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REDEVELOPMENT AGREEMENT

THIS AGREEMENT is entered into by and between the City of Omaha and Farnham Acquisitions, Inc., its affiliates and assigns.

WHEREAS, on December 31, 1982, the City Council of the City of Omaha has approved the McKesson-Robbins Redevelopment Plan which provides for the rehabilitation of the McKesson-Robbins Building and the completion of the Central Park Mall to Eighth Street; and,

WHEREAS, the Agreement is a redevelopment agreement pursuant to the Nebraska Community Development Law to give effect to the Redevelopment Plan referenced above and to rehabilitate the McKesson-Robbins Building; and,

WHEREAS, this Agreement modifies and restates the prior redevelopment agreement concerning this project entered into on September 24, 1984, between the City of Omaha and Schneider Fourteen, Inc.

IN CONSIDERATION OF THESE MUTUAL COVENANTS, THE PARTIES AGREE AS FOLLOWS:

SECTION 1. DEFINITIONS

The following terms shall have the following meanings for all purposes in this Agreement.

- 1.1 "City" shall mean the City of Omaha, Nebraska, a municipal corporation of the Metropolitan Class.
- 1.2 "Closing" shall mean the funding of the acquisition and construction loan, at which time payment shall be made to the City and title to the McKesson Robbins Building shall be delivered by the City to Developer.
- 1.3 "Final Closing" shall mean the conveyance of 135 condominium units.
- 1.4 "Developer" shall mean Farnham Acquisitions, Inc., a Michigan Corporation, Inc. or its affiliates and/or assigns.
- 1.5 "McKesson-Robbins Site" shall mean the building and land legally described on Exhibit "A" attached hereto.
- 1.6 "Parking Garage" shall mean a structure providing parking located to the East of the McKesson-Robbins site on a site described on Exhibit "B-1", and "B-2" attached hereto.
- 1.7 "Project" shall mean the McKesson-Robbins rehabilitation and the Parking Garage.
- 1.8 "Redevelopment Area" shall mean the area legally described on Exhibit "F" attached hereto.
- 1.9 "TIF Bonds" shall mean any obligation which the City enters into pledging the excess ad valorem taxes of this Project pursuant to the Nebraska Community Development Law.

SECTION 2. OBLIGATIONS OF THE CITY

The City shall:

- 2.1 Convey clear title in the McKesson-Robbins site to the Developer at Closing.
- 2.2 Construct the Parking Garage and lease to the Developer, or such other entity as it may designate, a portion of the Parking Garage in accordance with the lease provisions in Exhibit "C". Execute such lease at Closing.
- 2.3 Attempt to issue a TIF Bond for the public improvements pursuant to Exhibit "E" on or before November 1, 1985 in the amount of at least \$550,000.00.
- 2.4 Complete construction of the Central Park Mall from Tenth Street to Eighth Street.
 - 2.4.1 The City pledges its best efforts to complete such construction within three years of the date of issuance of a certificate of occupancy for the completed McKesson-Robbins Building.
 - 2.4.2 If such construction is not completed within five years of the date of issuance of a certificate of occupancy for the completed McKesson-Robbins Building, the City shall refund 75 percent of the purchase price of the McKesson-Robbins Building and its underlying land to the Developer and in so doing, be relieved of any obligation to construct the Central Park Mall to any further degree.
 - 2.4.3 For the purpose of this Agreement, completion of construction of the Central Park Mall shall mean completion of the waterway to Eighth Street; installation of all paths, landscaping, and park furniture within the Mall south of the waterway; and landscaping all non-sidewalk areas north of the waterway with at least grass.
- 2.5 Complete the development of the street system adjacent to the McKesson-Robbins Building, in a timely fashion, in accord with the Abbott Drive-Downtown Study, as approved by the Omaha City Council by Ordinance #28147 on September 12, 1977. It is recognized and agreed that revocation of the dock lease on the south side of Farnam Street and the improvements of Farnam Street in the vicinity of the McKesson-Robbins Building are critical to the success of the redevelopment of the building for multi-family housing. Accordingly, the City shall make every effort to complete the street improvements by June 30, 1987. In any case, such construction shall be completed within three years from Closing.
- 2.6 Construct related area public improvements pursuant to Exhibit E and E-1 and Paragraph 2.4.3 above.
- 2.7 Accept conservation easement(s) if donated by Developer for the McKesson-Robbins Building in form and substance as in Exhibits G-1, G-2, and G-3.



SECTION 3. OBLIGATIONS OF THE DEVELOPER

The Developer shall:

- 3.1 Pay \$545,000.00 to the City in cash at Closing of which \$500,000 is the price for the McKesson-Robbins Building and \$45,000 is for the land thereunder.
- 3.2 Rehabilitate the McKesson-Robbins Building as a multi-family residential dwelling, with at least 100 dwelling units and with a construction cost of not less than \$6,000,000, excluding financing costs. Such rehabilitation shall be carried out and maintained as a historic restoration in order to convey certain preservation tax benefits to the Developer, although the loss of such tax benefits shall not relieve the Developer of any obligation pursuant to this Agreement.
- 3.3 Provide the City at closing with Parking Garage construction plans and specifications acceptable to the City Planning Director and prepared by the Minnesota architectural and parking consultant Firm of Walker or such other entity proposed by Developer as may be reasonably agreeable to City Planning Director. Assign the rights of the developer in its agreement with said Firm to the City and secure the consent of said Firm to such assignment.
- 3.4 Begin construction of the McKesson-Robbins Building rehabilitation by December 31, 1985. Substantially complete such construction by June 30, 1987. The above construction start and completion dates may be extended by prior written approval of the Planning Director up to an additional six months from such dates.
- 3.5 Provide the Planning Director with monthly progress reports in writing during the construction period. Allow the City Finance Department access to all relevant records and retain such records for a period of five years from Closing.
- 3.6 Simultaneously with the issuance of the building permit, cause the general contractor to provide performance and payment bonds with the City as a named insured in form and substance not unsatisfactory to the City. Suffer no valid construction or supplier liens in connection with the construction to exist without protections therefrom found not unsatisfactory by City and Developer's Lenders.
- 3.7 During the period that the TIF Bonds are outstanding, 1) not protest a total real estate and improvement valuation on the substantially rehabilitated McKesson-Robbins Building and leasehold in the Parking Garage that produces \$90,000 or less per annum in ad valorem taxes, after January 1, 1987; 2) with the exception of historic conservation easements, not convey the McKesson-Robbins Building or the leasehold in the Parking Garage to a tax exempt entity; 3) maintain insurance for the full replacement value on the McKesson-Robbins Building; 4) apply such insurance proceeds to the reconstruction of the same to the extent permitted by the Lenders on the Project; and 5) not allow (or make application to the Douglas County Assessor to cause) the McKesson-Robbins Building to be separately taxed from the underlying reality; provided that the foregoing shall not preclude the establishment of the Project as a condominium or the conveyance of any of the Project property to a condominium association. In lieu of the above, the

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Developer may repay the outstanding TIF Bonds debt.

