

2011-16660

07/07/2011 3:28:14 PM

Lloyd J. Dowling

REGISTER OF DEEDS



**SECOND AMENDMENT
TO
DEVELOPMENT/SUBDIVISION AGREEMENT**

COUNTER ah G.E. [Signature]
VERIFY ah DE. [Signature]
PROOF _____
FEES \$ 36.50
CHECK# _____
CHG COP CASH _____
REFUND _____ CREDIT _____
SHORT _____ NCR _____

This Second Amendment to the Shadow Lake Development/Subdivision Agreement, made this 17th day of May, 2011, by and between SANITARY AND IMPROVEMENT DISTRICT NO. 264 (hereinafter referred to as "DISTRICT"), ALCHEMY PARTNERS I, LLC a Nebraska limited liability company, and SHADOW LAKE DEVELOPMENT, LLC, a Nebraska limited liability company (hereinafter collectively referred to as "SUBDIVIDER"), and THE CITY OF PAPILLION, NEBRASKA, a municipal corporation (hereinafter referred to as "CITY") amends and modifies the Development/Subdivision Agreement adopted by RES. R05-0070 entered into by the parties on May 17, 2005.

WHEREAS, the SUBDIVIDER as the owner of the land desires to replat and develop Lot 750, Shadow Lake into Lots 1 and 2, and Outlot A, Shadow Lake Replat 5 as shown on the proposed plat attached hereto as Exhibit "A-2" (hereinafter referred to as "PROPERTY"); and

WHEREAS, the SUBDIVIDER proposes to build public improvements on the PROPERTY; and

WHEREAS, the SUBDIVIDER wishes to connect the system of sanitary sewers to be constructed within the PROPERTY to the sewer system of the City of Papillion; and

WHEREAS, the SUBDIVIDER and CITY desire to agree on the method for the installation and allocation of expenses for public improvements to be constructed in the PROPERTY.

NOW, THEREFORE, in consideration of the above, the following is agreed between the parties hereto:

1. Public/Private Improvements. Attached hereto as Exhibit "B" and incorporated herein by reference are plats showing the public and private improvements to be installed on the PROPERTY, i.e. storm sewer, sanitary sewer and paving of public and private streets (hereinafter referred to as "Improvements"). Private streets must be constructed to public street standards and may be constructed in an Outlot rather than publically dedicated right-of-way. All Improvements must receive the approval of the CITY prior to construction.

2. Water, Gas and Electrical Power. The SUBDIVIDER agrees to enter into agreements with (i) Black Hills/Nebraska Gas Utility Company, LLC regarding all gas line extensions on the PROPERTY; (ii) Omaha Public Power District for power lines to be installed on the PROPERTY; and (iii) The City of Papillion for water line extensions on the PROPERTY. Copies of all agreements with Black Hills/Nebraska Gas Utility Company, LLC and the Omaha Public Power District will be provided to the CITY within four (4) months from the date of this Agreement.

3. Installation of Public/Private Improvements. The SUBDIVIDER agrees to commence the timely and orderly installation of the Improvements following execution of this Agreement, pursuant to Chapter 170, Subdivision of Land, of the Papillion Municipal Code.

*RURE
City of Papillion*

4. Payment for Public/Private Improvements. The SUBDIVIDER shall pay the cost of all of the paving, sanitary and storm sewer and water line Improvements, all charges by Black Hills/Nebraska Gas Utility Company, LLC for gas line installation and charges by Omaha Public Power District for underground electrical service or overhead power installations. The credit or funds of the DISTRICT shall not be used for construction of any improvement or facilities identified on Exhibit "B".

5. Sidewalks. The SUBDIVIDER shall cause sidewalks along both sides of all public and private streets within the area to be developed to be constructed according to the following schedule:

(a) Sidewalks shown on Exhibit "B" shall be constructed based on the following schedule:

(1) The sidewalks on the west and south sides of the private street located in Outlot A shall be installed at the time of completion of the construction of an adjacent building.

