
SPACE ABOVE THIS LINE FOR RECORDER'S USE

WHEN RECORDED MAIL TO:

Gregg M. Dorman
Scyfarth Shaw LLP
131 S. Dearborn Street
Suite 2400
Chicago, Illinois 60603

RESTRICTIVE COVENANTS AND EASEMENT AGREEMENT

THIS RESTRICTIVE COVENANTS AND EASEMENT AGREEMENT (this "Agreement") is made as of the 31st day of August, 2015 by and between **EUSTIS ASSOCIATES LIMITED PARTNERSHIP**, a Delaware limited partnership, whose mailing address is 5500 Ave Royalmount, Suite 300, Montreal, Quebec, Canada H4P 1H7 (together with its successors and assigns, "Developer"), and **HOME DEPOT U.S.A., INC.**, a Delaware corporation, whose mailing address is 2455 Paces Ferry Road NW, Atlanta, Georgia 30339 (together with its successors and assigns, "Home Depot").

Preliminary Statements

A. Developer is the owner in fee simple of that certain tract of land described in **Exhibit A-1** attached hereto and made a part hereof (the "**Outparcel**") and shown on the site plan attached hereto as **Exhibit B** (the "**Site Plan**"). Pursuant to an Agreement of Purchase and Sale between Developer and Ames Development, LLC, a Nebraska limited liability company ("**Ames Development**"), Developer intends to convey the Outparcel to Ames Development, which intends to improve the Outparcel for establishment and operation of a PepperJax Grill on the Outparcel. Upon conveyance of the Outparcel by Developer to Ames Development, Ames Development will be the "Owner" of the Outparcel, as that term is defined in Section 1.1(q) below.

B. Developer is also the owner in fee simple of that certain tract of land which is described in **Exhibit A-2** attached hereto and made a part hereof (the "**HD Parcel**") and is shown on the Site Plan, which parcel is currently leased to Home Depot pursuant to a Lease dated as of October 5, 1992 between Developer's predecessor-in-interest, 27th Street Associates, LTD., as landlord, and Home Depot's predecessor-in-interest, Kmart Corporation ("**Kmart**"), as tenant, as evidenced, amended and assigned pursuant to that certain (i) Memorandum of Lease dated October 5, 1992, (ii) First Amendment to Lease dated October 12, 1993, (iii) First Amended and Restated Memorandum of Lease dated October 12, 1993, (iv) Second Amendment to Lease dated January 23, 1998, recorded as instrument number 98-3286 in the

Office of the Register of Deeds for Lancaster County, Nebraska, (v) Lease Assignment and Assumption Agreement between Kmart and Home Depot dated May 5, 2003; (vi) Third Amendment to Lease dated as of December 1, 2014; (vii) Fourth Amendment to Lease dated as of August 31, 2015; (viii) Second Amendment to Memorandum of Lease dated as of December 1, 2014, recorded as instrument number 2014-49181, aforesaid records; and (ix) Third Amendment to Memorandum of Lease dated as of August 31, 2015, and recorded concurrently with this Agreement (collectively, the "**HD Lease**"). The HD Parcel is currently improved with a Home Depot home improvement and garden center store building (the "**HD Store**" which, together with the HD Parcel and all other Improvements [as hereinafter defined] located thereon is sometimes collectively referred to herein as the "**HD Development**"). The HD Lease is a "Prime Lease" as defined below, and Home Depot is the "Prime Lessee", as defined below, with respect to the HD Development as of the date of this Agreement.

C. In conjunction with the closing of the sale of the Outparcel from Developer to Ames Development and a release of the Outparcel as a portion of the Demised Premises under the HD Lease by Home Depot, Home Depot requires the execution of this Agreement to, among other things, establish covenants and restrictions upon the Outparcel for the purpose of enhancing and protecting the value, desirability and attractiveness of the Parcels (as hereinafter defined).

NOW, THEREFORE, for and in consideration of Ten and No/100 Dollars (\$10.00), the covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending to be legally bound, do hereby agree as follows:

1. **DEFINITIONS.**

1.1 **Definitions.** For the purposes of this Agreement, the following defined terms (which shall include both the plural or singular form thereof as the context requires) shall have the meanings set forth below throughout this Agreement unless otherwise defined herein or the context dictates otherwise:

(a) "**Adjacent Party**": Any or all owners or occupants of any Adjacent Tract or any portion thereof.

(b) "**Adjacent Tract**": Any or all shopping centers, developments, parcels or tracts of land that are adjacent to any portion of the Shopping Center (as hereinafter defined), including, without limitation, any of the foregoing covered by any of the Existing Covenants.

(c) "**Building**": Any permanently enclosed structure placed, constructed or located on the Outparcel, which shall include any appurtenant canopies and supports. The word "building" when not capitalized in this Agreement shall refer to any building or structure on any Parcel.

(d) "**Building Area**": All those areas on the Outparcel shown as Building Area on the Site Plan. The aggregate Floor Area of Buildings within the Outparcel's Building Area may not exceed the maximum square footage set forth in this Agreement or as otherwise allocated thereto on the Site Plan.

(e) "**City**": The City of Lincoln, Nebraska.

(f) "**Claims**": Any and all causes of action, claims, demands, liabilities, losses, damages, penalties, liens, fines, costs and expenses (including reasonable attorneys' fees and court costs (i) regardless of whether any lawsuit is filed, and (ii) at trial or any applicable appellate level).

(g) **"Common Area"**: All those areas on a Parcel which are not Building Area or Service Areas, together with those portions of the Building Area on a Parcel which are not from time to time actually covered by a Building, together with any columns or posts supporting same, shall be deemed to be a part of the Building to which they are attached and not a part of the Common Area. The improvement or use of any portion of the Building Area as Common Area shall not be construed as a permanent inclusion of such portion within the Common Area, and such portions may, at any time thereafter, be improved with Buildings and appurtenances as contemplated by this Agreement. Anything in this Agreement to the contrary notwithstanding, the Owners hereby acknowledge that the Building Area on the HD Parcel is unlimited, subject only to the terms of Section 3.1(a) hereof with respect to the Permanent Access Drive (as hereinafter defined).

(h) **"Default Rate"**: The greater of (i) ten percent (10%) per annum or (ii) the prime rate plus three percent (3%). As used herein, "prime rate" shall mean the rate of interest published from time to time as the "Prime Rate" in the Wall Street Journal under the heading "Money Rates"; provided, however, that (i) if more than one such rate is published therein the prime rate shall be the highest such rate, and (ii) if such rate is no longer published in the Wall Street Journal or is otherwise unavailable, the prime rate shall be a substantially comparable index of short term loan interest rates charged by U.S. banks to corporate borrowers selected by the Owner of the HD Parcel.

(i) **"Easements"**: The easements fixed and established upon a Parcel pursuant to this Agreement.

(j) **"Existing Covenants"**: All existing matters and documents of record containing covenants, conditions, easements and restrictions which are binding upon and burden the Shopping Center including, without limitation, terms, provisions, conditions and restrictions set forth in that certain (i) Resolution No. A-74755, dated April 21, 1992, recorded as Instrument No. 92-21479, Lancaster County, Nebraska, Register of Deeds, (ii) Declaration of Restrictions and Grant of Easements, dated October 5, 1993, recorded as Instrument No. 93-47553, aforesaid records, and (iii) Development, Operation, and Easement Agreement, dated January 23, 1998, recorded as Instrument No. 98-3287, aforesaid records.

(k) **"Floor Area"**: The total number of square feet of floor space on each floor in a Building, including outdoor patio area, basement, subterranean, balcony and mezzanine space, irrespective of whether actually occupied, and including any outdoor seating area used exclusively by an Owner or Occupant for its Permittees. Floor Area shall be measured from the exterior line of the exterior walls and from the center line of any party or common interior walls without deduction for columns, walls or other structural or non-structural components; provided, however, in no event shall Service Areas be included in such calculations.

(l) **"Governmental Authority"**: Any or all federal, regional, state, county, city, township or local governmental or quasi-governmental authority, entity or body (or any department, agency or political subdivision thereof) exercising jurisdiction over the Shopping Center or any portion thereof.

(m) **"Governmental Regulations"**: Any or all applicable laws, statutes, ordinances, codes, standards, rules, regulations, orders and applicable judicial decisions, rulings or decrees, as presently existing or as may be hereafter enacted, promulgated or enforced, of any Governmental Authority including, without limitation, variances, special and/or conditional use permits, or

conditions of approval or authorization of any Governmental Authority, any applicable annexation agreements, PUD and other similar governmental controls established by the City.

(n) **"Improvements"**: Any building (including, without limitation, the Building), sign or Common Area improvements located on a Parcel.

(o) **"Lienholder"**: Any mortgagee under a mortgage, a grantee under a deed to secure debt, or a trustee or beneficiary under a deed of trust constituting a lien on any Parcel.

(p) **"Occupant"**: Any Person or Prime Lessee from time to time entitled to the use and occupancy of any portion of a building in the Shopping Center under an ownership right or any lease, sublease, assignment, license, concession, or other similar agreement.

(q) **"Owner"**: (i) The record holder of fee simple title to a Parcel, its heirs, personal representatives, successors and assigns, or (ii) a Prime Lessee as to a Parcel that is subject to a Prime Lease. At any time there is a Prime Lease in effect, the Prime Lessee shall be deemed the Owner of the relevant Parcel; provided, however, that (A) the Prime Lessee of the HD Parcel shall in no event assume liability for any acts or omissions of the fee owner of the HD Parcel or its agents, employees, contractors or representatives, and (B) the fee owner of the Outparcel shall be jointly and severally liable with the Prime Lessee thereof for any Claims or any default hereunder with respect to the ownership or operation of the Outparcel.

(r) **"Parcel"**: Individually or collectively, the HD Parcel and the Outparcel.

(s) **"Parking Area"**: That portion of the Common Area of the Outparcel improved for use for parking of motor vehicles (but excluding Service Areas), including, without limitation, incidental and interior roadways, walkways, curbs and landscaping within areas used for such parking, traffic lanes, aisles, vehicle parking stalls, gutters, grade separations, beams and retaining walls, lighting standards, traffic and directional signs, traffic striping and markings and all other improvements located thereon for the purpose of accommodating the foregoing uses.

(t) **"Permittee"**: All Occupants and the officers, directors, employees, agents, contractors, customers, vendors, suppliers, visitors, invitees, licensees, assignees, subtenants, and concessionaires of Occupants insofar as their activities relate to the intended use of the Parcels.

(u) **"Person(s)"**: Individuals, partnerships, firms, associations, corporations, limited liability companies, trusts, governmental agencies, administrative tribunals or any other form of business or legal entity.

(v) **"Prime Lessee"**: An Occupant of an entire Parcel who is not the fee simple owner of such Parcel pursuant to an agreement by which such Prime Lessee is subject to, and obligated to bear responsibility for, all obligations, liabilities and responsibilities relating to the ownership and operation of such Parcel and any business thereon (a **"Prime Lease"**).

(w) **Intentionally Omitted.**

(x) **"Restaurant"**: Any operation or business which requires a governmental permit, license and/or authorization to prepare and/or serve food or beverages for either on-site or off-site consumption.

(y) **"Restrictions"**: The easements, covenants, conditions, restrictions, liens and encumbrances fixed and established upon the Parcels pursuant to this Agreement.

(z) **"Retail Development"**: The Shopping Center and all Adjacent Tracts.

(aa) **"Service Areas"**: The sidewalks attached to and/or adjoining a building, trash compactors and enclosures, exterior lighting attached to a building, drive-up or drive-thru customer service facilities directly adjacent or in close proximity to a building, side yards and rear yards used for outdoor storage (provided such outdoor storage does not interfere with the flow of vehicular traffic), loading docks, electrical facilities and transformers, truck ramps and other similar exclusive service facilities and outward extensions, and customer pickup areas directly adjacent or in close proximity to a building, whether or not described, labeled or depicted as such on the Site Plan. The Service Areas are the exclusive property of the applicable Owner of the Parcel on which they are located and are not part of Common Area.

(bb) **"Shopping Center"**: Collectively, the HD Parcel and the Outparcel.

(cc) **"Utility Lines"**: Those facilities and systems for the transmission or other provision of utility services, including, but not limited to, water drainage, detention or retention systems or structures, water mains, sewers, lift stations, water sprinkler system lines, electrical conduits or systems, gas mains, and other public or private utilities providing service to any Owner or Parcel in the Shopping Center.

ARTICLE 2. CONSTRUCTION ON OUTPARCEL; SIGNAGE

2.1 Buildings and Improvements.

(a) Plans. Prior to construction, expansion, reconstruction, replacement or modification (collectively referred to herein as **"Construction"**) of any Building, sign or other Improvements in, on or under the Outparcel, the Outparcel Owner shall deliver to the Owner of the HD Parcel or its designated representative (i) four (4) complete sets of its schematic site and other plans showing all proposed Improvements including, without limitation, a utility plan showing the location of all intended Utility Lines, facilities and improvements to the Outparcel, the Parking Areas, automobile ingress and egress, curb cuts and traffic flow, signalization, if any, and signage to and within the Outparcel, landscaping drawings, grading and drainage plans, floor plans and plans and specifications for signs, which plans, drawings and specifications shall show, among other things, exterior architectural design and decor, elevations, aesthetic treatment and other like pertinent data, and shall outline specifications for all such facilities and improvements to the Outparcel (all of the foregoing are collectively referred to herein as the **"Plans"**); and (ii) a report prepared by a civil engineer and/or an architect approved by the Owner of the HD Parcel at Outparcel Owner's sole cost and expense which shall, among other things, include an impact analysis with respect to the HD Parcel, including, without limitation, all Utility Lines and Improvements located thereon to verify no adverse impacts on the HD Parcel (including, without limitation, the capacity, function or operation of all Utility Lines serving the HD Parcel), provided however, notwithstanding anything herein to the contrary, if any Construction is limited solely to reconstruction, replacement or modification of interior space of a Building, Outparcel Owner shall have no obligation to submit such Plans to the Owner of the HD Parcel, nor shall such reconstruction, replacement or modification be subject to review or prior approval of Owner of the HD Parcel.

(b) Building Restrictions. Without limiting the terms of Section 2.2 hereof, the Outparcel shall be subject to the following covenants and restrictions:

(i) No more than one (1) building or other structure shall be located on the Outparcel at any time.

(ii) Any Building built on the Outparcel may only be built within the Building Area shown on the Site Plan.

(iii) The height of any Building shall be measured perpendicular from the higher of the mid-point of: (x) the portion of 27th Street parallel to the eastern boundary of the Outparcel, or (y) the existing elevation of the eastern boundary of the Outparcel to the top of the roof structure, including any screening, parapet, penthouse, mechanical equipment or similar appurtenance or projection located on the roof of such Building. No building or structure of any kind located on the Outparcel shall exceed one (1) story and twenty-four (24) feet in height (including any screening, parapet, penthouse, mechanical equipment or similar appurtenance or projection), except that certain limited architectural elements of such building may extend up to twenty-eight (28) feet in height.

(iv) The Building to be located on the Outparcel shall not, in the aggregate, contain more than four thousand (4,000) square feet of Floor Area (or such lesser amount as may be necessary to satisfy the parking requirements set forth in Section 4.1 below).

(v) Any Building or structure on the Outparcel shall orient its front entrance away from the HD Store and the parking areas located on the HD Parcel.

(vii) Any proposed drive-thru use on the Outparcel shall be configured to provide sufficient vehicle stacking internally on the Outparcel to avoid interfering with the free flow of traffic on the HD Parcel, subject to Section 4.1(b) hereof.

(viii) Any construction on the Outparcel shall be conducted in a manner which will limit, to the maximum extent reasonably practicable, any interference with the HD Development including, without limitation, the operation of any business thereon by the Owner of the HD Parcel or any Occupant thereof.

(c) Construction on HD Parcel. If any Work (as hereinafter defined) is to be performed on the HD Parcel, then such Work shall comply with the Home Depot Site Specification References for Carve Outs attached hereto on Exhibit C (the "HD Site Specs"). The Outparcel Owner shall provide the Owner of the HD Parcel at least thirty (30) days' prior written notice (the "**Work Notice**") of any construction, reconstruction, repair, maintenance or remodeling of any Building or other improvement to be performed on the HD Parcel. The Work Notice shall include the name and contact information of the construction manager or other accountable construction person for Outparcel Owner or its general contractor, proposed dates for a pre-construction meeting with Outparcel Owner's general contractor which representatives of the Owner of the HD Parcel shall have the right to attend (and the Outparcel Owner shall cooperate with the Owner of the HD Parcel to agree upon a mutually convenient date and time for such pre-construction meeting if such Owner elects to attend), a construction schedule for the Work to be performed and a site plan designating an area on the Outparcel to be used as a staging and storage area. Any portion of the construction schedule pertaining to Work to be performed on the HD Parcel and the staging and storage area on the Outparcel shall be subject to the prior written approval of the Owner of the HD Parcel. The Owner of the HD Parcel shall have the right to hire an independent contractor or testing company, at its sole cost and expense, to observe all Work to be performed on the HD Parcel and, in such event, Outparcel Owner shall give such contractor or testing company at least twenty-four (24) hours' prior written notice before performing any such Work. During the course of construction, the Owner of the HD Parcel or its independent contractor or testing company shall have the

right to conduct tests and inspections of any Work performed on the HD Parcel. Upon completion of all Work to be performed on the HD Parcel and eleven (11) months after such completion, the Owners' respective construction representatives and the Outparcel Owner's contractor shall meet and examine the same and any deficiencies shall be promptly corrected to the Owner of the HD Parcel's reasonable satisfaction at the Outparcel Owner's sole cost and expense. The foregoing notwithstanding, the time period for delivery of the Work Notice shall be reduced as is reasonably necessary with respect to emergency repairs.

(d) If any Utility Lines serving the HD Development or any Adjacent Tract are required to be relocated in connection with any Construction on the Outparcel, then without limiting the Owner of the HD Parcel's approval rights herein or the approval rights of affected parties under the Existing Covenants, the Outparcel Owner shall be required to relocate such Utility Lines at its sole cost and expense and otherwise in compliance with the Plans approved by the Owner of the HD Parcel hereunder and the terms of this Agreement, the Existing Covenants and all applicable Governmental Regulations.

2.2 Plan Approval.

(a) Procedure. Prior to constructing any Building, signage or other Improvements on the Outparcel, the Owner or Occupant of the Outparcel shall deliver to the Owner of the HD Parcel (or, if there be more than one (1) owner of the HD Parcel, then the owner of the largest area of the HD Parcel) the Plans as required under Section 2.1(a) hereof for approval by the Owner of the HD Parcel, which approval shall not be unreasonably withheld or delayed. No construction on the Outparcel will be permitted to interfere with the operation of any business on the HD Parcel by the Owner or Occupant thereof. Anything in this Agreement to the contrary notwithstanding, it will not be unreasonable for the Owner of the HD Parcel to reject any Plans or any portion thereof to the extent they are inconsistent with the Site Plan and Elevations previously approved by Home Depot or if such Owner determines that the Improvements contemplated thereon will (i) adversely affect the operation of the HD Development and any business operated thereon; (ii) violate the terms of the HD Lease or this Agreement; (iii) cause any portion of the HD Development to be illegal, non-conforming or otherwise in violation of any (A) permit or approval related to HD Development (and the occupancy of the HD Store), (B) any private document or instrument including, without limitation, any Existing Covenants, or (C) any Governmental Regulations; or (iv) would otherwise adversely affect (A) access, parking, loading, unloading and deliveries on or to the HD Development, (B) any Utility Lines serving the HD Development including, without limitation, the capacity, function or operation thereof, (C) Tenant's signs or signage rights, or (D) visibility to any building on the Demised Premises or any of Tenant's free standing or building signs; provided, however, the Owner of the HD Parcel acknowledges that a building built on the Outparcel, which is of a size and height that does not exceed the limits set forth in Section 2.2(b) above, will not adversely affect visibility to the HD Store building and such Owner's exterior building signage. Subject to the foregoing, within thirty (30) days after the submission of the Plans, the Owner of the HD Parcel shall notify the Outparcel Owner whether the same are approved or disapproved. Any disapproval shall set forth in reasonable detail the reasons for such disapproval. Thereafter, the Outparcel Owner shall revise its Plans to incorporate such changes as may be requested to secure approval of the Owner of the HD Parcel, and shall deliver four (4) completed copies of the revised Plans to the Owner of the HD Parcel. To the extent any subsequent material changes are made by the Outparcel Owner to any approved plans, such changes shall be subject to the provisions of this Section 2.2 and the Outparcel Owner shall secure the approval of the Owner of the HD Parcel in the manner provided herein.

(b) Review Fee after Initial Construction. Before any action requiring the Owner of the HD Parcel's approval is commenced, sufficient information shall be sent to the Owner of the HD Parcel to enable it to make a decision as to the proposal, together with a review fee equal to Five Hundred Dollars (\$500.00) to cover such Owner's costs incurred in reviewing the Outparcel Owner's proposal. The Owner

of the HD Parcel shall have the right to approve or disapprove the proposal in accordance with the manner and time procedures set forth in Section 2.2(a) above, and if such Owner disapproves the proposal, it shall provide a written explanation in reasonable detail of its reasons for disapproval. Notwithstanding the foregoing, the review fee is waived with respect to the initial development of the Outparcel as a Pepperjax Restaurant.

(c) No Liability. In no event shall the Owner of the HD Parcel be liable in damages or otherwise for any reason, including any mistake in judgment, negligence or nonfeasance, arising out of or in connection with the approval or disapproval or failure to approve or disapprove any proposal or Plans submitted pursuant to this Agreement. The Outparcel Owner agrees that, by acquiring title to the Outparcel and submission of the Plans, it will not bring any action or suit against the Owner of the HD Parcel to recover any such damages. In addition, the Outparcel Owner shall indemnify, defend, protect and hold the Owner of the HD Parcel and its officers, directors, shareholders, employees and agents harmless for, from and against any and all Claims arising out of or related to the approval or disapproval of any Plans submitted to the Owner of the HD Parcel by or on behalf of the Outparcel Owner or its Occupants, including, but not limited to, creating or causing the Owner of the HD Parcel to be in violation of any Governmental Regulations that may result from the approval of the Plans by any applicable Governmental Authority. No such approval shall be considered an approval of the Plans from an engineering perspective or a determination that they satisfy or comply with any Existing Covenants or any building or environmental Governmental Regulations or engineering design standards, or that any such Improvements have been built in accordance with such Plans, or that the Plans do not cause the Owner of the HD Parcel to be in violation of any Existing Covenants or Governmental Regulation.