- 3.8 Until the Project is converted to condominium ownership, cause all real estate taxes and assessments levied on the McKesson-Robbins Building to be paid prior to the time such become delinquent with Developers, successors or assigns being so obligated thereafter.
- 3.9 The Developer shall purchase a ninety-nine year leasehold interest in the Parking Garage for a sum of Three Hundred Thousand (\$300,000.00) Dollars, payable at Closing. The nature and extent of the leasehold is set forth in Exhibit "C", attached.
- 3.10 The Developer shall assist in the financing of the improvements to be made by the City, as follows:
- 3.10.1 The Developer shall loan the City at Closing the sum of Four Hundred Thousand Dollars (\$400,000.00) Dollars for a term of thirteen (13) years at thirteen (13) percent annual interest as set forth in the Note and Loan Agreement, a copy of which is attached hereto as Exhibit "H".

SECTION 4. OBLIGATIONS OF BOTH PARTIES

- 4.1 If by December 31, 1985, neither the TIF Bond has been sold nor mutually acceptable financing alternatives have been approved by the parties, then the obligations of either party at its own option may be terminated.

SECTION 5. PROVISIONS OF THE CONTRACT

- 5.1 Equal Employment Opportunity Clause. Annexed hereto as Exhibit "D" and made a part hereof by reference are the equal employment provisions of this Agreement, which provisions shall be included in all agreements between Developer and its general contractor. Such provisions shall be in force until the completion of construction.
- 5.2 Non discrimination. The Developer shall not in the performance of this Agreement, discriminate or permit discrimination in violation of federal or state laws or local ordinances because of race, color, sex, age, political or religious opinions, affiliations or national origin.
- 5.3 Captions. Captions used in this Agreement are for convenience and are not used in the construction of this Agreement.
- 5.4 Applicable Law. Parties to this Agreement shall conform with 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. No covenant herein abrogates any City ordinance or regulation.
- 5.5 Interest of the City. Pursuant to Section 8.05 of the Home Rule Charter, no elected official or any officer or employee of the City shall have a financial interest, direct or indirect, in any City contract. Any violation of this section with the knowledge of the person or corporation contracting with the City shall render the Agreement voidable by the Mayor or Council.

- 5.6 Merger. This Agreement shall not be merged into any other oral or written contract, lease or deed of any type.
- 5.7 Modification. This Agreement contains the entire agreement of the parties. No representations were made or relied upon by either party other than those that are expressly set forth herein. No agent, employee or other representative of either party is empowered to alter any of the terms hereon unless done in writing and signed by an authorized officer of the respective parties.
- 5.8 Assignment. The Developer may not assign its rights under this Agreement without the express prior written consent of the City unless the Developer has an ownership interest in the assignee or where the Project is developed as a condominium and the rights are assigned to the co-owners, condominium association and/or their assigns.
- 5.9 Strict Compliance. All provisions of this Agreement and each and every document that shall be attached shall be strictly complied with as written, and no substitution or change shall be made except upon written direction from authorized representatives of the parties.
- 5.10 This Agreement shall be binding upon the Developer's successors and assigns, and shall run with the land described in Exhibit "A", attached hereto, to the benefit of the City.
- 5.11 This Agreement supersedes the prior Agreement between Schneider Fourteen, Inc. and the City of Omaha in connection with this Project. Schneider Fourteen, Inc. shall deliver acknowledgement of such to the City of Omaha at or before the Closing.



SECTION 6. AUTHORIZED REPRESENTATIVE.

In further consideration of the mutual covenants herein contained, the parties hereto expressly agree that for purposes of notice, including legal service of process, during the term of this Agreement and for the period of any applicable statute or limitations thereafter, the following named individuals shall be the authorized representatives of the parties:

(1) City of Omaha:
 c/o Martin H. Shukert
 Director, Planning Department
 Omaha/Douglas Civic Center
 1819 Farnam Street
 Omaha, Nebraska 68183

(2) For U.S. Mail delivery:

 Herbert M. Schneider
 Farnham Acquisitions, Inc.
 P.O. Box 8420
 Ann Arbor, Michigan 48107

For private courier delivery:

 Herbert M. Schneider
 Farnham Acquisitions, Inc.
 3810 Varsity Drive
 Ann Arbor, Michigan 48104



EXECUTED this 14th day of November, 1985.

ATTEST:

CITY OF OMAHA:

Manuel J. ...
City Clerk of the City of Omaha

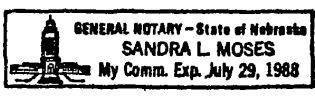
Michael Boyle
Mayor of the City of Omaha

STATE OF NEBRASKA)
COUNTY OF DOUGLAS)

COPY

Before me, a Notary Public qualified for said County, personally came Michael Boyle & Mary Calligan Caggett known to me to be the Mayor & City Clerk and identical persons who signed the foregoing Agreement and acknowledged the execution thereof to be his voluntary act and deed of such officer and the voluntary act and deed of said Corporation.

Witness my hand and notarial seal this 14th day of November, 1985.



Sandra L. Moses
Notary Public

My Commission expires: 7/29/88

APPROVED AS TO FORM:

Ken Bangs
ASSISTANT CITY ATTORNEY

DEVELOPER:
FARNHAM ACQUISITIONS, INC.

By: Herbert M. Schneider
Herbert M. Schneider

STATE OF MICHIGAN)
) SS.
COUNTY OF WASHTENAW)

Before me, a Notary Public qualified for said County, personally came Herbert M. Schneider, known to me to be the same and identical person who signed the foregoing Agreement and acknowledge the execution thereof to be his voluntary act and deed of such officer and the voluntary act and deed of said Corporation.

Witness by hand and notarial seal this 7th day of October, 1985.



Diane Shewson
Notary Public

My commission expires on: 5-5-87



- EXHIBIT A: Legal Description of McKesson-Robbins Site
- EXHIBIT B-1: Parking Garage Location
- EXHIBIT B-2:
 - Page 1: Upper Level Floor Plan
 - Page 2: Lower level, Middle level floor plans
- EXHIBIT C: Lease of Parking Space to Farnham Acquisitions, Inc.
- EXHIBIT D: Equal Employment Opportunity Clause (City of Omaha)
- EXHIBIT E: Public Improvements
- EXHIBIT E-1: Public Improvement Location Map
- EXHIBIT F: McKesson-Robbins Redevelopment Area Legal Description/Map
- EXHIBIT G-1: Conservation Easement Resolution
- EXHIBIT G-2: Facade Easement
- EXHIBIT G-3: Development Rights Easement
- EXHIBIT H: Note and Loan Agreement

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LEGAL DESCRIPTION OF THE McKESSON-ROBBINS SITE

