

SUBDIVISION
AGREEMENT

THIS AGREEMENT made this 17th day of May, 2005, by and between 370 LLC, a Nebraska limited liability company, and its successors and assigns (hereinafter referred to as "Developer"), SANITARY AND IMPROVEMENT DISTRICT NO. 267 of Sarpy County, Nebraska, (hereinafter referred to as "District") and the CITY OF PAPIILLION, a municipal corporation, (hereinafter referred to as "City"),

WITNESSETH:

WHEREAS, Developer is the owner of the parcel of land described in Exhibit "A" attached hereto and hereinafter referred to as the "area to be developed", which are to be developed is within City's zoning and platting jurisdiction; and

WHEREAS, Developer has requested City to approve a specific platting of the area to be developed, said area to be developed; and

WHEREAS, Developer wishes to connect the system of sewers and water to be constructed by the District within the area to be developed with the sewer and water system of the City; and

WHEREAS, Developer and City wish to agree upon the manner and the extent to which public funds may be expended in connection with public improvements serving the area to be developed and the extent to which the contemplated public improvements specially benefit property in the area to be developed and adjacent thereto, and to what extent the costs of the same shall be specially assessed.

NOW, THEREFORE, IT IS MUTUALLY AGREED AS FOLLOWS:

I.

Developer and City agree that the credit of the District created by Developer shall be used for the construction of the public improvements within the area to be developed described in Exhibit "A" according to the Source & Use of Funds attached as Exhibit "H".

II.

It is agreed that the credit or funds of the District created by Developer shall not be used for construction of any improvements or facilities within the area to be developed except those specified in Exhibit "H". By way of specification and not by way of limitation, the parties agree that the District shall not incur any indebtedness or otherwise involve its credit or expend any of its funds in the construction or other acquisition or improvement without approval by Resolution of the City Council.

III.

Developer and City agree that the cost of all public improvements constructed by the District within the area to be developed (Exhibit "A"), as authorized by Exhibit "H", shall be generally defrayed as follows, unless Exhibit "H" specifically allows for a modified allocation.

- A. 100% of the entire cost of grading street right-of-way including intersection shall be paid by special assessment against the property within the District.
- B. 100% of the entire cost of all sanitary sewer lines and water mains located within the District will be paid by special assessment against the property specially benefited. No portion of the cost of sanitary sewers and water mains shall be borne by general obligation of the District; provided, however, that for sanitary sewers in excess of 8 inches and water mains in excess of 8 inches the cost in excess of the cost of 8 inch sanitary sewers and/or 8 inch water mains shall be borne by the general obligation of the District and any outfall sewer lines or water lines outside the District boundaries caused to be constructed by the District shall be borne by the general obligation of the District. Not less than 50% of capital facility charges paid to the City of Papillion shall be specially assessed against properties served.
- C. (1) 100% of the entire cost of all paving and street construction will be paid by special assessment against the property benefited, except that the cost of the paving and construction of street intersections shall be borne by the general obligation of the District and the cost of pavement thickness in excess of 5 inches for reinforced concrete or 6 inches for plain concrete shall be borne by the general obligation of the District and the cost of pavement width in excess of 25 feet exclusive of curb and gutters shall be borne by the general obligation of the District. The cost for curb and gutters are incidental to paving and shall not be considered separately for purposes of assessment. Street signs shall be purchased from City and installed by District. Cost of street signs and installation may be borne by the general obligation of the District.

(2) 100% of the entire cost of all storm sewer and appurtenances shall be borne by general obligation of the district: provided, however, that for storm sewers in excess of 48 inches inside diameter the difference in cost between the actual storm sewer constructed and a 48 inch storm sewer shall be specially assessed against the property within the District. Difference in cost shall include a proportionate share of the entire cost as hereinafter described in Paragraph IV. For improved channels, the cost of constructing the channel and appurtenances shall be considered as the cost of storm sewer in excess of 48 inches. Culvert crossings perpendicular to street centerlines

may be generally obligated for a length not exceeding the width of the right-of-way, plus six times the vertical distance between the centerline of the pavement and the invert elevation of the box culvert.

