\_\_  
17 \_\_\_\_\_  
20 \_\_\_\_\_  
FEE \_\_\_\_\_ FB \_\_\_\_\_  
BKP \_\_\_\_\_ C/O \_\_\_\_\_ COMP MB  
DEL \_\_\_\_\_ SCAN \_\_\_\_\_ FV \_\_\_\_\_

143379 \*

B-2435 103-5705

WHEREAS, Declarant desires to amend the Declaration to reflect the subdivision of Lot 5 into Lots 1 and 2, Replat 4, and to incorporate the amendments to the Mixed Use Agreement.

NOW, THEREFORE, Declarant hereby amends the Declaration as follows:

1. **Maximum Gross Building Square Footage.** The table in Section 2(b) of the Declaration is hereby amended as follows:

<u>Replat</u>	<u>Lot #</u>	<u>Maximum Gross Building Square Footage</u>
1	1	40,000
1	2	60,000
1	3	70,000
1	4	30,000
1	6	46,000
1	7	19,000
1	8	100,000
1	9	80,000
1	10	415,000
2	1	7,910
2	2	9,670
3	1	70,000
3	2	9,000
3	3	93,420
4	1	40,000
4	2	40,000
	Total	1,130,000

2. **Property Owners Association Voting Rights.** The table in Section 4(c) of the Declaration is hereby amended as follows:

<u>Replat #</u>	<u>Lot #</u>	<u>Votes</u>
1	Lot 1	1 Vote
1	Lot 2	3 Votes
1	Lot 3	4 Votes
1	Lot 4	2 Votes
1	Lot 6	4 Votes
1	Lot 7	1 Vote
1	Lot 8	5 Votes
1	Lot 9	4 Votes
1	Lot 10	16 Votes
2	Lot 1	1 Votes
2	Lot 2	1 Votes
3	Lot 1	2 Vote
3	Lot 2	1 Vote

3	Lot 3	5 Votes
4	Lot 1	2 Votes
4	Lot 2	<u>2 Votes</u>
	Total	54 Votes

3. **Property Owners Association Assessments**. The table in Section 4(i) is hereby amended as follows:

<b><u>Replat #</u></b>	<b><u>Lot #</u></b>	<b><u>Percentage</u></b>
1	Lot 1	3.08%
1	Lot 2	5.61%
1	Lot 3	6.51%
1	Lot 4	3.95%
1	Lot 6	7.09%
1	Lot 7	2.91%
1	Lot 8	8.44%
1	Lot 9	7.57%
1	Lot 10	26.79%
2	Lot 1	3.03%
2	Lot 2	2.57%
3	Lot 1	3.50%
3	Lot 2	2.24%
3	Lot 3	9.57%
4	Lot 1	3.47%
4	Lot 2	<u>3.68%</u>
	Total	100.00%

4. **Mixed Use Agreement**. The pages attached hereto marked as Exhibit "B" are the amended exhibits to the Mixed Use Agreement which are hereby incorporated into the Declaration by this reference.

5. **Pedestrian Trail**.

(a) The following is added as Section 4(a)(iv):

"(iv) Accepting the dedication of an easement on some or all lots for the operation and maintenance of the pedestrian trail shown on Exhibit "D" attached hereto ("the Trail Easement Area") and the maintenance, repair, and regulation of the pedestrian trail in the Trail Easement Area or in the public right-of-way in or about the Commercial Federal Business Park. The Trail Easement Area and all trail improvements in the public right-of-way shall be considered Common Area for purposes of this Declaration."

(b) The following is added as Section 5(l):

"1. The Owner of each lot abutting the Burt Street right of way shall immediately upon the completion of any building construction, install the pedestrian trail within the Trail Easement Area on such lot, together with such landscaping, sprinkler system, and other improvements in such manner as shall be approved by the Architectural Control Committee. The pedestrian trail shall be maintained, repaired, and regulated by the Association. All landscaping and sprinkler systems within the Trail Easement Area shall be maintained by the Owner."

6. **Legal Description.** The legal description of the property subject to the Declaration is hereby amended as described on Exhibit "A" attached hereto.

EXECUTED this 21<sup>st</sup> day of January, 2004.

