

1A, 2-A Layton Market Center Blvd
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3, 4, 5, 6, 7, 8, 9 Layton Market Center
nw 17 4n-1w
10 to 11 Layton Market Center
D192141

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CAROL DEAN PAGE, DAVIS CNTY RECORDER
1997 FEB 19 3:27 PM FEE 97.00 DEP REC
REC'D FOR ASSOCIATED TITLE COMPANY

MAINTENANCE AND EASEMENT AGREEMENT

THIS MAINTENANCE AND EASEMENT AGREEMENT ("MEA") is made and entered into as of the 11 day of FEBRUARY, 1997, between DAYTON HUDSON CORPORATION, a Minnesota corporation ("Target") and WOODBURY AMSOURCE, INC., a Utah corporation, ("Woodbury"), collectively referred to herein as the "Parties" or individually as a "Party".

10-027-0086
10-196-0002, 0001 + 0012
10-188-0003 + 0011

WITNESSETH

E 1305042 B 2096 P 145
CAROL DEAN PAGE, DAVIS CNTY RECORDER
1997 FEB 19 3:27 PM FEE 97.00 DEP
REC'D FOR ASSOCIATED TITLE COMPANY

WHEREAS, Target is the owner of a certain tract of land legally described in Exhibit A attached hereto and identified as the "Target Tract" on Exhibit X (the "Site Plan") attached hereto; and

WHEREAS, Woodbury is the owner of a certain tract of land legally described in Exhibit B attached hereto and identified as the "Woodbury Tract" on the Site Plan; and

WHEREAS, the Target Tract and the Woodbury Tract (collectively the "Shopping Center") are contiguous and adjacent as shown on the Site Plan; and

WHEREAS, Target or Woodbury may acquire all or part of that area contiguous to the Target Tract and Woodbury Tract shown on the Site Plan as "Phase 3A" and legally described on Exhibit C, in which case such acquired area shall automatically become encumbered and bound by this MEA as more particularly provided in Article IV (if Phase 3A is acquired by Target or Woodbury, Phase 3A shall also be deemed part of the Shopping Center for purposes of this MEA); and

WHEREAS, the signatories hereto intend to develop and operate their respective Tracts (and Phase 3A if acquired) in conjunction with each other as integral parts of a retail shopping complex; and

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WHEREAS, Target or Woodbury may acquire all of part of that real property east of 700 West Street which is shown on the Site Plan as "Phase 3B" and the "Adams Property" and legally described on Exhibit D and E respectively, in which case such acquired area shall automatically become encumbered and bound by this MEA as more particularly provided in Article IV, but Phase 3B and the Adams Property shall not be deemed part of the Shopping Center; and

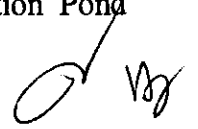
WHEREAS, Phase 3A, Phase 3B and the Adams Property are sometimes collectively referred to as the "Expansion Area"; and

WHEREAS, Target owns that certain real property depicted on the Site Plan as "Lot 10" and "Lot 11" and legally described on Exhibit F (collectively "Detention Pond Parcels"); and

WHEREAS, it is intended that the Detention Pond Parcels shall provide storm water detention for the Shopping Center and the Expansion Area (or portion thereof) at such time as all or part of the Expansion Area is acquired by one of the Parties; and

WHEREAS, the Parties desire to provide for certain easements and sharing of operation, maintenance, repair and insurance costs and real property taxes in connection with the Detention Pond Parcels and detention facilities located thereon; and

WHEREAS, the Parties do hereby establish easements, covenants, restrictions, liens and charges ("Restrictions") as are hereinafter set forth pursuant to which the Detention Pond



Parcels, each Tract and the Expansion Area (as provided hereafter) shall be improved, maintained, held, exchanged, leased, sold and/or conveyed; and

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WHEREAS, each of the Restrictions (i) is imposed upon the Detention Pond Parcels, each Tract and the Expansion Area (as provided hereafter) as a mutual equitable servitude, (ii) shall create reciprocal rights and obligations between and among each of the Parties; and (iii) shall create a privity of contract and estate between and among the Parties and their heirs, successors and assigns; and

WHEREAS, each of the Restrictions are intended to and shall run with the land;

NOW, THEREFORE, in consideration of the foregoing, and the covenants and agreements set forth herein, the Parties agree as follows:

ARTICLE I PRELIMINARY

- 1.1 Incorporation. The above Recitals are incorporated herein and made a part hereof.
- 1.2 Approving Party. "Approving Party" shall mean the Party designated from time to time to make certain decisions and/or give certain approvals pursuant to the terms of this MEA. There shall be one Approving Party representing the Woodbury Tract and one Approving Party representing the Target Tract. If Target acquires all or any portion of the Expansion Area, such acquired property shall be deemed a part of the Target Tract. If Woodbury or an affiliate of Woodbury acquires all or any portion of the Expansion Area, such acquired property shall be deemed a part of the Woodbury Tract. Each Approving Party shall have absolute discretion to make the decisions and/or give the approvals expressly designated to be made and/or given on behalf of the real estate represented by such position regardless of whether the

Approving Party then owns all or less than all of the Woodbury Tract or the Target Tract, as the case may be. The holder of the Approving Party position shall have the right to assign such position to any other Party owning a Tract within the Woodbury Tract or the Target Tract, as the case may be, but if an assignment is not made, then such Approving Party position shall automatically be deemed assigned to the Party acquiring the last Tract owned by the transferring Approving Party. Woodbury shall be the initial Approving Party for the Woodbury Tract; Target shall be the initial Approving Party for the Target Tract.

1.3 Operator. "Operator" shall mean the Person designated from time to time by the Approving Parties to maintain and operate the Detention Pond Parcels. The Person designated as the Operator shall serve in such capacity until he resigns or is removed by the Approving Parties. The Approving Parties hereby designate Woodbury as the initial Operator, and Woodbury accepts such appointment.

1.4 Owner. "Owner" shall mean Target, Woodbury and any other person or entity having fee record title to any Tract within the Shopping Center and the Expansion Area, their respective assigns, grantees, and successors in interest.

1.5 Party. "Party" shall mean each signatory hereto and, after compliance with the notice requirements set forth below, their respective successors and assigns who become owners of any portion of the Woodbury Tract or the Target Tract, as the case may be. Each Party shall be liable for the performance of all covenants, obligations and undertakings herein set forth with respect to the portion of the Woodbury Tract or the Target Tract, as the case may be, owned by it which accrue during the period of such ownership, and such liability shall continue with respect to any portion transferred until the notice of transfer set forth below is given, at which

time the transferring Party shall be released from the obligations of this MEA arising subsequent
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to the effective date on the transfer notice. A Party transferring all or any portion of its interest
in the Woodbury Tract or the Target Tract, as the case may be, shall give notice to all other
Parties and the Operator of such transfer and shall include therein at least the following
information:

- (i) the name and address of the new Party;
- (ii) a copy of the legal description of the portion of the Tract transferred; and
- (iii) if the transferee is the designated Approving Party.

