



To: City Council

Agenda Item #: IV. J.

From: Karen M. Kurt
Assistant City Manager

Action

Discussion

Date: January 20, 2015

Information

Subject: Amendment to Reciprocal Easement Agreement for Yorkdale Shoppes

Action Requested:

Approve attached amendment to Reciprocal Easement Agreement for Yorkdale Shoppes

Information / Background:

The City of Edina has a reciprocal easement agreement with the Yorkdale Shoppes for the shared entrance and parking associated with the Southdale Liquor Store.

Mall ownership is proposing an amendment to the agreement to allow one veterinary clinic with up to 4,000 square feet of space as a potential tenant. Two similar amendments have been approved by the City in previous years. The veterinary clinic use conforms with our zoning regulations and liquor store leadership has no concerns regarding the change.

Attachment:

- Proposed Third Amendment to the Reciprocal Easement Agreement for Yorkdale Shoppes
- Reciprocal Easement Agreement from June 28, 1996

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RECIPROCAL EASEMENT AGREEMENT

(Yorkdale Shoppes, Edina, Minnesota)

between

Yorkdale Shoppes Partners, LLC

and

The City of Edina

Dated June 28, 1996

96 AND PRIOR TAXES PAID
TAXPAYER SERVICES
TRANSFER ENTERED

DEC 24 1996
HENNEPIN COUNTY MINN.
DEPUTY

RECIPROCAL EASEMENT AGREEMENT

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(Yorkdale Shoppes, Edina, Minnesota)

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EXHIBITS:

<u>Exhibit</u>	<u>Description of Exhibit</u>	<u>Section</u>
Exhibit A	Plan of Shopping Center Lots	1.10
Exhibit B	Site Plan	1.11

LOCATION OF DEFINED TERMS NOT CONTAINED IN SECTION 1:

<u>Defined Term</u>	<u>Section</u>
Building Envelopes	4.1
Business Office	7.2.8
CAM Charges	6.3
City	Introductory Paragraph
Defaulting Owner	9.2
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Retail Office	7.2.8

- 1 1.5 Lot 1. "Lot 1" shall mean Lot 1, Block 1, Yorkdale Shoppes, according to the plat
2 thereof on file and of record in the Office of the Registrar of Titles of Hennepin
3 County, Minnesota.
- 4 1.6 Lot 3. "Lot 3" shall mean Lot 3, Block 1, Yorkdale Shoppes, according to the plat
5 thereof on file and of record in the Office of the Registrar of Titles of Hennepin
6 County, Minnesota.
- 7 1.7 Lot 4. "Lot 4" shall mean Lot 4, Block 1, Yorkdale Shoppes, according to the plat
8 thereof on file and of record in the Office of the Registrar of Titles of Hennepin
9 County, Minnesota.
- 10 1.8 Occupant. "Occupant" shall mean any Person from time to time entitled to the use
11 and occupancy of any portion of a building in the Shopping Center under an
12 ownership right or any lease, sublease, license, concession, or other similar
13 agreement.
- 14 1.9 Owner. "Owner" shall mean each signatory hereto and their respective successors
15 and assigns who become owners of any portion of the Shopping Center. Each
16 Owner shall be liable for the performance of all covenants, obligations and
17 undertakings set forth in this Agreement with respect to the portion of the Shopping
18 Center owned by it which accrue during the period of such ownership; an Owner shall
19 not be liable for the performance of covenants, obligations or undertakings set forth
20 in this Agreement which accrue after the period of such ownership. An Owner
21 transferring all or any portion of its interest in the Shopping Center shall give notice to
22 all other Owners of such transfer and shall include in such notice at least the
23 following information: (a) the name and address of the transferee; and (b) a copy of
24 the legal description of the portion of the Shopping Center transferred.
- 25 1.10 Permittee. "Permittee" shall mean all Occupants and the officers, directors,
26 employees, agents, contractors, customers, vendors, suppliers, visitors, invitees,
27 licensees, subtenants, and concessionaires of Occupants insofar as their activities
28 relate to the intended use of the Shopping Center.
- 29 1.11 Person. "Person" shall mean any individual, partnership, firm, association,
30 corporation, trust, or any other form of business or government entity.
- 31 1.12 Pro Rata Share. An Owner's "Pro Rata Share" shall mean a fraction, the numerator
32 of which is the number of square feet of Floor Area on the Owner's Tract, and the
33 denominator of which is the total number of square feet of Floor Area in the Shopping
34 Center.
- 35 1.13 Shopping Center. "Shopping Center" shall mean Lots 1, 2, 3 and 4. Attached hereto
36 as Exhibit A is a plan of the Shopping Center showing the location of Lots 1, 2, 3 and
37 4.
- 38 1.14 Site Plan. "Site Plan" shall mean the Site Plan attached hereto as Exhibit B.
- 39 1.15 Supermarket Tract. "Supermarket Tract" shall mean that portion of the Shopping
0 Center legally described as Lot 2, Block 1, Yorkdale Shoppes, according to the plat

1 thereof on file and of record in the Office of the Registrar of Titles of Hennepin
2 County, Minnesota.

3 1.16 Tract. "Tract" shall mean that portion of the Shopping Center owned by an Owner.

4 2. Term

5 This Agreement shall be effective as of the date that the City takes fee title to Lot 1. The
6 easements referred to in Section 3 and in subsection 4.5, and the provisions of
7 subsection 4.4, shall continue in full force and effect perpetually. All other restrictions and
8 covenants contained in this Agreement shall continue in full force and effect until 11:59
9 p.m. on December 31, 2026; provided, however, that such restrictions and covenants shall
10 be automatically extended on a year to year basis following December 31, 2026 unless any
11 Owner notifies all other Owners, by notice given at least four months prior to the end of any
12 year, that it exercises its option to prevent such restrictions and covenants from being so
13 extended. The expiration of this Agreement shall not limit or affect any remedy at law or in
14 equity that an Owner may have against any other Owner with respect to any liability or
15 obligation arising or to be performed under this Agreement prior to the date of such
16 expiration.

17 3. Easements

18 3.1 Ingress and Egress Easements. Each Owner hereby grants and conveys to each
19 other Owner for its use and for the use of its Permittees, in common with others
20 entitled to use the same, non-exclusive perpetual easements for (a) the passage of
21 vehicles over and across the parking and driveway areas of the grantor's Tract as the
22 same may from time to time be constructed and maintained for such use, except that
23 such easement shall always include reasonably direct access to and from both the
24 North bound and the South bound traffic lanes on York Avenue to and from Lot 1 and
25 Lot 4, (b) the parking of vehicles over and across the parking areas of the grantor's
26 Tract as the same may from time to time be constructed and maintained for such
27 use, subject to the restrictions contained in subsection 3.7, and (c) for the passage
28 and accommodation of pedestrians over and across the parking, driveways and
29 sidewalk areas of the grantor's Tract as the same may from time to time be
30 constructed and maintained for such use. Such easement rights shall be subject to
31 the following reservations as well as other provisions contained in this Agreement:

32 3.1.1 No Fences. Except for situations specifically provided for in this Section 3, no
33 fence or other barrier which would unreasonably prevent or obstruct the
34 passage of pedestrian or vehicular travel for the purposes permitted in this
35 Agreement shall be erected or permitted within or across the aforesaid
36 easement areas; provided, however, that the foregoing provision shall not
37 prohibit the installation of convenience facilities (such as mailboxes, public
38 telephones, benches or public transportation shelters), of landscaping, berms
39 or planters, nor of limited curbing and other forms of traffic controls.

40 3.1.2 Staging Area. In connection with any construction, reconstruction, repair or
41 maintenance on its Tract, each Owner reserves the right to create a staging
42 and/or storage area in the Common Area on its Tract at such location as will
43 not unreasonably interfere with access between such Tract and other areas of

1 the Shopping Center or the public street abutting the Shopping Center..