- D. The cost of contract charges paid to Omaha Public Power District for lighting of public streets shall be paid out of the general fund of the District.
- E. All contract charges for underground power or natural gas authorized to be paid by District to the Omaha Public Power District or to any public gas utility by the provisions of Exhibit "H", including both the basic charges and refundable charge, together with all other charges as fall within the definition of entire cost as defined in Paragraph IV-A, including all penalties and default charges, and are allocable to such contract charges, shall be specially assessed against property within the area to be developed. Any refund of the refundable portion of the underground electrical service charge for a particular lot which shall be made by Omaha Public Power District to District or its successors shall be credited as follows:
 - 1. If refund is prior to the levy of special assessments for underground electrical service, said refund shall be credited as a reduction in the total cost of the underground electrical service to be levied against said lot.
 - 2. If refund is after the date of levy of special assessments for underground electrical service, said refund shall be credited as a payment on the balance owing on the special assessment levied against said lot in connection with underground electrical service for said lot.
 - 3. If refund is after the date of levy and payment in full of special assessment, said refund shall be repaid to persons paying the special assessment.
- F. Pursuant to Chapter 170, Subdivision of Land, Section, Section 170-20 of the Code of the City of Papillion, fire hydrants shall be provided by the subdivider. The type of hydrant and control valves and the location of the hydrant must be approved by the fire chief.

There shall be installed in the subdivision, prior to the issuance of any occupancy permit for any structure built in said subdivision, civil defense sirens and a number, type and specifications as determined by the fire chief.

The siren must be capable of sounding the severe weather and attack warning. The number, type and specifications for the civil defense sirens shall be determined by the fire chief in consultation with the director of the Sarpy County Civil Defense Agency. If existing coverage is available,

subdivision will pay its pro-rata share of siren cost based on acres of coverage as determined by the City Engineer.

IV.

For the purposes of Paragraph III, supra, and Paragraph VIII, infra, the following words and phrases shall have the following meanings:

- A. "Entire cost" of a type of improvement shall be deemed to include all construction costs, engineering fees, attorney fees, testing expenses, penalties, forfeitures and default charges, and miscellaneous costs such as interest on warrants to date of levy of special assessments and fiscal agent's warrant fees and bond fees.
- B. "Property benefited" shall mean property benefited from the improvement and situated either (1) within the platted area in which the improvement is situated or (2) outside such platted area in which such improvement is situated but within the corporate limits of the District and within 300 feet of said platted area. No special assessments shall be assessed against any outlot nor against any other lot, part of lot, lands and real estate upon which cannot be built a structure compatible with the zoning regulations of said lot except to the extent of the special benefit to said lot, part of lot, lands and real estate by reason of such improvement.
- C. "Street intersections" shall be constructed to mean the area of the street between the returns of the various legs of the intersection, but in no case shall said area extend in any direction beyond a straight line drawn perpendicular from the centerline of the street to the adjacent lot corner.

V.

City covenants and agrees:

- A. That should City annex the entire area of the District created by Developer prior to the District's levy of special assessments for the improvements authorized in Paragraph I hereof, supra, and thereby succeed to said District's power to levy special assessments, that City will levy same in accordance with Paragraph III, hereof, supra.
- B. That the District created by Developer may connect its sanitary sewer system and water system to the sanitary system and water system of the City pursuant to the terms and conditions of a sewer and water connection agreement of even date between City and said District.
- C. Any time subsequent to when the Sanitary Improvement District is put on

written notice by the City of Papillion that the City is conducting an investigation to determine the feasibility of annexing said Sanitary Improvement District boundaries, then the Sanitary Improvement District Shall make no further expenditures for any purpose, except for those expenditures previously authorized by a duly approved budget, without first obtaining permission of the City of Papillion, which permission must be granted by a majority vote of those members elected or appointed to the Papillion City Council.

- D. Sanitary Improvement District shall furnish to the City of Papillion copies of all proposed budgets and published notices of meetings to consider said budget and expenditures at least thirty (30) days prior to the Board of Trustee's meeting to consider and/or adopt a proposed budget.
- E. District warrants that it will provide City with a minimum of thirty (30) days prior written notice of the filing of any petition Under Chapter 9 of the United States Bankruptcy Code and the District shall also provide to the City actual prior notice of any hearings held in the United States Bankruptcy Court pursuant to any bankruptcy filings.

VI.

Developer and Board to Trustees covenant and agree that the District created by Developer will:

- A. Abide by and incorporate into all of its construction contracts and provisions required by the regulations of the City pertaining to construction of public improvements in subdivisions and testing procedures therefor.
- B. Prior to commencement of construction of improvements, said District will obtain and file of record permanent easements for all sanitary, water and storm sewer lines as determined by City's engineer. Said easements shall be in form satisfactory to the City's attorney and City's engineer.
- C. Prior to the District publishing notice to levy special assessments, District agrees to submit to City:
 - 1. A schedule of the proposed special assessments.
 - 2. A plat of the area to be assessed.
 - 3. A full and detailed statement of the entire cost of each type of improvement, which statement or statements shall separately show:
 - (a) The amount paid to contractor.