(2) The sidewalk on the south side of Schram Road shall be installed at the time of construction of the first building on either Lot 1 or Lot 2 or at the time of construction of the public improvements on Schram Road.

(3) The sidewalk on the west side of 72nd Street shall be installed at the time of construction of the first building on either Lot 1 or Lot 2 or at the time of construction of the public improvements on 72nd Street.

(4) The sidewalks along all street frontages adjacent to Outlot 23, Shadow Lake must be installed at the time of construction of the first building on either Lot 1 or Lot 2 or at the time of construction of the public improvements on 72nd Street.

(b) In any event, all sidewalks shall be constructed upon both sides of all public and private streets within the property within three (3) years of the recording of the subdivision plat.

(c) All sidewalks, handicap accessible ramps, and crosswalks shall be designed and constructed in accordance with PROWAG.

6. Right to Connect to City Sewer System. The CITY hereby acknowledges that it has given the SUBDIVIDER the right to connect the sanitary sewer system of the PROPERTY to the City sanitary sewer system, subject to obtaining proper permits and paying the regular fees.

7. Repeal of Section 10. Section 10 of the May 17, 2005 Shadow Lake Development/Subdivision Agreement is hereby repealed because a separate Mixed Use Agreement for Shadow Lake Square is being adopted in conjunction with the approval of this amendment.

8. Payment of Watershed Fees. The SUBDIVIDER shall be responsible for payment of Watershed Fees in the amount of \$4,000 per gross acre for Lot 1 and \$3,300 per gross acre for Lot 2. The Watershed Fees for Lot 1 and Lot 2 shall be remitted by the SUBDIVIDER to the CITY upon issuance of a building permit on the respective lots on behalf of the DISTRICT. The Watershed Fees for Outlot A shall be calculated as follows: 50% of the gross acreage shall be paid at the rate of \$4,000 per gross acre and the remaining 50% of gross acreage shall be paid at \$3,300 per gross acre (which equates to \$3,650 per gross acre). The Watershed Fee for Outlot A shall be remitted by the SUBDIVIDER at the start of construction of the private street contained within Outlot A. The CITY shall remit said collected watershed fees to the DISTRICT. The reimbursement by the CITY to the DISTRICT shall be restricted for deposit into the DISTRICT'S bond fund and a reduction of the DISTRICT'S general obligation debt.

B

9. Schram Road Median Mitigation. The construction of the extra wide 8' sidewalk along the 72nd Street frontage by the SUBDIVIDER will suffice as mitigation for the loss of landscaping required for construction of the 3/4 access on Schram Road.

10. No Other Amendment. Except as specifically set forth herein, the Development/Subdivision Agreement shall remain in full force and effect.

11. Binding Effect. This Second Amendment to the Development/Subdivision Agreement shall be binding upon the parties, their respective successors and assigns.

ATTEST:

THE CITY OF PAPIILLION, NEBRASKA


Elizabeth Butler, City Clerk



David P. Black, Mayor

SEAL:



DISTRICT:

SANITARY AND IMPROVEMENT DISTRICT NO. 264 OF SARPY COUNTY, NEBRASKA

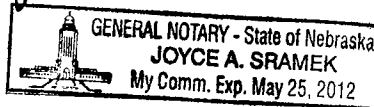
By: 
John C. Allen, Board of Trustees Chairperson

STATE OF NEBRASKA)
) ss
COUNTY OF SARPY)

On this 19th day of May, 2011, before me, a Notary Public in and for said County and State, personally appeared JOHN C. ALLEN, Board of Trustees Chairperson for SANITARY AND IMPROVEMENT DISTRICT NO. 264 OF SARPY COUNTY, NEBRASKA, who executed the above and foregoing Second Amendment to Development/Subdivision Agreement, and acknowledged the execution thereof to be his voluntary act and deed on behalf of said District.