(d) Submittal to Governmental Authorities. Neither Outparcel Owner, its Occupant, nor any of their employees, consultants, contractors, subcontractors and all other professionals processing the Plans on behalf of Outparcel Owner or the Occupant shall submit any application, plans or drawings to any Governmental Authorities (or any Adjacent Parties) or otherwise take or permit any action with respect to the Outparcel or any Improvements thereon that would cause the Owner of the HD Parcel, the HD Development or any portion thereof or business thereon to be in violation of any permit currently held by such Owner or which would otherwise cause such Owner to be in violation of any enforceable zoning ordinance, any other Governmental Regulations or Existing Covenants. In the event the Outparcel Owner, its Occupant, or any of their employees, consultants, contractors, subcontractors or any other professionals processing the Plans on behalf of Outparcel Owner or the Occupant are advised (whether orally or in writing) by any Governmental Authorities or Adjacent Parties that the issuance of any approval, authorization, permit or certificate, including, but not limited to, a building permit or certificate of occupancy, to Outparcel Owner or any Occupant or any action taken by either of them may or would cause Home Depot to be in violation of any permit currently held by Home Depot or otherwise cause Home Depot to be in violation of any other Governmental Regulations or Existing Covenants, the Outparcel Owner and/or Occupant shall immediately provide written notice to Home Depot of same. Nothing in this Agreement is intended to limit, modify or waive any obligation of the Outparcel Owner to obtain, in addition to any permits, approvals, authorizations or agreements required from any applicable Governmental Authorities or utility company, agency or district, all approvals and authorizations required from any Adjacent Parties related to Outparcel Owner's use and proposed construction as may be required under any Existing Covenants, and Outparcel Owner shall indemnify, defend, protect and hold the Owner of the HD Parcel and its officers, directors, shareholders, employees and agents harmless for, from and against any and all Claims arising out of or related to Outparcel Owner's failure to obtain all such required approvals and authorizations and/or use or construction in violation of any Existing Covenants.

2.3 Monument Signs. Provided the signage otherwise permitted by Governmental Regulations to the Owner of the HD Parcel is not adversely affected thereby, the Outparcel may have, subject to Governmental Regulations and Existing Covenants, one (1) free standing sign on the Outparcel

at the location designated therefor on the Site Plan. The initial design of the free standing sign structure and sign panels thereon (and any subsequent changes thereto) shall be subject to the prior written approval of the Owner of the HD Parcel in accordance with the terms of this Agreement. The cost of constructing, installing, maintaining, operating, repairing and replacing such free standing sign structure and sign panels on the Outparcel shall be paid by the Outparcel Owner. The Outparcel Owner and its Occupant shall have no right to use any other free standing pylon or monument sign in the Retail Development. In no event may any such signage on the Outparcel interfere in any manner with visibility to any free standing or building signage on the HD Parcel. In addition, signage on the Outparcel may only be used to identify the business operating on the Outparcel. Any approvals obtained by the Outparcel Owner or any Occupant thereof will not limit or otherwise adversely affect any of Home Depot's existing signs or the maximum allowable signage available to the HD Parcel under applicable law. In no event shall any free standing sign on the Outparcel exceed forty (40) feet in height above street level, including any applicable sign base. The initial design of the free standing sign structure (including without limitation, height and size) shall conform to the sign drawing shown on Exhibit D-1 attached hereto and incorporated herein.

2.4 Building Signs. There shall be no other signs, banners or similar advertising media, including, without limitation, reader board signs, allowed on the Outparcel, except directional signs, handicap parking signs, and signs on the Building located thereon. All exterior Building signs shall be restricted to identification of the business or services located or provided on the Outparcel and shall conform to any Government Regulations and any applicable Existing Covenants. The Building signs for the initial Building to be constructed on the Outparcel shall conform to the sign drawings as shown on Exhibit D-2 attached hereto and incorporated herein. Any change to the initial design of the Building signs or sign panels thereon shall be subject to the prior written approval of the Owner of the HD Parcel in accordance with the terms of this Agreement.

2.5 General Construction Requirements.

(a) Manner of Performance. All Work shall be effected as expeditiously as possible and, to the maximum extent reasonably practicable, in such a manner as to limit interference, obstruction or delay related to the operation of the HD Development or any business thereon including, without limitation, (i) access to or from the HD Parcel or any part thereof, or to or from any public right-of-way, (ii) construction work being performed on the HD Parcel, (iii) parking, loading or unloading on the HD Parcel, and (iv) the use, enjoyment or occupancy of the HD Development by the Owner of the HD Parcel or its Occupants including, without limitation, any business conducted thereon. Unless otherwise specifically stated herein, the Outparcel Owner shall, at its sole cost and expense, promptly repair and restore all buildings, signs and other Improvements damaged, destroyed or affected by the performance of such Work.

(b) Staging. Subject to Section 2.1(c) of this Agreement, staging for any Work including, without limitation, the location of any temporary Buildings or construction sheds, the storage of Building materials, and the parking of construction vehicles and equipment, shall be limited to and take place only on the Outparcel. At the request of the Owner of the HD Parcel, the Outparcel Owner shall fence off such staging and storage areas. Unless otherwise specifically stated herein, the Outparcel Owner shall, at its sole cost and expense, promptly repair and restore or cause to be promptly repaired and restored to its prior condition all buildings, signs and other Improvements damaged, destroyed or affected by the performance of such Work.

(c) Standard of Work. All work performed in the Construction, maintenance and repair (including, without limitation, necessary replacements) of any Building, sign or other Improvements located on or serving the Outparcel (collectively, the "Work") shall be done in a good and workmanlike

manner, using good quality materials and in accordance with (i) all applicable Governmental Regulations, (ii) all applicable Existing Covenants, (iii) the Plans approved by the Owner of the HD Parcel, (iv) all applicable permits and approvals issued by any applicable Governmental Authority, (v) good and sound engineering standards, and otherwise in a manner consistent with comparable outparcel developments in first-class shopping centers in the market area of the Shopping Center, (vi) the HD Site Specs with respect to any Work performed on the HD Parcel, and (vii) the terms of this Agreement. Common Area Work shall meet or exceed the existing quality of the Common Area Improvements located on the HD Parcel, including, without limitation, with regard to the minimum maintained lighting intensity at grade at all points in the Common Areas (which shall not be less than 1 foot candle nor more than 5 foot candles), the slope of the Parking Areas, and the surface materials used for the Parking Areas.

(d) Mechanics' Liens. If any mechanics', materialmen's, architects', or other design or construction liens shall be filed against the HD Parcel or any Adjacent Tract for any Work done or materials furnished in connection with the Outparcel, the Owner of the Outparcel shall cause the lien to be satisfied and released of record. The Outparcel Owner shall, within thirty (30) days after the filing of such lien, either (i) cause any such outstanding lien or claim of lien to be released of record or transferred to bond in accordance with applicable law, or (ii) give such assurances as would enable a title insurance company to insure over said outstanding lien or claim of lien, failing which the Owner of the HD Parcel shall have the right, at the Outparcel Owner's expense, to take either such action. The Owner of the Outparcel shall indemnify, defend, protect and hold the Owner of the HD Parcel and its respective officers, directors, shareholders, members, partners, employees and agents harmless for, from and against any and all Claims (including, without limitation, liens and claims of lien) arising out of or in any way connected with the performance of such Work.

(e) Temporary License. Each Owner hereby grants to the other Owner a temporary license for incidental encroachments over and across adjacent portions of the Common Area located on the granting Owner's Parcel, to the extent reasonably and temporarily necessary for such Owner to construct and/or maintain Improvements upon its Parcel; provided, however, that (i) such license shall be in effect only during periods when actual construction and/or maintenance is being performed, (ii) the use of such license shall not unreasonably interfere with the use and operation of any building or Improvements (including, without limitation, the Common Area) on the granting Owner's Parcel including, without limitation, access over the Permanent Access Drive, and (iii) nothing in this Section 2.5(e) shall limit or modify the terms of Section 2.5(b) hereof. Prior to exercising the rights granted herein, an Owner shall provide the granting Owner with a written statement describing the need for such license, and shall furnish or have furnished a certificate of insurance showing that its contractor has obtained the minimum insurance coverage required by this Agreement. The requesting Owner shall promptly pay all costs and expenses associated with such work, shall complete such work as quickly as possible, and shall promptly clean and restore the affected portion of the Common Area on the granting Owner's Parcel to a condition which is equal to or better than the condition which existed prior to the commencement of such work. Anything in this Agreement to the contrary notwithstanding, in no event shall any: (i) Work related to the initial Construction on the Outparcel be performed on the HD Parcel during the periods (A) November 1 to January 5 of the following year, or (B) April 1 to June 30 in any calendar year in which the initial Construction takes place; and (ii) subsequent Construction or any other Work be performed by or on behalf of the Outparcel Owner on any portion of the HD Parcel during the period in clause (B) above absent an emergency condition wherein there is an imminent threat of material personal injury, death or material property damage.

(f) Indemnity. In addition to the indemnification set forth in Section 5.6, the Outparcel Owner shall indemnify, defend, protect and hold the Owner of the HD Parcel and its officers, directors, shareholders, members, partners, employees and agents harmless for, from and against any and all Claims arising out of or related to injury to or death of any person or damage to or destruction of any property

arising out of or resulting from any Construction or other Work activities performed by or at the request of the Outparcel Owner or its Occupants, including the Outparcel Owner's or Occupant's own negligence, unless such damage or destruction is caused solely by the negligent or willful act or omission of the indemnified Owner.

(g) Debris; Excavation. During all Construction and other Work on the Outparcel, the Outparcel Owner undertaking such Work shall keep or cause to be kept the construction site and surrounding areas clean and free of construction materials, trash and debris, and shall take appropriate precautions to protect against personal injury and property damage to the other owners and occupants of the Retail Development. With regard to excavation, and without limiting any other provision of this Agreement, no excavation shall be made on, and no sand, gravel, soil or other material shall be removed from, the Outparcel, except in connection with the construction or alteration of an Outparcel Building or Improvements approved in the manner set forth in this Agreement, and upon completion of any such operations, exposed openings shall be backfilled and disturbed ground shall be graded, leveled and paved or landscaped in accordance with the approved Plans.

(h) Parking Areas. All portions of the Outparcel which can be used for a Building in compliance with parking, Floor Area and Building Area requirements set forth in this Agreement shall, until developed for such Building use, be either developed as Parking Area or covered with a one-inch asphalt dust cap and kept weed free and clean by the Outparcel Owner.

(i) Dust Control Measures. In addition to the requirements of subsection (g) above, during Construction on the Outparcel, the Outparcel Owner shall undertake and implement all dust control measures which may be required under any Existing Covenants or Governmental Regulations in order to prevent Claims from or arising in connection with blowing dust. Further, in the event any building in the Shopping Center requires cleaning (such as pressure washing) as a result of blowing dust during construction on the Outparcel, the Outparcel Owner shall reimburse the Owner of the HD Parcel for such costs within thirty (30) days after rendition of an invoice therefor.

(j) Notice of Construction on Outparcel. Without limiting any other notice requirements herein related to Construction on the Outparcel, at least thirty (30) days prior to construction on the Outparcel, the Outparcel Owner shall send written notice to the Owner of the HD Parcel in the manner set forth in Section 6.6 below stating when construction shall commence, which notice shall contain a construction schedule showing all phases of construction through completion.

(k) Additional Requirements. Without limiting any other requirements set forth in this Agreement, at all times during the performance of any Work by or on behalf of the Outparcel Owner or any Occupant thereof, the Outparcel Owner, on behalf of itself, its Occupants and their respective Permittees, covenants and agrees, and Outparcel Owner shall take such action as may be necessary or required to make the any Permittee comply with, the following terms, provisions and restrictions:

(i) Once commenced, all Construction, maintenance and repairs shall be prosecuted with reasonable diligence to completion.

(ii) All Construction and other Work shall be completed at the sole cost and expense of the Outparcel Owner (without reimbursement by the Owner of the HD Parcel) (i) without adversely affecting or damaging the HD Parcel or other portions of the Retail Development, and (ii) without interfering with the operation of any business on the HD Parcel (including, without limitation, customer and truck access, parking, loading, unloading, deliveries, outdoor sales or storage, or the availability, capacity or function of any utility and without diverting any water from the Outparcel onto the HD Parcel or other portions of the Retail Development. Without

limiting the foregoing, Outparcel Owner and its Permittees shall (A) take no action to remove, damage or otherwise endanger any improvements upon the HD Parcel (except as expressly contemplated herein with respect to the Work) or the Retail Development or any utilities or facilities that serve the HD Development or the Retail Development and any Improvements thereon, (B) take reasonable action to keep the HD Parcel and Retail Development clear of mud, dust, dirt and wind-blown debris, cleaning same at reasonably frequent intervals consistent with the operation of a first-class shopping center, and (C) take all reasonable action to protect and preserve safe passenger vehicle and truck access to and within the HD Parcel for the Owner of the HD Parcel and its respective Occupants, vendors, suppliers, delivery trucks, customers, invitees and licensees. At no time shall any Work related to the Outparcel close off, restrict or prohibit direct vehicular access on any portion of HD Parcel or the Retail Development.

(iii) Prior to and as a condition of the commencement of any Construction, Outparcel shall, at its sole cost and expense, procure and maintain, and/or cause its contractors to procure and maintain the insurance coverages set forth in Section 5.5(c) hereof at all times during the performance of the Work.

(iv) Upon completion of any Construction and other Work, the Outparcel Owner shall clean, repair, replace and restore, as the case requires, the areas of the Retail Development including, without limitation, the HD Parcel affected by such Work (including, without limitation, any affected surface or sub-surface improvements thereon or therein) to their prior condition (except as expressly contemplated by the Work), with any restoration on the HD Parcel performed in accordance with HD Site Specs.

(v) At all times during the performance of the Work, the Outparcel Owner shall, at its sole cost and expense (without reimbursement from the Owner of the HD Parcel) be solely responsible for all damage or additional maintenance or repairs (including all necessary replacements) on the HD Parcel arising out of the activities of Outparcel Owner or its Permittees in connection with the performance of the Work.

(vi) In no event shall any portion of HD Parcel be used for any construction access (other than the driveway on the HD Parcel off of Knox Street (a/k/a as K-Mart Drive) and N. 28th Street as shown on the Site Plan as "**Designated Construction Access**"), parking, staging, storage or assembly related to any Construction or other Work.

(vii) During the initial Construction on the Outparcel, the Outparcel shall be fenced off from the remainder of the Retail Development and the HD Parcel with customary construction safety fencing or barricades.

2.6 Building Maintenance. From and after the date construction of a Building on the Outparcel is completed, the exterior of such Building shall be maintained by the Outparcel Owner in a good, safe and first class order, condition and repair.

2.7 Damage and Destruction. If the Building or other Improvements on the Outparcel are damaged or destroyed by fire or other cause, the Outparcel Owner shall promptly cause either (i) the repair, restoration, or rebuilding of the Improvements so damaged or destroyed to a condition and an architectural style existing immediately prior to the damage or destruction, (ii) the rebuilding of completely new Improvements (subject to the approval process set forth in this Agreement), or (iii) the razing of any damaged Building, the filling of any excavation, and performance of any other Work necessary to put the Outparcel in a clean, sightly and safe condition. If the Outparcel Owner elects to so restore its Building and other Improvements, such Improvements shall be restored to a condition at least

as good as the Improvements which existed immediately prior to such damage or destruction and all such restoration and reconstruction shall be performed in accordance with the following requirements as the same are applicable thereto: (a) no Work on the Outparcel shall be commenced unless the Outparcel Owner has complied with the appropriate provisions of this Agreement with respect to approval of Plans for Work performed on the Outparcel; and (b) all Work shall be performed in accordance with the requirements of this Agreement.

ARTICLE 3. EASEMENTS.

3.1 Access Easement.

(a) Developer and Home Depot, collectively, as grantor, hereby grant to the Outparcel Owner, as grantee, for the benefit of the Outparcel Owner and its respective Permittees, appurtenant to the Outparcel, a perpetual non-exclusive easement for ingress and egress by vehicular and pedestrian traffic upon, over and across that portion of the Common Area located on the HD Parcel shown on the Site Plan as the "**Permanent Access Drive.**" The number and location of all curb cuts from the Outparcel to and onto the Permanent Access Drive shall, except to the extent shown on the Site Plan, be subject to the prior written approval of the Owner of the HD Parcel. The Owner of the HD Parcel may from time to time relocate the Permanent Access Drive located on the HD Parcel provided that any such relocation (i) shall be performed only after sixty (60) days' notice of such Owner's intention to undertake the relocation shall have been given to the Outparcel Owner, (ii) shall not unreasonably interfere with the use of the Permanent Access Drive during the relocation by the Outparcel Owner and its Occupants, (iii) shall not reduce or unreasonably impair the usefulness or function of the Permanent Access Drive to provide reasonably equivalent access to the Outparcel, (iv) shall be performed without cost or expense to the Outparcel Owner, (v) shall be completed using materials and design standards which equal or exceed those originally used, (vi) shall have been approved by any Governmental Authorities, if required, and (vii) shall provide for the original and relocated area to be restored to the original specifications.

(b) Each Owner reserves the right to close off its portion of the Common Area for such reasonable period of time as may be legally necessary, in the opinion of such Owner's legal counsel, to prevent the acquisition of prescriptive rights by anyone; provided, however, that prior to closing off any portion of the Common Area as herein provided, such Owner shall give written notice to the other Owner of its intention to do so, and shall attempt to coordinate such closing with the other Owner so that no unreasonable interference in the passage of pedestrians or vehicles shall occur.

(c) Each Owner reserves the right at any time and from time to time to exclude and restrain anyone who is not a Permittee from using the Common Area on its Parcel.

3.2 Drainage Easement. Developer and Home Depot hereby grant to the Outparcel Owner, and the Outparcel Owner hereby grants to Developer and the Owner of the HD Parcel, a non-exclusive easement to discharge surface storm water drainage and/or runoff from the grantee's Parcel over, upon and across the Common Area of the grantor's Parcel over and through (a) as to the HD Parcel, the existing drainage patterns and existing storm water collection facilities, and (b) as to the Outparcel, the drainage pattern and storm water collection facilities as approved in the Plans. Once constructed, (i) the grades and the surface water drainage facilities constructed on the Outparcel shall remain in strict conformance with the approved Plans, and (ii) no Owner shall alter or permit to be altered the surface of the Common Area or the drainage system constructed on its Parcel if such alteration would materially increase the flow of surface water onto an adjacent Parcel either in the aggregate or by directing the flow of surface water to a limited area.

3.3 Permanent Storm Sewer Easement.

(a) The Outparcel Owner hereby grants to the Owner of the HD Parcel, for the benefit of the HD Parcel, a non-exclusive and perpetual easement under, through and across the Common Area of the Outparcel for (i) the installation, operation, maintenance, repair, relocation and replacement of all storm sewer Utility Lines located on the Outparcel that serve and benefit the HD Parcel as such storm sewer Utility Lines exist as of the date of this Agreement or as such storm sewer Utility Lines may be relocated in accordance with the Plans approved by the Owner of the HD Parcel in connection with the initial construction on the Outparcel by the Outparcel Owner, and (ii) for the transportation of storm water from the HD Parcel in and through the storm sewer Utility Lines located on the Outparcel. Nothing in this Section 3.3 shall make the Owner of the HD Parcel responsible for any of the costs of the initial construction contemplated by the Outparcel Owner including, without limitation, the cost of relocating any existing storm sewer Utility Lines contemplated in the Plans. The foregoing is not intended to limit Outparcel Owner's obligations under Section 5.1 hereof.

(b) Developer and Home Depot hereby grant to the Outparcel Owner, for the benefit of the Outparcel, a non-exclusive and perpetual easement under, through and across the portion of the Common Area located on the HD Parcel in an area (the "**Storm Sewer Easement Area**") located five (5) feet on either side of the storm sewer line (the "**Storm Sewer Extension**") shown on Exhibit E to be built by the Outparcel Owner on the HD Parcel as part of the initial construction of the Building on the Outparcel to connect to an existing storm sewer Utility Line located on the HD Parcel as shown thereon for the installation, operation, maintenance, repair, relocation and replacement of the Storm Sewer Extension in the Storm Sewer Easement Area. Nothing in this Section 3.3(b) shall make the Owner of the HD Parcel responsible for any of the costs of the initial construction of the Storm Sewer Extension or for any costs related to the maintenance, repair, relocation or replacement of the Storm Sewer Extension, and any work related to the Storm Sewer Extension shall be performed in accordance with the terms of this Agreement.

3.4 Utility Easements.

(a) Each Owner agrees (at no cost, liability or expense to the granting Owner and to the minimum extent required) to grant such additional utility easements as may be reasonably required by any public utility for the purpose of providing underground Utility Lines to provide necessary utility services to the other Owner's Parcel for the benefit of the other Owner and its Occupants, provided that such easements do not unreasonably interfere with any Buildings or other Improvements on an Owner's Parcel and are not otherwise inconsistent with the provisions of this Agreement or the Existing Covenants. The requesting Owner (whose Parcel will be served by such utility easement and applicable service) hereby indemnifies, defends and holds the granting Owner harmless from and against any and all Claims arising out of the execution or existence of such utility easement and any activities on the granting Owner's Parcel arising thereunder.

(b) To the extent any Utility Lines (whether known or unknown) in existence as of the date of this Agreement serve the HD Parcel, cross the Outparcel outside of any recorded easement that benefits the HD Parcel and are not otherwise addressed in this Article 3 or any applicable Existing Covenants (such Utility Lines are collectively referred to herein as the "**Existing Lines**"), the Outparcel Owner hereby grants to the Owner of the HD Parcel, for the benefit of the HD Parcel, a perpetual, non-exclusive easement, for the installation, operation, maintenance, repair, relocation and replacement of any Existing Lines and to allow any Existing Lines to continue to cross over, across, upon, under or through the Outparcel in their existing locations.

(c) Without the prior written consent of the Owner of the HD Parcel, which consent may be granted or withheld in such Owner's sole discretion, the Outparcel Owner shall not grant any easement for

the benefit of any property located outside of the Parcels; provided, however, that the foregoing shall not prohibit the granting or dedicating of easements by the Outparcel Owner on the Outparcel to governmental or quasi-governmental authorities or to public utilities.

(d) The following terms shall apply to Utility Lines installed or caused to be installed by the Outparcel Owner:

(i) To the extent any utility easement is granted to a public utility over any portion of the HD Parcel to serve the Outparcel, such easement area shall be no wider than necessary to reasonably satisfy the requirements of a public utility.

(ii) All Utility Lines shall be installed and maintained below ground level, except for (A) ground-mounted electrical transformers and such other facilities as are required to be above ground by the utility providing such service, and (B) temporary utility service required during construction, maintenance and repair of any Building or other Improvements located on the Outparcel.

(iii) The installation, operation, maintenance, repair and replacement of Utility Lines serving the Outparcel shall not unreasonably interfere with the use of the improved Common Area on the HD Parcel or with the normal operation of any business on the HD Parcel or on any Adjacent Tract. The Outparcel Owner shall pay all costs and expenses related to all Utility Lines installed by the Outparcel Owner and shall cause all Work in connection therewith (including general clean up and proper surface and/or subsurface restoration) to be completed as quickly as possible and in a manner so as to minimize interference with the use of the Common Area on the HD Parcel, and shall provide the Owner of the HD Parcel with as-built plans for all such facilities located on the HD Parcel, including the location of the easement (as determined by a licensed surveyor), within thirty (30) days after the date of completion of construction. Outparcel Owner shall, at its sole cost and expense, maintain, repair and replace any Utility Lines installed in connection with the development of the Outparcel.

(e) At any time and from time to time, the grantor of any utility easement hereunder shall have the right to relocate any Utility Lines installed or located on its Parcel, provided that such relocation: (i) shall be performed only after sixty (60) days prior written notice of the grantor's intention to undertake the relocation shall have been given to the grantee served by the Utility Lines; (ii) shall not unreasonably interfere with or diminish utility service to the grantee's land served by the Utility Lines; (iii) shall not reduce or unreasonably impair the usefulness or function of the Utility Lines; (iv) shall be performed without cost or expense to the grantee; (v) shall be completed using materials and design standards which equal or exceed those originally used; (vi) shall have been approved by the service provider and any appropriate Governmental Authorities, if required, and any other applicable parties under any applicable Existing Covenants; (vii) shall provide for the original and relocated area to be restored to the original specifications; (viii) shall not interfere with the conduct or operation of the business of any Occupant of the grantee's Parcel; and (ix) shall otherwise comply with this Agreement and all applicable Existing Covenants. The grantor performing such relocation shall provide as-built plans for all such relocated Utility Lines and facilities to the grantee served by such Utility Lines within thirty (30) days after the date of completion of such relocation.

