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REC'D FOR BONNEVILLE TITLE COMPANY, INC

1 thru 12 Clinton Towne Center  
DEVELOPMENT AGREEMENT  
14-266-0001 thru 0012

10-22-98

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THIS DEVELOPMENT AGREEMENT ("Development Agreement") is entered into on October 22 1998, between SB Clinton L.C., a Utah limited liability company ("First Party"), and Albertson's, Inc., a Delaware corporation ("Albertson's").

**1. Recitals.**

1.1 Albertson's is the Owner of Parcels 2 and 7 and First Party is the Owner of Parcels 1, 3, 4, 5, 6, 8, 9, 10, 11 and 12. The Parcels are located at the northwest corner of the intersection of 2000 West Street and 1800 North Street in the City of Clinton, County of Davis, State of Utah, as shown on Exhibit "A" and more particularly described in Schedule I attached hereto and made a part hereof. Parcels 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 are hereinafter collectively referred to as the "Shopping Center." Parcel 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11 or 12 is sometimes referred to as a "Parcel."

1.2 The parties desire to provide for the construction of an integrated retail sales complex within the Shopping Center. The development and construction of the Shopping Center may be done in multiple phases. The area shown as "Phase 1" on Exhibit "A" will be developed first, and those phases of the Shopping Center not included within Phase 1 (shown on Exhibit "A" as "Phase 2" and sometimes referred to herein as "Future Phases") may be developed at such later time (except as otherwise specifically provided in this Development Agreement) as the Owner thereof elects.

**2. Construction of Buildings.**

2.1 **Construction of Albertson's Building.** Albertson's shall commence construction of a building having approximately 57,000 square feet of Ground Floor Area

("Albertson's Building") within the Building Area of Parcel 2 as shown on Exhibit "A" at such time as Albertson's elects, in its sole and absolute discretion.

**2.2 Construction of First Party's Building.**

(a) First Party shall commence construction of buildings for retail shops having approximately 13,000 square feet of Ground Floor Area ("First Party's Building") within the Building Area of Parcel 1 as shown on Exhibit "A" at such time as First Party elects, in its sole and absolute discretion, but in no event later than four (4) months after the date Albertson's commences construction of Albertson's Building. The construction of First Party's Building to shell stage (including exterior finishes and sidewalks) shall be completed and the improved Common Area cleared of all construction materials and debris, construction sheds/trailers and temporary utilities and facilities no later than thirty (30) days prior to the date Albertson's plans to first open Albertson's Building for business, and First Party shall exercise its best efforts to lease First Party's Buildings as soon as reasonably possible after such date.

(b) Neither party shall have the right to make any attachment whatsoever to another party's building (such other party being referred to in this subparagraph only as "Other Party") without such Other Party's prior written approval, which may be withheld in such Other Party's sole and absolute discretion. If the Other Party approves the requested attachment, the party making the attachment shall, prior to making such attachment, obtain the Other Party's prior written approval (which may be withheld in its sole and absolute discretion) of the drawings and specifications detailing such attachment. Any such attachment shall be at the sole cost and expense

of the party making the attachment and shall be in strict conformance with the approved drawings and specifications detailing the same.

**2.3 Building Architects.** Each party, at such party's expense, shall cause the plans and specifications for its building(s) to be prepared by an architect of its choice.

**3. Construction of Identification Sign and Center Pylon Sign(s).** First Party shall construct and install the Shopping Center Identification Sign and the Center Pylon Sign structure(s) in the location(s) shown on Exhibit "A" in accordance with plans and specifications prepared by the Project Architect (as defined in Section 4.1) and approved in writing by Albertson's ("Sign Plans and Specifications"). The Sign Plans and Specifications shall be submitted to Albertson's as part of the Construction Documents (as defined in Section 4.2). The Shopping Center Identification Sign and the Center Pylon Sign structure(s) shall be constructed and installed by the Site Contractor (as defined in Section 7.2). The Shopping Center Identification Sign and the Center Pylon Sign structure(s) shall be constructed in accordance with the applicable time frames set forth in the Construction Schedule attached hereto as Exhibit "C" and made a part hereof.

**4. Project Architect/Design.**

**4.1 Building Design Drawings.** BBSA Architects shall be the project architect for the development of the Shopping Center ("Project Architect"). The Project Architect shall establish the architectural theme of the Shopping Center in consultation with First Party and Albertson's and prepare the building exterior design (including, without limitation, building elevations, materials, color, canopy sections and other pertinent details) for each building in the Shopping Center ("Building Design Drawings"). The Project Architect shall submit the Building Design Drawings

for the parties' written approval within sixty (60) days after the date Albertson's takes title to Parcel 2. The Building Design Drawings shall be approved or disapproved (with reasons specified) by the parties within thirty (30) days after receipt, which approval shall not be unreasonably withheld or delayed. The exterior of each building or other improvement constructed in the Shopping Center shall conform with the Building Design Drawings approved pursuant to this Section 4.1. The Building Design Drawings shall not be modified without the parties' prior written approval.

4.2 **Construction Documents.** The Project Architect shall (a) prepare the Sign Plans and Specifications (at the same time the Project Architect prepares the Building Design Drawings), (b) prepare and coordinate the drawings and specifications setting forth in detail the requirements for construction of the Site Work (as defined in Section 6.1) and the location of the staging areas required for the construction of Albertson's Building and First Party's Building, and (c) prepare the bidding information, bidding forms, conditions of the construction contract and form of contract between First Party and the Site Contractor (the items referenced in clauses [a], [b] and [c] being collectively defined as the "Construction Documents"). The Construction Documents shall provide for the development of the entire Shopping Center Common Area (provided, however, that the Construction Documents for Phase 1 need only provide for the development of Parcels 1 through 7) and shall conform to the Site Development Criteria attached hereto as Exhibit "B" and made a part hereof unless otherwise approved in writing by Albertson's. The Construction Documents shall require that the Shopping Center be developed in accordance with the site plan attached hereto as Exhibit "A." In the event of any conflict between the site plan attached hereto as

Exhibit "A" and the Site Development Criteria attached hereto as Exhibit "B," Exhibit "A" shall control.

A complete set of Construction Documents shall be submitted to the parties within sixty (60) days after the date Albertson's takes title to Parcel 2 and shall be subject to the parties' prior written approval or disapproval (with reasons specified) within thirty (30) days after receipt, which approval shall not be unreasonably withheld or delayed. The Sign Plans and Specifications shall also be subject to review and approval by the Consenting Owners. Albertson's approval of the Construction Documents, or any part thereof, shall not constitute a waiver of any rights or claims which Albertson's may have under this Development Agreement including, without limitation, any claim for failure of the Construction Documents, or any part thereof, to comply with Exhibit "A," "B," "C" or "D" or applicable governmental requirements or for failure of the Construction Documents, or any part thereof, to conform with any other part of the Construction Documents or with the separate building plans of the parties, any of which failure shall be corrected by First Party at First Party's sole cost and expense. The Construction Documents shall not be modified without the prior written approval of First Party and Albertson's.

**4.3 Project Architect's Contract.** First Party shall enter into a contract (using AIA Document B141) ("Project Architect's Contract") with the Project Architect covering the work described in this Article 4. The Project Architect's Contract will require the Project Architect, among other things, to: (a) coordinate with the parties' separate building architects so that the Shopping Center will be developed in a uniform and harmonious manner; (b) coordinate and subcontract all services (including, without limitation, civil engineers, landscape architects and traffic

engineers, all of whom must be approved in writing by Albertson's) required for preparation of the Construction Documents; and (c) separately list and identify all fees and costs for work performed in connection with the design, construction and installation of the Center Pylon Sign structure(s) (excluding electrical hookup to the Common Area meter). The Project Architect's Contract shall be subject to Albertson's prior written approval or disapproval (with reasons specified) within thirty (30) days after receipt, which approval shall not be unreasonably withheld or delayed. Albertson's approval of the Project Architect's Contract, or any part thereof, shall not constitute a waiver of any rights or claims which Albertson's may have under this Development Agreement including, without limitation, any claim for failure of the Project Architect's Contract, or any part thereof, to comply with Exhibit "A," "B," "C" or "D" or applicable governmental requirements or for failure of the Project Architect's Contract, or any part thereof, to conform with the separate building plans of the parties, any of which failure shall be corrected by First Party at First Party's sole cost and expense. First Party shall provide Albertson's with a copy of the Project Architect's Contract within ten (10) days after it is executed by the Project Architect, but in no event later than thirty (30) days after the date Albertson's takes title to Parcel 2.

The Project Architect's Contract will also require the Project Architect to provide errors and omissions liability insurance on an "occurrence" basis, if available, and, if not, on a "claims made" basis in an amount not less than \$2,000,000 and shall require the foregoing insurance to remain in effect no less than two (2) years following the date of substantial completion of the Site Work. First Party shall provide Albertson's certificates evidencing such insurance coverage and, if

requested by Albertson's, copies of the insurance policy as well. The insurance may not be canceled except upon thirty (30) days prior written notice to First Party and Albertson's.