Notary Public

My commission expires: May 5, 2012.



C

SUBDIVIDER:

ALCHEMY PARTNERS I, LLC,
a Nebraska limited liability company,

By: Alchemy Development, LLC, a Nebraska
limited liability company, Manager

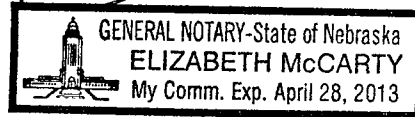
By: Robert Hancock
Robert Hancock, President

STATE OF NEBRASKA)
) ss
COUNTY OF SARPY)

On this 16th day of May, 2011, before me, a Notary Public in and for said County and State, personally appeared ROBERT HANCOCK, President of Alchemy Development, LLC, a Nebraska limited liability company, Manager of ALCHEMY PARTNERS I, LLC, a Nebraska limited liability company, who executed the above and foregoing Second Amendment to Development/Subdivision Agreement, and acknowledged the execution thereof to be his voluntary act and deed on behalf of said company.

Elizabeth McCarty
Notary Public

My commission expires: April 28, 2013



SUBDIVIDER:

SHADOW LAKE DEVELOPMENT, LLC,
a Nebraska limited liability company

By: John C. Allen
John C. Allen, Manager

STATE OF NEBRASKA)
) ss
COUNTY OF SARPY)

On this 9th day of May, 2011, before me, a Notary Public in and for said County and State, personally appeared JOHN C. ALLEN, Manager of SHADOW LAKE DEVELOPMENT, LLC, a Nebraska limited liability company, who executed the above and foregoing Second Amendment to Development/Subdivision Agreement, and acknowledged the execution thereof to be his voluntary act and deed on behalf of said company.

Elizabeth McCarty
Notary Public

My commission expires: April 28, 2013

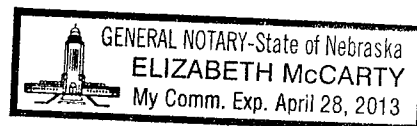


EXHIBIT A-1

LAND SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT I have made a boundary survey of the subdivision herein and that permanent monuments have been placed at all corners, angle points and ends of curves on the boundary on the plat and that permanent monuments will be placed at all corners, angle points and ends of curves on all lots and streets within the subdivision to be known as Lots 1, 2 and Outlot A, SHADOW LAKE REPLAT 5, being a replatting of Lot 750, SHADOW LAKE, Sarpy County, Nebraska described as follows:

Commencing at the northeast corner of the Northeast Quarter Section 2, Township 13 North, Range 12 East of the 6th P.M., Sarpy County, Nebraska:

Thence South 02°43'31" East for 49.84 feet along the east line of said Section 2;

Thence South 87°16'29" West for 50.00 feet to the intersection on the south right of way line of Schram Road and the west right of way line of 72nd Street and the TRUE POINT OF BEGINNING;

Thence South 02°43'31" East for 1212.43 feet parallel with and 50.00 feet west of the east line of said Section 2;

Thence South 79°43'42" West for 166.36 feet;

Thence South 61°49'24" West for 172.34 feet to the east right of way line of Lakeview Drive;

Thence along said east right of way line for the following 9 (nine) courses.

1) Thence North 37°00'25" West for 114.03 feet;

2) Thence along a curve to the right (having a radius of 268.50 feet and a long chord bearing North 23°12'23" West for 128.10 feet) for an arc length of 129.34 feet;

3) Thence North 09°24'21" West for 151.36 feet;

4) Thence along a curve to the left (having a radius of 331.50 feet and a long chord bearing North 23°24'34" West for 160.44 feet) for an arc length of 162.04 feet;

5) Thence North 37°24'48" West for 241.84 feet;

6) Thence along a curve to the right (having a radius of 268.50 feet and a long chord bearing North 17°13'09" West for 185.37 feet) for an arc length of 189.27 feet;

7) Thence North 02°58'29" East for 71.21 feet;

