

11 pages
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FILED SARPY CO. NE.
INSTRUMENT NUMBER
2007-26467

2007 AUG 28 A 11: 52 R

Steven J. Stastny
REGISTER OF DEEDS

GRANTER	<u>ah</u>	P.F.	<u>ah</u>
VERIFY	<u>PS</u>	D.E.	<u>PS</u>
PROOF			
FEE \$	<u>50.00</u>		
CHECK #	<u>1722100078</u>		
CHG		CASH	
REFUND		CREDIT	
SHORT		NCR	

RECORDER NOTE : Indexed in
Hickory Hill Plaza Replat 4
8-28-07 PC



**THIS PAGE ADDED
FOR RECORDING
INFORMATION.**

**DOCUMENT STARTS ON
NEXT PAGE.**

LLOYD J. DOWDING

SARPY COUNTY REGISTER OF DEEDS
Steven J. Stastny, Deputy
1210 GOLDEN GATE DRIVE, STE 1109
PAPILLION, NE 68046-2895
402-593-5773

26467

A

SIGN EASEMENT

This Sign Easement ("Sign Easement") dated as of August 24, 2007 is between Hickory Hill Associates, L.L.C., a Nebraska Limited Liability Company ("Hickory Hill Associates") and Centres AZ LLC, a Delaware limited liability company ("Grantor")

Preliminary Statement

Hickory Hill Associates is the record owner of Lot 1 Replat 4 Hickory Hill Plaza Subdivision in Sarpy County, Nebraska, as surveyed, platted and recorded ("Lot 1 Replat 4").

Grantor is the record owner of Lot 2 Replat 4 Hickory Hill Plaza Subdivision in Sarpy County, Nebraska as surveyed, platted and recorded ("Lot 2 Replat 4") having acquired title to Lot 2 Replat 4 conditioned upon its execution and delivery of this Sign Easement.

For the purpose of establishing a perpetual non-exclusive easement under, over, upon, and above a certain portion of Lot 2 Replat 4 for the installation, repair, replacement, and removal of a pylon or monument sign including reasonable access over Lot 2 Replat 4 for access and temporary storage during the installation, repair, replacement and removal process and ancillary easements more particularly described in this Sign Easement, the Parties have entered into this Sign Easement.

Terms and Conditions

In consideration of the foregoing Preliminary Statement, which by this reference is repeated and incorporated in this portion of this Sign Easement in its entirety, and other valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

1. Grant of Easement. Subject to the provisions of Section 5 of this Sign Easement, Grantor hereby grants to Hickory Hill Associates, and its successors and assigns, a perpetual non-exclusive easement for the construction, placement, installation, repair, maintenance, replacement, and removal of one free-standing pylon or monument sign (collectively the "Sign") under, over, upon and above that portion of Lot 2 Replat 4 situated near the northeasterly corner of Lot 2 Replat 4 as depicted on Exhibit "A" attached and incorporated herein by this reference (the "Easement Area") including (i) a perpetual non-exclusive easement those over those areas within Lot 2 Replat 4 in reasonable proximity to the Easement Area for the installation, maintenance and replacement of an underground electrical line under Lot 2 Replat 4 which is necessary for the operation and illumination of the Sign, and (ii) a perpetual non-exclusive easement over those areas within Lot 2 Replat 4 in reasonable proximity to the Easement Area for the temporary storage of sign components, equipment, parts and supplies and staging during the exercise of the easements granted in this Sign Easement. Hickory Hill Associates shall exercise its rights under this Sign Easement with minimal interference with Grantor's use,

construction and/or business operations on Lot 2 Replat 4, and shall work expeditiously to limit its need and use of the temporary storage on Grantor's Lot. Except as provided in Section 5, Grantor shall have no liability and Hickory Hill Associates hereby releases Grantor from any and all liability as a result of Hickory Hill Associates' exercise of the easement rights under this Sign Easement on Lot 2 Replat 4 including, but not limited to, any theft, loss, damage or injury.

