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PATRICK F GILL, AUDITOR AND RECORDER
WOODBURY COUNTY IOWA

Type of Document:

First Amendment to Operation and Easement Agreement

Return Document to:

Max J. Burbach
Koley Jessen P.C.
1125 South 103 Street, Suite 800
Omaha, NE 68124
(402) 390-9500

Preparer Information:

Max J. Burbach
Koley Jessen P.C.
1125 South 103 Street, Suite 800
Omaha, NE 68124
(402) 390-9500

OEA Parties:

Lakeport Commons, L.L.C.
16820 Frances Street, Suite 102
Omaha, Nebraska 68130

Kohl's Department Stores, Inc.
N56 W17000 Ridgewood Drive
Menomonee Falls, Wisconsin 53051

Legal Description:

Lots 1, 2, 3, 4, 5 and 6, TOGETHER WITH Outlots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11 of the Final Plat of Lakeport Commons – an addition to the City of Sioux City, Woodbury County, Iowa,

Except that portion of Lot 1 conveyed to the City of Sioux City, Iowa, described as follows:

Commencing at the northeast corner of said Lot 1; thence South 88°08'44" West along the north line of said Lot 1 for a distance of 461.52 feet to the east line of Old Lakeport Road and the Point of Beginning; thence South 03°45'37" East for a distance of 25.37 feet; thence South 86°14'23" West for a distance of 126.17 feet; thence North 03°45'37" West for a distance of 33.08 feet to the perimeter of said Lot 1; thence North 27°20'00" East for a distance of 116.04 feet to the west line of Old Lakeport Road; thence N 88°20'07" East for a distance of 33.00 feet to the center line of Old Lakeport Road; thence South 03°45'37" East along said centerline for a distance of 104.76 feet; thence North 88°08'44" East for a distance of 33.28 feet to the Point of Beginning.

FIRST AMENDMENT TO OPERATION AND EASEMENT AGREEMENT

THIS FIRST AMENDMENT TO THE OPERATION AND EASEMENT AGREEMENT ("Amendment") is made and entered into as of the 30TH day of June, 2006, by and between **KOHL'S DEPARTMENT STORES, INC.**, a Delaware corporation, having its principal place of business at N56 W17000 Ridgewood Drive, Menomonee Falls, Wisconsin 53051 ("Kohl's"), and **LAKEPORT COMMONS, L.L.C.**, an Iowa limited liability company, having its principal place of business at 16820 Frances Street, Suite 102, Omaha, Nebraska 68130 ("Developer").

WITNESSETH

WHEREAS, Kohl's and Developer are parties to that certain Operation and Easement Agreement dated March 11, 2005 and recorded May 24, 2005 at Roll 675, Image 2002, as Document No. 18989 with the Recorder of Woodbury County, Iowa (the "OEA") pursuant to which Kohl's and Developer agreed to certain terms and conditions relating to the development and operation of the Shopping Center, as defined in the OEA; and

WHEREAS, GMRI, Inc., a Florida corporation ("GMRI") intends to purchase from Developer Outlot 5 and a portion of Outlot 6, as described on Exhibit "A" attached hereto, and incorporated herein (the "Property"); and

WHEREAS, GMRI has requested this Amendment to the OEA; and

WHEREAS, Kohl's and Developer desire to amend the OEA as set forth herein.

NOW, THEREFORE, in consideration of the above premises and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. All terms contained herein with an initial capitalized letter which are not otherwise defined herein shall have the same meaning ascribed to them in the OEA.
2. Exhibit "C" to the OEA, "Legal Description of the Outlot Tracts", is hereby deleted and replaced with the attached Exhibit "C".
3. Exhibit "X" to the OEA, "Site Plan", is hereby deleted and replaced with the attached Exhibit "X".
4. From and after the date hereof, the Property will be considered "Outlot 5" for purposes under the OEA and will be treated as a single lot for, among other things, meeting the parking requirements under Section 4.2 of the OEA.
5. For as long as GMRI is owner of the Property, and maintains a minimum net worth of \$100,000.00, then to the extent it is not carrying any of the coverage described in Section 10.3(a) of the OEA, GMRI is permitted to provide such coverage for the Property pursuant to an informal plan of self insurance.
6. With respect to the requirements of Section 10.4(b) of the OEA, for as long as GMRI is owner of the Property, and maintains a minimum net worth of \$100,000,000.00, it shall be acceptable for GMRI to have a deductible in excess of \$50,000.00 and to provide coverage for that excess deductible through an informal plan of self insurance.