83.5' L6 &

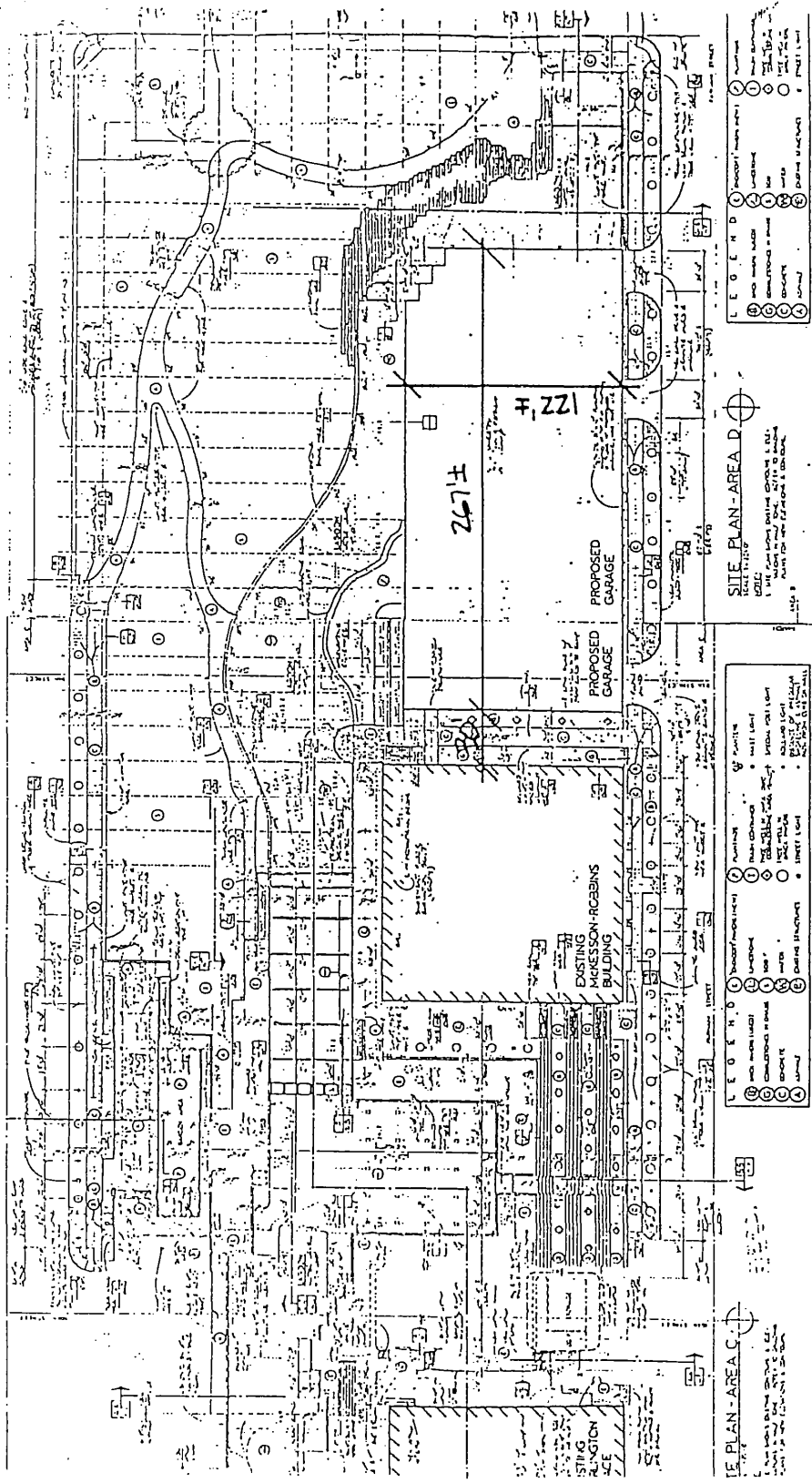
Lots 7 and 8, Block 124, Original City of Omaha, Douglas County, Nebraska

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(EXHIBIT B-1)

PARKING GARAGE LOCATION



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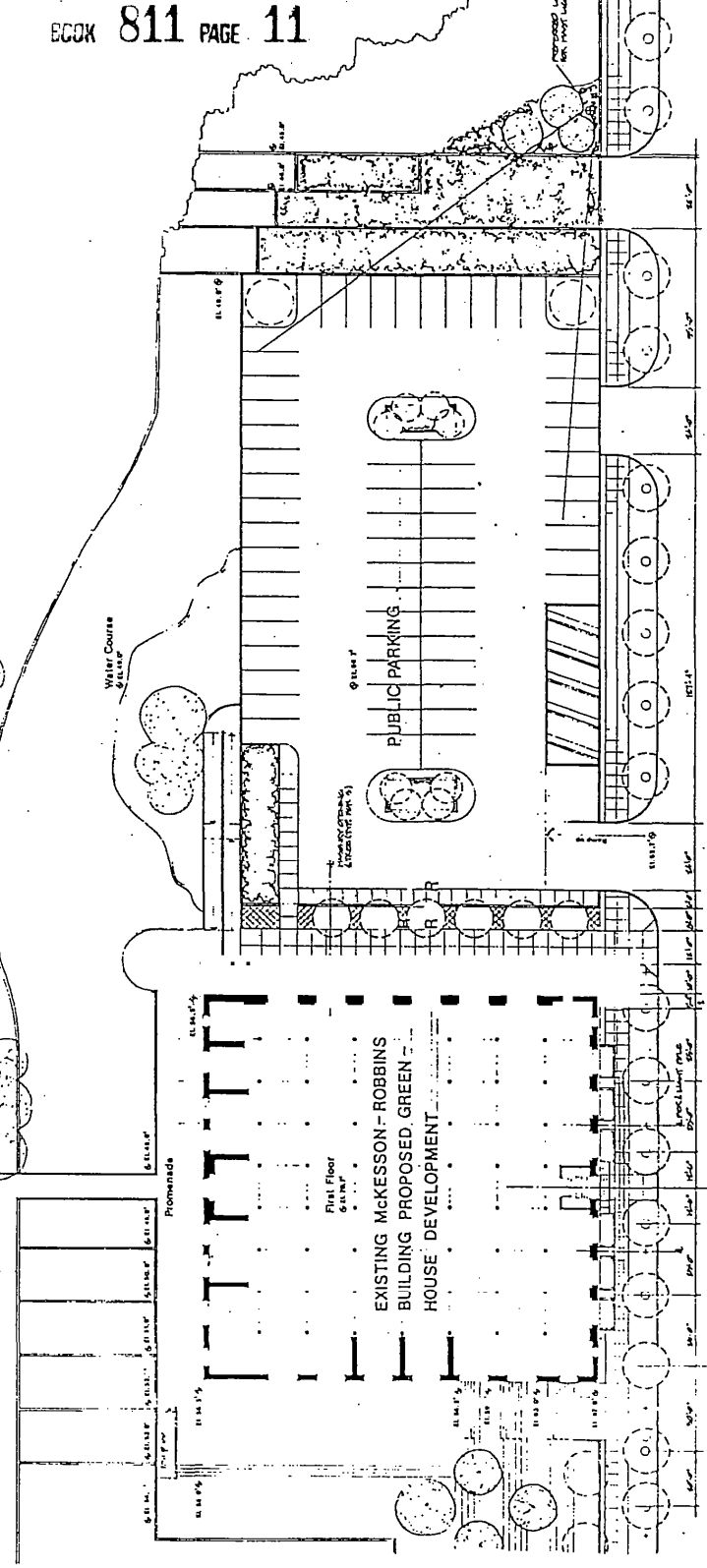
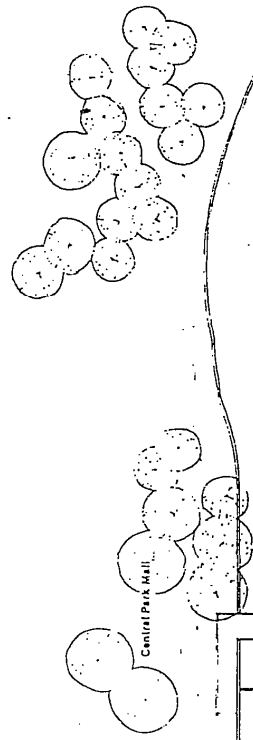