2 3.1.3 Modifications. No Owner shall make changes to the improved Common Area
3 on its Tract from that shown on the Site Plan without the approval of all other
4 Owners, which approval will not be unreasonably withheld or delayed.
5 Notwithstanding the foregoing, each Owner hereby reserves the right, from
6 time to time without obtaining the consent or approval of any other Owner, to
7 make at its own expense any insignificant change, modification or alteration in
8 its portion of the Common Area, provided that all of the following conditions
9 are met:

10 3.1.3.1 The accessibility of such Common Area for pedestrian and vehicular
11 traffic (as it relates to the remainder of the Shopping Center), is not
12 unreasonably restricted or hindered, subject to the restrictions
13 contained in subsection 3.7.

14 3.1.3.2 No governmental rule, ordinance or regulation shall be violated as a
15 result of such action, and such action shall not result in any other
16 Owner being in violation of any governmental rule, ordinance or
17 regulation.

18 3.1.3.3 No change shall be made in the access points between the Common
19 Area and the public streets.

20 3.1.3.4 At least 30 days prior to making any such change, modification or
21 alteration, the Owner desiring to do such work shall deliver to each
22 other Owner copies of the plans therefor.

23 3.1.4 Closure. Each Owner further reserves the right to close off its portion of the
24 Common Area for such reasonable period of time as may be legally
25 necessary, in the opinion of such Owner's counsel, to prevent the acquisition
26 of prescriptive rights by anyone; provided however, that prior to closing off
27 any portion of the Common Area, such Owner shall give written notice to each
28 other Owner of its intention to do so, and shall attempt to coordinate such
29 closing with each other Owner so that no unreasonable interference in the
30 passage of pedestrians or vehicles shall occur.

31 3.1.5 Exclusion of Non-Permittees. Each Owner reserves the right at any time and
32 from time to time to exclude and restrain any Person who is not a Permittee
33 from using its Common Area.

34 3.1.6 City Tract Parking. Notwithstanding anything in this Agreement to the
35 contrary, the Owner of the City Tract shall have the right at any time and
36 from time to time to post a sign or signs at one or more points or places
37 anywhere on the City Tract stating among other things that parking on the
38 City Tract is for the exclusive use of patrons of the business located on the
39 City Tract, for liquor store parking only or some similar statement; provided,
40 however, that the City shall not enforce such statement with respect to the
northerly 15 parking stalls on the City Tract.

1 3.2 Utility Easements. Each Owner hereby grants and conveys to each other Owner a
2 non-exclusive perpetual easement in, to, over, under, along and across those
3 portions of the Common Area (exclusive of any portion located within a Building
4 Envelope, as defined in subsection 4.1) located on the grantor's Tract for the
5 installation, operation, flow, passage, use, maintenance, connection, repair,
6 relocation, and removal of lines or systems for utilities serving the grantee's Tract,
7 including sanitary sewers, storm drains, water (fire and domestic), gas, electrical,
8 telephone and communication lines. Except with respect to ground mounted
9 electrical transformers at the rear of a building or as may be necessary during
10 periods of construction, repair, or temporary service, all utilities shall be underground
11 unless required to be above ground by the utility providing such service. Any Owner
12 installing, maintaining, connecting, repairing, relocating or removing utilities pursuant
13 to the provisions of this subsection 3.2 shall pay all costs and expenses with respect
14 thereto and shall cause all work in connection therewith (including general clean-up
15 and proper surface and/or subsurface restoration) to be completed as quickly as
16 possible and in a manner so as to minimize interference with the use of the Common
17 Area. The location and width of any utility easement shall be subject to the prior
18 written approval of the Owner whose Common Area is to be burdened thereby, such
19 approval not to be unreasonably withheld. The easement area shall be no larger
20 than whatever is necessary to reasonably satisfy the utility company, as to a public
21 utility, or five feet (5') on each side of the centerline, as to a private line.

22 3.3 Party Wall Easement. The Owners acknowledge that there is currently a common or
23 party wall between Lot 3 and Lot 4. Developer hereby declares the existence of a
24 party wall easement for the benefit of the Owners of Lots 3 and 4 along the common
25 boundary line of Lots 3 and 4 and to the extent that any building wall is constructed
26 and located on the boundary line between such Tracts. To the extent not
27 inconsistent with the provisions of this subsection 3.3, the general rules of law
28 regarding party walls and liability for property damage due to negligent or willful acts
29 or omissions shall apply thereto. The Owners of Lots 3 and 4 shall be responsible for
30 the maintenance, repair and replacement of the party wall in proportion with their use,
31 provided, however, that any maintenance, repair or replacement necessary due to
32 the acts or omissions of one Owner sharing the party wall shall be paid for by such
33 Owner. No party wall shall be constructed in such easement area more than 12
34 inches from the lot line. If the party wall is destroyed or damaged by fire or other
35 casualty, any Owner who has used the party wall may restore it, and if other Owners
36 thereafter make use of the wall, such Owners shall contribute to the cost of
37 restoration in proportion to such use, without prejudice, however, to the right of any
38 Owner to recover a larger contribution from any other Owner for negligent or willful
39 acts or omissions. Notwithstanding any other provision in this subsection 3.3, any
40 Owner who, by such Owner's negligent or willful act, causes the party wall to be
41 exposed to the elements shall bear the entire cost of furnishing the necessary
42 protection against the elements. The right of any Owner to contribution from any
43 other Owner under this subsection 3.3 shall be appurtenant to such Owner's Tract
44 and shall pass to such Owner's successors and assigns. In the event any dispute
45 arises concerning a party wall, and the same is not resolved within 30 days after the
46 event causing the dispute, the matter shall be submitted to binding arbitration under
47 the rules of the American Arbitration Association, upon the written demand of any
48 Owner that shares the party wall. Each Owner agrees that the decision of the

1 arbitrators shall be final and conclusive on the questions involved. The fees of the
2 arbitrators shall be shared equally by the parties, but each party shall pay its own
3 attorneys' fees or other costs to prove its case.

4 3.4 No Other Easements. No Owner shall grant any easement for any purpose set forth
5 in this Section 3 for the benefit of any property not within the Shopping Center;
6 provided however, that the foregoing shall not prohibit the granting or dedicating of
7 utility easements by an Owner on its Tract to governmental or quasi-governmental
8 authorities or to public utilities.

9 4. Building Improvements

10 4.1 Building Envelopes. The Owners hereby agree that all buildings (which for the
11 purpose of this document shall include any appurtenant canopies, supports, loading
12 docks, truck ramps and other outward extensions, as well as attached trash
13 compactors and utility transformers) may be constructed, placed or located only
14 within the Building Envelopes circled in blue on the Site Plan (which Building
15 Envelopes shall include the blue lines on the Site Plan).

16 4.2 Height Restrictions. No building, structure or other improvement on the Shopping
17 Center (exclusive of any free standing sign and except for any building, structure or
18 other improvement on the Supermarket Tract), including mechanical equipment,
19 parapet walls, and other objects or appurtenances, shall: (a) exceed one story in
20 height; (b) have a roof higher than 22 feet above grade, or have any portion of such
21 building, structure or improvement (including HVAC equipment and other mechanical
22 devices or screening or parapet) higher than four feet above such roof (except that
23 any such building, structure or other improvement may have a steel structure up to
24 five feet above its roof and may have arches above entranceways up to five feet
25 above the roof of the remainder of such building); (c) have any rooftop equipment
26 unless such equipment is screened in a manner in compliance with all applicable
27 laws, ordinances and regulations; or (d) have a rooftop sign, except for building
28 facade signage if no part of such signage is higher than 24 feet above grade.

29 4.3 Maintenance and Repair. After completion of construction, each Owner covenants
30 and agrees to maintain and keep the building improvements located on its Tract in
31 first-class condition and state of repair, in compliance with all governmental laws,
32 rules, regulations, orders, and ordinances exercising jurisdiction thereover, and in
33 compliance with the provisions of this Agreement. Each Owner further agrees to
34 store all trash and garbage in adequate containers, to locate such containers so that
35 they are not readily visible from the parking area, and to arrange for regular removal
36 of such trash or garbage. In the event any of the building improvements are
37 damaged by fire or other casualty (whether insured or not), the Owner upon whose
38 Tract such building improvements are located immediately shall remove the debris
39 resulting from such event and provide a sightly barrier and within a reasonable time
40 thereafter shall either (a) repair or restore the building improvements so damaged,
41 such repair or restoration to be performed in accordance with all provisions of this
42 Agreement, or (b) erect other building improvements in such location, provided all
43 provisions of this Agreement are complied with, or (c) demolish the damaged portion

1 of such building improvements and restore the area to an attractive condition in which
2 event the area shall be Common Area until a replacement building is erected.