2. Permittees. Subject to the provisions of this Sign Easement, the Easement Area and the Sign shall be used exclusively by (i) the record owners of Lot 2 Replat 4 and its successors, assigns, lessees, and sublessees, and (ii) the record owners of Lot 1 Replat 4 and their respective heirs, personal representatives, successors, assigns, tenant and subtenants; all persons and entities benefited by the easement established by this Agreement are referred to from time to time collectively as the "Permittees".
3. Access to Sign. The record owner of Lot 2 Replat 4 shall at all times provide the Permittees and their respective contractors, employees and agents nonexclusive temporary easements for entry and access upon, over, across and under those portions of Lot 2 Replat 4 reasonably necessary for the construction, placement, installation, repair, maintenance, replacement and removal of the Sign including any utility line servicing the Sign upon reasonable advance notice.
4. Exercise Responsibility. Any Permittee and their respective contractors, employees and agents, exercising any right granted under this Sign Easement shall be responsible for the prompt repair and restoration of any portion of the Easement Area and Lot 2 Replat 4 which is damaged by reason of such exercise, with such damaged area or areas to be restored to the condition which existed immediately prior to such damage.

Hickory Hill Associates agrees to indemnify, defend and hold harmless Grantor from and against (i) any and all damages to person or property, and (ii) any and all liabilities, damages, costs and expenses (including without limitation reasonable attorneys' fees and court costs), which arise as a result of or in connection with Hickory Hill Associates' exercise of its rights pursuant to this Sign Easement and/or presence on Lot 2 Replat 4. This indemnity shall survive any termination of this Sign Easement.

Grantor agrees to indemnify, defend and hold harmless Hickory Hill Associates from and against (i) any and all damages to person or property, and (ii) any and all liabilities, damages, costs and expenses (including without limitation reasonable attorneys' fees and court costs), which arise as a result of or in connection with Grantor's exercise of its rights pursuant to this Sign Easement. This indemnity shall survive any termination of this Sign Easement.

5. Sign Share and Responsibility. Depicted on Exhibit B, attached and incorporated herein, the Sign shall be a two panel sign which the Parties have agreed shall be

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the only pylon or monument sign installed within the Easement Area and Lot 2 Replat 4. Each of the Parties and their respective Permittees shall be entitled to the exclusive use of one of the two identification panels of such Sign. Grantor shall be entitled to the top panel of such Sign and Hickory Hill Associates entitled to the bottom panel. Each sign panel shall only contain the name of the business operating on the respective Lot and its respective logo.

The Sign described in this Section 5 shall be fabricated in conformity with the Exhibit B and the sign specifications described therein. Hickory Hill Associates shall obtain all necessary permits or approvals required by any governmental entity and the Sign shall be in compliance with all governmental requirements and any restrictions of record governing Lot 2 Replat 4. Hickory Hill Associates shall cause the fabrication and installation of the Sign depicted on Exhibit B within ninety[90] days following its receipt of written notice from Grantor or its successors or assigns or tenants setting forth a date of its intention to open for business with the public. Hickory Hill Associates shall advance the cost thereof as shown on Exhibit B plus any additional reasonable costs due to inflationary factors occurring between the date of this Sign Easement and the date of such written notice from Grantor. Within ten(10) business days of Grantor's receipt of a paid invoice from the manufacturer and installer of the Sign, Grantor shall remit to Hickory Hill Associates, one-half(1/2) of such paid invoice amount which shall not exceed the amount reflected on Exhibit B except for reasonable inflationary cost increases.

Each of the Permittees exercising rights granted under this Sign Easement shall have an insurable interest in the Sign installed within the Easement Area and shall be responsible for insuring its one-half interest in such Sign. Hickory Hill Associates must first obtain Grantor's prior written approval which approval shall not be unreasonably withheld or delayed to any changes to the Sign excluding the sign panels before commencing any changes to the Sign. The sign panels must remain in compliance with the terms and conditions of this Sign Easement.

With respect to the maintenance or replacement of such Sign, including the utilities to the Sign running through the Easement Area, whether or not such Sign is insured or insurable, Hickory Hill Associates or its designee shall cause all such required maintenance and replacement, as reasonably determined by Hickory Hill Associates or its designee or as reasonably requested by Grantor, to be performed with Grantor and Hickory Hill Associates each being responsible to pay one-half of such cost excluding the cost of repairing or replacing each of the two panels which shall be paid and the maintenance performed by the person or entity having control over each such panel or if such maintenance or replacement is necessary as a result of the acts or omission or gross negligence or willful misconduct of one Party including its contractor, employees, agents, tenants or subtenants (the "Responsible Party") which in such case the Responsible Party will be responsible for the entire cost of the applicable maintenance or replacement. In the event Hickory Hill Associates fails to maintain or replace the Sign as reasonably requested by Grantor within ten (10) business days after such request, or diligently

