

2016-31244

12/02/2016 9:39:28 AM

Lloyd J. Dowding

REGISTER OF DEEDS



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VERIFY *ah* D.E. *ah*
PROOF _____
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LLOYD J. DOWDING

SARPY COUNTY REGISTER OF DEEDS

Steven J. Stastny, Deputy

1210 GOLDEN GATE DRIVE, # 1230

PAPILLION, NE 68046-2842

402-593-5773

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TITLE CORE
NATIONAL*

**SUBDIVISION AGREEMENT
LA VISTA CITY CENTRE**

THIS AGREEMENT is made this 1 day of DECEMBER, 2016, among La Vista City Centre, LLC, a Nebraska limited liability company, ("Subdivider") and the City of La Vista, a Municipal Corporation in the State of Nebraska (hereinafter referred to as "City"). The "Effective Date" shall be the date Subdivider acquires fee simple title to the Property (as hereinafter defined).

WITNESSETH:

WHEREAS, Subdivider is or has an agreement to purchase and upon closing will be the owner of the land depicted or described in Exhibit "A" ("Property") and included within the proposed plat for the entire Property attached hereto as Exhibit "B". Subdivider desires to replat the Property in phases. The initial phase and replat is attached as Exhibit "B-1". Subsequent phases and replats will be prepared as needed to carry out this Subdivision Agreement.; and,

WHEREAS, the Mayor and City Council by Resolution No. 12-011 declared the 84th Street Redevelopment Area as a substandard and blighted area in need of redevelopment; and

WHEREAS, La Vista Community Development Agency is a community development agency created pursuant to Neb. Rev. Stat. Section 18-2101.01 by Ordinance No. 1167 adopted by the City of La Vista, a Nebraska municipal corporation in Sarpy County, Nebraska, on February 12, 2012 ("CDA"); and

WHEREAS, the City Council by Resolution No. 12-012 approved the Redevelopment Plan for the 84th Street Redevelopment Area, which Redevelopment Plan included an Initial Redevelopment Project to acquire and clear portions of the 84th Street Redevelopment Area to eliminate and prevent recurrence of the substandard and blighted area. The Property Subdivider is acquiring includes areas described in the Initial Redevelopment Plan. Subdivider submitted an application with the CDA providing for redevelopment of the Property and other portions of the 84th Street Redevelopment Area, referred to in this Agreement as the Mixed Use Redevelopment Project Area; and

WHEREAS, on August 2, 2016, the City approved Amendment No. 1 to the Redevelopment Plan for the 84th Street Redevelopment Area. The Redevelopment Plan, as amended, is incorporated into this Agreement by reference ("Amended Redevelopment Plan"). The Amended Redevelopment Plan in part provides for the Mixed Use Redevelopment Project, which among other things provides for mixed use redevelopment and Tax Increment Financing (TIF) for the Mixed Use Redevelopment Project Area generally located at the intersection of 84th Street and Brentwood Drive; and

WHEREAS, Subdivider is a party to a Redevelopment Agreement with the CDA, dated on or about even date herewith, with respect to the Mixed Use Redevelopment Project (the "Redevelopment Agreement"), which includes the acquisition, financing and construction by Subdivider of a modern mixed-use redevelopment, to consist of market-rate multi-family

housing (apartments and townhomes), commercial office, restaurant, and retail space, and related public improvements to be financed in part using tax increment financing, and other facilities, equipment, and improvements, as preliminarily described or depicted in the Redevelopment Agreement and including (i) approximately 384 unit market-rate multi-family housing, (ii) approximately 200,000 square feet of commercial office space, (iii) approximately 210,000 square feet of retail spaces, which may include an approximate 60,000 grocery store, and (iv) a potential hotel having approximately 120 rooms (collectively, the "Subdivider Improvements"), of comparable quality to other high quality mixed use developments in the Omaha metropolitan area. Subdivider may construct the Subdivider Improvements in separate phases or projects, all of which together will constitute the overall Mixed Use Redevelopment Project. All Subdivider Improvements will be in accordance with the Site Plan and Final Plat, as finally approved by the City; provided however, a Site Plan for parts of the Subsequent Phases defined and depicted in the Redevelopment Agreement will be subject to separate review and approval by the City apart from the Site Plan for Phase I. Design of the Subdivider Improvements will satisfy applicable provisions of the Redevelopment Agreement. The phasing or schedule of Improvements will be determined in accordance with applicable provisions of this Subdivision Agreement below. Any subsequent additions, subtractions, or changes from time to time of or to the Site Plan, Final Plat, design, phasing, or schedule will be subject to the same approval requirements; and

WHEREAS, the Amended Redevelopment Plan in part also provides for the Public Improvement Redevelopment Project for public improvements to be constructed by the City in the Public Improvement Redevelopment Project Area, generally on or in the vicinity of the City golf course, swimming pool, and Brentwood Crossing areas. The City determines that such public improvements, in the interests of public health, safety, welfare, necessity and convenience, shall be constructed, owned and operated by the City, including, but not limited to, additional recreational areas, and public streets and public off-street parking in the interests of safe and uncongested traffic flows through, in and around the Nebraska State Highway 85 (84th Street), Harrison Street, Giles Road, and connectivity to I-80 and other parts of the metropolitan area; and

WHEREAS, the City determines that the Mixed Use Redevelopment Project and Public Improvement Redevelopment Project are in interests of public health, safety, welfare, necessity and convenience and the best interests of the City, and specifically with respect to eliminating and preventing recurrence of the substandard and blighted 84th Street Redevelopment Area, and

WHEREAS, the Subdivider wishes to connect the system of sanitary sewers to be constructed within the Platted Area to the sewer system of the City; and

NOW, THEREFORE, IT IS AGREED by Subdivider and City as follows:

1. Platting. Replatting of the Property will be carried out in phases. Subject to the terms of this Agreement, locations and boundaries of lots, outlots and right of ways ultimately planned for the subject property upon completion of all phases of replating are preliminarily shown on Exhibit "B".

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- A. Initial Replat. Subject to the terms of this Agreement, the initial replat of the Property as Lots 1 thru 17 and Outlots A thru C, La Vista City Centre, is more fully shown on Exhibit "B-1," as approved by the City Council on October 4, 2016 ("Initial Replat"). Subdivider will seek one or more subsequent replattings as necessary for construction of the Subdivider Improvements or other performance under this Agreement ("Subsequent Replats"). The Initial Replat and all Subsequent Replats from time to time approved by the City Council together shall be referred to in this Agreement as "Final Plat" or "final Plat", and all areas included within the Initial Replat and such Subsequent Replats together shall be referred to in this Agreement as the "Platted Area."
- B. Affect of Phasing on Performance. Notwithstanding anything in this Agreement to the contrary, any obligations or performance of Subdivider or City under this Agreement that are dependent on any additional replatting of the Property, and any time for performance thereof, shall be subject to successful completion of such replatting.
2. Subdivider Improvements. Subdivider, at its cost, will design, construct, own, manage, operate, maintain, replace, and repair the Subdivider Improvements in accordance with all applicable requirements of the Redevelopment Agreement or this Agreement, including the following.
- a. Minimum Investment. The Subdivider shall spend a minimum of \$80,000,000.00 in Phase I of the Mixed Use Redevelopment Project (as preliminarily depicted and broken down by lot, description of facilities, and office, residential, retail, or other identified type of mixed use in "Exhibit C" attached hereto and incorporated herein by this reference) (the "Phase I Subdivider Improvements"). The final layout, facilities, improvements, and features of the Phase I Subdivider Improvement will be depicted in the final Plat and site plan approved by the City. Any subsequent changes to the Plat or site plan will be subject to the approval of the City. Final design, and any subsequent changes to the final design, of Phase I Subdivider Improvements or other Subdivider Improvements will be subject to approval pursuant to the Redevelopment Agreement.
- b. Minimum Uses. The Subdivider shall develop a minimum of 80,000 square feet of space to be occupied by businesses primarily engaged in the business of selling goods or services subject to La Vista local option sales taxes sourced in the Mixed Use Redevelopment Project Area (the "Retail Space") in Phase I Subdivider Improvements of the Mixed Use Redevelopment Project. Subdivider also will develop approximately 350 units of multifamily housing and a minimum of 23,000 square feet of Class A office space in Phase I Subdivider Improvements. Phase I Subdivider Improvements and the subsequent phases combined shall have a minimum of 180,000 square feet of Retail Space. Notwithstanding the foregoing, (i) for the purposes of the 180,000 square feet, any square footage of a grocery store that is used for the sale of groceries or other products exempt from sales tax located in the Mixed Use Redevelopment Project Area shall be excluded from the calculation of the developed Retail Space; and (ii) the preference is for a

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hotel or additional Class A office use to be constructed on Lot 11 indicated on the proposed plat attached as Exhibit B. Multifamily housing will not be constructed on Lot 11 without prior approval of the City. Requirements of this paragraph will be referred to as "Minimum Uses".

- c. Use Restrictions. The Subdivider hereby agrees that no portion of the Mixed Use Redevelopment Project Area shall be used for any of the uses identified on Exhibit "D" attached hereto and incorporated herein by this reference.
 - d. CCRs/Association. The Subdivider shall record Covenants, Conditions and Restrictions ("CCRs"), in form and content satisfactory to the City Engineer, against the Property that govern the ongoing operation of the Mixed Use Redevelopment Project Area, which CCRs shall contemplate the formation of the La Vista City Centre Owners Association (the "Association") and the assignment of all of Subdivider's rights as declarant in connection with the CCRs and the ongoing rights and obligations related to the operation, maintenance, replacement and repair of public improvements constructed by Subdivider to the Association; provided, however, the owners of any lots in the Mixed Use Redevelopment Project Area will continue to be obligated to the extent Association fails to perform. The Association shall have enforcement rights in connection with this Agreement with respect to owners and occupants of any lots in the Mixed Use Redevelopment Project Area.
3. Public Improvements. Subject to any required replatting, the City, at its cost, will acquire the property preliminarily described or depicted in Exhibit "E" ("Property for City Improvements") and, except for any improvements to be provided by the Subdivider or any lot owner as described in Section 9 or 12 or otherwise in this Agreement or the Redevelopment Agreement, City will design, construct and own, manage, operate, maintain, replace, and repair the public improvements preliminarily described or depicted in Exhibit "F" ("Public Improvements"), which exhibit includes and indicates without limitation public recreational areas, public streets, public offstreet parking facilities, and any other public improvements to be constructed in Phase I ("Phase I Public Improvements"). Final components, design, and location of the Public Improvements and Phase I Public Improvements and related exhibits will be subject to any additions, subtractions, or changes, and approval by the City Engineer.
- a. Property for City Improvements to be acquired will be the property that is needed for the Public Improvements, as determined by the City Engineer and survey. Price of the Property for City Improvements is anticipated to be \$10.14 per square foot, which shall be determined on a per square foot based on the total actual out-of-pocket costs paid through the date of closing by the Subdivider to acquire the Brentwood Crossing Property, including the initial purchase price for Subdivider to purchase the Brentwood Crossing Property, design and engineering costs related to the platting of the Brentwood Crossing Property, costs related to the entitlements for the Brentwood Crossing Property, and closing costs related to acquisition of the Brentwood Crossing Property ("Price Per Square Foot"); provided, however, actual costs of Subdivider in excess of the initial purchase