3 4.4 Common Wall. As previously stated in subsection 3.3, the Owners acknowledge that
4 there is a currently a common wall between Lots 3 and 4. The Owners of such
5 Tracts agree that if any such Owner demolishes the building located on its lot, it will
6 reconstruct such wall so that it will serve as an exterior, weather resistant wall for the
7 building on the other lot, which reconstruction shall include any changes to the roof of
8 such building on the other lot which may be necessary due to such reconstruction.

9 4.5 Common Footings. In order to accommodate any footings, foundations, columns or
10 walls which may be constructed or reconstructed immediately adjacent to a common
11 boundary line and which may overlap that common boundary line, each Owner
12 grants to each other Owner a non-exclusive easement in, to, over, under, and across
13 that portion of its Tract adjacent to such common boundary line in space not
14 theretofore occupied by any then existing structure for the construction, maintenance
15 and replacement of footings to a maximum distance of five feet (5') onto the grantor's
16 Tract and for the construction, replacement and maintenance of foundations,
17 columns, or walls to a maximum distance of twelve inches onto the grantor's Tract.
18 The grant of easement shall include the reasonable right of access necessary to
19 exercise and enjoy such grant. The easement shall continue in effect for the term of
20 this Agreement and thereafter for so long as the building utilizing the easement area
21 exists (including a reasonable period to permit reconstruction or replacement of such
22 building if the same shall be destroyed, damaged, or demolished) and shall include
23 the reasonable right of access necessary to exercise and enjoy such grant. The
24 Owners acknowledge that it is expected that the building to be constructed on Lot 1
25 and the building to be constructed on the Supermarket Tract will have common
26 footings. Developer hereby declares the existence of a common footings easement
27 for the benefit of the Owners of Lot 1 and the Supermarket Tract along the common
28 boundary line of Lot 1 and the Supermarket Tract and to the extent that any footings
29 are constructed and located on the boundary line between such Tracts. To the
30 extent not inconsistent with the provisions of this subsection 4.5, the general rules of
31 law regarding common footings and liability for property damage due to negligent or
32 willful acts or omissions shall apply thereto. The Owners of Lot 1 and the
33 Supermarket Tract shall be responsible for the maintenance, repair and replacement
34 of the common footings in proportion with their use, provided, however, that any
35 maintenance, repair or replacement necessary due to the acts or omissions of one
36 Owner sharing the common footings shall be paid for by such Owner. No common
37 footings shall be constructed in such easement area more than 12 inches from the lot
38 line. If the common footings are destroyed or damaged by fire or other casualty, any
39 Owner who has used the common footings may restore them, and if other Owners
40 thereafter make use of the common footings, such Owners shall contribute to the
41 cost of restoration in proportion to such use, without prejudice, however, to the right
42 of any Owner to recover a larger contribution from any other Owner for negligent or
43 willful acts or omissions. Notwithstanding any other provision in this subsection 4.5,
44 any Owner who, by such Owner's negligent or willful act, causes the common
45 footings to be exposed to the elements shall bear the entire cost of furnishing the
46 necessary protection against the elements. The right of any Owner to contribution
47 from any other Owner under this subsection 4.5 shall be appurtenant to such

1 Owner's Tract and shall pass to such Owner's successors and assigns. In the event
2 any dispute arises concerning a common footings, and the same is not resolved
3 within 30 days after the event causing the dispute, the matter shall be submitted to
4 binding arbitration under the rules of the American Arbitration Association, upon the
5 written demand of any Owner that shares the common footings. Each Owner agrees
6 that the decision of the arbitrators shall be final and conclusive on the questions
7 involved. The fees of the arbitrators shall be shared equally by the parties, but each
8 party shall pay its own attorneys' fees or other costs to prove its case.

9 **5. Construction**

10 5.1 General Requirements. Each Owner agrees that its construction activities shall not
11 do any of the following:

12 5.1.1 Cause any unreasonable increase in the cost of constructing improvements
13 upon another Owner's Tract.

14 5.1.2 Unreasonably interfere with construction work being performed on any other
15 part of the Shopping Center.

16 5.1.3 Unreasonably interfere with the use, occupancy or enjoyment of any part of
17 the remainder of the Shopping Center by any other Owner or its Permittees.

18 5.1.4 Cause any other Owner to be in violation of any law, rule, regulation, order or
19 ordinance applicable to its Tract of the city, county, state, federal government,
20 or any department or agency of any of them.

21 5.1.5 Violate any laws, rules, regulations, orders, or ordinances of any city, county,
22 state, or federal government, or any department or agency of any of them,
23 with jurisdiction over such construction activities.

24 5.2 Indemnity. Each Owner agrees to defend, indemnify and hold harmless each other
25 Owner from all claims, actions, proceedings and costs incurred in connection
26 therewith (including reasonable attorneys' fees and costs of suit) resulting from any
27 accident, injury or loss or damage whatsoever occurring to any Person or to the
28 property of any Person arising out of or resulting from the performance of any
29 construction activities performed or authorized by such indemnifying Owner.

30 5.3 Staging and Storage. Prior to constructing, reconstructing, remodeling, or enlarging
31 a building or changing the Common Area on its Tract, an Owner shall give the other
32 Owners at least 30 days' prior notice of the proposed location of any staging and
33 storage area. All storage of materials and the parking of construction vehicles,
34 including vehicles of workers shall occur only on the constructing Owner's Tract, and
35 all laborers, suppliers, contractors and others connected with such construction
36 activities shall use only the access point which is nearest to the Owner's Tract and
37 which is not the main access point to the Shopping Center. If substantial work is to
38 be performed, the constructing Owner shall, at the request of any other Owner, fence
39 off the staging and storage area. Upon completion of such work, the constructing
40 Owner shall restore the affected Common Area to a condition at least equal to that
1 existing prior to commencement of such work.

1 **6. Common Area Maintenance and Repair**

2 6.1 General Maintenance Requirements. From and after the date upon which the
3 Common Area of the Shopping Center is substantially completed, subject to the
4 provisions of subsection 6.6, Developer shall maintain all Common Area, or cause it
5 to be maintained, in good order, condition and repair. Developer shall have the right,
6 from time to time, to select another person or persons to maintain the Common Area,
7 provided that Developer shall remain responsible at all times for the maintenance of
8 the Common Area. If Developer selects another person to maintain the Common
9 Area, such person shall be a recognized professional commercial property
10 management company. Developer may hire companies affiliated with it to perform
11 the maintenance, repair and operation of the Common Area, but only if the rates
12 charged by such companies are competitive with those of other companies furnishing
13 similar service in the metropolitan area where the Shopping Center is located, it
14 being agreed that this provision regarding affiliated companies shall be construed
15 strictly against Developer.

16 6.2 Standard of Maintenance. The minimum standard of maintenance for the improved
17 Common Area shall be comparable to the standard of maintenance followed in power
18 shopping centers in the Twin City metropolitan area which are comparable to the
19 Shopping Center, and in any event in compliance with all applicable governmental
20 laws, rules, regulations, orders and ordinances, and the provisions of this Agreement.
21 All Common Area improvements shall be repaired or replaced with materials at least
22 equal to the original quality of the materials being repaired or replaced so as to
23 maintain the architectural and aesthetic harmony and integrity of the Shopping
24 Center as a whole. The maintenance and repair obligation in any event shall include
25 but not be limited to the following:

26 6.2.1 Drive and parking areas. Maintaining, repairing and replacing (i) the surface
27 and subsurface of the parking lots (including proper striping thereof),
28 sidewalks, driveways and alleys situated on the Common Areas in a level;
29 smooth and evenly covered manner; (ii) Common Area pylon(s), entrance,
30 exit and directional signs, markers and lights as will be reasonably required
31 from time to time; (iii) common storm drains, utility lines, sewers and other
32 utility systems and services located in the Common Areas (including any trunk
33 line portion of utility lines, defined as any line with more than one user); and
34 (iv) all parking area lighting fixtures (including bulbs).