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commences to maintain or replace the Sign if such action cannot be completed within ten (10) business days, then Grantor shall have the right but not the obligation to undertake the maintenance or replacement and shall tender an invoice to Hickory Hill Associates for one-half of such cost incurred. If Hickory Hill Associates does not pay the invoice within ten (10) business days of its receipt, then such invoiced amount shall accrue interest at the rate of three percent (3%) above the "prime rate" as published in the Wall Street Journal (or equivalent publication shall the Wall Street Journal no longer publish such rate) from the date due to the date paid ("Past Due Interest Rate"). In the event Grantor does not pay its share within ten(10) business days of its receipt of an invoice for such maintenance and/or replacement (together with reasonable supporting information), then such invoiced amount, if undisputed, shall accrue interest at the rate of three percent above the "prime rate" as published in the Wall Street Journal (or equivalent publication should the Wall Street Journal no longer publish such rate) from the date due to the date paid.

Grantor shall run electricity to the Sign from the building on Lot 2 Replat 4. The electrical bill shall be in the name of Grantor, its tenant or successor and assigns. Grantor or its tenant shall invoice Hickory Hill Associates for 50% of such electrical costs. Hickory Hill Associates shall pay the invoice within thirty(30) days of receipt the invoice. If the amount due is not paid when due, interest at the Past Due Interest Rate shall accrue from the date due to the date paid.

6. Use of Easement Area. Grantor agrees not to place permanent improvements or paving in the Easement Area. The Easement Area shall be a grassy area or landscaped consistent with the remainder of Lot 2 Replat 4 and such grassy area shall be mowed and maintained in concert with the remainder of Lot 2 Replat 4.
7. Legal Effect. The easements and covenants contained in this Agreement constitute covenants running with the land, and will inure to the benefit of the Permittees.
8. Amendment or Termination. This Sign Easement may be terminated, modified or amended only with the express written consent of each of the respective record owners of Lot 1 Replat 4 and Lot 2 Replat 4.
9. Merger. The easements and rights created herein shall not be subject to the doctrine of merger.
10. Miscellaneous. The invalidity of any provision of this Sign Easement shall not affect the remaining provisions. This Sign Easement shall be interpreted according to Nebraska law.
11. Entire Agreement. This Sign Easement and the exhibits attached hereto contain the entire agreement between the parties hereto with respect to the subject matter

E

hereof. Any prior correspondence, memoranda or agreements are superseded in total by this Sign Easement and exhibits hereto.

- 12. Construction. The provisions of this Sign Easement shall be construed as a whole according to their common meaning and not strictly for or against any party hereto.
- 13. Counterparts. This Sign Easement may be executed in any number of counterparts, each of which shall be deemed an original, and all of which, when taken together, shall constitute one and the same document.
- 14. Notices. All notices, requests, demands or other communications hereunder shall be in writing and shall be delivered by personal delivery, overnight mail or delivery service, facsimile (provided that a copy thereof shall be sent concurrently to the intended recipient by one of the other methods provided herein), or United States registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If to Grantor:

Centres AZ LLC
 c/o Centres Inc.
 9130 South Dadeland Boulevard
 Miami, FL 33156
 Attention: President
 Fax: (305) 670-4429

If to Hickory Hill Associates:

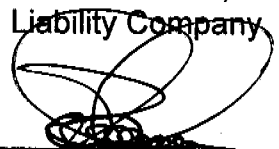
Hickory Hill Associates, L.L.C.
 c/o The Lerner Company
 10855 W. Dodge Road
 Omaha, NE 68154
 Attention: President
 Fax: (402) 330-3109

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

Hickory Hill Associates, a Nebraska
Limited Liability Company

By:

Title:



Jay R. Lerner
Manager

Centres AZ LLC,
a Delaware limited liability
company

By: CENTRES INC., a Wisconsin
Company, its Managing
Member

By:

David K. Charlton
 President

F

hereof. Any prior correspondence, memoranda or agreements are superseded in total by this Sign Easement and exhibits hereto.