8) Thence along a curve to the left (having a radius of 331.50 feet and a long chord bearing North 11°42'26" West for 168.04 feet) for an arc length of 169.89 feet;

9) Thence North 26°23'20" West for 75.91 feet to the south right of way line of Schram Road;

Thence along a curve to the right (having a radius of 1450.00 feet and a long chord bearing North 76°09'17" East for 568.03 feet) for an arc length of 571.72 feet along said south right of way line;

Thence North 87°27'01" East for 180.15 feet continuing along said south line to the Point of Beginning;

Contains 704,824 square feet or 16.253 acres.

Note: All exterior courses described above monumented with a 5/8" rebar with 1 1/4" yellow plastic cap stamped LS-379 unless otherwise noted.

All other lots being created in the interior of this plat to be monumented with a 5/8" rebar with 1 1/4" yellow plastic cap stamped LS-566 unless otherwise noted.



LAMP RYNEARSON
& ASSOCIATES

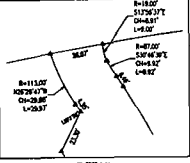
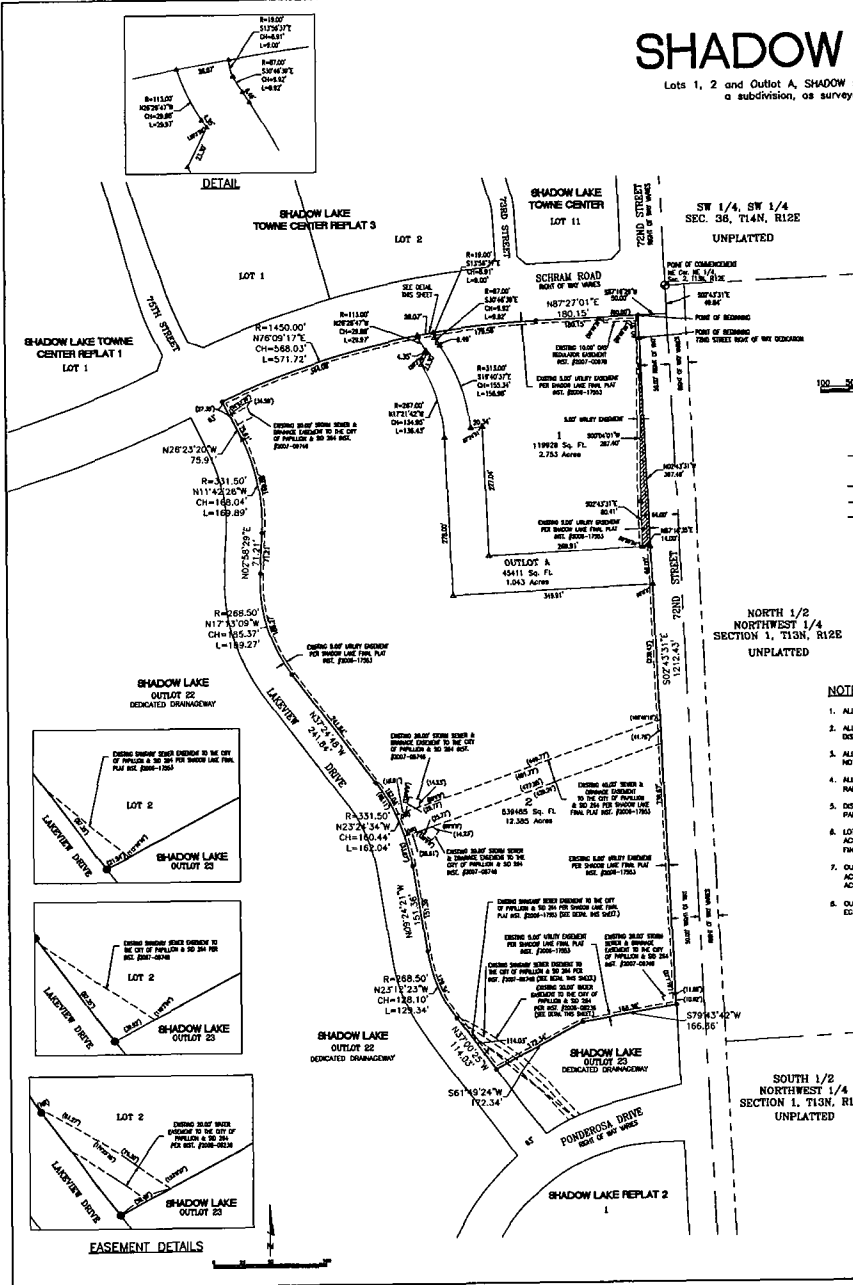
14710 West Dodge Road, Suite 100 402.496.2498 | P
Omaha, Nebraska 68154-2027 402.496.2730 | F
www.LRA-Inc.com