**5. Coordination of Building and Site Work Construction.**

**5.1 Cooperation.** The parties acknowledge that buildings in the Shopping Center (and the Fueling Facility improvements) may be constructed concurrently with the Site Work. Each party shall cooperate with the Site Contractor, the Project Architect and the other party (as well as such other party's building contractor[s], architect[s] and engineer[s]) in the construction of all buildings and improvements described herein so as not to cause any unreasonable increase in the other party's costs of construction or unreasonably interfere with any construction performed by the other party. First Party shall coordinate the work of the Project Architect and the Site Contractor (and all other persons involved in the design and construction of the Site Work) with the other party and its building contractor(s), architect(s) and engineer(s) to enable the Site Work and buildings in the Shopping Center (and the Fuel Center improvements) to be constructed within the time frames required hereunder (or, if time frames are not required for certain buildings, then within the parties' respective construction schedule[s] for their building[s]). Each party shall, upon request, provide the other party with copies of its construction schedule(s) together with those portions of its building plans and specifications reasonably required for the construction or coordination of construction of said party's building(s) and improvements with the Site Work and the construction of all other buildings and improvements in the Shopping Center.

**5.2 Additional Requirements.** The construction of all buildings and Common Area improvements in the Shopping Center (without regard to whether such construction is part of



Phase 1 or any Future Phase) shall be subject to the requirements set forth in Article 2 of the Declaration, in addition to the requirements set forth in this Development Agreement.

**6. Site Work.**

**6.1 Generally.** The Site Work for Phase 1 and all Future Phases shall be performed in accordance with the Construction Documents and in compliance with all governmental requirements. Unless specifically waived in writing by Albertson's, the "Site Work" shall be defined as, and shall include, without limitation, (a) all items set forth in this Article 6 required for development of the Shopping Center, (b) all items included in the Construction Documents (including, without limitation, construction and installation of the Shopping Center Identification Sign and the Center Pylon Sign structure[s]), and (c) all items required by governmental authority (and public and private utility companies) including, without limitation, all construction permits (but excluding building permits for Albertson's Building and First Party's Building) and all associated development impact fees assessed against the Shopping Center (as opposed to the individual buildings of the parties) and required as a condition for performance of the Site Work.

**6.2 Off-Site Work.** The off-site work shall include traffic control devices, street paving, striping, storm drains, curbs, curb cuts, gutters, median strips, sidewalks, street lights, and the installation of necessary utilities to the property line of the Shopping Center. The off-site work shall be commenced within thirty (30) days after the Site Contract (as defined in Section 7.2) has been signed.

**6.3 On-Site Work.** The on-site work shall include demolition, clearing and grubbing, excavation, fill, compaction, rough grading, and preparation of building pads. Without

limiting the foregoing, each building pad shall be prepared at the elevation and location (and in accordance with the building footprint) shown on the Construction Documents and compacted (including footings and foundations) in accordance with each Owner's soils tests. Unless otherwise designated by the Owner thereof, each building pad shall be graded to a level below the finished floor level of the building to be constructed thereon equal to the floor slab thickness plus drainage course, if any, as specified in the appropriate Owner's soils tests and to an accuracy of plus or minus 1/10th of a foot. If the finished floor level of any building is not shown on the Construction Documents, the Owner shall furnish such floor level upon written request.

A qualified survey engineer and geotechnical engineer retained by First Party (the cost of which shall be a Phase 1 Site Work Cost as defined in Section 10.1) shall certify in writing to the Owners that (a) each building pad is in compliance with the requirements of the appropriate Owner's soils tests, (b) each building pad has been prepared, compacted and graded in accordance with the requirements of the Owner thereof relating to (i) elevation, (ii) location (including building footprint), and (iii) compaction (including footings and foundations) and all other requirements set forth in this Section 6.3 and Exhibit "B," and (c) each building pad is ready for construction of the contemplated building. First Party shall deliver a copy of the certification and soils compaction results for Albertson's Building to Albertson's building contractor and to Albertson's Construction Manager.

The on-site work shall also include drainage improvements and the installation of building utilities (including sewers and fire protection lines with back flow prevention device with the cost of said back flow prevention device being allocated between the Owners of all buildings

serviced or to be serviced by said back flow prevention device on the basis of their respective Building Areas) from the exterior boundary property line of the Shopping Center to the individual building pads in the Shopping Center. The final hook-up of building utilities (including meters and all associated utility connection fees) shall be the responsibility of the individual building Owner. The utilities shall be brought to within five (5) feet of each building pad at a location designated by the Owner of the pad.

**6.4 Finished Common Area Work.** The finished Common Area work shall include the construction and installation of the Shopping Center Identification Sign and the Center Pylon Sign structure(s); fine grading and base; perimeter and retaining walls (if required); Common Area paving, striping, lighting, landscaping (including all associated irrigation lines and appurtenances); bumpers, curbs, gutters, storm drains and sewers, sidewalks (except sidewalks immediately adjacent to buildings); and the installation of all other Common Area utilities (including electrical hookup of the Shopping Center Identification Sign and the Center Pylon Sign(s) to the Common Area meter).

**6.5 Site Work on Parcel 7.** In the event Parcel 7 is developed as a Fuel Center as the parties currently contemplate, First Party shall construct the Site Work thereon in accordance with this Article 6; provided, however, that the Site Work shall not include (i) the pump island concrete slab, (ii) any above or below ground improvements related to fuel storage including, without limitation, fuel tanks, fuel tank enclosures or support structures to protect the fuel tanks, (iii) electrical conduit lines between the fuel pumps and the convenience store contemplated to be constructed on Parcel 7, (iv) pneumatic tube lines and data transmission lines between said

convenience store and Albertson's Building, or (v) surface improvements associated with the operation of the Fuel Center, such as monitoring stations, fuel line access ports or covers, or the fuel pump canopy. First Party acknowledges that, concurrent with First Party's performance of the Site Work, Albertson's may be in the process of constructing Albertson's Building on Parcel 2 and the convenience store building and Fuel Center Facilities on Parcel 7, including the pneumatic tubes, data transmission lines and other underground equipment running between Parcel 2 and Parcel 7. Consequently, to enable Albertson's to have an opportunity to complete its installation of said tubes, lines and underground equipment running between Parcel 2 and Parcel 7 (the "Connection Work") before First Party performs the Common Area paving and road base application work (collectively, the "Paving Work"), First Party agrees not to commence such Paving Work until it has given Albertson's not less than sixty (60) days prior written notice of the date such Paving Work will commence. If First Party gives proper notice pursuant to the immediately preceding sentence and Albertson's does not complete its Connection Work before First Party performs the Paving Work, Albertson's shall complete its Connection Work and all related repairs to the Paving Work performed by First Party at Albertson's sole cost and expense.

**6.6 Miscellaneous.** The Site Work shall include the construction and maintenance of such temporary electrical and water utilities and temporary access facilities as are reasonably required to provide continuous access for construction vehicles and equipment to Albertson's and First Party's building and staging areas. The Site Work shall not include the construction of delivery slabs, ramps or docks or Service Facilities for any building in the Shopping Center.

**6A. Phase Development.**

**6A.1 Categories of Site Work.** The Site Work shall be divided into two categories, the Phase 1 Site Work and the Future Phases Site Work. The Site Work shall be performed as set forth in this Development Agreement and at all times provided herein. First Party, at First Party's election, shall determine when it chooses to proceed with the Future Phases Site Work, subject, however, to the last sentence of Section 3.6 of the Declaration. First Party shall not construct any portion of any building on Parcel 1, 3, 4, 5, 6, 8, 9, 10, 11 or 12 unless First Party has performed all of the Site Work required by the Construction Documents (as part of the relevant phase of Site Work development) or is performing such Site Work in conjunction with the construction of a building on the applicable Parcel.

**6A.2 Phase 1 Site Work.** Exhibit "A" shows areas designated as "Phase 1" and "Phase 2". The "Phase 1 Site Work" shall consist of all of the following work:

- (a) Type A work, which shall include:
  - (1) All off-site work described in Section 6.2 that may be required in connection with the development of Parcels 1 through 7.
  - (2) Demolition, clearing and grubbing, excavation, fill, compaction, rough grading, and the installation of all underground utilities, including sewer, water, gas, power, and any site electrical work, including all electrical panels, on Parcels 1 through 7, in accordance with Section 6.3.
  - (3) Preparation of building pads on Parcels 1 through 7, in accordance with Section 6.3.

- (4) All drainage facilities on Parcels 1 through 7, in accordance with Section 6.3.
- (5) The installation of building utilities (in accordance with Section 6.3) from the exterior boundary property line of the Shopping Center to the individual building pads on Parcels 1 through 7.
- (6) All work required by governmental authority (and public and private utility companies) including, without limitation, all construction permits and all associated development impact fees assessed against Parcels 1 through 7 or any part thereof (as opposed to building permits and development impact fees assessed against the individual buildings of the parties when constructed) and required as a condition for performance of the Site Work (said construction permits and associated development impact fees being hereinafter collectively referred to as the "Development Impact Fees").
- (7) The construction and maintenance of such temporary access facilities as are reasonably required to provide continuous access for construction vehicles and equipment to Albertson's building and staging areas.
- (8) All finished Common Area work described in Section 6.4 on Parcels 1 through 7 (including, without limitation, electrical hookup of the Shopping Center Identification Sign and the Center Pylon Sign(s) to the Common Area meter).
- (9) All Site Work required in connection with the development of a Fuel Center on Parcel 7, subject to the limitations set forth in Section 6.5.