If a Tract is owned by more than one Person, the Person or Persons holding at least fifty-one percent (51%) of the ownership interest in the Tract shall designate one of their number to represent all owners of the Tract and such designated Person shall be deemed the Party for such Tract. Until the notice of transfer is given, the transferring Party shall (for the purpose of this MEA only) be the transferee's agent.

Nothing contained herein to the contrary shall affect the existence, priority, validity or enforceability of any lien permitted hereunder which is placed upon the transferred portion of the Tract prior to receipt of the notice.

1.6 Person. "Person" shall mean any individual, partnership, firm, association, corporation, trust, or any other form of business or government entity.

ARTICLE II
STORM DETENTION EASEMENTS; MAINTENANCE

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(A) Target hereby grants and conveys to the other Owners, as grantees, a non-exclusive perpetual easement in, to, over, under, along and across the Detention Pond Parcels to discharge surface storm drainage and/or runoff from the grantee's Tract, upon the following conditions and terms:

(i) The grades of the Tracts and the surface water drainage/detention system for the Shopping Center (and Expansion Area, as applicable) shall be initially constructed in strict conformance with the details approved by each of the Approving Parties; and

(ii) No Party shall alter or permit to be altered the surface of the common area or the drainage/detention system constructed on its Tract if such alteration would materially increase the flow of surface water onto the Detention Pond Parcels in the aggregate or by directing the flow of surface water to a limited area. The surface water collection, detention and distribution facilities located on the Detention Pond Parcels are hereafter referred to as the "Detention Facilities".

(B) Commencing on the date the Approving Parties designate in writing, the Operator shall operate, maintain, and repair the Detention Pond Parcels and the Detention Facilities in good condition and repair. In addition, Operator shall be responsible for providing liability insurance for and paying the real property taxes associated with the Detention Pond Parcels as provided in this MEA. Within thirty (30) days following the commencement of such maintenance and operation, Operator shall provide the Approving Parties an estimated budget

for the balance of the current calendar year containing the information required by (C) below, and each Party agrees to pay its share thereof in accordance with (D) below. The Operator may hire companies affiliated with it to perform the maintenance, repair and operation of the Detention Pond Parcels and the Detention Facilities, but only if the rates charged by such companies are competitive with those of other companies furnishing similar services in the metropolitan area in or about the Tracts, it being agreed that this provision shall be construed strictly against Operator. Target hereby grants to Operator, its agents and employees a license to enter upon the Detention Pond Parcels to discharge the duties to operate, maintain and repair the Detention Facilities and the Detention Pond Parcels. Operator shall expend only such funds as are reasonably necessary for the operation, maintenance, repair, real property taxes and insurance of the Detention Facilities and Detention Pond Parcels, and shall promptly pay such costs ("Detention Facilities Maintenance Costs") when incurred. For the purpose of this MEA, Detention Facilities Maintenance Costs shall not include:

- (i) any late charges or fees;
- (ii) Operator's profit, administrative and overhead costs (including but not limited to: office space, equipment and utilities; legal, accounting or administrative services; the Operator's personnel who are not permanently located at the Shopping Center or other real property within the Tracts); and
- (iii) entertainment, transportation, meals and lodging of anyone.

The Operator shall maintain reasonably detailed books and records reflecting the actual costs and expenses incurred in performing its repair, maintenance, insurance and tax obligations

under this MEA. In lieu of profit, administrative and overhead costs, the Operator shall have the right to charge an annual fee (the "Administrative Fee") equal to ten percent (10%) of the actual and reasonable costs incurred in the operation, repair and maintenance of the Detention Pond Parcels and the Detention Facilities during the prior calendar year (exclusive of insurance premiums, real property taxes, fees paid to any third person who performs the work on the Operator's behalf, and utility charges). Once established, the Administrative Fee will be paid in equal quarterly installments.

(C) The Operator shall, at least sixty (60) days prior to the beginning of each calendar year, submit to all Approving Parties, an estimated budget (the "Budget") for the projected costs of operating, maintaining, repairing, insuring and paying real property taxes in connection with the Detention Facilities and Detention Pond Parcels during the ensuing calendar year. The Budget shall be in reasonable detail and shall, so far as is reasonably practicable, identify separate cost estimates for identifiable costs of operation, maintenance, repair insurance premiums, real property taxes and the Administrative Fee due for the particular year. Within thirty (30) days after receipt of the Budget, the Approving Parties shall approve or reject the Budget in writing; provided, that such approval shall not be unreasonably withheld. A disapproval of the Budget shall set forth in reasonable detail the grounds for disapproval and outline the reasonable changes in the Budget the Approving Party requires before such Approving Party will grant its approval. If the Budget is not approved within said thirty (30) day period, the Operator shall continue to maintain the Detention Facilities and Detention Pond Parcels and shall charge the actual reasonable costs of such operation, maintenance and repair to the Parties as such costs are incurred pursuant to the billing procedures set forth below. Once

a Budget is approved (or deemed approved) by the Approving Parties, the Operator shall use its reasonable best efforts to operate, repair and maintain the Detention Facilities and Detention Pond Parcels in accordance with the approved Budget; provided, that the Operator shall have the right to make emergency repairs to the Detention Facilities and Detention Pond Parcels outside of the Budget's approved expenditures if such repairs are reasonably believed necessary to prevent injury to persons or damage to property; and further provided, the Operator shall advise the Parties of such emergency situation as soon as reasonably possible, including the corrective measures taken and the cost thereof. Such costs of emergency repairs shall be payable within thirty (30) days of the Operator's submittal of an invoice and supporting documentation for such cost to the Parties. As soon as reasonably possible after the end of each calendar year, the actual costs for the previous year shall be determined by the Operator and a written breakdown of such actual costs shall be delivered to all Parties. Within thirty (30) days after the Operator provides such breakdown of the actual costs incurred for a particular year, there shall be an adjustment and reconciliation of the actual costs and expenses for the operation, maintenance and repair (including insurance premiums and real property taxes) of the Detention Facilities and Detention Pond Parcels for the particular calendar year. The Operator will advise each Party in writing as to the results of such reconciliation of actual costs and expenses. Any underpayment will be due within thirty (30) days of the written demand by the Operator and any overpayment shall be paid to the parties entitled thereto within (30) days of the Operator's reconciliation of actual costs and expenses.

- (i) The costs under the approved Budget and/or actual costs of operation, repair, maintenance, insurance and real property taxes, as the

case may be, together with the Administrative Fee for the particular calendar year or part thereof, shall be allocated to each Tract as set forth in Section D below. Such costs and Administrative Fee shall be payable in installments not more frequently than once each quarter (except for costs where no Budget has been approved or the costs of emergency repairs and maintenance which may be billed and collected separately as set forth above). Each Party shall pay to the Operator the quarterly installment or portion of the separately billed amount, as the case may be, due with respect to that Party's Tract on or before the first day of each calendar month, or within thirty (30) days of receipt of demand by the Operator, as the case may be.

(ii) If the Operator fails to perform its obligations under this MEA after thirty (30) days' prior written notice from a Party, which notice shall set forth in reasonable detail the particular failure (or if the failure is such as to reasonably require more than thirty (30) days to perform, and the Operator does not commence the cure of such failure within the thirty (30) day notice period and thereafter pursue the same diligently to conclusion), then Target shall have the right, upon written notice to all other Parties to assume the obligations of the Operator, enter upon Lot 10 and/or Lot 11 to undertake and complete such obligations and charge the Detention Facilities Maintenance Costs and Administrative Fee, as set forth herein, as the replacement Operator.