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SHADOW LAKE REPLAT 5

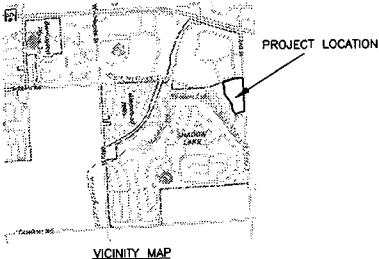
Lots 1, 2 and Outlot A, SHADOW LAKE REPLAT 5, being a replatting of Lot 750, SHADOW LAKE, a subdivision, as surveyed, plotted and recorded in Sarpy County, Nebraska.

LOCATED IN:
NE 1/4 NE 1/4 SECTION 2, T13N, R12E



- ### LEGEND
- SECTION LINE
 - SECTION CORNER
 - BOUNDARY LINE
 - LOT LINE
 - - - EASEMENT LINE
 - RIGHT OF WAY DEDICATION
 - ▲ CORNERS SET (2 1/2" BEAR WITH 1 1/4" YELLOW PLASTIC CAP STAMPED LS-548)
 - CORNERS FOUND (2 1/4" BEAR WITH 1 1/4" YELLOW PLASTIC CAP STAMPED LS-378)

- ### NOTES
- ALL DISTANCES ARE SHOWN IN DECIMAL FEET.
 - ALL DISTANCES SHOWN ALONG CURVES ARE ARC DISTANCES NOT CHORD DISTANCES.
 - ALL ANGLES ARE BY UNLESS OTHERWISE NOTED.
 - ALL LOT LINES ON CURVED STREETS ARE RADIAL UNLESS OTHERWISE NOTED (NR).
 - DISTANCES AND ANGLES SHOWN IN PARENTHESES REFER TO EASEMENTS.
 - LOTS 1 AND 2 HAVE NO STREET VEHICULAR ACCESS TO 72ND STREET PER SHADOW LAKE FINAL PLAT INST. #2008-1755S.
 - OUTLOT A WILL HAVE RIGHT IN RIGHT OUT ACCESS TO 72ND STREET AND WILL HAVE 3/4 ACCESS TO SCHRAM ROAD.
 - OUTLOT "A" IS DEDICATED FOR EGRESS/ EGRESS TO LOTS 1 AND 2.



COUNTY TREASURER'S CERTIFICATE

THIS IS TO CERTIFY THAT I find no regular nor special taxes due or delinquent against the property described in the Land Surveyor's Certificate and endorsed in this plat, as shown by the records of this office, this _____ day of _____, 2011.

Sarpy County Treasurer

COUNTY SURVEYOR'S CERTIFICATE

The plat of Lots 1, 2 and Outlot A, SHADOW LAKE REPLAT 5 was reviewed by the Sarpy County Surveyor's Office _____ day of _____, 2011.

