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10458459  
6/20/2008 8:10:00 AM \$104.00  
Book - 9619 Pg - 1081-1127  
Gary W. Ott  
Recorder, Salt Lake County, UT  
METRO NATIONAL TITLE  
BY: eCASH, DEPUTY - EF 47 P.

**RECIPROCAL EASEMENT AGREEMENT**

**THIS DOCUMENT PREPARED BY  
AND AFTER RECORDING MAILED TO:**

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BO1 15910467.5

BK 9619 PG 1081

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**EXHIBITS**

- A-1 LEGAL DESCRIPTION OF THE KOHL'S TRACT
- A-2 LEGAL DESCRIPTION OF THE DEPOT TRACT
- A-3 LEGAL DESCRIPTION OF THE OFFICE BUILDING TRACT
- A-4 LEGAL DESCRIPTION OF THE OUTPARCEL
- B SITE PLAN
- C APPROVED GRADING, DRAINAGE AND UTILITY PLANS
- D ELEVATIONS

## RECIPROCAL EASEMENT AGREEMENT

**THIS RECIPROCAL EASEMENT AGREEMENT** (this "Agreement") is made as of May 1, 2008, by and between **KOHL'S DEPARTMENT STORES, INC.**, a Delaware corporation ("Kohl's"), **RIVERTON DEPOT 13, LLC**, a Utah limited liability company having an office at 90 East 7200 South #200, Midvale, Utah 84047 ("Developer"), **RIVERTON DEPOT, LLC**, a Utah limited liability company having an office at 90 East 7200 South #200, Midvale, Utah 84047 ("Depot").

### RECITALS

- A. Developer is the owner of a certain tract of land legally described in EXHIBIT A-1 attached hereto and made a part hereof and identified as the "Kohl's Tract" on the site plan attached hereto as EXHIBIT B and made a part hereof (the "Site Plan").
- B. Depot is the owner of that certain tract of land legally described in EXHIBIT A-2 attached hereto and made a part hereof and identified as the "Depot Tract" on the Site Plan.
- C. Depot is the owner of that certain tract of land legally described in EXHIBIT A-3 attached hereto and made a part hereof and identified as the "Office Building Tract" on the Site Plan.
- D. Depot is the owner and a certain tract of land legally described in EXHIBIT A-4 attached hereto and identified as "Outparcel" on the Site Plan.
- E. The Kohl's Tract, the Depot Tract and the Outparcel (collectively, the "Shopping Center") are located at the northeast corner of the intersection of Market Center Drive and 3600 West Street, in the City of Riverton, County of Salt Lake, State of Utah.
- F. Pursuant to a certain Lease dated February 14, 2008 (the "Kohl's Lease"), by and between Developer, as landlord, and Kohl's, as tenant, Kohl's leased the Kohl's Tract from Developer.
- G. The signatories hereto intend to develop and operate their respective Tracts in conjunction with each other as integral parts of an integrated retail shopping complex, but not a planned or common interest development/community, and in order to effectuate the common use and operation of their respective Tracts they desire to enter into certain covenants and agreements, and to grant to each other certain reciprocal easements, in, to, over, and across their respective Tracts.
- H. The Shopping Center is encumbered by a Restriction Agreement and Grant of Easements dated December 1, 2005, recorded on December 1, 2005 as Document No. 9569861, Book 9224, Page 9448, in the Salt Lake County Recorder, as amended by that certain First Amendment to Restriction Agreement and Grant of Easements dated March 31, 2006, recorded on April 1, 2006 as Document No. 9699445, Book 9282, Page 9735-9744 in the Salt Lake County Recorder (the "RAGE").

I. It is the intent of Kohl's, Developer and Depot by this Agreement to supplement the covenants and restrictions contained in the RAGE.

**NOW, THEREFORE**, in consideration of the covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Kohl's, Developer and Depot hereby agree as follows:

**ARTICLE 1**  
**DEFINITIONS**

For purposes of this Agreement, capitalized terms shall have the meanings assigned to them in the RAGE, unless otherwise defined herein (in which event the definition set forth herein shall control). The following terms shall, unless otherwise indicated, have the following meanings:

1.1. **Agreement**. "Agreement" shall mean this Reciprocal Easement Agreement.

1.2. **Approved Plans**. "Approved Plans" shall mean the grading, drainage and utility plans for the Shopping Center approved by the Approving Owners. If approved prior to the date of this Agreement, such approved grading, drainage and utility plans are referenced on **EXHIBIT C** attached hereto and made a part hereof.

1.3. **Approving Owners**. "Approving Owners" shall mean the Owner designated from time to time to make certain decisions and/or give certain approvals pursuant to the terms of this Agreement. There shall be one Approving Owner representing the Depot Tract and one Approving Owner representing the Kohl's Tract. Depot shall be the initial Approving Owner for the Depot Tract, and Kohl's shall be the initial Approving Owner for the Kohl's Tract. Each Approving Owner shall have the right to assign its position as Approving Owner to another Owner of all or a portion of its Tract.

1.4. **Building Area**. "Building Area" shall mean all those areas on each Tract designated as "Building Area" on the Site Plan and within which Buildings may be constructed, placed or located.

1.5. **Constant Dollars**.

(a) "Constant Dollars" shall mean the present value of the dollars to which such phrase refers. The first adjustment of Constant Dollars shall occur on January 1, 2010, and Constant Dollars shall be adjusted every five years thereafter. Constant Dollars shall be determined by multiplying the dollar amount to be adjusted by a fraction, the numerator of which is the Current Index Number and the denominator of which is the Base Index Number.

(b) "Base Index Number" shall mean the level of the Index for April, 2009.

(c) "Current Index Number" shall mean the level of the Index for the month of April of the year preceding the adjustment year.

(d) "Index" shall mean the Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average, published by the Bureau of Labor Statistics of the United States Department of Labor (base year 1982-84=100), or if publication of the Index is discontinued, a substitute index selected by the Approving Owners of comparable statistics computed by an agency of the United States Government or, if none, by a substantial and responsible periodical or publication of recognized authority most closely approximating the result which would have been achieved by the Index.

1.6. **Interest Rate.** "Interest Rate" shall have the same meaning as "Default Rate" under the RAGE.

1.7. **Mortgagee.** "Mortgagee" shall mean 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 Tract.

1.8. **Tract.** "Tract" shall have the same meaning as "Parcel" under the RAGE.

1.9. **Utility Lines.** "Utility Lines" shall mean those facilities and systems for the transmission of utility services, including the drainage and storage of surface water. The term "Utility Lines" shall include the detention system serving the Kohl's Tract shown as "Underground Detention" on the Site Plan, which is being constructed by or on behalf of Developer pursuant to the terms of that certain Site Development Agreement between Kohl's, Depot and Developer of even date herewith (the "Detention System").

## ARTICLE 2

### **BUILDING AND COMMON AREA DEVELOPMENT**

#### 2.1. **Building Location.**

(a) All Buildings shall be placed or constructed upon the Tract only in the Building Areas. Buildings may be located (or relocated) anywhere within the Building Area provided the total Floor Area of all Buildings constructed within a Building Area does not exceed the lesser of (i) the square footage assigned to such Building Area as shown on the Site Plan (or as otherwise designated herein), or (ii) the maximum square footage of Floor Area permitted on such Tract by the application of the minimum parking requirements set forth in Section 4.1 below.

(b) Notwithstanding the foregoing, the Building constructed on the Outparcel identified on the Site Plan as "Outparcel" shall not have its main entrance facing North.

**2.2. Type and Design of Improvements.**

(a) No Building shall be erected or allowed to remain on the Depot Tract unless the elevations and designs for such Building have been approved by the Approving Owners, which approval shall not be unreasonably withheld. The elevation drawings of all sides shall be presented to and approved in writing by the Approving Owners prior to commencing clearing, grading, or construction of a Building of any kind on the Depot Tract or the Outparcel. Such Building shall comply with the plans as presented by the Owner unless changes are approved in writing by the Approving Owners. The right to make inspections necessary to assure compliance is reserved to the Approving Owners. The Approving Owners have approved the elevations, design and plans attached hereto as EXHIBIT D for Buildings to be constructed on the Depot Tract and the Outparcel.

(b) Along the common boundary line between the Depot Tract and the Kohl's Tract, the separation of Building walls shall be no less than 6 inches. Kohl's shall use reasonable efforts to locate its Building wall at least 3 inches from the common boundary line, but in no event more than 3 inches therefrom. Depot agrees to use reasonable efforts to locate its Building wall at least 3 inches from the common boundary line, but in no event more than 3 inches therefrom. The second Owner constructing a Building along the common boundary line between the Depot Tract and the Kohl's Tract shall undertake and assume at its sole cost the obligation of completing and maintaining the nominal attachment (flashing and seal) of its Building to that of the existing Building on the other Tract, it being the intent of the Parties to establish and maintain the appearance of one continuous Building complex. In performing such attachment, the wall of one Building shall not receive support from nor apply pressure to the wall of the other Building. The attachment shall be performed in accordance with conceptual plans and specifications provided by the Approving Owner for the Kohl's Tract.

(c) No Building on the Kohl's Tract or the Office Building Tract shall exceed two stories in height and no Building on the Depot Tract or the Outparcel shall exceed one story in height; provided, however, the foregoing restriction shall not prohibit the construction of mezzanines. No Building shall exceed the following height restrictions without the approval of the Approving Owners, which approval may be granted or withheld by the Approving Owners in their sole and absolute discretion:

- (i) On the Kohl's Tract - 40 feet
- (ii) On the Depot Tract - 35 feet

(iii) On the Outparcel - 24 feet

The height of any Building shall be measured perpendicular from the finished floor elevation of the ground level of the Building to the top of the roof structure, including any architectural feature, screening, parapet, penthouse, mechanical equipment or similar appurtenance located on the roof of such Building. Any Owner shall have the right to install, maintain, repair, replace and remove Communications Equipment used in connection with the business being conducted by an Occupant on the top of the Building on its Tract which may extend above the height limits established above; provided, however, such Communication Equipment shall be set back from the front of the Building to reduce visibility thereof by customers. As used herein, the phrase "Communications Equipment" means such things as satellite and microwave dishes, antennas and laser heads, together with associated equipment and cable.

(d) The Owners acknowledge that Kohl's initially proposes to construct on the Kohl's Tract a Building which is classified as an "unlimited area" building under certain building codes (By way of explanation, but not limitation, an "unlimited area" building is designated II-B under the Uniform Building Code). All Buildings constructed within the Shopping Center shall comply with the following requirements:

(i) no Building shall be constructed within 60 feet of the Building Area on an adjoining Tract unless such Building, hereinafter referred to as the "Adjacent Building," shall be located immediately adjacent to the common boundary line and is attached to the Building, if any, on the adjacent Tract in accordance with Section 2.2(b);

(ii) if an Adjacent Building exists, then no Building shall be located within 60 feet of the Adjacent Building unless such Building is attached to the Adjacent Building in accordance with Section 2.2(b); the Adjacent Building and all other Buildings on the Tract that are attached to the Adjacent Building and to each other are hereinafter referred to as the "Building Group";

(iii) any Building that is not part of the Building Group, shall be located at least 60 feet distant from the Building Group; and

(iv) the Adjacent Building or the Building Group, as the case may be, shall comply with the Building code requirements applicable to an "unlimited area" building, including without limitation the installation of an approved sprinkler system for fire protection which meets all the standards of the Insurance Services Office, Inc. (or other similar local organization having jurisdiction).