(iii) The Operator shall keep the books and records with respect to the Detention Facilities Maintenance Costs for two (2) years after the calendar year within which such costs and expenses were incurred. Any Party shall have the right, at its own cost and expense, and at reasonable times during normal business hours, to copy and audit such books and records during such two (2) year period; provided, in the event the audit shall disclose any error in the determination of Detention Maintenance Facilities Costs, the Administration Fee or in the allocation to a Tract, an appropriate adjustment shall be made forthwith. The cost of the audit shall be borne by the auditing party unless such party shall be entitled to a refund in excess of three percent (3%) of the amount calculated on the basis of the share allocable to a Tract, in which case the Operator shall pay the cost of such audit.

(iv) No breach of the covenants, conditions or restrictions herein contained, nor the enforcement of any lien provision hereof, shall defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value, but all said covenants, conditions and restrictions shall be binding upon and effective against any Party whose title is derived through foreclosure or trustees sale, or otherwise; provided, however, that any lien for amounts due from any Party hereunder shall be subordinate to any mortgage or deed of trust recorded prior to the date on which any amount due hereunder giving rise to the lien became delinquent.

The Operator shall perform and pay the cost of any legally required cleanup of Hazardous Materials resulting from the use of the Detention Facilities and Detention Pond Parcels and such cleanup costs shall be deemed part of the Detention Facilities Maintenance Costs reimbursable by the Parties hereunder; provided, if it is determined that a particular Party caused a release of Hazardous Materials that resulted in the cleanup or that Hazardous Materials migrated from another Party's tract, the Party causing such release of Hazardous Materials or owning the Tract from which the Hazardous Materials migrated, shall be responsible for the cost of cleaning up such Hazardous Materials pursuant to the requirements of any Environmental Law. For the purpose of this paragraph, the term (i) "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, and (ii) "Environmental Law" shall mean: all federal, state, county, municipal, local and other statutes, laws, ordinances and regulations which relate to or deal with human health or the environment, all as may be amended from time to time.

(D) The Detention Facilities Maintenance Costs and the Administration Fee shall be allocated as follows:

- (i) To the Woodbury Tract 51.77%
- (ii) To the Target Tract 48.23%

In the event Woodbury acquires Phase 3A, the Detention Facilities Maintenance Costs and the Administration Fee shall be allocated as follows:

- (i) To the Woodbury Tract 61.63%

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- (ii) To the Target Tract 38.37%

In the event Woodbury acquires Phase 3A and Phase 3B, the Detention Facilities Maintenance Costs and the Administration Fee shall be allocated as follows:

- (i) To the Woodbury Tract 68.33%
- (ii) To the Target Tract 31.67%

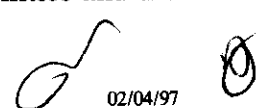
In the event Woodbury acquires Phase 3A, Phase 3B, and the Adams Property, the Detention Facilities Maintenance Costs and the Administration Fee shall be allocated as follows:

- (i) To the Woodbury Tract 69.11%
- (ii) To the Target Tract 30.89%

In the event an existing undivided Tract is divided, the Party causing such division shall prorate the allocation attributable to the existing Tract between the newly created Tracts on the basis of land area within each newly created Tract, file a recorded declaration confirming such allocation and deliver a copy of such declaration to the Operator and each other Party.

In the event all or part of the Expansion Area is acquired by Target, the Detention Facilities Maintenance Costs and the Administration Fee shall be reallocated among the Tracts on the basis of the land area within the Woodbury Tract, and the Target Tract and such acquired Expansion Area, and Target shall file a recorded declaration confirming such allocation and deliver a copy of such declaration to the Operator and the other Party.

(E) The Operator agrees to defend, indemnify and hold each Owner harmless from and against any mechanic's, materialmen's and/or laborer's liens, and all costs, expenses and liabilities in connection therewith, including reasonable attorney's fees and court costs, arising out of the maintenance and operation by the Operator of the Detention Facilities and the



Detention Pond Parcels, and in the event that any Tract shall become subject to any such lien, the Operator shall promptly cause such lien to be released and discharged of record, either by paying the indebtedness which gave rise to such lien or by posting such bond or other security as shall be required by law to obtain such release and discharge.

**ARTICLE III
INSURANCE; REAL PROPERTY TAXES**

(A) During the period the Operator is maintaining the Detention Facilities and Detention Pond Parcels, the Operator shall maintain or cause to be maintained in full force and effect Commercial General Liability Insurance covering the Detention Facilities and the Detention Pond Parcels with a combined single limit of liability of not less than Five Million Dollars (\$5,000,000.00) for bodily injury, personal injury and property damage, arising out of any one occurrence; each Party shall be an "additional insured" under such policy. It is the agreement of the Parties that the insurance maintained by the Operator shall be primary insurance and not contributory with the insurance maintained by the Parties.



(B) Operator covenants to defend, protect, indemnify and hold harmless each Party and its respective directors, officers, agents, representatives and employees from and against all claims, including any action or proceeding brought thereon, and all costs, losses, expenses and liabilities (including reasonable attorneys' fees and cost of suit) asserted or incurred in connection with or arising as a result of the death of, or any injury, loss or damage whatsoever to any Person, or to the property of any Person, as shall occur due to the performance or failure to perform by the Operator of its duties or obligations under this Agreement with respect to the maintenance and operation of the Detention Facilities, except for claims

caused by the sole negligence or by the willful act or omission of the indemnified Party or its directors, officers, contractors, licensees, concessionaires, agents, representatives or employees.

(C) Operator shall pay or cause to be paid before delinquency all taxes and assessments levied or assessed against the Detention Pond Parcels and the Detention Facilities.

**ARTICLE IV
NONAPPLICABILITY; SUPPLEMENTATION**

This MEA shall not encumber or bind the Expansion Area or any part thereof, nor shall the owners or occupants thereof have any easement or other rights pursuant to Article II of this MEA or any other provision of this MEA, on, over or across the Target Tract or Woodbury Tract or the Detention Pond Parcels, until the date on which Woodbury or Target, as the case may be, acquires and records evidence of conveyance to Woodbury or Target, as the case may be, of fee title to the Expansion Area. Upon Target's or Woodbury's, as the case may be, acquisition and recordation of evidence of title to the Expansion Area, the Expansion Area (or part thereof to which title has been so acquired) shall automatically be subject to, encumbered and bound by this MEA as a first lien, and the Expansion Area shall thereafter be deemed encumbered by this MEA. In order to confirm the subjection and encumbrance of the Expansion Area (or part thereof) to and by this MEA, Woodbury or Target, as the case may be, shall promptly following such acquisition of title, execute, enter into and deliver to the other Party for execution and recording with the Davis County recorder, a Supplemental Maintenance and Easement Agreement in form and substance reasonably acceptable to Target or Woodbury, as the case may be, confirming the provisions of this Section. The Party that acquires the Expansion Area (or part thereof) covenants and warrants that it will not record any lease,

 
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mortgage, deed of trust or other encumbrance against the Expansion Area (or part thereof) prior to the execution and recordation of the Supplemental Maintenance and Easement Agreement.