35 6.2.2 Cleanliness. Keep the Common Areas clean, safe and in good repair, with all
36 trash and garbage for the Shopping Center and for all tenants of the Shopping
37 Center screened from view by customers of the Shopping Center (however,
38 each Owner shall maintain at its sole cost in a clean, sightly and sanitary
39 condition the truck loading, dock, and/or ramp areas adjacent to its building,
40 and its refuse or dumpster areas adjacent to its building, if any).

41 6.2.3 Snow Removal. Remove snow and ice from the Common Areas down to the
42 pavement as often as is necessary to prevent any accumulation of more than
43 two inches.

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6.2.4 Landscaping. Maintain, replace and care for, including fertilizing, watering, mowing and trimming, all grass, shrubs and landscaping on the Shopping Center and on any rights of way adjacent to the Shopping Center, and maintain, repair and replace automatic irrigation systems and water lines; provided, however, that if any Owner or Occupant requires or installs "special" landscaping (i.e., beyond the landscaping requirements of the remainder of the Shopping Center), the maintenance and cost of such landscaping shall not be considered a Common Area cost and Developer shall not be required to maintain same.

6.2.5 Traffic Supervision. Provide on-site supervision of traffic at entrances and exits to the Shopping Center as conditions reasonably require in order to maintain orderly and proper traffic flow and ingress and egress.

6.2.6 Lighting. Maintain lighting for all Common Areas at a reasonably adequate level at all times when any portion of the Shopping Center is open for business.

6.2.7 Insurance. Maintain in full force and effect Commercial General Liability Insurance on the Common Areas, for the benefit of all Owners and Occupants, in the minimum amounts of \$1,000,000 per occurrence, \$2,000,000 aggregate for bodily or personal injury or death and for property damage, and umbrella liability in the amount of \$5,000,000.

6.3 CAM Charges. "CAM Charges" shall mean the reasonable and direct out-of-pocket expenses incurred by Developer in performing the Common Area maintenance services specified in subsections 6.1 and 6.2. CAM Charges shall not include any of the following:

6.3.1 Late charges or fees.

6.3.2 Costs to clean up or repair the Common Area resulting from construction, maintenance or replacement of buildings.

6.3.3 Real property taxes and assessments.

6.3.4 Profit, administrative and overhead costs to manage, coordinate, administer, arrange or contract for or supervise the Common Area maintenance services specified in subsections 6.1 and 6.2, such as rent, legal, supplies, utilities and wages or salaries paid to management or supervisory personnel, except as provided below.

6.3.5 Entertainment, transportation, meals and lodging of anyone.

6.3.6 Maintenance or repair of separate utility lines and systems designed for use by a single user or of lateral utility lines designed for use by a single user and extending from or to common lines.

CAM Charges may include an administrative fee (whether paid to Developer and/or a third party) to manage, coordinate, administer, arrange or contract for or supervise

1 the Common Area maintenance services specified in subsections 6.1 and 6.2, of up
2 to a twelve percent of all CAM Charges other than such administrative fee and the
3 mark-up portion of fees paid to third parties who perform the Common Area operation
4 and maintenance on Developer's behalf.

5 6.4 Budget and Payment. Each Owner shall pay on a monthly basis its Pro Rata Share
6 of CAM Charges. Prior to December 1, 1996 and thereafter prior to each December
7 1, Developer shall prepare and deliver to each other Owner a budget for CAM
8 Charges for the succeeding calendar year, based upon the actual CAM Charges for
9 the prior 12 month period (except for the first 12 month period of this Agreement).
10 On the first day of each calendar month during the applicable 12 month period
11 covered by such budget, each Owner shall pay Developer an amount equal to 1/12th
12 of such Owner's Pro Rata Share of the budget for CAM Charges. Within 90 days
13 after the end of each calendar year, Developer shall provide to the other Owners an
14 accounting of all CAM Charges for such year. Developer shall keep and maintain
15 and, upon request by any Owner, shall provide, supporting materials including copies
16 of receipted invoices, canceled checks and other documentation necessary to
17 evidence CAM Charges. If the amount of CAM Charges paid by an Owner is
18 different from the Owner's actual Pro Rata Share of CAM Charges, an appropriate
19 adjustment shall be made within 30 days.

20 6.5 Audit. Within five years after payment of any CAM Charges, any Owner shall have
21 the right to audit Developer's books and records pertaining to the operation and
22 maintenance of the Common Area for the period covered by such CAM Charges. In
23 the event that such audit shall disclose any error in the determination of such CAM
24 Charges or in calculating any Owner's share of the same, an appropriate adjustment
25 shall be made forthwith. The cost of any such audit shall be assumed by the Owner
26 on whose behalf such audit was performed unless such Owner shall be entitled to a
27 refund in excess of three percent of the amount calculated by Developer as its share
28 of CAM Charges, in which case Developer shall pay the cost of such audit.

29 6.6 Option for City to Maintain City Tract. The City shall have the right, but not the
30 obligation, upon not less than 30 days' written notice given to Developer, to take over
31 and assume the maintenance of the Common Area upon the City Tract. If the City
32 assumes the maintenance of the Common Area upon its Tract, the Owners agree
33 that following the effective date of such assumption (a) the City will perform all of the
34 functions previously performed by Developer respecting the Common Area upon its
35 Tract, and (b) the City will pay all costs and expenses incurred in connection with the
36 maintenance of the Common Area on its Tract, and (c) Developer thereafter shall
37 continue to maintain the balance of the Common Area in accordance with the
38 standards of this Section 6, and (d) the City will no longer be required to pay any
39 CAM Charges thereafter.

40 6.7 Casualty. In the event any of the Common Area is damaged or destroyed by any
41 cause other than normal wear and tear, whether insured or uninsured, during the
42 term of this Agreement, the Owner upon whose Tract such Common Area is located
43 shall repair or restore such Common Area at its sole cost and expense with all due
44 diligence. Except to the extent limited by subsection 11.1 (entitled "Waiver of
45 Subrogation"), in the event such damage or destruction of Common Area is caused in

1 whole or in part by another Owner or third Person, the Owner obligated to make such
2 repair or restoration reserves and retains the right to proceed against such other
3 Owner or third Person for indemnity, contribution or damages.

4 **7. Use Restrictions**

5 7.1 Use Restrictions on the Shopping Center. No portion of the Shopping Center shall
6 be used or operated for any of the following:

7 7.1.1 Unlawful. In violation of applicable laws or ordinances.

8 7.1.2 Hazardous. In a dangerous or hazardous manner.

9 7.1.3 Dump-site. Any dumping, disposing, incineration, or reduction of garbage
10 (exclusive of garbage compactors located near the rear of any building).

11 7.2 Use Restrictions on the Shopping Center (other than the City Tract). No portion of
12 the Shopping Center other than the City Tract shall be used or operated for any of
13 the following:

14 7.2.1 Nuisance. As a nuisance, or as an excessively obnoxious use by reason of
15 unsightliness or excess emission of odors, dust, fumes, smoke, liquid waste,
16 noise, glare, vibration or radiation; provided, however, that nothing contained
17 in this subsection 7.2.1 shall limit or prohibit the operation of a supermarket,
18 floral store or department, video store or department, liquor store or
19 department, bank, or pharmacy on the Supermarket Tract, nor the erection of
20 business communications satellite dishes on the roof of a building.