7. This Amendment is not intended to supersede or amend the OEA except as specifically set forth herein.

[The Remainder of this Page Intentionally Left Blank.]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

KOHL'S DEPARTMENT STORES, INC.,
a Delaware corporation

By: 

see Michael D. Distel
Sr. Vice President of Real Estate

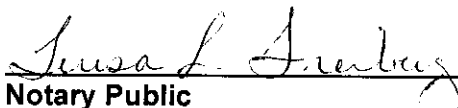
Attest: 

Richard D. Schepp
Secretary

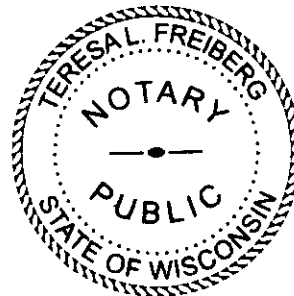
STATE OF WISCONSIN)
)
COUNTY OF WAUKESHA) SS.

I, Teresa L. Freiberg, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Michael D. Distel and Richard D. Schepp, personally known to me to be the Sr. Vice President of Real Estate and Secretary, respectively, of KOHL'S DEPARTMENT STORES, INC., a Delaware corporation, whose names are subscribed to the within instrument, appeared before me this day in person and acknowledged that they signed and delivered said instrument of writing as such officers, as their free and voluntary act and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal, this 30th day of June, 2006.



Notary Public

My Commission Expires: 9-14-08



IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

LAKEPORT COMMONS, L.L.C.,
an Iowa limited liability company

By: 
Jeffrey W. Johnson
Manager

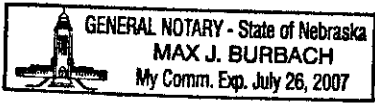
STATE OF NEBRASKA)
)
COUNTY OF DOUGLAS) SS.

I, Max J. Burbach, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Jeffrey W. Johnson, personally known to me to be the Manager of LAKEPORT COMMONS, L.L.C., an Iowa limited liability company, whose name is subscribed to the within instrument, appeared before me this day in person and acknowledged that he signed and delivered said instrument of writing as such officer, as his free and voluntary act and as the free and voluntary act and deed of said limited liability company, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal, this 3 day of July, 2006.


Notary Public

My Commission Expires:



JOINDER

The undersigned, FIRST NATIONAL BANK OF OMAHA (the "Lender"), is the holder of a Mortgage, Security Agreement and Assignment of Rents and Leases, given by Lakeport Commons, L.L.C., dated June 9, 2005, recorded June 13, 2005, as Document No. 20083, records of Woodbury County, Iowa, which cover all or certain parts of the property described in the above and foregoing Declaration of Use Restriction. As such, Lender hereby consents to the above and foregoing First Amendment to Operation and Easement Agreement and agrees to recognize and be bound by the terms set forth therein.

FIRST NATIONAL BANK OF OMAHA

By: Eric W. Musjerd
Name: Eric W. Musjerd
Title: J.P.

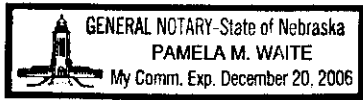
STATE OF Nebraska)

) SS:

COUNTY OF Douglas)

Now on this 6 day of July, 2006, before me, the undersigned, a Notary Public, in and for the County and State aforesaid, came ERIC W. MUSJERD, the Vice President of First National Bank of Omaha, a _____, who is personally known to me to be the same person who executed in such capacity the within instrument on behalf of said company, and who duly acknowledged the execution of the same to be the act and deed of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.



Pamela M. Waite

Notary Public

My Commission Expires: _____

Notary Seal

Exhibit "A"
The Property

Outlot 5 of Lakeport Commons, according to the Plat and Dedication of Lakeport Commons, an Addition to the City of Sioux City, Woodbury County, Iowa filed May 16, 2005 in Plat Envelope 690 A & B, Docket No. 18368;

AND

That portion of Outlot 6, Lakeport Commons, according to the Plat and Dedication of Lakeport Commons, an Addition to the City of Sioux City, Woodbury County, Iowa filed May 16, 2005 in Plat Envelope 690 A & B, Docket No. 18368:

Beginning at the southwest corner of said Outlot 6; thence North 05°41'41" West along the west line of said Outlot 6 for a distance of 167.55 feet; thence North 02°03'32" West along said west line for a distance of 41.00 feet to the northwest corner of said Outlot 6; thence easterly along the north line of said Outlot 6 and along a non-tangent curve to the left having a radius of 848.67 feet, for a distance along the arc of 87.85 feet, the chord of which bears North 84°58'33" East a distance of 87.81 feet; thence South 05°41'41" East for a distance of 207.43 feet to the south line of said Outlot 6; thence South 84°18'18" West along said south line for a distance of 90.40 feet to the Point of Beginning, containing 18,680 square feet or 0.43 acres.