- (b) A separate itemization of all other costs of the project, including but not limited to engineering fees, attorney's fees, testing expenses, publication expenses, estimated interest on all warrants to date and the estimated fiscal agent's levy of special assessments, warrant fees and bond fees. District agrees to obtain written approval of City of proposed assessment schedules prior to advertising for any hearing of District to be held for the purpose of equalizing or levying special assessments against property benefited by any improvements constructed by District.
- D. The District shall make its annual tax levy in any amount sufficient to timely pay the indebtedness and interest thereon for public improvements but in no event shall said levy be less than the current tax levy assessed by the City of Papillion on the taxable real estate within the City limits.
- E. The District shall provide the City ten (10) days notice of its annual budget meeting along with its tax request.

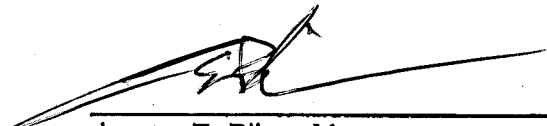
VII

It is mutually agreed that the District shall pay a fee of one percent (1%) of construction cost to the City to cover engineering, legal and other miscellaneous expenses incurred by the City in connection with any necessary review of plans and specifications in connection with the construction projects performed by Sanitary and Improvement District No. 267. The fee shall be allocated to special assessments and general obligation bonds in the same proportion as the costs of the particular construction project.

VIII

The parties mutually agree that the City shall have the right to annex all or part of the District at any time upon its sole discretion and District and Developer or its successors and assigns agree not to protest said annexation.

CITY OF PAPHILLION, A Nebraska
Municipal Corporation



James E. Blinn, Mayor

Attest:

Jennifer Niemier
Jennifer Niemier, City Clerk



Attest:

[Signature]
Authorized Corporate Officer

370 LLC, a Nebraska limited liability company,
Developer

By: Papillion 370 LLC

[Signature]
By: JAY LERNER, Manager
Authorized Corporate Officer

SANITARY AND IMPROVEMENT
DISTRICT NO. 267 OF SARPY
COUNTY, NEBRASKA

[Signature]
By: JAY LERNER
Chairperson

Attest:

[Signature]
Clerk

Legal Description

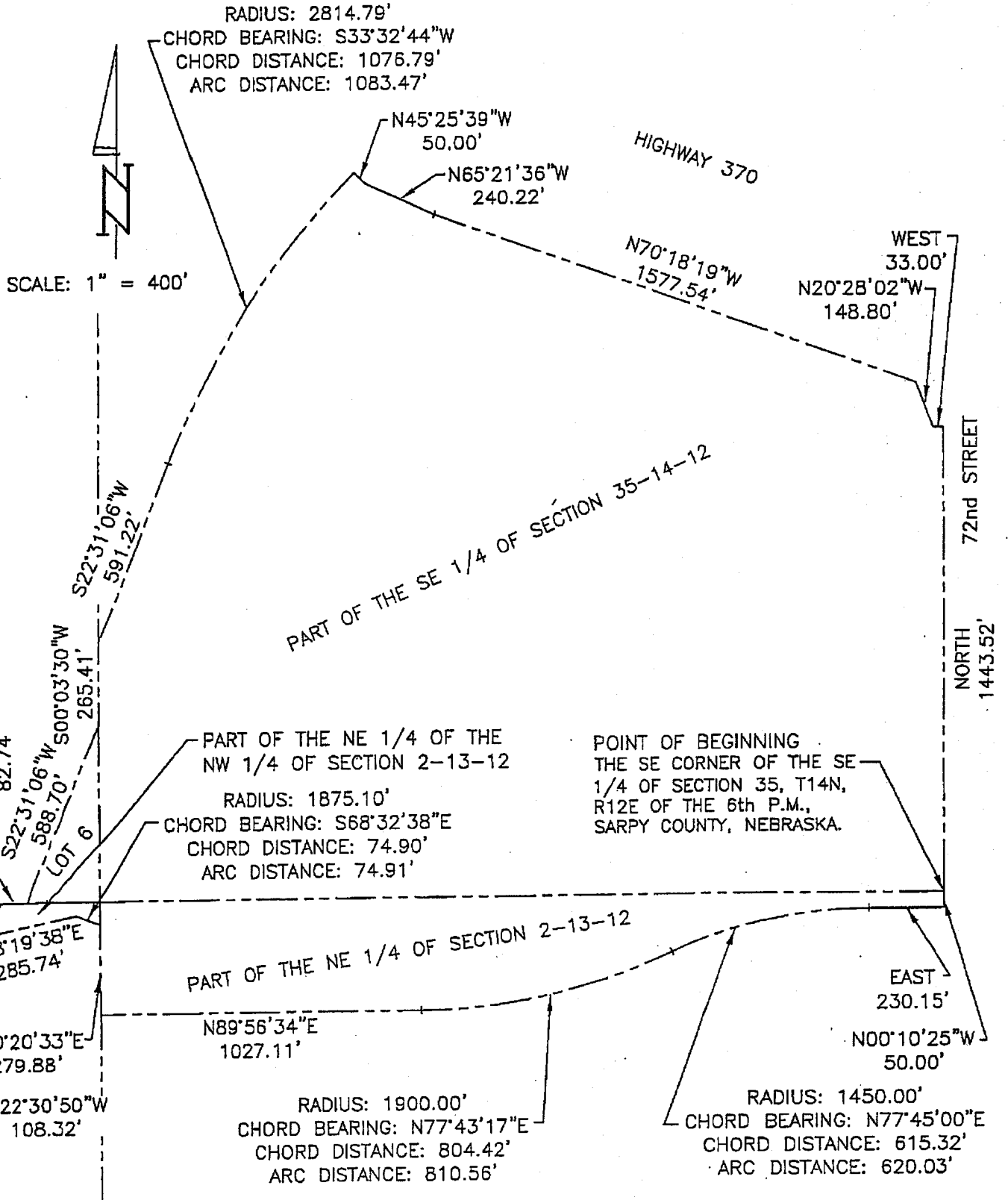
**SANTARY AND IMPROVEMENT DISTRICT NO. 267
OF SARPY COUNTY, NEBRASKA
DISTRICT BOUNDARY**

THAT PART OF THE SE 1/4 OF SECTION 35, T14N, R12E OF THE 6th P.M., SARPY COUNTY, NEBRASKA, LYING EAST OF THE ABANDONED CHICAGO ROCK ISLAND AND PACIFIC RAILROAD RIGHT OF WAY AND SOUTH OF HIGHWAY 370, TOGETHER WITH PART OF THE NORTH 1/2 OF THE NE 1/4 OF SECTION 2, T13N, R12E OF THE 6th P.M., IN SAID SARPY COUNTY, TOGETHER WITH PART OF THE NE 1/4 OF THE NW 1/4 OF SAID SECTION 2 AND LOT 6, HUNTINGTON PARK, A SUBDIVISION IN SAID SARPY COUNTY, ALL MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SE CORNER OF SAID SE 1/4; THENCE NORTH (ASSUMED BEARING) 1443.52 FEET ON THE EAST LINE OF SAID SE 1/4 TO THE SOUTHERLY LINE OF HIGHWAY 370; THENCE WESTERLY ON THE SOUTHERLY LINE OF SAID HIGHWAY 370 ON THE FOLLOWING DESCRIBED 5 COURSES; THENCE WEST 33.00 FEET; THENCE N20°28'02"W 148.80 FEET; THENCE N70°18'19"W 1577.54 FEET; THENCE N65°21'36"W 240.22 FEET N45°25'39"W 50.00 FEET TO THE EASTERLY LINE OF SAID ABANDONED CHICAGO ROCK ISLAND AND PACIFIC RAILROAD RIGHT OF WAY; THENCE SOUTHWESTERLY ON THE EASTERLY LINE OF SAID ABANDONED CHICAGO ROCK ISLAND AND PACIFIC RAILROAD RIGHT OF WAY ON A NONTANGENT 2814.79 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARING S33°32'44"W, CHORD DISTANCE 1076.79 FEET, AN ARC DISTANCE OF 1083.47 FEET; THENCE S22°31'06"W 591.22 FEET ON THE EASTERLY LINE OF SAID ABANDONED CHICAGO ROCK ISLAND AND PACIFIC RAILROAD RIGHT OF WAY TO THE WESTERLY LINE OF SAID SE 1/4; THENCE S00°03'30"W 265.41 FEET ON THE WESTERLY LINE OF SAID SE 1/4 TO THE NORTHERLY CORNER OF SAID LOT 6; THENCE S22°31'06"W 588.70 FEET ON THE WESTERLY LINE OF SAID LOT 6 TO THE SW CORNER THEREOF; THENCE S89°54'33"W 82.74 FEET ON THE NORTH LINE OF THE NW 1/4 OF SAID SECTION 2 TO THE EASTERLY LINE OF THE ABANDONED CHICAGO ROCK ISLAND AND PACIFIC RAILROAD RIGHT-OF-WAY; THENCE S22°30'50"W 108.32 FEET ON THE EASTERLY LINE OF THE ABANDONED CHICAGO ROCK ISLAND AND PACIFIC RAILROAD RIGHT-OF-WAY; THENCE N78°19'38"E 285.74 FEET; THENCE SOUTHEASTERLY ON A NONTANGENT 1875.10 FOOT RADIUS CURVE TO THE RIGHT, CHORD BEARING S68°32'38"E, CHORD DISTANCE 74.90 FEET, AN ARC DISTANCE OF 74.91 FEET TO THE WESTERLY LINE OF THE NE 1/4 OF SAID SECTION 2; THENCE S00°20'33"E 279.88 FEET ON THE NONTANGENT WESTERLY LINE OF SAID NE 1/4; THENCE N89°56'34"E 1027.11 FEET; THENCE NORTHEASTERLY ON A 1900.00 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARING N77°43'17"E, CHORD DISTANCE 804.42 FEET, AN ARC DISTANCE OF 810.56 FEET; THENCE NORTHEASTERLY ON A 1450.00 FOOT RADIUS CURVE TO THE RIGHT, CHORD BEARING N77°45'00"E, CHORD DISTANCE 615.32 FEET, AN ARC DISTANCE OF 620.03 FEET; THENCE EAST 230.15 FEET TO THE EASTERLY LINE OF SAID NE 1/4; THENCE N00°10'25"W 50.00 FEET ON THE EASTERLY LINE OF SAID NE 1/4 TO THE POINT OF BEGINNING.