(b) Type B work, which shall, anything in Section 6A.2(a) to the contrary notwithstanding, include all off-site work and on-site work related to extension of storm drain and sewer line connections to Phase 1 of the Shopping Center (First Party and Albertson's currently understand that the nearest connections are approximately one-half [1/2] mile from the Shopping Center).

(c) Type C work, which shall include the full completion of a sufficient part of the Site Work (including parking facilities) within the Future Phases as may be required to meet zoning restrictions, other governmental regulations or requirements, or which may be necessary or convenient to allow or permit (i) Albertson's to obtain all necessary licenses and permits for the construction of Albertson's Building and the operation of a supermarket in such building, and (ii) First Party to obtain all necessary licenses and permits for the construction of First Party's Building. The parties acknowledge that governmental authorities may require portions of the Future Phases areas to be fully completed to meet applicable requirements for parking. Such work shall be shown on the final Construction Documents. As used in this subparagraph, "full completion" may include, to the extent required by governmental authorities, all work described in Section 6.2A(b) in such areas and to the extent required by governmental authority to allow Albertson's to construct and operate its supermarket.

**6A.3 Future Phases Site Work.** The "Future Phases Site Work" shall consist of all Site Work not included within the Phase 1 Site Work. First Party and its successors and assigns shall pay one hundred percent (100%) of the cost of the Future Phases Site Work without reimbursement from Albertson's and, except as otherwise specifically provided herein, may determine

when to proceed with the Future Phases Site Work and may, at its option, have such work done by such contractors as it may select.

**6A.4 Construction Schedule.** The Phase 1 Site Work, and each portion thereof, shall be constructed in accordance with the applicable time frames set forth in the Construction Schedule. If construction of the Phase 1 Site Work, or any portion thereof, is not commenced or completed in accordance with the Construction Schedule, First Party shall take all steps necessary to cause construction of the Phase 1 Site Work or applicable portion thereof to come into compliance with the Construction Schedule (including, without limitation, hiring contractors to perform overtime work and additional days of work necessary to meet the time frames set forth in the Construction Schedule). First Party will notify Albertson's immediately in writing of any changes to the Construction Schedule caused by delays permitted under Article 8 (Force Majeure).

**7. General Contracting.**

**7.1 Bidding.** First Party shall put the Phase 1 Site Work out to open bid to at least five (5) general contractors concurrently with the bid for Albertson's Building or, if Albertson's Building is not put out to open bid, within thirty (30) days after First Party and Albertson's have approved the Construction Documents. All of the general contractors on the bid list shall be approved by First Party and Albertson's, which approval shall not be unreasonably withheld or delayed. All bidders shall be expressly required to list in their respective bids as a bid alternate (or to otherwise segregate) all of the work related to the construction and installation of the Center Pylon Sign structure(s) (excluding electrical hookup to the Common Area meter). The bidding package shall be limited to only the Phase 1 Site Work with all other work for which Albertson's is not to pay



First Party a portion thereof (i.e., all Future Phases Site Work) being bid separate and apart from the Phase 1 Site Work. Bidders shall be required to include within their Phase 1 Site Work bids a breakdown separately showing all Type A, Type B and Type C (if any) work. The bids shall be read aloud in a public opening and copies of the bids provided to Albertson's within one (1) day thereafter. After the lowest acceptable bid has been determined, Albertson's and First Party shall approve or disapprove the bid; provided, however, that Albertson's and First Party shall have no right to disapprove the bid if the bid, when added to the balance of the Phase 1 Site Work Costs (as defined in Section 10.1), does not cause Albertson's share of the Phase 1 Site Work Costs (including, *inter alia*, the Development Impact Fees) and the Center Pylon Sign Costs (as defined in Section 10.4) to exceed Eight Hundred Thousand Dollars (\$800,000.00). If the bid, when added to the balance of the Phase 1 Site Work Costs, causes Albertson's share of the Phase 1 Site Work Costs (including, *inter alia*, the Development Impact Fees) and the Center Pylon Sign Costs to exceed One Million Dollars (\$1,000,000.00) and either Albertson's or First Party does not approve the bid, First Party, Albertson's and the Project Architect shall work together to reduce the cost with, if requested by either First Party or Albertson's, the work being rebid in the manner set forth herein. The approved bidder's list of subcontractors (AIA Form G805) shall be subject to Albertson's prior written approval or disapproval (with reasons specified) within twenty-four (24) hours after Albertson's receipt of same.

7.2 **Site Contract/Change Orders.** Within ten (10) days after the parties approve the bid, First Party shall enter into a contract (using AIA Document A101) ("Site Contract") with the approved bidder ("Site Contractor") unless some reason for disqualification has occurred. First

Party shall provide Albertson's with a copy of the Site Contract along with the proof of insurance and bonds required under Sections 9.1 and 9.2, respectively. Any change order to the Site Contract must be submitted to Albertson's using AIA Document G701 and shall be subject to prior written approval or disapproval (with reasons specified) by Albertson's Project Manager. Albertson's approval of any change order, or any part thereof, shall not constitute a waiver of any rights or claims which Albertson's may have under this Development Agreement including, without limitation, any claim for failure of the change order, or any part thereof, to comply with Exhibit "A," "B," "C" or "D" or applicable governmental requirements or for failure of the change order, or any part thereof, to conform with the separate building plans of the parties, any of which failure shall be corrected by First Party at First Party's sole cost and expense.

8. Force Majeure. First Party and Albertson's shall each comply with the time periods in Section 2.1 (Construction of Albertson's Building), Section 2.2 (Construction of First Party's Building), Article 6 (Site Work) and Article 6A (Phase Development); provided, however, that said periods shall be extended for a period or periods of time equal to any period or periods of delay caused by strikes, lockouts, fire or other casualty, the elements or acts of God, refusal or failure of governmental authorities to grant necessary permits and approvals for the construction of the buildings contemplated hereunder (the parties agreeing to use reasonable diligence to procure the same), or other causes, other than financial, beyond their reasonable control (or with respect to the time periods in Article 6, beyond the reasonable control of the Site Contractor).

**9. Insurance/Bonds.**

**9.1 Insurance.** First Party shall require the Site Contractor (and each other general or prime contractor performing Site Work in phases other than Phase 1) to carry insurance relating to the Site Work in accordance with the requirements in Exhibit "D" attached hereto and made a part hereof for no less than two (2) years following the date of substantial completion of the Site Work.

**9.2 Bonds.** First Party shall cause to be retained a performance bond and labor and material payment bond on the Site Contractor (naming First Party and Albertson's as obligees) in the amount of the Site Contract (and on each other general or prime contractor performing Site Work in phases other than Phase 1, in the amount of the general or prime contract) to insure that the Site Work is constructed and paid for in accordance with the Construction Documents and this Development Agreement. In jurisdictions which require or permit the recording of performance bonds, notices of commencement, notices of completion, or similar documents (collectively, "Lien Documents"), First Party shall record the Lien Documents at First Party's expense and at such times as are required or permitted by law so as to minimize the exposure of the Owners and their Parcels to the filing of liens for any work done or materials furnished in connection with the design or construction of the Site Work or Center Pylon Sign(s). The performance and labor and material payment bonds shall be in the form of The American Institute of Architects Document A312 (December 1984 Edition) (or, such other form as is required by law or approved by Albertson's). First Party shall provide Albertson's with a copy of the performance and labor and material payment

bonds before Albertson's shall be obligated to make any payment to First Party under Article 10 (Payment of Costs).

**10. Payment of Costs.**

**10.1 Phase 1 Site Work Costs.** The "Phase 1 Site Work Costs" are defined as follows: (i) all costs incurred for the Phase 1 Site Work; (ii) the cost of insurance and performance and labor and material payment bonds provided under Article 9 (Insurance/Bonds) with respect to the Phase 1 Site Work; and (iii) architect's and engineer's fees (other than the Project Architect's Fees and fees of architects and engineers retained by the Project Architect, which fees are reimbursed under Section 10.2) for services rendered in preparation of the Construction Documents provided Albertson's has given prior written approval of the amount of said architect's and engineer's fees. The Phase 1 Site Work Costs shall not include any of the following: (a) Center Pylon Sign Costs (as defined in Section 10.4 and to be paid as provided therein); (b) the expense of interest or other overhead associated with construction of the Phase 1 Site Work or any financing related thereto, together with any interest or other penalty charged by the Site Contractor for delinquent payments under the Site Contract (unless Albertson's unjustifiably fails to make monthly progress payments to First Party under this Article 10); (c) any fees or costs for work not included in the Site Contract; (d) any fees or costs for work associated with any change order issued pursuant to the Site Contract unless the Owners have approved, in writing, both the change order and the allocation among the parties of the cost thereof; or (e) any fees or costs for work performed prior to the date of this Development Agreement.