(e) In addition to the requirements set forth above, no Building shall initially be placed or constructed on their respective Tracts in a manner which will, based on then existing governmental regulations, either preclude the construction of an "unlimited



area" building within the Building Areas, or cause an existing "unlimited area" building thereon to no longer be in conformance with applicable building code requirements; provided, however, subsequent changes in governmental regulations shall not obligate an Owner to modify or alter its existing Building.

(f) If required by any governmental authority, each Owner shall join in a recordable declaration which confirms the existence of a 60-foot clear area around the Building Areas.

(g) Without the prior written consent of the Approving Owners, no enclosed mall shall be permitted within the Shopping Center.

### ARTICLE 3

#### EASEMENTS

3.1. **Parking.** The Owner of the Kohl's Tract and the Owner of the Depot Tract, as grantors, hereby grant to the Owner of the Kohl's Tract and the Owner of the Depot Tract, as grantees, for the benefit of the Kohl's Tract and the Depot Tract, and for the use of said Owners and their respective Permittees, nonexclusive easements for vehicular parking upon, over and across the parking areas within the Common Area located on the grantor's Tract(s). The easements granted pursuant to this Section 3.1 shall not extend to the benefit of the Outparcel or Office Building Tract. The easements granted pursuant to this Section 3.1 shall expire upon the expiration or earlier termination of this Agreement.

3.2. **Utility Lines and Facilities.**

(a) Each Owner, as grantor, hereby grants to each other Owner, as grantee, for the benefit of each Tract belonging to the other Owners, a perpetual, nonexclusive easement under, through and across the Common Area of the grantor's Tract(s) for the installation, operation, flow, passage, use, maintenance, connection, repair, relocation, removal and replacement of Utility Lines, subject to the written approval of the granting Owner as to the location of such Utility Lines, and otherwise consistent with the Approved Plans for the Shopping Center or other plans and specifications approved by the Approving Owners. All such Utility Lines shall be installed and maintained below the ground level or surface of such easements, except that fire hydrants, ground mounted electrical transformers and such other facilities as are required to be above ground by the utility providing such service (including temporary service required during the construction, maintenance, repair, replacement, alteration or expansion of any Buildings or other Improvements located in the Shopping Center) or which have been approved by the Approving Owners shall be permitted. Developer or Developer's successor shall maintain, or cause to be maintained, the Detention System at no cost to Kohl's, throughout the term of this Agreement. In the event that another entity or individual

succeeds to the interest of Developer and assumes this obligation in writing, Developer shall be released from the obligation to maintain the Detention System.

(b) At least 20 days prior to any installation, maintenance, connection, repair, relocation or removal of utility lines located on another Owner's Tract pursuant to the easement granted herein (except in an emergency, the work may be initiated with reasonable notice), the grantee shall first provide the grantor with a written statement describing the need for such work, shall identify the proposed location of the Utility Line the nature of the service to be provided, the anticipated commencement and completion dates for the work and shall furnish a certificate of insurance showing that its contractor has obtained the minimum insurance coverage required by the RAGE.

(c) The easement area shall be no wider than necessary to reasonably satisfy the requirements of a private or public utility, or five feet on each side of the centerline if the easement is granted to a private party. The installation, operation, maintenance, repair and replacement of such easement facilities shall not unreasonably interfere with the use of the Common Area or with the normal operation of any business in the Shopping Center. The grantee shall bear all costs related to the installation, operation, maintenance, repair and replacement of such easement facilities, shall repair to the original specifications any damage to the Common Area resulting from such use, and within 30 days after the date of completion of construction of the easement facilities, the grantee shall provide to the Owners of all Tracts upon which such Utility Lines are located as-built plans for all such facilities and a copy of an as-built survey showing the location of such Utility Line.

(d) Notwithstanding the grant of easement for sewer lines included within Section 3.2(a) above, any connections to storm sewer lines or sanitary sewer lines, if such connections are not shown on the Approved Plans, may only be made if the Owner of a Tract benefiting from the sewer line easement (a "Grantee Tract") does the following:

(i) makes at its sole expense any and all improvements to the sewer lines and systems (including, without limitation, any lift stations) as are necessary or required in order to increase the capacity of the sewer lines and systems to adequately serve the Grantee Tract pursuant to plans and specifications that comply with the requirements of all Governmental Regulations and that are first approved by the Approving Owners and the Owner of the Tract burdened by the sewer line easement (a "Grantor Tract");

(ii) procures all permits, licenses and approvals and pays any and all tap-on or similar fees required to make any such improvements and to so utilize and connect with such sewer lines and systems; and

(iii) pays for increased costs of maintenance and repair due to such development work.

Notwithstanding the preceding sentence, so long as an Approving Owner complies with the requirements of all Governmental Regulations, such Approving Owner will not be required to obtain the approval of the Owner of the Grantor Tract as set forth in subsection (d)(i) above.

(e) At any time and from time to time an Owner shall have the right to install, repair, maintain and/or relocate on its Tract any Utility Line installed (or to be installed) pursuant to the foregoing grant of easement which is then located (or to be located) on the Tract of such Owner, provided that:

(i) in the case of an installation or relocation, such installation or relocation shall be performed only after 60 days' notice in writing of the Owner's intention to undertake the relocation shall have been given to the Owner of each Tract served by the Utility Line;

(ii) in the case of a repair and/or maintenance, such repair and/or maintenance shall be performed only after 30 days notice in writing of the Owner's intention to undertake repair and/or maintenance shall have been given to the Owner of each Tract served by the Utility Line, except in the case of an emergency (defined as any situation where there is an imminent threat of harm to persons or property), when such notice shall be given a reasonable period in advance of such emergency repair as is practicable;

(iii) any such repair, maintenance and/or relocation shall not unreasonably interfere with or diminish utility service to the Tracts served by the Utility Line;

(iv) any such repair, maintenance and/or relocation shall not reduce or unreasonably impair the usefulness, capacity or function of the Utility Line;

(v) any such repair, maintenance and/or relocation shall be performed without cost or expense to the Owner or Occupant of any other Tract;

(vi) any such repair, maintenance and/or relocation shall provide for the original and relocated area (if applicable) to be restored using materials and design standards which equal or exceed those originally used;

(vii) any such repair, maintenance and/or relocation shall not interfere with the business operation of any of the Owners or Occupants of the Shopping Center;

(viii) if an electrical line/computer line is being relocated, the grantor and grantee shall coordinate such interruption so as not to unreasonably interfere with or diminish service to the Tracts served by such line; and

(ix) except in an emergency, any such repair, maintenance and/or relocation shall not be commenced during the months of October, November or December.

Within 30 days after the date of completion of such relocation, the Owner performing such relocation shall provide to the Owners of all Tracts served by such Utility Lines as-built plans for all such relocated Utility Lines and a copy of an as-built survey showing the location of such relocated Utility Lines.

(f) The terms and provisions of this Section 3.2 shall survive the expiration or earlier termination of this Agreement.

3.3. **Permanent Drive.** Unless otherwise approved in writing by the Approving Owners, which approval may be withheld in each Approving Owner's sole and absolute discretion, those certain accessways shown on the Site Plan as "Permanent Drive(s)" including, without limitation, the curb cuts on such accessways, shall not be altered or modified. The terms and provisions of this Section 3.3 shall survive the expiration or earlier termination of this Agreement.

3.4. **[Intentionally Omitted.]**

3.5. **Building Encroachments.**

(a) In order to accommodate any Building improvements which *inadvertently* may be constructed beyond a Tract's boundary line, each Owner grants to each Owner owning an adjacent Tract an easement, not to exceed a maximum lateral distance of six inches (6"), in, to, over, under and across that portion of the grantor's Tract adjacent to such common boundary line for the maintenance and replacement of such encroaching Building improvements. The foregoing easement grants shall not diminish or waive any right of an Owner to recover damages resulting from the constructing Owner's failure to construct its Building within its Tract.

(b) The easements in each instance shall (i) continue in effect for the term of this Agreement and thereafter for so long as the Building using the easement area exists (including a reasonable period to permit reconstruction or replacement of such Building if the same shall be destroyed, damaged or demolished); and (ii) include the reasonable right of access necessary to exercise and enjoy such grant upon terms and with the limitations described in Section 2.5 of the RAGE.

(c) With respect to Buildings constructed along the common boundary line between Tracts, nothing herein shall be deemed to create or establish:

(i) a "common" or "party" wall to be shared with the adjacent Building; or

(ii) the right for a Building to receive support from or apply pressure to the adjacent Building.

3.6. **Dedication to Public Entities.** Without the prior written consent of the Approving Owners, which consent may be granted or withheld in the sole and absolute discretion of each Approving Owner, no Owner shall grant any easement for the benefit of any property not within the Shopping Center; provided, however, that the foregoing shall not prohibit the granting or dedicating of easements by an Owner on its Tract to governmental or quasi-governmental authorities or to public utilities to service the granting Owner's Tract.

3.7. **No Merger.** Notwithstanding an Owner's ownership of more than one Tract, the easements granted hereunder shall burden and benefit each Tract individually, without merger as a result of such common ownership, and upon conveyance of a Tract so that such Tract ceases to be under common ownership, neither the Owner conveying said Tract nor the Owner acquiring said Tract shall need to execute additional documentation to evidence the existence of said easements, and said easements shall relate back to and shall be deemed to have been created as of the date this Agreement is recorded in the office of the recorder of the county in which the Shopping Center is located.

#### ARTICLE 4

##### **OPERATION OF COMMON AREA**

###### 4.1. **Parking Requirements.**

(a) There shall be no charge for parking in the Common Area without the prior written consent of the Approving Owners or unless otherwise required by law. The parking area on the Kohl's Tract, on each separate Tract comprising the Depot Tract, on the Office Building Tract and on the Outparcel shall contain sufficient ground level parking spaces, without reliance on parking spaces that may be available on another Tract (exclusive of parking spaces used for cart corrals and/or recycle centers), in order to comply with the greater of Governmental Regulations or the following minimum requirements:

(i) four parking spaces for each 1,000 square feet of Floor Area, exclusive of Restaurant parking requirements set forth below;

(ii) if a business use contains a drive-up or drive-through 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 automobiles (exclusive of any drive-aisle) for each drive-up unit;

(iii) ten parking spaces for each 1,000 square feet of Floor Area for each single Restaurant which has less than 5,000 square feet of Floor Area;

(iv) fifteen parking spaces for each 1,000 square feet of Floor Area for each Restaurant which has at least 5,000 square feet of Floor Area, but less than 7,000 square feet of Floor Area;

(v) twenty parking spaces for each 1,000 square feet of Floor Area for each Restaurant which has 7,000 square feet of Floor Area or more; and

(vi) five parking spaces for each 1,000 square feet of Floor Area for Retail Office use in the Shopping Center.