CONTAINING 126.78 ACRES MORE OR LESS.

SHEET 1 OF 2

EXHIBIT A (2 of 2)



SHEET 2 OF 2

S.I.D. 267, SARPY COUNTY
 THOMPSON, DREESSEN & DORNER, INC., 10836 OLD MILL ROAD, OMAHA, NEBRASKA 68154, 402-330-8860

TD2 JOB NO.: 738-140-SID

DATE: FEB. 4, 2005

PAPILLION PROMENADE

Source and Use of Funds

Original Date: 1/18/05 (Preliminary Plat Submitted)
 Revised Date: 1/31/05
 Revised Date: 2/11/05 (For Jay to Reflect Developer Private Costs)
 Revised Date: 3/21/05 Final Plat Submittal
 Revised Date: 4/29/05 (Based on Grading Bids and meeting with the City on 3/13/06)
 Revised Date: 5/10/05 (City Admin., City Engineer & City Finance Dept)
 Revised Date: 5/13/05 (City Admin., City Engineer, City Finance and Developer)

	MALL SID S.A.	MALL SID G.O.	DEVELOPER PRIVATE	City	County	KATZ WEST SID? S.A. or private	KATZ WEST SID? G.O.	TOTAL
INTERIOR INFRASTRUCTURE								
Removed Grading from GO to Private Developer	\$3,991,132	\$4,610,704	\$256,143 (7)					\$8,857,979
Removed Interior Public Road Grading from GO to Private Deve	(\$1,347,404)	(\$1,347,404) (6)	\$1,347,404					\$0
DRY DETENTION STORM WATER (Option Purchase Price)	(\$185,600)	(\$139,600)	\$325,200 (6)					\$0
SCHRAM ROAD 72ND TO 78TH (2)	\$753,461	\$2,041,223	\$91,067 (8)					\$600,000
Remove culvert improvements	(\$185,010)	(\$185,010)	\$370,020 (6)					\$2,885,751
Payment to Shadow Lake for dem construction	\$631,000							\$0
72ND STREET (North Leg) (1)(5)			\$289,317	\$32,000	\$1,476,176			\$371,317
72ND STREET (South Leg to end of taper) (1)(5)	\$521,679		\$338,432					\$2,857,966
Removed Grading from GO to Private Developer	(\$200,469)	(\$200,469)	\$400,930 (6)					\$0
HIGHWAY 370 (@ 75th St & 72nd St.)		\$612,012						\$612,012
OLSON DRIVE (Car Wash to Mall West Prop. Line)(5)								\$191,074
SCHRAM ROAD 78TH TO 84TH (3)								\$1,778,669
SCHRAM ROAD WEST OF 84TH (4)(5)				\$181,074	\$725,318	\$240,659	\$484,666	\$1,778,669
84TH STREET (Gold Coast to Schram) (5)				\$328,026	\$67,996			\$135,960
GRANDVIEW ROAD (existing to Schram)				\$67,996	\$585,800			\$1,171,600
84TH ST (@HWY 370, SB LT lane 230')				\$585,800				\$69,608
HWY 370, (@Gold Coast)			\$16,674			\$69,509		\$16,674
CAPEHART ROAD (72nd to 84th)				\$76,074				\$76,074
72ND STREET (South end of taper to Capehart)				\$640,307				\$640,307
86TH STREET (Lincoln to Hwy 370) (4)				\$477,489				\$477,489
CEDARDALE @ 72ND STREET (West Leg) (5)				\$560,000				\$1,118,989
GRADING CREDIT				\$99,500				\$99,500
Special Amenities	\$722,501		(\$722,501)					
(City's obligation is 50% of actual construction costs-not to exceed \$2,459,318 including Schram Road landscaping/fencing/lighting)	\$2,458,318							
TOTAL	\$4,695,197	\$9,693,968	\$2,712,686	\$1,639,468	\$4,633,084	\$300,156	\$484,666	\$24,359,215