Sarpy County Surveyor

CITY ENGINEER'S CERTIFICATE

This plat of Lots 1, 2 and Outlot A, SHADOW LAKE REPLAT 5 was approved and accepted by the City Engineer of Papillon, Nebraska on this _____ day of _____, 2011.

City Engineer

APPROVAL OF PAVILLION PLANNING COMMISSION

This plat of Lots 1, 2 and Outlot A, SHADOW LAKE REPLAT 5 was approved and accepted by the Pavillion Planning Commission on this _____ day of _____, 2011.

Chairman, Pavillion Planning Commission

APPROVAL OF PAVILLION CITY COUNCIL

This plat of Lots 1, 2 and Outlot A, SHADOW LAKE REPLAT 5 was approved by the City Council of Papillon, Nebraska, on this _____ day of _____, 2011.

Mayor _____ City Clerk _____

ZONING

| MINI-SUDD USED | |
|-------------------------------------|----|
| Front yard building setback | 15 |
| Interior side yard building setback | 10 |
| Street side yard building setback | 10 |
| Rear yard building setback | 10 |

LAND SURVEYOR'S CERTIFICATE

I HEREBY CERTIFY THAT I have made a boundary survey of the subdivision herein and that permanent monuments have been placed at all corners, angle points and ends of corners on the boundary on the plat and that permanent monuments will be placed at all corners, angle points and ends of corners of the subdivision herein. The subdivision herein is Lot 750, SHADOW LAKE, 2nd and Outlot A, SHADOW LAKE REPLAT 5, being a replatting of Lot 750, SHADOW LAKE, Sarpy County, Nebraska. The corner of the Northwest Quarter Section 2, Township 13 North, Range 12 East of the 1st P.M., Sarpy County, Nebraska: Thence South 02°43'31" East for 48.84 feet along the east line of said Section 2; Thence South 87°16'28" West for 50.00 feet to the intersection on the south right of way line of SCHRAM ROAD and the west right of way line of 72nd Street and the TRUE POINT; Thence South 02°43'31" East for 1212.43 feet parallel with and 50.00 feet west of the east line of said Section 2; Thence South 78°45'42" West for 128.36 feet; Thence South 61°49'24" West for 172.34 feet to the east right of way line of Lakewood Drive. Thence along said east right of way line for the following S (90°) courses: 1) Thence North 27°02'27" West for 114.53 feet; 2) Thence along a curve to the right (having a radius of 286.50 feet and a long chord bearing North 23°12'21" West for 151.36 feet; 3) Thence North 08°24'21" West for 151.36 feet; 4) Thence along a curve to the left (having a radius of 331.00 feet and a long chord bearing North 23°24'34" West for 160.44 feet) for an arc length of 162.04 feet; 5) Thence North 23°24'34" West for 241.85 feet; 6) Thence along a curve to the right (having a radius of 286.50 feet and a long chord bearing North 17°12'09" West for 165.37 feet) for an arc length of 169.22 feet; 7) Thence North 02°58'28" East for 71.21 feet; 8) Thence along a curve to the left (having a radius of 331.00 feet and a long chord bearing North 11°42'38" West for 182.04 feet) for an arc length of 189.88 feet; 9) Thence North 87°27'41" East for 180.15 feet to the south right of way line of Schram Road; 2) Thence North 28°22'20" East for 75.91 feet to the south right of way line of Schram Road. Thence along a curve to the right (having a radius of 1460.00 feet and a long chord bearing North 78°08'17" East for 268.03 feet) for an arc length of 371.72 feet along said south right of way line; Thence North 87°27'41" East for 180.15 feet containing along said south line to the Point of Beginning; Course 750.625 square feet or 18.253 acres.

Note: All exterior corners described above monumented with a 5/8" red with 1 1/4" yellow plastic cap stamped LS-378 unless otherwise noted. All interior lines being created in the interior of this plat to be monumented with a 5/8" red with 1 1/4" yellow plastic cap stamped LS-548 unless otherwise noted.