price for Subdivider to purchase the Brentwood Crossing Property shall be subject to review and approval of the City Administrator or City Engineer. Closing on the Property for City Improvements for Phase I Public Improvements will occur contemporaneously with the closing of Subdivider's acquisition of the Property. Exchange of City parcels described or depicted in Exhibit "G" for parts of the Property for City Improvements will be part of the consideration of the City for the desired Property for City Improvements, which parcels will be conveyed pursuant to Neb. Rev. Stat. Section 16-202 or other applicable statutes at the closing, on the condition of uses in accordance with the Amended Redevelopment Plan for the Mixed Use Redevelopment Project. The City by approving this Agreement finds that such property is exchanged for fair value for uses in accordance with the Amended Redevelopment Plan, taking into account and giving consideration to the uses and purposes required by such Amended Redevelopment Plan in this Agreement and otherwise; the restrictions upon, and the covenants, conditions, and obligations assumed by the redeveloper of such property; and the objectives of such Amended Redevelopment Plan for the prevention of the recurrence of substandard and blighted areas. Remaining consideration will be cash at closing at the Price Per Square Foot. The Property for City Improvements will be conveyed by warranty deed at closing in fee simple, free of all encumbrances, except any approved by the City Engineer in writing before closing. Notwithstanding anything in this Agreement to the contrary, Subdivider at or before closing, unless otherwise agreed by City Engineer, will eliminate, or to the satisfaction of the City Engineer will provide for elimination of, any recorded or unrecorded interests or encumbrances with respect to Property for City Improvements that the City Engineer determines might interfere with CDA commencing or performing Demolition and Site Preparation or City constructing any planned Public Improvements. Any purchase agreement for Property for City Improvements will be in form and content satisfactory to the Subdivider and City Administrator or City Engineer. Closing on Property for City Improvements for Phase II Public Improvements in the Phase II Area, as depicted on Exhibit "H", shall be at the Price Per Square Foot for the locations determined pursuant to approved plats for the Subsequent Phases defined and depicted in the Redevelopment Agreement and at such times as agreed by Subdivider and City Administrator or City Engineer. For this purpose, Phase II Public Improvements will consist of public improvements the City will construct on Property for City Improvements other than Phase I Public Improvements.

- b. Public Improvements, subject to approval of the City Engineer, or any additions, subtractions, or changes and approval by the City Engineer, will include:
 - i. Public Infrastructure. Except for any improvements to be provided by Subdivider or any lot owner as described in Section 9 or 12 or otherwise in this Agreement or the Redevelopment Agreement, City will construct all public infrastructure within right of ways or the Property for City Improvements or otherwise, as preliminarily described or depicted in Exhibit "F", including, but not limited to, on-street parking, drive lanes,

utilities, sanitary sewer, storm water improvements, surface drainage improvements, perimeter landscaping (along 84th street), street lighting, general area identification monument signage, and making arrangements for any needed infrastructure for primary data for the entire Mixed Use Redevelopment Project Area, excluding, however, the Phase II Area (collectively, the “Phase I Infrastructure”) within the applicable timeframe set forth in or determined in accordance with this Agreement. Phase I Infrastructure will be included in Phase I Public Improvements. Upon acquisition of the portions of the Phase II Area required for Phase II Public Improvements, the City shall construct infrastructure within the Phase II Area, as preliminarily described or depicted in Exhibit “I” or otherwise (the “Phase II Infrastructure”), within the timeframe set forth in or determined in accordance with this Agreement.

ii. Recreational Area Improvements.

a. Phase I. Construct public recreational area improvements in the areas of Property for City Improvements, as preliminarily described or depicted on Exhibit “E” attached hereto and incorporated herein by this reference (collectively, the “Phase I Recreational Improvements”), within the timeframe set forth in or determined in accordance with this Agreement. Phase I Recreational Improvements will be included in Phase I Public Improvements.

b. Phase II. Construct public recreational area improvements in the Phase II Area of Property for City Improvements per an agreed upon site plan (collectively, the “Phase II Recreational Improvements”) within the timeframe set forth in or determined in accordance with this Agreement.

c. Other Public Improvements - Golf Course, Pool and Other Areas. Pursuant to City master planning and as described in the Amended Redevelopment Plan, City will be providing or providing for additional public improvements and facilities on or in the vicinity of the La Vista Falls Golf Course and City swimming pool, including the improvements and timeframes as preliminarily described or depicted in Exhibit “L”.

iii. Public Offstreet Parking Facilities.

a. Initial Facility. Construct the public offstreet parking garage facility (the “Initial Public Offstreet Parking Garage”) in the area of Property for City Improvements, as preliminarily described or depicted on Exhibit “J” attached hereto and incorporated herein by this reference (“Depiction of Public Offstreet Parking Areas”), within the timeframes set forth in or determined in accordance with this Agreement. Also construct a public offstreet surface

parking facility (the "Public Offstreet Surface Parking") in the area of Property for City Improvements, as preliminarily described or depicted on Exhibit "J" attached hereto and incorporated herein by this reference ("Depiction of Public Offstreet Parking Areas"). The City upon recommendation of the City Engineer may decide to install footings and foundation at the time of construction of the Public Offstreet Surface Parking in anticipation of construction of additional public off-street parking garage facilities described in subsection "b" as follows. Initial Public Offstreet Parking Garage and Public Off-street Surface Parking will be included in Phase I Public Improvements.

b. Additional Public Offstreet Parking Facility. Construct the additional public offstreet parking garage facility in the area where the Public Offstreet Surface Parking was located within the timeframes set forth in or determined in accordance with this Agreement ("Additional Public Offstreet Parking Garage").

c. Cooperation. The Subdivider and City, to encourage safe and uncongested flow of traffic in and around the area, will cooperate as they determine necessary or desired to encourage and facilitate use of public offstreet parking facilities, including without limitation granting any easements determined necessary or appropriate.

iv. Access.

a. S. 84th Street. Relocate the northwest entrance of S. 84th Street as identified on Exhibit "B" within the timeframe set forth in or determined in accordance with this Agreement. In addition, the City shall be responsible for any improvements required in connection with S. 84th Street, including intersection controls, relocation of intersections and installation of acceleration/deceleration lanes.

b. Marisu Lane. Construct a pedestrian accessway from Marisu Lane to the Mixed Use Redevelopment Project Area, in the location preliminarily identified on Exhibit "B" attached hereto, within the timeframe set forth in or determined in accordance with this Agreement.

c. Access Points. Subdivider and City will cooperate with respect to any portion of the Mixed Use Redevelopment Project Area for purposes of access points or access drives.

d. Cooperation. Subdivider and City agree to cooperate in all applications submitted by Subdivider or City to the State of Nebraska or otherwise in

connection with the location of access points to the Mixed Use Redevelopment Project Area.

vi Additional City Obligations.

a. Management. The City at its cost will operate and manage the Public Improvements described in this Agreement, including any programming for the Recreational Areas within the Mixed Use Redevelopment Project Area. Programming and management of the Recreational Areas are important to the successful operation of the Redevelopment Project. City will seek input of residents, property owners and businesses with respect to the programming.

b. Public Improvements. The City will acquire the Property for City Improvements and construct, own and maintain the Public Improvements for public use. The City will maintain and repair the Parking Garages and right of way in accordance with applicable code or law.

4. Schedule. Construction of Phase I Subdivider Improvements by Subdivider and construction of Phase I Public Improvements by City are anticipated to begin at or about the same time in the Spring of 2017. Subdivider shall complete and open to the public for business the Phase I Subdivider Improvements, and the City will construct and complete the Phase I Public Improvements for public use, according to schedules established by Subdivider representative and City Engineer in accordance with this Agreement. The Subdivider representative is Chris Erickson.

- a. Phase I Improvements. City and Subdivider, for efficiencies of construction, will cooperate in constructing their respective Phase I Subdivider Improvements and Phase I Public Improvements in a coordinated manner. Subdivider will achieve Grand Opening of the Phase I Subdivider Improvements no later than forty eight (48) months after beginning construction of Phase I Subdivider Improvements. Phase I Public Improvements will be substantially completed by City and available for use of the public by the Grand Opening. For this purpose, Grand Opening of the Phase I Subdivider Improvements means substantial completion of the Phase I Subdivider Improvements and such Phase I Improvements being available for lease. Coordinated schedules for construction of particular components of Phase I Subdivider Improvements and Phase I Public Improvements will be determined and subject to adjustment from time to time by the Subdivider and City Engineer. Initial schedules will be developed on or before closing on the Brentwood Crossing Property and Property for City Improvements for Phase I Public Improvements.

Notwithstanding anything in this Agreement or the Redevelopment Agreement to the contrary:

- i. Subdivider immediately after execution of this Agreement will design the Phase I Subdivider Improvements specified in Exhibit "C". Such design

will be completed no later than necessary to begin construction of such improvements within ninety (90) days after completion of Demolition and Site Preparation by CDA, according to the established schedule.

- ii. City immediately after execution of this Agreement will design Phase I Public Improvements specified in Exhibit "F". Such design will be completed no later than necessary to begin construction of such improvements within ninety (90) days after completion of Demolition and Site Preparation by CDA, according to the established schedule, subject to satisfaction of any procedural or other requirements of State Statutes.
- iii. City and Subdivider will cooperate and coordinate in such design and phasing of construction of their respective Phase I improvements for the work to be phased, commenced and completed in an efficient and timely manner no later than the times provided or determined in accordance with this Agreement,
- b. Other Improvements. All other Subdivider Improvements and Public Improvements will be developed and constructed according to schedules established by the Subdivider representative and City Engineer from time to time, subject to satisfaction of procedural or other statutory requirements.
- c. Any applicable timeframe of a party for commencing or completing construction shall be extended one day for each day of delay by the other party.
- d. Notwithstanding anything in this Agreement to the contrary, timeframes and obligations of the City to acquire Property for City Improvements or commence or construct Public Improvements will be subject to:
 - i. Subdivider permitting a third party with experience in the evaluation of real estate finance as designated by the City (the "Financial Professional"), to review satisfactory documentation of irrevocable commitments for bank, equity or other financing or funds sufficient for Subdivider Improvements scheduled to commence or be constructed at any time during construction of the Public Improvements ("Financial Commitments"). Subdivider from time to time will provide updated information and additional Certifications of continuing Financial Commitments as City may request from time to time; and
 - ii. Subdivider closing on acquisition of the Property.
 - iii. The following provisions apply to Financial Commitments with respect to Phase I improvements,

Evidence of irrevocable commitments of bank or other sources of funds (a) sufficient for Subdivider to acquire the Property will be provided to the satisfaction of the City Administrator or her designee on or before the closing date, as a condition of City closing on the Property for City

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Improvements; and (b) sufficient for Subdivider to commence and complete the Phase I Subdivider Improvements will be provided to the satisfaction of the City Administrator or her designee between 30 and 60 days before the scheduled commencement of Phase I Public Improvements as a condition of Phase I Public Improvements.