DECLARANT:

COMMERCIAL FEDERAL BANK, a  
federal savings bank

By: David S. Fisher  
David S. Fisher, Executive Vice President

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF DOUGLAS        )

On this 21<sup>st</sup> day of January, 2004, before me, the undersigned, a Notary Public duly commissioned and qualified for in said county, personally came David S. Fisher. Executive Vice President of Commercial Federal Bank, a federal savings bank, to me personally known to be the person whose name is affixed to the foregoing instrument in that capacity and who acknowledged the same to be his voluntary act and deed on behalf of Commercial Federal Bank.



Michael D. Matejka  
Notary Public

When recorded, return to:

Michael D. Matejka  
Fitzgerald, Schorr, Barmettler  
& Brennan, P.C., L.L.O.  
13220 California Street, Suite 400  
Omaha, NE 68154-5228

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

MC-07102  
MC-07103  
MC-07104  
MC-07105  
Lots 1, 2, 3, 4, 6, 7, 8, 9, and 10 and Outlots 1 through 4, inclusive,  
Commercial Federal Business Park Replat 1, and Lots 1 and 2,  
Commercial Federal Business Park Replat 2, and Lots 1, 2, and 3,  
Commercial Federal Business Park Replat 3, and Lots 1 and 2,  
Commercial Federal Business Park Replat 4, as surveyed, platted and  
recorded in Douglas County, Nebraska.

**EXHIBIT "B"**  
**AMENDED EXHIBITS TO MIXED USE AGREEMENT**

**AMENDMENT TO MIXED USE DISTRICT DEVELOPMENT AGREEMENT**

This Amendment to the Mixed Use District Development Agreement is made pursuant to the Omaha Master Plan and Chapter 55 of the Omaha Municipal Code, and is made and entered into the \_\_\_ day of \_\_\_\_\_, 200\_\_\_, by and between the City of Omaha, Nebraska, a municipal corporation of the State of Nebraska ("City"), and Commercial Federal Bank, a federal savings bank ("Developer").

WHEREAS, City and Developer entered into a certain Mixed Use District Development Agreement (hereinafter referred to as the "Agreement"), dated September 28, 2000, setting forth certain conditions with respect to the development of property owned by the Developer then known as Lots 1 through 13, Commercial Federal Business Park Replat 1; and

WHEREAS, Developer desires to administratively replat Lot 5, Commercial Federal Business Park Replat 1; and

WHEREAS, Owner desires to reallocate the signage square foot allocation between certain of the lots; and

WHEREAS, the Agreement needs to be amended to reflect the replat of Lot 5, Commercial Federal Business Park Replat 1, into Lots 1 and 2, Commercial Federal Business Park, Replat 4.

NOW, THEREFORE, the following is agreed between the parties:

1. Exhibits "B," "C," "D," "E," and Attachment 2 of the Agreement are hereby deleted in their entirety and the attached Exhibits "B," "C," "D," "E," and Attachment 2 are inserted in place thereof.

2. In all other respect, the Agreement shall not be affected hereby and is hereby ratified and confirmed.

IN WITNESS WHEREOF, the executing parties, by their respective duly authorized agents, have entered into this Amendment to Mixed Use District Development Agreement effective on the day and year first above written.

ATTEST:

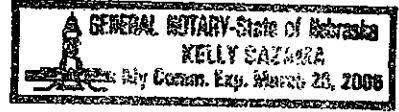
CITY OF OMAHA

\_\_\_\_\_

By: [Signature]  
Planning Director Date 1/14/04

COMMERCIAL FEDERAL BANK, a federal savings bank

By: [Signature]  
Executive Vice-President Date 12/6/03



STATE OF NEBRASKA    )  
                                  ) ss:  
COUNTY OF DOUGLAS    )

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of December, 2003, by David Fisher, President of Commercial Federal Bank, a federal savings bank, on behalf of the bank.