21 7.2.2 Adult Entertainment. As an adult book store, night club or discotheque,
22 massage parlor, or any other establishment which provides live adult
23 entertainment or which sells, rents or exhibits pornographic or obscene
24 materials, except that this provision shall not prohibit (a) videotape sale and
25 rental stores which sell or rent primarily non-"X"-rated videotapes (that is, "G"
26 to "R" -rated videotapes) but which also rent or sell "X"-rated or non-rated
27 videotapes for off-premises viewing only, provided such "X"-rated or similar
28 videotapes, and the place and procedure for selection thereof, precludes
29 viewing or selection by minors and with no promotional, advertising or other
30 depiction or description in respect of any "X"-rated or non-rated or similar
31 videotape displayed or utilized within or outside the store; or (b) book stores
32 and other stores which sell primarily general audience books and other
33 reading, listening, and/or other materials which are not perceived to be, or
34 hold themselves out as "adult book" stores, but which incidentally sell books,
35 magazines and other periodicals, records, CD's and tapes which may contain
36 pornographic materials so long as such sale is not from any special or
37 segregated section in the store, or drug-related paraphernalia.

38 7.2.3 Bankruptcy Sale. For any fire sale, bankruptcy sale (unless pursuant to a
39 court order) or auction house operation (provided that any tenant that goes
40 out of business shall be entitled to hold one going out of business sale not
1 exceeding four weeks in duration).

1 7.2.4 Vehicle Facility. As an automobile, truck, trailer or recreational vehicle sales,
2 leasing, or display facility, or as a gas station.

3 7.2.5 Body Shop. As a vehicle body shop or repair facility, except that a "Tires
4 Plus" or similar type store that installs tires sold at such store and does minor
5 automobile repair work shall be permitted so long as (a) such facility has no
6 more than 9 interior stalls, (b) such facility does not use any exterior parking
7 for the parking of vehicles on which repairs or other work shall be or has been
8 performed except for the 10 stalls outlined in pink on the Site Plan, (c) all
9 repair and other work performed on vehicles is performed inside such facility,
10 and (d) the doors of such facility's installation/repair areas are closed at all
11 times except as may be necessary to move vehicles in and out of such areas.

12 7.2.6 Bar or Tavern. As a bar, tavern, restaurant or other establishment whose
13 reasonably projected annual gross revenues from the sale of alcoholic
14 beverages for on-premises consumption exceeds 50% of the gross revenues
15 of such business.

16 7.2.7 Theater. As a theater or cinema or live performance theater or skating rink.

17 7.2.8 Retail Sales. For other than retail sales, "Business Office", "Retail Office",
18 restaurants or other commercial purposes. "Business Office" shall mean an
19 office which does not provide services directly to consumers; "Retail Office"
20 shall mean an office which provides services directly to consumers, including
21 financial institutions, real estate, stock brokerages, title company and escrow
22 offices, travel and insurance agencies, and medical, dental and legal clinics.

23 7.2.9 Commercial. Any operation primarily used as a storage warehouse operation
24 and any assembling, manufacturing, distilling, refining, smelting, agricultural,
25 or mining operation.

26 7.2.10 Second Hand Stores. Any "second hand" store or "surplus" store, except that
27 a high class new and used merchandise store (such as "Play It Again Sports",
28 "Once Upon a Child" and "Funco Land") shall be allowed.

29 7.2.11 Mobile Home Park. Any mobile home park, trailer court, labor camp,
30 junkyard, or stockyard (except that this provision shall not prohibit the
31 temporary use of construction trailers during periods of construction,
32 reconstruction, or maintenance).

33 7.2.12 Laundry, Dry Cleaning. Any central laundry, dry cleaning plant, or
34 laundromat; provided, however, this prohibition shall not be applicable to
35 nominal supportive facilities for on-site service orientated to pickup and
36 delivery by the ultimate consumer as the same may be found in retail
37 shopping districts in the metropolitan area where the Shopping Center is
38 located.

39 7.2.13 Residential. Any living quarters, sleeping apartments, or lodging rooms.

0 7.2.14 Mortuary. Any mortuary or funeral home.

1 7.2.15 Flea Market. As a flea market, pawn shop, government surplus store,
2 goodwill store, salvage store, Salvation Army Store or liquidation store, except
3 that a high class liquidation store (such as "Tuesday Morning") shall be
4 allowed.

5 7.2.16 Educational. Any training or educational facility, including: beauty schools,
6 barber colleges, reading rooms, places of instruction or other operations
7 catering primarily to students or trainees rather than to customers; provided
8 however, this prohibition shall not be applicable to on-site employee training
9 by an occupant incidental to the conduct of its business at the Shopping
10 Center or to incidental instruction, such as music lessons, in connection with a
11 retail use.

12 7.2.17 Gambling. Any gambling facility or operation, including: off-track or sports
13 betting parlor; table games such as black-jack or poker; slot machines, video
14 poker/black-jack/keno machines or similar devices; or bingo hall.
15 Notwithstanding the foregoing, this prohibition shall not apply to governmental
16 sponsored gambling activities (such as the sale of lottery tickets), or to
17 charitable gambling activities, so long as such governmental and/or charitable
18 activities are incidental to the business operation being conducted by the
19 occupant.

20 7.2.18 Animal Facilities. As any veterinary hospital or animal raising facilities.

21 7.3 Use Restrictions on the Shopping Center (other than the Supermarket Tract and the
22 City Tract). No portion of the Shopping Center, other than the City Tract and/or the
23 Supermarket Tract, shall be used or operated for any of the following:

24 7.3.1 Restaurant. As a restaurant, except that one or more restaurants of up to an
25 aggregate total of 8,000 Rentable Feet may be allowed in the Shopping
26 Center (exclusive of the Premises), as long as any such restaurant does not
27 sell any alcoholic beverages.

28 7.3.2 Food Departments. As a fruit market or department; meat market or
29 department; bakery or bakery department (except that the foregoing shall not
30 apply to a "Bruegger's type" bagel shop, specialty cookie, donut or specialty
31 bun shop or similar specialty store); produce market or department; dairy
32 market or department (except that the foregoing shall not apply to a frozen
33 yogurt shop or ice cream shop); or convenience type food store.

34 7.3.3 Fitness Center. Any health spa, fitness center or workout facility or dance
35 facility.

36 7.3.4 Pharmacy. As a drug store or pharmacy, except that if a pharmacy ceases to
37 be operated in the Supermarket Tract for a period in excess of 365 days, the
38 restriction in this subsection 7.3.4 shall thereafter be null and void.

39 7.3.5 Supermarket. As a supermarket, grocery store or food store, except that if a
40 supermarket ceases to be operated in the Supermarket Tract for a period in

1 excess of 365 days, the restriction in this subsection 7.3.5 shall thereafter be
2 null and void.

3 7.3.6 Miscellaneous. As a circus; carnival; bowling alley; medical or dental health
4 facility; car wash; game room or arcade; billiard or pool hall; unemployment
5 office; Business Office; Retail Office (except that not more than 10% of the
6 total Rentable Feet of the Shopping Center may be used for Retail Office);
7 post office; or lawn and garden center.

8 7.3.7 Non-Retail. For any non-retail use.

9 7.4 Use Restriction on the City Tract. The City agrees that no portion of the City Tract
10 shall be used or operated as a supermarket, grocery store, food store, convenience
11 type food store, food sale department within a store, or gas station. The restriction
12 contained in this subsection 7.4 shall not prohibit the sale of food items at a liquor
13 store operated at the City Tract so long as such sale of food items is only incidental
14 to the primary business. As provided in the definition of the City Tract, the City Tract
15 is initially defined to mean Lot 1, but if at any time the City and Developer exchange
16 ownership of Lot 1 with Lot 4 so that the City is no longer the owner of Lot 1 but is the
17 owner of Lot 4, then from and after the date of such exchange the City Tract shall be
18 deemed to be Lot 4. Therefore, the restriction contained in this subsection 7.4 shall
19 apply to Lot 1 until such time, if any, as the City and Developer exchange ownership
20 of Lot 1 with Lot 4, and following any such exchange in ownership the restriction
21 contained in this subsection 7.4 shall not apply to Lot 1 but shall apply to Lot 4. In
22 addition, following any such exchange in ownership: (a) all other restrictions
23 contained in this Agreement shall apply to Lot 1, except that in the event all or a
24 portion of Lot 1 is used in conjunction with a supermarket, grocery store, food store
25 or convenience type store located on the Supermarket Tract, then any restrictions
26 contained in this Agreement which do not apply to the Supermarket Tract shall also
27 not apply to the portion of Lot 1 so used in conjunction with the Supermarket Tract;
28 and (b) any restrictions contained in this Agreement which do not apply to the City
29 Tract shall not apply to Lot 4.