(b) If an Owner or Occupant operates a Restaurant incidentally to its primary business purpose, then so long as such incidental operation continues, the portion of the Floor Area occupied by such Restaurant shall be excluded from the application of subsections (iii), (iv) and (v) above. For purposes of this clause only, a Restaurant shall be an "incidental operation" if it occupies less than seven percent of the Occupant's Floor Area and does not have a separate customer entry/exit door to the outside of the Building. If an Occupant uses Floor Area for both Restaurant and retail purposes, and such Restaurant purpose is not an "incidental operation", only the portion of Floor Area allocated for Restaurant purposes shall be subject to the application of subsections (iii), (iv) and (v) above.

(c) If a condemnation of part of a Tract or sale or transfer in lieu thereof reduces the number of usable parking spaces below that which is required in this Section 4.1, the Owner whose Tract is so affected shall use commercially reasonable efforts (including, without limitation, using proceeds from the condemnation award or settlement) to restore and/or 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 Tract 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 Tract. If such Floor Area is thereafter reduced other than by casualty, the Floor Area on such Tract may not subsequently be increased unless the parking requirement is satisfied.

4.2. **Employee Parking.** Each Owner shall use commercially reasonable efforts to cause the employees of the Occupants of its Tract to park their vehicles only on such Tract.

**4.3. Changes to Common Area.**

(a) Except as expressly permitted by this Agreement, no Improvements shall be placed in the Common Area and no changes shall be made to the Improvements constructed in Common Area without the approval of the Approving Owners, except that each Owner hereby reserves the right, from time to time without obtaining the consent or approval of any other Owner, to make at its own expense any insignificant change, modification or alteration in the portion of the Common Area situated on its Tract, provided that:

(i) the accessibility of such Common Area for pedestrian and vehicular traffic (as it relates to the remainder of the Shopping Center) is not unreasonably restricted or hindered, and all parking stalls and rows and vehicular traffic lanes shall remain generally as shown on the Site Plan;

(ii) there shall be maintained at all times within such Common Area, a sufficient number of vehicular parking spaces to meet the parking requirements set forth in Section 4.1;

(iii) all Governmental Regulations applicable to such modifications shall be satisfied by the Owner performing the same; and such action shall not result in any other Owner being in violation of any Governmental Regulations;

(iv) no change shall be made in the access points between the Common Area and the adjacent public streets; provided, however, that additional access points may be created with the approval of the Approving Owners, which approval shall not be unreasonably withheld;

(v) at least 30 days prior to making any such change, modification or alteration, the Owner desiring to do such work shall deliver to the Approving Owners copies of the plans therefor; and

(vi) such work shall not be performed during the months of November and December.

Notwithstanding the foregoing, the Owner of the Kohl's Tract may conduct parking lot sales and/or display merchandise in that portion of the Common Area situated within the Kohl's Tract so long as such activities do not interfere with ingress and egress and are not in violation of any applicable law or ordinance.

(b) An Approving Owner may withhold its consent to any material change to the entrances or exits to or from the Shopping Center in its sole and absolute discretion. Except as otherwise provided herein and in paragraph (b) below, an Approving Owner shall not unreasonably withhold, condition or delay its consent to changes in the

Common Area improvements provided that the parking complies in all respects with Section 4.1. Nothing in this Section 4.3 shall be interpreted to require the Approving Owners' approval to (i) the construction, alteration or relocation of any Service Areas to the extent that they are located, and do not impede access, to the rear or sides of Buildings, or (ii) any changes, modifications or alterations of Common Area located within Building Areas which result from or arise out of the construction, expansion or maintenance of Buildings.

(c) Within the area marked on the Site Plan as "Kohl's Protected Area", an Owner may not, without the Owner of the Kohl's Tract's prior written consent, which may be granted or withheld in the Owner of the Kohl's Tract's sole and absolute discretion, (i) alter the location, height or size of any Building or other Improvement, including Common Area Improvements such as accessways in, to or out of the Shopping Center, or (ii) change the number, location or layout of parking spaces (it being acknowledged by the Owners that such parking must comply in all respects with Section 4.1).

## **ARTICLE 5**

### **RESTRICTIONS ON USE**

#### **5.1. Shopping Center Restrictions.**

(a) The Shopping Center shall be used only for retail sales, offices, Restaurants or other commercial purposes. No use shall be permitted in the Shopping Center which is inconsistent with the operation of a first-class retail shopping center. Without limiting the generality of the foregoing, the following uses shall not be permitted on the Depot Tract without the prior written consent of the Approving Owners (which consent may be granted or withheld in the sole and absolute discretion of the Approving Owners):

(i) Any dumping, disposing, incineration, or reduction of garbage (exclusive of garbage compactors located near the rear of any Building);

(ii) Any fire sale, going out of business sale, bankruptcy sale (unless pursuant to a court order) or auction house operation;

(iii) Any service station or automobile, truck, trailer or recreational vehicles sales, leasing, display, body shop or repair operation;

(iv) Any bowling alley or skating rink;

(v) Any movie theater, night club or live performance theater;



(vi) Any Restaurant or other establishment whose reasonably projected annual gross revenues from the sale of alcoholic beverages for on-premises consumption exceeds 30 percent of the gross revenues of such business; and

(vii) Any health spa, fitness center or athletic facility which occupies more than 5,000 square feet of Floor Area.

(b) Without the prior written consent of the Approving Owners (which consent may be granted or withheld in the sole and absolute discretion of the Approving Owners), no office use may be permitted within the Shopping Center. Notwithstanding the foregoing, (i) the Office Building Tract may be used for office use that is not otherwise inconsistent with the provisions of this Agreement, and (ii) the Outparcel may be used for Retail Office. As used in this Agreement, "Retail Office" shall mean an office which provides services directly to consumers (i.e., financial institutions, real estate agencies, stock brokerages, title company and escrow offices, travel and insurance agencies, and medical, dental and legal clinics). The incidental use of office space used by an Occupant for administrative purposes shall not be considered office use for the purpose of this Section 5.1(b).

(c) The following restrictions shall apply to the Depot Tract:

(i) No Restaurant shall be located on the Depot Tract within 200 feet of the Building Area on the Kohl's Tract.

(ii) No portion of the Depot Tract shall be used as a department store or for any business consisting of more than 40,000 square feet of Floor Area of which more than 20,000 square feet of the Floor Area of such business is devoted to sale of apparel.

For purposes of clause (ii) above, one-half of the aisle space adjacent to any shelving or display case used for the display of apparel shall be included in calculating Floor Area.

(d) Except as provided in Section 4.3(a) hereof, no merchandise, equipment or services, including but not limited to vending machines, promotional devices and similar items, shall be displayed, offered for sale or lease, or stored within the Common Area; provided, however, sidewalk displays and sales of merchandise, including without limitation, food sales and food bars on the sidewalks of the Shopping Center shall be permitted; provided, however, such displays and sales of merchandise shall be subject to the following restrictions:

(i) the Occupants conducting such displays and sales must conduct similar displays and sales in the ordinary course of business at their other locations, if any;

(ii) such displays and sales shall not unreasonably interfere with the pedestrian traffic upon the sidewalk areas;

(iii) all such displays or sales shall be maintained in a neat, clean and orderly condition;

(iv) there shall be no exterior signs or banners relating solely to such displays or sales except for normal and customary signs identifying goods and prices and except for temporary promotional signs or banners which are professionally prepared;

(v) all displays and sales shall be conducted on the sidewalk contiguous to the Occupant's premises and in compliance with all applicable Governmental Regulations;

(vi) no items displayed on the Depot Tract shall be closer than 75 feet from the Kohl's Tract;

(vii) such displays and sales shall be primarily seasonal in nature or general merchandise;

(viii) there shall be no displays of sheds, portable buildings, playground equipment or yard equipment;

(ix) no such display shall include any commodity building material such as, without limitation, sand, gravel, lumber, or related similar items;

(x) such displayed items shall not occupy more than 60 percent of the linear frontage of the sidewalk adjoining the Building of such Occupant and more than 50 percent of the depth of such sidewalk;

(xi) such displays and sales shall not be permitted to be conducted more than four times a year nor for more than seven days at a time;

(xii) all merchandise shall be moved indoors during non-business hours; and

(xiii) such displays and sales shall not be permitted in the two-week period immediately preceding Easter Sunday or during the months of October, November and December.

Notwithstanding the foregoing, the restrictions set forth in clauses (vi) through (xiii), inclusive, above, shall not apply to the Kohl's Tract.

(e) The provisions of Section 5.1(d) hereof shall not be applicable to the following:

(i) the temporary storage of shopping carts in cart corrals;

(ii) any recycling center required by law, the location of which shall be subject to the approval of the Approving Owners; and

(iii) trash enclosures designated on the Approved Plans.

(h) The name "Kohl's" shall not be used to identify the Shopping Center or any business or trade conducted on the Depot Tract or any of the Outparcels. Until the Approving Owners agree upon a name change, the Shopping Center shall be called Riverton Depot.

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

5.2. **Proprietary Rights of Kohl's.** Any Owner, Occupant, or Person owning, leasing or otherwise making use of any portion of the Shopping Center shall be deemed, by virtue of accepting such ownership, leasehold interest or making such use, to have covenanted and agreed that (i) the trade names, trademarks, service marks (including, without limitation, all logos, emblems, designs or designating words or names) used by Kohl's in connection with the Shopping Center or the conduct of its business thereat are registered and/or the proprietary property of Kohl's or its affiliates, (ii) except as provided herein, no usage of those marks or names will be made in naming or referring to any activity within or without the Shopping Center and (iii) no usage of such marks or names shall be made without the prior written consent of Kohl's and Kohl's legal counsel. Kohl's reserves the right to require any person or entity to whom it may grant a written right to use a given name or mark to enter into a formal written license agreement with Kohl's and to charge a fee or royalty therefor.

5.3. **Hazardous Materials.** No Owner shall use or permit the use of Hazardous Materials (as hereinafter defined) on, about, under or in its Tract, or the Shopping Center, except in the ordinary course of its usual business operations conducted thereon, and any such use shall at all times be in compliance with all Environmental Laws (as hereinafter defined). Each Owner shall indemnify, defend, protect and hold harmless the other Owners from and against all Claims, including, but not limited to, costs of investigation, litigation and remedial response arising out of any Hazardous Materials used or permitted to be used by such Owner, whether or not in the ordinary course of business. "Hazardous Materials" shall mean petroleum products, asbestos, polychlorinated biphenyls, radioactive materials and all other dangerous, toxic or hazardous pollutants, contaminants, chemicals, materials or substances listed or identified in, or regulated by, any Environmental Law. "Environmental Laws" shall mean all

Laws which relate to or deal with human health or the environment, all as may be amended from time to time.

## ARTICLE 6

### LIGHTING

6.1. **General Requirements.** The lighting system shall comply with the provisions of Section 7 of the RAGE, and unless otherwise approved in writing by the Approving Owners, the lighting system shall use a lamp source of metal halide and shall be designed to produce a minimum maintained lighting intensity measured at grade at all points of at least:

- (a) five footcandles at curb in front of the entrance to the Kohl's Building and three at curb in front of the entrance to other Buildings in the Shopping Center.
- (b) two footcandles at entry drives to the Shopping Center.
- (c) two footcandles in the general parking areas.
- (d) one footcandle at the perimeter of the parking areas.