**ARTICLE V
MISCELLANEOUS**

5.1 Default.

(A) The occurrence of any one or more of the following events shall constitute a material default and breach of this MEA by the non-performing Party (the "Defaulting Party"):

(i) the failure to make any payment required to be made hereunder within ten (10) days of the due date; or

(ii) the failure to observe or perform any of the covenants, conditions or obligations of this MEA, other than as described in (i) above, within thirty (30) days after the issuance of a notice by another Party (the Non-Defaulting Party") specifying the nature of the default claimed.

(B) With respect to any default under (A)(ii) above, any Non-Defaulting Party shall have the right, but not the obligation, to cure such default by the payment of money or the performance of some other action for the account of and at the expense of the Defaulting Party; provided, however, that in the event the default shall constitute an emergency condition, the Non-Defaulting Party, acting in good faith, shall have the right to cure such default upon such advance notice as is reasonably possible under the circumstances or, if necessary,

without advance notice, so long as notice is given as soon as possible thereafter.

To effectuate any such cure, the Non-Defaulting Party shall have the right to enter upon the Tract of the Defaulting Party (but not into any building) to perform any necessary work or furnish any necessary materials or services to cure the default of the Defaulting Party. Each Party shall be responsible for the default of its occupants. In the event any Non-Defaulting Party shall cure a default, the Defaulting Party shall reimburse the Non-Defaulting Party for all costs and expenses incurred in connection with such curative action, plus interest as provided herein, within ten (10) days of receipt of demand, together with reasonable documentation supporting the expenditures made.

(C) Each Non-Defaulting Party shall have the right to prosecute any proceedings at law or in equity against any Defaulting Party hereto, or any other Person, violating or attempting to violate or defaulting upon any of the provisions contained in this MEA, and to recover damages for any such violation or default. Such proceeding shall include the right to restrain by injunction any violation or threatened violation by another of any of the terms, covenants, or conditions of this MEA, or to obtain a decree to compel performance of any such terms, covenants, or conditions, it being agreed that the remedy at law for a breach of any such term, covenant, or condition (except those, if any, requiring the payment of a liquidated sum) is not adequate. All of the remedies permitted or available to a Party under this MEA or at law or in equity shall be cumulative and not alternative, and invocation of any such right or remedy shall not

constitute a waiver or election of remedies with respect to any other permitted or available right or remedy.

5.2 Interest. Any time a Party or Operator shall not pay any sum payable hereunder to another within five (5) days of the due date, such delinquent Party or Operator shall pay interest on such amount from the due date to and including the date such payment is received by the Person entitled thereto, at the lesser of:

(A) the highest rate permitted by law to be paid on such type of obligation by the Person obligated to make such payment or the Person to whom such payment is due, whichever is less; or

(B) three percent (3%) per annum in excess of the prime rate from time to time publicly announced by Norwest Bank, Minneapolis National Association or its successor.

5.3 Estoppel Certificate. Each Party and Operator agrees that upon written request (which shall not be more frequent than three (3) times during any calendar year) of any other Party or Operator, it will issue to such Person, or its prospective mortgagee or successor, an estoppel certificate stating to the best of the issuer's knowledge that as of such date:

(A) whether it knows of any default under this MEA by the requesting Person, and if there are known defaults, specifying the nature thereof;

(B) whether this MEA has been assigned, modified or amended in any way by it and if so, then stating the nature thereof; and

(C) whether this MEA is in full force and effect.



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 either request an audit of the Detention Facilities Maintenance Costs for any year it is entitled to do so, or challenge acts committed by other Parties for which approval by the Approving Parties was required but not sought or obtained.

5.4 Notices. All notices, demands and requests (collectively the "notice") required or permitted to be given under this MEA must be in writing and shall be deemed to have been given as of the date such notice is: (i) delivered to the Party intended; (ii) delivered to the then designated address of the Party intended; (iii) rejected at the then designated address of the Party intended, provided such notice was sent prepaid; or (iv) sent via facsimile so long as the original copy is also sent via (i) or (ii) above on the same day. The initial addresses of the Parties shall be:

Target:

Dayton Hudson Corporation
 Target Stores-Real Estate
 Attn: Property Administration
 33 S. Sixth Street
 Minneapolis, MN 55402
 Fax: (612) 370-6008

Woodbury: Woodbury Amsource, Inc.
2677 East Parley's Way
Salt Lake City, UT 84109
Attn: Walker Kennedy
Fax: (801) 485-0209

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Operator: As from time to time designated.

Upon at least ten (10) days' prior written notice, each Person shall have the right to change its address to any other address within the United States of America.

5.5 Construction and Interpretation.

(A) This MEA and the Exhibits hereto contain all the representations and the entire agreement between the Parties with respect to the subject matter hereof. Any prior negotiations, correspondence, memoranda or agreements are superseded in total by this MEA and Exhibits hereto. This MEA has been fully negotiated at arms length between the signatories hereto, and after advice by counsel and other representatives chosen by such signatories, and such signatories are fully informed with respect thereto; no such signatory shall be deemed the scrivener of this MEA; and, based on the foregoing, the provisions of this MEA and the Exhibits hereto shall be construed as a whole according to their common meaning and not strictly for or against any Party.

(B) The captions preceding the text of each article and section are included only for convenience of reference. Captions shall be disregarded in the construction and interpretation of this MEA. Capitalized terms are also selected only for convenience of reference and do not necessarily have any connection to

the meaning that might otherwise be attached to such term in a context outside of this MEA.

(C) Invalidation of any of the provisions contained in this MEA, or of the application thereof to any person by judgment or court order shall in no way affect any of the other provisions hereof or the application thereof to any other person and the same shall remain in full force and effect.

(D) This MEA may be amended by, and only by, a written agreement signed by all of the then current Approving Parties and shall be effective only when recorded in the county and state where the Tracts are located; provided, however, that no such amendment shall impose any materially greater obligation on, or materially impair any right of, a Party or its Tract without the consent of such Party. No consent to the amendment of this MEA shall ever be required of any occupant or Person other than the Parties, nor shall any occupant or Person other than the Parties have any right to enforce any of the provisions hereof. Each Party may consider, approve or disapprove any proposed amendment to this MEA in its sole and absolute discretion without regard to reasonableness or timeliness.

(E) This MEA may be executed in several counterparts, each of which shall be deemed an original. The signatures to this MEA may be executed and notarized on separate pages, and when attached to this MEA shall constitute one complete document.

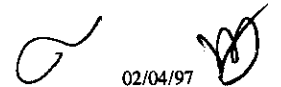


5.6 Negation of Partnership. None of the terms or provisions of this MEA shall be deemed to create a partnership between or among the Parties in their respective businesses or otherwise, nor shall it cause them to be considered joint venturers or members of any joint enterprise. Each Party shall be considered a separate owner, and no Party shall have the right to act as an agent for another Party, unless expressly authorized to do so herein or by separate written instrument signed by the Party to be charged.