30 7.5 Use - Remedies. In the event of breach of any of subsections 7.1, 7.2, 7.3 or 7.4,
31 any Owner shall be entitled to injunctive or other equitable relief, in addition to any
32 rights and remedies available to such Owner under this Agreement or at law.

33 7.6 Existing/New Leases. Notwithstanding anything to the contrary contained herein, the
34 restrictions contained in this Section 7 shall not apply during the term of any lease to
35 any tenant of the Shopping Center whose lease was in existence on or before the
36 Execution Date, including any renewal or extension periods provided for in such
37 lease as of the Execution Date, to the extent that such lease allows the tenant
38 thereunder to operate its premises in violation of such restrictions. If any such lease
39 requires Landlord's consent to the tenant thereunder operating its premises in
40 violation of any restriction contained in this Section 7, Landlord agrees to withhold
41 such consent.

1 **8. Taxes and Assessments**

2 Property taxes and assessments shall not be considered CAM Charges, and so each
3 Owner shall pay all taxes and assessments with respect to its Tract, the buildings, and
4 improvements located thereon and any personal property owned or leased by such Owner
5 in the Shopping Center.

6 **9. Default**

7 9.1 Force Majeure. The time within which any Owner to this Agreement is required to
8 perform any act shall be extended to the extent that performance of such act is
9 delayed by Force Majeure, but only if such delay was beyond that Owner's
10 reasonable control and was not caused by its fault or negligence. "Force Majeure"
11 shall mean acts of god, fire, abnormal weather, explosion, riot, war, labor disputes,
12 governmental restrictions, inability to obtain necessary materials, or any other cause
13 beyond such Owner's reasonable control. The inability to obtain financing or lack of
14 money shall not constitute Force Majeure.

15 9.2 Notice: Cure. If any Owner fails to comply with any provision of this Agreement (the
16 "Defaulting Owner"), then any other Owner (the "Non-Defaulting Owner") may upon
17 30 days' prior written notice to the Defaulting Owner, proceed to cure the default.
18 The foregoing right to cure shall not be exercised if within the 30 day notice period.
19 (a) the Defaulting Owner cures the default, or (b) if the default is curable, but cannot
20 reasonably be cured within that time period, the Defaulting Owner begins to cure
21 such default within such time period and diligently pursues such cure to completion.
22 The 30 day notice period shall not be required if, using reasonable judgment, the
23 Non-Defaulting Owner deems that an emergency exists which requires immediate
24 attention. In the event of such an emergency, the Non-Defaulting Owner shall give
25 whatever notice to the Defaulting Owner is reasonable under the circumstances.
26 Within 10 days after written demand (including providing copies of invoices reflecting
27 costs) the Defaulting Owner shall reimburse the Non-Defaulting Owner for any
28 amount reasonably spent by the Non-Defaulting Owner to cure the default, together
29 with interest on such amount.

30 9.3 Lien. The Non-Defaulting Owner shall have a lien upon the Defaulting Owner's right,
31 title, and interest in and to any portion of the Defaulting Owner's Tract to secure
32 payment of all amounts due to the Non-Defaulting Owner under subsection 9.2. The
33 Non-Defaulting Owner shall have the right, but not the obligation, to record its lien,
34 but at all times its lien pursuant to this subsection shall be subject and subordinate to
35 (a) the lien of any mortgage or deed of trust held by any institutional lender, or any
36 extension, renewal, modification or refinancing thereof, on the Defaulting Owner's
37 Tract; (b) the leasehold estate created by any lease of all or any part of the
38 Defaulting Owner's Tract; (c) any other lien of record against the Defaulting Owner's
39 Tract as of the date that the Non-Defaulting Owner's lien is recorded. The
40 Non-Defaulting Owner shall have the right to foreclose such lien in the manner
41 provided by law.

42 9.4 Interest. Wherever and as often as one Owner shall not have paid any sum payable
43 hereunder to another Owner within five days of the due date, such delinquent Owner
44 shall pay interest on such amount from the due date, through and including the date

1 such payment is received by the Owner entitled thereto, at the lesser of the following:
2 (a) the highest rate permitted by law to be paid on such type of obligation by the
3 Owner obligated to make such payment; or (b) three percent per annum in excess of
4 the interest rate from time to time publicly announced by Norwest Bank, Minneapolis
5 National Association, or its successor, as its reference rate, even though Norwest
6 Bank, or its successor, may lend funds to its customers at interest rates that are at,
7 above, or below such reference rate.

8 9.5 Agreement Shall Continue Notwithstanding Breach. It is expressly agreed that no
9 breach of this Agreement shall (a) entitle any Owner to cancel, rescind, or otherwise
10 terminate this Agreement, or (b) defeat or render invalid the lien of any mortgage or
11 deed of trust made in good faith and for value as to any part of the Shopping Center;
12 however, such limitation shall not affect in any manner any other rights or remedies
13 which an Owner may have under this Agreement by reason of any such breach.

14 10. Notices

15 All notices given under this Agreement shall be in writing and shall be deemed
16 given to an Owner when delivered at such Owner's Tract, except that notices to the
17 Owner of the City Tract shall be deemed given only when delivered to the City at
18 401 West 50th Street, Edina, Minnesota 55424-1394 or to such other address of
19 which the other Owners have been given notice by the City. If the last day for
20 giving any notice or taking any action required or permitted under this Agreement
21 would otherwise fall on a Saturday, Sunday, or legal holiday, that last day shall be
22 postponed until the next legal business day.
23

24 11. Miscellaneous

25 11.1 Waiver of Subrogation. Each Owner (the "Releasing Owner") hereby releases and
26 waives for itself and on behalf of any insurer, any other Owner (the "Released
27 Owner") from any liability for any loss or damage to all property of such Releasing
28 Owner located upon any portion of the Shopping Center, which loss or damage is
29 covered by insurance, irrespective either of any negligence on the part of the
30 Released Owner which may have contributed to or caused such loss.

31 11.2 Estoppel. Each Owner shall, within 30 days after written request from another Owner
32 (but not more often than twice in any 12 month period), execute and deliver to the
33 requesting party an estoppel letter certifying whether any other Owner is delinquent
34 in any payments required to be made to the certifying Owner pursuant to this
35 Agreement.

36 11.3 Not a Public Dedication. Nothing contained in this Agreement shall be deemed to be
37 a gift or dedication of any portion of the Shopping Center, or of any Tract, or of any
38 portion of the Shopping Center or any Tract, to the general public or for any public
39 use or purpose whatsoever.

40 11.4 Integration: Enforceability. Except for applicable laws, ordinances, codes, rules,
41 regulations and other governmental rights and actions, (a) this Agreement, including
2 any recitals and any attached exhibits, all of which are made a part of this

1 Agreement, contains the entire agreement between the parties as to the subjects
2 covered in this Agreement, except with respect to utility easements at the Shopping
3 Center and except as such subjects may be covered in other documents executed on
4 the Execution Date or pursuant to a document or documents executed on the
5 Execution Date; (b) no representations, warranties, inducements, promises,
6 understandings, assurances, or agreements relating to the subject covered by this
7 Agreement, except with respect to utility easements at the Shopping Center and
8 except as such subjects may be covered in other documents executed on the
9 Execution Date or pursuant to a document or documents executed on the Execution
10 Date (whether express or implied, or whether oral or written) made before the
11 execution of this Agreement will change its terms or may be legally enforced; and
12 (c) no promises or other terms shall be implied in this Agreement.

13 11.5 Amendments. This Agreement may only be amended by a written agreement signed
14 by all of the then current Owners. Any such amendment shall be effective only when
15 recorded in the county and state where the Shopping Center is located. No consent
16 to the amendment of this Agreement shall ever be required of any Occupant or
17 Person other than the Owners and the holder of any first mortgage on any portion of
18 the Shopping Center.