William E. Knight, L.S. 548

DEDICATION

KNOW ALL MEN BY THESE PRESENTS, that the SHADOW LAKE DEVELOPMENT, LLC, a Nebraska limited liability company, OWNER, of the land described in the Land Surveyor's Certificate and endorsed within this plat, have devised and intend to be subdivided as shown herein, said subdivision to be hereinafter known as Lot 1, 2 and Outlot A, SHADOW LAKE REPLAT 5, an hereby notify and approve of the dedication of our property as shown on this plat, that we hereby dedicate a portion of the public for 72nd Street right of way as shown and described herein.

LEGAL DESCRIPTION

72ND STREET DEDICATION

That part of Lot 750, SHADOW LAKE a subdivision, as surveyed, plotted and recorded in Sarpy County, Nebraska, described as follows: COMMENCING at the northeast corner of said Lot 750; Thence South 02°43'31" East (bearing referenced to the first part of Shadow Lake Replat 5) for 48.84 feet along the east line of said Lot 750 and the west right of way line of 72nd Street to the TRUE POINT OF BEGINNING; Thence South 02°04'01" West for 280.00 feet; Thence South 02°43'31" East for 80.41 feet; Thence North 87°16'28" East for 140.00 feet to the west right of way line of 72nd Street; Thence North 02°43'31" West for 367.49 feet along the west right of way to the Point of Beginning; Course 312.8 square feet.

OWNER'S CERTIFICATE

KNOW ALL PERSONS BY THESE PRESENTS, That the undersigned are OWNERS of the property as described in the surveyor's certificate and endorsed within this plat, and have caused said plat to be subdivided into lots as shown on this plat. SHADOW LAKE DEVELOPMENT, LLC, a Nebraska limited liability company, OWNER

John E. Allen
Managing Member

ACKNOWLEDGEMENT OF NOTARY

State of Nebraska } SS
County of Sarpy }

The foregoing instrument was acknowledged before me this _____ day of _____, 2011

By John E. Allen, Managing Member of SHADOW LAKE DEVELOPMENT, LLC, a Nebraska limited liability company, on behalf of said company.
Witness my hand and seal the date aforesaid.

Signature of Notary Public

WWW.LRA-INC.COM
(PH) 402.496.2498
(FAX) 402.496.2750

Lamp, Rymaszewski & Associates, Inc.
4710 West Dodge Road, Suite 100
Omaha, Nebraska 68154-2027

