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**SECOND AMENDMENT TO  
COMMERCIAL FEDERAL BUSINESS PARK  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

This Second Amendment to the Declaration of Covenants, Conditions and Restrictions ("Second Amendment") is made this 18 day of December, 2003, by Commercial Federal Bank, a federal savings bank ("Declarant").

**RECITALS:**

WHEREAS, the Commercial Federal Business Park Declaration of Covenants, Conditions and Restrictions ("Declaration") dated December 26, 2000, was recorded on December 26, 2000, at Book 1363, Page 112, of the Register of Deeds of Douglas County, Nebraska, and was amended by the First Amendment to Commercial Federal Business Park Declaration of Covenants, Conditions and Restrictions on June 5, 2001, and recorded on July 5, 2001, at Book 1388, Page 415, of the Register of Deeds of Douglas County, Nebraska; and

WHEREAS, Declarant holds more than two-thirds (2/3) of the votes entitled to be cast pursuant to the Operating Agreement of Commercial Federal Business Park Association, L.L.C., and, therefore, pursuant to Section 11 of the Declaration, may amend the Declaration as provided in this Second Amendment; and

WHEREAS, Lots 11 and 12, Commercial Federal Business Park Replat 1, Douglas County, Nebraska ("Lots 11 and 12"), were subdivided into Lots 1, 2, and 3, Commercial Federal Business Park, Replat 3; Douglas County Nebraska ("Lots 1, 2, and 3, Replat 3"); and

WHEREAS, the Mixed Use Agreement between the City of Omaha and Declarant dated September 28, 2000, was amended to reflect the subdivision of Lots 11 and 12 into Lots 1, 2, and 3, Replat 3; and

WHEREAS, Declarant desires to amend the Declaration to reflect the subdivision of Lots 11 and 12 into Lots 1, 2, and 3, Replat 3, and to incorporate the amendments to the Mixed Use Agreement.

*Box 35  
003-2882  
EA*

*misc  
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FEE	<u>89.50</u>	FB	<u>See back</u>
BKP	_____	C/O	_____ <u>CP</u>
DEL	_____	SCAN	_____ FV _____

NOW, THEREFORE, Declarant hereby amends the Declaration as follows:

1. **Maximum Gross Building Square Footage.** The table in Section 2(b) of the Declaration is hereby amended as follows:

<b><u>Replat</u></b>	<b><u>Lot #</u></b>	<b><u>Maximum Gross Building Square Footage</u></b>
1	1	40,000
1	2	60,000
1	3	70,000
1	4	30,000
1	5	80,000
1	6	46,000
1	7	19,000
1	8	100,000
1	9	80,000
1	10	415,000
2	1	7,910
2	2	9,670
3	1	70,000
3	2	9,000
3	3	93,420
	Total	1,130,000

2. **Property Owners Association Voting Rights.** The table in Section 4(c) of the Declaration is hereby amended as follows:

<b><u>Replat #</u></b>	<b><u>Lot #</u></b>	<b><u>Votes</u></b>
1	Lot 1	1 Vote
1	Lot 2	3 Votes
1	Lot 3	4 Votes
1	Lot 4	2 Votes
1	Lot 5	4 Votes
1	Lot 6	4 Votes
1	Lot 7	1 Vote
1	Lot 8	5 Votes
1	Lot 9	4 Votes
1	Lot 10	16 Votes
2	Lot 1	1 Votes
2	Lot 2	1 Votes
3	Lot 1	2 Vote
3	Lot 2	1 Vote
3	Lot 3	5 Votes
	Total	54 Votes

3. **Property Owners Association Assessments.** The table in Section 4(i) is hereby amended as follows:

<b><u>Replat #</u></b>	<b><u>Lot #</u></b>	<b><u>Percentage</u></b>
1	Lot 1	3.08%
1	Lot 2	5.61%
1	Lot 3	6.51%
1	Lot 4	3.95%
1	Lot 5	7.15%
1	Lot 6	7.09%
1	Lot 7	2.91%
1	Lot 8	8.44%
1	Lot 9	7.57%
1	Lot 10	26.79%
2	Lot 1	3.03%
2	Lot 2	2.57%
3	Lot 1	3.50%
3	Lot 2	2.24%
3	Lot 3	<u>9.57%</u>
	Total	100.00%

4. **Mixed Use Agreement.** The pages attached hereto marked as Exhibit "B" are the amended exhibits to the Mixed Use Agreement which are hereby incorporated into the Declaration by this reference.

5. **Architectural Control Committee.** Section 6.a. of the Covenants is hereby amended and restated as follows:

"a. There is hereby established an Architectural Control Committee (the "Committee") which shall consist of three (3) members which are Owners of Lots 6 and 10, Commercial Federal Business Park Replat 1, and Lot 3, Commercial Federal Business Park Replat 3. Such Owners shall designate in writing their respective representative to the Committee."

6. **Minimum Landscaped Area Along Street Frontage.** Section 5.f. of the Covenants is hereby amended and restated as follows:

"f. There must be a minimum of fifteen (15) feet of landscaped area along any street frontage, excluding West Dodge Road and its entrance and exit ramps and excluding entrance and exit drives from each Parcel, and a minimum of five percent (5%) of landscaped area inside the boundaries of any surface parking lot and each Parcel must have sufficient permanent landscaping so as to comply with the minimum landscaped area ratio for such Parcel as shown on Exhibit 'B'."

7. **Legal Description.** The legal description of the property subject to the Declaration is hereby amended as described on Exhibit "A" attached hereto.

EXECUTED this 18<sup>th</sup> day of December, 2003.

DECLARANT:

COMMERCIAL FEDERAL BANK, a  
federal savings bank

By: *David S. Fisher*  
Its: Executive Vice-President

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF DOUGLAS        )

On this 18<sup>th</sup> day of December, 2003, before me, the undersigned, a Notary Public duly commissioned and qualified for in said county, personally came David S. Fisher, Exec. Vice-President of Commercial Federal Bank, a federal savings bank, to me personally known to be the person whose name is affixed to the foregoing instrument in that capacity and who acknowledged the same to be his voluntary act and deed on behalf of Commercial Federal Bank.



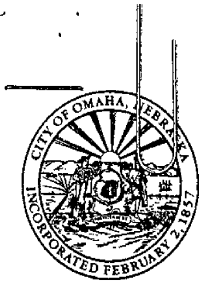
*Michael D. Matejka*  
Notary Public

When recorded, return to:  
Michael D. Matejka  
Fitzgerald, Schorr, Barmettler  
& Brennan, P.C., L.L.O.  
13220 California Street, Suite 400  
Omaha, NE 68154-5228

**EXHIBIT "A"**  
**LEGAL DESCRIPTION**

Lots 1 through 10, inclusive, and Outlots 1 through 4, inclusive, *MC-07102*  
Commercial Federal Business Park Replat 1, and Lots 1 and 2, *MC-07103*  
Commercial Federal Business Park Replat 2, and Lots 1, 2, and 3,  
Commercial Federal Business Park Replat 3, as surveyed, platted and  
recorded in Douglas County, Nebraska. *MC-07104*

**EXHIBIT "B"**  
**AMENDED EXHIBITS TO MIXED USE AGREEMENT**



City of Omaha  
Mike Fahey, Mayor

December 5, 2003

REC'D DEC 8 2003

**Planning Department**

Omaha/Douglas Civic Center  
1819 Farnam Street, Suite 1100  
Omaha, Nebraska 68183  
(402) 444-5150  
Telefax (402) 444-6140

**Robert C. Peters**  
Director

Joseph D. Foley  
Lamp-Rynearson & Associates  
Suite 100  
14710 West Dodge Road  
Omaha, NE 68154-2027

Dear Mr. Foley:

RE: Commercial Federal Business Park

The Planning Department has received and completed its review of the development agreement amendment and the associated site plan for the referenced property.

The amendment is acceptable and has been approved. The amendment is specifically for the changes resulting from Commercial Federal Business Park Replat 3. No other changes are authorized or implied.

A copy of the signed agreement amendment is attached. You are authorized to proceed with development of the property consistent with terms and conditions of this approved agreement amendment.

If you have any further questions, please contact Rod Phipps, Manager-Current Planning, at 444-5166.

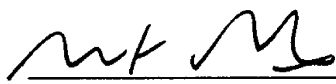
Sincerely  
OMAHA CITY PLANNING DEPARTMENT

Steve Jensen  
Assistant Planning Director

The attached amended Exhibits "A", "B", "C", "D" and "E" to the Mixed Use Agreement for the Commercial Federal Business Park are approved by the City of Omaha.

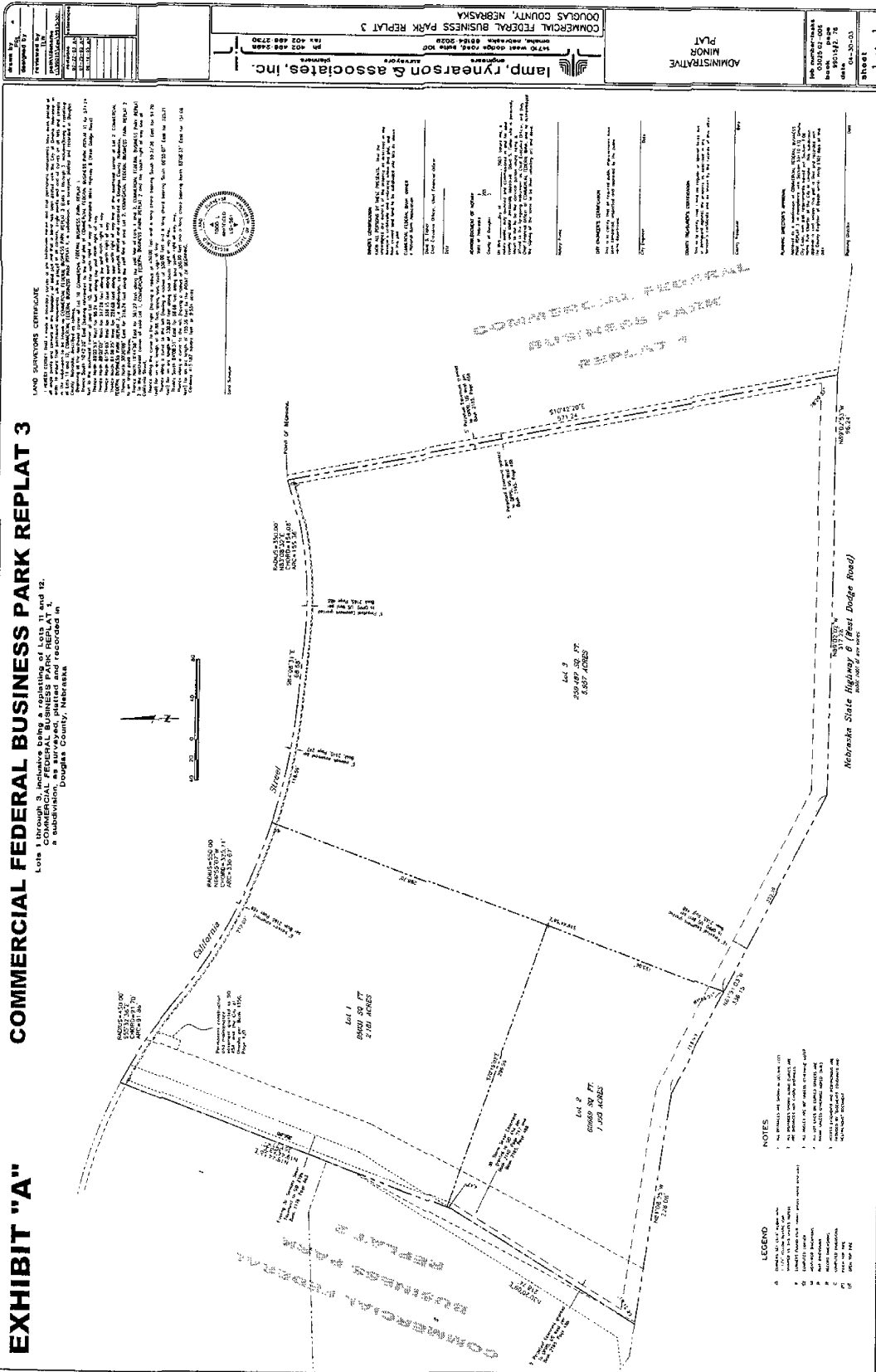
OMAHA CITY PLANNING DEPARTMENT

12.05.03  
Date

By:   
Planning Director

132703







## EXHIBIT "C"

**COMMERCIAL FEDERAL BUSINESS PARK  
SITE DEVELOPMENT REGULATIONS**

Lot No.	Size		No. of Buildings	Max. Bldg. Ht (FT)	Total Gross Bldg. <sup>(1)</sup> Area (Sq. Ft.)		Minimum F.A.R.	Maximum F.A.R.	
	Acres	Square Feet			Minimum	Maximum			
1	1.91	83,394	1	100	10,000	50,000	.120	.600	
2	3.49	152,203	1-2	100	45,000	75,000	.296	.493	
3	4.05	176,627	1-2	100	45,000	95,000	.255	.538	
4	2.46	106,997	1-2	100	20,000	55,000	.187	.514	
5	4.45	193,873	1-2	100	40,000	100,000	.206	.516	
6	4.41	192,271	1-2	100	40,000	60,000	.208	.312	
7	1.81	78,789	1-2	100	5,000	34,000	.063	.432	
8	5.25	228,775	1-3	100	65,000	120,000	.284	.525	
9	4.71	205,243	1-2	100	50,000	100,000	.244	.487	
10	16.68	726,491	1-3	100	300,000	450,000	.413	.619	
Replat 2	1	1.89	82,223	1	60	5,400	9,620	.066	.117
	2	1.60	69,616	1	60	4,600	11,380	.066	.163
Replat 3	1	2.18	95,032	1-2	100	20,000	70,000	0.210	0.737
	2	1.39	60,669	1-2	60	5,000	9,000	0.082	0.148
	3	5.96	259,487	1-3	100	70,000	125,000	.270	0.482
Outlots	1	0.10	4,356						
	2	0.04	1,791						
	3	0.04	1,791						
	4	0.10	4,356						
Cumulative Total	62.52	2,723,984	15-30	--	725,000	1,364,000	.267	.503	

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Lot No.	Max Impervious Coverage Ratio	Minimum <sup>(2)</sup> Off-Street Parking Ratio	Minimum Building Setbacks (Ft.) <sup>(3)</sup>	
			Public Rights-of-Way	Other Lot Lines
1	80%		35	10
2	80%		35	10
3	80%		35	10
4	80%		35	10
5	80%		35	10
6	80%		35	10
7	80%		35	10
8	80%		35	10
9	80%		35	10
10	80%		35	10
Replat 2	1	80%	35	10
	2	80%	35	10
Replat 3	1	82%	35	10
	2	79%	35	10
	3	80%	35	10
Outlots	1	50%	10	5
	2	50%	5	5
	3	50%	5	5
	4	50%	10	5

(1) Includes primary use buildings only. Does not include above grade parking structures, which may be in addition to these requirements/restrictions.

(2) May be accounted for in surface parking lots, in-building parking, parking structures or any combination of these.

(3) Applies to primary use buildings only. Set-back requirements for above-grade parking structures, or above-grade portions of parking structures, shall be one-half (½) of these amounts. There are no set-back requirements for below-grade or below-grade portions of parking structures.

(4) Restricted to signs and structural improvements that are accessory to the passive recreation activities.

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**EXHIBIT "D"****MINIMUM LANDSCAPING STANDARDS**

1. All landscaping will be in general conformance with the Commercial Federal Business Park Development Plan and the Zoning Regulations of the City for the GO - General Office district, except that no landscaping shall be required between Lot 1 and Lot 2, Replat 2 and between Lot 1 and Lot 2, Replat 3.
2. Landscaping will consist of plant materials, paving materials, ground cover, and other appropriate landscape features.
3. Detailed landscaping plans for each building to be developed must be submitted and approved by the designated Administrative Office prior to issuance of a building permit for such building.
4. Property abutting any street right-of-way, except for West Dodge Road and its entrance and exit ramps and 132<sup>nd</sup> Street, shall be landscaped to a minimum depth of 15 feet.
5. Medians exceeding 10 feet in width in any public street right-of-way, parking lot or entrance drive shall be landscaped. Such landscaping must be approved by the designated Administrative Official prior to installation.
6. All landscaped areas, including outlots and public street rights-of-way, will be installed and maintained by Developer or its successors and assigns, and neither the District nor the City will be required or obliged to maintain such areas.

**EXHIBIT "E"****COMMERCIAL FEDERAL BUSINESS PARK  
SIGN REGULATIONS AND BUDGET****SECTION 1. PERMITTED SIGN TYPES.**

- 1.1 Permitted signs in the Commercial Federal Business Park are restricted to non-commercial flags, business center identification, directional, electronic information, ground/monument, and wall type signs.