*Exec VP*

*Kelly Sazara*  
Notary Public



**EXHIBIT "C"**  
**COMMERCIAL FEDERAL BUSINESS PARK -SITE DEVELOPMENT REGULATIONS**

Lot No.	Size		No. of Buildings	Max. Bldg. Ht (FT)	Total Gross Bldg. <sup>(1)</sup> Area (Sq. Ft.)		Minimum F.A. R.	Maximum F.A.R.	
	Acres	Square Feet			Minimum	Maximum			
1	1.91	83,394	1	100	10,000	50,000	.120	.600	
2	3.49	152,203	1-2	100	45,000	75,000	.296	.493	
3	4.05	176,627	1-2	100	45,000	95,000	.255	.538	
4	2.46	106,997	1-2	100	20,000	55,000	.187	.514	
6	4.41	192,271	1-2	100	40,000	60,000	.208	.312	
7	1.81	78,789	1-2	100	5,000	34,000	.063	.432	
8	5.25	228,775	1-3	100	65,000	120,000	.284	.525	
9	4.71	205,243	1-2	100	50,000	100,000	.244	.487	
10	16.68	726,491	1-3	100	300,000	450,000	.413	.619	
Replat 2	1	1.89	82,223	1	60	5,400	9,620	.066	.117
	2	1.60	69,616	1	60	4,600	11,380	.066	.163
Replat 3	1	2.18	95,032	1-2	100	20,000	70,000	0.210	0.737
	2	1.39	60,669	1-2	60	5,000	9,000	0.082	0.148
	3	5.96	259,487	1-3	100	70,000	125,000	.270	0.482
Replat 4	1	2.16	94,135	1-2	100	20,000	60,000	.213	.637
	2	2.29	99,738	1	100	20,000	40,000	.201	.401
Outlots	1	0.10	4,356						
	2	0.04	1,791						
	3	0.04	1,791						
	4	0.10	4,356						
Cumulative Total	62.52	2,723,984	15-30	--	725,000	1,364,000	.267	.503	

Lot No.	Max. Impervious Coverage Ratio	Minimum <sup>(2)</sup> Off-Street Parking Ratio	Minimum Building Setbacks (Ft.) <sup>(3)</sup>		
			Public Rights-of-Way	Other Lot Lines	
1	80%		35	10	
2	80%		35	10	
3	80%		35	10	
4	80%		35	10	
6	80%		35	10	
7	80%		35	10	
8	80%		35	10	
9	80%		35	10	
10	80%		35	10	
Replat 2	1	80%		35	10
	2	80%		35	10
Replat 3	1	82%		35	10
	2	79%		35	10
	3	80%		35	10
Replat 4	1	80%		35	10
	2	80%		35	10
Outlots	1	50%		10	5
	2	50%		5	5
	3	50%		5	5
	4	50%		10	5

(1) Includes primary use buildings only. Does not include above grade parking structures, which may be in addition to these requirements/restrictions.

(2) May be accounted for in surface parking lots, in-building parking, parking structures or any combination of these.

(3) Applies to primary use buildings only. Set-back requirements for above-grade parking structures, or above-grade portions of parking structures, shall be one-half (1/2) of these amounts. There are no set-back requirements for below-grade or below-grade portions of parking structures.

(4) Restricted to signs and structural improvements that are accessory to the passive recreation activities.

## EXHIBIT "D"

### MINIMUM LANDSCAPING STANDARDS

1. All landscaping will be in general conformance with the Commercial Federal Business Park Development Plan and the Zoning Regulations of the City for the GO - General Office district, except that no landscaping shall be required between Lot 1 and Lot 2, Replat 2, between Lot 1 and Lot 2, Replat 3, and between Lot 1 and Lot 2, Replat 4.
2. Landscaping will consist of plant materials, paving materials, ground cover, and other appropriate landscape features.
3. Detailed landscaping plans for each building to be developed must be submitted and approved by the designated Administrative Office prior to issuance of a building permit for such building.
4. Property abutting any street right-of-way, except for West Dodge Road and its entrance and exit ramps and 132<sup>nd</sup> Street, shall be landscaped to a minimum depth of 15 feet.
5. Medians exceeding 10 feet in width in any public street right-of-way, parking lot or entrance drive shall be landscaped. Such landscaping must be approved by the designated Administrative Official prior to installation.
6. All landscaped areas, including outlots and public street rights-of-way, will be installed and maintained by Developer or its successors and assigns, and neither the District nor the City will be required or obliged to maintain such areas.

## EXHIBIT "E"

### COMMERCIAL FEDERAL BUSINESS PARK SIGN REGULATIONS AND BUDGET

#### SECTION 1. PERMITTED SIGN TYPES.

- 1.1 Permitted signs in the Commercial Federal Business Park are restricted to non-commercial flags, business center identification, directional, electronic information, ground/monument, and wall type signs.

#### SECTION 2. BUSINESS PARK IDENTIFICATION SIGNS.

- 2.1 The Developer of the Commercial Federal Business Park will be permitted to erect up to five (5) Business Center Identification signs located on 132<sup>nd</sup> Street, 137<sup>th</sup> Street, and West Dodge Road as shown on the Plan attached as Attachment 1. All such signs will be ground monument signs. No single sign will exceed 150 square feet in area and the cumulative total of all such signs will not exceed 750 square feet in area. All such signs will be set back a minimum of ten (10) feet from street rights-of-way, except outlots 2 and 3 which will be set back a minimum of five (5) feet, and will not exceed twenty (20) feet in height and six (6) feet in height from the bottom of the sign panel. These signs will be limited to the name of the Business Park only.

#### SECTION 3. SIGN BUDGET.

- 3.1 A sign budget for individual lots within the Commercial Federal Business Park is attached hereto as Attachment 2. The permitted sign area for each lot is based upon size of each lot in relation to the total net lot area in the Business Park. The total sign budget for the Business Park is 6,895 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 separate structures located or to be located on each lot.

Directional and information signs within parking lots, parking structures, and outlots that do not exceed four (4) square feet per sign face in size, and Business Park identification signs are exempt from the sign budget.

#### SECTION 4. TRANSFER OF SIGN BUDGET.

- 4.1 Transfer of any permitted maximum Gross Building Area between lots, made in accordance with Section 2.2.4 of this Agreement, may also permit transfer of a corresponding portion of each lot's sign budget.
- 4.2 In addition, up to 10% of the sign budget for any lot may be transferred to any other lot, on a square foot to square foot basis, by written notice from each lot owner identifying and describing the lots involved and the square footage of increase and corresponding decrease in each lot's sign budget.

- 4.3 Any transfer of sign budget, or change in sign budget due to replatting, must have a corresponding amendment to Exhibit "E", Attachment 2, submitted by the Developer before a sign permit can be issued.

## SECTION 5. HEIGHT, SET-BACK, AND AUXILIARY REGULATORS.

- 5.1 Except as otherwise provided in this Sign Regulation and Budget, the maximum height, required minimum set-backs, and auxiliary design elements, including types of permitted illumination, for any sign shall be governed by the requirements of the local jurisdiction exercising zoning authority as applied in the following manner:
- a. For Lots 1, 6, 7, 8, and 9, Replat 1, Lots 1 and 2 of Replat 2, and Lots 1 and 2 of Replat 3, the regulations for GO - General Office district shall apply, except that wall signs may be erected to the height of the wall.
  - b. For Lots 2, 3, 4, 10, Lot 1 of Replat 3, Lots 1 and 2 of Replat 4, and Outlots 1 through 4, the regulations for GO -General Office district shall apply.
  - c. Ground/monument signs will not exceed 8 feet in height.
  - d. Directional signs shall not exceed 3.5 feet in height.
  - e. Electronic information signs shall be limited to time and temperature only.
  - f. Flags shall be limited to countries, states, governmental entities, corporate logo or decorative with no advertising.

## SECTION 6. APPLICATION PROCEDURES.

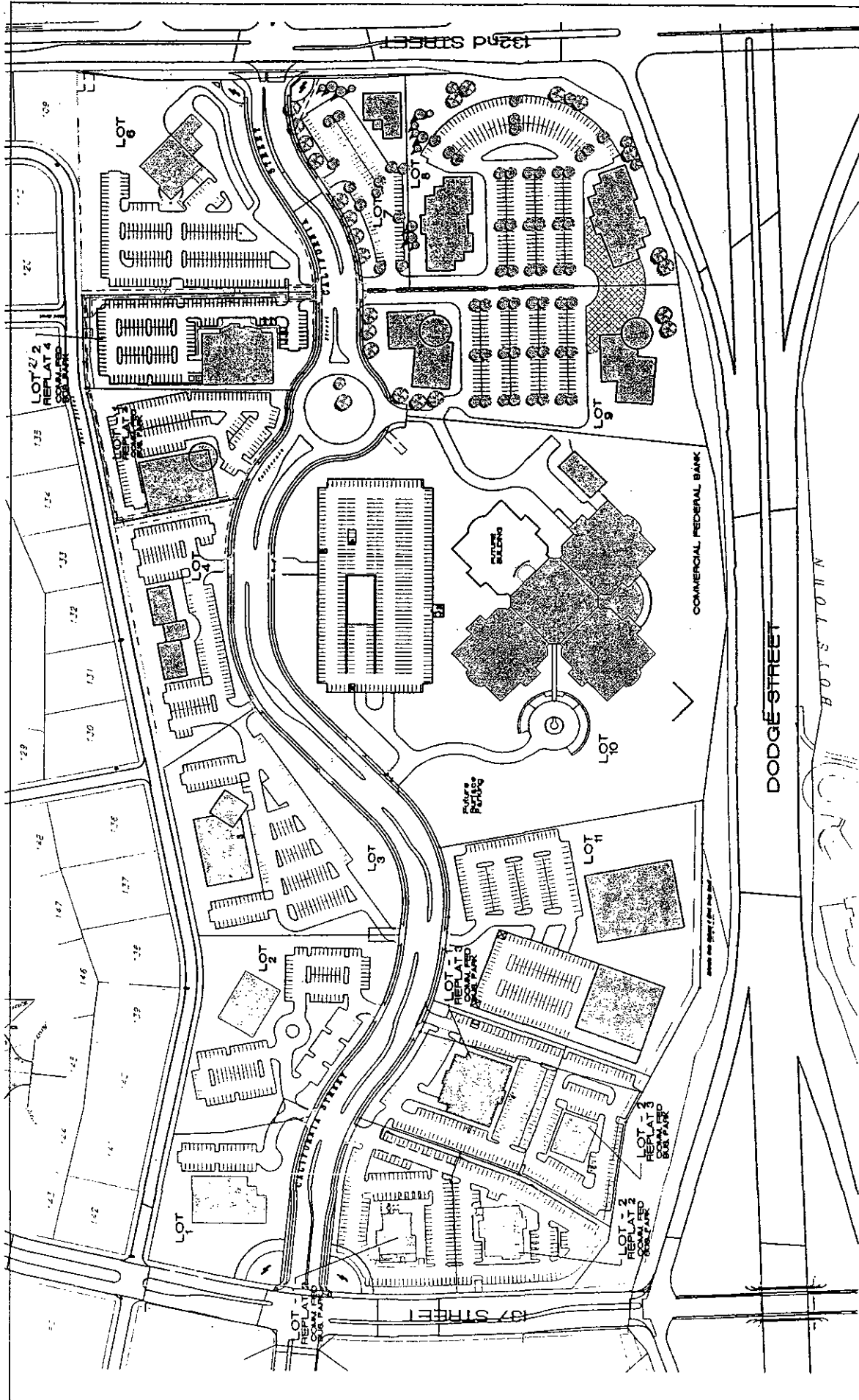
- 6.1 All signs will be installed subject to a sign permit from the jurisdiction exercising zoning authority. Unless specifically provided for in this Sign Regulations and Budget, all other sign provisions and regulations of such local jurisdiction in effect at the date hereof will apply.

ATTACHMENT 2

**COMMERCIAL FEDERAL BUSINESS PARK  
SIGN BUDGET**

LOT NUMBER	PERMITTED SIGN TYPES
6, 10	Flag, Electronic Information, Ground Monument, Center Identification, and Wall
1, 2, 3, 4, 7, 8, 9 (Replat 2, Lots 1 and 2) (Replat 3, Lots 1, 2, & 3) (Replat 4, Lots 1 and 2)	Flag, Ground Monument, and Wall

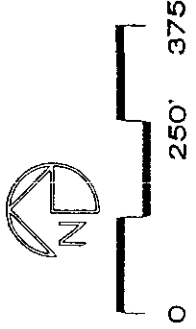
LOT NUMBER	SIGN BUDGET (SQ. FT.)
1	275
2	275
3	275
4	275
6	540
7	275
8	500
9	500
10	2,210
Replat 2, Lot 1	150
Replat 2, Lot 2	150
Replat 3, Lot 1	200
Replat 3, Lot 2	250
Replat 3, Lot 3	520
Replat 4, Lot 1	250
Replat 4 Lot 2	250
<b>TOTAL BUDGET</b>	<b>6,895 (Sq. Ft.)</b>



HOLLAND BASHAM ARCHITECTS  
H B A  
2000 10th Avenue  
St. Paul, MN 55102  
612-291-1100  
www.hollambasham.com