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- 14. Notices. All notices, requests, demands or other communications hereunder shall be in writing and shall be delivered by personal delivery, overnight mail or delivery service, facsimile (provided that a copy thereof shall be sent concurrently to the intended recipient by one of the other methods provided herein), or United States registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

If to Grantor:

Centres AZ LLC
 c/o Centres Inc.
 9130 South Dadeland Boulevard
 Miami, FL 33156
 Attention: President
 Fax: (305) 670-4429

If to Hickory Hill Associates:

Hickory Hill Associates, L.L.C.
 c/o The Lerner Company
 10855 W. Dodge Road
 Omaha, NE 68154
 Attention: President
 Fax: (402) 330-3109

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

Hickory Hill Associates, a Nebraska Limited Liability Company

Centres AZ LLC, a Delaware limited liability company

By: _____

By: CENTRES INC., a Wisconsin Company, its Managing Member

Title: _____

By: 
 David K. Charlton
 President

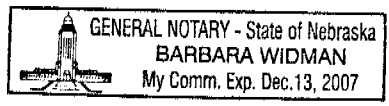
G

STATE OF NEBRASKA)
) ss
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 15th day of August 2007, by Jay R. Lerner, Manager of Hickory Hill Associates, L.L.C., a Nebraska Limited Liability Company, on behalf of such Limited Liability Company.

Barbara Widman
Notary Public
My commission expires: 12-13-07

STATE OF)
) ss
COUNTY OF)



The foregoing instrument was acknowledged before me this ___ day of _____ 2007, by _____ of Centres AZ LLC, a Delaware limited liability company, on behalf of such limited liability company.

Notary Public
My commission expires:

Return to: ND4
Republic Title of Texas, Inc.
2626 Howell Street, 10th Floor
Dallas, Texas 75204

H

STATE OF NEBRASKA)
) ss
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this ____ day of _____ 2007, by _____ of Hickory Hill Associates, L.L.C., a Nebraska Limited Liability Company, on behalf of such Limited Liability Company.

Notary Public
My commission expires:

STATE OF FLORIDA)
) ss
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 24th day of AUGUST 2007, by DAVID L. CHARLTON, PRESIDENT OF CENTRES INC. * of Centres AZ LLC, a Delaware limited liability company, on behalf of such limited liability company.