SHADOW LAKE REPLAT 5 (Lots 1, 2 and Outlot A)
PAVILLION, SARPY COUNTY, NEBRASKA

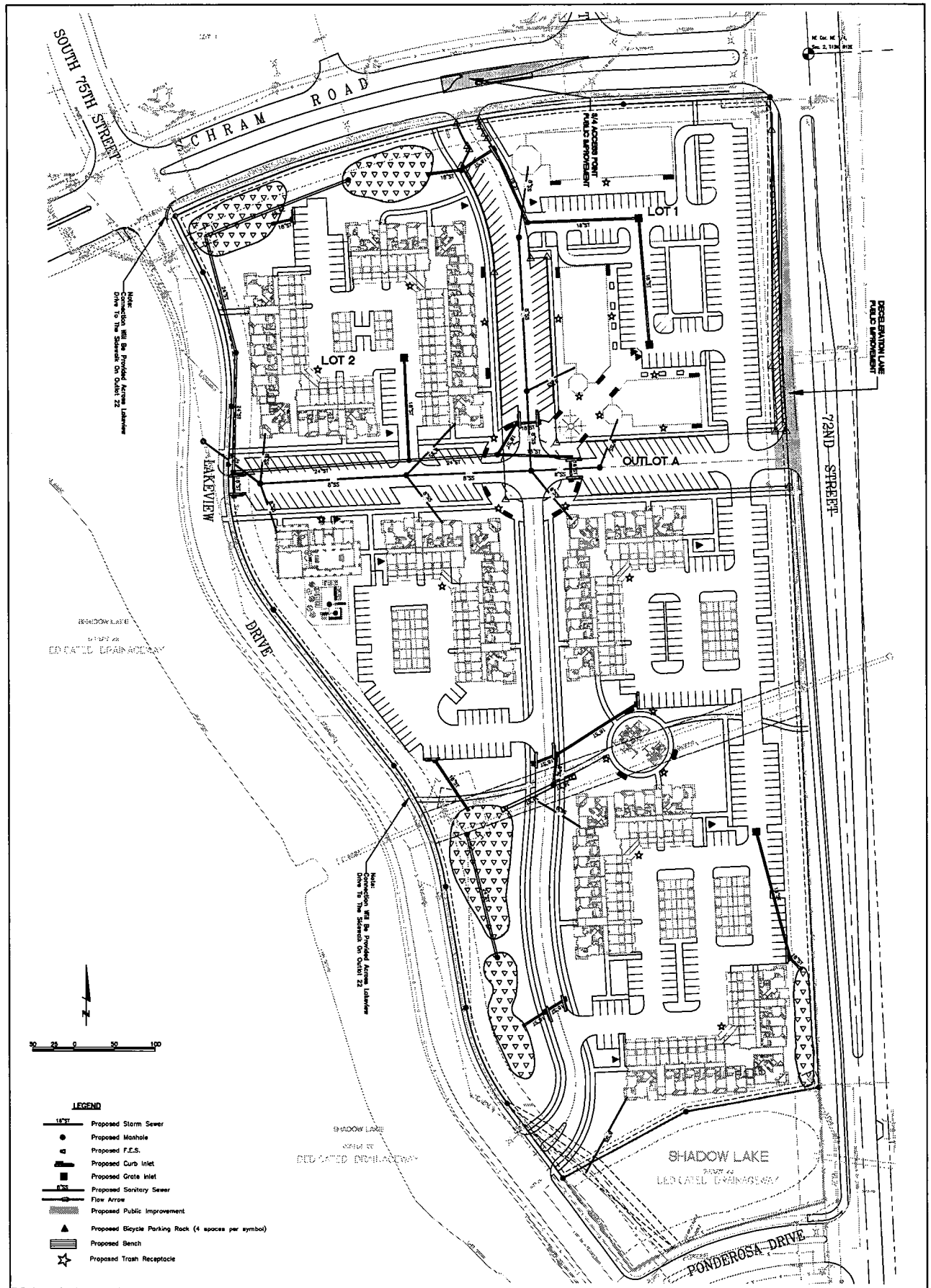
EXHIBIT A-2

FINAL PLAT

Job number-1646
0111008.01-003
book page
date 2-14-11
sheet 1 of 1

2011-16660

F



- LEGEND**
- Proposed Storm Sewer
 - Proposed Manhole
 - Proposed F.E.S.
 - Proposed Curb Inlet
 - Proposed Grate Inlet
 - Proposed Sanitary Sewer
 - Flow Arrow
 - Proposed Public Improvement
 - ▲ Proposed Bicycle Parking Rock (4 spaces per symbol)
 - ▬ Proposed Bench
 - ★ Proposed Trash Receptacle

| | | |
|--|--|--|
| <p>SUBMISSION AGREEMENT EXHIBIT B PRIVATE IMPROVEMENTS AND PUBLIC IMPROVEMENTS</p> | <p>Lamp, Rynearson & Associates, Inc. 14710 West Dodge Road, Suite 100 Omaha, Nebraska 68154-2027</p> | <p>WWW.LRA-INC.COM (Ph) 402.496.2498 (Fax) 402.496.2730</p> |
| <p>1700 West Dodge Road Omaha, NE 68154-2027 Project No. 2011-16660 Date: 7/17/2011 Sheet 1 of 1</p> | <p>SHADOW LAKE SQUARE PAPILLION, NEBRASKA</p> | |