Each Owner may elect to control the lighting system located on its Tract, provided such control is exercised and illumination is provided in accordance with section 7 of the RAGE. The type and design of the Common Area light standards shall be of the type and design of those installed on the Kohl's Tract.

6.2. **Additional Lighting.** It is recognized that one or more Occupants (each, a "Late Night User") may wish to be open for business at different hours from other businesses in the Shopping Center, and may wish to have the Common Areas illuminated beyond the hours described in Section 6.1. Each Late Night User shall have the right, at any time and from time to time, to require the Owners to keep the lights in all or part of the Common Areas illuminated until such later hours as the Late Night User shall designate by notice to the Owners. If only one Occupant in the Shopping Center makes such a request for a particular date, such Occupant shall pay 100 percent of the cost (the "Late Night Lighting Cost") of electric power for the extra hours of illumination. If other Occupants are also open for business during all or part of such extended hours, then the Late Night Lighting Costs shall be equitably allocated among such Late Night Users, as reasonably determined by the Consenting Owners, based on the relative Floor Area of each Late Night User, and their respective hours of operation beyond the Closing Time. From time to time upon the Late Night User's request, each Owner shall furnish such Late Night User with such reasonable supporting information as such Late Night User may reasonably require in order to verify the Owners' manner of calculating the Late Night Lighting Costs, and the allocation of the Late Night Lighting Costs among the Late Night Users. Any request by a Late Night User for

additional lighting may be withdrawn or terminated at any time, and a new request or a request for different hours of illumination may be made, by notice to the Owners.

## ARTICLE 7

### MISCELLANEOUS

7.1. **Covenants Run With the Land.** The terms of this Agreement and each restriction and easement on each Tract shall be a burden on that Tract, shall be appurtenant to and for the benefit of the other Tracts and each part thereof, and shall run with the land.

7.2. **No Public Dedication.** Nothing contained in this Agreement shall be deemed to be a gift or dedication of any portion of the Shopping Center or of any Tract or portion thereof to the general public, or for any public use or purpose whatsoever, it being the intention of the parties that this Agreement shall be strictly limited to and for the purposes herein expressed. An Owner shall have the right to close, if necessary, all or any portion of the Common Area on its Tract from time to time as may be necessary, in the opinion of such Owner, to prevent a dedication thereof, the accrual of any rights of the public therein or the acquisition of prescriptive rights by anyone. Before closing off any part of the Common Area as provided above, such Owner must give notice to the Approving Owners of its intention to do so and must coordinate such temporary closing with the activities of the other Owners so that no unreasonable interference with the operation of the Shopping Center occurs.

7.3. **Duration.**

(a) Except as otherwise provided herein, the term of this Agreement shall be for 65 years (the "Primary Period") from the date hereof. Notwithstanding the foregoing, upon the expiration of the Primary Period, the term of this Agreement shall automatically renew for successive periods of ten years each (each such period being referred to as an "Extension Period") if, at least 90 days prior to the date of expiration of the Primary Period or Extension Period then in effect, the Approving Owners deliver to the other Owners in the Shopping Center written notice of extension, in the absence of which this Agreement shall automatically expire at the end of the Primary Period or Extension Period then in effect.

(b) 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, the following provisions shall be applicable:

(i) 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;

(ii) the easements referred to in Article 3 hereof which are specified as being perpetual or as continuing beyond the term of this Agreement (and the rights and duties related thereto) shall continue in full force and effect beyond the term of this Agreement, but notwithstanding anything to the contrary contained herein, each such easement shall terminate and be of no further force or effect at such time as such easement is abandoned, is terminated or is ceased to be used to serve a Building in the Shopping Center.

7.4. **Modification and Termination.** Notwithstanding the provisions of Section 7.5 hereof, this Agreement may not be amended or modified in any respect whatsoever or terminated, in whole or in part, except by a written agreement signed by all of the Approving Owners at the time of such amendment, modification or termination and the landlord under any Prime Lease at the time of such amendment, modification or termination, and such amendment, modification or termination shall be effective only when recorded in the official real estate records of the county and state where the Shopping Center is located; provided, however, (i) no such amendment shall impose any materially greater obligation on, or materially impair any right of, an Owner or its Tract without the consent of such Owner, and (ii) no amendment, modification or termination of this Agreement as provided herein shall adversely affect the rights of any senior Mortgagee unless such Mortgagee consents in writing to the amendment, modification or termination. Because the submission of a proposed amendment to the Owners is not an item of "consent" or "approval", each Owner may consider any proposed amendment to this Agreement in its sole and absolute discretion without regard to reasonableness or timeliness.

7.5. **Method of Approval.** Whenever the consent or approval (collectively, an "approval") of the Approving Owners is required under this Agreement, unanimous approval of the Approving Owners must be given. Unless otherwise provided in this Agreement, whenever approval is specifically required of an Owner pursuant to the express terms of this Agreement (or any Exhibit hereto), it shall not be unreasonably withheld, conditioned or delayed. Unless provision is made for a specific time period, approval or disapproval shall be given within 45 days after receipt of written request for approval, provided, however, for purposes of this Section 7.5, as between the Approving Owners, all references to "45 days" shall be deemed to be "30 days". If an Owner neither approves nor disapproves within the required time period, then the Owner requesting approval shall have the right to send a second written request for approval. If such second request states on its face in all capital letters that failure to respond thereto within 15 days shall be deemed approval, then the failure to respond within such 15-day period shall constitute the approval of the Owner from whom approval was requested. Except with respect to approvals which are deemed approved pursuant to the preceding sentence, all approvals (including conditional approvals) and disapprovals shall not be effective unless given or made in writing. If an Owner disapproves, the reasons therefor shall be stated in reasonable detail in writing. An Owner's approval of any act or request by another Owner shall not be deemed to waive or render unnecessary approval of any similar or subsequent acts or requests. The sole remedy of the Person seeking the approval if such approval is unreasonably withheld

shall be an action for specific performance and the Approving Owners shall not be liable to such Person for damages. No exercise of any approval right shall subject an Approving Owner to liability for breach of any covenant of good faith and fair dealing otherwise implied by law to be part of this Agreement.

7.6. **Multiple Owners.** If the Owner of a Tract is a Prime Lessee, said Prime Lessee is hereby appointed the entity to cast the vote or consent or give the consent for said Tract on behalf of the Owner thereof (except as otherwise required in Section 7.4) and is hereby granted all of the rights and remedies granted to the Owner of said Tract so long as it is the Prime Lessee of said Tract, anything in this Agreement to the contrary notwithstanding.

7.7. **Estoppel Certificates.** Any Owner may, at any time and from time to time, in connection with the sale or lease of the Owner's Tract, or in connection with the financing or refinancing of the Owner's Tract by bona fide mortgage, deed of trust or sale-leaseback made in good faith and for value, deliver written notice to the other Owners requesting such Owners to execute certificates certifying that to the best knowledge of the other Owners, (i) the requesting Owner is not in default in the performance of its obligations under this Agreement, or, if a default is alleged, specifically describing the nature and amount thereof, and (ii) confirming that this Agreement has not been amended (or, if so, identifying the amendments), and is in full force and effect. Each Owner shall execute and return such a certificate within 30 days after receipt of a request therefor. The Owners acknowledge that such certificates may be relied upon by transferees, mortgagees, deed of trust beneficiaries and leaseback lessors. Such statement shall act as a waiver of any claim by the Person furnishing it to the extent such claim is based upon facts contrary to those asserted in the statement and to the extent the claim is asserted against a bona fide encumbrancer or purchaser for value without knowledge of facts to the contrary of those contained in the statement and who has acted in reasonable reliance upon the statement. The issuance of an estoppel certificate shall in no event subject the Person furnishing it to any liability for the negligent or inadvertent failure of such Person to disclose correct and/or relevant information (but it shall estop such person from making assertions contrary to those set forth in the certificate for the period covered by the certificate), nor shall such issuance be construed to waive any rights of the issuer to challenge acts committed by other Owners for which approval by the Approving Owners was required but not sought or obtained.

7.8. **Breach Shall Not Permit Termination.** It is expressly agreed that a breach of this Agreement shall not entitle any Owner to terminate this Agreement, but such limitation shall not affect in any manner any other rights or remedies which such Owner may have hereunder by reason of any breach of this Agreement. Any breach of this Agreement shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value, but this Agreement shall be binding upon and be effective against any Owner whose title is acquired by foreclosure, trustee's sale or otherwise.

**7.9. Notices.**

(a) All notices given pursuant to this Agreement shall be in writing and shall be given by facsimile, by personal delivery, by United States mail or United States express mail postage or delivery charge prepaid, return receipt requested, or by an established express delivery service (such as Federal Express or United Parcel Service), sent to the person and address or facsimile number designated below or, in the absence of such designation, to the person and address shown on the then current real property tax rolls of the county in which the Shopping Center is located. The Owners expressly agree that notices given by attorneys on behalf of their client(s) in the manner provided in this subsection are effective and recognized notice pursuant to this Agreement. All notices to Developer and the owner of the Kohl's Tract shall be sent to the person and address set forth below:

Developer: Riverton Depot 13, LLC  
90 East 7200 South #200  
Midvale, Utah 84047  
Attention: Mike Stangl  
Facsimile Number: (801) 255-2314

Kohl's: Kohl's Department Stores, Inc.  
N56 W17000 Ridgewood Drive  
Menomonee Falls, Wisconsin 53051  
Attention: Law Department  
Facsimile Number: (262) 703-7274

Depot: Riverton Depot, LLC  
90 East 7200 South #200  
Midvale, Utah 84047  
Attention: Mike Stangl  
Facsimile Number: (801) 255-2314

The Person and address to which notices are to be given may be changed at any time by any Owner upon written notice to the other Owners. All notices given pursuant to this Agreement shall be deemed given upon receipt.

(b) For the purpose of this Agreement, the term "receipt" shall mean the earlier of any of the following: (i) the date of delivery of the notice or other document to the address specified pursuant to subparagraph (a) above as shown on the return receipt, (ii) the date of actual receipt of the notice or other document by the person or entity specified pursuant to this Section, (iii) in the case of a facsimile, the date and time of receipt as shown on the confirmation of the facsimile transmission; (iv) in the case of refusal to accept delivery or inability to deliver the notice or other document, 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.

7.10. **Waiver.** The failure of a Person to insist upon strict performance of any of the restrictions or other terms and provisions contained herein shall not be deemed a waiver of any rights or remedies that said Person may have, and shall not be deemed a waiver of any subsequent breach or default in the performance of any of the restrictions or other terms and provisions contained herein by the same or any other Person.

7.11. **Severability.** If any term or provision of this Agreement or the application of it to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

7.12. **Not a Partnership.** The provisions of this Agreement are not intended to create, nor shall they be in any way interpreted or construed to create, a joint venture, partnership, or any other similar relationship between the Owners. Each Owner shall be considered a separate party and no Owner 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 Owner to be charged.

7.13. **Captions and Headings.** 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.

7.14. **Interpretation.** Whenever the context requires construing the provisions of this Agreement, the use of a gender shall include both genders, 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 importance) 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.

7.15. **Entire Agreement.** This Agreement contains the entire agreement between the parties hereto and supersedes all prior agreements, oral or written, with respect to the easements, restrictions and other terms and conditions contained in this Agreement affecting the Tracts. The provisions of this Agreement shall be construed as a whole and not strictly for or against any party.