Exhibit "C"
Legal Description of the Outlot Tracts

Outlots 2, 3, 4, 5, 6, 7, 8, 9, 10, and 11, Lakeport Commons, according to the Plat and Dedication of Lakeport Commons, an Addition to the City of Sioux City, Woodbury County, Iowa filed May 16, 2005 in Plat Envelope 690 A & B, Docket No. 18368

Exhibit "X"
Site Plan

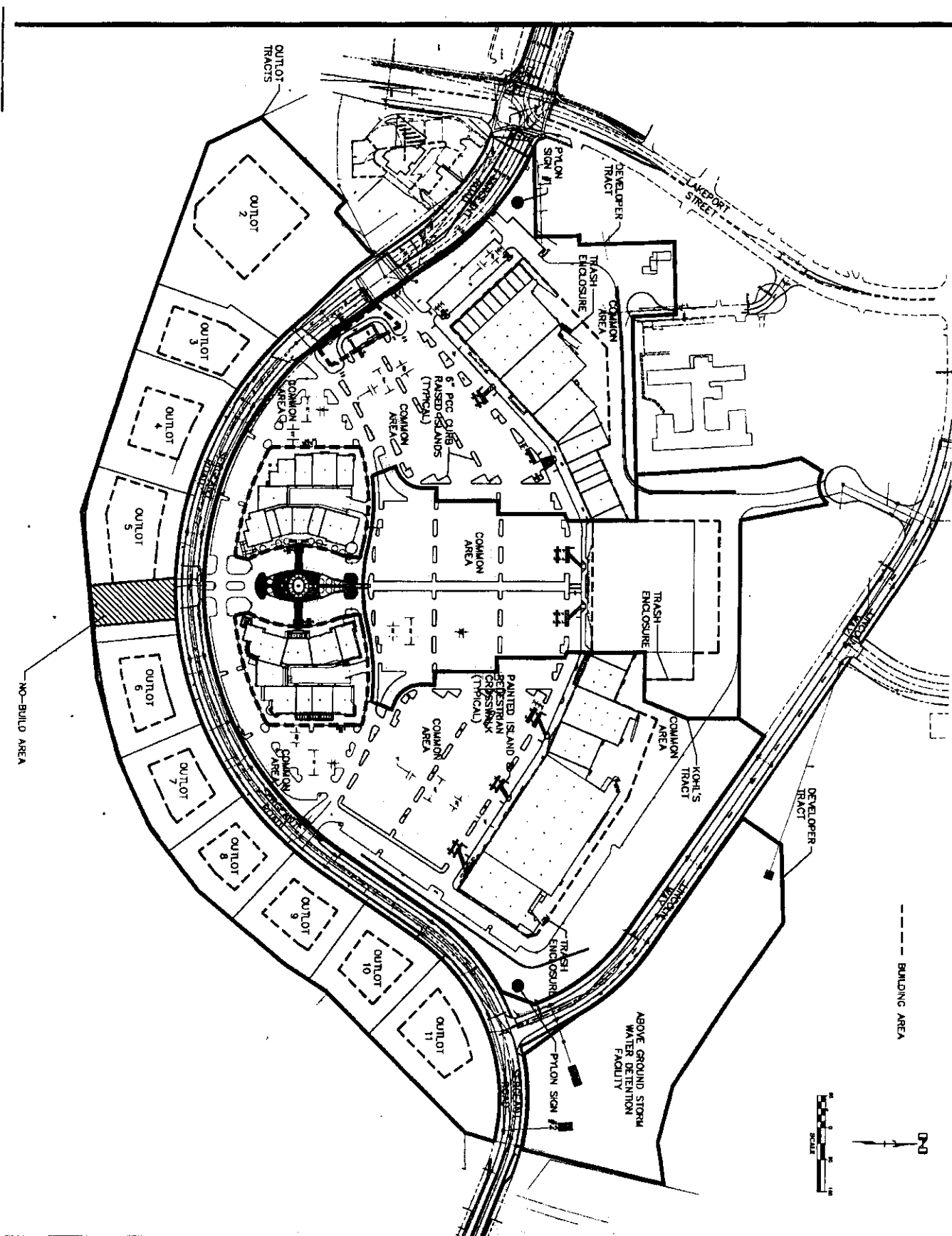


EXHIBIT X

LAKEPORT COMMONS
SITE IMPROVEMENT PLANS
SIOUX CITY, IA.

DeWid Grant Rockert & Assoc. Co.
Consulting Engineers
Sioux City, Iowa
Rusk Rapids, Iowa
Sioux Falls, South Dakota

DATE: 02/01/06
DRAWN BY: JST
APPROVED: JST
REVISED:

