

MINUTES
LANCASTER COUNTY BOARD OF COMMISSIONERS
TUESDAY, FEBRUARY 28, 2012
COMMISSIONERS HEARING ROOM, ROOM 112
FIRST FLOOR, COUNTY-CITY BUILDING
9:30 A.M.

Advance public notice of the Board of Commissioners meeting was posted on the County-City Building bulletin board and the Lancaster County, Nebraska, web site and emailed to the media on February 24, 2012.

Commissioners present: Larry Hudkins, Vice Chair
 Bernie Heier
 Jane Raybould
 Brent Smoyer

Commissioners absent: Deb Schorr, Chair

Others present: Kerry Eagan, Chief Administrative Officer
 Gwen Thorpe, Deputy Chief Administrative Officer
 Brittany Behrens, Deputy County Attorney
 Dan Nolte, County Clerk
 Cori Beattie, Deputy County Clerk
 Angela Zocholl, County Clerk's Office

The location announcement of the Nebraska Open Meetings Act was given and the meeting was called to order at 9:30 a.m.

1) **MINUTES:** Approval of the minutes of the Board of Commissioners meeting held on Tuesday, February 21, 2012.

MOTION: Smoyer moved and Raybould seconded approval of the minutes. Raybould, Smoyer and Hudkins voted aye. Heier abstained. Schorr was absent. Motion carried 3-0 with one abstention.

2) **CLAIMS:** Approval of all claims processed through Tuesday, February 28, 2012.

MOTION: Raybould moved and Smoyer seconded approval of the claims. Raybould, Heier, Smoyer and Hudkins voted aye. Schorr was absent. Motion carried 4-0.

3) **OLD BUSINESS:**

- A. **A real estate purchase agreement between Alfred Benesch & Company and the Lincoln-Lancaster County Public Building Commission for property located at 825 J Street, Lincoln, Lancaster County Nebraska. The Lincoln-Lancaster County Public Building Commission will pay \$1,770,000.00 for the property. (C-12-0057)**

MOTION: Raybould moved and Heier seconded approval of the purchase agreement.

OLD BUSINESS CONTINUED:

Smoyer stated he would be voting no since times are tough financially; he felt purchasing the property at this time would send the wrong message to the public. He clarified that funds for the purchase come from the Public Building Commission and not directly from the County.

Raybould stated she would be voting yes since she felt the purchase would keep in line with the comprehensive master plan for growth of the County and City and would consolidate offices back to the main campus. She thought it was inevitable that the City and County would need more space but cautioned to use the space wisely. She noted the building would stay on the tax roll for five to seven years.

Heier stated he would be voting yes since consolidating County offices would be a large asset and mentioned the possibility of selling other County buildings if the purchase is made. He noted the purchase price of \$1,770,000 and pending approval of the City.

Hudkins said he would support the purchase since it would consolidate County office locations for more efficiency, keep the property on the tax rolls and maintain the job location for current Alfred Benesch & Company employees. He noted Commissioner Heier's concern that the long-range plan should involve selling Trabert Hall and 2200 St. Mary's due to their age and remote locations.

ROLL CALL: Heier, Raybould and Hudkins voted aye. Smoyer voted no. Schorr was absent. Motion carried 3-1.

- B. A lease agreement between Alfred Benesch & Company and the Lincoln-Lancaster County Public Building Commission for property located at 825 J Street, Lincoln, Lancaster County, Nebraska. Alfred Benesch & Company will pay \$16,722.00 per month for the leased premises. Term of the lease agreement is five years from the date of execution. (C-12-0058)**

MOTION: Raybould moved and Heier seconded approval of the lease agreement.

Chris Connolly, Assistant City Attorney, explained that Alfred Benesch & Company would be responsible for operating expenses and rent. He said other financing options could be investigated.

Heier questioned obtaining a better finance rate than 4.5%, mentioning a possible 3% rate. He encouraged finding a bank which could beat that rate.

Smoyer said, although he opposed the building purchase, he felt the County was receiving a good deal on the lease agreement and hoped an even better deal could be found.

ROLL CALL: Smoyer, Raybould, Heier and Hudkins voted aye. Schorr was absent. Motion carried 4-0.

4) NEW BUSINESS:

- A. A resolution in the matter of dissolution of the Al Larson Road Improvement District. (R-12-0016)**

MOTION: Raybould moved and Smoyer seconded approval of the resolution. Raybould, Heier, Smoyer and Hudkins voted aye. Schorr was absent. Motion carried 4-0.

NEW BUSINESS CONTINUED:

- B. A contract with Huff Sealing Corporation in the amount of \$39,850 for crack sealing bituminous surfacing; Project 12-26. (C-12-0101)**

MOTION: Raybould moved and Heier seconded approval of the contract. Raybould, Heier, Smoyer and Hudkins voted aye. Schorr was absent. Motion carried 4-0.

- C. An agreement with NMC, Inc., for one motor grader complete with trade-in allowance for the County Engineer in the amount of \$202,000. NMC will pay for all costs of repair, including parts and labor, up to \$2,500 per unit during the next seven years and the guaranteed repurchase of the motor grader for \$155,000 for up to seven years or 8,500 hours. (C-12-0102)**

Brittany Behrens, Deputy County Attorney, said there was a misunderstanding concerning the cost of repairs, parts and labor. The County would be responsible for costs up to \$2,500; anything in excess of that amount would be the responsibility of NMC. She said she confirmed this correction with NMC and the County Engineer's Office and revised the contract to reflect the change.

Heier questioned the warranty not covering everything for a set amount of time; he said he would question the County Engineer on this issue. Hudkins agreed there is generally a base period with an all-inclusive warranty. Behrens said repair cost is based on the dollar amount during the first seven years or 8,500 hours.

MOTION: Heier moved and Smoyer seconded approval of the agreement with the correction that NMC will cover repair costs in excess of \$2,500. Heier, Smoyer, Raybould and Hudkins voted aye. Schorr was absent. Motion carried 4-0.

- D. A contract between O'Keefe Elevator Company, Inc., Lancaster County and the City of Lincoln for elevator service, maintenance and testing. The County will pay for products and services according to the pricing as listed in the contractor's proposal. Term of the contract is January 1, 2012, to December 31, 2015. (C-12-0103)**

MOTION: Raybould moved and Smoyer seconded approval of the contract. Smoyer, Raybould, Heier and Hudkins voted aye. Schorr was absent. Motion carried 4-0.

- E. An agreement between Lancaster County, Region V Systems and Cornhusker Place of Lincoln-Lancaster County, Inc., for Cornhusker Place to assist the County and Region V by including in the services it presently provides the detention of individuals who are in Emergency Protective Custody (EPC) in cases in which detention at Cornhusker Place is appropriate. Term of the agreement is July 1, 2011, to June 30, 2012. (C-12-0100)**

MOTION: Smoyer moved and Raybould seconded approval of the agreement. Hudkins, Raybould, Heier, Smoyer and Hudkins voted aye. Schorr was absent. Motion carried 4-0.

- F. An agreement with the Board of Regents of the University of Nebraska, the University of Nebraska at Omaha, for evaluation of Lancaster County's Early Assessment Process. The County shall pay \$10,000 for the services provided. Term of the agreement is February 2, 2012, to September 30, 2012. (C-12-0104)**

NEW BUSINESS CONTINUED:

MOTION: Raybould moved and Smoyer seconded approval of the agreement. Raybould, Heier, Smoyer and Hudkins voted aye. Schorr was absent. Motion carried 4-0.

- G. **A contract with Election Systems & Software, LLC, for election related services and ballot printing. Term of the contract is three years. Cost for the services is pursuant to Exhibits A, B and C of the contract. (C-12-0105)**

MOTION: Heier moved and Smoyer seconded approval of the contract. Heier, Smoyer, Raybould and Hudkins voted aye. Schorr was absent. Motion carried 4-0.

- H. **A contract with Advanced Ballot Solutions, LLC, for ballot printing equipment and software. Term of the contract is four years. Cost for the services is pursuant to Exhibits A, B and C of the contract. (C-12-0106)**

MOTION: Smoyer moved and Raybould seconded approval of the contract. Smoyer, Raybould, Heier and Hudkins voted aye. Schorr was absent. Motion carried 4-0.

- I. **A loan agreement between Lancaster County, through its Economic Development Loan Program, and Prairieland Foods, LLC, in the amount of \$100,000 for equipment purchases at the glass bottle dairy processing facility in Hallam, Nebraska. Prairieland Foods will create ten full-time jobs within 24 months and will retain at least 30 existing jobs for at least 36 months. Prairieland Foods will pay the County \$1,298.92 per month for 84 months. (C-12-0107)**

MOTION: Heier moved and Smoyer seconded approval of the agreement. Raybould, Heier, Smoyer and Hudkins voted aye. Schorr was absent. Motion carried 4-0.

- J. **A 2008 grant adjustment notice to the sub-grant award agreement for 2008 Department of Homeland Security Grant 2008-GE-T8-0054 with the Nebraska Emergency Management Agency as the grantee and Lancaster County, on behalf of the Southeast Region, as the sub-grantee. The adjustment reduces the total award amount to \$523,176.82. (C-12-0108)**

Doug Ahlberg, Emergency Management Director, said the Southeast Region gave back a portion of this grant to the State to provide a contract to SES to develop an Agro Foreign Animal Disease Annex for the local emergency operations plan.

MOTION: Raybould moved and Smoyer seconded approval of the grant adjustment notice. Raybould, Heier, Smoyer and Hudkins voted aye. Schorr was absent. Motion carried 4-0.

- K. **Lancaster County Joint Public Agency (JPA) approval of a conservation easement to be granted by the Lancaster County Agricultural Society.**

Alan Wood, Attorney for the Lancaster County Agricultural Society, discussed the easement and its requirements (Exhibit A). He said the Ag Society is trying to rezone its 14-acre commercial corner as H4 (Highway Commercial) and must grant a conservation easement covering at least 7.6 acres of real estate. Wood said the County Board is required to approve the conservation easement before it can be granted. He said it would still need to go before the Planning Commission and the City Council.

NEW BUSINESS CONTINUED:

Heier expressed concern over giving back 7.6 acres in exchange for using 3.8 acres.

Raybould asked about the land's potential along Stevens Creek. Wood said the long-range plan involves mining the top soil and selling it.

Hudkins discussed with Wood possible development for the 84th Street and Havelock Avenue area.

Smoyer asked if this transaction could hinder any growth at the Lancaster Event Center. Wood did not feel the easement would affect the Event Center negatively. He noted other requirements with long-term impact, such as off-site street improvement. Smoyer asked if future commercial development might require doubling the land in a conservation easement. Wood said the 14 acres is the only portion susceptible to commercial development.

MOTION: Heier moved and Raybould seconded approval of the easement. Heier, Smoyer, Raybould and Hudkins voted aye. Schorr was absent. Motion carried 4-0.

L. A political subdivision tort claim filed against Lancaster County Corrections by David M. Grady in the amount of \$4.60.

MOTION: Heier moved and Smoyer seconded denial of the tort claim based on the department director's recommendation. Smoyer, Raybould, Heier and Hudkins voted aye. Schorr was absent. Motion carried 4-0.

M. A political subdivision tort claim filed against Lancaster County Corrections by Willi Wirz for lost property in the amount of \$71.99.

MOTION: Heier moved and Smoyer seconded denial of the tort claim based on the department director's recommendation. Raybould, Heier, Smoyer and Hudkins voted aye. Schorr was absent. Motion carried 4-0.

5) **CONSENT ITEMS:** *These are routine business items that are expected to be adopted without dissent. Any individual item may be removed for special discussion and consideration by a Commissioner or by any member of the public without prior notice. Unless there is an exception, these items will be approved as one with a single vote of the Board of Commissioners. These items are approval of:*

A. Receive and place on file the Village of Roca Management's Discussion and Analysis, Financial Statements and Supplementary Information for year ended September 30, 2011.

MOTION: Smoyer moved and Raybould seconded approval of the consent items. Raybould, Heier, Smoyer and Hudkins voted aye. Schorr was absent. Motion carried 4-0.

6) **PUBLIC COMMENT:** Those wishing to speak on items relating to County business not on the agenda may do so at this time.

No one appeared for public comment.

7) **ANNOUNCEMENTS:**

- A. The Lancaster County Board of Commissioners will hold a staff meeting on Thursday, March 1, 2012, at 9:30 a.m., in Room 113 on the first floor of the County-City Building.
- B. The Lancaster County Board of Commissioners will hold their next regular meeting on Tuesday, March 6, 2012, at 9:30 a.m., in Room 112 on the first floor of the County-City Building.
- C. The Lancaster County Board of Commissioners meeting is broadcast live. It is rebroadcast on Tuesday and Saturday on 5 City-TV, Cable Channel 5. In addition, the meeting may be viewed on Nebraska On Demand Time Warner Channel 411 and on the internet at www.lancaster.ne.gov. Click on 5 City-TV Video on Demand.
- D. The County Commissioners can be reached at 402-441-7447 or commish@lancaster.ne.gov.

8) **ADJOURNMENT**

MOTION: Raybould moved and Smoyer seconded to adjourn the Board of Commissioners meeting at 10:13 a.m. Heier, Smoyer, Raybould and Hudkins voted aye. Schorr was absent. Motion carried 4-0.

Dan Nolte

Dan Nolte
Lancaster County Clerk



MINUTES
LANCASTER COUNTY BOARD OF EQUALIZATION
TUESDAY, FEBRUARY 28, 2012
COMMISSIONERS HEARING ROOM, ROOM 112
FIRST FLOOR, COUNTY-CITY BUILDING
IMMEDIATELY FOLLOWING THE LANCASTER COUNTY
BOARD OF COMMISSIONERS MEETING

Advance public notice of the Board of Equalization meeting was posted on the County-City Building bulletin board and the Lancaster County, Nebraska, web site and emailed to the media on February 24, 2012.

Commissioners present: Larry Hudkins, Vice Chair
 Bernie Heier
 Jane Raybould
 Brent Smoyer

Commissioners absent: Deb Schorr, Chair

Others present: Scott Gaines, Deputy County Assessor/Register of Deeds
 Kerry Eagan, Chief Administrative Officer
 Gwen Thorpe, Deputy Chief Administrative Officer
 Brittany Behrens, Deputy County Attorney
 Dan Nolte, County Clerk
 Cori Beattie, Deputy County Clerk
 Angela Zocholl, County Clerk's Office

The location announcement of the Nebraska Open Meetings Act was given and the meeting was called to order at 10:13 a.m.

- 1) **MINUTES: Approval of the minutes of the Board of Equalization meeting held on Tuesday, February 21, 2012.**

MOTION: Smoyer moved and Raybould seconded approval of the minutes. Raybould, Smoyer and Hudkins voted aye. Heier abstained. Schorr was absent. Motion carried 3-0 with one abstention.

- 2) **ADDITIONS AND DEDUCTIONS TO THE TAX ASSESSMENT ROLLS (See attached additions and deductions)**

MOTION: Heier moved and Raybould seconded approval of the additions and deductions. Raybould, Heier, Smoyer and Hudkins voted aye. Schorr was absent. Motion carried 4-0.

- 3) **MOTOR VEHICLE TAX EXEMPTION APPLICATIONS:**

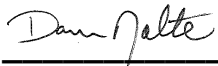
Bryan LGH Medical Center
Cornhusker Place of Lincoln-Lancaster County

MOTOR VEHICLE TAX EXEMPTION APPLICATIONS CONTINUED:

MOTION: Raybould moved and Smoyer seconded approval of the motor vehicle tax exemption applications. Heier, Smoyer, Raybould and Hudkins voted aye. Schorr was absent. Motion carried 4-0.

4) **ADJOURNMENT**

MOTION: Raybould moved and Smoyer seconded to adjourn the Board of Equalization meeting at 10:15 a.m. Smoyer, Raybould, Heier and Hudkins voted aye. Schorr was absent. Motion carried 4-0.



Dan Nolte
Lancaster County Clerk





COPY

EXHIBIT

tabbies

A

A-84995

File Against: ^{NW} Lots 30, 37 and 38, ^{N 1/2} IT, NW 1/4 of
Section 11, Township 10 North,
Range 7 East of the 6th P.M., Lancaster Co, NE

**SUBSTITUTE
MEMORANDUM OF UNDERSTANDING**

THIS MEMORANDUM OF UNDERSTANDING is entered into on this ^{2nd} day of September, 2008, by and between the Lancaster County Agricultural Society, hereinafter referred to as the "Society" and the City of Lincoln, Nebraska, a municipal corporation, hereinafter referred to as the "City".

RECITALS

I.

The Society is the owner of approximately 160 acres of real property located generally in the vicinity of 84th and Havelock Avenue in the north half of Section 11, Township 10 North, Range 7 East, Lancaster County, Nebraska ("hereafter referred to as "Fairgrounds"").

II.

The Society is requesting the City to annex a portion of the Fairgrounds comprising 25.75 acres, more or less, generally located at the southeast corner of 84th and Havelock Avenue and more particularly described on Attachment A-1.

III.

The Society is desirous of obtaining a Comprehensive Plan commercial designation on approximately 14.4 acres of land located on the northwest corner of the Fairgrounds as shown on Attachment A hereto ("NW Corner"). Thereafter Society desires to rezone the NW Corner to H-4 General Commercial District and to develop said NW Corner under a planned service commercial development special permit generally in accordance with the concept commercial development plan as shown on Attachment A. In that regard, the Society as the first step in this process has made application for a Comprehensive Plan Amendment designated as Comprehensive Plan Amendment No. 08014, hereinafter referred to as the "Comprehensive Plan Amendment."

IV.

The City is agreeable to proceeding with the annexation, Comprehensive Plan Amendment for the NW Corner and to thereafter support rezoning of the NW Corner and approval of the special permit planned service commercial development generally in accordance with the concept commercial development plan as described in Recital III above, subject to the terms and conditions of this Agreement.



A84995

08R-160

Introduce: 7-14-08

RESOLUTION NO. A- 84995

1 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

2 That the Memorandum of Understanding, which is attached hereto marked as
3 Attachment "A" and made a part hereof by reference, between the Lancaster County Agricultural
4 Society and the City of Lincoln, Nebraska, outlining certain conditions and understandings relating
5 to the annexation of approximately 160 acres of property generally located at North 84th Street and
6 Havelock Avenue, is approved.

7 BE IT FURTHER RESOLVED that the Mayor is authorized to execute the Memorandum
8 of Understanding on behalf of the City.

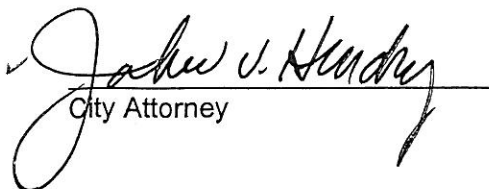
9 BE IT FURTHER RESOLVED that the City Clerk is directed to return one fully executed
10 copy of this Memorandum of Understanding to Rick Peo, Chief Assistant City Attorney, for
11 distribution to the Lancaster County Agricultural Society.

12 BE IT FURTHER RESOLVED that the City Clerk is directed to record the Annexation
13 Agreement or a summary memorandum thereof with the Register of Deeds, filing fees to be paid
14 by Lancaster County Agricultural Society.

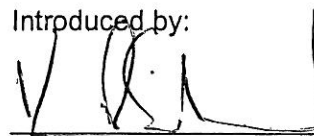
15 BE IT FURTHER RESOLVED that the City Clerk is directed to forward a copy of this
16 Agreement to Michaela Hansen, Impact Fee Administrator.

See further Council Proceedings on
next page.

Approved as to Form and Legality:


City Attorney

Introduced by:



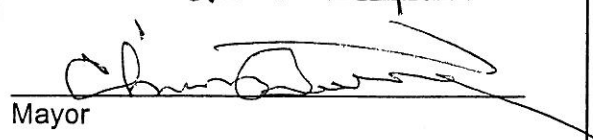
AYES: Camp, Cook, Emery,
Eschliman, Marvin, Spatz, Svoboda;
NAYS: None.

ADOPTED

AUG 25 2008

BY CITY COUNCIL

Approved this 2nd day of Sept., 2008:


Mayor

**SUBSTITUTE
MEMORANDUM OF UNDERSTANDING**

THIS MEMORANDUM OF UNDERSTANDING is entered into on this 2nd day of September, 2008, by and between the Lancaster County Agricultural Society, hereinafter referred to as the "Society" and the City of Lincoln, Nebraska, a municipal corporation, hereinafter referred to as the "City".

RECITALS

I.

The Society is the owner of approximately 160 acres of real property located generally in the vicinity of 84th and Havelock Avenue in the north half of Section 11, Township 10 North, Range 7 East, Lancaster County, Nebraska ("hereafter referred to as "Fairgrounds").

II.

The Society is requesting the City to annex a portion of the Fairgrounds comprising 25.75 acres, more or less, generally located at the southeast corner of 84th and Havelock Avenue and more particularly described on Attachment A-1.

III.

The Society is desirous of obtaining a Comprehensive Plan commercial designation on approximately 14.4 acres of land located on the northwest corner of the Fairgrounds as shown on Attachment A hereto ("NW Corner"). Thereafter Society desires to rezone the NW Corner to H-4 General Commercial District and to develop said NW Corner under a planned service commercial development special permit generally in accordance with the concept commercial development plan as shown on Attachment A. In that regard, the Society as the first step in this process has made application for a Comprehensive Plan Amendment designated as Comprehensive Plan Amendment No. 08014, hereinafter referred to as the "Comprehensive Plan Amendment."

IV.

The City is agreeable to proceeding with the annexation, Comprehensive Plan Amendment for the NW Corner and to thereafter support rezoning of the NW Corner and approval of the special permit planned service commercial development generally in accordance with the concept commercial development plan as described in Recital III above, subject to the terms and conditions of this Agreement.

V.

The City has adopted Ordinance No. 18113, hereinafter referred to as the "Impact Fee Ordinance" based upon an impact fee study prepared by Duncan Associates dated October 2002 that went into effect on June 2, 2003. This Impact Fee Ordinance enables the City to impose a proportional share of the cost of improvement to the water distribution, water system, wastewater system and arterial streets impact fee facility improvements necessitated by and attributable to new development.

VI.

The City Administration is willing to support annexation of the NW Corner and approve the change of zone as requested by Society, provided Society agrees (1) to pay or cause to be paid the City's Water System, Water Distribution, Wastewater System, and Arterial Street Impact Fees necessitated by and attributable to the proposed development of the NW Corner; and (2) consent to and abide by the City's Zoning Code (Title 27 of the LMC).

VII.

Pursuant to the Conditional Annexation and Zoning Agreement for Regent Heights 1st Addition and Northern Lights Addition ("Regents Heights Agreement"), the City and the developers of Regent Heights 1st Addition and Northern Lights Addition constructed certain sanitary sewer trunk lines (hereinafter "Sewer A" and "Sewer B") to sewer 254 acres of land within the preliminary plats of Regent Heights 1st Addition and Northern Lights Addition. Said Sewer A and Sewer B can also sewer 746 acres of land outside of the boundaries of the preliminary plats for regent Heights 1st Addition and Northern Lights Addition, including the Fairgrounds.

VIII.

In the Regent Heights Agreement, the City agreed to charge owners of land outside the boundaries of the preliminary plats for Regent Heights 1st Addition and Northern Lights Addition who benefit not from maintenance of Sewer A and Sewer B, but from the extension of Sewer A and Sewer B into an entirely new area, including the property on which the Fairgrounds is located, a fair share of the cost of Sewer A and Sewer B based upon a per-acre formula or some other fair share formula approved by the City.

IX.

The City is willing to annex a portion of the Fairgrounds as requested by the Agricultural Society, provided the Agricultural Society agrees to contribute \$40,443.20 as the Agricultural Society's fair share of the cost to construct Sewer A and Sewer B which sewers that portion of the Fairgrounds being annexed based upon a cost of \$1,570.00 per acre times the 25.76 acres being annexed.

NOW THEREFORE, in consideration of the above Recitals and the mutual promises contained herein, the Society and City agree as follows:

1. **City Approvals.** The City agrees to approve Society's request for annexation, Comprehensive Plan amendment, change of zone and special permit (City Approvals).
2. **Filling of the floodplain and floodprone area.** Development under the planned service commercial development proposed on the NW Corner of the Fairgrounds will require filling of the floodplain and floodprone areas of Stevens Creek. The NW Corner of this Fairgrounds is included within the "New Growth Areas" of the floodplain or floodprone areas within the zoning jurisdiction of the City and any filling of the floodplain or floodprone area on the Fairgrounds is subject to Chapter 27.53 of the Zoning Code "Flood Regulations for New Growth Areas." These flood regulations require no-net rise in the 100 year water surface elevation by utilizing compensatory storage to offset any fill placed in the floodplain or floodprone areas. Society acknowledges and agrees that prior to any filling of any floodplain or floodprone area of the Fairgrounds, the Society shall apply for and obtain a floodplain fill permit and demonstrate that the "Flood Regulations for New Growth Areas" are met.
3. **Green Space Reservation.** Approval of the proposed change of designation in the Comprehensive Plan from Public/Semi-Public and Green Space to Commercial and the associated change of zone to H-4 and development under a planned service commercial development special permit will eliminate 3.8 acres of land within the floodplain, presently serving as green space. In order to compensate for this loss of green space, the Society agrees to preserve approximately 7.6 acres of undeveloped land in the floodplain or floodway in open space uses, such as farming, ball fields, camping, pedestrian or horse trails or grass areas (which grass areas may be occasionally used as unpaved recreational vehicle or overflow parking for large events occurring at the Fairgrounds) representing a 2:1 ratio of preservation of space to the amount lost. The area to be reserved is shown on Attachment B. It is understood and agreed that said 7.6 acres reserved for open space may be relocated in the course of approval of the planned service commercial development special permit or amendments thereto. In order to ensure preservation of said 7.6 acres, the Society will dedicate or convey a conservation easement to the City over such land subject to the stipulations above. Any use of said 7.6 acres, as shown in Attachment B or as it may be configured from time to time, by others other than the Society shall be subject to approval by the Society's Board of Directors.
4. **Off Site Traffic Improvements.** The Society and the City agree that based upon the traffic study submitted by the Society which is attached hereto as Attachment C, the current use of the Fairgrounds and the planned service commercial development of the NW Corner as described above will require the following identified intersection improvements to the City's existing street system:

Havelock Avenue east of 84th Street –

- a) Construction of a 200-foot eastbound to southbound right turn lane at all driveway intersections;
- b) Construction to widen Havelock Avenue to provide for a center turn lane from 84th Street to a maximum of 150 feet east of the farthest east driveway;

84th and Havelock Avenue –

- c) Construction of a 250-foot northbound to eastbound right turn lane;
- d) Construction of additional storage at the existing 200-foot eastbound to southbound right turn lane to a length to be determined by the Department of Public Works and Utilities but not to exceed a total length of 350 feet;
- e) Construction of a 200-foot westbound to northbound right turn lane.

In order to be fair, if the land to the north of Havelock Avenue, between 84th Street and Stevens Creek develops with land uses other than agricultural, the City intends to require any future developer to reimburse the Society fifty percent (50%) of the cost of the center turn lane in Havelock Avenue noted in subparagraph 4 b) above. Notwithstanding the foregoing, Society understands and agrees that the City cannot contract away any of its police powers and legislative discretion and thus the intent of the City to charge future developers 50% of the cost of the center turn lane in Havelock Avenue does not require the City Council for the City to adopt nor restrict the City Council from adopting ordinances affecting the City's ability to require future developers to make said reimbursement to the Society. Society further agrees that the City shall not be liable to Society in the event of any failure on the part of the City by negligence or otherwise to require said reimbursement to the Society.

The specific design requirements for the above street improvements are Site-Related Improvements and thus are not eligible for reimbursement as Arterial Street Impact Fee Facility Improvements as defined in Section 27.82.040 of the Lincoln Municipal Code. The Society agrees to pay or require its lessees, as part of the lease requirements, to pay the cost of Site-Related Improvements attributable to the uses proposed by the Society or each such lessee, and to pay impact fees or contributions in lieu of impact fees as provided in paragraph 8 below. Society understands and agrees that no building permit shall be issued in the planned service commercial development area unless the above-described improvements have been completed, or a bond, escrow or security agreement approved by the City Law Department has been furnished to the City in an amount sufficient to guarantee installation of the requirement improvements. Society further agrees not to change any use of the Fairgrounds which increases the A. M. or P. M. Peak Hour traffic generation from the Fairgrounds in excess of that identified in the traffic study (Attachment C) without submission of a revised traffic study and constructing any additional

transportation improvements identified in the revised traffic study to the satisfaction of the Director of Public Works and Utilities.

5. **Right-of-Way Dedication.** The Society agrees to dedicate to the City additional right-of-way along Havelock Avenue to provide 60 feet of right-of-way south of Havelock Avenue for a future four-lane street and to dedicate to the City additional right-of-way along north 84th Street to provide a total right-of-way width of 140 feet for a future six-lane road. In addition, the Society agrees to dedicate 10 feet of additional right-of-way at the location of all right hand turn lanes referenced in Section 4 above. It is recognized that this may require the dedication or conveyance of additional easements to the Lincoln Electric System (LES) for its existing 35kv and 115kv high voltage transmission lines and Society agrees to dedicate or provide such easements to LES. The parties agree that several options may exist regarding relocation of the LES transmission lines and in any event such cost of relocation shall be without cost to LES. All right-of-way dedication shall be completed prior to the issuance of building permits for the commercial uses. When requested by LES, the Society will provide a replacement easement.
6. **Commercial Area; Subject to Zoning; Off-Premise Signage.** The City and Society recognize that under Nebraska law the power of eminent domain is superior to the zoning power and that the City, under its zoning authority, is not permitted to prevent or place limitations upon a public use of the Fairgrounds, the furtherance of which the Society has been granted condemnation power by the State Legislature. Therefore, as an inducement for the City to approve the annexation, Comprehensive Plan Amendment and the future change of zone and special permit for the NW Corner, the Society agrees that, notwithstanding the fact that it is deemed to be a body corporate and politic and has the power of eminent domain as provided in *Neb. Rev. Stat. § 2-262* (Reissue 1997), the NW Corner shall be subject to the zoning regulations of the City of Lincoln otherwise applicable to the zoning district in which the Fairgrounds is placed. As a further inducement, the Society specifically agrees that the presently existing Lancaster Event Center sign on the Fairgrounds, a portion of which is used for off-premise advertising, will be the only off-premise sign located on the Fairgrounds.
7. **Society's Responsibilities; Contingent on City Approvals.** The Society's responsibilities under this agreement, including dedication of right-of-way, reservation of open space, and insuring the installation of off site traffic improvements, will be contingent upon the City approving the City Approvals.
8. **Impact Fees for Commercial Development.** Society agrees to pay or will require any lessee to pay the applicable Water Distribution, Water System, Wastewater, and Arterial Street Impact Fees or any other impact fees in place at time of building permit or construction activity for the proposed planned service commercial development of the NW Corner of the Fairgrounds.

9. **Easements for Future Sanitary Sewer and Trail.** Society agrees to promptly provide to the City temporary construction and permanent sanitary sewer easements for the construction of the Stevens Creek sanitary sewer trunk line at no cost and upon request of the City. In addition, the Society will provide a 20 foot trail easement generally west of Stevens Creek, in a location mutually agreeable to the City and the Society, upon request of the City.
10. **Future Arena & Facilities Coordination.** Intentionally Omitted.
11. **Water Main in Havelock Avenue.** If required by the City's Department of Public Works and Utilities to provide adequate water pressure, the Society shall be responsible at its own cost and expense for the construction of a 16-inch water main in Havelock Avenue. The main shall be built from 84th Street east to a connection point for Fairgrounds system as determined by Public Works and Utilities. Society acknowledges and agrees that since the 16-inch water main is not part of the City's current 1-6 Year Capital Improvement Program and is only needed by the Society and that City's water revenues and water system impact fees are not intended to be used by the City for the construction of said main or to reimburse Society for the cost of the 16-inch water main, the Society does hereby waive any right to reimbursement for the cost of the 16-inch water main.
12. **Sewer Main Extension.** The Agricultural Society understands and acknowledges that the portion of the Fairgrounds being annexed was made sewerable by the construction of Sewer A and Sewer B pursuant to the Regent Heights Agreement and that the Agricultural Society did not participate in, nor contribute the Agricultural Society's fair share of the cost of the construction of Sewer A and Sewer B to serve that portion of the Fairgrounds being annexed. The Agricultural Society desires the portion of the Fairgrounds being annexed to be connected to Sewer A and Sewer B and therefore agrees to pay at the time of annexation a connection fee of One Thousand Five Hundred Seventy and 00/100ths Dollars (\$1,570.00) per acre times 25.76 acres for a total connection fee of \$40,443.20.
13. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns and shall inure to and run with the Fairgrounds.
14. **Recordation.** This Agreement or a memorandum thereof shall be filed in the Office of the Register of Deeds of Lancaster County, Nebraska at the Society's cost and expense.

IN WITNESS HEREOF, the parties have executed this Memorandum of Understanding as of the day and year first written above.

**LANCASTER COUNTY
AGRICULTURAL SOCIETY**
a Nebraska nonprofit corporation

CITY OF LINCOLN, NEBRASKA
a municipal corporation,

By: Ron Dawding
President

By: Chris Beutler
Chris Beutler, Mayor of Lincoln

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 2nd day of September, 2008, Chris Beutler, Mayor of the City of Lincoln, Nebraska on behalf of the City.

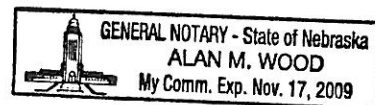
Joan E. Ross
Notary Public

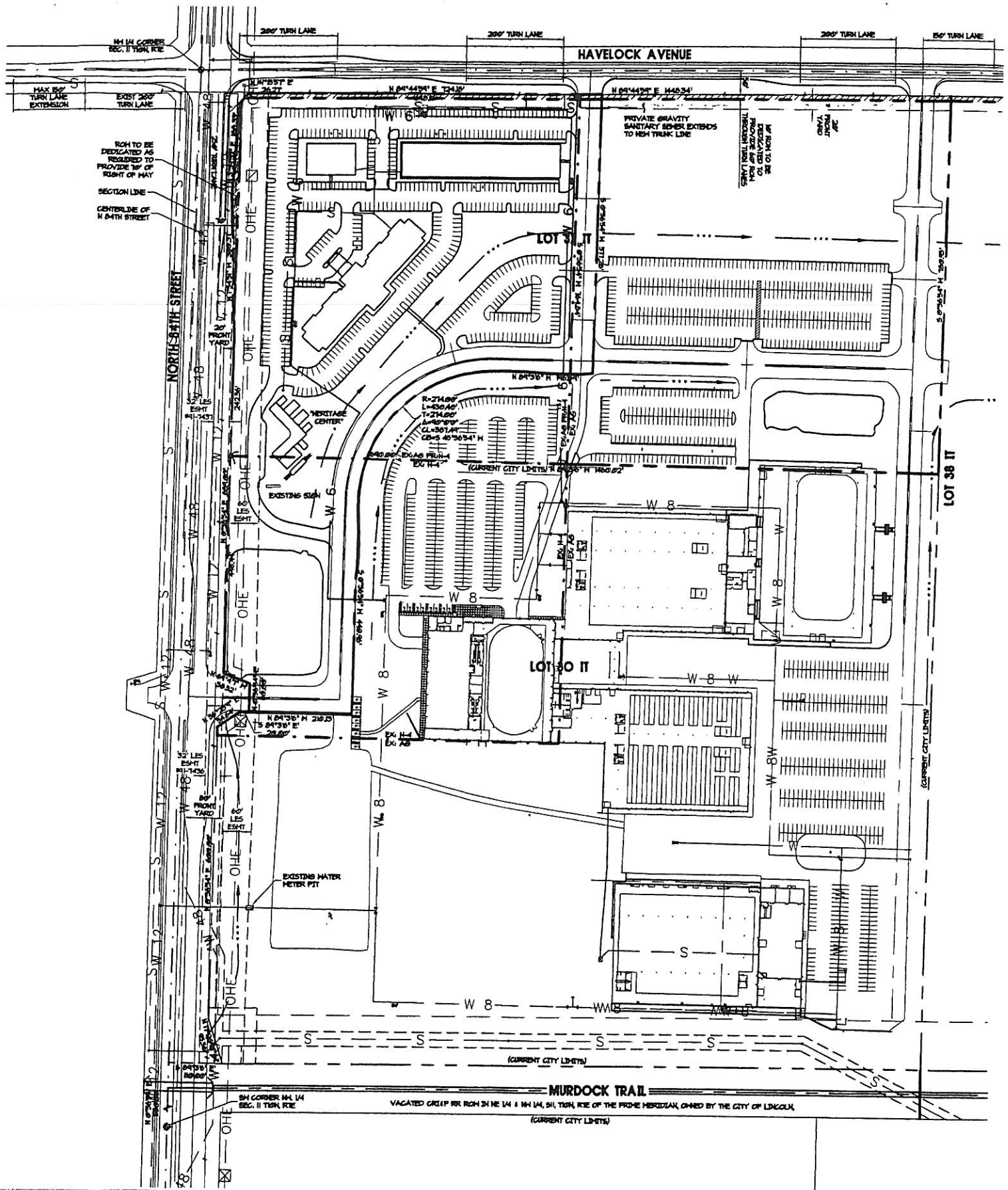
STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)



The foregoing instrument was acknowledged before me this 20th day of August, 2008, by Ron Dawding, President of the Lancaster County Agricultural Society, Inc., a Nebraska nonprofit corporation, on behalf of the corporation.

Alan M. Wood
Notary Public





Design Associates
of Lincoln, Inc.

ARCHITECTS • ENGINEERS • PLANNERS

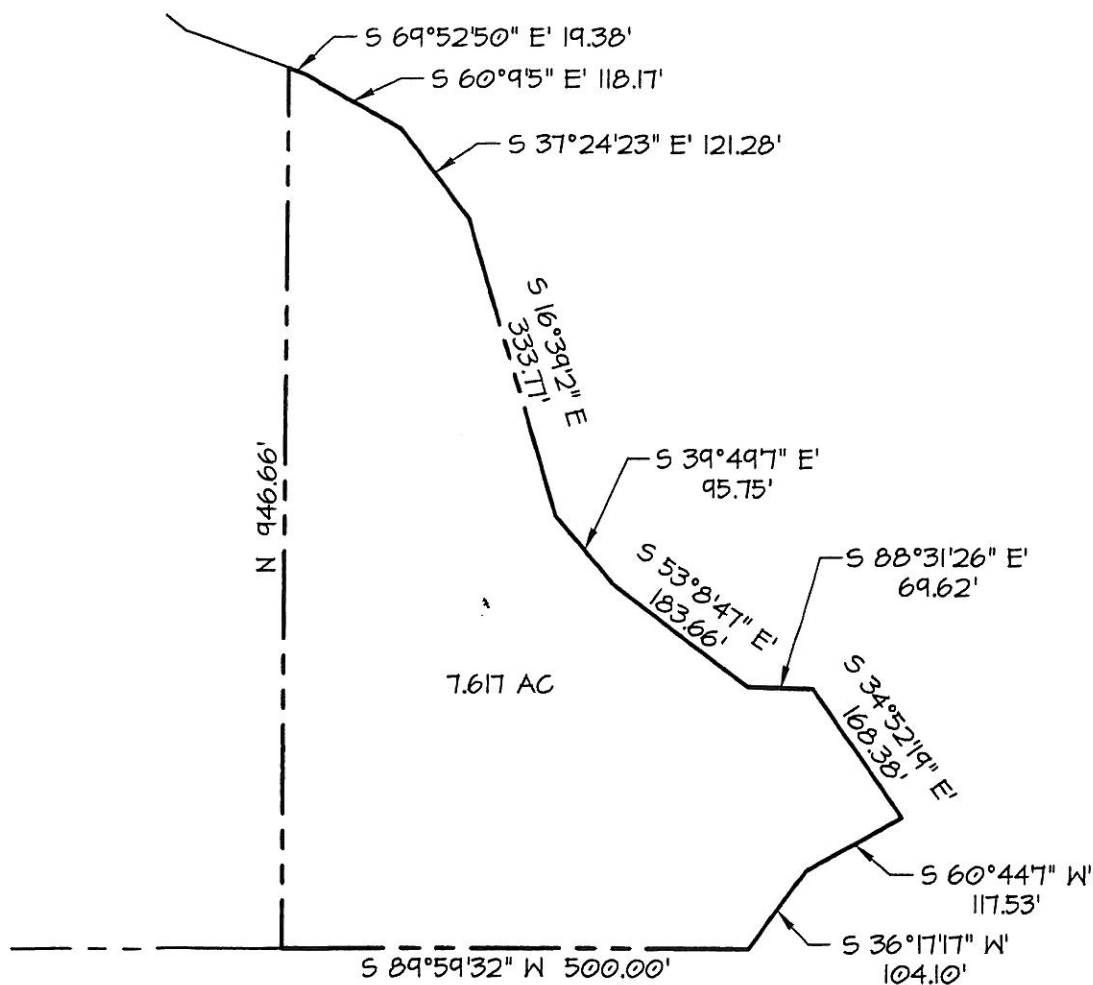
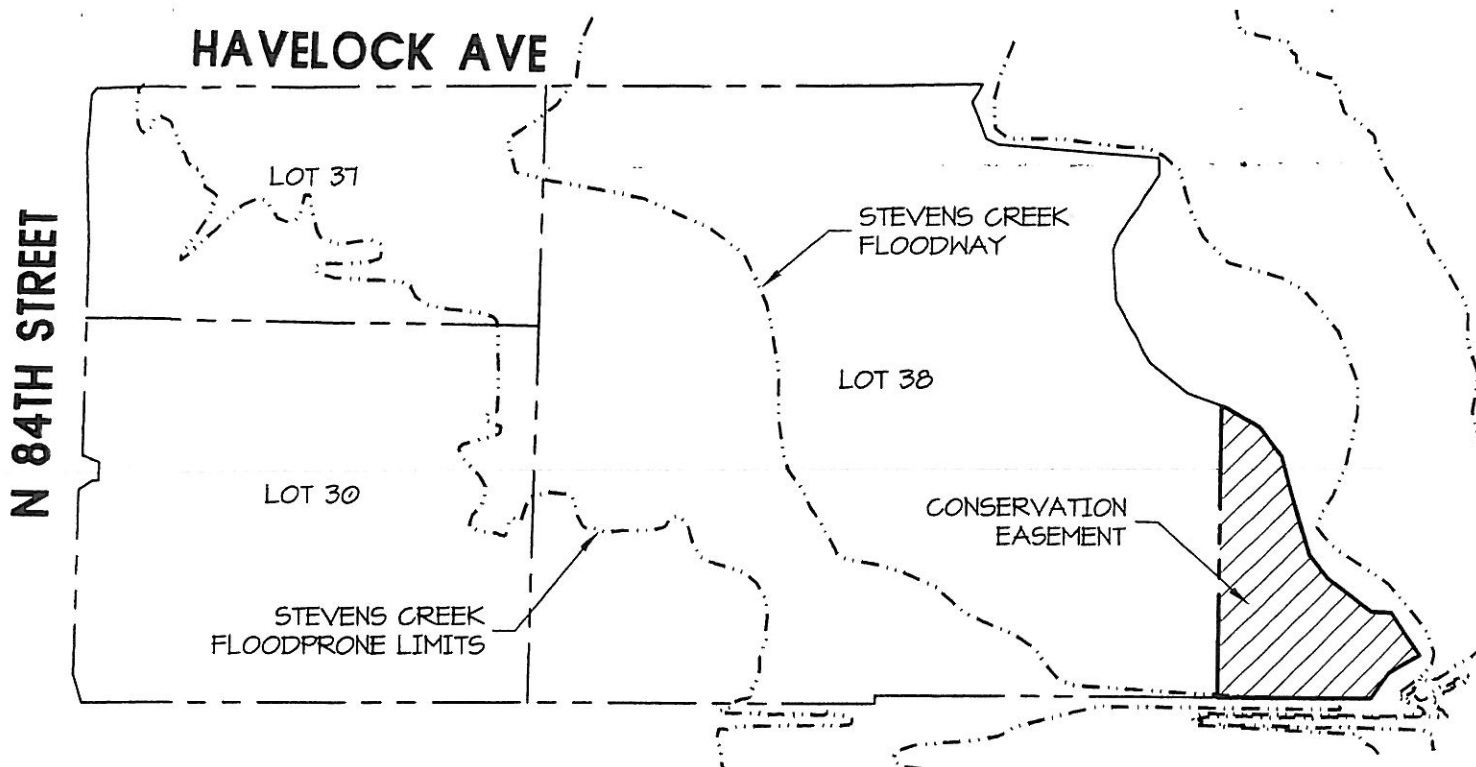
PERSHING SQUARE 1609 "N" STREET LINCOLN NEBRASKA 68508
voice:402.474.3000 office:DAofLincoln.com fax:402.474.4045



ATTACHMENT A

NO SCALE

09 JUL 2008



Design Associates
 of Lincoln, Inc.
 ARCHITECTS • ENGINEERS • PLANNERS

PERSHING SQUARE 1609 "N" STREET LINCOLN NEBRASKA 68508
 voice:402.474.3000 office@DAofLincoln.com fax:402.474.4045



ATTACHMENT 'B'

NO SCALE

13 JUN 2008

SUMMARY OF PRINCIPAL DOCUMENTS

The following is a summary of certain provisions and defined terms of the JPA Agreement and the Facilities Agreement. This summary does not purport to be comprehensive or definitive and is subject to all of the terms and provisions of the JPA Agreement and the Facilities Agreement, to each of which reference is hereby made. Copies of the JPA Agreement and the Facilities Agreement are on file in the office of the Clerk of Lancaster County, Nebraska.

JPA AGREEMENT

Creation

Pursuant to the Joint Public Agency Act, Chapter 13, Article 25, Reissue Revised Statutes of Nebraska, as amended (the "Act"), and the JPA Agreement, the County and the Society (collectively, the "Participants") created a joint public agency named the Lancaster County Fairgrounds Joint Public Agency (the "Agency") and which constitutes a separate political subdivision and a public body corporate and politic of the State of Nebraska under the provisions of the Act.

Purpose

The purposes of the Agency are: (a) to exercise any power, privilege or authority to provide for the acquisition of land and the construction, equipping, furnishing and financing such capital improvements or other projects pertaining to the Lancaster County Fairgrounds (the "Fairgrounds") as shall be determined by the governing body of the Agency (the "Board") to be necessary, desirable, advisable or in the best interests of the Participants in the manner and as provided for by the Act, and (b) to provide for the acquisition of land for, and the acquisition and construction of capital improvements upon, the Fairgrounds, to issue bonds to finance the same, and to levy a tax as provided by the Act and the JPA Agreement to pay the principal of, premium, if any, and interest on such bonds, when and as the same shall become due.

Organization

Governing Body. The Board of the Agency consists of such number of representatives as shall be determined by the agreement of the Participants from time to time. The initial Board shall consist of five representatives of which the Society shall appoint three and the County shall appoint two.

Term of Office. Unless otherwise disqualified by the provisions of the Act, and except as provided in the JPA Agreement or any amendment hereto, each representative shall serve a two-year term beginning on the January 15 following the appointment of such representative and ending on the later of (i) the January 14 two years later or (ii) appointment of such representative's successor.

Appointment of Representatives. Each representative shall be appointed, and alternate representative may be appointed, in accordance with the provisions of Section 13-2509 of the Act. Each representative shall be eligible for reappointment upon the expiration of his or her term. A representative shall automatically be removed when he or she ceases to be a member of the governing body of the Participant represented. A vacancy shall be filled for the balance of the unexpired term of a person who is no longer eligible to hold office, in the same manner as the original appointment, until such term expires, or the replacement representative is removed by the Participant. A representative may be removed for any cause, at any time, by the governing body of the Participant for which the representative acts. The

representative shall receive no compensation for his or her services, but shall be entitled to actual and necessary expenses incurred in the discharge of his or her official duties.

Voting. Unless the Board unanimously adopts different rules relating to voting by representatives each representative shall have one vote on matters before the Board. Except as may otherwise be provided in the JPA Agreement, or in any agreement to which the Agency is a party, all actions of the Agency may be taken with the concurrence of a majority of the representatives entitled to vote.

Whenever four (4) affirmative votes are required for any action by the Agency pursuant to the JPA Agreement or any other agreement to which the Agency is a party, the representatives of the County shall cast their votes as directed by the County Board.

The Board shall adopt rules of governance that will include at a minimum, the following:

(a) Quorum. A majority of the representatives shall constitute a quorum for the transaction of any Agency business, provided however, that the representatives constituting a quorum must include a representative of the County

(b) Officers. The Board shall elect a chair and vice-chair from among the representatives. The Board shall elect a secretary as provided for in Section 13-25 16 of the Act and appoint a treasurer who each shall serve at the pleasure of the Board and until their respective successors shall be appointed or elected as the case may be.

Duration

The duration of the Agency shall be perpetual, commencing with the date of issuance of the certificate of creation, and shall continue in effect until terminated as provided in the JPA Agreement.

Powers

The Agency shall have such powers as are allowed by the Act, and any amendments thereto including, but not limited to, the powers:

(a) to incur debts, liability, or obligations, including the borrowing of money and the issuance of bonds, secured or unsecured, pursuant to the Act;

(b) to borrow money or accept contributions, grants, or other financial assistance from a public agency and to comply with such conditions and enter into such contracts, covenants, mortgages, trust indenture, leases, or agreements as may be necessary, convenient, or desirable;

(c) subject to any agreements with holders of outstanding bonds, to invest any funds held in reserve or sinking funds, or any funds not required for immediate disbursement, including the proceeds from the sale of any bonds, in such obligations, securities, and other investments as the Board shall deem proper;

(d) to contract with and compensate consultants for professional services including, but not limited to, architects, engineers, planners, lawyers, accountants, financial advisors and others found necessary or useful and convenient to the stated purposes of the Agency;

(e) to levy taxes upon the taxable property in Lancaster County pursuant to Sections 13-2507 and 77-3443, Reissue Revised Statutes of Nebraska, as amended, to the extent that the authority to levy taxes is expressly and specifically assigned and allocated to the Agency by a Participant in the JPA Agreement. Such levy authority may be exercised by the Agency only to the extent the assigning Participant restricts the exercise of its own levy authority to the same degree and the levy authority allocated to the Agency is reported to the Property Tax Administrator;

(f) to exercise any other powers which are deemed necessary and convenient to carry out the Act.

Issuance of Bonds

The Agency, by resolution of the Board, may from time to time issue bonds or other evidences of indebtedness payable exclusively from all or a portion of the revenue from one or more projects, from one or more revenue-producing contracts, including securities acquired from any person, or leases made by the Agency with any person, including any Participant, or from its revenue generally which may be additionally secured by a pledge of any grant, subsidy, or contribution from any person or a pledge of any income or revenue, funds, or money of the Agency from any source whatsoever or a mortgage or security interest in any real or personal property, commodity, product, or service or interest therein.

The Agency may from time to time also issue bonds in such principal amounts as the Board shall determine to be necessary to provide sufficient funds to carry out any of the Agency's purposes and powers, including the establishment or increase of reserves, the payment of interest accrued during construction of a project and for such period thereafter as the Board may determine, and the payment of all other costs or expenses of the Agency incident to and necessary or convenient to carry out its purposes and powers.

Notwithstanding any other terms of the JPA Agreement to the contrary, the Agency shall not issue any bonds or other form of indebtedness without the question of said bonds or indebtedness being first presented to, and approved by, the County's Board of Commissioners.

Levy Authority

Pursuant to the provisions of Section 13-2507, the Society irrevocably allocates and assigns to the Agency, for the period beginning July 1, 2001 and ending on the date upon which all of the Society Bonds (as hereinafter defined) are no longer deemed to be outstanding and unpaid pursuant to the resolution or resolutions pursuant to which they are issued, its authority to cause the levy of taxes, beginning in the year 2001 for collection in 2002, for the purpose of paying the costs of capital improvements pursuant to Section 2-259, Reissue Revised Statutes of Nebraska, as amended, not to exceed three and one-half cents (\$0.035) on each one hundred dollars of taxable valuation (the "**Society Bond Levy**") solely for the purpose of paying the principal of, premium, if any, and interest on such bonds of the Agency as may be issued for the purpose of acquiring land for, and constructing, equipping and furnishing certain capital improvements on the Fairgrounds (the "**Society Bonds**"). The Society covenants and agrees that it shall not, for any year so long as the Society Bonds remain outstanding, cause a tax to be levied pursuant to Section 2-259 unless and until (1) the Agency has certified the Society Bond Levy to the County Board; (2) said levy is sufficient based upon the then-current and applicable certified valuation of property to be taxed to generate tax revenues sufficient to pay the principal of, premium, if any, and interest on the Society Bonds as the same shall fall due the following year; and (3) there remains unused for that tax year a portion of the three and one-half cent levy authority under Section 2-259.

In no event, shall the levy request by the Society pursuant to Section 2-259, when combined with the Society Bond Levy, exceed the greater of three and one-half cents per one hundred dollars of taxable valuation, or the maximum levy authorized by Section 2-259, as amended.

The County shall implement the Agency's Society Bond Levy as requested by the Agency as may be required to pay the principal of, premium, if any, and interest on the Society Bonds as the same become due, and shall not levy less than the Agency's lawful requested or certified levy, as long as any Society Bonds remain outstanding.

The County shall collect and disburse to the trustee named by the Agency, all taxes levied by the Agency.

Capital Improvements

The Agency shall enter into or amend one or more agreements between the Agency and the Society in accordance with the provisions of the JPA Agreement with respect to the acquisition of land and the planning, contracting for, acquiring, insuring, and all other aspects of the capital improvements to be constructed or installed on the Fairgrounds, only upon the affirmative vote of four (4) members of the Agency Board.

Budget

The Board shall prepare a budget based on a fiscal year coinciding with the fiscal year of the Society, for the operation of the Agency. The budget of the Agency shall be established as provided in the Nebraska Budget Act (Chapter 13, Article 5, Reissue Revised Statutes of Nebraska, as amended) and presented to the County Board prior to the Agency's levy certification. The Agency shall cause to be conducted annually an audit conducted by a private qualified auditing business. The resulting audit report shall be delivered to the Agency and the governing body of each Participant.

Withdrawal

If the governing body of a Participant adopts a resolution setting forth the determination that the need for the Agency no longer exists, the Participant shall be permitted to withdraw from participation in the Agency, but withdrawal shall not affect the obligations of the withdrawing Participant pursuant to JPA Agreement or any other agreements with the Agency. Withdrawal shall not impair or adversely affect the levy of taxes by the Agency or receipt of revenues for, or the payment of, any outstanding bonds or indebtedness or the interest thereon.

Dissolution

The Agency shall not be dissolved so long as the agency has bonds outstanding unless provision for full payment of the bonds and interest thereon, by escrow or otherwise, has been made pursuant to the terms of the bonds or the resolution, indenture, or security instrument securing the bonds. Upon dissolution of the Agency, provided the Society remains an active entity providing county fairs on the Fairgrounds, all interest, if any, in the land, capital improvements, and personal property used in the operation of the Fairgrounds financed by the Society Bonds remaining in the Agency shall be transferred to the Society, all other assets of the Agency shall be transferred to the County. In the event that the Society is no longer active at the time of dissolution, all assets held by the Agency shall be transferred to the County. The Society shall conduct a county fair on the Fairgrounds each year any Society Bonds remain outstanding. The Society further covenants that as long as any Society Bonds remain outstanding,

it shall not request that the County Board place the question of reformation of the Society before the registered voters of the County.

Amendment

The JPA Agreement may be amended in writing signed by all the Participants, provided however, that no amendment may be made limiting the duty of the Agency or the Participants created herein to levy and collect taxes for the payment of bonds issued by the Agency. Any amendment to the JPA Agreement must first be approved by resolution of the governing body of each Participant. The amended and restated Agreement shall be filed with the Nebraska Secretary of State.

FACILITIES AGREEMENT

Definitions

The following words and phrases used in the Facilities Agreement shall have the following meanings, unless the context or use indicates another or different meaning or intent.

"Bonds" means any bonds or other evidences of indebtedness issued by the Agency to finance or refinance the costs of Improvements, including, without limitation, the Agency's Limited Tax Facility Bonds, Series 2007, dated October __, 2007.

"Construction Fund" means any fund created by a Resolution into which the net proceeds from the sale of Bonds is deposited and disbursed as provided in such Resolution.

"Costs of Construction" means, with respect to the Improvements:

- (a) Obligations incurred for labor and material and to contractors, builders and materialmen in connection with the Improvements or any part thereof;
- (b) The cost of acquiring rights, rights-of-way, easements or other interests in land as may be deemed necessary or convenient for the construction and operation of the Fairgrounds;
- (c) Taxes or other municipal or governmental charges lawfully levied or assessed against the Improvements or against any property acquired therefor, or payments required in lieu thereof, in each case during the period of construction, and premiums on insurance;
- (d) Costs of installing utility services or connections thereto or relocation thereof;
- (e) Costs of fidelity and indemnity bonds;
- (f) Costs of fixed and moveable equipment;
- (g) Expenses incurred in enforcing any remedy against a contractor or subcontractor in respect of default;
- (h) Costs of site acquisition, preparation and landscaping;
- (i) Fees and expenses of architects, engineers, consultants, surveyors, and inspectors and costs of issuance of the Bonds;

(j) Any other costs directly incurred in the acquisition, purchase, construction, equipping, furnishing and completion of the Facilities.

"Debt Service Fund" means the fund created by a Resolution into which the Society Receipts and the Tax Receipts shall be deposited as provided by the Facilities Agreement.

"Facilities" mean the Fairgrounds, together with the Improvements, and all other real and personal property located on the Site.

"Facilities Agreement" means Facilities Agreement and all amendments and supplements thereto.

"Improvements" shall mean the real property and the capital improvements financed or refinanced with the proceeds of Bonds as specified and identified in the Facilities Agreement, as amended and supplemented from time to time.

"Resolution" shall mean a resolution passed by the Agency, authorizing the issuance of Bonds.

"Site" means the real estate described on **Exhibit A** attached to the Facilities Agreement.

Provision of Facilities

The Agency agrees that it will acquire, construct, equip and furnish such Improvements for the Society on the Site and in accordance with final plans and specifications to be approved by the Society as shall be mutually agreed by the Agency and the Society.

The Agency appoints the Society as its agent for purposes of acquiring, constructing, equipping and furnishing the Improvements. The Society shall, upon completion of the final plans and specifications, proceed to take bids and award contracts in compliance with the bidding procedures of County Purchasing Act to the extent required to complete the Improvements.

The Society acknowledges that the costs of constructing, equipping and furnishing the Improvements may exceed the amount of money to be deposited in the Construction Fund held, which fund contains and will contain money only from the proceeds of sale of the Bonds issued by the Agency. The Society anticipates that it will have on hand funds sufficient to make up any difference between the cost for completing the acquisition, construction, equipping and furnishing of the Improvements and the money in the Construction Fund. The Society agrees that it shall pay from its own funds any amounts necessary to make up any difference between the total amount of such estimated cost and the money in the Construction Fund.

The Society agrees that any contractor which provides work on the Improvements shall provide performance and payment bonds and builders' risk insurance, all as specified in the Facilities Agreement.

The Society, acting as the Agency's agent, is hereby granted the right to make change orders in the work contemplated by any construction contract, but the Agency shall not be obligated to pay for any work, whether by change order or otherwise, in excess of the amount of funds in the Construction Fund.

The ownership of, in and to the Improvements acquired pursuant to the Facilities Agreement shall vest in the Society. The Society shall not transfer, encumber or sell the Improvements or any portion

thereof without the approval of the Agency by the affirmative vote of at least four representatives on the Agency Board.

Upon completion of the acquisition, construction, equipping and furnishing of any Improvements, the Society shall furnish to the Agency a complete description of all property, both real and personal, covered by the Facilities Agreement.

Payment of Costs of Construction

The Society and the Agency agree that all Costs of Construction shall be paid out of the Construction Fund or other available funds of the Society. Disbursement requisitions to any contractor or vendor to be paid from the Construction Fund for Costs of Construction of the Improvements or to any provider of equipment and furnishings, including the final requisition, shall be approved by the Society and the Agency. Requisition approvals by the Agency shall be evidenced by the Chair of the Agency and the Treasurer of the Agency pursuant to Section 13-2527(1) Reissue Revised Statutes of Nebraska, as amended.

Certificate of Acceptance

Upon completion of any Improvements and acceptance thereof by the Society, the fact of such completion and acceptance shall be evidenced by a Certificate of Completion signed by the President of the Society. Upon such completion and acceptance, any amount remaining in the Construction Fund from the Bond issued to finance such Improvements, after payment of all costs of completion of the Improvements, shall be transferred to the Bond Fund and applied to the payment of the principal of and interest on such Bonds.

Dispute Resolution

Any dispute with any contractor concerning acquiring, constructing, equipping and furnishing any Improvements or interpretation of any contract shall be adjusted and settled by the Society, and the Society shall be liable and make payment to such contractor and all other persons for any judgment, claim or liability in connection with the Improvements in excess of the money in the Construction Fund.

Issuance of Bonds; Debt Service

To pay the Costs of Construction of the Improvements and the costs of issuance thereof, the Agency, with the consent of the Society and the County, may issue Bonds pursuant to a Resolution and to deposit the proceeds thereof as provided in such Resolution.

The Society and the Agency covenant and agree that all payments of the principal or redemption price of and interest on the Bonds shall be made from the proceeds of the tax levied by the Agency by authority granted to the Agency pursuant to the JPA Agreement.

Pledge of Excess Revenues

The Society shall, after providing for the payment of the operating expenses of the Facilities, set aside funds generated by the operation of the Facilities and any donations or grants it may receive in a Facilities Operations Reserve Fund (the "**Reserve Fund**"). If the annual audited financial statements of the Society shows that the balance of the Reserve Fund exceeds 50% of the budgeted operating expenses of the Lancaster Event Center Division of the Society for such fiscal year, exclusive of capital expenditures, an amount equal to 50% of any such excess combined with donations and grants received

by the Society shall be paid to the Registrar, which shall apply the same to the payment of principal or redemption price of and interest on the Bonds except to the extent the same is specifically restricted by the donor or maker thereof to a particular purpose inconsistent with use for the payment of the principal of and interest on the Bonds.