**SECTION 2. BUSINESS PARK IDENTIFICATION SIGNS.**

- 2.1 The Developer of the Commercial Federal Business Park will be permitted to erect up to five (5) Business Center Identification signs located on 132<sup>nd</sup> Street, 137<sup>th</sup> Street, and West Dodge Road as shown on the Plan attached as Attachment 1. All such signs will be ground monument signs. No single sign will exceed 150 square feet in area and the cumulative total of all such signs will not exceed 750 square feet in area. All such signs will be set back a minimum of ten (10) feet from street rights-of-way, except outlots 2 and 3 which will be set back a minimum of five (5) feet, and will not exceed twenty (20) feet in height and six (6) feet in height from the bottom of the sign panel. These signs will be limited to the name of the Business Park only.

**SECTION 3. SIGN BUDGET.**

- 3.1 A sign budget for individual lots within the Commercial Federal Business Park is attached hereto as Attachment 2. The permitted sign area for each lot is based upon size of each lot in relation to the total net lot area in the Business Park. The total sign budget for the Business Park is 6,895 square feet. The owner of each lot may allocate its pro-rata share of this sign budget for each lot between and among the various permitted sign types, and between and among separate structures located or to be located on each lot.

Directional and information signs within parking lots, parking structures, and outlots that do not exceed four (4) square feet per sign face in size, and Business Park identification signs are exempt from the sign budget.

**SECTION 4. TRANSFER OF SIGN BUDGET.**

- 4.1 Transfer of any permitted maximum Gross Building Area between lots, made in accordance with Section 2.2.4 of this Agreement, may also permit transfer of a corresponding portion of each lot's sign budget.
- 4.2 In addition, up to 10% of the sign budget for any lot may be transferred to any other lot, on a square foot to square foot basis, by written notice from each lot owner

identifying and describing the lots involved and the square footage of increase and corresponding decrease in each lot's sign budget.

- 4.3 Any transfer of sign budget, or change in sign budget due to replatting, must have a corresponding amendment to Exhibit "E", Attachment 2, submitted by the Developer before a sign permit can be issued.

#### SECTION 5. HEIGHT, SET-BACK, AND AUXILIARY REGULATORS.

- 5.1 Except as otherwise provided in this Sign Regulation and Budget, the maximum height, required minimum set-backs, and auxiliary design elements, including types of permitted illumination, for any sign shall be governed by the requirements of the local jurisdiction exercising zoning authority as applied in the following manner:
- a. For Lots 1, 6, 7, 8, and 9, Replat 1, Lots 1 and 2 of Replat 2, and Lots 1 and 2 of Replat 3, the regulations for GO - General Office district shall apply, except that wall signs may be erected to the height of the wall.
  - b. For Lots 2, 3, 4, 5, 10, and Lot 1 of Replat 3 and outlots 1 through 4, the regulations for GO -General Office district shall apply.
  - c. Ground/monument signs will not exceed 8 feet in height.
  - d. Directional signs shall not exceed 3.5 feet in height.
  - e. Electronic information signs shall be limited to time and temperature only.
  - f. Flags shall be limited to countries, states, governmental entities, corporate logo or decorative with no advertising.

#### SECTION 6. APPLICATION PROCEDURES.

- 6.1 All signs will be installed subject to a sign permit from the jurisdiction exercising zoning authority. Unless specifically provided for in this Sign Regulations and Budget, all other sign provisions and regulations of such local jurisdiction in effect at the date hereof will apply.

## ATTACHMENT 2

**COMMERCIAL FEDERAL BUSINESS PARK**  
**SIGN BUDGET**

LOT NUMBER	PERMITTED SIGN TYPES
6, 10	Flag, Electronic Information, Ground Monument, Center Identification, and Wall
1, 2, 3, 4, 5, 7, 8, 9 (Replat 2, Lots 1 and 2) (Replat 3, Lots 1, 2, & 3)	Flag, Ground Monument, and Wall

LOT NUMBER	SIGN BUDGET (SQ. FT.)
1	275
2	275
3	275
4	275
5	500
6	540
7	275
8	500
9	500
10	2,210
Replat 2, Lot 1	150
Replat 2, Lot 2	150
Replat 3, Lot 1	300
Replat 3, Lot 2	150
Replat 3, Lot 3	520
<b>TOTAL BUDGET</b>	<b>6,895 (Sq. Ft.)</b>

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