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Parking Deck Plan

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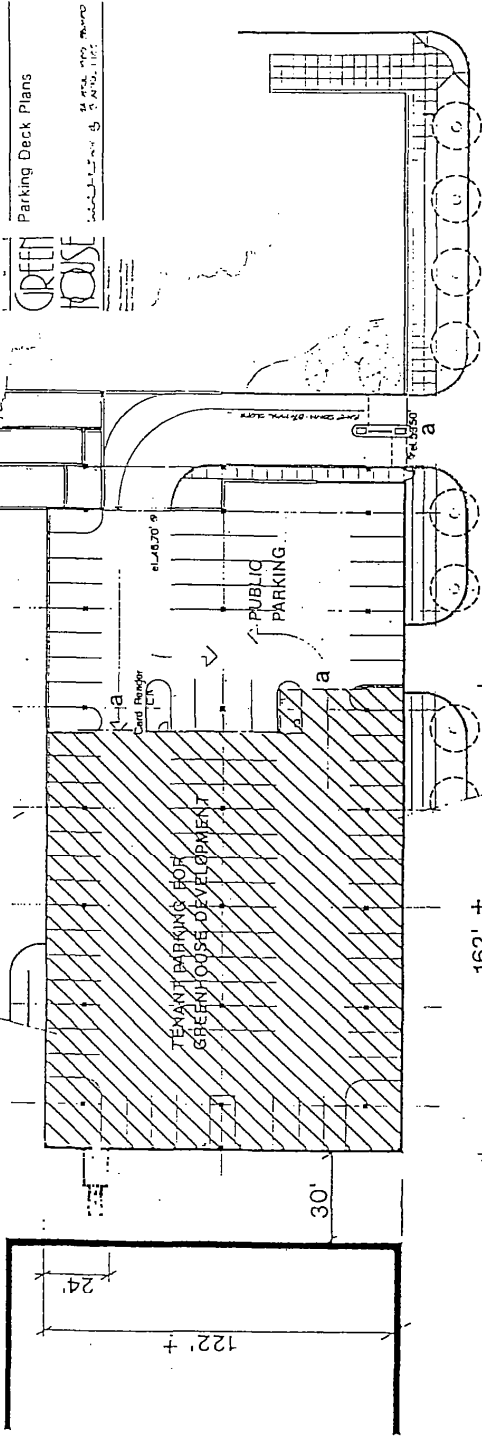


Furness Street

UPPER LEVEL



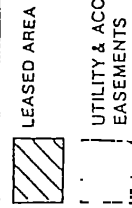
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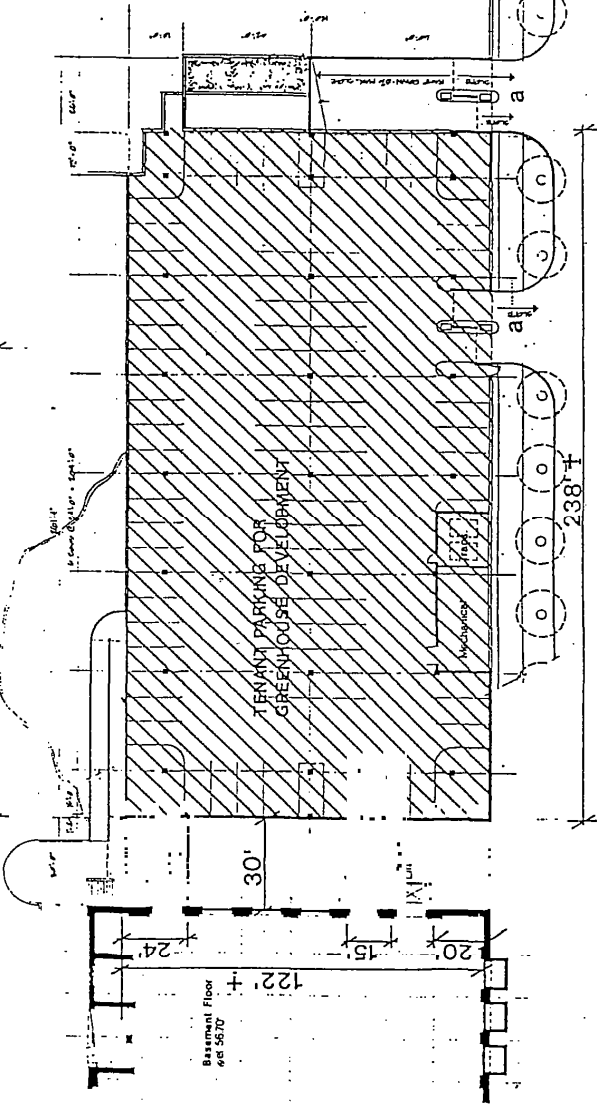
LOWER LEVEL

- a. LOCATION OF SECURED ACCESS: AUTOMATIC CONTROL WITH OVER-HEAD DOORS OR GRILLES.

LEGEND



MIDDLE LEVEL



PARKING LEASE

THIS AGREEMENT made this ____ day of _____, 1985, by and between THE CITY OF OMAHA, a municipal corporation, hereinafter referred to as "City" and FARNHAM ACQUISITIONS, INC., a Michigan corporation, of Ann Arbor, Michigan, its affiliates, and/or assigns, hereinafter referred to as "Developer".

WHEREAS, Developer has acquired and is rehabilitating that building in the City of Omaha known as the McKesson-Robbins Building;

WHEREAS, the City shall construct a parking garage (hereinafter referred to as "Parking Garage") on property adjacent to the McKesson-Robbins Building;

WHEREAS, the City desires to make available to Developer, and Developer desires to accept, a leasehold interest in a portion of said Parking Garage on terms and conditions more particularly set forth below.

NOW, THEREFORE, in consideration of the mutual covenants and other valuable consideration set forth herein, it is agreed between the parties that the City does hereby let and lease unto Developer, and Developer leases from the City those certain premises ("leased premises") in the Parking Garage, upon the following terms and conditions:

1. LEASED PREMISES. The leased premises are designated in Exhibits B-1 and B-2, being the location and dimension sketches for the Parking Garage. The City shall construct and operate the Parking Garage in the manner contemplated by this Lease and that Redevelopment Agreement between the City and Developer. The right to install, maintain, use, repair and replace pipes, ductwork, conduits, utility lines and wires through ceiling space, column space, and partitions, in or beneath the floor slab or above or below the leased premises or other parts of the Parking Garage, is reserved to the City, except that City shall not unreasonably interfere with or interrupt the use of the leased premises for parking. The leased premises shall be delivered to Developer in broom clean condition. Developer shall, at that time, execute, acknowledge, and deliver to City and/or City's lenders a written acceptance/certificate with respect to the leased premises in form and substance acceptable to the City.

2. PARKING GARAGE.

(a) The outside dimensions of the Parking Garage shall be approximately 122 feet in the north-south direction and 267 feet in the east-west direction in accordance with the site plan set forth as an exhibit hereto.

(b) There shall be a 30 foot separation between the McKesson-Robbins Building and the Parking Garage that shall be used for fire access to the building and a pedestrian link to the Central Park Mall.