In conjunction with the Financial Commitments, Subdivider will make available to the Financial Professional at its lender's offices or another location agreed by Subdivider and City all financial information of borrowers or investors in the Phase I Subdivider Improvements that is made available to or reviewed by lenders by or on behalf of Subdivider for purposes of review, underwriting, or commitments of applications or granting of loans or other financing for Subdivider Improvements, and any updates ("Financial Information") to assess the financial position of such borrowers or investors and the adequacy of funds to finance the acquisition of the Property and the construction of the Phase I Subdivider Improvements, to the satisfaction of the City Administrator or her designee. Subdivider shall have the right to be present for any review of financial information of borrowers. Access to such Financial Information will be provided to the Financial Professional (a) at least 30 days before the scheduled closing date on the Property for City Improvements, and (b) between 30 and 60 days before City is scheduled to begin Phase I Public Improvements; provided, however, (i) City at its option shall accept in satisfaction of subsection (b) a written certification of Redeveloper that there have been no material adverse changes in the Financial Information taken as a whole since the date of first review ("Certification"). City closing on acquisition of the Property for City Improvements or commencing or completing Phase I Public Improvements will be subject to satisfaction of this paragraph.

Subdivider retains ownership and desires to maintain the confidentiality of all Financial Information. By providing access pursuant to this Section 4(d), Subdivider does not intend to relinquish ownership, control or any rights in or to the Financial Information, or authorize additional disclosures except as necessary for purposes of this Section 4(d). The Financial Professional shall execute a non-disclosure agreement in form approved by Subdivider. The Financial Professional may render an opinion as to the adequacy of funding for the acquisition of the Property and the construction of the Phase I Improvements and may provide general information regarding the Financial Commitments but shall agree not provide in writing specific information by name regarding the financial information of any particular individual provided for review.

5. Drainage Calculations and Map. The Subdivider submitted a Preliminary Plat that illustrated a preliminary storm sewer layout to serve Phase 1 infrastructure. Said storm sewer layout crosses Outlot C in locations shown on the final plat. The City's release of the final plat shall be conditioned on Subdivider executing and delivering or otherwise

making provision for any required easements in form and content satisfactory to the City Engineer. Subdivider will record with the final plat any easements the City Engineer requires as a condition of releasing the final plat and without expense to the City.

6. Storm Water Management Plan. Before improvements are constructed on an individual lot in the Platted Area, the lot owner, at its sole cost, will comply with applicable requirements regarding storm water quality, storm water management, and weed and erosion control to the satisfaction of the City Engineer. Plans and specifications for such storm water management improvements for each individual lot shall be prepared prior to issuance of permit for grading or construction of improvements on the individual lots by each lot owner's engineer at its sole cost and must be approved by the Public Works Department of City (City Engineer) prior to starting any grading or construction of such improvements on the lots.
7. Storm Water Management Plan Maintenance Agreement. A Post-Construction Storm Water Management Plan Maintenance Agreement ("Maintenance Agreement") in the form and content satisfactory to the City (City Engineer) shall be entered into between each individual lot owner in the Platted Area and the City prior to issuance of any permit for grading or construction of improvements on any individual lot. It is understood that the final version of the Maintenance Agreement shall:
 - a. identify that maintenance actions shall be private, and provide that all maintenance actions so identified shall be performed by the individual lot owner at its expense,
 - b. include provisions to control when post-construction storm water features are to be constructed,
 - c. differentiate between the requirements of construction site storm water runoff controls and post-construction controls,
 - d. provide that post-construction storm water features shall not be installed until such time as they will not be negatively impacted by construction site runoff, and
 - e. provide that permanent storm water detention ponds, riser structures and discharge pipes may be constructed during grading operations.

Such provisions shall run with the land and become the joint and several responsibility of all successors, assigns and future owners of the respective lot.

Watershed Management Fees. Each individual lot owner in the Platted Area shall make payment to City for Watershed Fees. This fee for each lot shall be computed in accordance with applicable provisions of the Master Fee Schedule set forth in the Master Fee Ordinance, as amended from time to time. Payment must be made to City's Permits & Inspections Division before a building permit will be issued to construct improvements on any lot and before the commencement of construction of any such improvements. Payment shall be based on the City's adopted fee rate that is in effect at the time the payment is made.

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8. Site Approval Precondition to Building Permit. Nothing herein shall be deemed a waiver or lessening of any of City's requirements for City approved site plan for any building prior to the issuance of a building permit therefor.
 9. Public Access Roads or Driveways; Sidewalks. Direct vehicular access to abutting streets shall be limited as indicated on the plat, as finally approved by the City in the final plat. Roads and driveways identified in the plat for use of the public, at Subdivider's sole cost except as otherwise specified in this Agreement or approved by the City Engineer, shall be constructed to City approved specifications and shall not be less than nine inches (9") P.C. concrete paving. The City shall have access to and over such roadways and driveways for any purpose it deems appropriate in the exercise of its general governmental powers, including but not limited to, inspection, police, fire and rescue and other public safety purposes, and the exercise of all rights granted to City by the terms of the Subdivision Agreement. Sidewalks shall be installed by each individual lot owner no later than the time of the development of said owner's Lot at the owner's sole cost. Construction and installation of an improvement required by this paragraph 9 shall be completed no later than a certificate of occupancy for any building on the Lot that triggers construction of the improvement in this paragraph. Unless otherwise specified in this Agreement, an improvement described in this Section 9 shall be maintained, replaced and repaired by the owner of the Lot who is required to construct the improvement, at the owner's sole cost.
 10. Staking Bond. Subdivider shall provide the City a staking bond satisfactory to City Engineer prior to City's release of the final plat of the Platted Area to assure the placement of lot corner pins as indicated has been done on the final plat.
 11. Sanitary Sewer Connection. A sanitary sewer connection agreement shall be required of each lot owner as a condition of issuance of a building permit, in form and content approved by the City, subject to any additions or changes the City Engineer determines necessary or advisable.
 12. Infrastructure to be at Private Expense. Subdivider at its cost will be responsible for designing, constructing, maintaining, repairing, and replacing all improvements, facilities, and equipment within right of way that is between the property line and curb line, except for such performance actually provided by the Association or required by this Agreement of any lot owner. Subject to possible use of tax increment financing, the cost of all Subdivider private infrastructure improvements within or serving the Platted Area which shall include construction of public sidewalks, streetscape improvements, landscaping along public right of ways or in public areas, façade or lighting enhancements (collectively, the "Subdivider Private Infrastructure") shall be the private expense of Subdivider and Subdivider's successors, unless otherwise provided in this Agreement. All Subdivider Private Infrastructure shall be constructed and maintained at private expense and no part thereof shall be the responsibility of or at the expense of the City. In the event of any Subdivider Private Infrastructure that is to be shared by more than one lot owner ("Shared Private Infrastructure"), such Shared Private Infrastructure shall be subject to bonding requirements set forth in this section. All Subdivider public

infrastructure improvements, including but not limited to sidewalks, landscaping, benches, trash enclosures, and other amenities ("Subdivider Public Infrastructure") shall be designed, contracted constructed, operated, repaired, replaced and maintained by Subdivider and its successors, except to the extent performed by the Association pursuant to the CCRs. A preliminary estimate of the cost of design and construction of the Subdivider Public Infrastructure is set forth on Exhibit "K". Before the City releases the Final Plat to Subdivider for recording, Subdivider will provide City (i) a copy of the executed CCRs in form and content satisfactory to the City Engineer that Subdivider will record with the Final Plat, and (ii) a surety bond satisfactory to the City Engineer in the amount of 110% of the total estimated cost to design and construct the Shared Private Infrastructure and Subdivider Public Infrastructure connected with Phase I Subdivider Improvements. The intent is not to require under this Agreement and the Redevelopment Agreement more than one bond of the same type and amount, covering the same performance and the same improvements. In such a case, the City Engineer may accept a single bond to satisfy the bonding requirement of both agreements, provided the bond expressly guarantees payments and performance under both agreements, in the greater amounts required under such agreements, and names both the City and CDA as beneficiaries.

13. Right of Way. Any Subdivider Improvements to be located in, on, over or beneath any public right of way will be provided pursuant to easements or such permitting or other applicable requirements or processes of the City for improvements located in, on, over, or beneath public right of way.
14. City Engineer to be Determiner. The City shall have the right, but not any obligation, to inspect any work on or relating to the improvements described in this Agreement, and to require modification, replacement, maintenance or repair of any Private Infrastructure Improvements or Subdivider Public Infrastructure the City Engineer determines are defective, unsatisfactory or in need of repair, maintenance or replacement, and Subdivider shall comply with said requirements. All specifications and contracts relating to work on such improvements shall be subject to prior review and approval of the City Engineer.
15. City Access/Repair. The City, its employees and agents, shall have right of entry and full access to any and all areas and improvements within the Platted Area for purposes of inspection of the Subdivider Public Infrastructure. In the event City determines construction, replacement, repair or maintenance is defective or not progressing or not being performed satisfactorily or in a timely manner, City may, at its sole option and without obligation to do so, decide to undertake construction, replacement, repair and/or maintenance of any such improvements and to assess against the Subdivider and the property in the Platted Area the cost, including engineering costs and legal costs, together with interest at the rate of five percent (5%) per annum until paid, and City shall have a lien for the cost therefor, which lien City may file of record against the lots benefited. If said lien amount is not timely paid in full, the City may foreclose the lien for said amount with interest thereon and reasonable attorney fees incurred by City in such foreclosure.

16. City Exercise of Rights Discretionary. City's and/or City Engineer's exercise of any or all of the authority herein given shall be at City's sole and absolute discretion and for the sole benefit of the City and City's interests and not for the benefit or interests of Subdivider or any other party, and City, City Engineer and City agents shall have no responsibility or liability by reason of either the nonexercise or the exercise of any such authority.
17. Maintenance. Subdivider will operate, maintain, replace and repair the Subdivider Improvements in good and working condition and repair in accordance with the prevailing standards applicable to first-class developments of similar size, kind and quality, and in accordance with requirements of all applicable laws, rules and regulations. For these purposes, "first-class" means that the Subdivider will use the highest quality, design and construction techniques and materials that will produce a development of the highest quality according to applicable industry standards. Comparable projects in the area include Aksarben Village and Midtown Crossing. Finally, the Minimum Uses within the Mixed Use Redevelopment Project Area as described in this Agreement shall continue to apply and must be satisfied for the period of at least twenty five (25) years after the Grand Opening of Phase I Subdivider Improvements, unless otherwise agreed by City
18. Taxes. In the case of any real estate owned by Subdivider in the 84th Street Redevelopment Area, the Subdivider (i) consents with respect to designation of any or all of the 84th Street Redevelopment Area as enhanced employment areas and levies of general business occupation taxes therein as determined by the City from time to time ("GBOT"); provided, however, the GBOT rate generally will be in accordance with the norm within the metropolitan Omaha area with respect to a GBOT that is the same as a GBOT levied in other communities in the metro area; (ii) except as otherwise expressly provided in the Redevelopment Agreement with respect to tax increment financing, agrees that it shall not directly or indirectly challenge or contest, or encourage any other person or entity to challenge or contest, any property tax valuation in the Mixed Use Redevelopment Project Area or City revenues, including GBOT, property taxes or local option sales taxes; (iii) represented and confirms that new investment within the Mixed Use Redevelopment Project Area is projected to result in at least the required number of new employees and new investment applicable under the circumstances at the time under Neb. Rev. Stat. Section 18-2116(2); and any business in the Mixed Use Redevelopment Project Area that has 135,000 square feet or more and annual gross sales of \$10 million or more will provide an employer provided health benefit satisfying requirements of Neb. Rev. Stat. Section 18-2116(2); and (iv) agrees to record this Agreement with respect to real estate owned by the Subdivider, the provisions of which shall be binding upon all successors and assigns of such real estate or Subdivider
19. Filing of Record. The Subdivider, at its expense when recording the Initial Replat, shall record this Agreement and the CCRs in the land records of the Office of the Register of Deeds of Sarpy and shall cause recorded copies thereof to be transmitted to the City Administrator.