**10.2 Allocation of Phase 1 Site Work Costs.** Albertson's proportionate share (as the Owner of Parcels 2 and 7) of the Phase 1 Site Work Costs shall be as follows:

- (a) With respect to the Type A work described under subparagraph (a) of Section 6A.2 -- 58.32% of such costs;
- (b) With respect to the Type B work described under subparagraph (b) of Section 6A.2 -- 50% of such costs (provided, however, that First Party shall pay all costs, without reimbursement from Albertson's, associated with the acquisition of all rights of way or easements associated with bringing the connecting lines described under subparagraph [b] of Section 6A.2 to the boundary line of the Shopping Center); and
- (c) With respect to the Type C work described under subparagraph (c) of Section 6A.2 -- none of such costs.

First Party's proportionate share of the Phase 1 Site Work Costs shall be all sums not paid by Albertson's. First Party shall pay all costs of the Type C work and all costs of the Future Phases Site Work without reimbursement from Albertson's.

**10.3 Monthly Progress Payments.** The Phase 1 Site Work Costs shall be paid on a monthly progress basis as follows:

- (a) First Party shall prepare all monthly pay requests to include the following:
  - (i) An Application and Certificate for Payment (ALA Document G702) executed by the Site Contractor and Albertson's Division Construction Manager showing the percentages and value of work completed during the payment period and stating that all

portions of the Phase 1 Site Work for which payment is requested have been completed in accordance with the Construction Documents and that all labor, materials and other items for which payment is requested have been paid in full with the exception of labor and materials supplied subsequent to the period covered by the last Application and Certificate for Payment;

(ii) Copies of all invoices, statements, contracts, subcontracts and approved change orders relating to the Application and Certificate for Payment; and

(iii) A Continuation Sheet (AIA Document G-703).

(b) First Party shall obtain the Project Architect's and Albertson's Division Construction Manager's written approval of all monthly pay requests.

(c) First Party shall submit all monthly pay requests (approved pursuant to subparagraph [a] above) to Albertson's Project Manager and to the designated representatives of all other Owners.

(d) Within thirty (30) days after receiving a monthly pay request in the form required by subparagraphs (a)-(c) above, Albertson's shall pay First Party its proportionate share of the Phase 1 Site Work Costs (as set forth in Section 10.2), except that monthly progress payments shall in no event exceed ninety percent (90%) of the cost of the work performed up to the date of the applicable monthly pay request.

(e) Albertson's shall have the right to condition its payment of any monthly pay request upon receipt of (i) proof that First Party has paid its proportionate share of all amounts currently due to the Site Contractor, and (ii) lien releases from the Site Contractor and any laborers, materialmen or subcontractors who have filed liens or who provided labor, services or materials in

connection with the Phase 1 Site Work, for whom payment is requested or to whom payment has been made. Further, Albertson's shall not be obligated to make any payment under this Development Agreement until it has received all of the following items (provided, however, that the foregoing shall not in any event relieve First Party of its obligation to provide each of these items to Albertson's at the time required under this Development Agreement):

- (i) Copy of the Site Contract;
- (ii) Set of Construction Documents;
- (iii) Copies of insurance certificates evidencing the coverage required under Section 9.1;
- (iv) Copies of the performance bond and labor and material payment bonds required under Section 9.2; and
- (v) Copy of First Party's permit(s) for construction of the Phase 1 Site Work.

(f) Final payment (including payment of the ten percent [10%] retainage) shall not be due and payable except upon receipt of a properly executed Certificate of Substantial Completion (AIA Document G-704) or equivalent approved in writing by Albertson's Project Manager together with copies of as-built surveys and final releases of all mechanics' and materialmen's liens, filing of a notice of completion (if applicable), acceptance of the Phase 1 Site Work by the appropriate governmental authorities and compliance by the Site Contractor with all requirements for final payment set forth in the Construction Documents.

**10.4 Center Pylon Sign Costs.** All costs (including, without limitation, Project Architect's Fees (as defined in Section 10.5), but excluding the cost of electrical hookup to the Common Area meter) related to the design, construction and installation of the Center Pylon Sign structure(s) ("Center Pylon Sign Costs") shall be processed in accordance with the procedures set forth in Section 10.3; provided, however, that (a) such costs shall be billed only to those Owners responsible for such costs under Section 4.3 of the Declaration, and (b) the proportionate share of such costs to be borne by such Owner shall be determined under Section 4.3 of the Declaration.

**10.5 Project Architect's Fees.** The proportionate share of the Owner of each Parcel for Project Architect's Fees shall be the same as that set forth in Section 10.2 (a) for the Type A portion of the Phase 1 Site Work Costs. The Project Architect's Fees shall be paid by the Owner of each Parcel to First Party within thirty (30) days after receipt of request for payment and copies of all documents supporting same. The "Project Architect's Fees" shall include all fees incurred pursuant to the Project Architect's Contract provided, however, that (i) the Project Architect's Fees shall not include the expense of interest or other overhead associated with preparation of the Building Design Drawings or Construction Documents or any financing related thereto, together with any interest or other penalty charged by the Project Architect for delinquent payments under the Project Architect's Contract, (ii) all Project Architect's Fees attributable to the design, construction and installation of the Center Pylon Sign structure(s) (excluding electrical hookup to the Common Area meter, which costs shall be paid by the Owners of the Parcels in the proportionate shares set forth in Section 10.2 above) shall be borne only by the Owners responsible for such costs under Section 4.3



of the Declaration, and (iii) in no event shall any amount paid to First Party for reimbursement of Project Architect's Fees for any stage of the Phase I Site Work exceed the following:

<u>Stage</u>	<u>Percent</u>
Schematic Design (including Building Design Drawings)	20.00
Construction Documents	65.00
Bidding or Negotiation	5.00
Construction	10.00
<b>TOTAL</b>	<b>100.00</b>

**10.6 Inspection of Records.** The Owner of any Parcel may, upon thirty (30) days prior written notice to First Party, inspect First Party's records within eighteen (18) months after the date of substantial completion of the Phase I Site Work for the purpose of determining whether or not First Party's billings for Phase I Site Work Costs, Center Pylon Sign Costs and Project Architect's Fees (collectively, "Project Costs") were correct. Such inspection shall take place at First Party's General Offices or at such other location reasonably designated by First Party at any time during normal business hours. If the inspection reveals an overpayment of Project Costs, First Party shall reimburse the Owner of each Parcel its proportionate share of the overpayment within thirty (30) days after receipt of notice of the amount of such overpayment. If the inspection reveals an underpayment of Project Costs, the Owner of each Parcel shall reimburse First Party its proportionate share of the underpayment within thirty (30) days after receipt of proper billing under this Article 10. If the inspection reveals that First Party misstated Project Costs by a total of more than Ten Thousand Dollars (\$10,000.00), First Party shall reimburse the inspecting Owner for all costs reasonably incurred in making such inspection within thirty (30) days after receipt of notice of the amount of

such costs. First Party's billings shall be deemed correct if no Owner gives First Party written notice of a discrepancy within the eighteen (18) month period provided.

**10.7 No Waiver.** The execution of any Application and Certificate for Payment by Albertson's, the payment of any sum under this Development Agreement, or the use or occupancy of any portion of the site improvements described herein shall not constitute a waiver of any rights or claims which Albertson's may have under this Development Agreement including, without limitation, any claim for failure of the Site Work to conform to the Construction Documents or governmental requirements.

**10.8 Reimbursement.** In the event First Party receives any payment (or installment thereof) from any public or private utility or any governmental authority for all or any portion of the Project Costs including, without limitation, reimbursement for all or any portion of the Phase 1 Site Work Costs or any credit against fees otherwise due and payable in connection with the operation or development of the Shopping Center or any other property owned by First Party, its successor or assigns (collectively, "Compensation"), First Party shall immediately notify Albertson's in writing of the same and First Party shall pay Albertson's a proportionate share of the Compensation equal to Albertson's proportionate share of the applicable Project Costs within thirty (30) days after First Party's receipt of the Compensation. Without limiting the foregoing, First Party hereby irrevocably assigns to Albertson's First Party's right to receive the Compensation (to the extent of Albertson's proportionate share thereof) and appoints Albertson's its attorney-in-fact to receive the Compensation (to the extent of Albertson's proportionate share thereof). First Party agrees to take all additional action necessary to effectuate such assignment and/or power of attorney and to

otherwise insure that Albertson's promptly receives its proportionate share of such Compensation. First Party shall not assign its interest in all or any part of the Compensation without Albertson's prior written approval. Interest on amounts not paid when due to Albertson's under this Article 10 shall accrue at the rate of ten percent (10%) or the highest rate permitted by law, whichever is less, from the date payment was due to the date payment is received by Albertson's.