5.7 Not a Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of any Tract or portion thereof to the general public, or for any public use or purpose whatsoever. Except as herein specifically provided, no right, privileges or immunities of any Party hereto shall inure to the benefit of any third-party Person, nor shall any third-party Person be deemed to be a beneficiary of any of the provisions contained herein.

5.8 Excusable Delays. Whenever performance is required of any Person hereunder, such Person shall use all due diligence to perform and take all necessary measures in good faith to perform; provided, however, that if completion of performance shall be delayed at any time by reason of acts of God, war, civil commotion, riots, strikes, picketing or other labor disputes, unavailability of labor or materials, damage to work in progress by reason of fire or other casualty, or any cause beyond the reasonable control of such Person, then the time for performance as herein specified shall be appropriately extended by the amount of the delay actually so caused. The provisions of this Section shall not operate to excuse any Person from the prompt payment of any monies required by this MEA.

5.9 MEA Shall Continue Notwithstanding Breach. It is expressly agreed that no breach of this MEA shall: (i) entitle any Party to cancel, rescind, or otherwise terminate this



MEA; or (ii) defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value as to any part of the Tracts. However, such limitation shall not affect in any manner any other rights or remedies which a Party may have hereunder by reason of any such breach.

5.10 Time. Time is of the essence of this MEA.

5.11 No Waiver. The failure of any Party to insist upon strict performance of any of the terms, covenants or conditions hereof shall not be deemed a waiver of any rights or remedies which that Party may have hereunder, at law or in equity and shall not be deemed a waiver of any subsequent breach or default in any of such terms, covenants or conditions. No waiver by any Party of any default under this MEA shall be effective or binding on such Party unless made in writing by such Party and no such waiver shall be implied from any omission by a Party to take action in respect to such default. No express written waiver of any default shall affect any other default or cover any other period of time other than any default and/or period of time specified in such express waiver. One or more written waivers or any default under any provision of this MEA shall not be deemed to be a waiver of any subsequent default in the performance of the same provision or any other term or provision contained in this MEA.

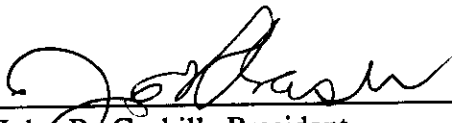
5.12 Term of this MEA. This MEA shall be effective as of the date first above written and shall continue in full force and effect until 11:59 p.m. on December 31, 2050. Upon termination of this MEA, all rights and privileges derived from and all duties and obligations created and imposed by the provisions of this MEA, except as relates to the easements mentioned above, shall terminate and have no further force or effect; provided, however, that the termination of this MEA shall not limit or affect any remedy at law or in equity that a Party


may have against any other Party with respect to any liability or obligation arising or to be performed under this MEA prior to the date of such termination.

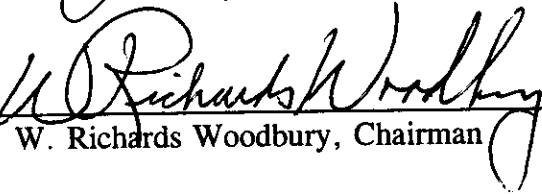
IN WITNESS WHEREOF, the Parties have caused this MEA to be executed effective as of the day and year first above written.

WOODBURY AMSOURCE, INC.
("Woodbury")

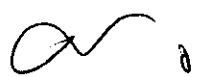
DAYTON HUDSON CORPORATION
("Target")

By 
John R. Gaskill, President

By 
Name: **Edward J. Stelman**
Title: **Vice President
Target Stores**

By 
W. Richards Woodbury, Chairman

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STATE OF MINNESOTA)
) SS
COUNTY OF HENNEPIN)

E 1305042 B 2096 P 1475

On this 11th day of February, 1997, before me, a Notary Public within and for said County, personally appeared Edward J. Bierman, to me personally known, who, being first by me duly sworn, did say that he is the Vice President of Target Stores, a division of Dayton Hudson Corporation, and a duly-authorized signatory of said corporation, and that the foregoing instrument was signed by him on behalf of said corporation by authority of its Board of Directors and Edward J. Bierman acknowledged said instrument to be the free act and deed of said corporation.


Notary Public





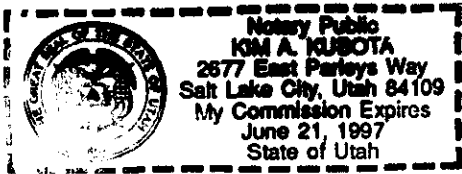
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STATE OF UTAH)
)
 : SS.
)
COUNTY OF SALT LAKE)

On this 17th day of February, 1997 before me personally appeared W. RICHARDS WOODBURY and JOHN R. GASKILL, to me personally known to be the Chairman and President of Woodbury Amsource, Inc., the corporation that executed the within instrument, known to me to be the persons who executed the within instrument on behalf of said corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors.

Kim A. Kubota

Notary Public



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E 1305042 B 2096 P 1477

EXHIBIT A

E 1305042 B 2096 P 1478

Legal Description of Target Tract

All of Lot 2A, LAYTON MARKET CENTER SUBDIVISION AMENDED, amending Lots 1, 2 and 12 of LAYTON MARKET CENTER SUBDIVISION, according to the official plat thereof, on file and of record in the office of the Davis County Recorder.

10 - 196 - 0002

~~10-188-0001, 0002, 0012~~

GS
D

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E 1305042 B 2096 P 1479

Legal Description of Woodbury Tract

All of Lots 1A and 12A, LAYTON MARKET CENTER SUBDIVISION AMENDED, amending Lots 1, 2 and 12 of LAYTON MARKET CENTER SUBDIVISION, according to the official plat thereof, on file and of record in the office of the Davis County Recorder.

All of Lots 3, 4, 5, 6, 7, 8 and 9, LAYTON MARKET CENTER SUBDIVISION, according to the official plat thereof, on file and of record in the office of the Davis County Recorder.