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20. Covenants Running With the Land. The final plat, this Agreement and all documents, obligations, understandings and agreements contained or incorporated herein constitute perpetual covenants running with the land, shall be recorded by Subdivider with the Register of Deeds of Sarpy County, Nebraska, and shall be binding, jointly and severally, upon the Subdivider, and all of Subdivider's successors, assigns, lenders, mortgagees or others gaining or claiming any interest or lien in, to or against any property within the Platted Area. The covenants herein shall be cumulative to, and not in lieu of, any other covenants running with the land, except to the extent this Agreement requires additional, greater or a higher standard of performance by Subdivider or Association; or the other covenants conflict with this Agreement, in which case this Agreement would govern. City shall have the right, but not the obligation, to enforce any and all covenants. After City releases the Initial Replat and this Agreement for recording, Subdivider promptly will record the same, along with any other documents or instruments required to be recorded, with the Register of Deeds of Sarpy County, Nebraska.
21. Exhibit Summary. The Exhibits attached hereto and incorporated herein by this reference and made a part hereof, are as follows:
- | | |
|-----------------------|---|
| Exhibit "A": | Property |
| Exhibit "B": | Proposed Plat for the Entire Area |
| Exhibit "B-1" | Initial Replat |
| Exhibit "C": | Phase I Subdivider Improvements |
| Exhibit "D": | Use Restrictions |
| Exhibit "E": | Property for City Improvements |
| Exhibit "F-1 – "F-3": | Public Improvements |
| Exhibit "G": | City Property to be Exchanged |
| Exhibit "H": | Phase II Area |
| Exhibit "I": | Phase II Infrastructure |
| Exhibit "J": | Depiction of Offstreet Parking Areas |
| Exhibit "K": | Subdivider Public Infrastructure Estimate |
| Exhibit "L": | Other Public Improvements |
22. Right to Enforce. Provisions of this Agreement may be enforced at law or in equity by the owners of land within the Platted Area and may be enforced by the City at law, in equity or such other remedy as City determines appropriate. All rights and remedies of a party, whether specified in this Agreement or otherwise provided, are cumulative.
23. Incorporation of Recitals. Recitals at the beginning of this Agreement, and all exhibits, documents or instruments referenced in this Agreement, are incorporated into this Agreement by reference.
24. Nondiscrimination. Notwithstanding anything in this Agreement to the contrary, (i) each party agrees that neither it nor any subcontractor of the party shall discriminate against any employee or applicant for employment to be employed in the performance of this Agreement, with respect to the employee's or applicant's hire, tenure, terms, conditions or privileges of employment, because of race, color, religion, age, sex, disability, or national origin; and (ii) the City is a recipient of federal funds, and as a result all required

contractual provisions related to such federal funds shall be deemed incorporated into this Agreement by this reference and binding upon the parties.

25. Assignment. This Agreement may not be assigned by either party without the express written consent of the other parties, except as otherwise provided in the Redevelopment Agreement.
26. Entire Agreement. This Agreement represents the entire agreement and understanding, and supersedes all prior understandings and agreements, written or oral, of the parties with respect to the matters contained herein. The Agreement only may be amended by a written amendment executed by all parties.
27. Severability. If any part of this Agreement is held by a court of competent jurisdiction, or by other governmental authority with jurisdiction thereof, to be illegal, invalid or unenforceable, the illegality or unenforceability shall not affect the remainder of this Agreement, and this Agreement shall be construed as if such illegal or unenforceable provision had never been included herein.
28. Construction. Captions used in this Agreement are for convenience and are not used in the construction of this Agreement. This Agreement shall be subject to and construed in accordance with the Amended Redevelopment Plan.
29. Applicable Law. Parties to this Agreement shall conform to all existing and applicable city ordinances, resolutions, state laws, federal laws, and all existing and applicable rules and regulations. Nebraska law will govern the terms and the performance under this Agreement.
30. Merger. This Agreement shall not be merged into any other oral or written contract, lease or deed of any type.
31. Remedies.
 - a. The parties understand and agree that with respect to the various obligations of the parties hereunder, time is of the essence, and in the event that any party hereto shall fail to carry out any of its obligations under this Agreement, the remaining parties hereto would have no adequate remedy at law. Therefore, the parties hereto shall be entitled to enforce the obligations of a defaulting party under this Agreement pursuant to all available equitable remedies, including, but not limited to, specific performance, injunction, and mandamus.
 - b. Except as otherwise expressly provided in this Agreement, an event of default occurs upon breach of any material covenant, obligation or requirement of a party under this Agreement or the Redevelopment Agreement and the continuation of such breach for thirty (30) days after receipt of written notice from the non-breaching party specifying the nature and extent of such breach, or if such breach cannot reasonably be cured within such thirty (30) day period, the failure of the breaching party to commence to cure such breach within such thirty (30) day

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period and to diligently continue to pursue same to completion. Should an event of default by a party occur hereunder, the other party that is not then in default may, by written notice to the defaulting party, terminate this Agreement. Before they non-defaulting party may terminate this Agreement, written notice and opportunity to cure as provided at the beginning of this paragraph shall be required.

- c. All remedies provided by this Agreement shall be cumulative and include all other remedies available at law or in equity.
- 32. Survival. All of the obligations, warranties, and indemnities of the parties and terms and conditions of this Agreement shall survive all conveyances of real estate required pursuant to this Agreement.
- 33. No Reliance on Others. Except for any specific representations and warranties set forth in this Agreement, each party hereto agrees that it is relying on its own opinions, estimates, studies, and information with regard to such party's respective obligations under this Agreement and no party hereto or its agents or contractors shall be responsible or liable for estimates or opinions of costs given to other parties in connection herewith.
- 34. Delays. No party hereto shall be liable to any other party hereto for direct or consequential damages suffered or incurred as the result of delays in completion of Mixed Use Redevelopment Project or Public Improvement Redevelopment Project proximately caused by External Causes (as defined below). In addition, to the extent the City or the Subdivider is prevented or delayed in timely performing its obligations hereunder due to External Causes, its performance shall be excused for so long as any such External Causes stand as an impediment to such performance and the amount of time for such party to fulfill its obligations under this Agreement shall be extended for a like period of time. However, the party whose performance hereunder is thus impeded shall use reasonable efforts to eliminate or overcome such delays. If the City or the Subdivider is delayed in the performance of its obligations hereunder due to External Causes, then the other party shall be entitled to an extension for a like period of time for performance of its obligations reasonably related to the obligations the performance of which is delayed by External Causes. As used herein, the term "External Causes" shall include strikes, riots, acts of God, shortages of labor or materials, war, and material changes in governmental laws, regulations or restrictions.
- 35. Cooperation and Coordination. The City and the Subdivider shall cooperate with each other and seek to coordinate their respective grading, demolition, site preparation, street relocation and improvement, utility relocation, removal, and construction activities hereunder so as to minimize to the extent reasonably practical their respective costs of such work and as reasonable to accommodate the construction by the Subdivider or City and any successor or assign of the Subdivider or City; provided that the foregoing shall not be construed to permit or require that the any party consent to any delays or extensions of the times set forth herein for the other party to commence or complete its obligations under this Agreement.

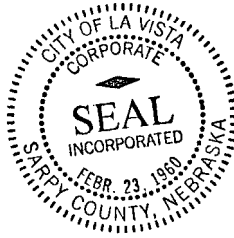
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36. Approvals. Except as otherwise provided in this Agreement, any approvals required in this Agreement shall mean the prior written approval of the party. The City Administrator, City Engineer, or her or his designee shall be authorized to provide any approval on behalf of the City, unless the City Administrator determines that approval of the governing body shall be obtained.
37. No Partnership or Joint Venture. It is mutually understood and agreed that nothing contained in this Agreement is intended or shall be construed in any manner or under any circumstances whatsoever as creating or establishing the relationship of co-partners or creating or establishing the relationship of a joint venture between or among any of the parties to this Agreement or as constituting any party hereto as the agent or representative of any other party for any purpose or in any manner under this Agreement, it being understood that each party is an independent contractor hereunder.
38. City Actions Subject to Applicable Procedures. All actions or approvals of the City under this Agreement shall be subject to the procedures and other requirements of applicable laws, rules, regulations, policies and procedures.
39. Covenants Running with Land. This Agreement and the agreements and understandings herein constitute covenants running with the land and shall be binding upon the parties and their respective successors, heirs and assigns, lenders, mortgagees, tenants, transferees or any other person or entity gaining or claiming any interest or lien within the Mixed Use Redevelopment Project Area or Public Improvement Project Area.
40. This Agreement has been entered into by the City to provide financing for an approved redevelopment project.

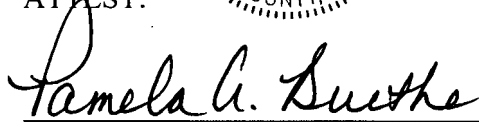
IN WITNESS WHEREOF, we, the parties hereto, by our respective duly authorized agents, hereto affix our signatures the day and year first above written.

LA VISTA CITY CENTRE, LLC, a Nebraska
limited liability company

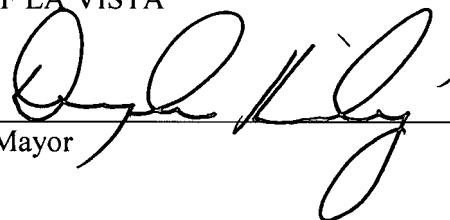
By: 
Christopher L. Erickson, Manager



ATTEST:


Pamela G. Duethe
City Clerk

CITY OF LA VISTA

By: 
Mayor

The foregoing instrument was acknowledged before me this 21st day of October, 2016, by Christopher L. Erickson, the Manager of La Vista City Centre, LLC, a Nebraska limited liability company as his voluntary act and deed and the voluntary act and deed of said company.




STATE OF NEBRASKA)
)ss.
COUNTY OF Sarpy)

On this day of 29 day of November, 2016, before me a Notary Public, duly commissioned and qualified in and for said County, appeared Douglas Kinds, personally known by me to be the Mayor of the City of La Vista and Amelia G. Baethge to be personally known to be the City Clerk of the City of La Vista, and the identical persons whose names are affixed to the foregoing Subdivision Agreement, and acknowledged the execution thereof to be their voluntary act and deed, and the voluntary act and deed of said City.