7.16. **Joint and Several Obligations.** If any Owner is composed of more than one person, the obligations of said party shall be joint and several.

7.17. **Recordation.** This Agreement shall be recorded in the official real estate records of the County in which the Shopping Center is located.

7.18. **Mortgagee Protection.** This Agreement and the easements and restrictions established hereby with respect to each Owner and Tract, shall be superior and senior to any lien placed upon any Tract, including the lien of any mortgage or deed of trust. Notwithstanding the foregoing, no breach hereof shall defeat, render invalid, diminish or impair the lien of any mortgage or deed of trust made in good faith and for value, but all the easements and restrictions and other provisions, terms and conditions contained in this Agreement shall be binding upon and effective against any Person (including, but not limited to, any mortgagee or beneficiary under a deed of trust) who acquires title to any Tract or any portion thereof by foreclosure, trustee's sale, deed in lieu of foreclosure, or otherwise.

7.19 **Variances.** Where appropriate, the Approving Owners may, in their sole and absolute discretion, grant written variances to the provisions of this Agreement (in lieu of an amendment), signed by all of the Approving Owners, where strict adherence to the requirements of this Agreement would, in the judgment of the Approving Owners, cause undue hardship. The granting of a waiver or variance to one Owner shall not automatically entitle another Owner to the same waiver or variance, it being understood that each request for a waiver or variance shall be treated on its own individual merits.

7.20. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original. The signatures to this Agreement may be executed and notarized on separate pages, and when attached to this Agreement shall constitute one complete document.

7.21 **Exercise of Rights Under RAGE.** So long as Kohl's is the Tenant under the Kohl's Lease, Developer shall not agree to amend, modify, alter, extend or terminate the RAGE without the prior written consent of Kohl's, which consent may be withheld by Kohl's in Kohl's sole and absolute discretion. Further, Developer shall not exercise any approval rights given to Developer under the RAGE without the prior written consent of Kohl's. Kohl's shall not be obligated to be reasonable in withholding its consent except to the extent that Developer is obligated under the RAGE to be reasonable in withholding its approval to the matter for which Developer's approval has been requested, in which case, if Kohl's disapproves, the reason(s) therefor shall be stated in reasonable detail in writing. Whenever written consent of Kohl's is required pursuant to the terms of this Section 7.21, approval or disapproval shall be given within thirty (30) days after Kohl's receipt of written request for approval. Kohl's shall be deemed to have approved the request if Kohl's does not respond in writing to Developer within said 30 day period provided that Developer, in its request for Kohl's approval, provides a prominent statement, in conspicuous lettering (in all capital letters and in bold print) to the effect that the request for approval will be deemed approved if Kohl's does not approve or reject same within 30 days of receipt thereof. If Kohl's cannot directly, Developer shall take any and all actions

necessary or required to enforce the covenants, agreements and obligations of the other parties to the RAGE. If (i) a default occurs under the RAGE, (ii) such default is not cured within the cure period provided under the RAGE, and (iii) Kohl's cannot directly enforce the RAGE, then upon the written request of Kohl's, Developer shall initiate and diligently pursue legal action against the defaulting party. Kohl's shall reimburse Developer for all reasonable, actual, third party costs and attorney's fees incurred by Developer in conjunction with such action initiated at Kohl's request, within thirty (30) days from receipt of an invoice therefor.

[The remainder of this page is intentionally left blank]

IN WITNESS WHEREOF, Kohl's, Developer and Depot have caused this Agreement to be executed effective as of the day and year first above written.

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

By: [Signature]  
Name: Michael D. Distel  
Title: Senior Vice President of Real Estate

PMDL

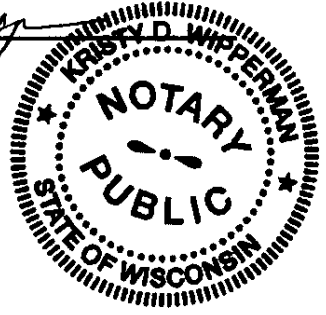
Attest: [Signature]  
Name: Steven R. Karl  
Title: Vice-President of Property  
Development Law

STATE OF WISCONSIN            )  
  )  
COUNTY OF WAUKESHA        )        SS.

I, KRISTY D. WIPPERMAN, a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that Michael D. Distel and Steven R. Karl, personally known to me to be the Senior Vice President of Real Estate and Vice-President of Property Development Law, respectively, of KOHL'S DEPARTMENT STORES, INC., a Delaware corporation, whose names are subscribed to the within instrument, appeared before me this day in person and acknowledged that they signed and delivered said instrument of writing as such respective officers, as their free and voluntary acts and as the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal, this 2nd day of May, 2008.

[Signature]  
Notary Public



My Commission Expires: 08/07/2011

IN WITNESS WHEREOF, Kohl's, Developer and Depot have caused this Agreement to be executed effective as of the day and year first above written.

RIVERTON DEPOT 13, LLC,  
a Utah limited liability company

By: [Signature]  
Name: Mike Stangl  
Title: Manager

STATE OF \_\_\_\_\_ )  
  )     SS.  
COUNTY OF \_\_\_\_\_ )

I, DIXIE L Suite a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that MIKE Stangl, personally known to me to be the Manager of Riverton Depot 13, LLC a LLC, whose name is subscribed to the within instrument, appeared before me this day in person and acknowledged that he signed and delivered said instrument of writing as such Manager, as his free and voluntary act and as the free and voluntary act and deed of said LLC, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal, this 1st day of May, 2008.

[Signature]  
Notary Public

My Commission Expires: 5-14-2011



IN WITNESS WHEREOF, Kohl's, Developer and Depot have caused this Agreement to be executed effective as of the day and year first above written.

RIVERTON DEPOT, LLC,  
a Utah limited liability company

By: [Signature]  
Name: Mike Stangl  
Title: Manager

STATE OF )  
                  )     SS.  
COUNTY OF )

I, DIXIE L. Suite a Notary Public in and for said County, in the State aforesaid, DO HEREBY CERTIFY that MIKE Stangl, personally known to me to be the Manager of Riverton Depot, LLC, a LLC, whose name is subscribed to the within instrument, appeared before me this day in person and acknowledged that he signed and delivered said instrument of writing as such manager, as his free and voluntary act and as the free and voluntary act and deed of said LLC, for the uses and purposes therein set forth.

GIVEN under my hand and Notarial Seal, this 1st day of May, 2008.

[Signature]  
Notary Public

My Commission Expires: 5-14-2011



**EXHIBIT A-1**

**LEGAL DESCRIPTION OF THE KOHL'S TRACT**

Lot 13 of Riverton Depot, a Commercial Subdivision, recorded May 9, 2008 as Entry No. 10423814, in Book 2008P, at Page 114, in the Office of the Salt Lake County Recorder, being within the Southwest Quarter of Section 32, Township 3 South, Range 1 West, Salt Lake Base and Meridian, U.S. Survey, in Riverton, Salt Lake County, Utah.

**Contains 302,901 sq. ft.  
or 6.954 acres**

APN# 27-32-371-018

A-1-1

**EXHIBIT A-2**

**LEGAL DESCRIPTION OF THE DEPOT TRACT**

Lot 10 of Riverton Depot, a Commercial Subdivision, recorded May 9, 2008 as Entry No. 10423814, in Book 2008P, at Page 114, in the Office of the Salt Lake County Recorder, being within the Southwest Quarter of Section 32, Township 3 South, Range 1 West, Salt Lake Base and Meridian, U.S. Survey, in Riverton, Salt Lake County, Utah.

**Contains 164,113 sq. ft.  
or 3.768 acres**

APN 27-32-371-018

A-2-1



**EXHIBIT A-3**

**LEGAL DESCRIPTION OF THE OFFICE BUILDING TRACT**

Lot 14 of Riverton Depot, a Commercial Subdivision, recorded May 9, 2008 as Entry No. 10423814, in Book 2008P, at Page 114, in the Office of the Salt Lake County Recorder, being within the Southwest Quarter of Section 32, Township 3 South, Range 1 West, Salt Lake Base and Meridian, U.S. Survey, in Riverton, Salt Lake County, Utah.

**Contains 74,282 sq. ft.  
or 1.705 acres**

APN # 27-32-371-018

A-3-1

**EXHIBIT A-4**

**LEGAL DESCRIPTION OF THE OUTPARCEL**

Lot 12 of Riverton Depot, a Commercial Subdivision, recorded May 9, 2008 as Entry No. 10423814, in Book 2008P, at Page 114, in the Office of the Salt Lake County Recorder, being within the Southwest Quarter of Section 32, Township 3 South, Range 1 West, Salt Lake Base and Meridian, U.S. Survey, in Riverton, Salt Lake County, Utah.