(c) The northeast corner of the Parking Garage shall be stepped to accommodate the waterway extension in the Central Park Mall

(d) The facade of the Parking Garage shall be compatible with the materials to be used in the remaining two blocks of the Central Park Mall.

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(e) The Parking Garage shall have a minimum of 233 stalls, of which a minimum of 93 shall be reserved for public use and a minimum of 140 stalls shall be reserved for use of the McKesson-Robbins Building.

(f) The Parking Garage shall provide space for the installation of electrical transformers for the Omaha Public Power District to serve the McKesson-Robbins Building and Parking Garage, as necessary to comply with the District's standards and service regulations. The costs of the transformers that serve the McKesson-Robbins Building shall be paid by the Developer.

(g) The Parking Garage shall be built in three levels, each gaining access from Farnam Street. The lowest level shall provide parking for both McKesson-Robbins Building and the public, as indicated on the enclosed sketches and drawings. The middle level shall provide parking for the McKesson-Robbins Building only. The top level shall provide public parking only and shall include appropriate landscaping to make the view from the upper levels of the McKesson-Robbins Building aesthetically pleasing. (See Exhibit B-2)

(h) The cost of any enclosed pedestrian link from the Parking Garage to the McKesson-Robbins Building shall be paid by the Developer.

(i) The Developer shall reserve the right to place mechanical equipment necessary to serve the McKesson-Robbins Building within the Parking Garage. The Developer shall pay the cost of such equipment and shall be responsible for its maintenance, repair, and replacement. The location of such equipment is as per Exhibit B-2, or if the Developer desires to change the equipment location, such change must be agreeable to the Planning Director.

3. TERM. The term shall be for a period of ninety-nine (99) years, plus such additional number of days as are required to cause the term to expire on the last day of the last month of the term. The term shall commence upon delivery and acceptance by Developer of possession of the leased premises from the City.

4. RENTAL AND OTHER CHARGES. Developer shall pay rental and other charges to the City as follows:

(a) Developer shall make a one time rental payment to City in the total lump sum of \$300,000.00. Payment shall be made at the time that title to the McKesson-Robbins Building shall be delivered by the City to the Developer.

(b) Developer shall pay promptly when due as additional rent, Developer's real estate taxes attributable to the leased premises, which are exclusive of the common areas in and about the Parking Garage.

The term "real estate taxes" shall mean all taxes and assessments (special or otherwise) levied or assessed against the leased premises and other taxes arising out of the use and/or occupancy of the leased premises imposed by federal, state or local governmental authority or any other taxing authority having jurisdiction over the Parking Garage.

(c) All common areas and other common facilities (hereinafter collectively called "common areas") made available by City in or about the



Parking Garage shall be subject to the control and management of City expressly reserving to City, the right to erect and install within the common areas, kiosks, planters, sculpture, or other improvements and/or amenities. Common areas (as initially constructed or as the same may at any time thereafter be enlarged) shall mean all areas, space, facilities, equipment, signs and special services from time to time made available by City for the common and joint use and benefit of City, Developer and other tenants or users of the Parking Garage, and their respective employees, agents, subtenants, concessionaires, licensees, customers and invitees. Notwithstanding the foregoing, (a) additional levels shall not be added to the Parking Garage and (b) common areas shall not be reduced without prior consent of Developer.

City hereby expressly reserves the right from time to time, to establish, modify and enforce reasonable rules and regulations with respect to the common areas and the use to be made thereof. City shall operate, manage, equip, light and maintain the common areas in such a manner as City may from time to time determine in keeping with the aesthetics, safety and the use of the structure as a Parking Garage. Developer is hereby given a license (in common with all others to whom City has or may hereafter grant rights) to use during the term hereof the common areas of the Parking Garage as they may now or at any time during the term exist. City shall maintain the common areas in first class condition and repair.

Lighting fixtures for the leased premises, which will be on a separate electric meter, are included in the Parking Garage building costs as are the cost of the overhead doors and card vendors. Selection specifications and locations of all such items shall be approved by Developer.

The City shall at all times provide direct access to the leased premises which shall not be separated by any obstruction whatsoever excepting only such temporary barriers as may be reasonably necessary during repairs. Notwithstanding the foregoing, all entrances and exits to the leased premises will be secured by automatic opening and closing overhead door barriers actuated by card reading identification devices for the exclusive use by Developer and his employees, agents, licensees, tenants, and owners.

5. CONDITION OF PREMISES. City represents and warrants that the leased premises shall be constructed in good workmanlike condition and be fit for the purpose of parking.

6. USE OF LEASED PREMISES; SIGNAGE. Subject to and in accordance with all rules, regulations, laws, ordinances, statutes and requirements of all governmental authorities, the Fire Insurance Rating Organization, the Board of Fire Insurance Underwriters and City's Insurance Carrier, Developer shall use the leased premises for parking and such other accessory uses as Developer may deem appropriate.

The Developer is extended the right to erect informational and directional signage on the exterior and interior of the Parking Garage and common areas as may be necessary. The location, size and design of any such signage must be approved by the Director of the Planning Department prior to the installation of such signage outside of the leased premises or in any location visible from outside the leased premises.



7. INSURANCE REQUIRED. Developer shall obtain and provide, on or before the earlier of the commencement of the term or Developer's entering the leased premises on a continuing basis, and keep in force at all times thereafter, the following insurance coverage with respect to the leased premises: comprehensive public general liability insurance relating to the leased premises and its appurtenances with a minimum single limit of One Million (\$1,000,000) Dollars in any one occurrence. Such policies shall name City as an additional named insured. Neither City nor Developer shall be liable to the other for any damage by fire or other peril, no matter how caused, includable in the coverage afforded by any insurance policy carried by either party.

City shall have fire and extended coverage insurance in an amount equal to at least the then-current market value of the entire parking structure, in order to restore such parking structure in the event of damage or destruction. The insurance policy shall include an automatic valuation increase provision.

8. REPAIRS AND MAINTENANCE. City shall promptly make necessary structural repairs to the leased premises and shall maintain the landscaping, snow removal of all driveway entrances to all three parking levels, painting and janitorial services such as cleaning and sweeping for the common areas, public parking spaces, exterior of the building, and building grounds. The Developer shall pay for the separately metered electricity for the leased premises and shall be responsible for janitorial services, minor equipment replacement, painting and other incidentals for and upon leased premises.

9. DAMAGE, DESTRUCTION OR CONDEMNATION OF THE LEASED PREMISES.

(a) If all or any part of the leased premises shall be damaged or destroyed by fire or other casualty covered by City's insurance policy, the Lease shall continue in full force and effect and City shall repair, restore or rebuild the leased premises to their condition prior to the occurrence of the loss, to the extent that such insurance proceeds allow.

In the event that the premises are rendered unusable for purpose of service to the McKesson-Robbins Building occupants, in whole or part, by reason of fire or other casualty, whether covered by the City's insurance policy or not, the City shall make best efforts to provide the Developer with alternative parking accommodations. Best efforts shall be defined as providing temporary, reserved parking without expense to the Developer in any usable parking stalls remaining in the Parking Structure and not otherwise subject to a previous lease agreement, and along Farnam and Douglas Street between Eighth and Tenth Streets; and assisting the Developer in securing additional parking if needed. This provision shall be void if the event rendering the leased premises unusable (1) originated within boundaries of such leased area and (2) resulted in the invalidation of insurance coverage. Developer shall be provided, at no expense to it, alternative parking accommodations by the City in the remainder of the Parking Garage or in very close proximity to the Parking Garage for the benefit of the McKesson-Robbins Building occupants, during any period of repair, construction or reconstruction ("interim period"). Such alternative parking shall be provided within seven days following the event rendering the leased premises unusable for purpose.