Marcia G. Gustafson

Notary Public

 GENERAL NOTARY - State of Nebraska
MARCIA A. GUSTAFSON
My Comm. Exp. June 30, 2020

LEGAL DESCRIPTION:

A TRACT OF LAND BEING A REPLATTING OF LOTS 1 THRU 7, BRENTWOOD CROSSING, LOTS 8B AND 8C, BRENTWOOD CROSSING REPLAT 1, AND ALSO LOTS 8A1, 8A2, 8A3, AND 8A4, BRENTWOOD CROSSING REPLAT 2, SUBDIVISIONS, AS SURVEYED, PLATTED, AND RECORDED IN SARPY COUNTY, NEBRASKA, IN THE SOUTHWEST QUARTER, AND ALSO A PART OF TAX LOT 12 IN THE NORTHWEST QUARTER, ALL IN SECTION 14, TOWNSHIP 14 NORTH, RANGE 12 EAST OF THE 6TH P.M., SARPY COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

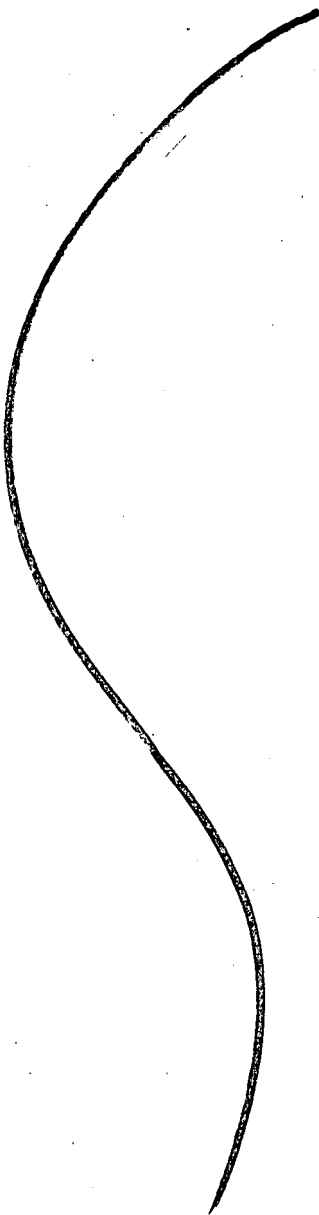
BEGINNING AT THE NORTHEAST CORNER OF LOT 3, WILTHAM PLACE REPLAT 1, A PLATTED AND RECORDED SUBDIVISION IN SARPY COUNTY, NEBRASKA, SAID CORNER ALSO BEING ON THE EAST RIGHT-OF-WAY LINE OF 84TH STREET; THENCE NORTHERLY ON SAID EAST RIGHT-OF-WAY LINE OF 84TH STREET ON AN ASSUMED BEARING OF N02°24'52"W, 473.97 FEET; THENCE N02°25'39"W ON SAID EAST RIGHT-OF-WAY LINE, 1320.52 FEET TO THE SOUTHWEST CORNER OF SAID TAX LOT 12; THENCE N02°22'12"E ON SAID EAST RIGHT-OF-WAY LINE OF 84TH STREET, 55.20 FEET; THENCE N87°27'28"E, 217.26 FEET; THENCE S57°58'55"E, 96.96 FEET TO A POINT ON THE SOUTH LINE OF SAID TAX LOT 12; THENCE N87°27'28"E ON SAID SOUTH LINE OF TAX LOT 12, 240.00 FEET; THENCE N58°06'08"E, 112.19 FEET; THENCE N87°27'28"E, 191.50 FEET; THENCE S02°33'02"E, 55.00 FEET TO A POINT ON SAID SOUTH LINE OF TAX LOT 12; THENCE CONTINUING S02°33'02"E, 1794.49 FEET TO THE SOUTHEAST CORNER OF SAID LOT 4, BRENTWOOD CROSSING; THENCE S87°27'29"W, 835.10 FEET TO THE POINT OF BEGINNING.

SAID TRACT CONTAINS A CALCULATED AREA OF 1,522,444.51 SQ. FT. OR 34.951 ACRES MORE OR LESS.

PROJECT NO: 016-0546		METES AND BOUNDS LEGAL DESCRIPTION	OLSSON ASSOCIATES 2111 South 67th Street, Suite 200 Omaha, NE 68106 TEL 402.341.1116 FAX 402.341.5895	EXHIBIT A
DRAWN BY: CAS				
DATE: 07/28/16				

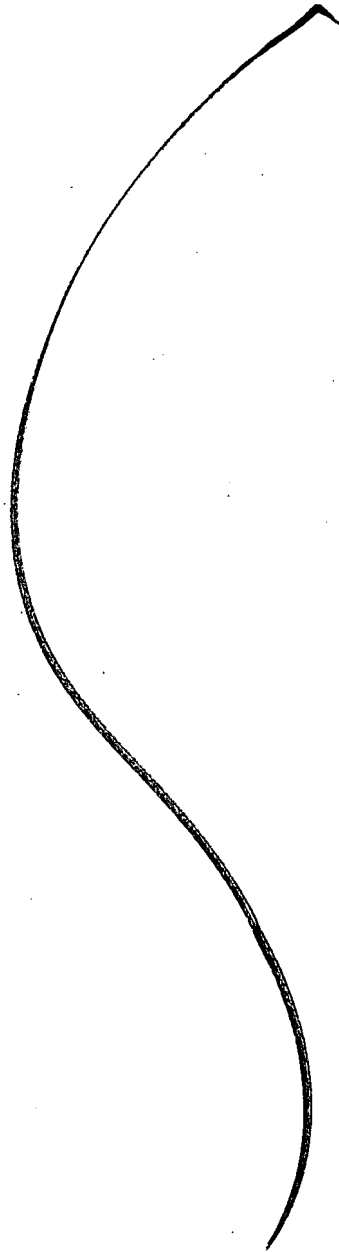
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EXHIBIT B
PLAT



X

EXHIBIT B-1
INITIAL PLAT



LOTS 1 THRU 17 AND OUTLOTS A THRU C

0' 50' 100' 200'
SCALE IN FEET



CENTERLINE DATA TABLE	
NO.	LENGTH

I, TERRY L. ROTHAMZL, HEREBY CERTIFY THAT I AM A PROFESSIONAL LAND SURVEYOR, REGISTERED IN COMPLIANCE WITH THE LAWS OF THE STATE OF NEBRASKA, AND THAT THIS PLAT MEETS OR EXCEEDS THE "MINIMUM STANDARDS FOR SURVEYS" ADOPTED BY THE NEBRASKA STATE BOARD OF EXAMINERS FOR LAND SURVEYORS. FURTHER, I HEREBY CERTIFY THAT I HAVE MADE A BOUNDARY SURVEY OF THE SUBDIVISION DESCRIBED HEREON AND THAT PERMANENT MARKERS WILL BE SET AT ALL LOT CORNERS, ANGLE POINTS AND AT THE ENDS OF ALL CURVES OF THE SUBDIVISION. TO BE EXAMINED AS TO CORRECTNESS AND TO BE RECORDED IN THE PUBLIC RECORDS OF THE COUNTY OF NEBRASKA.

LOT AREA TABLE		
	AREA (AC)	AREA (SF)
LOT 1	0.943	41071.80
LOT 2	0.897	38921.35
LOT 4	2.815	122607.32
LOT 5	0.417	18159.10
LOT 6	0.517	22541.55
LOT 7	1.270	55328.09
LOT 8	1.067	46465.53

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L3	157.76°	N87° 37' 07"E
L4	39.52°	S47° 22' 53"E
L5	170.64°	N87° 37' 07"E
L6	262.95°	N87° 37' 07"E
L7	110.38°	S47° 22' 53"E
L8	494.68°	S2° 22' 53"E
L9	151.80°	S42° 37' 07"W
L10	313.68°	S47° 27' 07"W
L11	110.38°	S47° 22' 53"E
L12	209.48°	S2° 22' 53"E
L13	68.96°	S42° 37' 07"W
L14	271.72°	S87° 37' 07"W
L15	437.44°	N2° 22' 53"W

[illegible][illegible]

NOTES

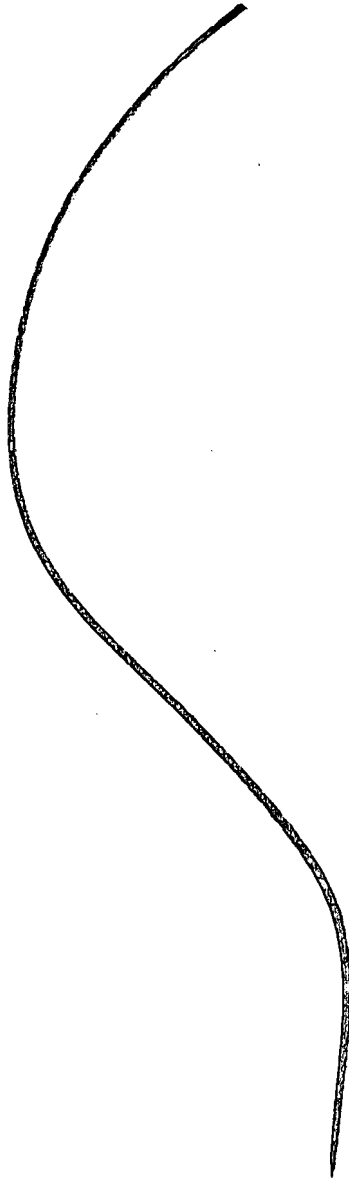
1. ALL INTERNAL ANGLES ARE 90° UNLESS OTHERWISE NOTED.
2. ANGLES SHOWN ADJACENT TO CURVES ARE MEASURED TO CHORD LINE OF SAID CURVE.
3. LOTS 1 THROUGH 8, INCLUSIVE AND LOT 11, SHALL NOT HAVE DIRECT VEHICULAR ACCESS ONTO BATH STREET.

EXISTING EASEMENTS (DISTANCE AS SHOWN).