19 11.6 Binding Effect. This Agreement shall both bind and benefit the parties to this
20 Agreement and their respective heirs, personal representatives, successors and
21 assigns who become Owners. The easements, covenants, agreements, conditions,
22 terms, obligations, limitations and undertakings in this Agreement shall be construed
23 as covenants running with the land. This Agreement is not intended to supersede,
24 modify, amend, or otherwise change the provisions of any other instrument affecting
25 the Shopping Center.

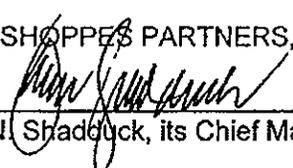
26 11.7 Captions. The section numbers and captions are inserted only as a matter of
27 convenience, and do not in any way define, limit, or describe the scope or intent of
28 this Agreement. Any references in this Agreement to a Section or subsection shall
29 refer to such Section or subsection of this Agreement, unless expressly provided
30 otherwise.

31 11.8 Interpretation of "including". Wherever the word "including" is used in this
32 Agreement, or in any recital or exhibit to this Agreement, it shall mean "including
33 without limitation."

34 Developer and the City have signed this Agreement below as of the Execution Date.

DEVELOPER:

YORKDALE SHOPPES PARTNERS, LLC

By: 
Robert N. Shaddock, its Chief Manager

THE CITY:

THE CITY OF EDINA

By: Felits Pata

By: K. E. Ash

Its: Mayor

Its: City Manager

ACKNOWLEDGMENTS

STATE OF MINNESOTA)

) ss.

COUNTY OF HENNEPIN)

This instrument was acknowledged before me on June 28, 1996, by Robert N. Shadduck, the Chief Manager of YORKDALE SHOPPES PARTNERS, LLC, a Minnesota limited liability company, on behalf of the company.

Margaret E. Reed
Notary Public

My Commission Expires:



STATE OF MINNESOTA)

) ss.

COUNTY OF HENNEPIN)

This instrument was acknowledged before me on June 28, 1996, by Frederick S. Richards, the Mayor of THE CITY OF EDINA, a Minnesota municipal corporation, on behalf of the corporation.

Lorraine M. Prindle
Notary Public

My Commission Expires:

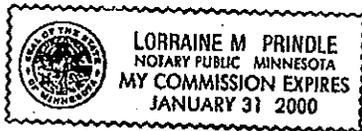


EXHIBIT A

Legal Description: Lots 1, 2, 3 and 4, Block 1, Yorkdale Shoppes, according to the recorded plat thereof, Hennepin County, Minnesota.