11. **Liens.** First Party shall not permit any liens to stand against the Shopping Center or any portion thereof for any work done or materials furnished in connection with the design or construction of the Site Work or Center Pylon Sign(s). Without limiting the foregoing, First Party shall, at its sole expense and within ten (10) days after receipt of written notice from Albertson's, cause any outstanding lien to be satisfied and released of record or transferred to bond in accordance with applicable law, failing which Albertson's shall have the right, at First Party's expense, to transfer said lien to bond as provided by law. Subject to the other provisions of this Article 11, First Party may contest the validity of any such lien provided that, upon a final determination of the validity thereof, First Party shall cause the lien to be satisfied and released of record.

12. **Default.** Neither party shall be deemed to be in default under this Development Agreement except upon the expiration of ten (10) days from receipt of written notice from the other party specifying the particulars in which such party has failed to perform its obligations under this Development Agreement (including, without limitation, failure to comply with the Construction Schedule as to any single item or items), unless such party, prior to expiration of said ten (10) day period, has rectified the particulars specified in said notice of default.

**13. Remedies.**

**13.1 First Party's Default.** If First Party defaults in the commencement or completion of any of the Site Work, or any portion thereof, in accordance with the Construction Schedule or the other provisions of this Development Agreement, Albertson's may (i) commence or complete all or any portion of the Site Work in any commercially reasonable manner, and (ii) take all steps necessary to cause the construction of the Site Work, or applicable portion thereof, to come into compliance with the Construction Schedule (including, without limitation, hiring contractors to perform overtime work and additional days of work as necessary to meet the time frames set forth in the Construction Schedule), all in accordance with the Construction Documents and, if applicable, the Sign Plans and Specifications. In such event, Albertson's shall have all rights of reimbursement, collection and contribution set forth in Article 10 (Payment of Costs) (including, without limitation, the right of reimbursement, collection and contribution for expenses incurred for overtime work or additional days of work) without liability for any costs incurred by First Party, its agents, contractors, subcontractors or employees for any work performed by Albertson's subsequent to the date of default. Further, if First Party defaults in any of its obligations under Article 3 (Construction of Identification Sign and Center Pylon Sign[s]), then, in addition to its other rights under this Development Agreement, Albertson's shall have the right to deduct First Party's proportionate share of all costs incurred by Albertson's in constructing and installing the Center Pylon Sign structure(s) (including electrical hookup to the Common Area meter) from amounts otherwise due and payable to First Party pursuant to Article 10 (Payment of Costs) of this Development Agreement. If First Party defaults in the provision of the insurance or performance and labor and material payment bonds

described in Article 9 (Insurance/Bonds), Albertson's may provide the insurance and performance and labor and material payment bonds and shall have all rights of reimbursement, collection and contribution set forth in Article 10 (Payment of Costs).

**13.2 No Waiver.** A party's failure to insist upon strict performance of any of the terms, covenants, conditions or agreements contained herein, or conformance with any of the time frames set forth in the Construction Schedule, shall not be deemed a waiver of any rights or remedies that said party may have and shall not be deemed a waiver of any subsequent breach or default in the performance of any of the terms, covenants, conditions or agreements contained herein, or conformance with any other time frames set forth in the Construction Schedule, by the same party.

**13.3 Remedies Cumulative.** In addition to the remedies set forth in this Development Agreement, each party shall have all other remedies provided by law or equity to the same extent as if fully set forth herein word for word. No remedy available to any party shall exclude any other remedy available to such party under this Development Agreement or provided by law or equity. All remedies shall be cumulative.

**14. License for Construction Activity.** Each party ("Grantor Party") grants to the other party, its agents, contractors, and employees, a nonexclusive license over the Common Area located on the Parcel(s) owned by the Grantor Party for performance of all work required or permitted to be performed by the other party under this Development Agreement.

**15. Indemnification.** First Party shall indemnify, defend and hold harmless Albertson's from any and all liabilities, claims, damages, expenses (including, without limitation, reasonable attorney's fees and reasonable attorney's fees on any appeal), liens, claims of lien, judgments,

proceedings and causes of action of any kind whatsoever, which are in any way connected with the performance of the Site Work or the construction of the Center Pylon Sign(s), unless caused by Albertson's, its agents, contractors or employees. If First Party defaults under this Article 15, then, in addition to its other remedies under this Development Agreement, Albertson's shall have the right to deduct from amounts otherwise due and payable to First Party pursuant to Article 10 (Payment of Costs) all costs and attorney's fees incurred by Albertson's in performing First Party's obligations under this Article 15.

16. **Reliance by Parties.** It is of the essence of this Development Agreement that the construction of the improvements contemplated by each party is of substantial economic significance to the other party and that the failure of either party to construct its improvements at the time and in the manner contemplated herein shall result in substantial direct and consequential damages to the other party.

17. **Attorney's Fees.** In the event either party initiates or defends any legal action or proceeding in any way connected with this Development Agreement, the prevailing party in any such action or proceeding (in addition to any other relief which may be granted, whether legal or equitable), shall be entitled to recover from the losing party in any such action or proceeding its reasonable costs and attorney's fees (including, without limitation, its reasonable costs and attorney's fees on any appeal). All such costs and attorney's fees shall be deemed to have accrued on commencement of any legal action or proceeding and shall be enforceable whether or not such legal action or proceeding is prosecuted to judgment.

**18. Not a Partnership.** The provisions of this Development Agreement are not intended to create, nor shall they in any way be interpreted or construed to create, a joint venture, partnership, or any other similar relationship between the parties.

**19. No Third Party Beneficiary Rights.** This Development Agreement is not intended to create, nor shall it in any way be interpreted or construed to create, any third party beneficiary rights in any person not a party hereto.

**20. Notices.**

**20.1 Generally.** All notices given pursuant to this Development Agreement shall be in writing and shall be given by personal service, by United States mail or by United States express mail or other established express delivery service (such as Federal Express), postage or delivery charge prepaid, addressed to the appropriate party at the address set forth below:

Albertson's:                    Albertson's, Inc.  
                                          250 Parkcenter Blvd.  
                                          P.O. Box 20  
                                          Boise, Idaho 83726  
                                          Attention: Vice President, Architecture  
                                          and Engineering

First Party:                    SB Clinton L.C.  
                                          c/o SmithBrubaker  
                                          2231 East Murray Holladay Road #200  
                                          Salt Lake City, UT 84177

provided, however, that (a) any notice of default shall be sent return receipt requested, and (b) in order to be effective, a copy of any notice of default sent to Albertson's must also be sent to Albertson's Legal Department at the above address or any alternative address specified pursuant to this Article 20. The person and address to which notices are to be given may be changed at any time

by any party upon written notice to the other party. All notices given pursuant to this Development Agreement shall be deemed given upon receipt.

**20.2 Receipt.** For the purpose of this Development 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 Section 20.1 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 Section 20.1 above, or (iii) 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.

**21. Approvals.** Except as otherwise specified herein, all items required to be approved by Albertson's shall be deemed approved only if the approval stamp thereon is signed by Albertson's Vice President, Architecture and Engineering, or its Corporate Architecture Director.

**22. Successors and Assigns.** Except as otherwise set forth in Section 24.2, the terms, covenants, conditions and agreements contained herein shall constitute covenants running with the land and shall be binding upon, and inure to the benefit of, the heirs, personal representatives, successors and assigns of the parties hereto; provided, however, that the parties acknowledge that Albertson's is relying upon the expertise and reputation of First Party for the performance of First Party's obligations under this Development Agreement, and, therefore, First Party may not assign or delegate its obligations hereunder without the prior written approval of each Owner. In the event of



any sale or conveyance of a party's interest in its Parcel, said party shall remain liable to the other party for the performance of said party's obligations hereunder.

23. **Modification.** This Development Agreement shall not be modified without the written agreement of all of the parties hereto.

24. **Termination.**

24.1 **Generally.** This Development Agreement shall terminate with respect to Parcels 1 through 7 upon completion of the work described in Section 2.1 (Construction of Albertson's Building) and Section 2.2 (Construction of First Party's Building), the Phase 1 Site Work, and payment by Albertson's of all amounts payable by it to First Party under Article 10 (Payment of Costs). If this Development Agreement has not terminated with respect to Parcels 1 through 7 within five (5) years after the date of this Development Agreement, the provisions of this Development Agreement shall not be binding on any Owner of any such Parcel (or portion thereof) who first acquires title to said Parcel (or portion thereof) after said five (5) year period; provided, however, that the foregoing shall not affect any obligations or liabilities, actual or contingent, or any right of collection, reimbursement or contribution, or any other rights, under this Development Agreement, of any prior Owner of any such Parcel (or portion thereof), who acquired title within five (5) years after the date of this Development Agreement. This Development Agreement shall terminate with respect to Parcels 8, 9, 10, 11 and 12 upon completion of the Future Phases Site Work.