3.5 Landscaping Easement. The Outparcel Owner shall be responsible for the installation, irrigation, maintenance and replacement of landscaping on any portions of the Outparcel, which landscaping shall be maintained in compliance with the requirements of all applicable Governmental Regulations, the Existing Covenants and this Agreement. If the Outparcel Owner fails or refuses to undertake its responsibilities described in this Section 3.5 with respect to Outparcel landscaping, the

Owner of the HD Parcel may perform such landscape work on the Outparcel as may be reasonably necessary to comply with such requirements, and within thirty (30) days after demand by Home Depot, the Outparcel Owner shall reimburse Home Depot for all costs and expenses incurred by Home Depot in connection with such landscape work, together with a management fee equal to fifteen percent (15%) of such costs and expenses. The Outparcel Owner hereby grants to Home Depot a non-exclusive easement for the installation, irrigation, maintenance and replacement of landscaping on any such portions of the Outparcel.

3.6 No Merger. If at any time in the future any Owner of a Parcel acquires another Parcel subject to this Agreement, such common ownership shall not cause a merger of any of the easements, rights and benefits granted hereunder for the benefit of any Parcel over another Parcel, nor cause a merger of any of the obligations or burdens placed hereunder upon a Parcel for the benefit of another Parcel.

3.7 Other Easements. For avoidance of doubt, the parties recognize that (i) all easement rights for the benefit of the Outparcel, the Outparcel Owner and its Occupants and Permittees in, on, over, or otherwise pertaining to any portion of the HD Parcel shall be granted solely pursuant to this Agreement, (ii) that the Existing Covenants do not purport to and shall not be deemed to provide the Outparcel or the Outparcel Owner or its Occupants or Permittees with any such easement rights for the use of any portion of the HD Parcel notwithstanding anything in any Existing Covenants to the contrary, and (iii) to the extent any such easement rights with respect to the use of any portion of the HD Parcel may exist (expressly or by implication) or otherwise be deemed to exist by virtue of the Existing Covenants, the Outparcel Owner hereby disclaims all such easements and rights to the use of the HD Parcel and acknowledges that it will in no event have the right to use any such easement rights under the Existing Covenants. Nothing in this Section 3.7 is intended to limit or modify (i) any easement rights established under the Existing Covenants which inure to the benefit of the Outparcel with respect to the use of all or any portion of any Adjacent Tract; or (ii) the obligations of the Owner of the HD Parcel under the Existing Covenants, if any.

ARTICLE 4. PARKING; RESTRICTIONS ON USE AND OPERATION.

4.1 Parking.

(a) The Parking Area on the Outparcel shall contain sufficient self-contained (i.e., on the Outparcel only), ground level parking spaces (exclusive of parking spaces used for cart corrals and/or recycle centers) in order to satisfy at least the following without reliance on parking spaces located on any other Parcel: (i) five (5) parking spaces for each one thousand (1,000) square feet of Floor Area used for general retail purposes; (ii) ten (10) parking spaces for each one thousand (1,000) square feet of Floor Area for any Restaurant to the extent that the Outparcel contains less than five thousand (5,000) square feet of Floor Area devoted to Restaurant or food service use and does not serve beer, wine or liquor; and (iii) fifteen (15) parking spaces for each one thousand (1,000) square feet of Floor Area for any Restaurant to the extent that the Outparcel contains five thousand (5,000) square feet of Floor Area or more devoted to Restaurant or food service use or any use that serves beer, wine or liquor for on-premises consumption.

(b) If a business use contains a drive-up or drive-thru unit (such as a remote banking teller or food ordering/dispensing facility, then there shall also be created space for stacking not less than ten (10) automobiles (exclusive of any drive-aisle) for each drive-up unit.

(c) Anything herein to the contrary notwithstanding, if the minimum number of parking spaces required by the greater of (i) Governmental Regulations (without variance), or (ii) the Existing Covenants, is greater than the minimum requirements set forth in Section 4.1(a) above, then the minimum

number of parking spaces as required by the greater of Governmental Regulations (without variance) or the Existing Covenants shall control for purposes of determining the minimum parking requirements for the Outparcel under this Agreement.

(d) In the event of a condemnation of part of a Parcel or sale or transfer in lieu thereof that reduces the number of usable parking spaces below that which is required in this Section 4.1, the Owner whose Parcel is so affected shall use its best efforts (including, without limitation, using proceeds from the condemnation award or settlement) to restore and/or provide substitute parking spaces in order to comply with the parking requirements set forth in this Section 4.1. If such compliance is not possible, the Owner whose Parcel is so affected shall not be deemed in default hereunder, but such Owner shall not be permitted to expand the amount of Floor Area located upon its Parcel. If such Floor Area is thereafter reduced other than by casualty, the Floor Area on such Parcel may not subsequently be increased unless the parking requirement is satisfied.

(e) It is expressly understood that the Outparcel Owner and its Occupants and Permittees shall have no right or easement pursuant to this Agreement to park on the HD Parcel or any portion thereof and the Outparcel Owner hereby acknowledges that it must satisfy the foregoing parking requirements solely by use of the Parking Areas on the Outparcel.

4.2 Use Restrictions.

(a) General Use Restrictions.

(1) Notwithstanding anything in any Existing Covenants to the contrary, without the prior written consent of the Owner of the HD Parcel, the following shall not be allowed to operate on the Outparcel or any portion thereof including, without limitation, the Common Area located thereon: traveling carnivals, fairs, auctions, shows, kiosks, booths for the sale of fireworks, sales by transient merchants utilizing vehicles or booths and other promotions of any nature. If unauthorized Persons, including without limitation tenants or invitees of tenants occupying any Building now or at any future time located on the Outparcel, utilize the Parking Area for other than temporary parking by customers while shopping on the Outparcel, the Outparcel Owner shall at its sole expense, upon written request by the Owner of the HD Parcel, take whatever action as shall be necessary to prevent said unauthorized use.

(2) No part of the Outparcel shall be used for a business or use which: (i) creates strong, unusual or offensive odors, fumes, dust or vapor; (ii) is a public or private nuisance; (iii) emits noises or sounds which are objectionable to the Owner of the HD Parcel due to intermittence, beat, frequency, shrillness or loudness; (iv) creates unusual fire, explosive or other hazards; or (v) violates any applicable Existing Covenants or Governmental Regulations affecting or related to the Shopping Center.

(3) Subject to the terms of this Agreement, the Outparcel shall only be used for retail purposes. Without limiting the foregoing and anything in any Existing Covenants to the contrary notwithstanding, no portion of the Outparcel may be leased, used or occupied as or for the sale or distribution of alcoholic beverages (excluding the incidental sale of beer and wine in connection with operation of a restaurant; such sale shall be deemed incidental if the gross sales derived from such alcoholic beverages are less than twenty percent (20%) of the total gross sales derived from any business operated on the Outparcel); a bar, tavern, night club or discotheque, dance hall, comedy club, night club or adult entertainment facility; flea market or a business selling so-called "second hand" goods (the term "second hand" shall mean stores which sell goods primarily as a service to the public rather than to a retail customer for a profit); discotheque; skating rink; game

room or video or amusement arcade; theater, auditorium, sports or other entertainment viewing facility (whether live, film, audio/visual or video); barbecue or gas grill retail store; billiard parlor; bowling alley; industrial, manufacturing or warehouse use; truck stop; adult bookstore or establishment selling, exhibiting or distributing pornographic or obscene materials; massage parlor; marijuana dispensary or "head shop"; automobile (or other motor vehicle or boat) dealership or repair shop; body and fender shop; motor vehicle or boat storage facility; a mini-storage or self-storage facility; a laundromat or dry-cleaning facility (but this shall not be deemed to prohibit nominal supportive facilities for on-site service oriented to pickup and delivery by the ultimate consumer); off-track betting parlor; any promotion, entertainment, or amusement activities of any nature; cemetery; funeral parlor or mortuary; off-track betting parlor; junk yard; recycling facility or stockyard; a beauty school, barber college, reading room, place of instruction or any other operation catering primarily to students or trainees and not to customers (but shall specifically not prohibit a school which is incidental to a primary retail purpose); office usage other than incidental in connection with non-prohibited uses; residential or hotel uses; house of worship; a surplus store; gun range; the sale of guns as a primary use; car wash facility or gasoline station; an animal kennel; or fitness center, workout facility, gym, health club, spa or studio, or exercise facility.

(4) The Outparcel Owner shall provide the Owner of the HD Parcel with written notification of any proposed change in use (and each subsequent change in use) from the initial use of any business operation located on the Outparcel, and any such change shall be subject to the prior written approval of the Owner of the HD Parcel, which approval shall not be unreasonably withheld or delayed. It shall be reasonable for Home Depot to withhold its consent for example, without limitation, if the proposed use would violate this Agreement, or any applicable Governmental Regulations or Existing Covenants.

(5) This Agreement is not intended to, and does not, create or impose any obligation on a party to operate, continuously operate, or cause to be operated a business or any particular business in the Shopping Center or on any Parcel.

(6) No portion of the Common Area on the Outparcel shall be used for the sale, storage or display of merchandise or food.

(b) Exclusive Use Restrictions. Notwithstanding anything in any Existing Covenants to the contrary, no portion of the Outparcel shall be used for a home improvement center, hardware store, garden center or for the sale, display, lease or distribution of any of the following products or services, individually or in the aggregate: lumber, hardware items, plumbing supplies, electrical supplies, paint, wallpaper and wall coverings, hard and soft flooring (including, without limitation, tile, wood flooring, rugs and carpeting), interior design services, kitchens or bathrooms or components thereof (including, without limitation, tubs, sinks, faucets, mirrors, cabinets, showers, vanities, countertops and related hardware), indoor and outdoor lighting, window treatments (including, without limitation, draperies, curtains and blinds), cabinets, siding, ceiling fans, gardening supplies, nursery products, lawn and garden tools and equipment, pool supplies, patio furniture and patio accessories, gas grills, barbeques and related accessories or similar outdoor cooking equipment, kitchen or household appliances, closet organizing systems, pictures or picture framing, live or artificial Christmas trees (and related seasonal items such as wreaths) or other items that are customarily carried by a home improvement center, hardware store or garden center, except for the incidental sales of such items. The term "incidental sales" shall mean that there is no more than 500 square feet of the total floor area (calculated by measuring the floor area of the premises in question that is occupied by the shelving or display area, plus one-half of the adjacent aisle space) of such business that is dedicated to the sale of such items individually or in the aggregate.

ARTICLE 5. COMMON AREA MAINTENANCE; TAXES; INSURANCE.

5.1 Maintenance.

(a) Maintenance Standards. The Outparcel Owner shall maintain or cause to be maintained the Common Areas on the Outparcel at all times in good and clean condition and repair and to a level comparable to the standard of maintenance generally maintained in other comparable first class shopping centers of similar size and tenant-mix, in the metropolitan area in which the Shopping Center is located, said maintenance to include, without limitation, the following:

(1) Maintaining, repairing and resurfacing, when necessary, all paved surfaces in a level, smooth and evenly covered condition with the type of surfacing material originally installed or such substitute as shall in all respects be equal or superior in quality, use and durability, and restriping when necessary, to maintain clearly visible parking stall and traffic control lines;

(2) Removing all papers, debris, filth and refuse from the Common Area on the Outparcel and washing or thoroughly sweeping the Common Area to the extent reasonably necessary to keep the Common Area on the Outparcel in a clean and orderly condition, unobstructed, and free from ice and snow;

(3) Placing, painting, maintaining, repairing, replacing and repainting, as and when necessary, all directional signs, markers, striping and pedestrian crossings upon or within the Common Area on the Outparcel;

(4) Maintaining, repairing and replacing, when necessary, (i) Service Areas, and (ii) traffic directional signs, markers and lines, and all informational signs such as "Handicapped Parking", in good repair and condition;

(5) Operating, maintaining, repairing and replacing, when necessary, such artificial lighting facilities as shall be reasonably required, including, but not limited to, poles, pole bases, wiring, lamps, ballasts, lenses, photocells, time clocks, and contacts. The Outparcel Owner shall maintain and provide electricity to all lighting fixtures attached to its Building at its sole cost and expense;

(6) Maintaining, repairing and replacing all landscaped area; maintaining, repairing and replacing, when necessary, automatic sprinkler systems and water lines; replacing shrubs and other landscaping as necessary;

(7) Maintaining, repairing and replacing, when necessary, all Common Area walls, including, without limitation, any screening walls or retaining walls located on or serving the Outparcel or any Improvements thereon;

(8) Maintaining, repairing and replacing, when necessary, all Common Area storm drains, sewers, lift stations and other Utility Lines not dedicated to the public or conveyed to any public or private utility which are necessary for the operation of the Building and other Improvements which are either located on the Outparcel or installed in connection with the development of the Outparcel, including any Utility Line permitted to be installed on the HD Parcel to connect to any existing Utility Lines on the HD Parcel;

(9) Intentionally Omitted;

- (10) Maintaining, repairing and replacing, when necessary, the monument sign on the Outparcel;
- (11) Performing itself or contracting with a third party or parties to perform any of the services described herein; provided, however, that the Outparcel Owner shall remain responsible and liable for the performance of all said services in accordance with the terms of this Agreement and for the performance of any such third party or parties under any such contract or contracts;
- (12) Maintaining liability insurance on the Common Area located on the Outparcel, in compliance with Section 5.6 hereof;
- (13) Supervising traffic at entrances and exits to the Outparcel if necessary as conditions reasonably require in order to maintain an orderly and proper traffic flow; and
- (14) Keeping the Common Area and all common Utility Lines free from any obstructions including those caused by the sale or display of merchandise, unless such obstruction is permitted under the provisions of this Agreement.

The foregoing obligations shall include any repairs or replacements which may become necessary due to damage or destruction of the Common Areas on the Outparcel.

(b) Limitation on Performance of Major Repairs. Notwithstanding the Outparcel Owner's obligations as set forth in this Section 5.1, prior to performing any repairs during the months of April, May and/or June, where such repairs may interrupt or interfere with the operation of the HD Development including, without limitation, any business operated thereon, the Outparcel Owner shall provide the Owner of the HD Parcel with a minimum of sixty (60) days written notice prior to starting such repair projects so as to obtain such Owner's consent to the timing of such repairs, which consent may be granted or withheld in Home Depot's sole and absolute discretion.

(c) One-Time Maintenance Payment. In conjunction with the execution of this Agreement, Outparcel Owner has paid to Home Depot a one-time, lump-sum maintenance payment as and for Outparcel Owner's contribution toward maintenance and repair costs incurred by Home Depot in connection with annual maintenance of the portions of the Common Areas located on the HD Parcel that the Outparcel Owner has the right to use pursuant to and in accordance with the terms of this Agreement including, without limitation, any applicable Utility Lines. The foregoing lump-sum payment will not limit or modify any other obligations or liabilities of the Outparcel Owner under this Agreement including, without limitation, (i) responsibility for damage to the HD Parcel caused by any act or omission of the Outparcel Owner or any party claiming by, through or under such Owner, including as a result of any Construction, or (ii) any indemnification obligations hereunder.

(d) Shared Costs Under Existing Covenants. To the extent that the Shopping Center is billed for any shared cost, utility, maintenance or use assessment or imposition (including, without limitation, with respect to any shared detention areas) under any of the Existing Covenants (collectively, an "Existing Covenant Reimbursable"), the Owners of the Parcels shall cooperate with each other to cause each Parcel to be separately allocated and assessed by the billing party or entity therefor. At any time that the Parcels are not so separately allocated and assessed with respect to any Existing Covenant Reimbursable, then the Outparcel Owner shall reimburse the Owner of the HD Parcel for its share of any Existing Covenant Reimbursable within fifteen (15) days after rendition of an invoice therefor by the Owner of the HD Parcel, with such share being Four and one/hundredth percent (4.01%) based on a fraction, the numerator of which is the acreage of the Outparcel (.88 acres) and the denominator of which is the acreage of the Shopping Center (21.95 acres).

5.2 Reimbursement; Lien If the Outparcel Owner fails to pay when due its share of any invoice for the Common Area maintenance expenses described above (including the management fee described herein) or the Annual Fee or any other sums which may be due and owing from the Outparcel Owner to the Owner of the HD Parcel under this Agreement, then, following any cure period provided in Section 6.3 hereof, such failure shall constitute a default under this Agreement and the Owner of the HD Parcel may thereafter institute legal action against the Outparcel Owner for reimbursement, plus interest from the date said bill was due and payable to and including the date said bill is paid, at the Default Rate. Furthermore, the Owner of the HD Parcel shall have a lien on the Outparcel for the amount of said expenses and accrued interest as set forth above. The lien provided for in this Section 5.2 shall only be effective when filed for record by the Owner of the HD Parcel as a claim of lien against the Outparcel Owner in the office of the recorder of the county in which the Outparcel is located, signed and verified, which shall contain at least: (i) an itemized statement of all amounts due and payable pursuant hereto; (ii) a description sufficient for identification of the Outparcel which is the subject of the lien; (iii) the name of the owner or reputed owner of the Outparcel; and (iv) the name and address of the Owner of the HD Parcel. The lien, when so established against the Outparcel described in the lien, shall be prior and superior to all right, title, interest, lien or claim which may be or has been acquired or attached to the Outparcel after the time of filing the lien. The lien shall be for the use and benefit of the Owner of the HD Parcel and may be enforced and foreclosed in a suit or action brought in any court of competent jurisdiction.

5.3 Lighting. Subject to any applicable Existing Covenants, after completion of the Common Area lighting system on the Outparcel, the Outparcel Owner hereby covenants and agrees to keep the Outparcel fully illuminated each day from dusk to at least 11:00 p.m. unless the Owner of the HD Parcel agrees upon a different time. The Outparcel Owner further agrees to keep any exterior Building security lights on from dusk until dawn. During the term of this Agreement, each Owner grants an irrevocable license to the other Owner for the purpose of permitting the lighting from one Parcel to incidentally shine on the adjoining Parcel. Unless otherwise approved in writing by the Owner of the HD Parcel, all exterior lighting fixtures and facilities on any portion of the Outparcel shall (i) be of the type installed on the HD Parcel, and (ii) not exceed an average lighting output of three (3) foot candles. To the extent any lighting fixtures located on the Outparcel as of the date of this Agreement are wired to the Building located on the HD Parcel, the Outparcel Owner shall, in conjunction with its initial construction, rewire such lights toward the end that all Common Area lighting facilities on the Outparcel are wired to the Building located on the Outparcel.

5.4 Taxes and Assessments. The Outparcel Owner shall pay direct to the tax collector, prior to delinquency, the real property taxes and other special taxes and assessments levied and assessed against the Outparcel, including the portion of the Common Area on the Outparcel; subject, however, to the right of such Owner to contest the amount or validity of all or any, part of said taxes and assessments. The Outparcel Owner shall indemnify, defend, protect and hold the Owner of the HD Parcel harmless for, from and against any and all Claims in connection with any and all liens arising out of the failure of the Outparcel Owner to pay prior to delinquency, all taxes and assessments described in this Section 5.4.

5.5 Insurance.

(a) Liability Insurance. The Outparcel Owner shall, at its sole cost and expense, maintain the following policies of insurance in full force and effect:

(1) Commercial general liability insurance with broad form coverage endorsement (including broad form property damage endorsement) insuring against claims on account of loss of life, personal injury or property damage that may arise from, or be occasioned by the

condition, use or occupancy of the Outparcel Owner's Building, including the Service Areas on the Outparcel Owner's Parcel, by the Outparcel Owner and its Occupants (the "**Owner's Liability Insurance**"). The insurance required pursuant to this Section 5.5(a)(1) shall be at least as broad as the most commonly available ISO Commercial General Liability policy form CG 00 01 and shall include the following provisions: (i) shall provide that the policy may not be canceled or reduced in amount or coverage below the requirements of this Agreement, without at least thirty (30) days prior written notice by the insurer to each insured and to each additional insured; (ii) shall provide for severability of interests; (iii) shall provide that an act or omission of one of the insureds or additional insureds which would void or otherwise reduce coverage, shall not reduce or void the coverage as to the other insureds; (iv) shall provide for contractual liability coverage, naming the Owner of the HD Parcel as an additional insured, endorsed to cover the Outparcel Owner's agreement to indemnify as set out in Section 5.6 below and elsewhere in this Agreement; and (v) shall be primary and non-contributory. Upon request, the Outparcel Owner agrees to furnish to the Owner of the HD Parcel a certificate evidencing that: (i) such insurance is in full force and effect; (ii) the premiums have been paid in full; (iii) the appropriate parties are designated as additional insureds on an endorsement at least as broad as ISO Form CG 2026; (iv) the policy contains any required waiver of subrogation; and (v) such insurance may not be cancelled or coverage reduced below the levels required to be maintained hereunder without at least thirty (30) days prior written notice to all insureds and additional insureds.

(2) The Owner's Liability Insurance shall be carried by an insurance company or companies qualified to do business in the State in which the Shopping Center is located with a Best's Key Rating Guide Property-Casualty United States rating of at least an A- and a financial rating of VIII, and having limits for bodily injury to or personal injury to or death of any person, or more than one (1) person, or for damage to property, in an amount of not less than Three Million and No/100 Dollars (\$3,000,000.00) combined single limit per occurrence/aggregate, such coverage to be in a commercial general liability form with at least the following endorsements: (i) deleting any employee exclusion on personal injury coverage; (ii) including coverage for injuries to or caused by employees; (iii) providing for blanket contractual liability coverage (including the Owner's indemnity obligations contained in this Agreement), broad form property damage coverage and products completed operations, owner's protective and personal injury coverage; (iv) providing for coverage of employers automobile non-ownership liability; and (v) if the use of the Outparcel includes the sale of alcoholic beverages, including coverage for employer's liability, host liquor liability, liquor liability and so-called "dram shop" liability coverage with a combined single limit of not less than Three Million and No/100 Dollars (\$3,000,000.00) per occurrence. The Owner's Liability Insurance shall be made on an "occurrence" basis and not on a "claims made" basis. The insurance referenced in this Section 5.5 may be provided under (A) an individual policy covering this location, (B) a blanket policy or policies which includes other liabilities, properties and locations of such Owner, so long as the amount and coverage of insurance required to be carried hereunder is not diminished, or (C) a combination of the foregoing insurance programs. To the extent any deductible is permitted or allowed as a part of any insurance policy carried by the Outparcel Owner in compliance with this Section 5.5, the Outparcel Owner shall be deemed to be covering the amount thereof under an informal plan of self-insurance, provided, however, that in no event shall any deductible exceed \$10,000.00.

(b) Insurance Coverage During Construction.

(1) Prior to commencing any construction activities within the Outparcel, the Outparcel Owner shall obtain or require its contractor to obtain and thereafter maintain so long as such construction activity is occurring, at least the minimum insurance coverages set forth below:

(A) Workers' compensation and employer's liability insurance:

(i) Worker's compensation insurance as required by any applicable law or regulation.

(ii) Employer's liability insurance in the amount of \$500,000 each accident for bodily injury, \$500,000 policy limit for bodily injury by disease and \$500,000 each employee for bodily injury by disease.

(B) General liability insurance: Commercial General Liability insurance covering all operations by or on behalf of the general contractor, which shall include the following minimum limits of liability and coverages:

(i) Required coverages:

a) Premises and operations;

b) Products and Completed Operations;

c) Contractual Liability, insuring the indemnity obligations assumed by Contractor under the contract documents;

d) Broad Form Property Damage (including Completed Operations);

e) Explosion, Collapse and Underground Hazards; and

f) Personal Injury Liability.

(ii) Minimum limits of liability:

a) \$2,000,000 each occurrence for bodily injury and property damage;

b) \$5,000,000 for Personal Injury Liability;

c) \$5,000,000 aggregate for Products and Completed Operations (which shall be maintained for a three (3) year period following final completion of the work); and

d) Five Million and No/100 Dollars (\$5,000,000) general aggregate applying separately to the Shopping Center property, using ISO Form Amendment-Aggregate Limits of Insurance Per Project CG 2503 1199 or a substitute form acceptable to the Owner of the HD Parcel.

(C) Automobile Liability Insurance: Automobile liability insurance (bodily injury and property damage liability) including coverage for owned, hired, and non-owned automobiles, with limits of liability of not less than One Million and No/100 Dollars (\$1,000,000.00) combined single limit each accident for bodily injury and

property damage combined. The general contractor shall require each of its subcontractors to include in their liability insurance policies coverage for automobile contractual liability. The automobile liability insurance policy shall be written on a form that provides coverage equal to or greater than that provided in ISO Form CA 0001 (endorsed, if necessary, to provide contractual liability coverage at least as broad as that provided in 1990 and later editions of CA 0001).

(D) **Builder's Risk Insurance:** Builder's risk insurance in an amount sufficient to cover the replacement cost of the construction activities. Such policy shall provide, among other things, that the insurer(s) specifically recognize and insure the construction activity pursuant to this Agreement.

(E) **Umbrella/Excess Liability Insurance:** The general contractor shall also carry umbrella/excess liability insurance in the amount of \$5,000,000. If there is not a per project aggregate under the Commercial General Liability policy, the limit shall be \$3,000,000.

(2) If the construction activity involves the use of the HD Parcel, then the Owner of the HD Parcel shall be an additional insured and such insurance shall provide that the insurance shall not be canceled, or reduced in amount or coverage below the requirements of this Agreement, without at least thirty (30) days prior written notice to the insured and each additional insured. The form of additional insured endorsement shall be at least as broad as ISO Form CG 2026. If such insurance is canceled or expires then the construction Owner shall immediately stop all work on or use of the HD Parcel until either the required insurance is reinstated or replacement insurance obtained. The general contractor shall supply the Owner of the HD Parcel with executed copies of the policies of insurance or evidence of insurance meeting the requirements of Accord Form No. 27 or No. 28 or such other evidence as may be reasonably acceptable to the Owner of the HD Parcel.

(c) **Property Insurance:** Effective upon the commencement of construction of any Building on the Outparcel and so long as such Building exists, the Owner of the Outparcel shall cause to be carried causes of loss - special form property insurance at least as broad as ISO Special Form Causes of Loss, CP 0030, in an amount not less than one hundred percent (100%) of the full insurable replacement cost (excluding footings, foundations or excavations) of all Buildings and Improvements (including Common Area improvements) on the Outparcel and in any event in amounts at least sufficient to raze and demolish all the Buildings and Improvements located on the Outparcel. Any such insurance shall otherwise conform to the provisions with respect to insurance contained in Section 5.5(a).

5.6 **Indemnification by Owners.** Each Owner shall defend, indemnify and hold the other Owner and its Permittees harmless for, from and against any and all Claims (i) in connection with the loss of life, personal injury and/or damage to property arising from or out of any occurrence in or upon the indemnifying Owner's Parcel (except to the extent caused by the negligent, grossly negligent or willful act or omission of the indemnified Owner or its Permittees), (ii) occasioned wholly or in part by any negligent, grossly negligent or willful act or omission of the indemnifying Owner or its Occupants wherever same may occur, (iii) occurring in the interior of any Building constructed on the indemnifying Owner's Parcel (unless caused by the negligent, grossly negligent or willful act or omission of the indemnified Owner or its Permittees); (iv) in connection with the failure of the indemnifying Owner to comply with the provisions of this Agreement; (v) in connection with any act or omission of such indemnifying Owner or its Occupants or Permittees. If the Owner of the HD Parcel shall, without fault, be made a party to any litigation commenced by or against the Outparcel Owner or its Permittees, or if such Owner shall, in its reasonable discretion, determine that it must intervene in such litigation to protect

its interest hereunder, then the Outparcel Owner shall defend the Owner of the HD Parcel using attorneys reasonably satisfactory to such Owner and shall pay all costs, expenses and reasonable attorneys' fees and costs in connection with such litigation. The Owner of the HD Parcel shall have the right to engage its own attorneys in connection with any of the provisions of this Section 5.6 or any of the provisions of this Agreement, including, but not limited to, any defense of or intervention by the Owner of the HD Parcel, notwithstanding any contrary provisions of the laws or court decisions of the state in which the Shopping Center is located.

5.7 Mutual Release. Each Owner (the "**Releasing Party**") hereby releases and waives for itself, and each Person claiming by, through or under it, the other Owner (the "**Released Party**") from any liability for any loss or damage to all property of such Releasing Party located upon any portion of the Shopping Center, which loss or damage is of the type covered by the insurance required to be maintained under Sections 5.5(b)(1)(D) and 5.5(c) above, irrespective either of any negligence on the part of the Released Party which may have contributed to or caused such loss, or of the amount of such insurance required or actually carried, including any deductible or self-insurance reserve. Each Owner agrees to use its reasonable efforts to obtain, if needed, appropriate endorsements to its policies of insurance with respect to the foregoing release; provided, however, that failure to obtain such endorsements shall not affect the release hereinabove given. Each Owner ("**Indemnitor**") covenants and agrees to indemnify, defend and hold harmless the other Owner ("**Indemnitee**") from and against all claims asserted by or through any Permittees of the Indemnitor's Parcel for any loss or damage to the property of such Permittee located upon the Indemnitor's Parcel, which loss or damage is covered by the insurance required to be maintained under Sections 5.5(b)(1)(D) and 5.5(c) above, irrespective of any negligence on the part of the Indemnitee which may have contributed to or caused such loss.

5.8 Waiver of Subrogation. The Owners and Occupants each hereby waive any rights one may have against the other on account of any loss or damage occasioned to an individual Owner or Occupant, or its respective property, either real or personal, arising from any risk generally covered by causes of loss - special form insurance and from any risk covered by property insurance then in effect. In addition, the Owners and Occupants, for themselves and on behalf of their respective insurance companies, waive any right of subrogation that any insurance company may have against the Owners and Occupants. It is the intent of the parties that with respect to any loss from a named peril required to be covered under a policy of property insurance, the parties shall look solely to their respective insurance company for recovery. The foregoing waivers of subrogation shall be operative only so long as available in the State where the Shopping Center is situated and provided further that no policy of insurance is invalidated thereby.

5.9 Security. The Outparcel Owner acknowledges and agrees that the Owner of the HD Parcel shall have no responsibility or obligation whatsoever to provide any security or crime prevention services for the benefit of the Outparcel and the Outparcel Owner hereby releases and agrees to hold harmless the Owner of the HD Parcel from and against any and all Claims the Outparcel Owner, its agents, employees, contractors or invitees may have arising out of or in any way connected with any trespass, criminal activity, damage or injury to persons or property at the Outparcel or the HD Parcel.

ARTICLE 6. GENERAL PROVISIONS.

6.1 Successors and Assigns; Covenants Running with the Land; Release from Obligations. This Agreement and the Easements and Restrictions created hereby shall inure to the benefit of and be binding upon the Owners, their heirs, personal representatives, Occupants, successors and assigns, and upon any Person acquiring a Parcel, or any portion thereof, or any interest therein, whether by operation of law or otherwise; provided, however, that if the Outparcel Owner sells the Outparcel, then at such time as the selling Owner executes and delivers to the Owner of the HD Parcel a written statement identifying

the name and address of the new Owner and the effective date of the conveyance, then upon the later to occur of the actual date of conveyance or the date of receipt of such written statement by the Owner of the HD Parcel, the selling Outparcel Owner shall be released and discharged from any and all obligations as Owner in connection with the property sold by it arising under this Agreement after the sale and conveyance of title but shall remain liable for all obligations arising under this Agreement prior to the sale and conveyance of title. The new Owner of any Parcel or any portion thereof (including, without limitation, any Owner who acquires its interest by foreclosure, trustee's sale or otherwise) shall be liable for all obligations arising under this Agreement with respect to such Parcel or portion thereof after the date of sale and conveyance of title. Failure to deliver any such written statement shall not affect the running of any covenants herein with the land, nor shall such failure negate, modify or otherwise affect the liability of the new Owner pursuant to the provisions of this Agreement, but such failure shall constitute a default by the conveying Owner resulting in continued liability hereunder. Each term, covenant, condition and agreement contained herein respecting the HD Parcel or the Outparcel shall be a burden on that Parcel, shall be appurtenant to and for the benefit of the other Parcel and each part thereof and shall run with the land.

6.2 Term. Except as otherwise provided herein, the term of this Agreement shall be for sixty-five (65) years from the date hereof. Upon termination of this Agreement, all rights and privileges derived from and all duties and obligations created and imposed by the provisions of this Agreement shall terminate and have no further force or effect; provided, however, that the termination of this Agreement shall not limit or affect any remedy at law or in equity that an Owner may have against any other Owner with respect to any liability or obligation arising or to be performed under this Agreement prior to the date of such termination, and, provided further, that the access easement with respect to the Permanent Access Drive in Section 3.1, and the drainage, storm sewer, sanitary sewer, water line and utility easements set forth in Sections 3.1, 3.2, 3.3 and 3.4 and, in each case, the rights and duties related thereto, shall continue in effect in perpetuity (as to the Utility Lines actually in use at the time of the termination of this Agreement) until such time as the Permanent Access Drive and/or Utility Lines cease to be used to serve a Building or Parcel in the Shopping Center.

6.3 Default.

(a) Notice and Cure Period. In the event any party fails to perform any provision of this Agreement, which failure continues for a period of ten (10) days after receipt of written notice specifying the particulars of such failure, such failure shall constitute a default under this Agreement and any other party(ies) may thereafter institute legal action against the defaulting party for specific performance, declaratory or injunctive relief, monetary damages or any other remedy provided by law; provided, however, that the defaulting party shall not be deemed to be in default if such failure to perform cannot reasonably be rectified within said ten (10) day period and such party is diligently proceeding to rectify the particulars of such failure within a period not to exceed thirty (30) days. The foregoing shall be in addition to any other remedies expressly provided for in this Agreement. The Outparcel Owner agrees by acquiring the Outparcel that the violation of any of the covenants, conditions or restrictions in this Agreement may result in damages which are difficult or impossible to determine in amount, and therefore equitable remedies to enjoin the violation hereof may be appropriate. Therefore, in addition to any other remedies set forth herein, the Owner of the HD Parcel shall be entitled to seek temporary and permanent injunctions against the breach of any of the provisions hereof. It is expressly agreed that no breach of or default under this Agreement shall entitle any party to terminate this Agreement, but such limitation shall not affect in any manner any other rights or remedies which such party may have hereunder or by reason of any breach of or default under this Agreement or at law or in equity.

(b) Self-Help. If an Owner or Occupant of the Outparcel fails to perform any provision of this Agreement, then, upon the expiration of the cure period provided in Section 6.3(a) and upon an

additional ten (10) days prior written notice (except that no additional notice shall be required in an emergency), the Owner of the HD Parcel shall have the right, but not the obligation, to enter upon the Outparcel to cure such default for the account of and at the expense of the Outparcel Owner or Occupant. If the Owner of the HD Parcel exercises its self-help right, then, within ten (10) days after receipt of an invoice from the Owner of the HD Parcel, the defaulting Outparcel Owner and/or Occupant shall reimburse the Owner of the HD Parcel all costs reasonably incurred by such Owner in curing such default, plus an administrative fee equal to fifteen percent (15%) of such costs. Furthermore, the Owner of the HD Parcel shall have the right, if such invoice is not paid within said ten (10) day period, to record a lien on the Outparcel for the amount of the unpaid costs incurred by the Owner of the HD Parcel pursuant to this Section 6.3(b) and the management fee, together with accrued interest at the Default Rate. The lien provided for in this Section 6.3(b) shall only be effective when filed for record by the Owner of the HD Parcel as a claim of lien against the Outparcel in the office of the recorder of the county in which the Outparcel is located, signed and verified, which shall contain at least: (i) an itemized statement of all amounts due and payable pursuant hereto; (ii) a description sufficient for identification of the Outparcel; (iii) the name of the owner or reputed owner of the Outparcel; and (iv) the name and address of the Owner of the HD Parcel filing the lien. The lien, when so established against the Outparcel described in the lien, shall be prior and superior to all right, title, interest, lien or claim which may be or has been acquired or attached to the Outparcel after the time of filing the lien, except for the first mortgage lien affecting the Outparcel, so long as the same is held by a lienholder which routinely engages in the business of making loans secured by commercial real estate, such as banks, insurance companies and similar institutions (collectively, "Institutional Lienholders"). The lien may be enforced and foreclosed in a suit or action brought in any court of competent jurisdiction.

6.4 Amendment; Termination. This Agreement may not be modified or terminated except by a written instrument duly executed and acknowledged by the Outparcel Owner and the Owner of the HD Parcel, duly recorded in the office of the recorder of the county in which the Parcels are located.

6.5 Multiple Owners. If the Outparcel is owned by more than one Person, then all of such Persons shall agree among themselves by a 51% majority of ownership interests and designate in writing to the Owner of the HD Parcel a single person or entity who is entitled to act as the Outparcel Owner for the Outparcel pursuant to this Agreement. If the Owners of the Outparcel cannot agree who shall be entitled to act as the Outparcel Owner for the Outparcel, or if the Owners fail to designate the single person or entity who is entitled to act as the Outparcel Owner for the Outparcel hereunder within thirty (30) days after receipt of a request to do so from the Owner of the HD Parcel, then the Owner of the HD Parcel shall designate one of the Outparcel Owners to act as the Outparcel Owner hereunder.

6.6 Notices. All notices given pursuant to this Agreement shall be in writing and shall be given by personal delivery, or by United States mail (certified, return receipt requested), or by United States express mail or other established express delivery service (such as Federal Express, DHL and United Parcel Service), postage or delivery charges prepaid, addressed to the person and address specified below or, in the absence of such designation, to the person and address shown on the then current real property tax rolls in the county in which the Parcels are located. All notices to Developer, Home Depot and Ames shall initially be addressed as follows:

If to Developer: Eustis Associates Limited Partnership
5500 Ave Royalmount, Suite 300
Montreal, Quebec, Canada H4P 1H7

with a copy to: Smith & Liss, LLC
Five Concourse Parkway, Suite 2600
Atlanta, Georgia 30328
Attention: Suzan E. Roth, Esq.

If to Home Depot: Home Depot U.S.A., Inc.
2455 Paces Ferry Road, N.W.
Atlanta, Georgia 30339-4024
Attention: Property Management (re: Store No. 3209)

with a copy to: Home Depot U.S.A., Inc.
2455 Paces Ferry Road, N.W.
Atlanta, Georgia 30339-4024
Attention: Senior Corporate Counsel - Real Estate

Address for payments
to Home Depot: The Home Depot (Store No. 3209)
P. O. Box 7247-7491
Philadelphia, Pennsylvania 19170-7491

If to Ames
Development: Ames Development, LLC
13207 "F" Street
Omaha, Nebraska 68137

with a copy to: McGill, Gotsdiner, Workman & Lepp, P.C.
11404 West Dodge Road, Suite 500
Omaha, Nebraska 68154
Attention: Keith A. Green, Esq.

Notices by an Owner may be given by legal counsel to or the authorized agent of such Owner. Each Owner may change the person and address to which notices are to be given, upon written notice to the other Owner. All notices given pursuant to this Agreement shall be deemed given upon receipt. For the purpose of this Agreement, the term "receipt" shall mean the earliest of any of the following: (i) the date of delivery to the address specified pursuant to this section as shown on the return receipt; (ii) the date of actual receipt by the person or entity specified pursuant to this section; or (iii) in the case of refusal to accept delivery or inability to deliver, the earlier of (A) the date of the attempted delivery or refusal to accept delivery, (B) the date of the postmark on the return receipt, or (C) the date of receipt of notice of refusal or notice of non-delivery by the sending party.

6.7 Waiver. The failure of a party to insist upon strict performance of any of the terms, covenants, conditions or agreements contained herein shall not be deemed a waiver of any rights or remedies that said party may have, and shall not be deemed a waiver of any subsequent breach or default in the performance of any of the covenants, conditions and restrictions contained herein by the same or any other person or entity.

6.8 Attorneys' Fees. If any party initiates or defends any legal action or proceeding to enforce or interpret any of the terms of this Agreement, the prevailing party in any such action or proceeding shall be entitled to recover from the losing party its reasonable costs and attorneys' fees (including costs and attorneys' fees on any appeal).

6.9 Sale/Lease-Back. Notwithstanding anything to the contrary contained in this Agreement, it is expressly agreed that in the event an Owner sells its Parcel to an unaffiliated third party (for purposes of this Section, referred to as "Prime Lessor") and such Owner thereafter enters into a lease as Prime Lessee for all of such Parcel with such Prime Lessor, then for so long as Prime Lessee is in possession of the property as lessee, Prime Lessee shall have all of the rights and obligations of the Owner of such Parcel, and the other Owner shall look solely to said Prime Lessee for the performance of any obligations said Owner shall have under this Agreement and the Prime Lessor shall be relieved, while said lease is in effect, of any obligation for the performance of or liability under this Agreement set forth herein relating to either the Owner or its Parcel.

6.10 Partial Invalidity. If any term or provision of this Agreement or the application hereof to any person or circumstance shall to any extent be invalid or unenforceable, then the remainder of this Agreement and the application of such term or provision to other persons or circumstances shall be unaffected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

6.11 No Partnership. The provisions of this Agreement are not intended to create, nor shall they in any way be interpreted or construed to create, a joint venture, partnership or any other similar relationship between the parties. Each party shall be considered a separate party and no party shall have the right to act as agent for another, unless expressly authorized to do so herein or by separate written instrument signed by the party to be charged.

6.12 Captions. The captions and headings in this Agreement are for reference only and shall not be deemed to define or limit the scope or intent of any of the terms, covenants, conditions or agreements contained herein.

6.13 Entire Agreement. This Agreement contains the entire agreement, and supersedes all prior agreements (either oral or written), with respect to the matters set forth herein.

6.14 Interpretation. Whenever the context requires in construing the provisions of this Agreement, the use of a gender shall include both genders, the use of the singular shall include the plural, and the use of the plural shall include the singular. The word "including" shall be construed inclusively, and not in limitation, whether or not the words "without limitation" or "but not limited to" (or words of similar import) are used with respect thereto. The provisions of this Agreement shall be construed as a whole and not strictly for or against any party. Unless otherwise provided, references to Articles and Sections refer to the Articles and Sections of this Agreement.

6.15 Joint and Several. If any party hereto is composed of more than one person or entity, then the obligations of such party shall be joint and several.

6.16 Recording. This Agreement shall be recorded in the office of the recorder of the county in which the Parcels are located.

6.17 Time of Essence; Force Majeure. Time is of the essence with respect to the performance of each obligation of this Agreement. Whenever performance is required by any person or entity hereunder, such person or entity shall use all due diligence to perform and take all necessary measures in good faith to perform; provided, however, that if completion of performance shall be delayed at any time by reason of acts of God, war, civil commotion, riots, strikes, picketing or other labor disputes, unavailability of labor or materials, damage to work in progress by reason of fire or other casualty, or any other cause beyond the reasonable control of such person or entity, then the time for performance as herein specified shall be extended by the amount of the delay actually so caused. Notwithstanding the

foregoing, the provisions of this section shall not operate to excuse any person or entity from the prompt payment of any monies required by this Agreement to be paid.

6.18 Mortgagee Protection. Notwithstanding anything in this Agreement to the contrary, no breach of this Agreement shall defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value, but this Agreement shall be binding upon and effective against any party hereto whose title is acquired by foreclosure, trustee's sale, deed or conveyance in lieu of foreclosure or otherwise. Notwithstanding anything to the contrary contained in this Agreement, in order to preserve the rights and interests of any "Institutional Lienholder", if a lien is placed on the Outparcel pursuant to Sections 5.2 and 6.3(b), such lien shall be subordinate and inferior to the lien of any Institutional Lienholder now or hereafter placed upon the Outparcel, except that upon foreclosure (or deed or conveyance in lieu of foreclosure) or termination of the lease under a sale/leaseback by an Institutional Lienholder, any lien recorded pursuant to Section 5.2 prior to such foreclosure or termination, and any post-foreclosure or post-termination lien, shall be and become the obligation of the person or entity acquiring title to the Outparcel by such foreclosure (or deed or conveyance in lieu of foreclosure). In any event, the interest of any Institutional Lienholder in the Outparcel, and any assignee or successor-in-interest of such Institutional Lienholder, shall be subject to all the covenants, terms and conditions contained in this Agreement.

6.19 Construction by Home Depot. Subject to the provision of Section 3.1 pertaining to the Permanent Access Drive and the other terms and conditions of this Agreement, right of the Owner of the HD Parcel shall have the right to alter or reconfigure all or any portion of the HD Parcel, or to construct such additional improvements as the Owner of the HD Parcel deems necessary or advisable.

6.20 Variances. Where appropriate, the Owner of the HD Parcel may, in its sole and subjective discretion, grant variances to the provisions hereof, where strict adherence to the requirements of this Agreement or any architectural standards established by such Owner would, in the judgment of such Owner, cause undue hardship.

6.21 Limitation of Liability. Except as specifically provided below, there shall be absolutely no corporate or personal liability of any Person comprising the Owner of the HD Parcel hereunder, including, but not limited to, officers, directors, shareholders, members, partners, beneficiaries, employees or agents thereof, with respect to any of the terms, covenants, conditions and provisions of this Agreement. In the event of a default by the Owner of the HD Parcel, the Outparcel Owner shall look solely to the interest of the Owner of the HD Parcel in the HD Parcel for the satisfaction of any remedy arising out of a breach of this Agreement; provided, however, the foregoing shall not in any way impair, limit or prejudice the right of the Outparcel Owner to pursue any equitable relief available pursuant to this Agreement for any such breach.

6.22 Eminent Domain. Subject to the Existing Covenants, in the event the whole or any part of a Parcel shall be taken by right of eminent domain or any similar authority of law ("Taking"), the entire award for the value of the land and improvements so taken shall belong to the Owner of the Parcel so taken or to such Owner's mortgagees or tenants, as their interest may appear, and no other Owner shall have a right to claim any portion of such award by virtue of any interest created by this Agreement. Any Owner of a Parcel which is not the subject of a Taking may, however, file a collateral claim with the condemning authority over and above the value of the land being so taken to the extent of any damage suffered by such Owner resulting from the severance of the land or improvements so taken, including, without limitation, loss of or interference with any easement right, so long as such claim shall not operate to reduce the award allocable to the Parcel taken.

6.23 Estoppel Certificates. Upon thirty (30) days' written request of any Owner hereto, the other Owner shall issue to any party designated by the requesting Owner an appropriate certificate certifying whether the Owner to whom the request is made knows of any default under this Agreement or of any assignment, modification or amendment to this Agreement (and the nature and extent of any such default or other known matter), whether, to that Owner's knowledge, this Agreement is in full force and effect, and whether any past payments are due under this Agreement. The certificate may be relied upon by a bona fide encumbrance or purchaser for value without knowledge of facts to the contrary and shall constitute a waiver of any claim by the certifying Owner based upon facts contrary to the certificate of which that Owner had knowledge at the time of making the certificate. The certificate shall not subject the Owner furnishing the certificate to any liability for any inaccurate statement which such Owner in good faith believed was correct when made or any obligation to correct or disclose any change in the information certified.

6.24 Counterparts. This Agreement 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.

6.25 Existing Covenants. The Outparcel Owner hereby acknowledges and agrees, for itself and any Occupant of the Outparcel, that it shall satisfy and comply with all, and that it shall not violate any, of the terms, covenants, conditions, restrictions or provisions of any of the Existing Covenants that are binding upon the Outparcel Owner and the Outparcel, in all cases limited to the application thereof to the Outparcel only, but not otherwise. The Outparcel Owner shall indemnify defend, protect and hold the Owner of the HD Parcel and its officers, directors, shareholders, employees and agents harmless for, from and against any and all Claims arising under the Existing Covenants related to the Outparcel or arising out of any act or omission of the Outparcel Owner or any party claiming by, through or under the Outparcel Owner, excluding any obligations or liability of Home Depot that may have accrued with respect to the Outparcel under any Existing Covenants prior to the Closing. The Outparcel Owner acknowledges and agrees that: (i) certain provisions of this Agreement may contain greater or more expansive obligations or more stringent or restrictive restrictions than the terms and conditions of similar provisions in the Existing Covenants, (ii) certain provisions of the Existing Covenants may contain greater or more expansive obligations or more stringent or restrictive covenants and restrictions than the terms and conditions of similar provisions in this Agreement; and (iii) the Outparcel Owner and its Occupants shall comply with the greater or more expansive obligation or shall be subject to the more restrictive covenant or restriction, as the case may be, so as to at all times comply with the terms of both this Agreement and the Existing Covenants.

6.26 Conflicts. If the terms, provisions and conditions of this Agreement conflict with or are inconsistent with the terms, conditions and provisions set forth in the HD Lease, as the HD Lease may be amended from time to time, Developer and Home Depot hereby acknowledge and agree that the terms, conditions and provisions of the HD Lease shall govern and control as between the parties thereto, but not otherwise.

[remainder of page left intentionally blank; signature pages to follow]

[Signature Page for Restrictive Covenants and Easement Agreement]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

EUSTIS ASSOCIATES LIMITED PARTNERSHIP,
a Delaware limited partnership

By: Eustis, Inc., a Delaware corporation,
Sole General Partner

By: *Norman Zavalkoff*
Norman Zavalkoff, Vice President

STATE OF Georgia
COUNTY OF Fulton

The foregoing instrument was acknowledged before me on this 27th day of August, 2015, by Norman Zavalkoff, the Vice President of Eustis, Inc., a Delaware corporation, the sole general partner of Eustis Associates Limited Partnership, a Delaware limited partnership, on behalf of the limited partnership.

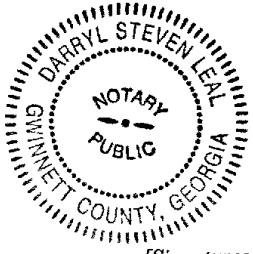
Darryl Steven Leal

Notary Public

[NOTARIAL SEAL]

My Commission Expires:

5/23/19



[Signatures Continue on Following Page]

[Signature Page for Restrictive Covenants and Easement Agreement]

HOME DEPOT U.S.A., INC.,
a Delaware corporation

By: [Signature]
Name: Jessica Borgert
Title: Senior Corporate Counsel

STATE OF Georgia)
COUNTY OF Cobb)

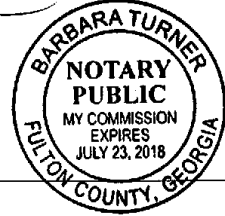
The foregoing instrument was acknowledged before me on this 27 day of August, 2015, by Jessica Borgert, the Sr. Corporate Counsel of Home Depot U.S.A., Inc., a Delaware corporation, on behalf of the corporation.

[Signature]
Notary Public

[NOTARIAL SEAL]

My Commission Expires:

7-23-2018



List of Exhibits

Exhibit A-1	Legal Description of Outparcel
Exhibit A-2	Legal Description of HD Parcel
Exhibit B	Site Plan
Exhibit C	HD Site Specs
Exhibit D-1	Monument Signage
Exhibit D-2	Building Signage
Exhibit E	Storm Sewer Easement Area

EXHIBIT A-1

Legal Description of Outparcel

NO
CORCR2

LOT 2, CORNHUSKER CROSSING 2ND ADDITION, CITY OF LINCOLN, LOCATED IN THE SOUTHWEST QUARTER (SW1/4) OF SECTION 7, TOWNSHIP 10 NORTH, RANGE 7 EAST OF THE 6TH P.M., LANCASTER COUNTY, NEBRASKA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A SOUTHWEST CORNER OF LOT 1, CORNHUSKER CROSSING 3RD ADDITION, SAID POINT BEING LOCATED ON THE EAST RIGHT-OF-WAY LINE OF NORTH 27TH STREET; THENCE ON AN ASSUMED BEARING OF NORTH 00 DEGREES 01 MINUTES 08 SECONDS EAST, ALONG A WEST LINE OF SAID LOT 1, SAID LINE BEING THE EAST RIGHT-OF-WAY LINE OF NORTH 27TH STREET, A DISTANCE OF 70.56 FEET; THENCE SOUTH 89 DEGREES 59 MINUTES 57 SECONDS EAST A DISTANCE OF 37.91 FEET TO THE SOUTHWEST CORNER OF LOT 2, CORNHUSKER CROSSING 1ST ADDITION; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, ALONG THE WEST LINE OF SAID LOT 2, CORNHUSKER CROSSING 1ST ADDITION, A DISTANCE OF 186.99 FEET TO THE SOUTHWEST CORNER OF SAID LOT 2, CORNHUSKER CROSSING 2ND ADDITION, SAID POINT BEING THE NORTHWEST CORNER OF LOT 2, CORNHUSKER CROSSING 1ST ADDITION, SAID POINT BEING THE POINT OF BEGINNING; THENCE, CONTINUING, NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, ALONG THE WEST LINE OF SAID LOT 2, CORNHUSKER CROSSING 2ND ADDITION, A DISTANCE OF 217.02 FEET TO THE NORTHWEST CORNER OF SAID LOT 2, CORNHUSKER CROSSING 2ND ADDITION; THENCE SOUTH 89 DEGREES 59 MINUTES 53 SECONDS EAST, ALONG THE NORTH LINE OF SAID LOT 2, CORNHUSKER CROSSING 2ND ADDITION, A DISTANCE OF 179.98 FEET TO THE NORTHEAST CORNER OF SAID LOT 2, CORNHUSKER CROSSING 2ND ADDITION; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST, ALONG AN EAST LINE OF SAID LOT 2, CORNHUSKER CROSSING 2ND ADDITION, A DISTANCE OF 212.01 FEET TO THE SOUTHEAST CORNER OF SAID LOT 2, CORNHUSKER CROSSING 2ND ADDITION, SAID POINT BEING ON THE NORTH LINE OF LOT 2, CORNHUSKER CROSSING 1ST ADDITION; THENCE NORTH 89 DEGREES 59 MINUTES 57 SECONDS WEST, ALONG A SOUTH LINE OF SAID LOT 2, CORNHUSKER CROSSING 2ND ADDITION, SAID LINE BEING A NORTH LINE OF SAID LOT 2, CORNHUSKER CROSSING 1ST ADDITION, A DISTANCE OF 159.44 FEET TO A SOUTH CORNER OF SAID LOT 2, CORNHUSKER CROSSING 2ND ADDITION, SAID POINT BEING A NORTH CORNER OF SAID LOT 2, CORNHUSKER CROSSING 1ST ADDITION; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST, ALONG AN EAST LINE OF SAID LOT 2, CORNHUSKER CROSSING 2ND ADDITION, SAID LINE BEING A WEST LINE OF SAID LOT 2, CORNHUSKER CROSSING 1ST ADDITION, A DISTANCE OF 5.00 FEET TO A SOUTH CORNER OF SAID LOT 2, CORNHUSKER CROSSING 2ND ADDITION, SAID POINT BEING A NORTH CORNER OF SAID LOT 2, CORNHUSKER CROSSING 1ST ADDITION; THENCE NORTH 89 DEGREES 59 MINUTES 57 SECONDS WEST, ALONG A SOUTH LINE OF SAID LOT 2, CORNHUSKER CROSSING 2ND ADDITION, SAID LINE BEING A NORTH LINE OF SAID LOT 2, CORNHUSKER CROSSING 1ST ADDITION, A DISTANCE OF 20.54 FEET TO THE POINT OF BEGINNING.

Said tract of land contains a calculated area of 0.88 acres, more or less, and is more particularly shown as Parcel 2 on that certain "ALTA/ACSM Land Title Survey for Eustis Associates Limited Partnership" prepared by Olsson Associates, bearing the seal of Daniel A. Thomson, Nebraska Land Surveyor No. 593, dated October 23, 2014, last revised November 17, 2014.

EXHIBIT A-1

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EXHIBIT A-2

Legal Description of HD Parcel

A TRACT OF LAND COMPOSED OF LOT 1, CORNHUSKER CROSSING 3RD ADDITION, CITY OF LINCOLN, LOCATED IN THE SOUTHWEST QUARTER (SW1/4) OF SECTION 7, TOWNSHIP 10 NORTH, RANGE 7 EAST OF THE 6TH P.M., LANCASTER COUNTY, NEBRASKA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

NO
CORCR3

BEGINNING AT THE MOST NORTHWEST CORNER OF SAID LOT 1; THENCE ON AN ASSUMED BEARING OF SOUTH 89 DEGREES 59 MINUTES 29 SECONDS EAST ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 1240.52 FEET TO THE NORTHEAST CORNER OF SAID LOT 1; THENCE SOUTHWESTERLY ALONG THE EASTERLY LINE OF SAID LOT 1 ON A CURVE TO THE RIGHT HAVING A DELTA ANGLE OF 07 DEGREES 51 MINUTES 32 SECONDS, AN ARC DISTANCE OF 779.03 FEET, A RADIUS OF 5679.58 FEET, A CHORD BEARING OF SOUTH 18 DEGREES 04 MINUTES 46 SECONDS WEST AND A CHORD LENGTH OF 778.42 FEET TO AN EAST CORNER OF SAID LOT 1; THENCE SOUTH 22 DEGREES 23 MINUTES 39 SECONDS WEST ALONG THE EAST LINE OF SAID LOT 1 A DISTANCE OF 108.90 FEET TO THE SOUTHEAST CORNER OF SAID LOT 1; THENCE SOUTH 88 DEGREES 53 MINUTES 24 SECONDS WEST, ALONG A SOUTH LINE OF SAID LOT 1, A DISTANCE OF 265.14 FEET TO A SOUTH CORNER OF SAID LOT 1; THENCE SOUTH 01 DEGREES 13 MINUTES 03 SECONDS EAST, ALONG AN EAST LINE OF SAID LOT 1, A DISTANCE OF 37.40 FEET TO A SOUTHEAST CORNER OF SAID LOT 1; THENCE SOUTH 88 DEGREES 47 MINUTES 43 SECONDS WEST, ALONG A SOUTH LINE OF SAID LOT 1, A DISTANCE OF 402.34 FEET TO A SOUTH CORNER OF SAID LOT 1; THENCE SOUTH 28 DEGREES 59 MINUTES 14 SECONDS EAST, ALONG AN EAST LINE OF SAID LOT 1, A DISTANCE OF 283.04 FEET TO A SOUTHEAST CORNER OF SAID LOT 1, SAID POINT BEING ON THE NORTHERLY RIGHT-OF-WAY LINE OF CORNHUSKER HIGHWAY; THENCE SOUTH 88 DEGREES 59 MINUTES 29 SECONDS WEST, ALONG A SOUTH LINE OF SAID LOT 1, SAID LINE BEING THE NORTHERLY RIGHT-OF-WAY LINE OF CORNHUSKER HIGHWAY, A DISTANCE OF 128.73 FEET TO A SOUTH CORNER OF SAID LOT 1; THENCE NORTH 88 DEGREES 37 MINUTES 56 SECONDS WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 259.75 FEET TO A SOUTHWEST CORNER OF SAID LOT 1; THENCE NORTH 44 DEGREES 40 MINUTES 40 SECONDS WEST, ALONG A SOUTHWESTERLY LINE OF SAID LOT 1, SAID LINE BEING THE NORTHEASTERLY RIGHT-OF-WAY LINE OF CORNHUSKER HIGHWAY, A DISTANCE OF 56.95 FEET TO A SOUTHWEST CORNER OF SAID LOT 1; THENCE NORTH 00 DEGREES 01 MINUTES 08 SECONDS EAST, ALONG A WEST LINE OF SAID LOT 1, SAID LINE BEING THE EAST RIGHT-OF-WAY LINE OF NORTH 27TH STREET, A DISTANCE OF 624.16 FEET TO A WEST CORNER OF SAID LOT 1; THENCE NORTH 44 DEGREES 57 MINUTES 32 SECONDS EAST, ALONG A NORTHWESTERLY LINE OF SAID LOT 1, SAID LINE BEING A SOUTHEASTERLY RIGHT-OF-WAY LINE OF NORTH 27TH STREET, A DISTANCE OF 35.39 FEET TO A NORTHWEST CORNER OF SAID LOT 1; THENCE SOUTH 89 DEGREES 57 MINUTES 33 SECONDS EAST, ALONG A NORTH LINE OF SAID LOT 1, SAID LINE BEING A SOUTH RIGHT-OF-WAY LINE OF NORTH 27TH STREET, A DISTANCE OF 11.95 FEET TO A WEST CORNER OF SAID LOT 1; THENCE NORTH 00 DEGREES 01 MINUTES 08 SECONDS EAST, ALONG A WEST LINE OF SAID LOT 1, SAID LINE BEING THE EAST RIGHT-OF-WAY LINE OF NORTH 27TH STREET, A DISTANCE OF 80.01 FEET TO A NORTHWEST CORNER OF SAID LOT 1, SAID POINT BEING ON THE SOUTH LINE OF LOT 2, CORNHUSKER CROSSING; THENCE SOUTH 89 DEGREES 57 MINUTES 33 SECONDS EAST, ALONG A NORTH LINE OF SAID LOT 1, SAID LINE BEING THE SOUTH LINE OF SAID LOT 2, CORNHUSKER CROSSING, A DISTANCE OF 180.00 FEET TO A WEST CORNER OF SAID LOT 1, SAID POINT BEING THE

SOUTHEAST CORNER OF SAID LOT 2, CORNHUSKER CROSSING; THENCE NORTH 00 DEGREES 01 MINUTES 08 SECONDS EAST, ALONG A WEST LINE OF SAID LOT 1, SAID LINE BEING THE EAST LINE OF SAID LOT 2, CORNHUSKER CROSSING, A DISTANCE OF 246.67 FEET TO A WEST CORNER OF SAID LOT 1, SAID POINT BEING THE NORTHEAST CORNER OF SAID LOT 2, CORNHUSKER CROSSING; THENCE NORTH 89 DEGREES 58 MINUTES 42 SECONDS WEST, ALONG A SOUTH LINE OF SAID LOT 1, SAID LINE BEING THE NORTH LINE OF SAID LOT 2, CORNHUSKER CROSSING, A DISTANCE OF 216.95 FEET TO A WEST CORNER OF SAID LOT 1, SAID POINT BEING ON THE EAST RIGHT-OF-WAY LINE OF NORTH 27TH STREET; THENCE NORTH 00 DEGREES 01 MINUTES 08 SECONDS EAST, ALONG A WEST LINE OF SAID LOT 1, SAID LINE BEING THE EAST RIGHT-OF-WAY LINE OF NORTH 27TH STREET, A DISTANCE OF 119.17 FEET TO THE POINT OF BEGINNING;

LESS AND EXCEPT:

LOT 2, CORNHUSKER CROSSING 2ND ADDITION, CITY OF LINCOLN, LOCATED IN THE SOUTHWEST QUARTER (SW1/4) OF SECTION 7, TOWNSHIP 10 NORTH, RANGE 7 EAST OF THE 6TH P.M., LANCASTER COUNTY, NEBRASKA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A SOUTHWEST CORNER OF LOT 1, CORNHUSKER CROSSING 3RD ADDITION, SAID POINT BEING LOCATED ON THE EAST RIGHT-OF-WAY LINE OF NORTH 27TH STREET; THENCE ON AN ASSUMED BEARING OF NORTH 00 DEGREES 01 MINUTES 08 SECONDS EAST, ALONG A WEST LINE OF SAID LOT 1, SAID LINE BEING THE EAST RIGHT-OF-WAY LINE OF NORTH 27TH STREET, A DISTANCE OF 70.56 FEET; THENCE SOUTH 89 DEGREES 59 MINUTES 57 SECONDS EAST A DISTANCE OF 37.91 FEET TO THE SOUTHWEST CORNER OF LOT 2, CORNHUSKER CROSSING 1ST ADDITION; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, ALONG THE WEST LINE OF SAID LOT 2, CORNHUSKER CROSSING 1ST ADDITION, A DISTANCE OF 186.99 FEET TO THE SOUTHWEST CORNER OF SAID LOT 2, CORNHUSKER CROSSING 2ND ADDITION, SAID POINT BEING THE NORTHWEST CORNER OF LOT 2, CORNHUSKER CROSSING 1ST ADDITION, SAID POINT BEING THE POINT OF BEGINNING; THENCE, CONTINUING, NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, ALONG THE WEST LINE OF SAID LOT 2, CORNHUSKER CROSSING 2ND ADDITION, A DISTANCE OF 217.02 FEET TO THE NORTHWEST CORNER OF SAID LOT 2, CORNHUSKER CROSSING 2ND ADDITION; THENCE SOUTH 89 DEGREES 59 MINUTES 53 SECONDS EAST, ALONG THE NORTH LINE OF SAID LOT 2, CORNHUSKER CROSSING 2ND ADDITION, A DISTANCE OF 179.98 FEET TO THE NORTHEAST CORNER OF SAID LOT 2, CORNHUSKER CROSSING 2ND ADDITION; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST, ALONG AN EAST LINE OF SAID LOT 2, CORNHUSKER CROSSING 2ND ADDITION, A DISTANCE OF 212.01 FEET TO THE SOUTHEAST CORNER OF SAID LOT 2, CORNHUSKER CROSSING 2ND ADDITION, SAID POINT BEING ON THE NORTH LINE OF LOT 2, CORNHUSKER CROSSING 1ST ADDITION; THENCE NORTH 89 DEGREES 59 MINUTES 57 SECONDS WEST, ALONG A SOUTH LINE OF SAID LOT 2, CORNHUSKER CROSSING 2ND ADDITION, SAID LINE BEING A NORTH LINE OF SAID LOT 2, CORNHUSKER CROSSING 1ST ADDITION, A DISTANCE OF 159.44 FEET TO A SOUTH CORNER OF SAID LOT 2, CORNHUSKER CROSSING 2ND ADDITION, SAID POINT BEING A NORTH CORNER OF SAID LOT 2, CORNHUSKER CROSSING 1ST ADDITION; THENCE SOUTH 00 DEGREES 00 MINUTES 00 SECONDS WEST, ALONG AN EAST LINE OF SAID LOT 2, CORNHUSKER CROSSING 2ND ADDITION, SAID LINE BEING A WEST LINE OF SAID LOT 2, CORNHUSKER CROSSING 1ST ADDITION, A DISTANCE OF 5.00 FEET TO A SOUTH CORNER OF SAID LOT 2, CORNHUSKER CROSSING 2ND ADDITION, SAID POINT BEING A NORTH CORNER OF SAID LOT 2, CORNHUSKER CROSSING 1ST ADDITION; THENCE NORTH 89 DEGREES 59 MINUTES 57

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SECONDS WEST, ALONG A SOUTH LINE OF SAID LOT 2, CORNHUSKER CROSSING 2ND ADDITION, SAID LINE BEING A NORTH LINE OF SAID LOT 2, CORNHUSKER CROSSING 1ST ADDITION, A DISTANCE OF 20.54 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT:

LOT 2, CORNHUSKER CROSSING 1ST ADDITION, CITY OF LINCOLN, LOCATED IN THE SOUTHWEST QUARTER (SW1/4) OF SECTION 7, TOWNSHIP 10 NORTH, RANGE 7 EAST OF THE 6TH P.M., LANCASTER COUNTY, NEBRASKA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A SOUTHWEST CORNER OF LOT 1, CORNHUSKER CROSSING 3RD ADDITION, SAID POINT BEING LOCATED ON THE EAST RIGHT-OF-WAY LINE OF NORTH 27TH STREET; THENCE ON AN ASSUMED BEARING OF NORTH 00 DEGREES 01 MINUTES 08 SECONDS EAST, ALONG A WEST LINE OF SAID LOT 1, SAID LINE BEING THE EAST RIGHT-OF-WAY LINE OF NORTH 27TH STREET, A DISTANCE OF 70.56 FEET; THENCE SOUTH 89 DEGREES 59 MINUTES 57 SECONDS EAST A DISTANCE OF 37.91 FEET TO THE SOUTHWEST CORNER OF LOT 2, CORNHUSKER CROSSING 1ST ADDITION, SAID POINT BEING THE POINT OF BEGINNING; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, ALONG THE WEST LINE OF SAID LOT 2, CORNHUSKER CROSSING 1ST ADDITION, A DISTANCE OF 186.99 FEET TO THE NORTHWEST CORNER OF SAID LOT 2, CORNHUSKER CROSSING 1ST ADDITION, SAID POINT BEING THE SOUTHWEST CORNER OF LOT 2, CORNHUSKER CROSSING 2ND ADDITION; THENCE SOUTH 89 DEGREES 59 MINUTES 57 SECONDS EAST, ALONG A NORTH LINE OF SAID LOT 2, CORNHUSKER CROSSING 1ST ADDITION, SAID LINE BEING A SOUTH LINE OF SAID LOT 2, CORNHUSKER CROSSING 2ND ADDITION, A DISTANCE OF 20.54 FEET TO A NORTH CORNER OF SAID LOT 2, CORNHUSKER CROSSING 1ST ADDITION, SAID POINT BEING A SOUTH CORNER OF SAID LOT 2, CORNHUSKER CROSSING 2ND ADDITION; THENCE NORTH 00 DEGREES 00 MINUTES 00 SECONDS EAST, ALONG A WEST LINE OF SAID LOT 2, CORNHUSKER CROSSING 1ST ADDITION, SAID LINE BEING AN EAST LINE OF SAID LOT 2, CORNHUSKER CROSSING 2ND ADDITION, A DISTANCE OF 5.00 FEET TO A NORTH CORNER OF SAID LOT 2, CORNHUSKER CROSSING 1ST ADDITION, SAID POINT BEING A SOUTH CORNER OF SAID LOT 2, CORNHUSKER CROSSING 2ND ADDITION; THENCE SOUTH 89 DEGREES 59 MINUTES 57 SECONDS EAST, ALONG A NORTH LINE OF SAID LOT 2, CORNHUSKER CROSSING 1ST ADDITION, SAID LINE BEING A SOUTH LINE OF SAID LOT 2, CORNHUSKER CROSSING 2ND ADDITION, A DISTANCE OF 208.06 FEET TO THE NORTHEAST CORNER OF SAID LOT 2, CORNHUSKER CROSSING 1ST ADDITION; THENCE SOUTH 00 DEGREES 01 MINUTES 08 SECONDS WEST, ALONG THE EAST LINE OF SAID LOT 2, CORNHUSKER CROSSING 1ST ADDITION, A DISTANCE OF 191.99 FEET TO THE SOUTHEAST CORNER OF SAID LOT 2; THENCE NORTH 89 DEGREES 59 MINUTES 57 SECONDS WEST, ALONG THE SOUTH LINE OF SAID LOT 2, CORNHUSKER CROSSING 1ST ADDITION, A DISTANCE OF 228.54 FEET TO THE POINT OF BEGINNING.