**Contains 36,556 sq. ft.  
or 0.839 acres**

APN # 27-32-371-018

A-4-1

**EXHIBIT B**

**SITE PLAN**





**B-1**

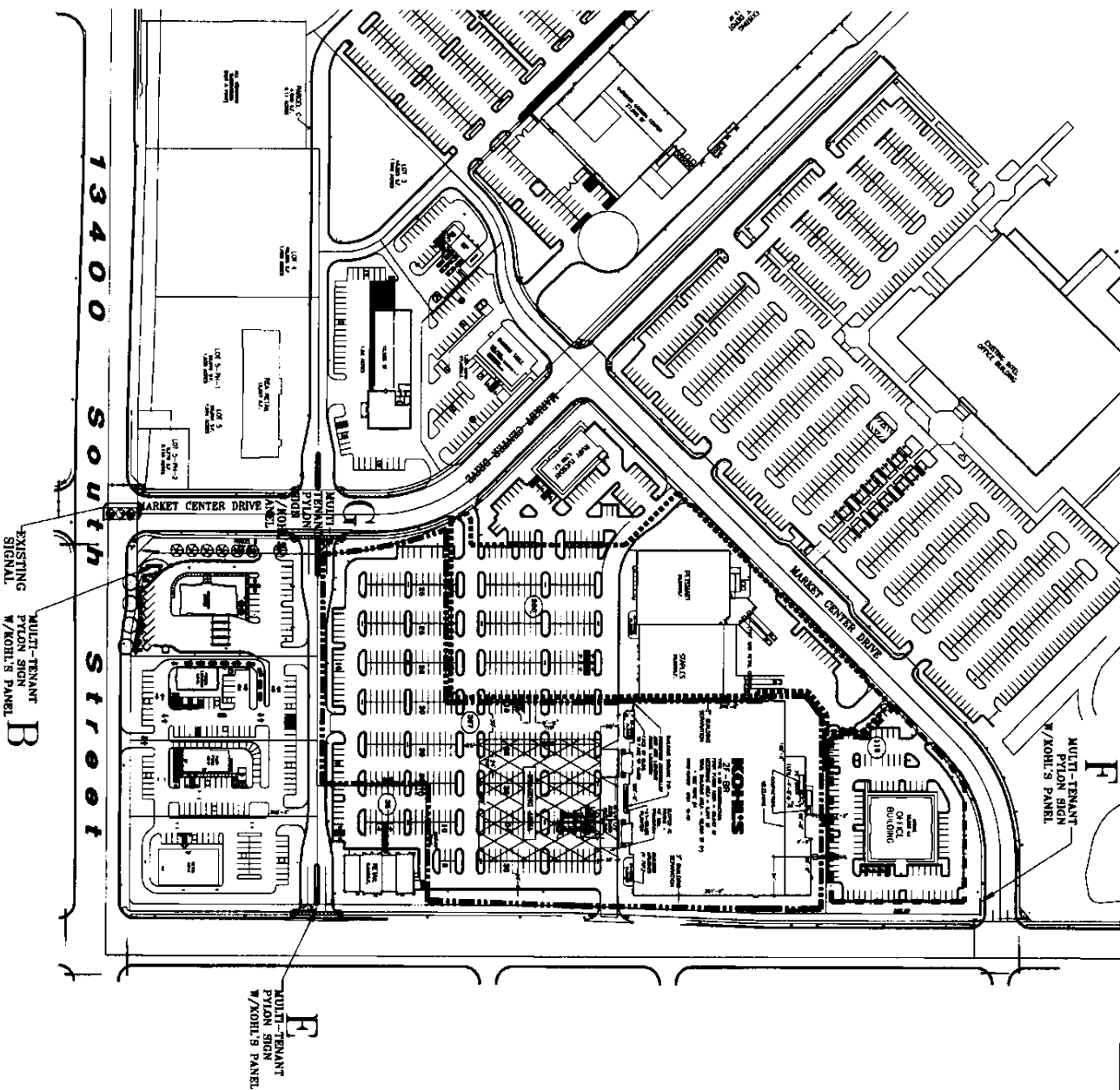
**BO1 15910467.5**

**BK 9619 PG 1115**

# REA-EXHIBIT B

## LEGEND

	Kohl's Tract
	Depot Tract
	Outparcel
	Office Building Tract

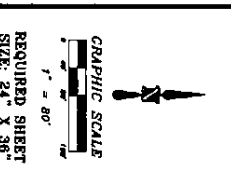


Kohl's Department Stores, Inc.  
 800 877000 Ridgeland Drive  
 Menomonee Falls, WI 53051

DESIGNED BY: [blacked out]  
 DRAWN BY: [blacked out]  
 CHECKED BY: [blacked out]  
 PROJECT NO.: [blacked out]  
 DATE: 01-18-08

DATE	REVISION DESCRIPTION
01-18-08	Created REA Exhibit




**LOCATION:**  
 S3600 West &  
 13400 South  
 Riverton City, UT

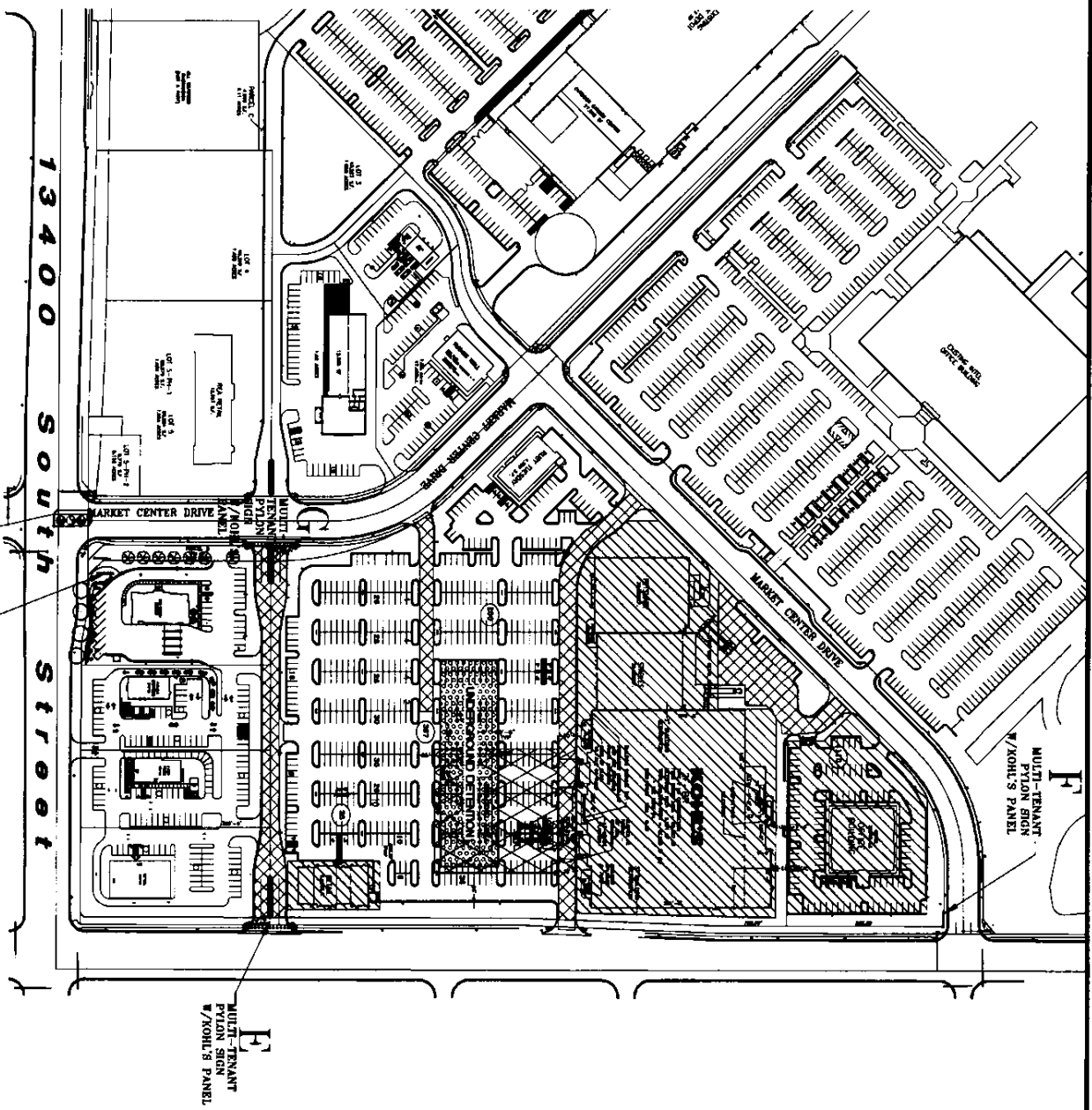


**REQUIRED SHEET**  
 SIZE: 24" X 36"  
 K Kohl's, PROJECT / 1810  
 DATE 08-28-07  
 DRAWN BY TF  
 CHECKED BY ??  
 PROJECT ??  
 SITE PLAN: ??  
 SHEET NO. 1 OF 3

# REA - EXHIBIT B

## LEGEND

-  Building Area
-  Permanent Drive
-  Underground Detention



EXISTING  
MULTI-TENANT  
PYLON SIGN  
W/ KOHL'S PANEL

MULTI-TENANT  
PYLON SIGN  
W/ KOHL'S PANEL

MULTI-TENANT  
PYLON SIGN  
W/ KOHL'S PANEL

**GRAPHIC SCALE**  
1" = 80'

**REQUIRED SHEET**  
SIZE: 24" X 36"

DATE	08-28-07
DRAWN BY	TF
CHECKED BY	??
PROJECT #	??
SITE PLAN	??

SHEET NO. 2 OF 3

**LOCATION:**  
S3600 West &  
13400 South  
Riverton City, UT

DATE	REVISION DESCRIPTION
04-18-06	Created REA Exhibit

**KOHL'S**

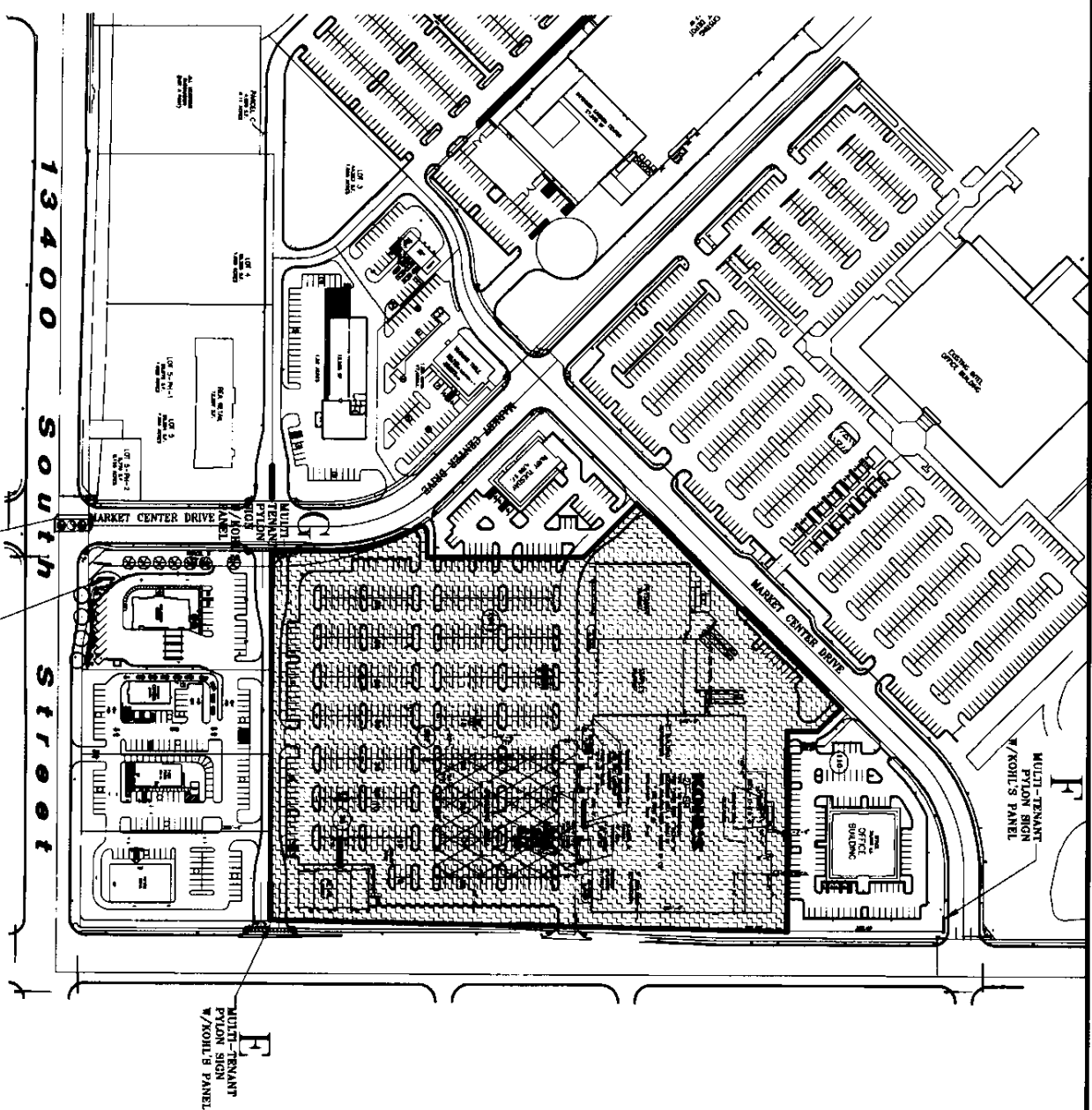
Kohl's Department Store, Inc.  
Mid 11700 Ridgewood Drive  
Menomonee Falls, WI 53051

Information is not warranted for use in any other project without the express written consent of Kohls. All drawings are the property of Kohls. All drawings are the property of Kohls. All drawings are the property of Kohls.