PROJECT VALUATION \$180,560,200
 G.O. DEBT/VALUE RATIO 5.37%
 TOTAL CITY DEBT/VALUE RATION 6.44%

Notes: (1) 72nd Street work-(ROW Acquisition on E. side, N. of 370 by CITY) Work N. of 370 all SID. Work S. of 370 1/2 County 1/2 SID. All SID portions 1/2 G.O. 1/2 Special Assessment)
 (2) Schram Road 72nd to 78th-(ROW by Developer. Pavement Work. All SID portions 1/2 G.O. 1/2 Special Assessment. Slurm work all G.O.)
 (3) Schram Road 78th to 84th-(ROW Acquisition by CITY. Paving work 1/2 County 1/4 assessed to N. Prop. Owner 1/4 G.O. of N. Prop. Owner. Slm work 1/2 County 1/2 G.O. N Prop Owner)
 (4) Schram Road west of 84th-(City/County Project)
 (5) ROW Cost was estimated @ \$40,000/AC. City or County to acquire ROW for Olson Dr. Schram Rd. W of 78th, E 1/2 of 72nd St. S. of 370, all of 72nd St. N. of 370
 (6) Mall GO & SPECIAL ASSESSMENTS reduced and reallocated to Developer Private
 (7) Relocated Sanitary Sewer Outfall
 (8) 10.8 acre easement contribution to Shadow Lake will result in a reduction of \$249,400

Addendum to Source in Use of Funds

Description	Approx Quantity	Unit	Unit Price	(including soft costs)
Public Roads				
Interior Road Decorative Crosswalks	8	EA	\$ 10,000.00	\$ 108,000.00
Interior Road Public Landscaping	88,000	SF	\$ 3.50	\$ 415,800.00
Interior Road Public Irrigation	68,000	SF	\$ 1.50	\$ 178,200.00
Interior Public Road Sidewalks	40,000	SF	\$ 2.50	\$ 135,000.00
Total				\$ 837,000.00
Main street (public access easement)				
Hardscape	75,000	SF	\$ 15.00	\$ 1,518,750.00
Seat Walls	660	LF	\$ 200.00	\$ 175,600.00
Furniture/Pots/Ashtrays	36	EA	\$ 800.00	\$ 42,525.00
Fireplace (or other pedestrian amenity)	3	EA	\$ 30,000.00	\$ 121,500.00
Total				\$ 1,858,275.00
Highway 370 and 72nd Street Improvements				
370 Frontage landscaping (including retention)	50,000	SF	\$ 2.50	\$ 168,750.00
72nd frontage landscaping	28,000	SF	\$ 2.50	\$ 94,500.00
Total				\$ 263,250.00
Schram Road Improvements				
Decorative Lighting	3500	LF	\$ 75.00	\$ 262,500.00
Landscaping/Trails/Sidewalks	3500	LF	\$ 113.00	\$ 395,500.00
Decorative Fencing	3500	LF	\$ 65.00	\$ 227,500.00
Total				\$ 885,500.00
Estimated Total Amenities Costs				\$ 3,844,025.00