24.2 **Recorded Termination.** Following the termination of this Development Agreement, each party shall execute in recordable form all documents reasonably requested by the other party to evidence the termination of this Development Agreement and to remove this

Development Agreement as an encumbrance on the Shopping Center or certain Parcels thereof, consistent with the provisions of Section 24.1 ("Release Documents"); provided, however, that the Release Documents shall not affect any obligations or liabilities, actual or contingent, that arose prior to the date of termination, or any right of collection, reimbursement or contribution under Article 10, which rights, obligations and liabilities shall constitute, and continue, as personal obligations of the parties.

**25. General Provisions.**

**25.1 Captions and Headings.** The captions and headings in this Development 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.

**25.2 Entire Agreement.** This Development Agreement contains the entire agreement between the parties hereto and supersedes all prior agreements, oral or written, with respect to the subject matter hereof. The provisions of this Development Agreement shall be construed as a whole and not strictly for or against any party.

**25.3 Time.** Time is of the essence of this Development Agreement.

**25.4 Time Period Computation.** All time periods in this Development Agreement shall be deemed to refer to calendar days unless the time period specifically references business days. There shall be no extension of time for the performance of any act under this Development Agreement notwithstanding the fact that the last date on which to perform such act falls on a Saturday, Sunday or local, state or national holiday.

25.5 Construction. In construing the provisions of this Development Agreement and whenever the context so requires, the use of a gender shall include all other genders, the use of the singular shall include the plural, and the use of the plural shall include the singular.

25.6 Joint and Several Obligations. In the event any party hereto is composed of more than one (1) person, the obligations of said party shall be joint and several.

25.7 Definitions. Except as otherwise specified herein, all of the terms in this Development Agreement shall have the meanings set forth in that certain Declaration of Restrictions and Easements which encumbers the Shopping Center and is recorded concurrently herewith ("Declaration").

25.8 No Modification. This Development Agreement does not amend or modify any of the terms, covenants, conditions or agreements set forth in the Declaration.

26. Recordation. This Development Agreement shall be recorded in the office of the recorder of the county in which the Shopping Center is located.

EXECUTED as of the date first set forth above.

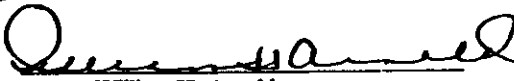
ALBERTSON'S:

FIRST PARTY:

*File by 9/8*

Albertson's, Inc.,  
a Delaware corporation

S B Clinton L.C.,  
a Utah limited liability company



By: William H. Arnold  
Its: Vice President, Real Estate Law

By: Susan Beubaker  
Title: MG&M LGR  
E123M&MDOCINDEVELOP.SB

**List of Schedules and Exhibits:**

- Schedule I - Description of Shopping Center Parcels**
- Exhibit "A" - Site Plan**
- Exhibit "B" - Site Development Criteria**
- Exhibit "C" - Construction Schedule**
- Exhibit "D" - Insurance Requirements**

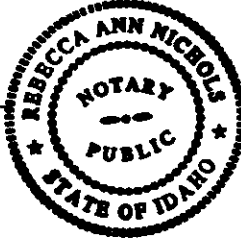
STATE OF IDAHO )  
                          ) ss.  
County of Ada     )

E 1451284 I 2379 P 499

On this 6<sup>th</sup> day of October, 1908, before me, the undersigned, a Notary Public in and for said State, personally appeared William H. Arnold, to me known to be the Vice President, Real Estate Law, of Albertson's, Inc., the corporation that executed the foregoing instrument, and acknowledged to me that the said instrument is the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he is authorized to execute the said instrument.

✓ WITNESS MY HAND and official seal hereto affixed the day, month and year in this certificate first above written.

My commission expires:  
09-29-00



Rebecca Ann Nichols  
Notary Public in and for the State of Idaho  
Residing at Boise, Idaho

STATE OF Utah )  
                          ) ss.  
County of Salt Lake )

The foregoing instrument was acknowledged before me this 29 day of September, 1998, by Scott M. Brubaker, a member of S B Clinton L.C., a Utah limited liability company.

My commission expires:  
6-12-2002



Carol Hintze  
Notary Public in and for the State of Utah  
Residing at Salt Lake City, Ut 84117

## Schedule I

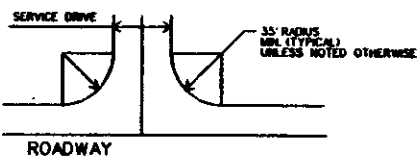
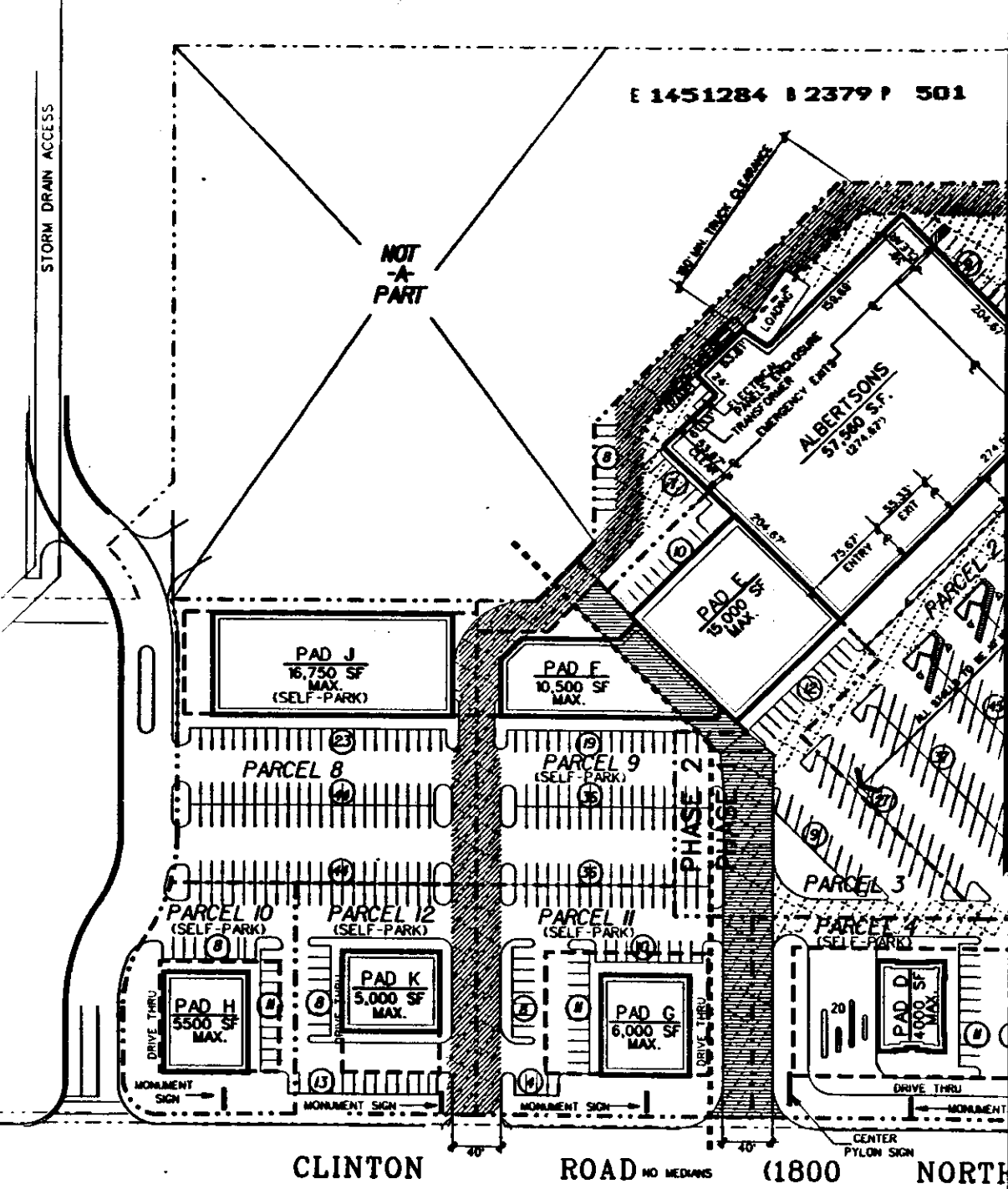
## Description of the Shopping Center Parcels

- Parcel 1: Lot 1, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.
- Parcel 2: Lot 2, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.
- Parcel 3: Lot 3, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.
- Parcel 4: Lot 4, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.
- Parcel 5: Lot 5, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.
- Parcel 6: Lot 6, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.
- Parcel 7: Lot 7, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.
- Parcel 8: Lot 8, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.
- Parcel 9: Lot 9, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.
- Parcel 10: Lot 10, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.
- Parcel 11: Lot 11, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.
- Parcel 12: Lot 12, Clinton Towne Center, Clinton City, Davis County, Utah, according to the official plat thereof.