# REA - EXHIBIT B

## LEGEND

☒ Koh's Protected Area



13400 South Street

EXISTING Signal

MULTI-TENANT Pylon SIGN w/Kohl's Panel

MULTI-TENANT Pylon SIGN w/Kohl's Panel

MULTI-TENANT Pylon SIGN w/Kohl's Panel



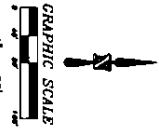
Kohl's Department Stores, Inc.  
 1000 Riggswood Drive  
 Menasha, WI 54951

NOT TO SCALE  
 THIS PLAN IS A REPRESENTATION OF THE PROPOSED PROJECT AND IS NOT A CONTRACT DOCUMENT. THE CONTRACT DOCUMENT SHALL BE THE FINAL AND AUTHORITY. THE CONTRACT DOCUMENT SHALL BE THE FINAL AND AUTHORITY.

DATE: 01-18-08

DATE	REVISION DESCRIPTION
01-18-08	Created REA Exhibit

**LOCATION:**  
 S3600 West &  
 13400 South  
 Riverton City, UT



REQUIRED SHEET SIZE: 24" X 36"

PROJECT #	1810
DATE	08-28-07
DRAWN BY	JF
CHECKED BY	JF
PROJECT #	??
SITE PLAN	??
SHEET NO.	3 OF 3

**EXHIBIT C**

**APPROVED GRADING, DRAINAGE AND UTILITY PLANS**

C-1

BO1 15910467.5

BK 9619 PG 1119

<u>Drawing Title</u>	<u>Plan Date</u>
GRADING PLAN	5/8/08
GRADING PLAN	5/8/08
STORMWATER POLLUTION PREVENTION PLAN	3/14/08
EROSION CONTROL PLAN	3/14/08
EROSION CONTROL PLAN	5/8/08
STORMWATER POLLUTION PREVENTION PLAN - DRAINAGE PLAN	2/4/08
UTILITY PLAN	5/8/08
UTILITY PLAN	3/14/08
STORM SEWER PLAN AND PROFILE - (LINE A & B)	4/14/08
STORM SEWER PLAN AND PROFILE - (LINE B3 & B4)	5/8/08
STORM SEWER PLAN AND PROFILE - (LINE C & C2)	3/14/08
STORM SEWER PLAN AND PROFILE - (LINE D, D1 & E)	5/8/08
STORM SEWER DETAILS & NOTES	5/12/08