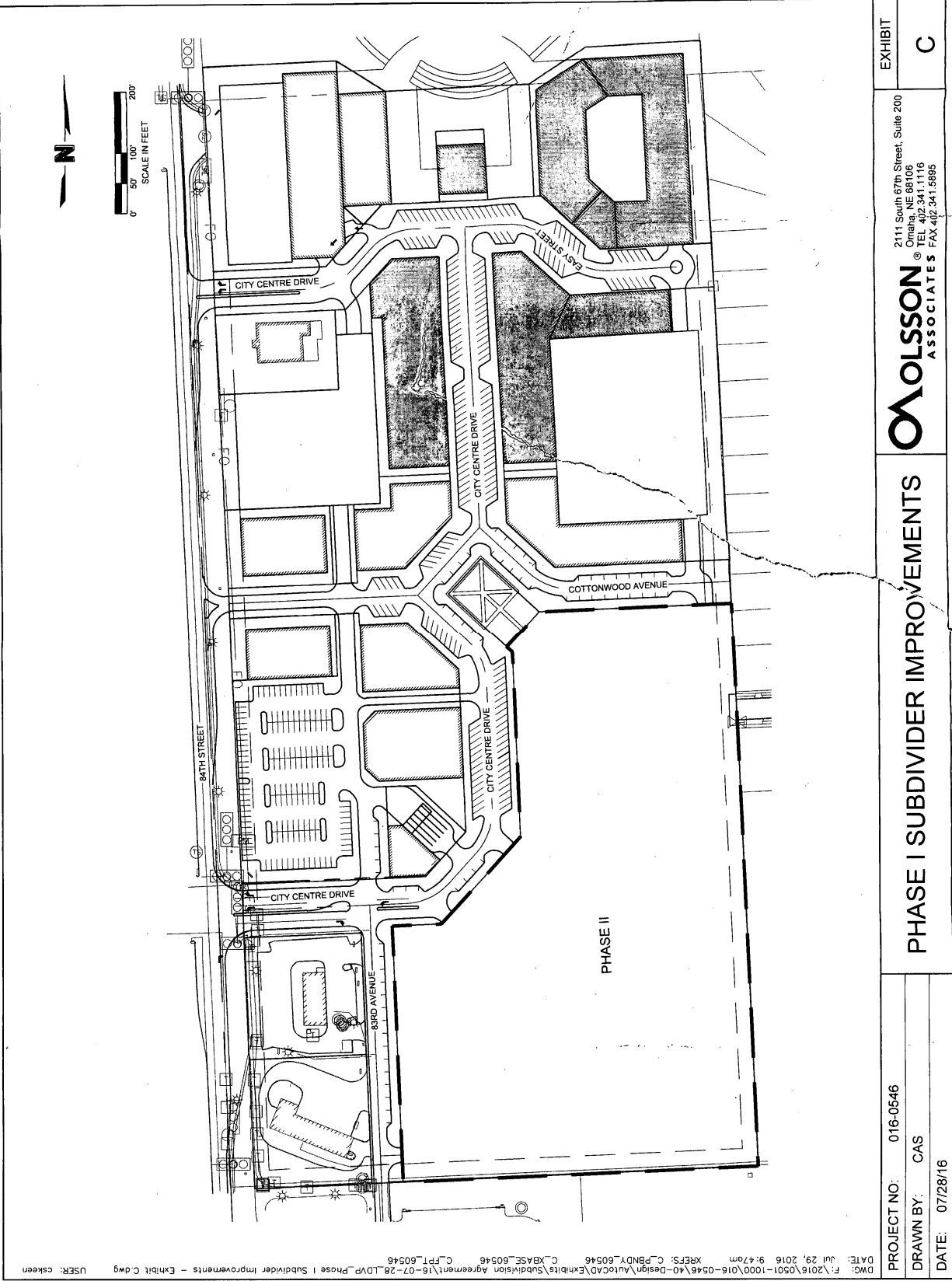
△ UTILITY EASEMENT INST. NO. 1990-18556

2

EXHIBIT C
PHASE I SUBDIVIDER IMPROVEMENTS



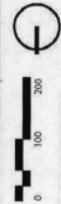
A2





AC

Exhibit C-1



La Vista City Centre
Lofted Level(s) Master Plan

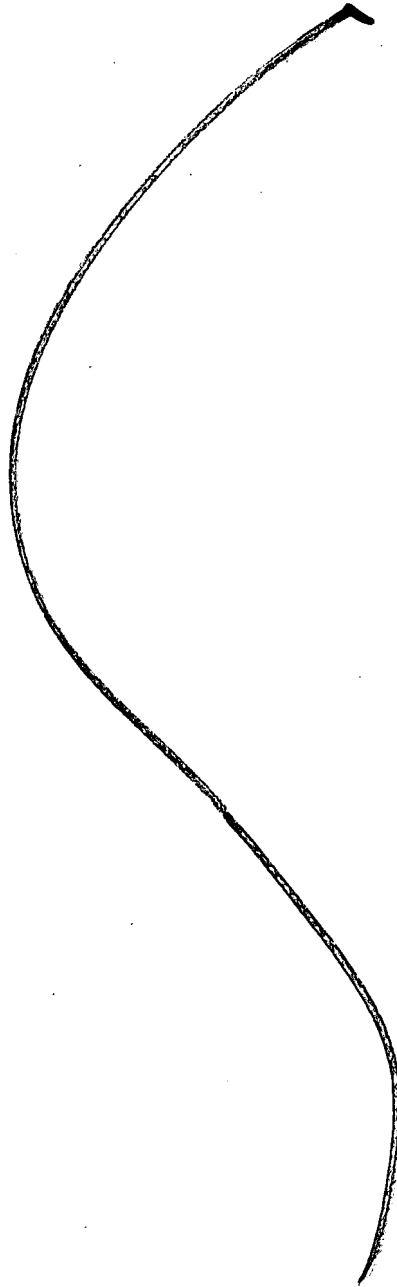
EDSA

EXHIBIT D
USE RESTRICTIONS

None of the following uses or operations shall be conducted or permitted on or with respect to all or any part of the Mixed Use Redevelopment Project Area unless otherwise approved by Developer (or the Association to the extent that the management of Private Infrastructure Improvements in the Mixed Use Redevelopment Project Area has been turned over to an Association) and the City:

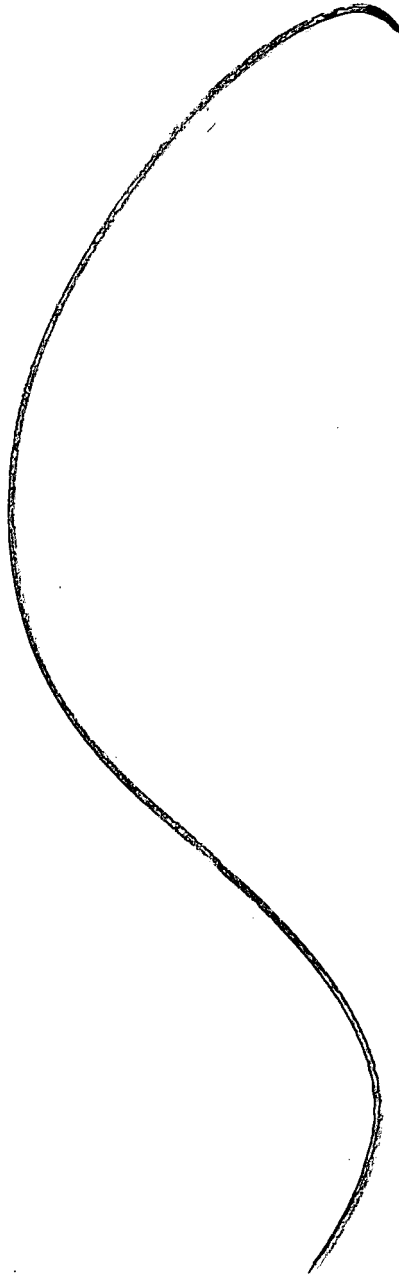
- (a) Any public or private nuisance;
- (b) Any use which emits or results in strong, unusual or offensive odors (but not such odors as shall normally emit from restaurants) fumes, dust or vapors, is a public or private nuisance, emits noise, creates a hazardous condition, or is used, in whole or in part, as or for warehousing or the dumping or disposing of garbage or refuse, other than in enclosed receptacles intended for such purpose;
- (c) Any use which emits excessive quantity of dust, dirt, or fly ash; provided however, this prohibition shall not preclude the indoor sale of soils, fertilizers, or other garden materials or building materials in containers if incident to the operation of a home improvement or other similar store.
- (d) Any outdoor storage of materials or equipment.
- (e) Any use which could result in, or cause fire, explosion or other damaging or dangerous hazard;
- (f) Any operation primarily used as assembly, manufacture, refining, smelting, agriculture or mining operations;
- (g) Any mobile home or trailer court, auction house, labor camp, junkyard, stock yard or animal raising (except that this provision shall not prohibit the temporary use of construction trailers during periods of construction, reconstruction, or maintenance). Notwithstanding the foregoing, pet shops shall be permitted;
- (h) Any drilling for and/or removal of subsurface substances;
- (i) Any flea market and/or swap meet;
- (j) Any adult book shop, movie house or other establishment selling or exhibiting pornographic materials or other pornographic use; provided, however, that such restrictions shall not preclude the (i) showing of films in any first rate motion picture theater, and (ii) sale or rental of adult books, magazines or videos as an incidental part of the business of a general purpose bookstore or video store such as Blockbuster, which is normally found in a first class development;
- (k) Any abortion clinic or drug rehabilitation clinic; and

(l) Any central laundry, dry cleaning plant, or Laundromat; provided, however, this prohibition shall not be applicable to nominal supportive facilities for on-site service oriented to pick up and delivery by the ultimate consumer.



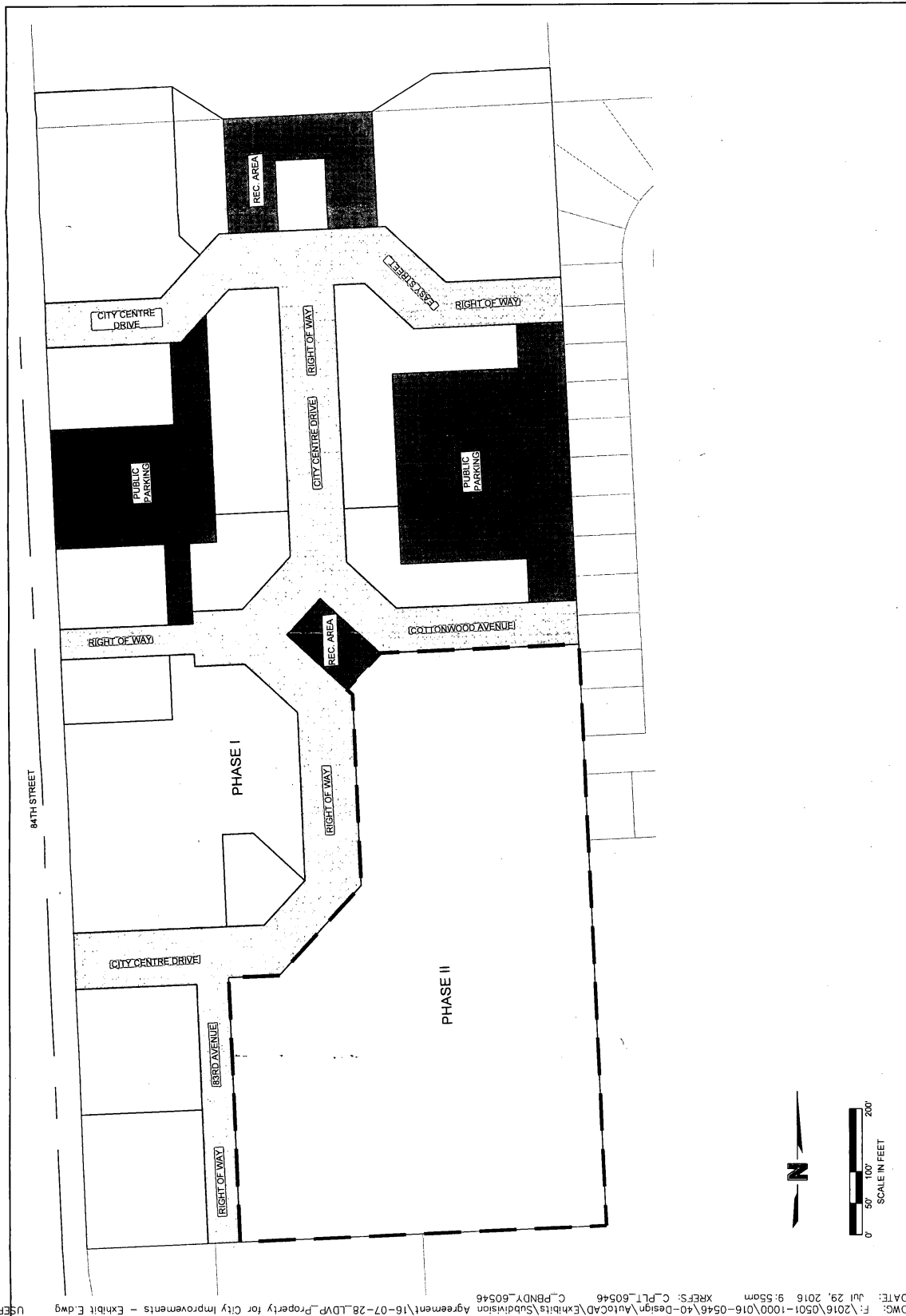
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EXHIBIT E
PROPERTY FOR CITY IMPROVEMENTS