Said tract of land contains a calculated area of 21.07 acres, more or less, and is more particularly shown as Parcel 1 on that certain "ALTA/ACSM Land Title Survey for Eustis Associates Limited Partnership" prepared by Olsson Associates, bearing the seal of Daniel A. Thomson, Nebraska Land Surveyor No. 593, dated October 23, 2014, last revised November 17, 2014.

EXHIBIT B
Site Plan

[The depictions set forth on the following pages are for illustration purposes only and shall in no event be deemed a representation or warranty of any kind or nature whatsoever or otherwise serve to limit or modify any of the terms of this Agreement]

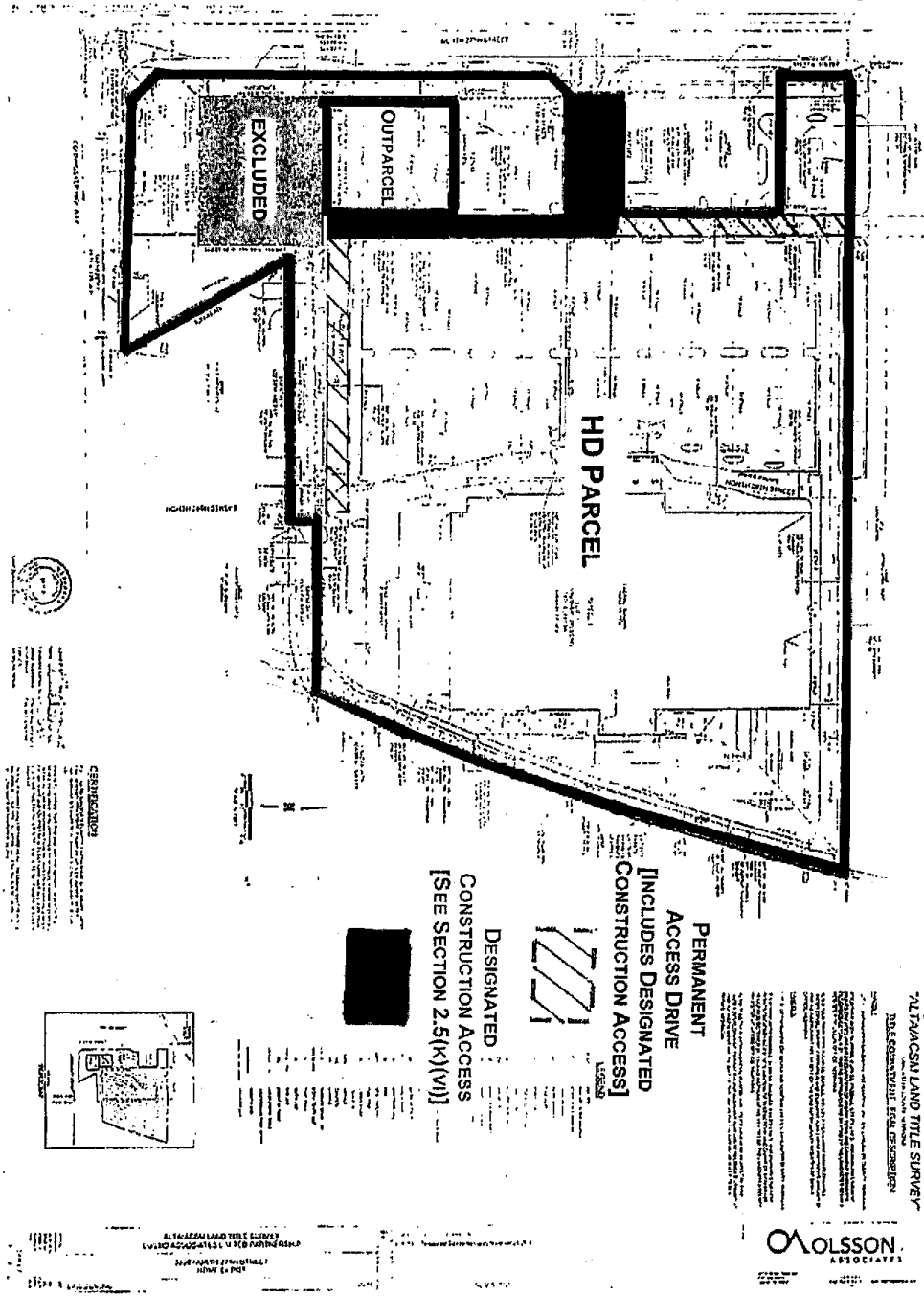
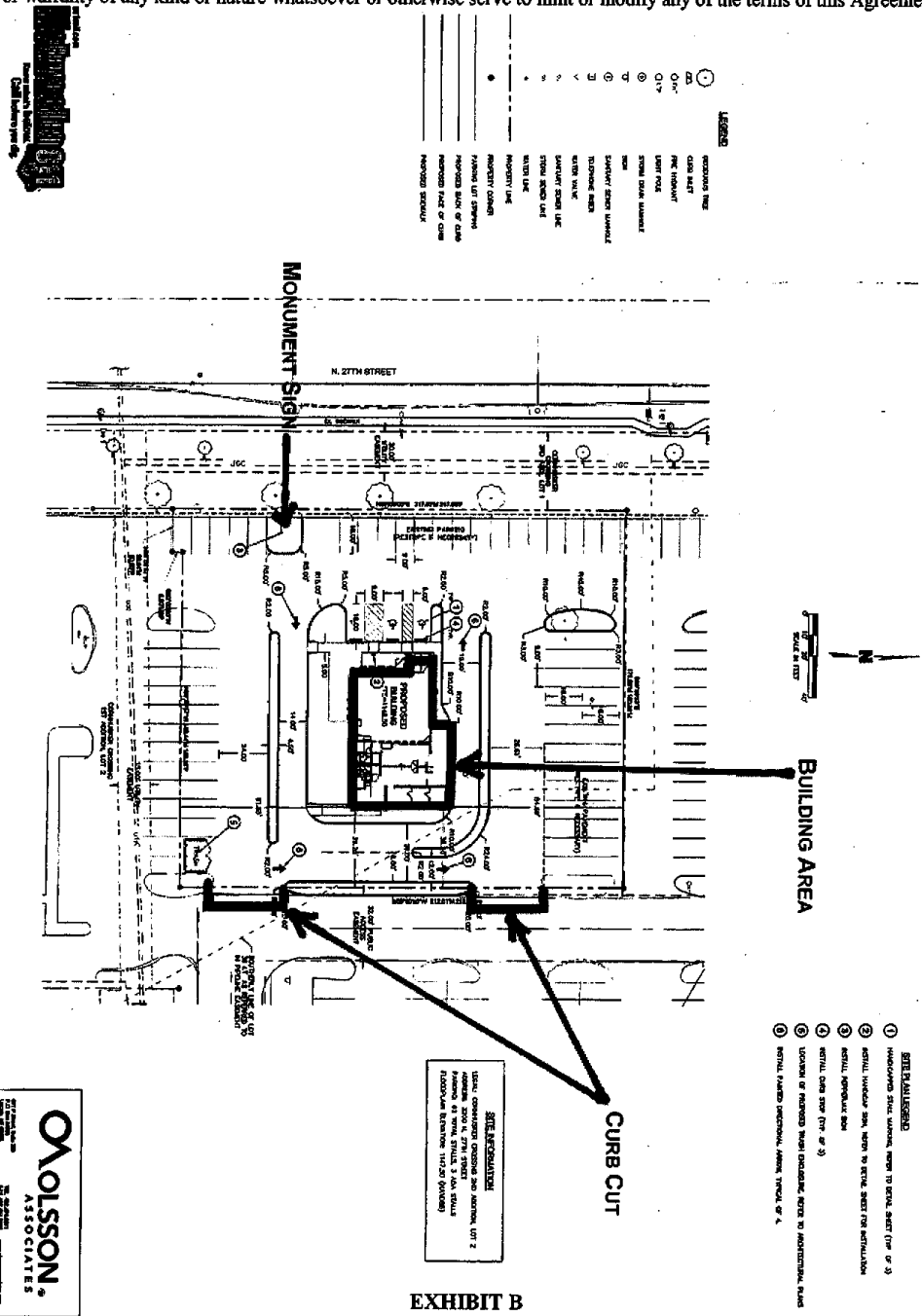


EXHIBIT B
Site Plan

[The depictions set forth on the following pages are for illustration purposes only and shall in no event be deemed a representation or warranty of any kind or nature whatsoever or otherwise serve to limit or modify any of the terms of this Agreement]



- LEGEND**
- RECORDS FILE
 - CLASS B/LT
 - FIRE PROTECT
 - C.I.P.
 - LIGHT POLE
 - STORM DRAIN MANHOLE
 - MANHOLE
 - SANITARY SEWER MANHOLE
 - TELEPHONE MANHOLE
 - WATER VALVE
 - SANITARY DRAIN LINE
 - STORM DRAIN LINE
 - WATER LINE
 - MANHOLE LINE
 - PROPERTY CORNER
 - FINISHED LOT CORNER
 - UNFINISHED LOT CORNER
 - UNFINISHED LOT CORNER
 - UNFINISHED LOT CORNER

- SITE REVISIONS**
- ① HIGHLIGHTS SITE VARIATION, REFER TO DETAIL SHEET (116 OF 2)
 - ② DETAIL LOCATION, REFER TO DETAIL SHEET FOR REVISION
 - ③ DETAIL REVISION, REFER TO DETAIL SHEET FOR REVISION
 - ④ DETAIL DIMENSION, REFER TO DETAIL SHEET FOR REVISION
 - ⑤ LOCATION OF FINISHED FLOOR ELEVATION, REFER TO ARCHITECTURAL PLANS
 - ⑥ DETAIL FINISHED ELEVATION, REFER TO DETAIL SHEET (116 OF 2)

SITE INFORMATION

TOTAL PROJECT AREA: 1.00 ACRES
 TOTAL BUILDING AREA: 10,000 SQ. FT.
 TOTAL PARKING: 100 SPACES
 TOTAL LOT AREA: 10,000 SQ. FT.

OLSSON ASSOCIATES

ARCHITECTS

1200 WEST 10TH AVENUE, SUITE 200
 DENVER, COLORADO 80202

Pepperjax Grill
 12 27TH AND COWHISKER HWY
 LINCOLN, NEBRASKA 68521

Pastry & Sweets ARCHITECTS
 1800 West 24th Street, Suite 200, Omaha, Nebraska 68104 (402) 499-4444

Site Plan C1.1

EXHIBIT C

HD Site Specs

HOME DEPOT SITE SPECIFICATION REFERENCES for CARVE OUT'S

This document reflects typical Home Depot specifications for areas that may be affected by work abutting a Carve Out parcel. Said work may occur on The Home Depot property and it is expected that when complete will comply with The Home Depot specifications. The sections are as follows:

02200 EARTHWORK

- A. Fill materials shall conform to the following requirements, except as specifically indicated otherwise.
 - 1. Fill shall be earth, free of debris, cinders, combustibles, frost, ice, roots, sod, wood, cellulose, organic materials, rock larger than 6 inches, and materials that may be subject to termite attack.
 - 2. Top 18" of fills under topsoil of lawn and planted areas shall be earth, free of debris, cinders, frost, ice, sod, wood and roots over 1/4" in diameter. Fill shall be free of any toxic materials that will interfere with plant root development.
 - 3. Fill, within ten feet from buildings and other structures, shall be soil free of debris, cinders, combustibles, frost, ice, roots, sod, wood, cellulose, and organic materials.
- B. Topsoil: Relatively free of decomposed organic material, including roots, sticks, leaves, paper and other undesirable trash (glass, plastic or metal fragments) that could interfere with soil drainage and plant growth. Topsoil shall be free of any toxic materials that will interfere with plant root development.
- C. Provide the required minimum density and moisture content of compacted fill.
- D. The subgrade for lawn and planting areas shall be not less than 6" inches below final finish grade. Keep ditches free of an accumulation of leaves, sticks and other debris until final acceptance of the work.

02513 ASPHALT PAVING

APPLICATION OF BASE

- A. The base course shall be constructed in accordance with local jurisdictional requirements. All base shall have minimum compaction of 95% of the maximum density obtained by the test procedure presented to ASTM D-698- 70 Method D (Standard Proctor) at moisture content of not less than 1 percent below and not more than 3 percent above optimum content. Maximum permissible lift thickness shall be 6" (compacted). A soils engineer selected and paid for by Developer shall make soil and compaction tests on the subgrade and base courses. Test results to be reviewed by The Home Depot ITC and Home Depot PM.
- B. The asphaltic paving material specified shall be placed at a temperature of 275°F. to 350° F. at the time of application, then the material must be mechanically rolled to compact topping to depths herein specified, after compaction which must not further settle or compact under the weight of a ten ton loaded truck when outside temperature is 90°F. The surface must be smooth, true to contours and elevations shown on the drawings and impervious to water.
- C. Light duty shall be used in all areas of SITE except where heavy-duty asphalt or concrete paving is required. Asphalt paving thickness shall match the existing pavement section and shall not be less than 2 1/2" and asphalt shall be placed in 2 lifts.
- D. Heavy Duty shall be used in all drive aisles, excluding adjacent parking areas. Asphalt paving thickness shall match the existing pavement section and shall not be less than 3" and shall be placed in 2 equal lifts.
- E. Curb and Gutter shall at a minimum match the existing curbing used on-site.
- F. When trenching through the parking field for a utility tie in it is preferred to use a concrete cap as the first lift vs. 2 lifts of asphalt. The concrete lift shall be completed immediately after the trench meets sub-grade elevation.
- G. When adjoining new pavement areas a straight sawcut line shall be made to butt pavement together. Sawcut line shall not be located on a drainage flow line.

02520 CONCRETE PAVING

ENVIRONMENTAL CONDITIONS

- A. Concreting in Hot, Dry and/or Windy Weather:
 - 1. Conform to ACI 305R when any combination of high air or concrete temperature, low relative humidity, and wind velocity tend to impair quality of concrete.
 - 2. Employ special precautions when evaporation rate as obtained from ACI 305R is expected to reach 0.2 pound per square foot per hour or more.
 - 3. Unless otherwise allowed, reject concrete if its temperature before placement is over 90°F.

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4. Unless otherwise allowed, during hot weather mixing and delivery (discharge) time to be shorter than specified in ASTM C 94 as follows:
 - a. When air temperature is between 85°F and 90°F, reduce allowable mixing and delivery time from 90 minutes to 75 minutes.
 - b. When air temperature is over 90°F, reduce allowable mixing and delivery time to 60 minutes.
 5. Do not place concrete when forms, subgrade, base, or reinforcing bars are more than 120°F or more than 10°F hotter than ambient air temperature.
 6. Cool with water or water-soaked burlap as necessary, but allow no standing water on surface on which concrete is placed.
- B. Concreting in Cold Weather:
1. Conform to ACI 306.1 when temperature and other environmental conditions are as noted therein and following additional requirements.
 2. Frozen base and subgrade soils shall be thawed immediately before placing concrete.
 3. Do not place concrete on subgrade, or base that is more than 20°F cooler than concrete. Warm subgrade, or base to decrease temperature differential to 20°F or less.

MATERIALS FOR CEMENT

- A. Type I, II, or V
Use type appropriate for the sulphate exposure from subgrade or base materials in contact with concrete. Reference ACI 318 Building Code Requirements for Structural Concrete.
1. Aggregate base materials must meet the minimum requirements of the State Department of Transportation.
 2. Base materials shall have negligible sulfate content with less than 0.1% soluble concentration by weight or less than 150 ppm in water.
- B. Joint Reinforcing - Heavy Duty Pavement.
- C. Applicable to primary drive lanes used by semi-trucks, delivery trucks and/or emergency vehicles. Doweled for vertical load transfer. Use smooth plate dowels, smooth round bar dowels, or square bar dowels of ASTM A 36 material. Do not shear. Remove burrs. Locate dowels at mid-depth of pavement unless noted otherwise.

CONTRACTION JOINTS

- A. Use pre-assembled wire baskets to support dowels at mid-depth of pavement. ASTM 108 wire proportions.
- B. Minimum 28-day compressive strength shall be 4,500 psi for pavement, curbs, or sidewalks subject to freezing, thawing and deicing salts/chemicals. Pavement, curbs, or sidewalks subject to periodic freezing and thawing but not exposed to deicing salts/chemicals shall have a 28-day compressive strength of 4,000 psi. All other pavements, curbs or sidewalks shall have a 28-day compressive strength of 3,500 psi.
- C. Workability: Must have proper consistency to be worked readily into forms and around reinforcement without segregation, voids or, excessive bleeding.

PAVEMENT JOINTS

- A. Construction and contraction joints shall match the joint layout provided on the existing site. No exceptions.

02550 SITE UTILITIES

EXISTING IMPROVEMENTS

- A. Maintain in operating condition all active utilities that serve The Home Depot and areas adjacent to this project. Repair to the approval of the utility or authority having jurisdiction any surface or subsurface improvement damaged during the course of the work, unless such improvement is shown to be abandoned or removed. Repairs to utilities shall be done immediately.
- B. All utilities shall be located and marked prior to construction.

PROPOSED CONNECTIONS

- A. Jack and bore of utilities is preferred unless approved otherwise by The Home Depot Project Manager*. If open cut connections are approved then the following specifications shall be followed:
- B. Grade the bottom of the trenches evenly to insure uniform bearing for full length of all pipes. Excavate all rock, cemented gravel, old masonry, or other hard material to at least 4 inches below the pipe at all points. Refill such space and all other cuts below grade with sand or fine gravel firmly compacted.
- C. Should soil conditions necessitate special supports for piping and/or appurtenances, including the removal of unsuitable material and refilling with gravel or other material such work shall be performed as necessary.
- D. Backfill trenches only after piping has been inspected, tested and the locations of pipe and appurtenances have been recorded. Backfill by hand around pipe and for a depth of 1 foot above the pipe. Use earth without rock fragments or large stones and tamps as specified in layers not exceeding 6 inches in thickness, taking care not to disturb the pipe or injure the pipe coating. Compact the remainder of the backfill as specified with a rammer of suitable weight or with an approved mechanical tamper, provided that under pavements, walks and other surfacing, the backfill shall be tamped as specified. Exclude all cinders, rubbish

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and scrap metal from trenches in which metal pipes are laid. Special care shall be used to properly tamp backfill under lower half of sewer pipe.

- E. Provide 6 inch wide locator tape 2 foot over each utility use APWA Color Standards.
- F. Provide steel plates to cover open trenches when construction has stopped for the day.

SITE LIGHTING

- A. Removal of site lighting shall be done where the same photometric levels are kept on the Home Depot property. Carve out to supply new foot-candle layout.
- B. Provide re-circuiting and routing of electrical service so remaining lighting fixtures and signs remain in operation with the Home Depot Circuit. Re-routing in pavement areas shall be done by Jack and Bore.

02580 PAVEMENT MARKINGS

ACCEPTABLE MANUFACTURERS

- A. Provide ready-mixed one component waterborne traffic line paint. Materials shall be 4800 Series Traffic Paint Water Reducible Acrylic from ICI Paints or equal".
 - a. Colors:
 - i. Yellow: 1 Gallon 20087 & 5 Gallon 20088
 - ii. White: 1 Gallon 25524 & 5 Gallon 22683
 - iii. Blue : 1 Gallon 20089 & 5 Gallon 20090
 - iv. Red: 1 Gallon 43613 & 5 Gallon 43614
 - v. Black: 1 Gallon 26565 & 5 Gallon 26566

INSTALLATION

- A. Install pavement markings to match existing layout or revised site plan.
- B. Traffic paint shall be installed in two coats. First Coat shall be installed at the recommended DFT after paving is in place. Minimum 24 Hr cure time between coats.

PAINTING

- A. The Minimum Required total Dry Film Thickness (DFT): The DFT shall be the minimum required dry film thickness as measured in mils.
System Coverage Requirements:
 - 1st Coat - 3.0 mils DFT
 - 2nd Coat - 6.0 mils DFT
- B. Exterior Paint Systems: Provide the following paint systems as indicated:
 - 1. Parking stall, division and limit lines shall be 4" in width, true and straight. Color: White – DFT 6.0 mils.
 - 2. Pavement lettering "NO PARKING" shall be 2'-0" in height. Color: Red – DFT 6.0 mils.
 - 3. Compact lettering "COMPACT" shall be 1'-0" in height. Color: White – DFT 6.0 mils.
 - 4. Stop legends shall be as detailed on Drawing. Color: White - DFT 6.0 mils.
 - 5. Wheelchair legends shall be as detailed on Drawing. Color: Blue background with white symbols. Parking stall striping shall be Blue at Handicapped stalls only - DFT 6.0 mils.
 - 6. Diagonal striping Handicapped. Color: Blue - DFT 6.0 mils.
 - 7. Diagonal striping Loading Zone. Color: Yellow - DFT 6.0 mils.
 - 8. Directional signage shall be as detailed on Drawing. Color: White - DFT 6.0 mils.
 - 9. Centerline striping shall be 4" in width as detailed on Drawings. Color: White - DFT 6.0 mils.
 - 10. Concrete wheel stops. Color: Yellow - DFT 6.0 mils.
 - 11. Fire Lane striping as required by code. Color Red Lines, White Letters – DFR 6.0 mils.

02721 STORM DRAINAGE SYSTEM AND EROSION CONTROLS

TAP CONNECTIONS

- A. Make connections to existing conduits and underground structures, so that finished work will conform as nearly as practicable to requirements specified for new work.
- B. Take care while making tap connections to prevent concrete or debris from entering existing conduit or structure. Remove debris, sediment, concrete or other extraneous material, which may accumulate.
- C. Before de-commissioning existing storm lines new storm line shall be installed and in full operation.

BACKFILLING

- A. Conduct backfill operations of open-cut trenches closely following laying, jointing and bedding of pipe, and after initial inspection and testing are completed.

TESTING

- A. Perform testing of completed conduit lines in accordance with local authorities having jurisdiction. Provide testing results to The Home Depot ITC and The Home Depot Project Manager.

EROSION AND SEDIMENTATION CONTROLS

- A. Follow the governing agency standards of erosion and sediment control with the added requirement that no hay bales are allowed as a BMP control.
- B. Existing inlets that receive above ground runoff from the carve out parcel shall have inlet protection, i.e.