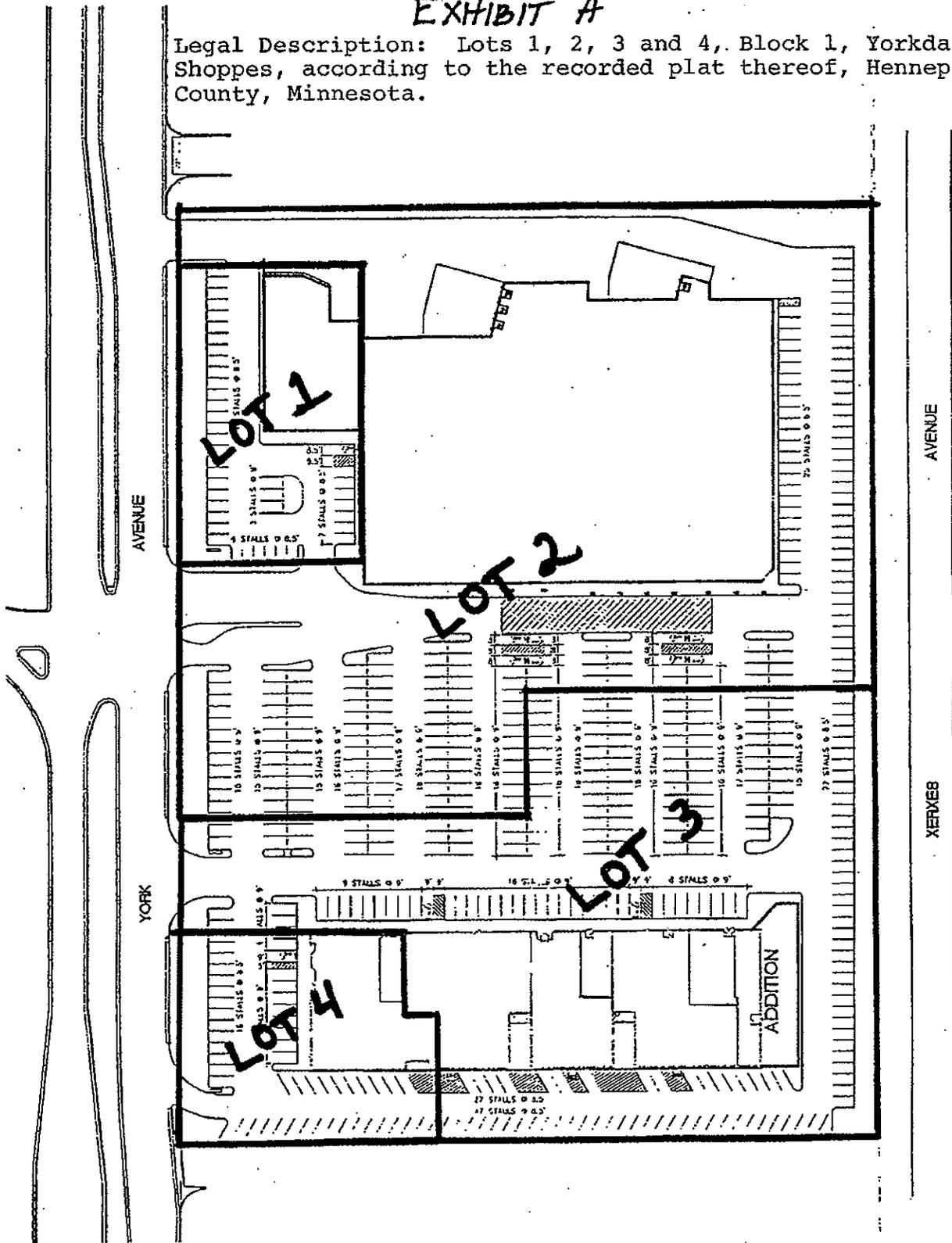


EXHIBIT B

SITE PLAN

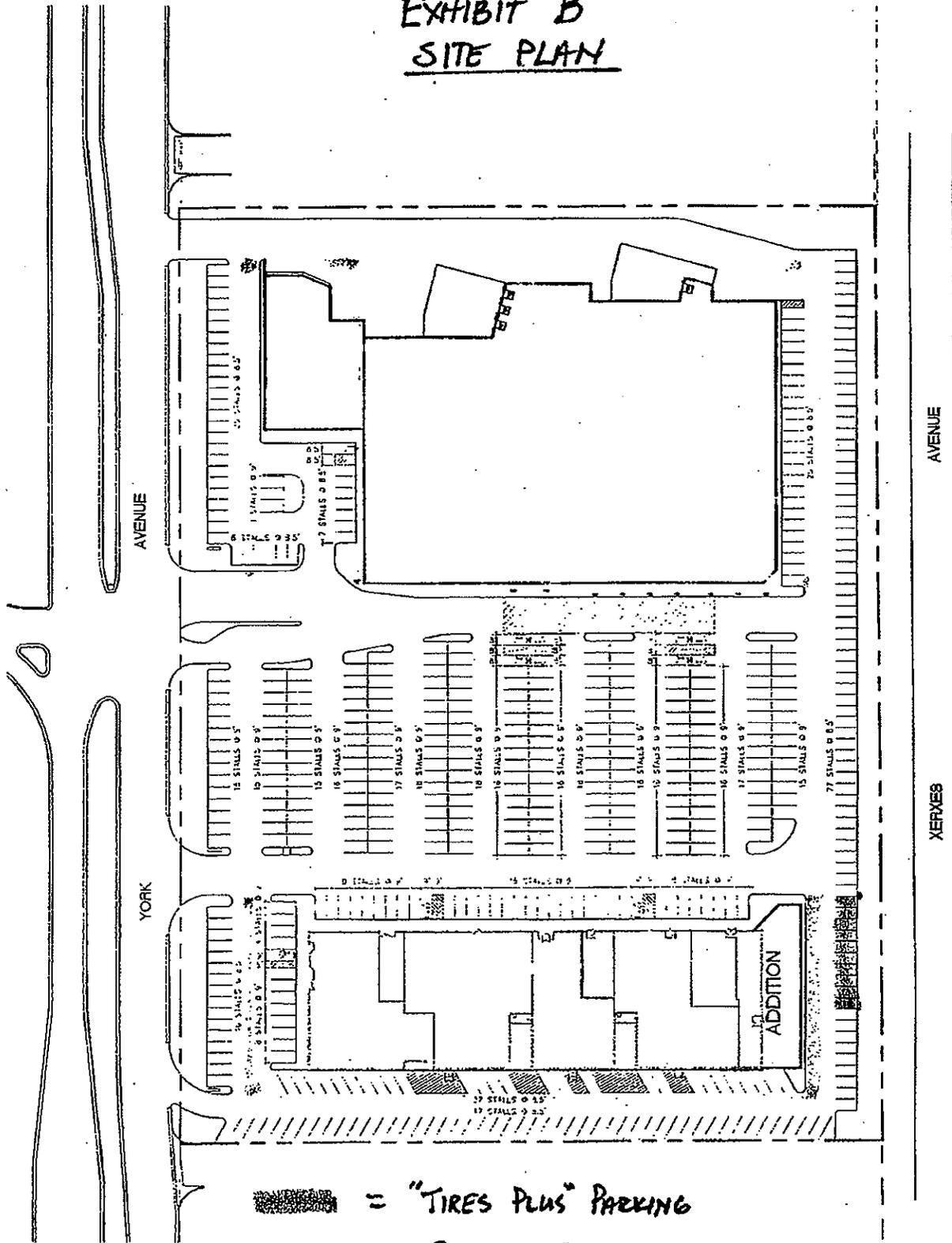
(Yorkdale Shoppes, Edina, Minnesota)

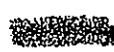
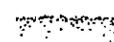
Color Guide

[For reference purposes only, Agreement language to control]

<u>Agreement Section</u>	<u>Description</u>	<u>Color</u>
4.1	building envelopes	blue
7.2.5	Tires Plus Parking	pink

EXHIBIT B SITE PLAN



 = "TIRES PLUS" PARKING
 = BUILDING ENVELOPES

REVISED: JUNE 20, 1996

3890431

SCANNED

AMENDMENT TO RECIPROCAL EASEMENT AGREEMENT

THIS AMENDMENT TO RECIPROCAL EASEMENT AGREEMENT ("Amendment") is made as of December 2, 2003, by and between YORKDALE SHOPPES PARTNERS, LLC, a Minnesota limited liability company ("Developer") and THE CITY OF EDINA, a Minnesota municipal corporation (the "City").

3890431

RECITALS

- A. The City and Developer are owners of certain property located in Yorkdale Shoppes, Edina, Minnesota, which is contiguous and adjacent.
- B. On June 28, 1996, the City and Developer executed a certain Reciprocal Easement Agreement (Yorkdale Shoppes, Edina, Minnesota) (the "REA") which established certain covenants and agreements and granted each other certain easements, in, to, over, and across their respective Tracts. The REA was duly filed on December 27, 1997 in the office of the Hennepin County, Minnesota Registrar of Titles as Document No. 2772869.
- C. Developer and City now desire to amend the Use Restrictions contained in Section 7 of the REA to allow the limited sale of alcoholic beverages by restaurants from a portion of the Shopping Center, as more particularly described herein.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements contained herein, Developer and the City hereby agree as follows:

1.) Defined Terms. Unless otherwise defined herein, each capitalized term used in this Amendment shall have the same meaning ascribed to such term in the REA.

2.) Use Restrictions on the Shopping Center. Subsection 7.3.1 of the REA is hereby deleted in its entirety and replaced with the following provision:

"7.3.1 Restaurant. As a restaurant, except that one or more restaurants of up to an aggregate total of 8,000 Rentable Feet may be allowed in the Shopping Center (exclusive of the Supermarket Tract), as long as any such restaurant located on Lot 1 or Lot 3 does not sell any alcoholic beverages (the sale of alcoholic beverages shall be permitted for any restaurant located on Lot 4.)"

3.) Ratification. Except as specifically modified by this Amendment, Developer and the City hereby ratify and affirm the REA.

4.) Effective Date. This Amendment shall be effective on the date hereof.

STATE OF MINNESOTA)

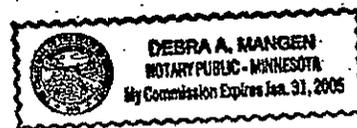
) ss.

COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this 2nd day of December, 2003, by Dennis Maetzold and Gordon Hughes, the Mayor and City Manager, respectively, of THE CITY OF EDINA, a Minnesota municipal corporation, on behalf of the corporation.

Debra A. Mangen
Notary Public

THIS INSTRUMENT WAS DRAFTED BY:
LARKIN HOFFMAN DALY & LINDGREN LTD.
1500 WELLS FARGO PLAZA
7900 XERXES AVENUE SOUTH
BLOOMINGTON, MINNESOTA 55431
(952) 835-3800



886466.1

EXHIBIT A
TO
AMENDMENT TO RECIPROCAL
EASEMENT AGREEMENT

Legal Description:

Lots 1, 2, 3 and 4, Block 1, Yorkdale Shoppes, according to the recorded plat thereof,
Hennepin County, Minnesota.

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OFFICE OF THE REGISTRAR
OF TITLES
HENNEPIN COUNTY, MINNESOTA
CERTIFIED FILED ON

ec

DEC 10 2003 12m

Michael J. Williams
REGISTRAR OF TITLES
BY *D. J. [unclear]* DEPUTY

Copy holder

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THIRD AMENDMENT TO RECIPROCAL EASEMENT AGREEMENT

THIS THIRD AMENDMENT TO RECIPROCAL EASEMENT AGREEMENT (“Third Amendment”) is made as of _____, 2015, by and between YORKDALE SHOPPES PARTNERS, LLC, a Minnesota limited liability company (“Developer”) and THE CITY OF EDINA, a Minnesota municipal corporation (the “City”).

RECITALS

- A. The City and Developer are owners of certain property located in Yorkdale Shoppes, Edina, Minnesota, which is legally described on Exhibit A attached hereto and is contiguous and adjacent.
- B. On June 28, 1996, the City and Developer executed a certain Reciprocal Easement Agreement (Yorkdale Shoppes, Edina, Minnesota) (the “REA”) which established certain covenants and agreements and granted each other certain easements, in, to, over, and across their respective Tracts. The REA was duly filed on December 27, 1997 in the office of the Hennepin County, Minnesota Registrar of Titles as Document No. 2772869.
- C. On December 2, 2003, Developer and City executed an Amendment to Reciprocal Easement Agreement (the “First Amendment”) which was duly filed on December 10, 2003 in the office of the Hennepin County Registrar of Titles as Document No. 3890431.
- D. On August 2, 2010, Developer and City executed a Second Amendment to Reciprocal Easement Agreement (the “Second Amendment”) which was duly filed on September 15, 2010 in the office of the Hennepin County Registrar of Titles as Document No. 4787689.
- E. Developer and City now desire to further amend the Use Restrictions contained in Section 7 of the REA as more particularly described herein.

EXHIBIT A
TO
THIRD AMENDMENT TO RECIPROCAL
EASEMENT AGREEMENT

Legal Description:

Lots 1, 2, 3 and 4, Block 1, Yorkdale Shoppes, according to the recorded plat thereof,
Hennepin County, Minnesota.

4818-0142-7745, V. 1