7. INSURANCE REQUIRED. Developer shall obtain and provide, on or before the earlier of the commencement of the term or Developer's entering the leased premises on a continuing basis, and keep in force at all times thereafter, the following insurance coverage with respect to the leased premises: comprehensive public general liability insurance relating to the leased premises and its appurtenances with a minimum single limit of One Million (\$1,000,000) Dollars in any one occurrence. Such policies shall name City as an additional named insured. Neither City nor Developer shall be liable to the other for any damage by fire or other peril, no matter how caused, includable in the coverage afforded by any insurance policy carried by either party.

City shall have fire and extended coverage insurance in an amount equal to at least the then-current market value of the entire parking structure, in order to restore such parking structure in the event of damage or destruction. The insurance policy shall include an automatic valuation increase provision.

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The Parking Garage shall be rebuilt by the City on the original site with approximately the same accommodations provided to Developer and the public, to the extent that funds are available.

(b) The City shall not utilize its powers of eminent domain to take or otherwise adversely affect the leased premises. If the entire leased premises shall be appropriated or taken under the power of eminent domain by any public authority other than City, or conveyance shall be made in lieu thereof, the City's obligation to provide parking substantially in the manner set forth herein shall continue and the City, at no expense to Developer, shall provide alternative parking in very close proximity to the McKesson-Robbins Building which shall be satisfactory to Developer.

If a portion of the leased premises is taken, or conveyance made in lieu thereof, Developer may at its sole option terminate this Lease on thirty (30) days written notice. If this lease is not terminated, City shall, at its own expense, restore the remaining portion of the leased premises to a single architectural unit with all the useable parking area being made available first to Developer up to such area reasonably corresponding to the leased premises.

Notwithstanding anything to the contrary contained herein, in the event of a partial or total taking, Developer, at no expense to it, shall be provided alternative parking accommodations in the remainder of the Parking Garage or in very close proximity to the Parking Garage for the benefit of the McKesson-Robbins Building during any period of construction or reconstruction. Such alternative parking shall be provided within a reasonable time following the taking or partial taking. During the interim period, Developer may make temporary arrangements which shall be paid for by the City until City provides alternative parking reasonably satisfactory to Developer. The Parking Garage shall be replaced by the City on an adjacent site with approximately the same accommodation provided to the Developer and the public.

10. FINANCING. Developer shall, upon the request of City and/or the holder of any revenue bond, deed of trust or mortgage on the Parking Garage, execute and deliver such instruments as may be required by City and such holder to make this lease subordinate to any revenue bond, deed of trust or mortgage now or hereafter placed upon City's interest in the leased premises. Developer hereby attorns to any purchaser at a foreclosure sale or sale in lieu of foreclosure, and agrees to execute all agreements required by any such purchaser affirming such attornment. However, notwithstanding the foregoing, this lease shall remain in effect in the same form and substance for the entire lease term unless otherwise agreed in writing by the parties. The City shall include the foregoing statement of priority and continuance of lease in any loan agreement or other agreement filed or recorded with the County of Douglas or the State of Nebraska.

Upon the request of Developer, the City shall allow mortgagees and secured creditors of Developer to enter upon the Parking Garage and the leased premises from time to time to inspect and secure their security and not restrain or interfere with such mortgagees and secured parties from pursuing any remedy available to them under the Uniform Commercial Code.



11. DEFAULT. If Developer defaults in fulfilling any of the covenants of this Lease, City may give Developer notice thereof.

(a) If Developer shall not have cured its default within sixty (60) days following receipt of notice thereof, City may commence appropriate proceedings at law. Provided, however, that notwithstanding such actions or proceedings, City may not terminate this lease for any reason whatsoever.

(b) The failure of City to insist upon strict performance of any of the terms, conditions and covenants herein shall not be deemed to be a waiver of any subsequent breach or default in the terms, conditions and covenants herein contained except as may be expressly waived in writing.

(c) The City shall complete construction of the Parking Garage prior to the initial occupancy of the McKesson-Robbins Building.

12. EASEMENTS. Easements are hereby granted to Developer for both vehicular/personnel access and utilities access as set forth in the various Exhibits.

13. OTHER PROVISIONS. It is specifically understood and agreed that there shall be no personal liability by City or Developer or their respective assigns in respect to any of the covenants, conditions or provisions of this Lease. In the event of a breach or default by City or Developer in any of their obligations under this Lease, the non-breaching/defaulting party shall look solely to the rights of the other party in and to the Parking Garage for satisfaction.

(a) City shall not be liable for any injury or damage to persons or property on the leased premises resulting from any cause of whatsoever nature.

(b) Developer may convey this lease to others. Any assignee or subtenant of Developer shall assume Developer's obligations hereunder and deliver to City an assumption agreement in form reasonably satisfactory to City within ten (10) days after the effective date of the assignment. By its execution hereof, City does specifically consent to the assignment by Developer when made, of its rights hereunder to the owners and tenants of the McKesson-Robbins Building whether individually, as a condominium association or otherwise.

(c) At the expiration of the tenancy hereby created, Developer shall surrender the leased premises in the same condition as the leased premises were in upon delivery of possession thereof to Developer, reasonable wear and tear excepted, and damage by unavoidable casualty excepted to the extent that the same is covered by City's fire insurance policy.

(d) Whenever notice shall or may be given to either of the parties by the other, each such notice shall be by private courier service (i.e., Federal Express or equivalent) or by certified mail with return receipt requested, at the respective addresses of the parties as contained herein or to such other address as either party may from time to time designate in writing to the other or delivered personally.

(e) Developer warrants and represents that no broker was involved on its behalf in negotiating or consummating this lease, and agrees to indemnify and hold City harmless from and against any and all claims for

brokerage commissions arising out of any communications or negotiations had by Developer with any broker regarding the leased premises or the consummation of this lease.

(f) Except as otherwise noted herein, this lease contains all of the agreements between the parties hereto, and it may not be modified in any manner other than by agreement in writing signed by all the parties hereto or their successors in interest. The terms, covenants, and conditions contained herein shall inure to the benefit of and be binding upon City and Developer and their respective successors and assigns, except as may be otherwise expressly provided in this lease.

(g) Nothing contained in this lease shall be deemed or construed as creating the relationship of principal and agent or of partnership or joint venture between the parties hereto, it being understood and agreed that neither the method of computing rent nor any other provision contained herein nor any acts of the parties hereto shall be deemed to create any relationship between the parties other than that of landlord and lessee.

(h) If any term or provision of this lease or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this lease, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Lease shall be valid and be enforced to the fullest extent permitted by law.

(i) The captions contained herein are for convenience and reference only and shall not be deemed a part of this Lease or construed in any manner limiting or amplifying the terms and provisions of this Lease to which they relate.