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dandy bags or equivalent.

- C. Conduct daily sweeping of sediment and debris, inspection of BMPS, and repairs. Area is not limited to the surrounding area of the carve out and may need to be inspected on a larger scale of area affected by the construction activities as indicated by the Home Depot Project Manager.

02810 FINE GRADING and GRASSING

TOPSOIL

- A. Topsoil shall be free from tree roots, stones, and other materials that hinder grading, planting, and maintenance operations, and free from noxious and other objectionable weed seeds and toxic substances.

MULCH

- A. Mulch shall be baled wheat, oat, rye, or hay or other grasses and be applied on all areas to be seeded unless they are hydro seeded. Mulch shall be applied at a rate of 1-1/2 to 2 tons per acre and shall be anchored to the soil to prevent it from being blown around on the site during periods of high winds. Asphalt emulsion application will not be acceptable. At any time the mulch becomes bunched it shall be re-spread and re-anchored.

HYDROMULCH

- A. Hydromulch shall be composed of wood cellulose fiber and contain no germination- or growth inhibiting factors. It shall be colored green to allow visual metering in its application and have the property of being evenly dispersed and suspended when agitated in water.

PREP

- A. Topsoil shall be uniformly distributed and evenly spread to a minimum thickness of 4 inches. Topsoil shall be spread so that planting can proceed with little additional soil preparation or tillage.
- B. Any finished grade that is not free from lumps and foreign material as described.

SLOPE PROTECTION AND STABILIZATION

- A. Slopes steeper than 3H: 1V shall be considered engineered slopes.
- B. Acceptable methods for protection shall be as follows:
 1. Sod Grass is preferred unless The Home Depot Project Manager approves alternate*. Vegetative controls (if soil conditions are appropriate) with deep rooting grasses or plant materials to protect from erosion and slope failures.
 2. Geofabric or Geosynthetic matting.
 3. Stone and/or rip-rap with Geofabric or Geogrid underlayment.
 4. Structural slope protection measures such as anchored shot-crete, engineered block networks, or Geoweb structures.
- C. Crown vetch shall be planted on slope in excess of one vertical to three horizontal. Seed mix shall be K-31 tall fescue at 40 pounds per acre and crown vetch at 20 pound per acre. Inoculate seed with fresh inoculants as directed on package. Insure that crown vetch inoculants contains sticker supplement. Maintain temperature of between 50° and 75° during inoculation. When hydro seeding, use five times inoculants rate.

HYDROSEEDING

- A. Hydroseed shall be applied with hydraulic equipment at the rate of: 2,500 pounds on 5:1 slope or less, 3,500 pounds on grades greater than 5:1 slopes, of hydromulch per acre with the exception of any drainage swales. Hydromulch shall be added to the water slurry in the hydraulic seeder after the proportionate quantities of seed, fertilizer and other accepted materials have been added.
- B. The slurry shall be sprayed uniformly on the surface of the soil.
- C. Bare or thin spots in excess of 5 percent of any area will not be acceptable.

02920 SOIL PREPARATION

OFFSITE IMPORTED TOPSOIL:

- A. Composition: Fertile, friable, well drained soil, of uniform quality, free of stones over 1 in. diameter, sticks, oils, chemicals, plaster, concrete and other deleterious materials.

Analysis: Suggested to obtain an agricultural suitability analysis of the proposed topsoil from an approved Soils Testing Laboratory. Provide copy of analysis to The Home Depot ITC and The Home Depot Project Manager.

- B. Imported topsoil for the trees, shrubs, groundcovers, and perennials, as noted on the drawings and for the lawns.

PREPARATION OF AREAS TO RECEIVE TOPSOIL

Verifications: Verify that subgrades for installation of topsoil have been established. Provide copy of verification to The Home Depot ITC and The Home Depot Project Manager.

- A. Depth: Verify that subgrades are 6 in. minimum below finished grades, +/- 1 in., allowing for topsoil and soil amendments.
- B. Cultivation: Cross rip to 8" depth subgrade in planting areas prior to spreading topsoil.

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- C. Clearing of Debris: Clear all planting areas of stones 2 in. diameter and larger, weeds, debris and other extraneous materials prior to amending existing soil and prior to spreading topsoil.

02930 LAWNS AND SOD

PROJECT/SITE CONDITIONS

- A. Existing Conditions: For protection of existing plants to remain, refer to plans.

TYPES OF GRASSES

- A. Italian Rye (*Lolium Multiflorum*) Seed: Fresh, clean seed testing 90% for purity and 70% for germination, 0.5 maximum weed content.
- B. Bermuda (*Cynodon Dactylon*) Seed: Fresh, clean hulled, new seed crop; 90% minimum purity, 70% minimum germination, 1% maximum weed content.
- C. Bermuda (*Cynodon Dactylon*) Sprigs: Stolongs, healthy and vigorous without weeds or other foreign material.
- D. Bermuda (*Cynodon Dactylon*) Sod: Nursery grown, certified, approved sod furnished in supplier's standard size square or rectangular pads, 1/2" in. thickness (+1/4" -), excluding growth and thatch.
1. Mowing Height: 3/4" maximum
 2. Thatch: 1/2" uncompressed
 3. Inspected and free of diseases, nematodes, pests and pest larvae by an entomologist of the State Department of Agriculture.
 4. Free of common Bermuda grass, quack grass, Johnson grass, poison ivy, nutsedge, nimblewill, Canadian thistle, bindweed, bent grass, wild garlic, ground ivy, perennial sorrel and broom grass.
 5. Having not more than five jimsonweed, mustard, lambs' quarter, chickweed, cress or crabgrass per 100 sq. ft.
- E. Red Fescue (*Festuca Rubra* Var.) Seed: Fresh, clean, new seed testing 90% for purity and 70% for germination.
- F. Straw Bales: Clean bales of straw of hay, wheat, rye, oats or barley.
- G. Hydro mulch: Wood cellulose fiber containing no germination inhibiting or growth inhibiting agents. Characteristics shall be as follows:
1. Percent moisture content: 9.0% (+3.0%).
 2. Percent organic matter: 99.2% (+0.8).
 3. Percent ash content: 0.8% (+0.2%).
 4. pH: 4.8 (+0.5).
 5. Water Holding Capacity: 1150 grams water/100 grams fiber, minimum.
- H. Mulch: Clean, seed free stray of hay, wheat, rye, oats or barley.
- I. Staking Pegs: 3/4" diameter by 8" long softwood.
- J. Water: Clean, potable.

EXAMINATION

Verification of Conditions:

- A. Stones, Weeds, Debris: Verify that all areas to receive hydro seeding and sodding are clear of stones larger than 1/2 in. diameter, weeds, debris and other extraneous materials.
- B. Grades: Verify that grades are within 1 in. plus or minus of the required finished grades. Verify that fertilization have been installed in another section. Report all variations in writing.

CLEANING

- A. Hydroseed Overspray: Immediately after application, thoroughly wash off any plant materials, planting areas, or paved areas not intended to receive slurry mix.
- B. Erosion: Immediately restore eroded areas. Keep all adjacent paved surfaces cleaned of dirt, mud or stains and organic debris.

SODDED LAWN INSTALLATION

- A. Sod Bed Preparation:
1. Rolling: Roll amended soil with 200 pound water ballast roller.
 2. Moistening: After all unevenness in the soil surface has been corrected, lightly moisten the soil immediately prior to laying the sod.
 3. Timing: Sod immediately thereafter, provided the sod bed has remained in friable condition.
- B. Sodding Operations:
1. Starter Strip: Lay the first row of sod in a straight line, with subsequent rows parallel to and tightly against each other, with no spaces between strips. Stagger lateral joints. Do not stretch or overlap sod. Butt all joints tightly to eliminate all voids.
 2. Cutting: Use a sharp knife to cut sod to fit curves and paving.
 3. Tamping and Rolling: Thoroughly tamp and roll sod to make contact with sod bed. Roll each entire section of completed sod.

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4. Watering: Thoroughly water sod immediately after installation to wet the underside of the new sod pad and the soil immediately below to a depth of 6 in.
5. Top-Dress Fertilizer: Apply at the rate of six (6) pounds per 1,000 square feet at 25 days and at 50 days after sodding.

02940 LANDSCAPING PLANTING

QUANTITIES AND TYPES:

- A. Furnish plants in the quantities and/or spacing as shown or noted for each location, and of the species kinds and sizes as indicated on the drawings, or matching and replacing existing materials currently on the site.
- B. Verification of dimensions and quantities: Scaled dimensions are approximate. Before proceeding with any work, carefully check and verify dimensions and quantities look for any discrepancy between the drawings and/or specifications and actual conditions.

INERT GROUND COVER MATERIALS

- A. "Walk-On-Bark", as supplied by Sequoia Forest Products.
 1. Shall be a shredded wood and bark residual from pine and/or fir.
 2. Grading:

Sieve Size	Percent Passing
1"	95%
3/8"	50%
6 mesh	25%
 3. Shall be acid in relation with PH percent based on dry weight.
 4. Ash content not exceed 7 percent based on dry weight.
 5. Moisture shall vary from 12 percent to 35 percent based on fresh material.
 6. Shall be free of soluble salts such that the saturation extract conductivity shall not exceed 1.5.

GUYING AND STAKING MATERIALS

- A. Wood Tree Stakes: Pressure-treated pine, 2" x 2" diameter, and ±18" long.
- B. Steel Pipe Tree Stakes: Schedule 40 steel pipe, 1" diameter x approximately 18" long with cap, vinyl coated and pre-drilled with three holes near end as manufactured by Calsak Corporation, 15001 S. Main, Gardena, CA 90248, or approved equal.
- C. Ties: Cinch-Ties or ½" new rubber wire hose with 10 gauge or approved equal.
- D. Steel Guy Anchor: ¾" diameter x 36" steel vane as manufactured by Maxwell Steel Company, (213)944-6619, or approved equal.
- E. Guying Hardware:
 1. Wire: Pliable 3/32" galvanized braided cable.
 2. Wire Guard: ½" diameter white PVC tubing, full length of wire.
 3. Turnbuckles: Galvanized, or dip-painted, ½" x 6" long.
 4. Cable Clamps: Galvanized, size as required.

CLEANUP

- A. After planting operations have been completed, remove trash, excess soil, empty plant containers and rubbish from the property. Scars, ruts, or other marks in the ground caused by this work shall be repaired and the ground left in a neat and orderly condition throughout the site.
- B. Leave the site broom-clean and wash down paved areas within the contract area, leaving the premises in a clean condition. Walks shall be left in a clean and safe condition.
- C. Plants shall be vigorous, of normal growth, free from disease, insects, insect eggs and larvae. Plants shall equal or exceed the measurements specified in plant list.

PLANTING SEASON

- A. Contractor to use discretion based on current weather conditions.
- B. Deciduous Trees and Shrubs: In the fall after leaf drop occurs but before soil freezes, in the spring before growth begins.
- C. Evergreen Trees, Shrubs and Vines: Early Fall or late spring.

PROJECT/SITE CONDITIONS

- A. Protection of Existing Plants to Remain:
 1. Operations: Do not store materials of equipment, permit burning, or operate or park equipment under the branches of all existing plants to remain.
 2. Barriers: Provide temporary fences at the drip line to protect existing plants to remain from damage during construction.
- B. Correct Species: Warrant that all plant materials are true to species and variety.

EXAMINATION

- A. Verification of Conditions:
 1. Soil Preparation: Do not commence planting work prior to completion and acceptance of soil preparation.

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2. Finish Grades: Finish grades for planting areas shall have been established in another section. Verify that all grades are within 1 in. plus or minus of required finish grade and that all soil amendments have been installed as specified under Section on Soil Preparation.
3. Irrigation: Verify that irrigation system has been installed and accepted.

MULCHING

- A. Install a 2 in. deep layer of mulch over all tree pits.
- B. Install a 2 in. deep layer of mulch over all shrub areas including tree and shrub watering basins.
- C. Install a 2 in. deep layer of mulch over groundcover areas prior to planting groundcover.

02960 LANDSCAPE IRRIGATION

Locating and identifying existing irrigation system. The Contractor shall create a drawing of the existing system mark any changes made to original layout.

The Contractor shall use materials consistent with the existing system or match with approved equal*.

- A. If, within one year from the date of completion, settlement occurs, and adjustments in pipes, valves, and sprinkler heads, lawn areas or paving are necessary to bring the system, grade, or paving to the proper level of the permanent grades, the Contractor, as part of the work under this Contract, shall make all adjustments without extra cost to The Home Depot, including restoration of all damaged planting, paving, or other improvements of any kind.
- B. All control valves, controller and related controller accessories shall be of like manufacturer to ensure full compatibility.
- C. All piping shall be from virgin parent material. The pipe shall be homogenous throughout and free from visible cracks, holes, foreign materials, blisters, deleterious wrinkles, and dents. All pipe shall be National Sanitation Foundation (NSF) approved.

Trenching

- A. When two (2) pipes are to be placed in the same trench, a six-inch (6") space is to be maintained between the pipes. The Contractor shall not install two pipes with one directly above the other.
- B. Jack and bore under pavement is preferred unless The Home Depot Project Manager approves exception*. Trenches located under paving shall be backfilled with sand (a layer six inches (6") below the pipe and three inches (3") above the pipe) and compacted in layers of 95% compaction. Depth of trenches shall be sufficient to provide the minimum cover above the top of the pipe as follows:
 1. 12" over non-pressure lateral lines
 2. 18" over non-pressure lateral lines under paving
 3. 18" over control wires
 4. 18" over sprinkler main line
 5. 24" over sprinkler main line under paving
- C. The Contractor shall cut trenches for pipe to required grade lines and compact trench bottom to prove accurate grade and uniform bearing for the full length of the line.

BACKFILL AND COMPACTING

- A. After system is operating and required tests and inspections have been made, backfill excavations and trenches.
 1. Backfill for all trenches, regardless of the type of pipe covered, shall be compacted to minimum 95% density under pavements, 85% under planted areas.
 2. Backfill material shall be approved soil. Unsuitable materials, including clods and rocks over two inches (2") in size shall be removed from the site.
 3. A fine granular material shall be placed initially on all lines with a minimum of three inches (3") cover. No foreign matter.
 4. Larger than one-half inch (1/2") in size shall be permitted in the initial backfill.
 5. Compact trenches in areas to be planted, by thoroughly flooding the backfill.
 6. Within all planting and lawn areas the existing six-inch (6") layer of topsoil shall be restored to its original condition and finish grade.
 7. The Contractor shall dispose of surplus earth remaining after backfilling off-site.

*SUBSTITUTIONS/EXCEPTIONS

THE HOME DEPOT PROJECT MANAGER WILL DETERMINE IF CHANGE IS APPROVED .

- A. Making formal request for substitution represents that Contractor
 1. Has investigated proposed product and had determined that it is equal to or superior in all respects to that what was specified or existing.
 2. Will produce the same warranties for substituted products as product specified.
 3. Will coordinate installation of accepted substitution into the work.
 4. Provide an itemized comparison of the proposed substitution with product specified or existing and list significant variations.
 5. Provide samples if applicable, and manufactures information and specifications, or data.

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Page 7 of 10

The following detail sheets depict typical sections for curbs, valve boxes, and pipe trenching.

EXHIBIT C

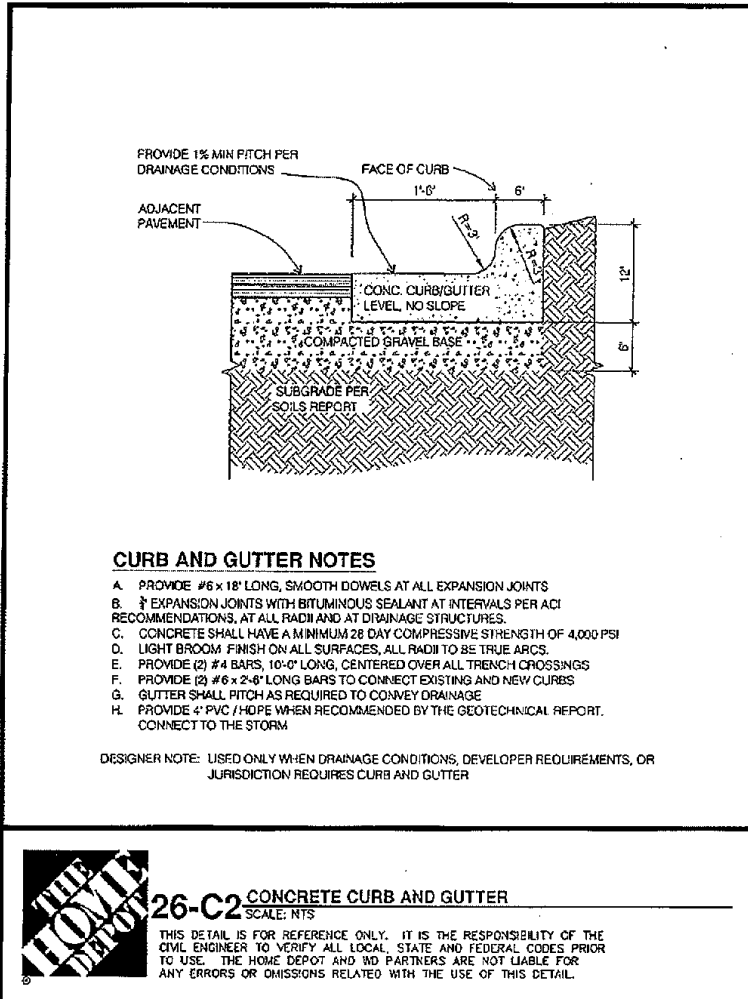
Page 7

EXHIBIT C

HD Site Specs

Section 7: CIVIL DRAWING REQUIREMENTS

Figure 26-C2



SECTION 7
Page 11

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Page 8 of 10

EXHIBIT C
Page 8

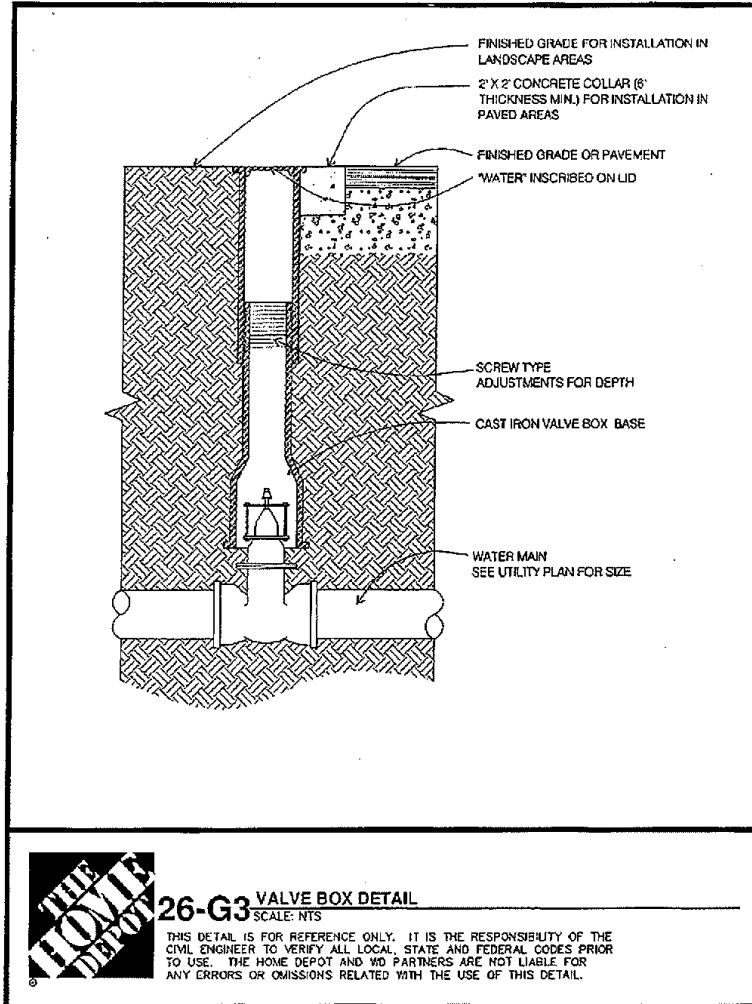
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EXHIBIT C

HD Site Specs

Section 7: CIVIL DRAWING REQUIREMENTS

Figure 26-G3



SECTION 7
Page 25

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EXHIBIT C

HD Site Specs

Section 7: CIVIL DRAWING REQUIREMENTS

Figure 26-K

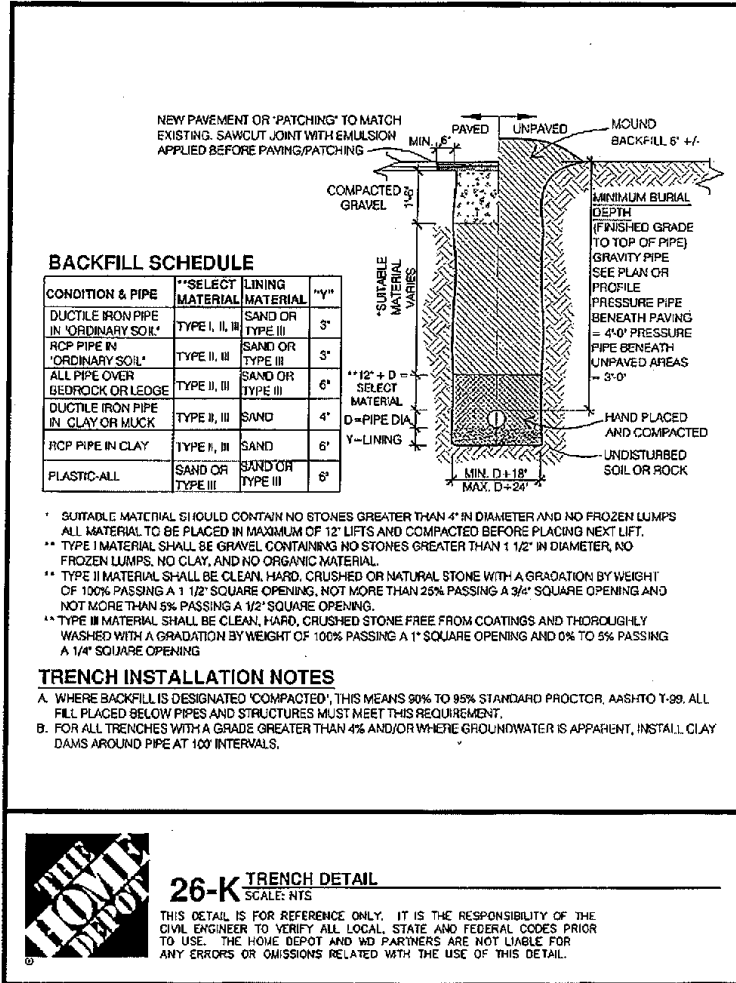
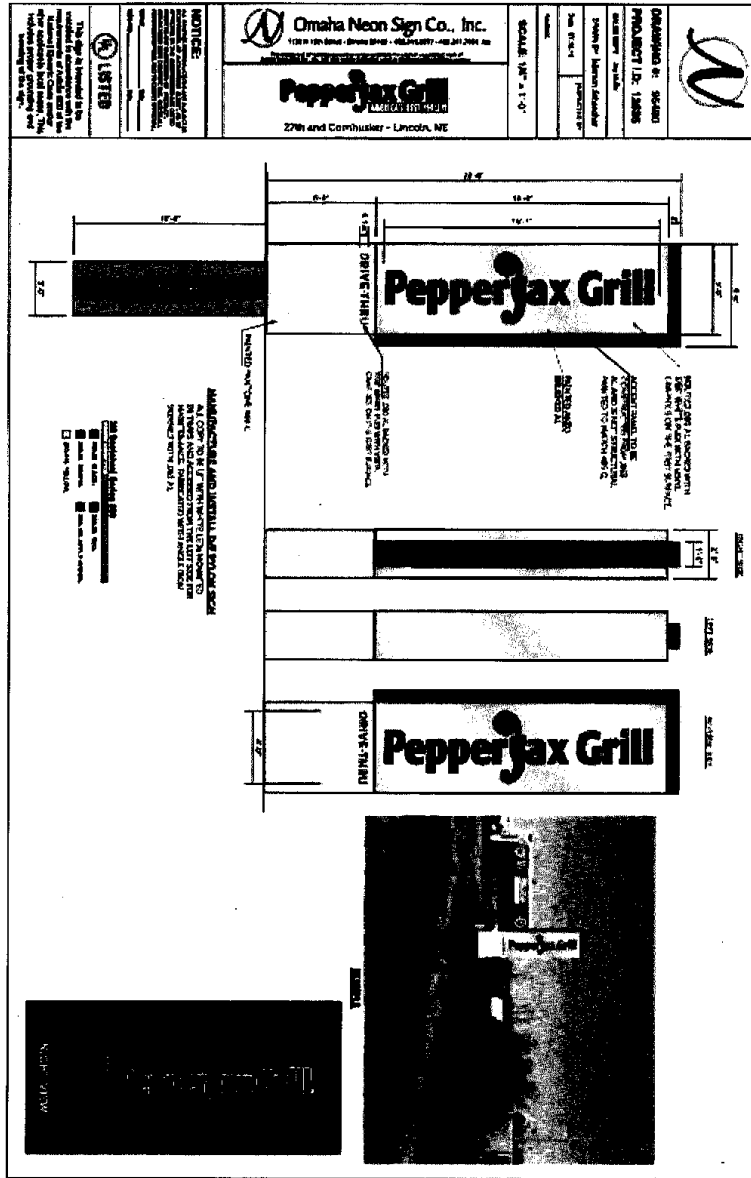