10 - 196 - 0001 + 0012 *J*
10 - 188 - 0003, 0004, 0005,
0006, 0007, 0008
+ 0009

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E 1305042 B 2096 P 1481

EXHIBIT C

E 1305042 B 2096 P 1482

Market Center
NW 17 4N-14W
10-11 Layton

LEGAL DESCRIPTION - PHASE 3A

A PART OF THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 4 NORTH, RANGE 1 WEST OF THE SALT LAKE BASE AND MERIDIAN, COUNTY OF DAVIS, STATE OF UTAH, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF ANTELOPE DRIVE AS SHOWN ON THE FINAL PLAT OF LAYTON MARKET CENTER SUBDIVISION, SAID POINT BEING SOUTH 89 DEGREES 55 MINUTES 10 SECONDS WEST 125.00 FEET ALONG THE SECTION LINE AND SOUTH 00 DEGREES 10 MINUTES 04 SECONDS WEST 57.00 FEET FROM THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER OF SECTION 17; THENCE SOUTH 89 DEGREES 55 MINUTES 10 SECONDS WEST, ALONG THE SOUTH LINE OF SAID ANTELOPE DRIVE A DISTANCE OF 200.00 FEET, TO THE EAST LINE OF 700 WEST STREET AS SHOWN ON SAID PLAT; THENCE SOUTH 00 DEGREES 10 MINUTES 04 SECONDS WEST, ALONG SAID EAST LINE, A DISTANCE OF 825.67 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 00 DEGREES 10 MINUTES 04 SECONDS WEST, A DISTANCE OF 437.33 FEET TO THE SOUTH WEST CORNER OF LOT 10 OF SAID LAYTON MARKET CENTER SUBDIVISION; THENCE SOUTH 89 DEGREES 55 MINUTES 10 SECONDS WEST, A DISTANCE OF 781.43 FEET TO THE SOUTHEAST CORNER OF LOT 9 OF SAID SUBDIVISION; THENCE NORTH 00 DEGREES 10 MINUTES 04 SECONDS EAST, ALONG THE EAST LINE OF SAID LOT 9, A DISTANCE OF 440.72 FEET TO THE SOUTH LINE OF LOT 2 OF SAID SUBDIVISION; THENCE SOUTH 89 DEGREES 49 MINUTES 56 SECONDS EAST, ALONG THE SOUTH LINE OF SAID LAYTON MARKET CENTER SUBDIVISION, A DISTANCE OF 781.42 FEET TO THE POINT OF BEGINNING, CONTAINING 343,064 SQUARE FEET OR 7.88 ACRES, MORE OR LESS.

[Handwritten initials]

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E 1305042 B 2096 P 1483

EXHIBIT D

nw 17 4n-1w

E 1305042 B 2096 P 1484

LEGAL DESCRIPTION - PHASE 3B

A PART OF THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 4 NORTH, RANGE 1 WEST OF THE SALT LAKE BASE AND MERIDIAN, COUNTY OF DAVIS, STATE OF UTAH, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID NORTHWEST QUARTER FROM WHICH THE NORTHWEST CORNER OF SAID NORTHWEST QUARTER BEARS SOUTH 89 DEGREES 55 MINUTES 10 SECONDS WEST, A DISTANCE OF 2634.88; THENCE SOUTH 00 DEGREES 10 MINUTES 04 SECONDS WEST, ALONG THE EAST LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 435.60 FEET TO THE TRUE POINT OF BEGINNING; THENCE SOUTH 00 DEGREES 10 MINUTES 04 SECONDS WEST, A DISTANCE OF 772.08 FEET TO THE NORTHEAST CORNER OF LOT 10 OF LAYTON MARKET CENTER SUBDIVISION; THENCE SOUTH 89 DEGREES 55 MINUTES 10 SECONDS WEST, ALONG THE NORTH LINE OF SAID LOT 10, A DISTANCE OF 325.00 FEET TO THE NORTHWEST CORNER OF SAID LOT; THENCE NORTH 00 DEGREES 10 MINUTES 04 SECONDS EAST, A DISTANCE OF 1150.68 FEET TO THE SOUTH LINE OF ANTELOPE DRIVE AS PLATTED IN SAID LAYTON MARKET CENTER SUBDIVISION; THENCE NORTH 89 DEGREES 55 MINUTES 10 SECONDS EAST, ALONG SAID SOUTH LINE, A DISTANCE OF 200.00 FEET; THENCE SOUTH 00 DEGREES 10 MINUTES 04 SECONDS WEST, A DISTANCE OF 378.60 FEET; THENCE NORTH 89 DEGREES 55 MINUTES 10 SECONDS EAST, A DISTANCE OF 125.00 FEET TO THE POINT OF BEGINNING, CONTAINING 326,646 SQUARE FEET OR 7.50 ACRES, MORE OR LESS.

10-027-0086

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EXHIBIT E TO MAINTENANCE AND EASEMENT AGREEMENT

LEGAL DESCRIPTION - ADAMS

E 1305042 B 2096 P 1486

A PART OF THE NORTHWEST QUARTER OF SECTION 17, TOWNSHIP 4 NORTH, RANGE 1 WEST OF THE SALT LAKE BASE AND MERIDIAN, COUNTY OF DAVIS, STATE OF UTAH, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING 2515 FEET EAST FROM THE NORTHWEST CORNER OF SECTION 17, TOWNSHIP 4 NORTH, RANGE 1 WEST, SALT LAKE BASE AND MERIDIAN; THENCE SOUTH 435.6 FEET, EAST 125 FEET, NORTH 435.6 FEET, WEST 125 FEET TO THE POINT OF BEGINNING.

Gr B

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1305042 8 2096 P 1487

EXHIBIT F

E 1305042 B 2096 P 1488

Legal Description of Detention Parcels

All of Lots 10 and 11, LAYTON MARKET CENTER SUBDIVISION, according to the official plat thereof, on file and of record in the office of the Davis County Recorder.

[Handwritten signature]

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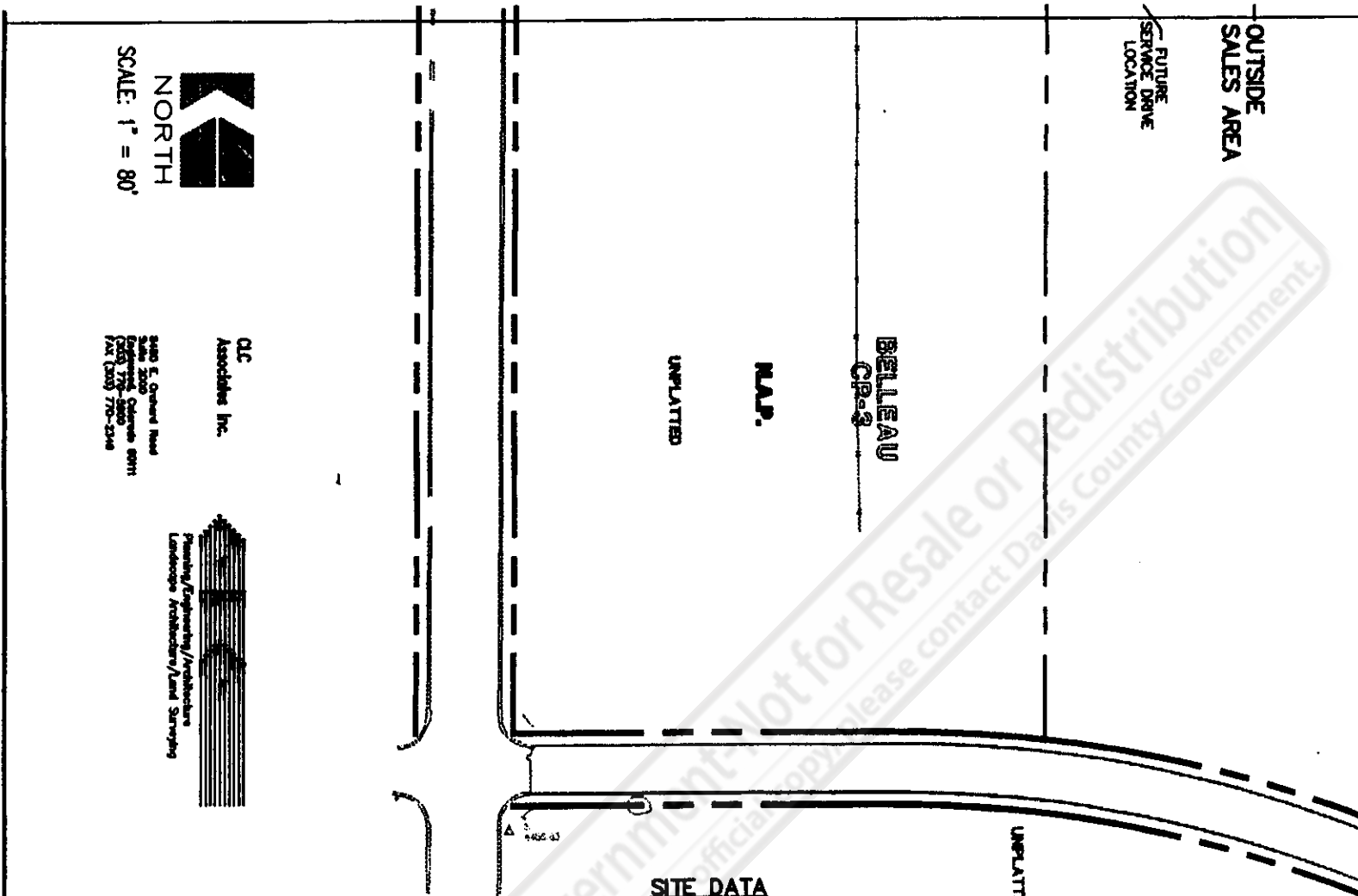
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EXHIBIT X