14. IMPROVEMENTS BY DEVELOPER. Developer may from time to time (if Developer shall not be in default), at its own expense, alter, renovate or improve only the interior of the leased premises, provided that the same be performed in a good and workmanlike manner, in accordance with acceptable building practices and applicable laws, and so as not to weaken or impair the structural strength or lessen the value of the Parking Garage in which the leased premises is located. Any such alteration, renovation or improvement must receive the prior approval of the Planning Director. Such approval shall not be unreasonably withheld. Such approval shall be deemed granted five (5) business days following submission of the alteration, etc., plan unless Developer is notified to the contrary by Planning Director within such period.



IN WITNESS WHEREOF, City and Developer have duly executed this lease as of the day and year first above written, each acknowledging receipt of an executed copy hereof.

IN THE PRESENCE OF:

Mary Kullgren)
_____)
_____)

Carol A. Howard)

Jannet Halado)

CITY OF OMAHA
"City"

By: Michael Boyle 11/1/85

Its:

FARNHAM ACQUISITIONS, INC.
"Developer"

By: Herbert M. Schneider
Herbert M. Schneider

Its: President

~~COPY~~



EXHIBIT "D"

EQUAL EMPLOYMENT OPPORTUNITY CLAUSE

CITY OF OMAHA

During the performance of this contract, the contractor agrees as follows:

- (1) The Contractor shall not discriminate against any employee applicant for employment because of race, religion, color, sex or national origin. The Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, sex or national origin. As used herein, the word "treated" shall mean and include, without limitation, the following: Recruited, whether advertising or by other means; compensated; selected for training, including apprenticeship; promoted; upgraded; demoted; downgraded; transferred; laid off; and terminated.

The Contractor agrees to and shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officers setting forth the provisions of this nondiscrimination clause.
- (2) The Contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex or national origin.
- (3) The Contractor shall send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding a notice advising the labor union or worker's representative of the Contractor's commitments under the equal employment opportunity clause of the City and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The Contractor shall furnish to the contract compliance officer all federal forms containing the information and reports required by the federal government for federal contracts under federal rules and regulations, and including the information required by Sections 10-192 to 10-194, inclusive, and shall permit reasonable access to his records. Records accessible to the contract compliance officer shall be those which are related to Paragraphs (1) through (7) of this subsection and only after reasonable notice is given the Contractor. The purpose for this provision is to provide for investigation to ascertain compliance with the program provided for herein.
- (5) The Contractor shall take such actions with respect to any Subcontractor as the City may direct as a means of enforcing the provisions of Paragraphs (1) through (7) herein, including penalties and sanctions for noncompliance; however, in the event the Contractor becomes involved in or is threatened with litigation as the result of such directions by the City, the City will enter into such litigation as necessary to protect the interests of the City and to effectuate the



provisions of this division; and in the case of contracts receiving federal assistance, the Contractor or the City may request the United States to enter into such litigation to protect the interests of the United States.

- (6) The Contractor shall file and shall cause his Subcontractors, if any, to file compliance reports with the Contractor in the same form and to the same extent as required by the federal government for federal contracts under federal rules and regulations. Such compliance reports shall be filed with the contract compliance officer. Compliance reports filed at such times as directed shall contain information as to the employment practices, policies, programs and statistics of the Contractor and his Subcontractors.
- (7) The Contractor shall include the provisions of Paragraphs (1) through (7) of this Section, (Equal Employment Opportunity Clause"), and Section 19 - 193 in every subcontract or purchase order so that such provisions will be binding upon each Subcontractor or vendor.

EXHIBIT "E"

PUBLIC IMPROVEMENTS

- A. The public improvements to be included pursuant to the issuance of a TIF bond described in Section 2.3 of this Agreement are as follows: (1) The sidewalk, including granite curb, brick pavers, light fixtures, and street trees on the north side of Farnam Street between 10th and 8th Streets. (2) The lagoon, in accordance with the current plans for the Central Park Mall to the first weir northwest of the McKesson-Robbins Building. (3) All of the plaza area south of the lagoon between the Burlington Building and the McKesson-Robbins Building. This will include the walls, brick plaza, ramps, light fixtures, steps, grass terraces, water source, landscaping and related mechanical and electrical systems to serve this area. The public improvements are within the area indicated on the drawing labeled Exhibit "E-1".
- B. The public improvements to be included pursuant to Sections 3.9 and 3.10 of this Agreement are as follows: (1) Construction of the Parking Garage as described in Exhibits B-1, B-2, and B-3 within the area indicated on the drawing labeled Exhibit "E-1".

(EXHIBIT "F")

LEGAL DESCRIPTION:

That area located in the NW 1/4 of Section 23, Township 15, Range 13, and the NE 1/4 of Section 22, Township 15, Range 13 of the 6th P.M., Douglas County, Nebraska; being bounded on the north by the center line of Douglas Street, on the south by the center line of Farnam Street, on the east by the center line of 8th Street, and on the west by the west right-of-way line of 10th Street; and including Lots 1-8, Block 124 and Lots 1-8, Block F, Original City of Omaha, Douglas County, Nebraska.