EXHIBIT D-1

Monument Signage



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EXHIBIT D-1

Page 1

EXHIBIT D-2




Building Signage

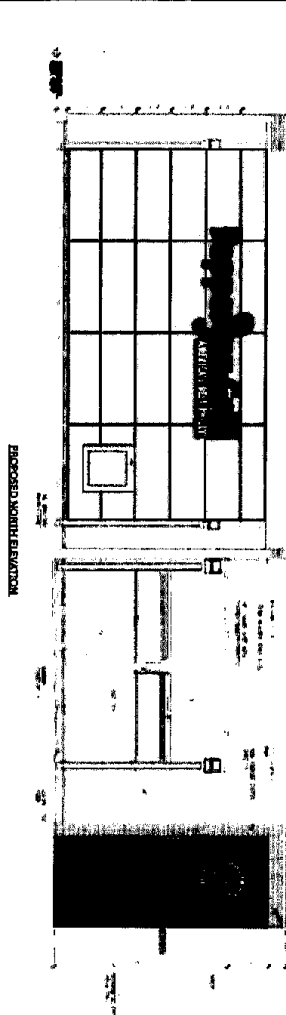
<p>NOTICE: This sign is designed to be installed on a building facade. It is not to be used as a freestanding sign. The sign is to be installed on a building facade. The sign is to be installed on a building facade. The sign is to be installed on a building facade.</p> <p>LISTED</p>	<p>Omaha Neon Sign Co., Inc. 1010 N. 10th Street - Omaha, NE 68102 - 402.477.4444 - 402.477.4444</p> <p>PepperJax Grill AMERICA'S BEST PHILLY</p> <p>27th and Cornhusker - Lincoln, NE</p>	<p>DRAWING #: 0801 PROJECT ID: 1808 DATE: 11/11/18 SCALE: 1/8" = 1'-0"</p>	<p>FABRICATE & INSTALL (1) ONE NEW SET OF CHANGING LETTERS AS SHOWN IN DRAWING WITH THE FOLLOWING SPECIFICATIONS:</p> <p>LOOKOUT LETTERS TO HAVE BLACK LETTERS AND 2 INCHES BLACK BEHIND. SET WHITE FROM PAST WITH WHITE CHARACTERS WITH A 1/8" (1.27mm) BEHIND.</p> <p>Material: 1/2" Aluminum 1/4" Aluminum 1/2" Aluminum 1/4" Aluminum</p> <p>Color: Black White</p> <p>Finish: Matte Gloss</p> <p>Mounting: 1/2" Aluminum 1/4" Aluminum</p> <p>Notes: 1. CHANGING LETTERS 2. CHANGING LETTERS 3. CHANGING LETTERS 4. CHANGING LETTERS 5. CHANGING LETTERS 6. CHANGING LETTERS 7. CHANGING LETTERS 8. CHANGING LETTERS 9. CHANGING LETTERS 10. CHANGING LETTERS 11. CHANGING LETTERS 12. CHANGING LETTERS 13. CHANGING LETTERS 14. CHANGING LETTERS 15. CHANGING LETTERS 16. CHANGING LETTERS 17. CHANGING LETTERS 18. CHANGING LETTERS 19. CHANGING LETTERS 20. CHANGING LETTERS 21. CHANGING LETTERS 22. CHANGING LETTERS 23. CHANGING LETTERS 24. CHANGING LETTERS 25. CHANGING LETTERS 26. CHANGING LETTERS 27. CHANGING LETTERS 28. CHANGING LETTERS 29. CHANGING LETTERS 30. CHANGING LETTERS 31. CHANGING LETTERS 32. CHANGING LETTERS 33. CHANGING LETTERS 34. CHANGING LETTERS 35. CHANGING LETTERS 36. CHANGING LETTERS 37. CHANGING LETTERS 38. CHANGING LETTERS 39. CHANGING LETTERS 40. CHANGING LETTERS 41. CHANGING LETTERS 42. CHANGING LETTERS 43. CHANGING LETTERS 44. CHANGING LETTERS 45. CHANGING LETTERS 46. CHANGING LETTERS 47. CHANGING LETTERS 48. CHANGING LETTERS 49. CHANGING LETTERS 50. CHANGING LETTERS 51. CHANGING LETTERS 52. CHANGING LETTERS 53. CHANGING LETTERS 54. CHANGING LETTERS 55. CHANGING LETTERS 56. CHANGING LETTERS 57. CHANGING LETTERS 58. CHANGING LETTERS 59. CHANGING LETTERS 60. CHANGING LETTERS 61. CHANGING LETTERS 62. CHANGING LETTERS 63. CHANGING LETTERS 64. CHANGING LETTERS 65. CHANGING LETTERS 66. CHANGING LETTERS 67. CHANGING LETTERS 68. CHANGING LETTERS 69. CHANGING LETTERS 70. CHANGING LETTERS 71. CHANGING LETTERS 72. CHANGING LETTERS 73. CHANGING LETTERS 74. CHANGING LETTERS 75. CHANGING LETTERS 76. CHANGING LETTERS 77. CHANGING LETTERS 78. CHANGING LETTERS 79. CHANGING LETTERS 80. CHANGING LETTERS 81. CHANGING LETTERS 82. CHANGING LETTERS 83. CHANGING LETTERS 84. CHANGING LETTERS 85. CHANGING LETTERS 86. CHANGING LETTERS 87. CHANGING LETTERS 88. CHANGING LETTERS 89. CHANGING LETTERS 90. CHANGING LETTERS 91. CHANGING LETTERS 92. CHANGING LETTERS 93. CHANGING LETTERS 94. CHANGING LETTERS 95. CHANGING LETTERS 96. CHANGING LETTERS 97. CHANGING LETTERS 98. CHANGING LETTERS 99. CHANGING LETTERS 100. CHANGING LETTERS</p>
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19184062v.9

EXHIBIT D-2

Building Signage

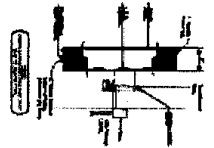
<p>NOTICE: This sign is intended to be used in accordance with the provisions of the National Electrical Code, Article 605.10, and the International Building Code, Section 105.11. The sign shall be installed in accordance with the provisions of the National Electrical Code, Article 605.10, and the International Building Code, Section 105.11.</p>	 <p>Omaha Neon Sign Co., Inc. 1420 S. 10th Street - Omaha, NE 68102 - TEL: 402.342.3366 FAX: 402.342.3367 www.omahaneon.com</p>	<p>Installation: - See sign specifications for details. Material: - See sign specifications for details. Color: - See sign specifications for details.</p>	 <p>PepperJax Grill AMERICA'S BEST PILLAY</p> <p>27th and Cornhusker - Lincoln, NE</p>	
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LOGOS SHOULD HAVE BLACK LETTERS AND BE MOUNTED BACK INTO THE SIGN CHANNEL. LETTERS AS SHOWN IN DRAWING WITH THE FOLLOWING SPECIFICATIONS:

- 1/2" x 1/2" x 1/2" - 1/2" x 1/2" x 1/2"
- 1/2" x 1/2" x 1/2" - 1/2" x 1/2" x 1/2"
- 1/2" x 1/2" x 1/2" - 1/2" x 1/2" x 1/2"



INSTALLATION: - See sign specifications for details.


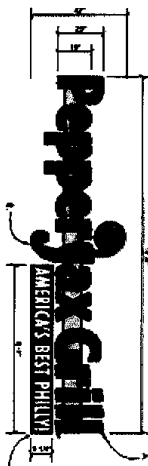

MAINTENANCE: - See sign specifications for details.

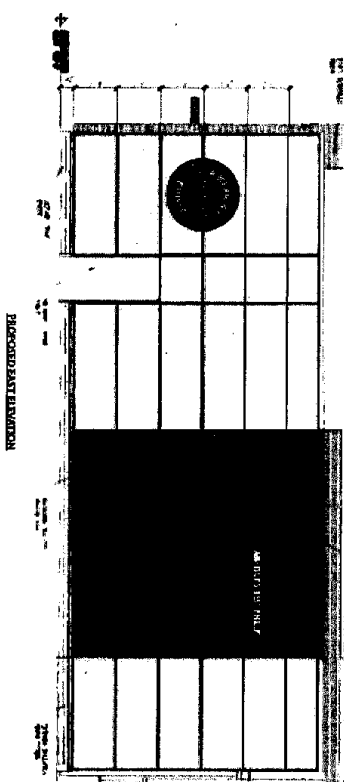
REPAIRS: - See sign specifications for details.

WARRANTY: - See sign specifications for details.

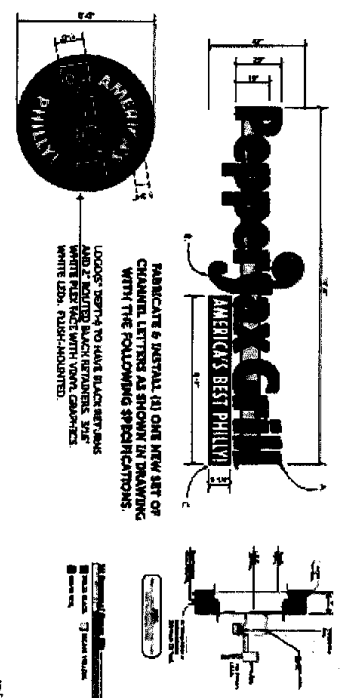
(00406619.16)
19184062v.9

EXHIBIT D-2
 Building Signage

<p>NOTICE: THE SIGN IS DESIGNED TO BE INSTALLED BY CONTRACTOR WITH THE SIGNAGE CONTRACTOR. THE SIGNAGE CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROPER INSTALLATION AND MAINTENANCE OF THE SIGN. THE SIGN IS NOT TO BE USED FOR ANY OTHER PURPOSES. THE SIGN IS THE PROPERTY OF OMAHA NEON SIGN CO., INC. AND SHALL REMAIN THEIR PROPERTY WHETHER OR NOT THE SIGN IS REMOVED FROM THE BUILDING.</p>	 <p>Omaha Neon Sign Co., Inc. 1122 N 10th Street - Omaha, NE 68102 - 402.464.8877 - 402.464.7662 A NEON SIGN COMPANY</p> <p>Pepperjax Grill UNLIMITED HOURS</p> <p>27th and Cornhusker - Lincoln, NE</p>	<p>DATE: 10/1/11 DRAWN BY: [Name] CHECKED BY: [Name]</p>	<p>SCALE: 1/8" = 1'-0"</p>	<p>DATE: 10/1/11 DRAWN BY: [Name] CHECKED BY: [Name]</p>	 <p>Pepperjax Grill AMERICA'S BEST PHILLY</p> <p>MANUFACTURE & INSTALL IN ONE NEW SET OF CHANNEL LETTERS AS SHOWN IN DRAWING WITH THE FOLLOWING SPECIFICATIONS:</p> <p>LOGOS: SIGN TO HAVE BLACK BRASS AND 2" BOTTLE BLACK REMAINERS, SIGN WHITE FILL WITH VIVID CHARACTERS WHITE LOGO, GLOSS-FINISHED.</p> 
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PROPOSED EAST ELEVATION



Materials:
 Channel Letters
 Brass
 Black Remainers
 Sign
 White Filler
 Vivid Characters
 White Logo
 Gloss-Finished


Specifications:
 MANUFACTURE & INSTALL IN ONE NEW SET OF CHANNEL LETTERS AS SHOWN IN DRAWING WITH THE FOLLOWING SPECIFICATIONS:
 LOGOS: SIGN TO HAVE BLACK BRASS AND 2" BOTTLE BLACK REMAINERS, SIGN WHITE FILL WITH VIVID CHARACTERS WHITE LOGO, GLOSS-FINISHED.

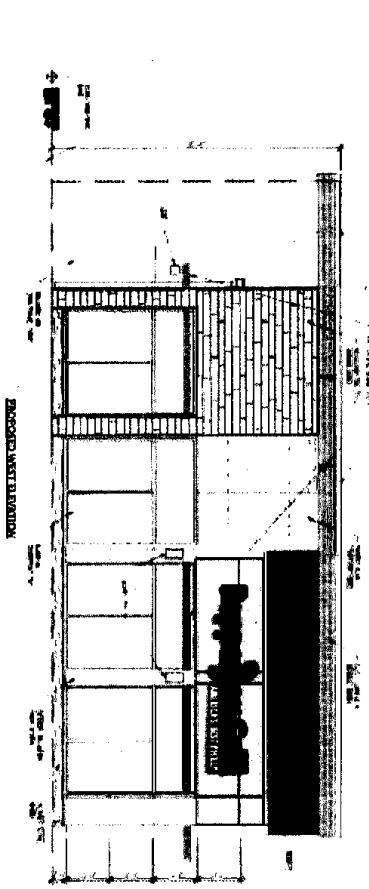
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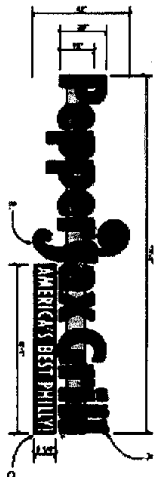
EXHIBIT D-2

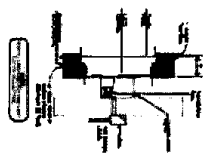
Building Signage

<p>NOTES:</p> <p>1. The sign is intended to be installed on the exterior wall of the building. The sign shall be installed in accordance with the manufacturer's instructions. The sign shall be installed in a location that is clearly visible to the public.</p> <p>2. The sign shall be installed in a location that is clearly visible to the public.</p>	<p>LISTED</p> <p>UL LISTED</p>	<p>Omaha Neon Sign Co., Inc.</p> <p>1020 S. 16th Street - Omaha, NE 68102-1607 - 402.464.1607 - 402.464.1608</p> <p>PepperJax Grill</p> <p>AMERICA'S BEST PHILLY</p> <p>27th and Cornhusker - Lincoln, NE</p>	<p>DRAWING NO: 200808</p> <p>PROJECT NO: 200808</p> <p>DATE: 08/20/08</p> <p>SCALE: 3/4" = 1'-0"</p>	
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FABRICATE & INSTALL (1) ONE NEW SET OF CHANNEL LETTERS AS SHOWN IN DRAWING WITH THE FOLLOWING SPECIFICATIONS:

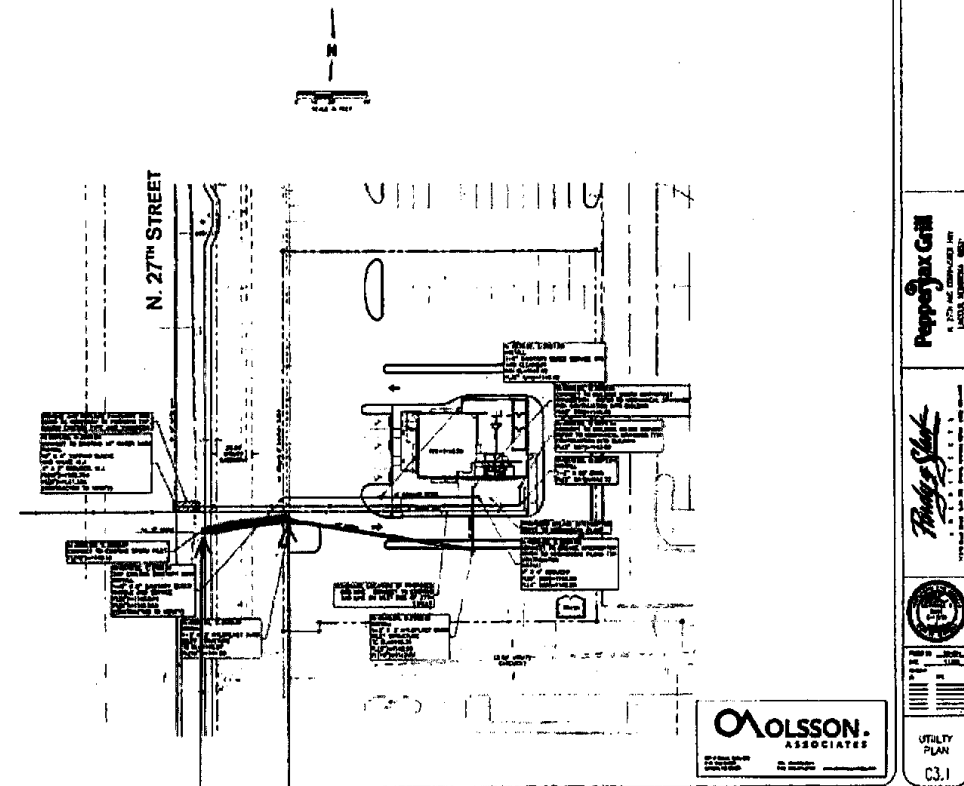




NOTE: CHANNEL LETTERS SHALL BE FABRICATED IN BLACK ANODIZED ALUMINUM. THE LETTERS SHALL BE MOUNTED TO THE BUILDING FACADE USING THE FOLLOWING SPECIFICATIONS:

- 1. LETTERS SHALL BE MOUNTED TO THE BUILDING FACADE USING THE FOLLOWING SPECIFICATIONS:
- 2. LETTERS SHALL BE MOUNTED TO THE BUILDING FACADE USING THE FOLLOWING SPECIFICATIONS:
- 3. LETTERS SHALL BE MOUNTED TO THE BUILDING FACADE USING THE FOLLOWING SPECIFICATIONS:
- 4. LETTERS SHALL BE MOUNTED TO THE BUILDING FACADE USING THE FOLLOWING SPECIFICATIONS:
- 5. LETTERS SHALL BE MOUNTED TO THE BUILDING FACADE USING THE FOLLOWING SPECIFICATIONS:
- 6. LETTERS SHALL BE MOUNTED TO THE BUILDING FACADE USING THE FOLLOWING SPECIFICATIONS:
- 7. LETTERS SHALL BE MOUNTED TO THE BUILDING FACADE USING THE FOLLOWING SPECIFICATIONS:
- 8. LETTERS SHALL BE MOUNTED TO THE BUILDING FACADE USING THE FOLLOWING SPECIFICATIONS:
- 9. LETTERS SHALL BE MOUNTED TO THE BUILDING FACADE USING THE FOLLOWING SPECIFICATIONS:
- 10. LETTERS SHALL BE MOUNTED TO THE BUILDING FACADE USING THE FOLLOWING SPECIFICATIONS:

EXHIBIT E
Storm Sewer Easement Area



**STORM SEWER EXTENSION
[SHADED]**

**THE STORM SEWER EASEMENT AREA
IS 5 FEET ON EITHER SIDE OF THE
STORM SEWER EXTENSION**

LEGEND

—	SEWER MAIN
—	SEWER BRANCH
—	SEWER MANHOLE
—	SEWER CLEANOUT
—	SEWER VALVE
—	SEWER SERVICE LINE
—	SEWER EASEMENT
—	STORM SEWER MAIN
—	STORM SEWER BRANCH
—	STORM SEWER MANHOLE
—	STORM SEWER CLEANOUT
—	STORM SEWER VALVE
—	STORM SEWER SERVICE LINE
—	STORM SEWER EASEMENT
—	WATER MAIN
—	WATER BRANCH
—	WATER VALVE
—	WATER SERVICE LINE
—	UNDERGROUND TELEPHONE
—	PROPOSED GAS
—	PROPOSED LOT EASEMENT
—	PROPOSED BACK OF CURB
—	PROPOSED FACE OF CURB
—	PROPOSED SANITARY SEWER
—	PROPOSED WATER SERVICE
—	PROPOSED SIDEWALK

(00420737.)

LENDER'S CONSENT AND SUBORDINATION

27th Street Financing, LP, a Delaware limited partnership, Lender under that certain Deed of Trust, Assignment of Rents and Security Agreement, dated November 19, 2014, and recorded on November 25, 2014, as Instrument No. 014045654 in the Office of the Lancaster County, Nebraska Register of Deeds (the "Deed of Trust"), and all other loan documents, security instruments, financing statements or other agreements documenting, evidencing or securing the Deed of Trust and the loan secured thereunder (collectively, the "Security Documents"), hereby, for itself and its successors and assigns, consents to all of the terms, covenants, conditions, provisions, restrictions and agreements contained in the attached Restrictive Covenants and Easement Agreement (the "RCEA"), and agrees that the rights, titles, interests and liens created in the Security Documents shall be subject to and subordinate to all of the terms, covenants, conditions, provisions, restrictions and agreements contained in the RCEA.

Dated: August 28, 2015

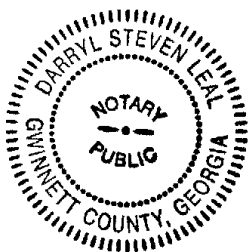
27TH STREET FINANCING, LP, a Delaware limited partnership

By: The Sofran Corporation, a Delaware corporation, general partner

By: [Signature]
Robert T. Rouleau, President

STATE OF GEORGIA)
COUNTY OF FULTON)

The foregoing instrument was acknowledged before me on this 28th day of August, 2015, by Robert T. Rouleau, the President of The Sofran Corporation, a Delaware corporation, general partner of 27th Street Financing, LP, a Delaware limited partnership, on behalf of the limited partnership.



[Signature]
Notary Public

[NOTARIAL SEAL]

My Commission Expires: 5/23/19