DWG: F:\2016\0501-1000\016-0546\40-Design\AutocAD\Exhibits\Subdivision Agreement\16-07-28_LDP_Property for City Improvements - Exhibit E.dwg
 DATE: Jul 29, 2016 9:55am XREFS: C:\PLT_60546 C:\PBDY_60346
 USER: cskeen

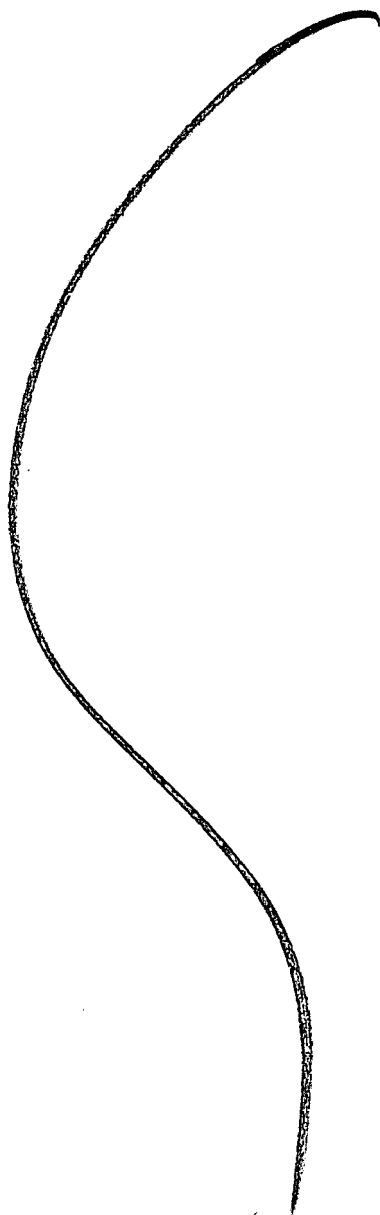
A9



PROJECT NO: 016-0546		PROPERTY FOR CITY IMPROVEMENTS EXHIBIT	 2111 South 67th Street, Suite 200 Omaha, NE 68106 TEL 402.341.1116 FAX 402.341.5895	EXHIBIT
DRAWN BY: CAS				E
DATE: 07/28/16				

Ah

EXHIBIT F
PUBLIC IMPROVEMENTS



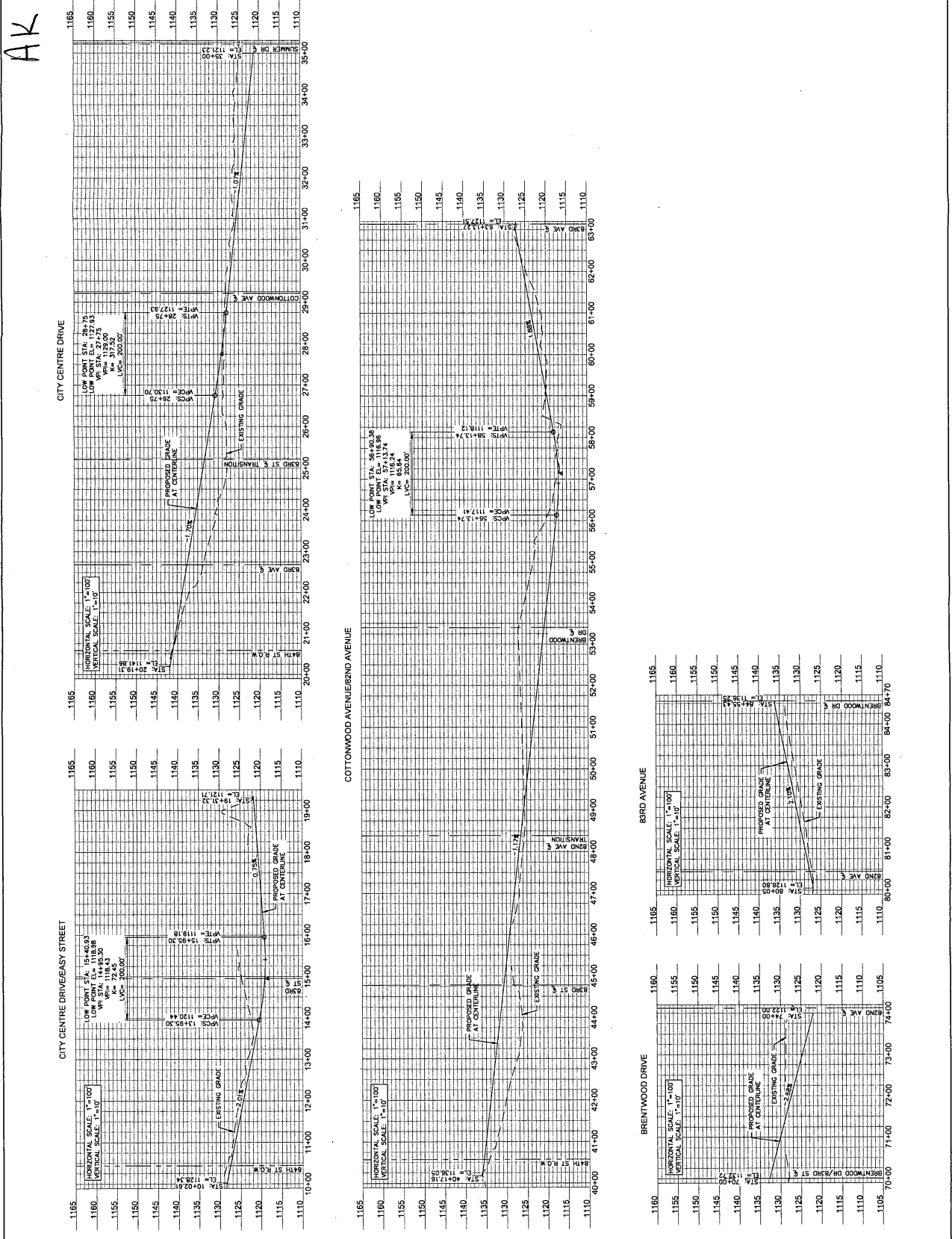
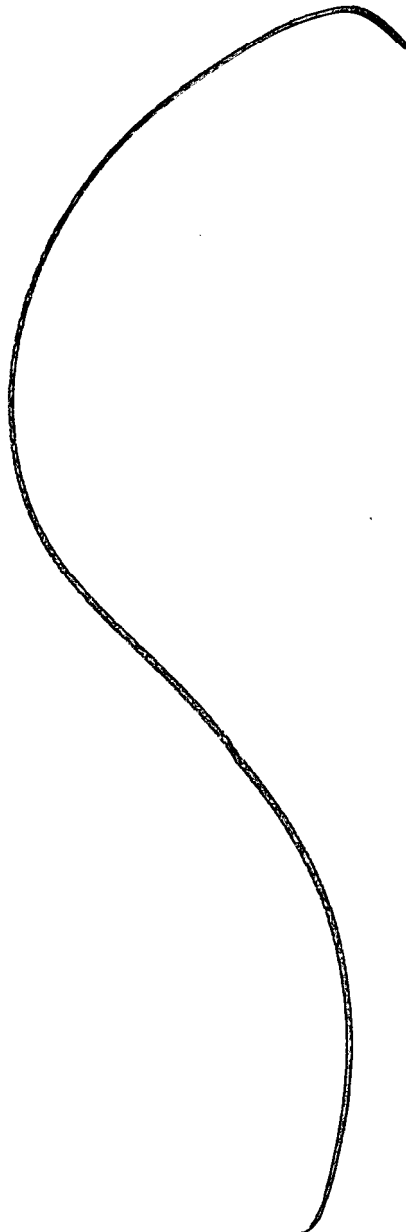
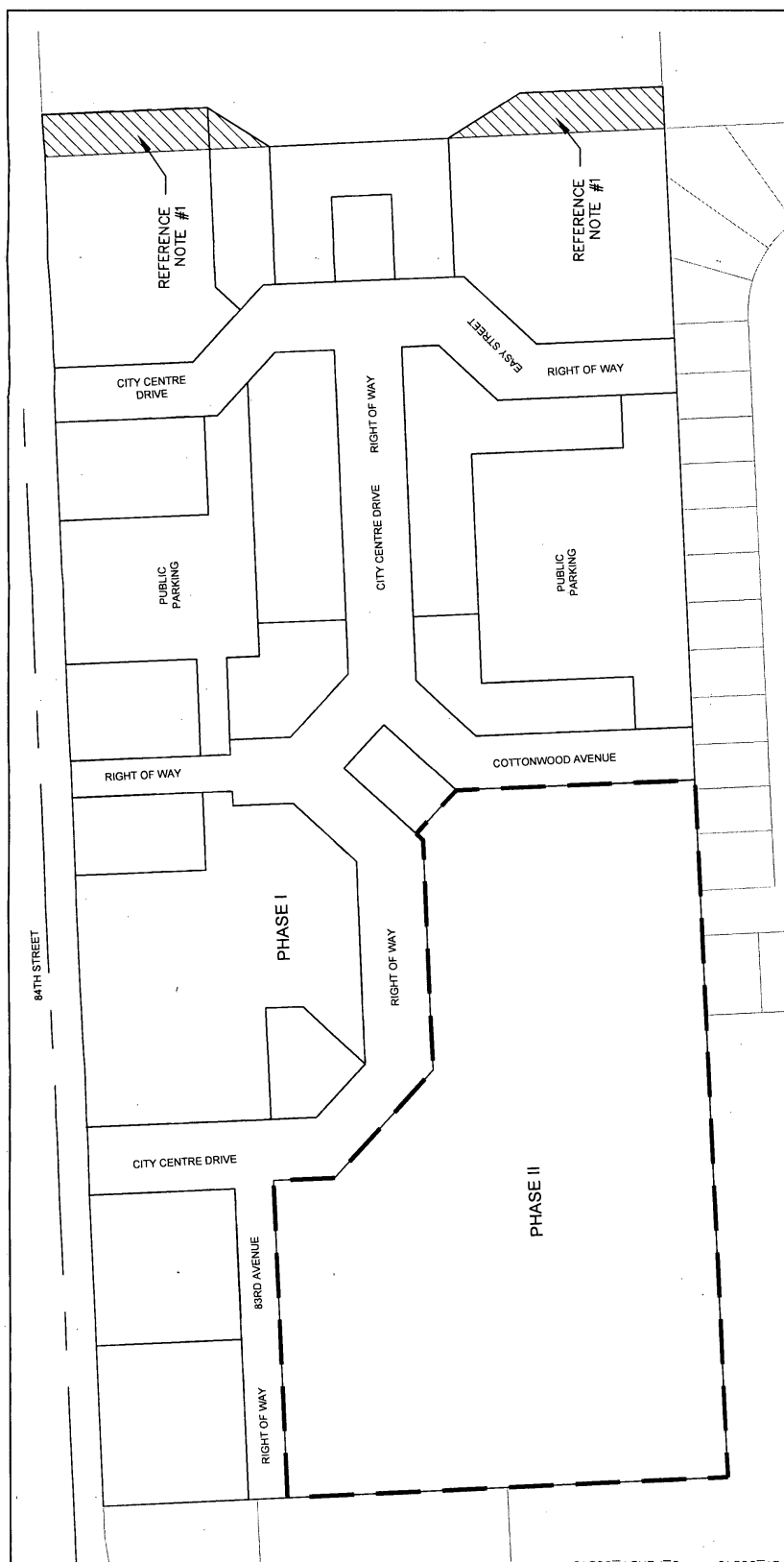