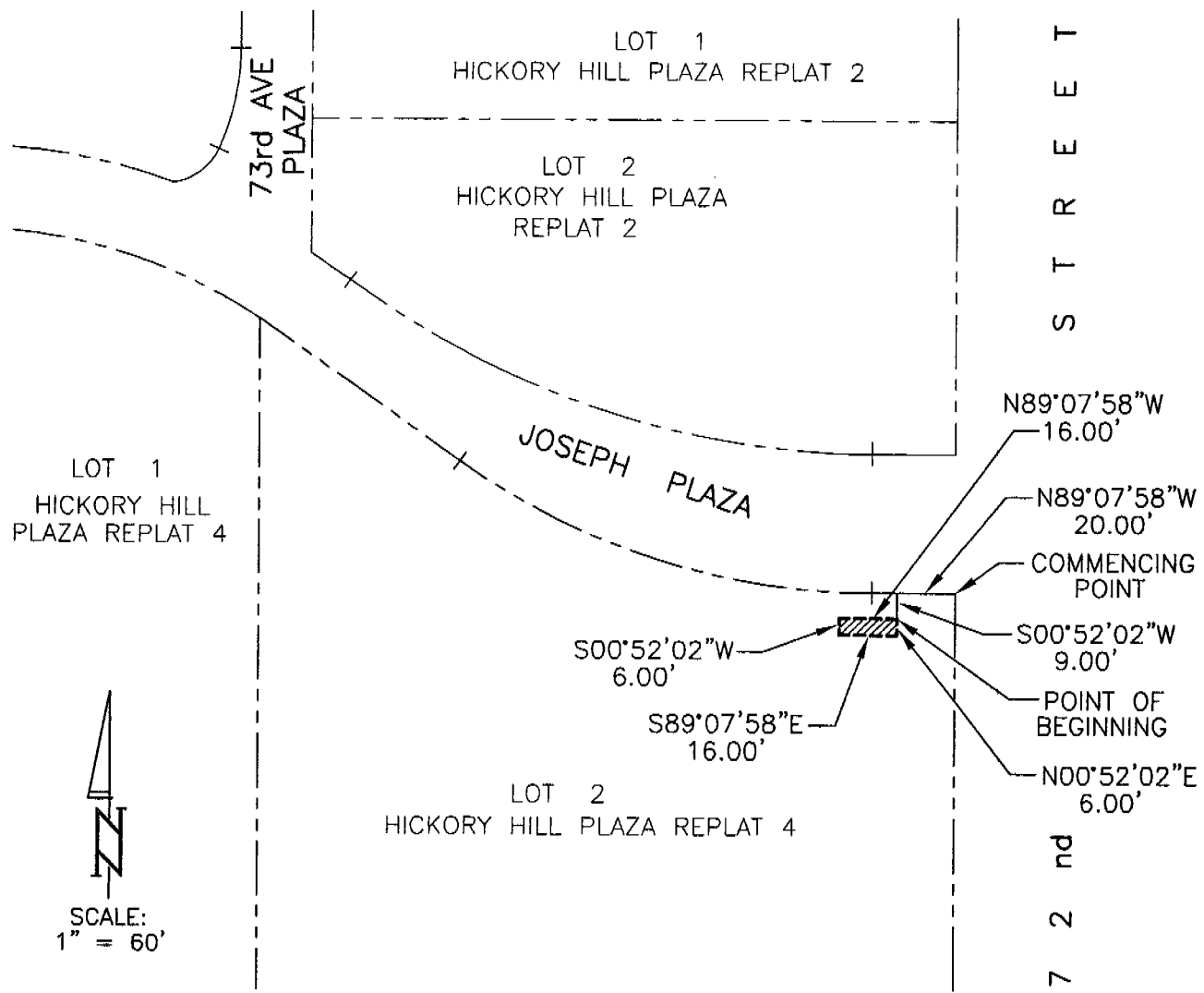


Ana C Escribano-Cruz
My Commission DD224631
Expires September 14, 2007

Notary Public
My commission expires:

* A WISCONSIN CORPORATION, THE MANAGING MEMBER

I



LEGAL DESCRIPTION

THAT PART OF LOT 2, HICKORY HILL PLAZA REPLAT 4, A SUBDIVISION IN SARPY COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS, COMMENCING AT THE NE CORNER OF SAID LOT 2;

THENCE N89°07'58"W (ASSUMED BEARING) 20.00 FEET ON THE NORTH LINE OF SAID LOT 2;

THENCE S00°52'02"W 9.00 ON A LINE 20.00 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF SAID LOT 2 TO THE POINT OF BEGINNING;

THENCE N89°07'58"W 16.00 FEET;

THENCE S00°52'02"W 6.00 FEET;

THENCE S89°07'58"E 16.00 FEET;

THENCE N00°52'02"E 6.00 FEET TO THE POINT OF BEGINNING.

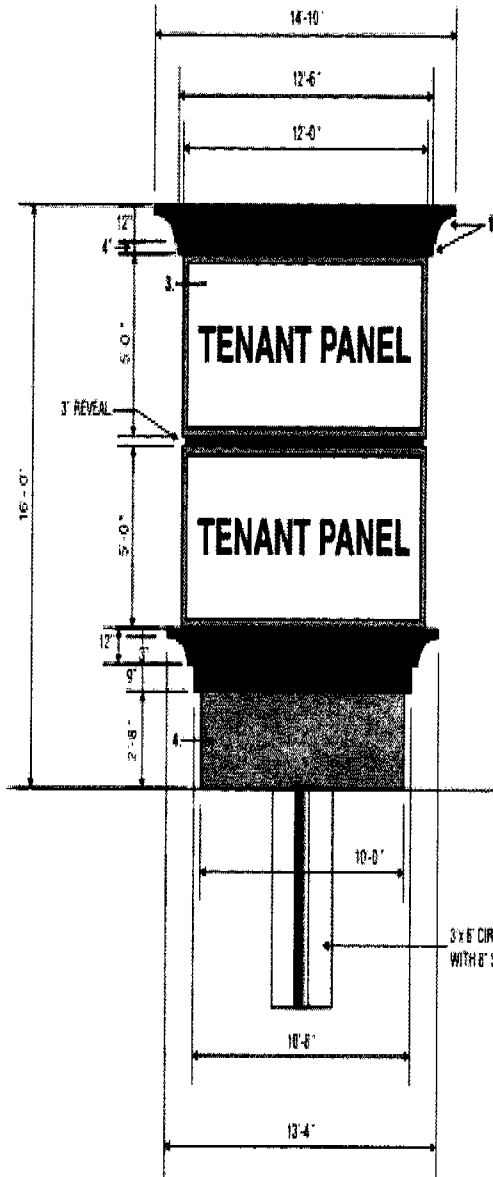
EXHIBIT "A"