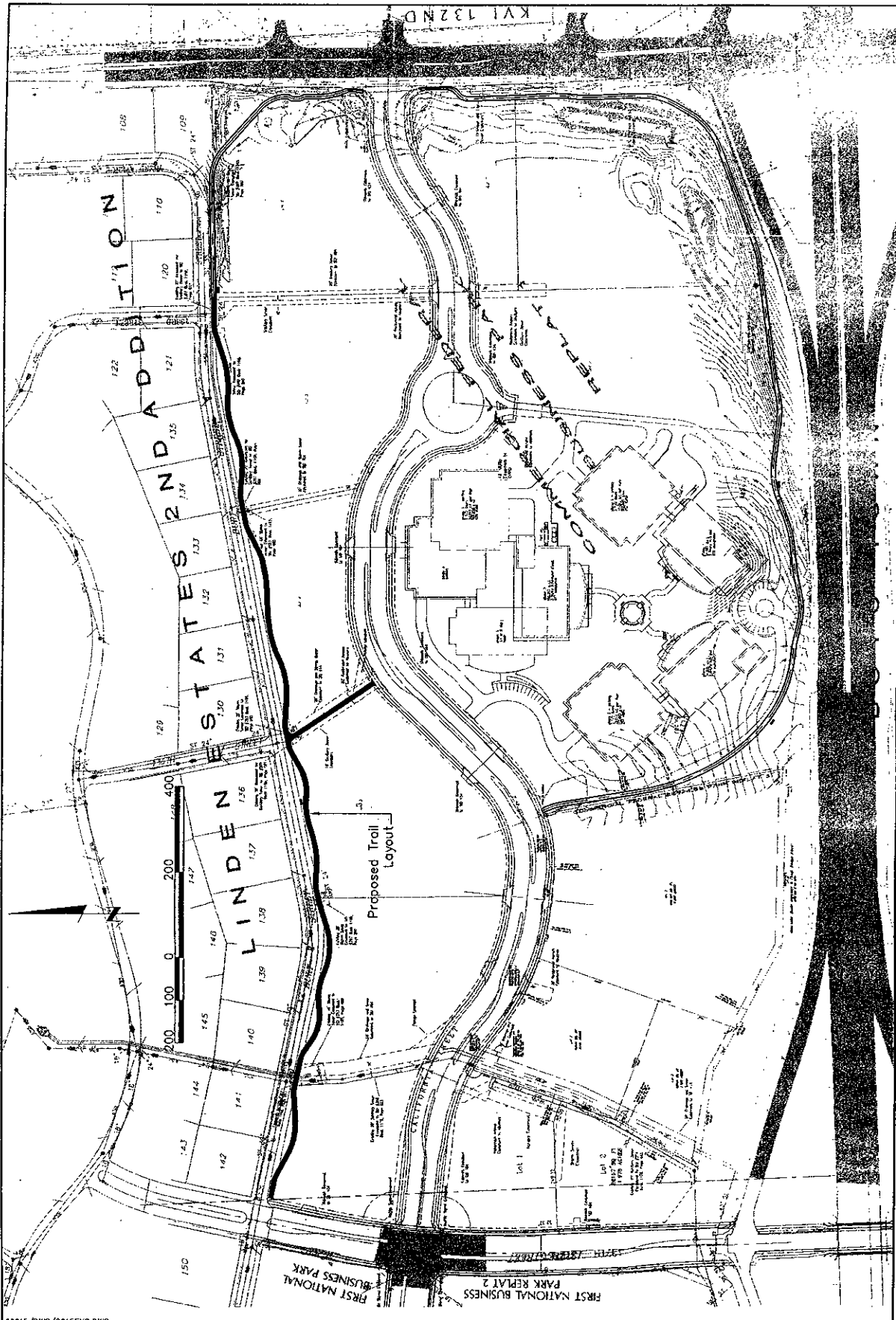
James J. O'Connell, Inc.  
1000 10th Avenue  
St. Paul, MN 55102  
612-291-1100  
www.jjoc.com

**SITE DEVELOPMENT PLAN**  
9 DECEMBER 2003



**EXHIBIT "D"**





99015.DWG/51065



Lamp, Rynearson & Associates, Inc.

14710 West Dodge Road, Suite 100  
Omaha, Nebraska 68154-2027

WWW.LRA-INC.COM

(Ph) 402.496.2498  
(Fax) 402.496.2730

Job number-tasks  
99015.01-026  
date 01/15/04  
drawn by TMW  
designed GVF

COMMERCIAL FEDERAL  
BUSINESS PARK TRAIL  
TRAIL EXHIBIT  
"A"