EXHIBIT G
CITY PROPERTY TO BE EXCHANGED

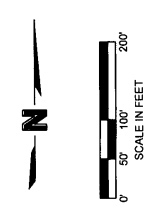



Am

DWG: F:\2016\0501-1000\016-0546\40-Design\AutocAD\Exhibits\Subdivision Agreement\16-07-29_LDVP-City Property to be Exchanged - Exhibit G.dwg
USFR: cskeer
DATE: Jul 29, 2016 9:51am XREFS: C:\PLT_60546 C:\BNDY_60546



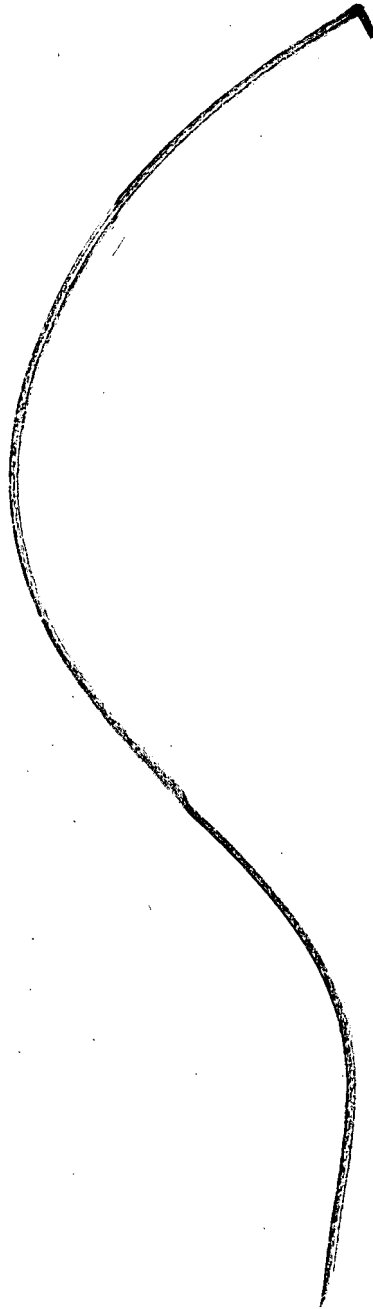
NOTES
1. AREA TO BE CONVEYED BY CITY TO DEVELOPER.



PROJECT NO: 016-0546		CITY PROPERTY TO BE EXCHANGED	 2111 South 67th Street, Suite 200 Omaha, NE 68106 TEL 402.341.1116 FAX 402.341.5895	EXHIBIT
DRAWN BY: CAS				
DATE: 07/28/16				
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EXHIBIT H
PHASE II AREA



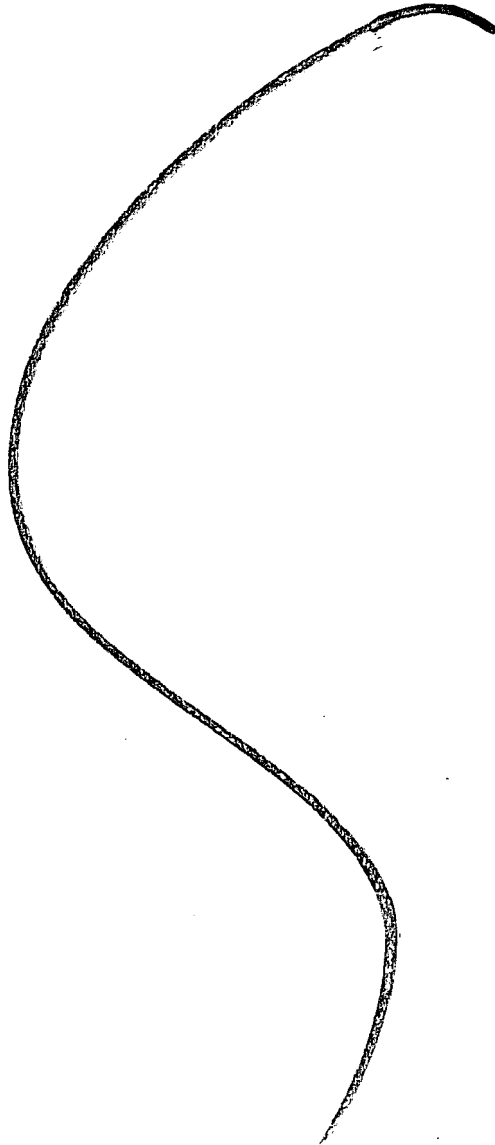
Ap

EXHIBIT I
PHASE II INFRASTRUCTURE

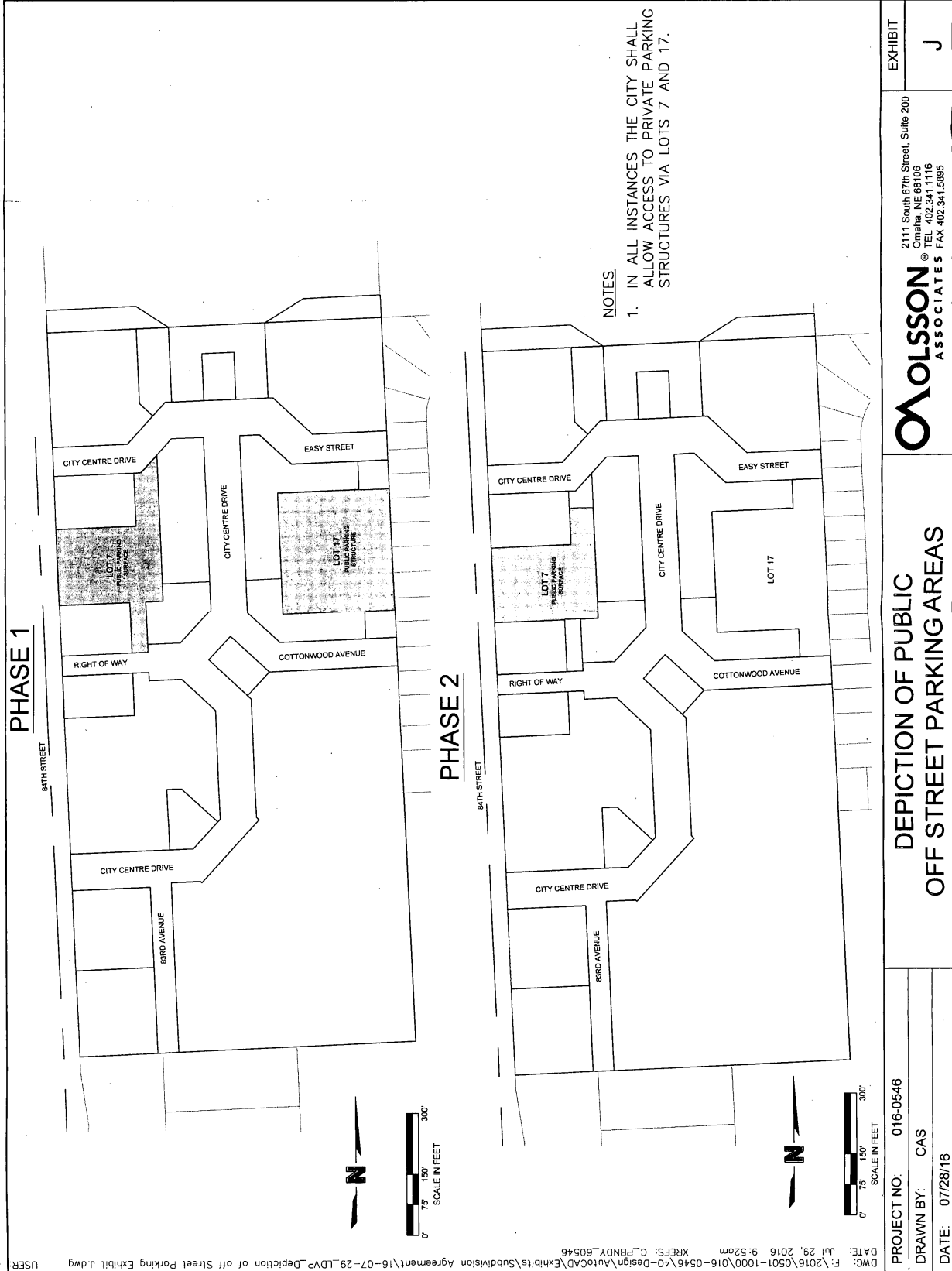
- Sanitary and storm sewer improvements, along with water, power, gas, data and communication facilities within the Public Improvement Redevelopment Project Area
- Street and intersection improvements to 84th Street and 83rd Avenue
- New street construction including sidewalks, lighting and signage within the Mixed Use Redevelopment Area
- Construction of public parking lots and parking structures

Ag

EXHIBIT J
DEPICTION OF PUBLIC OFFSTREET PARKING AREAS



AR



AS

EXHIBIT K

ESTIMATE OF SUBDIVIDER PUBLIC INFRASTRUCTURE

- Public Improvements:
Sidewalks, Sidewalk Landscaping, Street Furniture \$560,000
- Site Work: Site Utilities \$125,000
- Design of Public Infrastructure \$68,500

2016-31244A+

EXHIBIT L
OTHER PUBLIC IMPROVEMENTS

- Potential street improvements to improve access to pool site from 84th Street
- Construction of an underpass under 84th Street
- Demolition of the La Vista Public Pool
- Construction of a parking lot on the site of the existing La Vista Public Pool
- Burial of an OPPD transmission line near the south boundary of the La Vista Falls Golf Course
- Transformation of La Vista Falls Golf Course including, but not limited to:
 - Lake improvements
 - Bridges and trails
 - Amphitheater with stages, canopies and utility systems
 - Restrooms and shelters
 - Miscellaneous recreational or other public amenities
- Stream improvements to Thompson Creek in Central Park and storm water management facilities
- 84th Street landscaping improvements