OLC Associates Inc.
 5410 E. Grand Blvd.
 Suite 200
 Englewood, Colorado 80111
 (303) 770-3300
 Fax: (303) 770-3346



SITE DATA

PHASE	PARCEL DESCRIPTION	PARCEL AREA (S.F.)	PARCEL AREA (ACRES)	BUILDING DESIGNATION	BUILDING AREA (S.F.)	PARKING SPACES PROVIDED	PARKING SPACES RATIO/1,000 S.F.	LANDSCAPE PROVIDED S.F.	LANDSCAPE % OF LOT
1	LOT 2A	561,738	13.88	TARGET	177,184	808	8.1	41,840	07%
1	LOT 10 (DETENTION)	36,504	0.84	---	---	---	---	36,504	100%
1	LOT 11 (DETENTION)	37,376	0.86	---	---	---	---	37,376	100%
TOTAL PHASE 1		635,618	14.58		177,184	808	8.1	118,718	12%
2	LOT 1A	72,376	1.66	RETAIL A	17,088	38	8.7	8,016	14%
	LOT 3	39,822	0.91	RESTAURANT C	3,800	38	11.1	7,876	18%
	LOT 4	30,688	0.70	RESTAURANT E	3,800	38	10.0	6,176	20%
	LOT 5	81,788	1.87	RESTAURANT F	6,800	108	18.2	15,888	28%
	LOT 6	63,828	1.46	RESTAURANT G	3,000	83	8.9	14,700	23%
	LOT 7	65,288	1.50	RETAIL H	18,000	78	8.0	12,816	20%
	LOT 8	28,287	0.65	RESTAURANT I	3,800	38	10.9	6,880	31%
	LOT 9	248,188	5.63	RETAIL J	68,000	338	8.0	23,116	8%
	LOT 12A	27,531	0.63	RETAIL D	5,188	28	8.8	8,982	32%
TOTAL PHASE 2		638,517	14.88		138,888	841	8.4	187,822	17%
TOTAL PHASE 1 & 2		1,308,838	29.88		308,188	1,748	8.6	333,341	17%
3A	PARCEL A	318,138	7.23	RETAIL K	98,437	483	8.1	78,325	24%
3B	PARCEL B (TOTAL)	178,378	4.03	RETAIL L	7,000	238	8.4	34,848	20%
	(ADAMS PROPERTY)	47,281	1.08	RESTAURANT M	23,874	---	---	---	---
	(HARRIS PROPERTY)	128,088	2.94	RETAIL N	8,078	---	---	---	---
	PARCEL C	188,488	4.34	RETAIL O	22,816	302	8.8	---	---
				RETAIL P	30,888	---	---	---	---
TOTAL PHASE 3		688,884	15.82		188,884	1,081	8.8	118,173	16%
TOTAL 1-3		1,988,838	45.88		488,144	2,747	8.8	333,814	17%
1	700 W. (DEDICATION)	48,832	1.14	---	---	---	---	---	---
3	700 W. (DEDICATION)	28,110	0.65	---	---	---	---	---	---
1	ARTISLOPE DR. (DEDICATION)	85,828	1.91	---	---	---	---	---	---
3	ARTISLOPE DR. (DEDICATION)	18,833	0.43	---	---	---	---	---	---
TOTAL DEDICATIONS		188,801	4.27					63,810	31%
GRAND TOTALS		2,148,838	49.38					418,188	19%

EXHIBIT 'X'