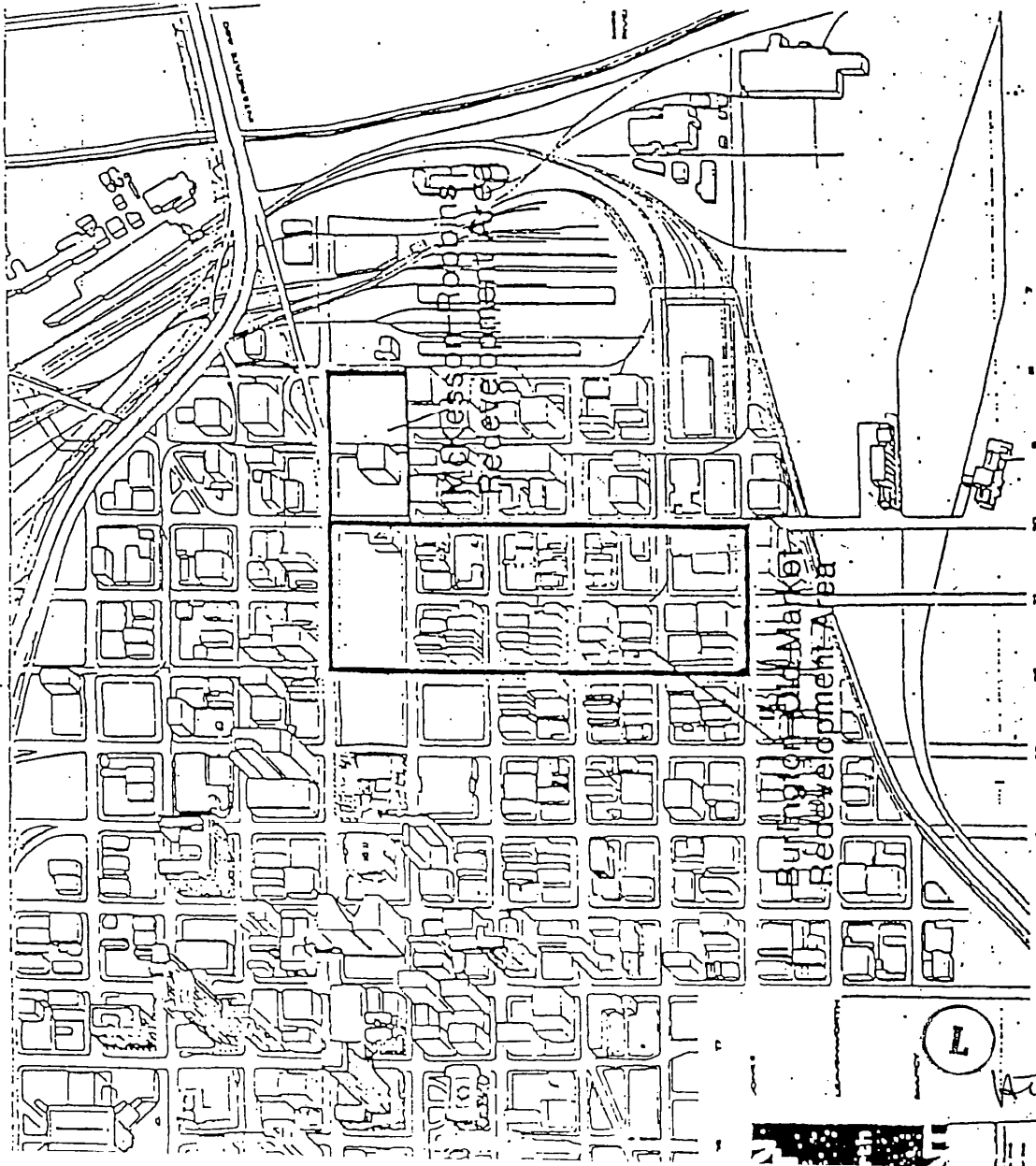


EXHIBIT "H"

NOTE AND LOAN AGREEMENT

TRANSFER HEREOF SHALL BE REGISTERED ON THE REGISTRATION BOOKS OF THE CITY
COMPTROLLER OF THE CITY OF OMAHA, NEBRASKA

\$400,000

Omaha, Nebraska
198__

THE CITY OF OMAHA, a Nebraska municipal corporation (herein referred to as the "City"), for value received, hereby promises to pay to the order of Farnham Acquisitions, Inc., or its assignees (herein referred to as "Lender") or holder at such place as Lender or holder may hereafter designate, the principal sum of \$400,000, in lawful money of the United States on _____, 2000 and to pay interest in like money from the date hereof on the unpaid principal balance hereof at a per annum rate of thirteen (13%) percent on the 1st day of July of each year, commencing 1986, in the manner set forth below, until such unpaid principal balance shall be due and payable (whether at maturity or otherwise). Interest shall be calculated on the basis of a 365-day year convention.

The obligation of the City to pay as set forth above shall be subject to and in accordance with the following terms and conditions:

- (a) This Note is a limited obligation of the City payable solely from a portion of the revenues and receipts derived from the excess ad valorem taxes in the McKesson-Robbins Redevelopment Plan Area pursuant to the schedule attached hereto as Exhibit A.
- (b) Commencing January 1, 1987, the City shall make its annual interest payment to holder within thirty (30) days of receipt of the annual tax bill in amount equivalent to the difference in taxes assessed in such year upon The Greenhouse Project within the Redevelopment Plan Area and the greater sum of Ninety Thousand (\$90,000.00) Dollars (the "Base Sum") or that amount necessary to make interest payments, including accumulated interest, current on the loan referred to in Section 2.3 of the Redevelopment Agreement. Commencing January 1, 1987, in no case shall the average annual interest payment exceed \$90,000 during the remainder of this loan. In no event shall the City be obligated to make any payment to the holder in any year during which the taxes assessed do not exceed the Base Sum.
- (c) To the extent less than all interest due in any year remains unpaid after application of sums payable under Paragraph (b) hereof, such interest shall accrue to principal.
- (d) This Note may be prepaid in part or in full at the option of the City with prior written consent of the holder.



- (e) This Note and obligation is specifically subordinated to the TIF Bonds referred to in the Redevelopment Agreement for The Greenhouse Project to the extent that principal and accumulated interest on those Bonds are owed, but not as to any prepayment. In no event shall the TIF Bonds be prepaid without the prior written consent of holder.
- (f) Notwithstanding anything to the contrary herein contained, the City's obligation to make interest payments hereunder shall remain unaffected by any prepayments or acceleration of the TIF Bonds.
- (g) After payment of such taxes which were assessed through _____, 2000, this Note and obligation shall terminate, including accumulated interest to that date.

So long as this Note shall remain outstanding, the City or the City Comptroller shall maintain and keep, at its principal office, books for the registration of and transfer of the Note, which at all reasonable times shall be open for inspection by the Lender; and upon proper presentation for transfer at the principal office of the City Comptroller, the City Comptroller shall register the transfer of the Note in such books, under such reasonable regulations as it may prescribe. The transfer of this Note shall be registered upon the registration books of the City Comptroller at the written request of the holder thereof or his attorney duly authorized in writing, upon surrender thereof at the principal office of the City Comptroller, together with a written instrument of transfer satisfactory to the City Comptroller duly executed by the holder or his duly authorized attorney. Upon the registration of transfer of this Note, the City shall issue, in the name of the transferee, a new registered Note in the same aggregate and then outstanding principal amount as the surrendered Note.

The City and the City Comptroller may deem and treat the holder of the registered Note as the absolute owner of the Note whether such Note shall be overdue or not, for the purpose of receiving payment of, or on account of the principal of and interest on, or the purchase price of, such Note and for all other purposes, and neither the City nor the City Comptroller shall be affected by any notice to the contrary. All such payments so made to any such holder or upon his order shall be valid and effectual to satisfy and discharge the liability upon such Note to the extent of the sum or sums so paid.

In all cases in which the privilege of exchanging or registering the transfer of the Note is exercised, the City shall execute and deliver the same in accordance with the provisions hereof. For every such exchange or registration of transfer of the Note, the City or the City Comptroller may make a charge sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such exchange or registration of transfer, which sum or sums shall be paid by the person requesting such exchange or registration of transfer as a condition precedent to the exercise of the privilege of making such exchange or registration of transfer.



This Note shall be deemed to be made under and shall be construed in accordance with and governed by the laws of the State of Nebraska.

CITY OF OMAHA, A Municipal Corporation

By: _____

Title: _____

ACCEPTED BY HOLDER:

By: _____

Title: _____

Approved as to form:

Charles K. Bungler
City Attorney

STATE OF NEBRASKA)
)
OFFICE OF THE AUDITOR) SS.
)
OF PUBLIC ACCOUNTS)

1987 APR 10 PM 1:58
RECEIVED
GEORGE J. BUGLEWICZ
REGISTER OF DEEDS
DOUGLAS COUNTY, NEBR.

6588 Miae H

I, the undersigned, Auditor or Deputy Auditor of Public Accounts of the State of Nebraska, do hereby certify that the within Term Revenue Note and Loan Agreement has been presented to me, together with a duly certified transcript of all proceedings had previous to the issuance thereof, and that I have examined the within Note and said proceedings and am satisfied that said Note has been regularly and legally issued and has been registered in my office in accordance with the provisions of the Reissue Revised Statutes of Nebraska, 1943, (the data filed in my office being the basis of this certificate).

WITNESS my hand and seal of office this _____ day of _____, 1985.

Auditor or Deputy Auditor
of Public Accounts

[Seal]

BK 811 N 9-370/371 KP C/O FEE 146.50
PG 1-29 N 9-1 DEL MC B.C.
OR [Signature] COMP [Signature] F/B 03-8000