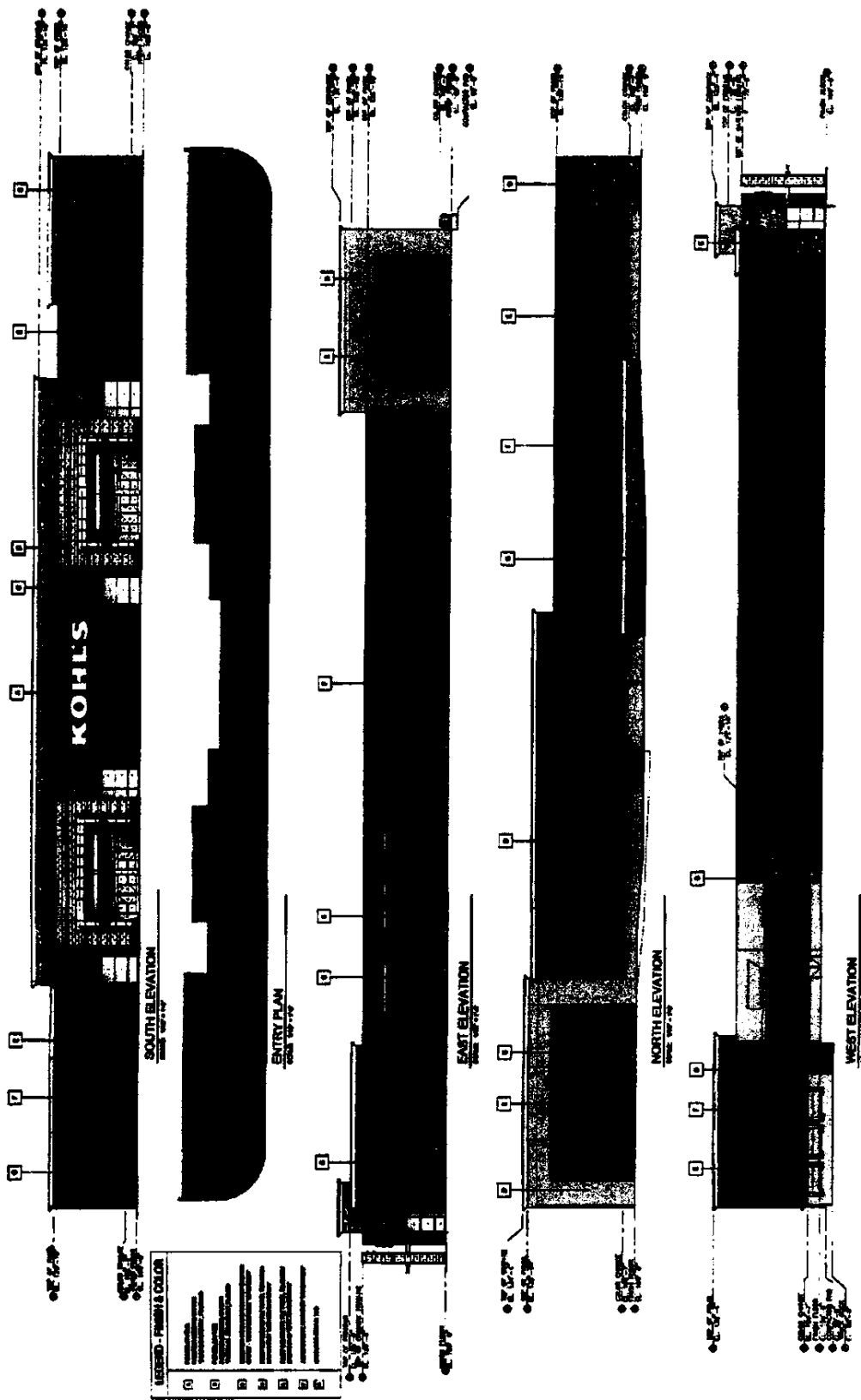


**EXHIBIT D**  
**ELEVATIONS**

D-1

BO1 15910467.5

BK 9619 PG 1121



**KOHL'S**  
RIVERTON, UT  
EXTERIOR ELEVATIONS - 2F-BR

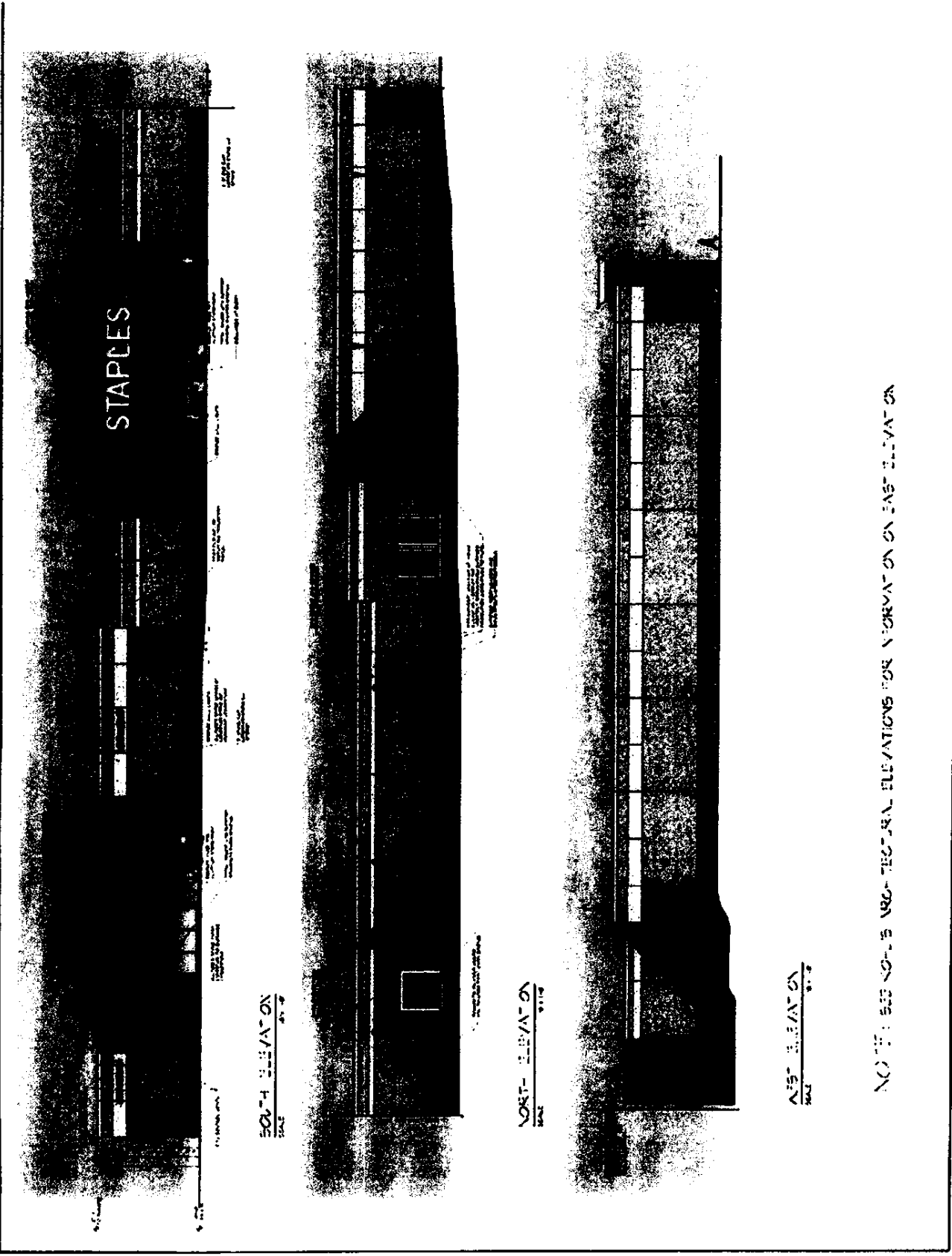


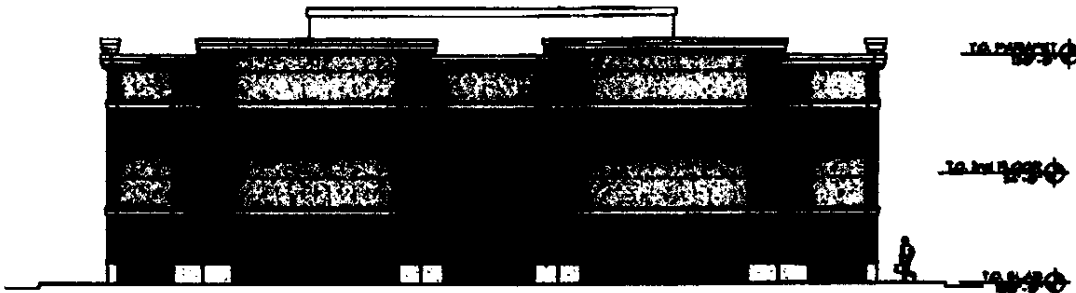
JULY 19, 2007



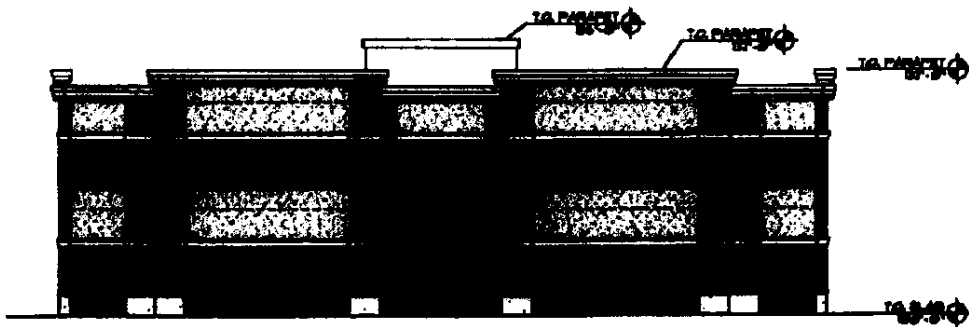
RIVERTON DEPOT  
 1400 SOUTH STREET AND WEST STREET  
 RIVERTON CITY, SALT LAKE COUNTY, UTAH  
 LOT 10, 11, 12, AND 13

1 of 1



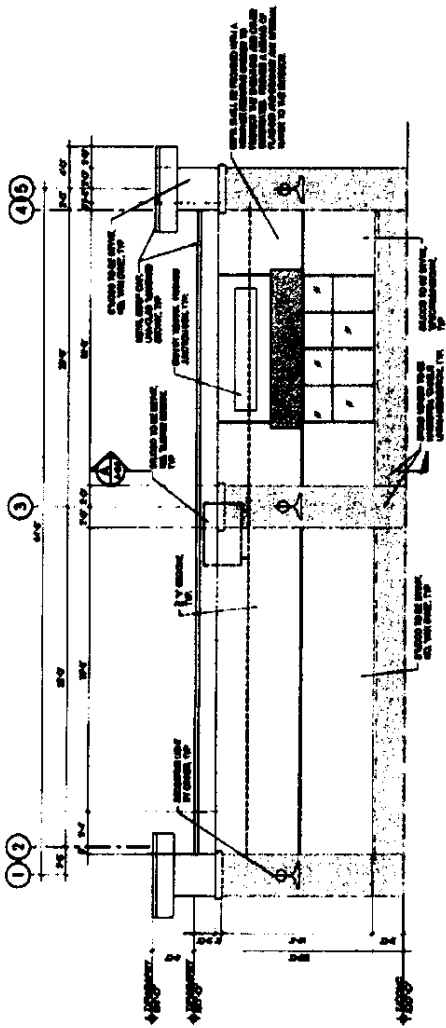


**A** FRONT ELEVATION - EAST  
SCALE: 1/8" = 1'-0"

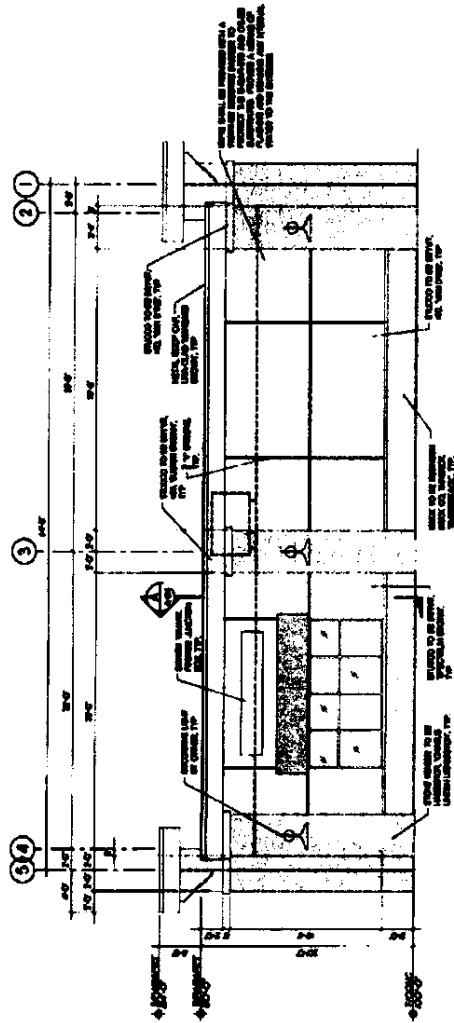


**B** EXTERIOR ELEVATION - NORTH  
SCALE: 1/8" = 1'-0"

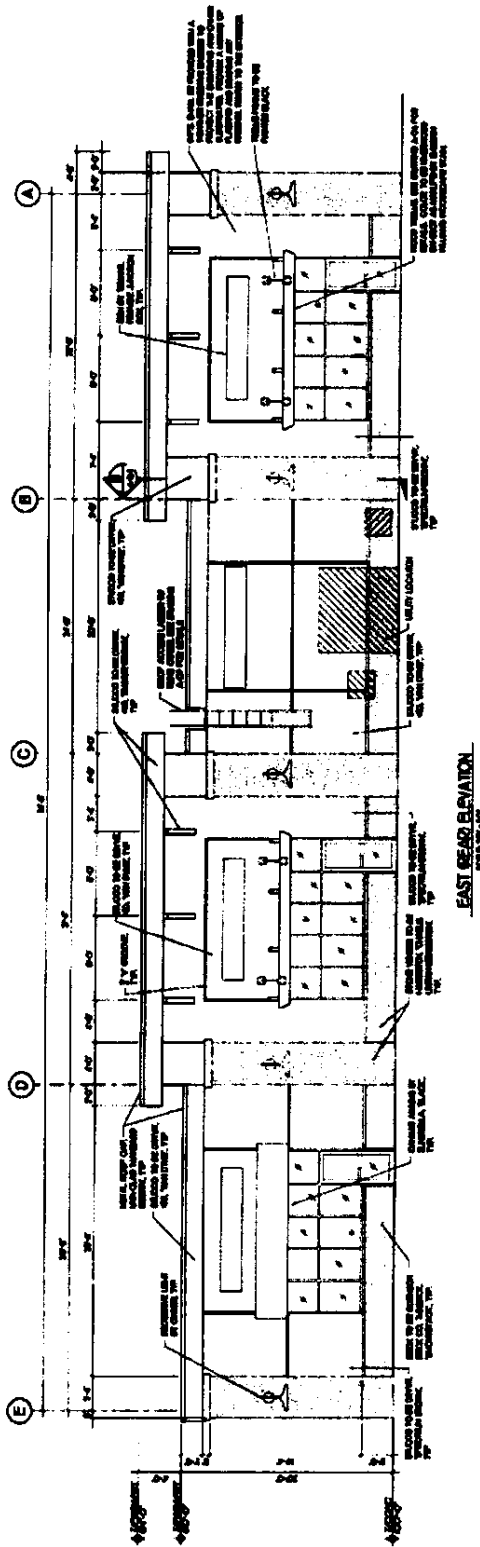
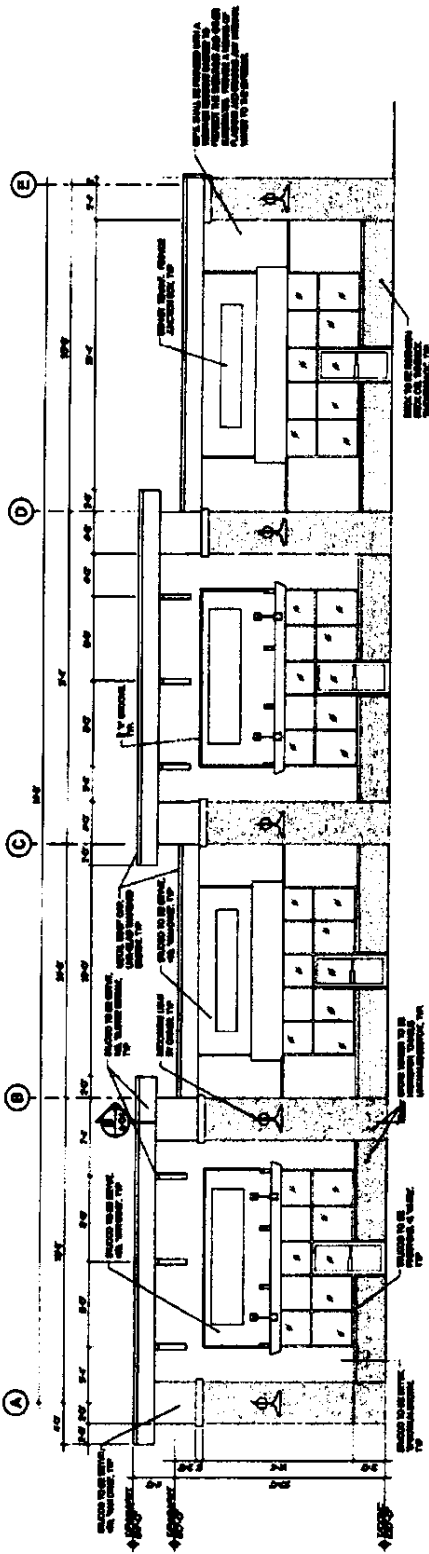
<p><b>S-DEV CORP., INC.</b> <small>40 East 2000 South, Suite 200 - Murray, Utah 84133 Telephone (801) 248-7221 - Fax (801) 248-7221</small></p>																								
<p><b>OFFICE BUILDING</b> <b>MARKET CENTER DR. 3600 W.</b> <b>SANDY, UTAH</b></p>																								
<p><b>EXTERIOR ELEVATIONS</b></p>																								
<p><b>REVISIONS</b></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="font-size: small;">NO.</th> <th style="font-size: small;">DATE</th> <th style="font-size: small;">BY</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </tbody> </table>	NO.	DATE	BY																					
NO.	DATE	BY																						
<p><small>PROJ. NO. 0806</small> <b>CLR</b> <small>12-14-07</small></p>																								



NORTH SIDE ELEVATION  
Scale per 1/4"



SOUTH SIDE ELEVATION  
Scale per 1/4"



		<b>OFFICE BUILDING</b> MARKET CENTER DR. 3000 W. SANDY, UTAH <b>S-DEV CORP., INC.</b> <small>© 1988 S-DEV CORP. UTAH ARCHITECTURE          TRUSTED FOR MARKET CENTER PROJECT</small>	<b>CLR</b> <small>ARCHITECTS</small> 1214 E. 1000 S. SALT LAKE CITY, UTAH 84143	<b>REVISIONS</b> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 5%;">NO.</th> <th style="width: 15%;">DATE</th> <th style="width: 80%;">DESCRIPTION</th> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> </tr> </table>	NO.	DATE	DESCRIPTION																		
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