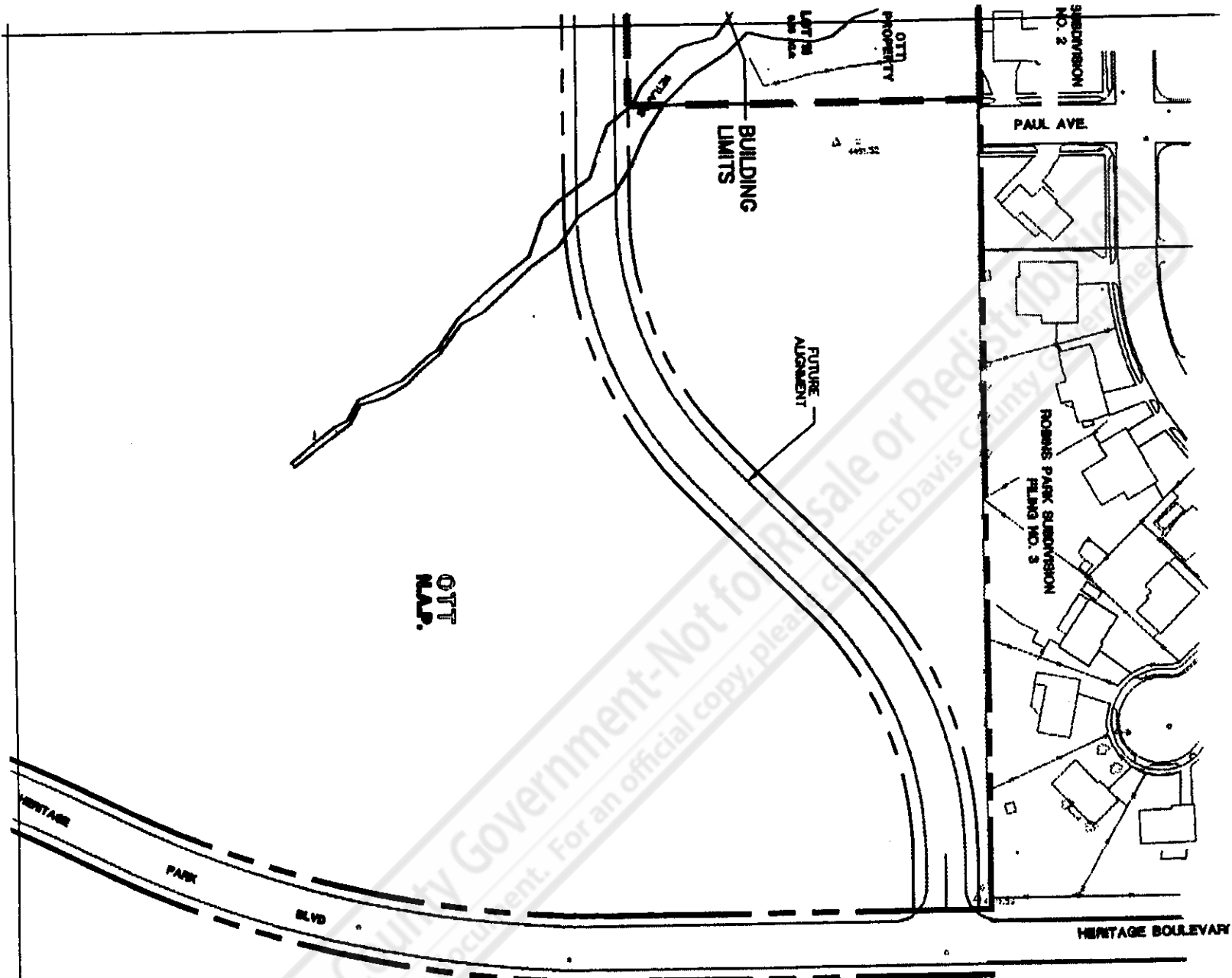
C-2

PRELIMINARY
SITE PLAN

ISSUE DATE:
NOV. 9, 1995
REVISION DATE:
DEC. 20, 1996

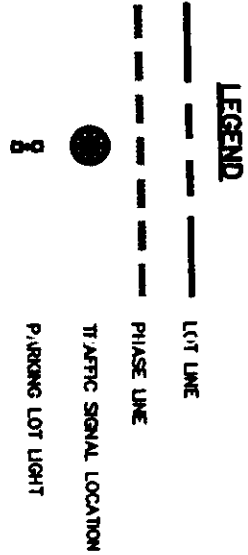
LAYTON MARKET CENTER

LAYTON, UTAH

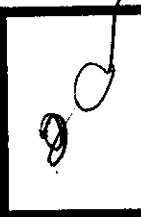


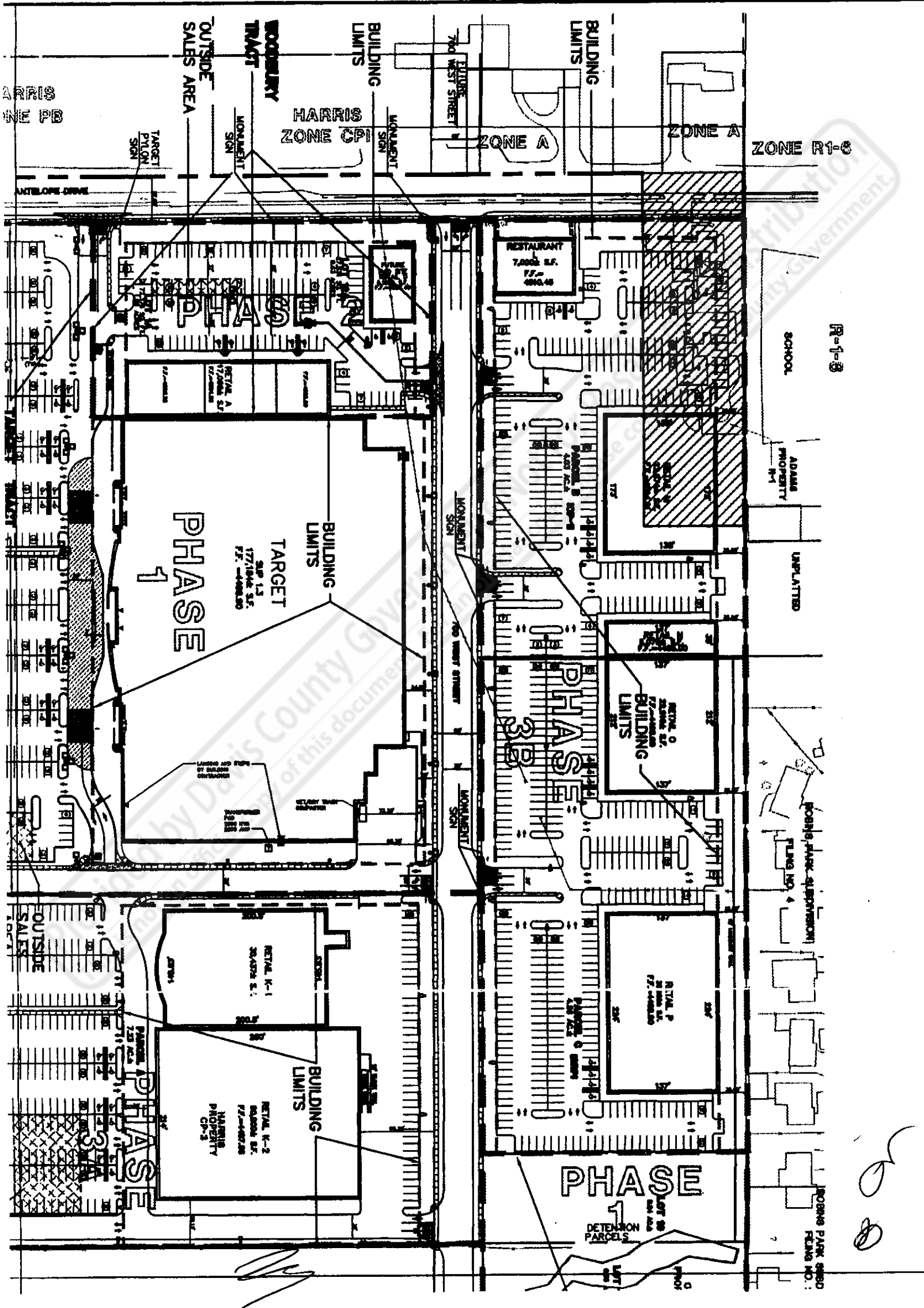
HERITAGE PLACE AT LAYTON HILLS

WOODBURY TRACT - LOT 1A, LOTS 3-9, 12A
 TARGET TRACT - LOT 2A, LOTS 10 & 11
 EXPANSION PROPERTY - IS SHOWN AS
 "PHASE 3A, 3B" AND "ADAMS PROPERTY"
 DETENTION POND PARCELS - LOTS 10 & 11
 ADAMS PROPERTY, PHASE 3B, AND LOTS
 10 & 11 ARE NOT PART OF THE SHOPPING
 CENTER.



LYNN S. WOODBURY AND ASSOCIATES, ARCHITECTS
 2677 EAST PARLEYS WAY
 SALT LAKE CITY, UTAH 84109
 (801) 485-7770





1305042 2096 1492A

C:\DRAWINGS\978-X\978-ALT.X Fri Dec 20 14:40:42 1996 PLOTTED JIM S