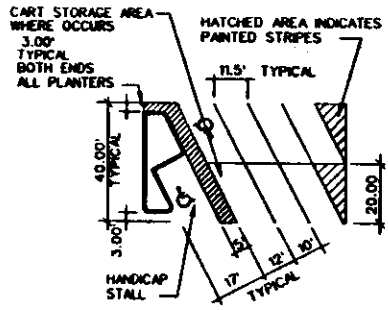
E 1451284 | 2379 | 501

STORM DRAIN ACCESS

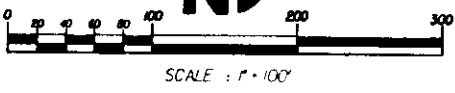
NOT  
A  
PART



(B) CURB CUT DETAIL  
1"=100'-0"



(A) PARKING DETAIL  
1"=50'-0"



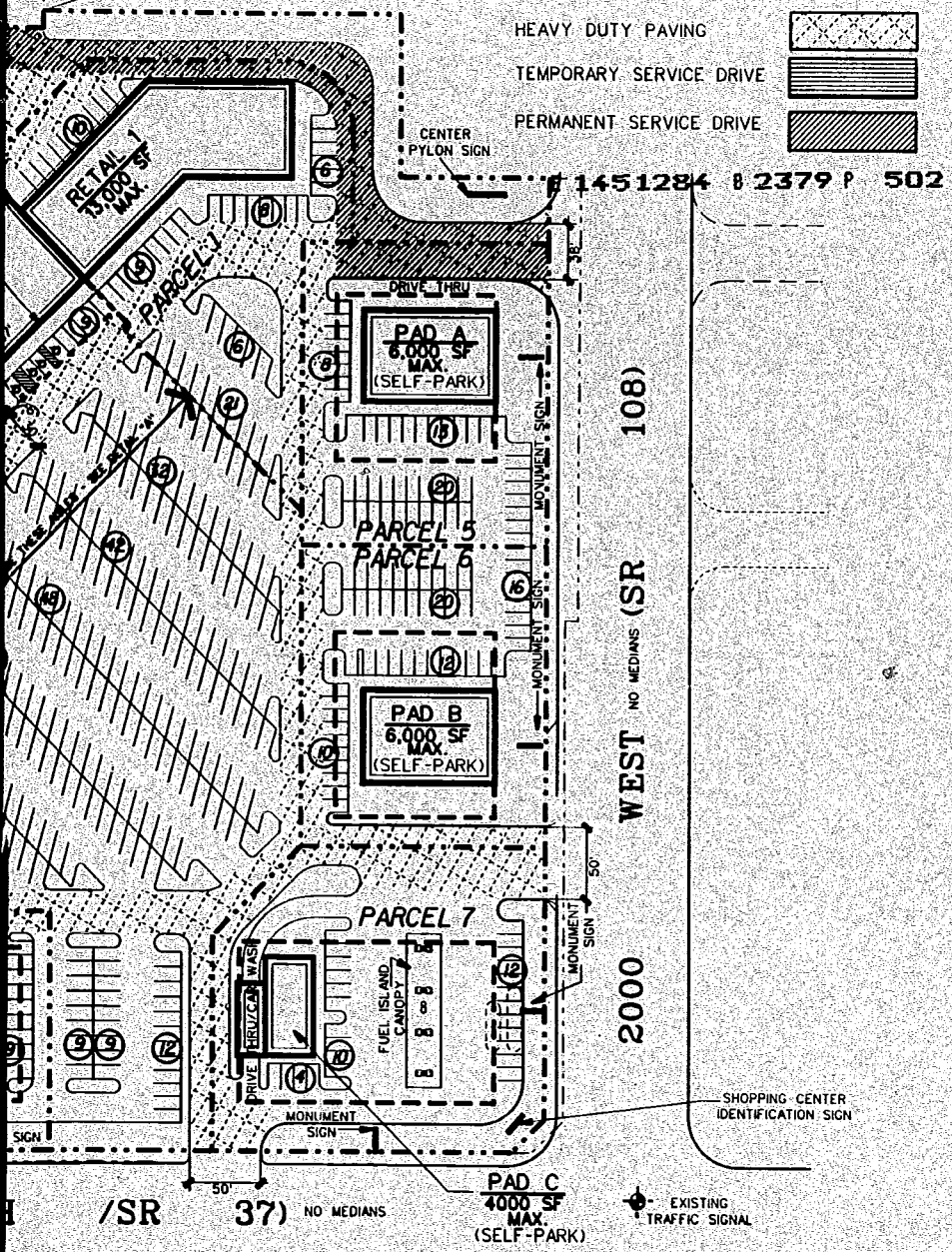
GEN  
DRAW  
NO T  
PARK  
1/2  
BUILD  
PE  
LAND  
ZON

# LEGEND

- PROPERTY/PARCEL LINE
- PHASE LINE
- EXPANSION LIMIT LINE
- BUILDING ENVELOPE
- BUILDING AREA
- HEAVY DUTY PAVING
- TEMPORARY SERVICE DRIVE
- PERMANENT SERVICE DRIVE

REVISIONS	
7-28-'98	CSD CHANGED TO EXHIBIT A
8-7-'98	CSD REV. PAR. LINES, PKG. BLDG. S.F. AND TEMP. SERVICE DRIVE
9-17-'98	CSD REV. STORE DOCK AREA PKG. & PARCEL 7
10-20-'98	CSD REV. PKG. & PAR. LINES

NOT  
A  
PART



PROJECT

N.W.C.

2000 WEST

&

1800 NORTH

CLINTON,

UTAH

STORE NO.

# 393

DRAWN	CSD	CHECKED	RAC
DATE	7-23-'98		

SHEET TITLE

EXHIBIT 'A'  
SITE PLAN

SHEET

1

OF 1

393clint.dgn

## GENERAL NOTES

- CONSTRUCTION WITH OUT BENEFIT OF SURVEY
- DRUCK WELLS, NATURAL DOCK ONLY
- LOADING REQUIREMENTS:
- 100 S.F. OF G.B.A. (ALBERTSONS STANDARD)
- LOADING SETBACK REQUIREMENTS:
- FOR CITY REVIEW.
- LANDSCAPE REQUIREMENTS:
- PER CITY REVIEW.
- LOADING REQUIREMENTS:
- EXISTING -
- REQUIRED - COMMERCIAL

## EXHIBIT 'A' SITE PLAN

TOTAL GROSS BUILDING AREA	149,310 S.F.
TOTAL CARPARKS REQUIRED	747 (1/200)
TOTAL CARPARKS PROVIDED	805 (+58)
TOTAL SITE AREA	685,136 S.F. (15.73 AC.)

APPROVED BY:	DATE:
CHAIRMAN	7-27-'98 SIGNED
PRESIDENT	7-27-'98 SIGNED
EXEC. V.P./S.D.	7-27-'98 SIGNED
EXEC. V.P./OPS.	7-27-'98 SIGNED
SR. V.P./REG.	7-27-'98 SIGNED
GROUP V.P./R.E.	7-27-'98 SIGNED
V.P./ARCH. & ENG.	7-27-'98 SIGNED



### SITE DEVELOPMENT CRITERIA

Albertson's Site Plans & Specifications must contain (at a minimum) the following sheets:

#### SITE PLAN (HORIZONTAL CONTROL PLAN):

##### General Notes (Albertson's Building)

- Maintain a minimum 6' clearance between building wall and adjacent parcel line at emergency exits.
- Maintain minimum 30' clear distance between rear of store and opposite curb and/or obstruction.
- One main entrance aisle must face or pass some portion of storefront.
- Dock area to have a minimum 140' clear distance in direction of loading vehicle movement.
- Fire hydrants, transformers, light poles, or other vertical obstructions shall not be located in or near turning radius areas of service vehicles.
- Required ramps to rear entrances not to exceed 1:12 (8%). Preferred 1:15 (6.66%).
- Define separation of "building work" and "site work" areas.
- All details and sections are to be clearly referenced.

##### Paving

- Thicknesses per soils report for 20 year life.
- Soil sterilant required.
- Contractor submittals for asphalt job mix formula and material certificates to be approved by Materials Engineer/Testing Laboratory.
- Materials Engineer to conduct pre-paving conference and perform full-time inspection during paving operations.
- Prime coat and seal coat should NOT be specified unless otherwise recommended by Soils Engineer.
- Striping to be painted with 2 coats traffic yellow in single 4" wide lines.
- All service and main customer traffic aisles to be heavy duty paving as indicated on Exhibit "A."

##### Parking

- Two-way drive aisles with 60° parking and 10' wide stalls.
- 30' main aisle width for those aisles connecting to public streets.
- 40' minimum main aisle curb cut width.
- Maintain minimum 30' width for all service vehicle drive aisles.
- Curbed island adjacent to parking stalls to be 3 feet shorter than striped length of parking stall.
- Maintain 30' minimum between face of Albertson's sidewalk and nearest parking space.
- Locate 8 handicap parking stalls across the front of Albertson's building (2 stalls per parking bay). All other handicap parking stalls to be located away from the front of Albertson's building.
- Cart returns as indicated on the Exhibit "A" will be furnished and installed by Albertson's.