THE LERNER COMPANY TD2 FILE NO.: 738-162-11(EX2) DATE: AUG. 15, 2007
THOMPSON, DREESSEN & DORNER, INC., 10836 OLD MILL ROAD, OMAHA, NEBRASKA 68154, 402-330-8860

EXHIBIT B

2007-26467

DESIGN TYPE	
<input type="checkbox"/> INTERIOR	<input type="checkbox"/> EXTERIOR
<input type="checkbox"/> SIGN DISPLAY	<input type="checkbox"/> CHANNEL LETTERS
<input type="checkbox"/> SIGN BLANK SERVICE	<input type="checkbox"/> REVEAL CHANNEL LETTERS
<input type="checkbox"/> PANEL POLE SIGN	<input type="checkbox"/> PANEL POLE SIGN
<input type="checkbox"/> MONUMENT SIGN	<input type="checkbox"/> DIRECTIONS
<input type="checkbox"/> SIGNAGE FOR BUILDING OR DISPLAY	
PROJECT TYPE	
<input type="checkbox"/> NEW CONSTRUCTION	
<input type="checkbox"/> REMODELING	
<input type="checkbox"/> TENANT CHANGES	
<input type="checkbox"/> LABELING IMPROVEMENTS	
<input type="checkbox"/> CORPORATE CHANGES	
<input type="checkbox"/> AMENDMENTS TO EXISTING SIGNAGE	
<p>NOTICE: ALL GRAPHIC REPRESENTATIONS ARE SUBMITTED IN APPROVAL BY CUSTOMER. ALL OF WHICH ARE TO BE APPROVED BY THE CUSTOMER PRIOR TO ANY FABRICATIONS. PLEASE CONTACT US FOR ALL AMENDMENTS PRIOR TO ANY FABRICATIONS.</p>	
Drawn By: _____	Date: _____
Scale: _____	Date: _____
<p>Omaha Neon Sign Company 1325 N. 18th Street, Omaha, NE 68102 Phone: (402) 441-1111 Fax: (402) 441-1112 Website: www.omahaneon.com</p>	
HICKORY HILLS	
DRAWING NO.: 42017	
DSR #: 02	
SALES DEPT.: Dry Products	
DRAWN BY: Sam Corral	
Scale: As Noted	INSPECTED BY:
Date: 11/21/06	
Revised:	



SCALE: 1/4" = 1'-0"

FABRICATE AND INSTALL (1) ONE NEW OF INTERNALLY ILLUMINATED MONUMENT SIGN DISPLAY.

1. ALUMINUM OVER INTERNAL ANGLE FRAME PAINTED DARK TAN WITH A TEXTURED FINISH. (DECORATIVE REVEALS);
2. ALUMINUM OVER INTERNAL ANGLE FRAME PAINTED LIGHT TAN WITH A TEXTURED FINISH. FACE IS TO BE ROUTED AND BACKED WITH #2753 RED PLEXIGLAS. INTERNAL ILLUM. WITH CW/NO FLUORESCENT LAMPS
3. ALUMINUM OVER INTERNAL ANGLE FRAME. CABINET AND RETAINERS ARE TO BE PAINTED LIGHT TAN WITH A TEXTURED FINISH. FACES ARE TO BE 3/16" WHITE ACRYLIC. INTERNAL ILLUMINATION WITH CW/NO FLUORESCENT LAMPS.
4. ALUMINUM OVER INTERNAL ANGLE FRAME. BASE SECTIONS ARE TO BE PAINTED LIGHT TAN WITH A TEXTURED FINISH.

ALL COLORS AND COPY ARE TO BE APPROVED BY CUSTOMER PRIOR TO FABRICATION. SIGN IS TO BE INSTALLED IN CUSTOMER SPECIFIED LOCATION.



3' x 6" CIRCULAR CONCRETE FOOTING WITH 8" STEEL THROUGH SIGN