##### Curbs & Wheel Stops

- No wheel stops or speed bumps.
- Do not use precast concrete.
- Top set extruded concrete set in epoxy IS NOT permitted.
- Base of poured-in-place curb to rest on compacted fill, minimum depth 18" at storefront sidewalk and 12" at all others.
- Provide expansion joints @ 25' o.c. maximum and at curves, tangents, and corners. Run bars continued through joints at storefront sidewalk curb. Sack finish exposed surfaces.

#### GRADING & DRAINAGE PLAN:

- 1% minimum slope on paving (0.5% in concrete gutter). No concrete swales.
- 3% maximum slope at grocery cart traffic areas, within 200' of store entrances, and within 40' of receiving dock.
- 5% maximum at other areas.

- Show required grades in contour format at 1' intervals with spot elevations at appropriate locations.
- Provide natural truck dock (no truck well). Finished floor of dock to be 52 inches above grade.
- Roof top drains to be tight lined to the site storm water system. Show separation of "site work" versus "building work".
- Albertson's building pad shall be graded to a level below finished floor equal to the floor slab thickness plus drainage course if any, as specified in the owner's report of subsurface investigation to an accuracy of plus or minus 1/10th of a foot.
- Albertson's building pad shall be compacted and an Albertson's "Pad Certificate" form shall be completed, verifying compliance with the Contract Documents.
- Include storm drainage retention study and plan if required.
- No mechanical means shall be used to assist site drainage.
- Prepare and submit a Storm Pollution Prevention Plan in accordance with EPA Guidelines.

#### LANDSCAPE PLAN:

- Meet but do not exceed minimum requirements.
- Use inexpensive, low maintenance type ground cover, if required. No annual flowers.
- Trees to be no smaller than 1-1/2" caliper; shrubs to be 5 gallon minimum.
- Avoid obscuring storefront and pylon signs with trees.
- Plastic, automatic irrigation system with separate water meter. Keep heads away from edges of planters.
- Provide sprinkler layout with associated electrical diagrams.
- Provide legend containing plant list with common name, Latin name and size of plant.

#### UTILITY PLAN:

- Plan shall include, but not be limited to, the following: Designated inverts, sanitary sewer, domestic water, fire sprinkler water (including flow & pressure), grease trap locations, gas and telephone service. Show separation of "site work" versus "building work" consistently for all buildings as defined in Development Agreement.
- All utilities are to be extended to within 5' of Albertson's building by site contractor.
- Locate all easement areas outside of Albertson's building, expansion and compactor pad areas.
- Albertson's Design Department will provide Albertson's building utility demand and location information within 10 days of a written request to do so.
- Manhole covers, catch basin, and clean-out boxes shall not be located in traffic aisles or entry ramp areas.

#### SITE ELECTRICAL/LIGHTING PLAN:

- Architectural fixtures (no "cobra" heads).
- No Cor-ten light poles.
- Pole bases to be concrete 2'-6" high above grade 2'-0" diameter, formed with circular "sono" tube. Slope top of pole base to shed moisture. Sack finish and paint 2 coats traffic yellow.
- Metal Halide site lighting only (no High Pressure Sodium [HPS]). High Pressure Sodium lighting may only be used when required by local government agencies.
- Site Lighting design shall incorporate computer generated point-by-point photometric layout of proposed lighting system. Use 0.42 light loss factor. (Photometric layout by the proposed light fixture manufacturer.) Include a computer generated point-by-point photometric layout of all vertical surfaces at the front elevation of Albertson's Building.
- Minimum 2-foot candle maintained at grade level (3-foot candles maintained where HPS lamps are required), with appropriate light cut-off when adjacent to residential neighborhoods.
- Minimum 2-foot candles maintained at grade level for all vehicle and pedestrian entrances to the site, and at on-site vehicle intersections (6-foot candles maintained where HPS lamps are required).
- Minimum 6-foot candles maintained at grade level for drive aisle at front of Albertson's building (9-foot candles where HPS lamps are required).
- Design the site lighting to a wattage density between 0.15 and 0.18 watts per square foot.
- Minimum 4-foot-candles maintained illumination on all vertical surfaces at the front elevation of Albertson's Building. Note: the use of "flood lights" mounted on parking lot light poles is not an acceptable method of achieving the required illumination.
- Conduct survey of site lighting of surrounding area. In no case shall Albertson's site lighting levels be less than any surrounding properties engaged in similar retail operations.
- Light poles and sign locations must not conflict.

- Site lighting from parking lot light poles and pylon signs must go to a house panel with dedicated meter. No other loads, including building canopy lights, are to be connected to this panel.
- All building security and soffit lights must go to respective building panel.
- Albertson's pylon signs and selected poles within parking lot, at main drives and in front of Albertson's, are to be connected to house panel by separate circuits and controls. Control to be a Torq #7200 (with reserve) time clock, and Torq #2100 photo cell and required contactors. Locate photo control in ½" rigid conduit above the roof. Aim photo cell north.
- Center lights to be photo cell on and off (Photo Control on at dusk/time clock off after store closing/time clock on before store opening/Photo Control off at dawn).
- Parking lot "night lights" (Photo Control only) must be clearly indicated and metered through house panel.
- House panel not to be located on or within 50 feet of Albertson's building and shall be sized for minimum spares and spaces.
- Provide panel schedule showing all loads connected to house panel.
- Site lighting fixtures shall be one of the following approved manufacturers (no exceptions): Holophane "PoleStar", Kim "VL", Lithonia Hi-Tek "KVS" (or "KSE"), LSI "Hilton", McGraw-Edison "Galleria", Quality "127" (or "128"), or Sterner "Glendale" (or "Alameda") fixtures. Provide fixture schedule.
- Use 1000 watt fixtures where practical unless otherwise required by local codes. Use 35' poles with 2 1000 watt vertical lamp fixtures per pole at approximately 60 feet center to center spacing along the drive aisle located directly in front of Albertson's building to light the store front wall. Use 30' poles in the general parking areas of the site with 2 1000 watt vertical lamp fixtures per pole at approximately 120 feet center to center spacing. Use horizontal lamp fixtures with "house side" shields where residential property will be impacted by the site lighting. Use 400 watt fixtures if necessary in these locations to prevent light trespass.
- Include a note directing the contractor to provide all site lighting lamps.
- Include electrical service Layout. Show separation of "site work" versus "building work" consistently for all buildings as defined in Development Agreement.
- Include telephone service Layout. Provide 100 pair telephone cable per Albertson's requirements. Provide 50 pair telephone cable per in-store bank's requirements.
- Discuss site lighting design considerations with Albertson's Engineering Department.
- Provide 120V outlet and J-box for security camera mounted at 20' above grade at the pole located closest to the main entry to the store. Outlet to be powered from Panel ECR in Albertson's store. Provide ¾" conduit for power from outlet to point 5 feet from Albertson's building pad. Provide ¾" conduit for CCTV from J-box to point 5 feet from Albertson's building pad.

**Exhibit "C"**  
**to Development Agreement**

**CONSTRUCTION SCHEDULE**

### INSURANCE REQUIREMENTS

The Site Contractor shall procure and maintain until the Site Work has been substantially completed and accepted in accordance with Section 10.3 of the Development Agreement commercial general liability insurance (or if the same is not available, comparable coverage) written on a combined single limit basis with minimum limits of not less than \$2,000,000 per occurrence. All policies of insurance provided hereunder shall be written on an "occurrence" basis on an Insurance Services Office (ISO) 1986 or newer standard form.

The above policy of insurance shall be with an insurer acceptable to both Albertson's and First Party and shall name First Party and Albertson's as additional insureds. The Site Contractor shall furnish First Party and Albertson's certificates (and, if requested by Albertson's, with a copy of the insurance policy as well) showing such coverage and showing that coverage will not be cancelled without thirty (30) days prior written notice to First Party and Albertson's. The policy must contain a separation of insureds clause. If the required coverage is obtained through a combination of commercial general liability and umbrella coverage, the certificate for umbrella coverage must also show that First Party and Albertson's will be given thirty (30) days prior written notice of cancellation.

The Site Contractor must provide certificates showing statutory worker's compensation coverage and showing employer's liability coverage with minimum limits of \$1,000,000. In addition, the Site Contractor will provide evidence its subcontractors and their subcontractors carry similar coverage. First Party and Albertson's need not be named as additional insureds on the employer's liability coverage or the worker's compensation coverage. First Party and Albertson's must be given thirty (30) days prior written notice of cancellation of either coverage.

The Site Contractor must provide certificates of insurance showing that it maintains business automobile liability insurance for all owned, nonowned and hired vehicles with single limits of at least \$2,000,000 each accident. Such coverage must name First Party and Albertson's as additional insureds. The Site Contractor must provide a certificate (and, if requested by Albertson's, a copy of the insurance policy as well) showing such coverage and showing that such coverage will not be cancelled without thirty (30) days written notice to First Party and Albertson's.

Should any of the above-described policies be cancelled before the expiration date thereof, the issuing company will endeavor to mail thirty (30) days written notice to the named certificate holder, but failure to mail such notice shall impose no obligation or liability of any kind upon the company.