Society to Operate and Manage the Facilities

The Society undertakes to operate and manage the Facilities at its own expense. In such connection the following terms shall apply:

(a) The Society shall provide all necessary personnel to operate and manage the Facilities as a county fair and exposition facility under the terms of County Agricultural Society Act. The Society shall designate its Managing Director, or some other Society employee as the chief operating official responsible for the day to day operations of the Facilities. The Society shall provide all personnel, materials and supplies necessary to operate and manage the Facilities. All Society personnel assisting with the operation of the Facilities shall be and will remain employees of the Society for purposes of all state and federal laws governing the conditions of their employment, including payment of wages, employment benefits, insurance, liability and taxation of income.

(b) Any improvements to the Fairgrounds may be made from time to time as determined by the Society to be necessary, desirable or advisable and which are included as a part of the capital improvement program included in the Society's capital improvement budget and approved by the County pursuant to Section 2-261(2) Reissue Revised Statutes of Nebraska, as amended. The Society shall contract for work on such Improvements with contracts to be awarded and entered into pursuant to the bidding procedures of the County Purchasing Act, Section 23-3111 Reissue Revised Statutes of Nebraska, as amended. All costs of such improvements shall be paid by the Society.

(c) The Society shall establish initial rates and charges which are to apply to the use of the Facilities. As manager hereunder, the Society shall adjust such rates from time to time as it deems appropriate, just and equitable. The Society shall, on a quarterly basis or at such other intervals as the County Board deem appropriate, submit a report to the County Board detailing the proposed rates, any actual bookings for use of the Facilities, and projected revenues based on the same.

(d) The Society shall formulate rules and procedures governing the operation of the Facilities which shall be placed on file with the Agency and, as filed or as revised from time to time, shall be in force and effect, unless otherwise specified by the Society, upon the filing thereof with the Agency and each Participant of the Agency.

(e) The Society shall not transfer or encumber the Facilities or any portion thereof, nor lease the same for a term greater than 90 days in any given year without approval of the Agency Board by the affirmative votes of at least four representatives.

In exercising its authority and carrying out its duties and functions the Society shall not discriminate against any employee, applicant for employment, contractor, potential contractor, or any individual or entity on the basis of race, religion, color, sex, national origin, disability, age, marital status, or any other basis prohibited by law.

Insurance

The Society shall maintain, or cause to be maintained, insurance upon the Facilities and the operation thereof as follows:

(a) insurance against fire, theft and extended coverage risks (including vandalism and malicious mischief) in an amount not less than the full insurable value of the Facilities, which insurance may include a deductible amount not to exceed \$50,000;

(b) general public liability insurance against claims for bodily injury, death or property damage occurring on, in or about the Facilities with limits of not less than \$1,000,000 for any person for any number of claims arising out of a single occurrence, \$5,000,000 for all claims arising from a single occurrence, and any greater limits of liability which may be established by Section 13-926 Reissue Revised Statutes of Nebraska, as amended, or any other applicable provision of the Nebraska Political Subdivision Tort Claims Act (the "**Tort Claims Act**"), and excess insurance with limits of not less than two million dollars for any liability which may not be limited by the Act. Such general public liability insurance may be subject to a deductible amount not in excess of \$50,000.

(c) workers' compensation insurance coverage as required by the laws of the State of Nebraska;

(d) performance bond coverage and labor and materials payment bond coverage for the construction of the Improvements in the full amount of the contract or contracts for construction of the Improvements.

All such insurance shall show the Society and the Agency as insureds as their respective interests may appear. Insurance required in (a) and (d) above shall be payable to the Society. The cost of any and all such insurance shall be treated as a cost of operation and maintenance of the Facilities and shall be born by the Society.

Utilities and Other Impositions

The Society shall provide for the payment of all utility charges, taxes (if any) and other impositions with respect to the Facilities or the operation thereof and all such charges or impositions shall be treated as a cost of operation and maintenance of the Facilities and be paid by the Society.

Use of Facilities

As long as any Bonds remain outstanding, the proceeds of which were used to acquire, construct, equip, or furnish the Facilities, the Society shall not use the Facilities, or allow the use thereof, in any manner inconsistent with the original purpose for which the Facilities were acquired.

Term of Agreement

The Facilities Agreement shall not terminate so long as Bonds remain outstanding under the terms of the Resolution authorizing their issuance. Either the Society or the Agency may terminate the Facilities Agreement at any time after all of Bonds are no longer outstanding under the terms of the Resolution authorizing their issuance.

Amendment

The Facilities Agreement may be amended in writing upon the approval of both parties; provided, however, that such amendment must be approved by the Agency by not less than four (4) affirmative votes of the representatives on the Agency Board.



LANCASTER COUNTY AGRICULTURAL SOCIETY CONSERVATION EASEMENT EXHIBIT

REGA ENGINEERING 402-484-7342 OFFICE
1620 S 70TH ST.
SUITE 103 402-484-7344 FAX
LINCOLN, NE 68506

JOB NAME: LANCASTER EVENT CENTER
LOCATION: 84TH AND HAVELOCK
LINCOLN, NEBRASKA

DESCRIPTION: CONSERVATION EASEMENT EXHIBIT

DRAWN BY: FBS

CHECKED BY: FBS/DR

SCALE: 1"=200'

DATE: 2-22-2012

JOB NUMBER

SHEET

111133

1 OF 2

REGA
ENGINEERING
GROUP, INC.

1620 S 70TH, SUITE 103
LINCOLN, NEBRASKA 68506
(402) 484.7342

- ENGINEERING
- PLANNING

**CONSERVATION EASEMENT AGREEMENT
(Preservation of Floodplain/Floodprone Area)**

THIS CONSERVATION EASEMENT AGREEMENT is entered into as of the _____ day of _____, 2012, by and between Lancaster County Agricultural Society, Inc., a Nebraska nonprofit corporation ("Ag. Society"), the City of Lincoln, Nebraska ("City"), and Lower Platte South Natural Resources District ("NRD").

RECITALS

I.

Ag. Society is the owner in fee simple of certain land ("Real Property") legally described as:

See Exhibit "A"

II.

The City and NRD desire to acquire and Ag. Society is willing to convey a permanent Conservation Easement to preserve the flood storage capacity and other natural resources over the Easement Area.

NOW, THEREFORE, in consideration of One **DOLLAR, (\$1.00)**, and other good and valuable consideration, receipt of which is hereby acknowledged, Ag. Society hereby grants and conveys to City and NRD for their benefit and the benefit of the public a conservation easement over the Easement Area to restrict the use of the Easement Area in order to protect and preserve the floodplain/floodprone area, drainageway, wetlands, and tree masses that occur on the land, to protect other water resources and biologic resources of the floodplain/floodprone area as identified on Exhibit B, and to restrict development and future use of the Easement Area that will significantly impair or interfere with the open space values and natural resources of the Easement Area.

The terms, conditions, and covenants of the conservation easement hereby created are as follows:

1. Use of Easement Area.

A. Compatible Uses. The Easement Area shall be used only for purposes compatible with open space, recreational, or wetlands management practices. Notwithstanding subsection B, "Non-Compatible Uses," below, the following uses are compatible with the purposes of the Easement Area:

- i. Areas already in agricultural use at the time this easement is dedicated may continue in such use.

- ii. Roadway or utility crossings necessary for the functional use of adjacent lands constructed in accordance with the flood regulations.
- iii. Public sanitary sewer lines along the stream alignment necessary for the functional use of adjacent lands, as approved in advance by the Director of Public Works & Utilities, provided the corridor is restored following disturbance to the maximum extent practicable.
- iv. Trails or other public recreational components as approved in advance by the Director of Public Works & Utilities.
- v. Stream rehabilitation, water quality projects, or protection/restoration of other natural resources listed in Exhibit B as approved in advance by the Director of Public Works & Utilities.
- vi. Storm drain and outlet improvements conforming to the City's design standards necessary for the functional drainage of adjacent lands.
- vii. Baseball, softball, or other recreational fields and related activities.

B. Non-Compatible Uses. The following uses and practices, although not an exhaustive recital of the inconsistent uses and practices, are inconsistent with the purposes of this Conservation Easement and shall be prohibited within the Easement Area:

- i. Construction or placing of roadways, buildings, camping accommodations, or mobile homes, fences, signs, billboard or other advertising material, or any other structure;
- ii. Filling, excavating, dredging, mining or drilling, removal of top soil, sand, gravel, rock, minerals, or other materials, except as authorized or permitted under the excavation and stone milling permit (Special Use Permit No. _____) issued by the City of Lincoln, dated _____, 2012;
- iii. Building of roads, or changing in the topography of the land in any manner excepting the maintenance of foot trails or any work requested by the City;
- iv. Dumping of ashes, trash, garbage, or other unsightly or offensive material;
- v. Changing the topography of the land by placing of soil or other substances or materials such as landfill or dredging spoils;
- vi. Commercial or residential development of any nature;
- vii. Human introduction of non-native plant or animal species which may compete with and result in decline or elimination of native animal species;
- viii. Operation of motorized vehicles except as necessary in the use of the area as provided herein;
- ix. The broadcast application of pesticides at any time, except for that which is needed for areas already in agricultural use at the time this easement is dedicated. Spot application of pesticides for the control of noxious weeds as provided by state law will be permitted;
- x. Cultivation, planting, or drilling of row crops, small grains, and forages, such as alfalfa and forage sorghum within areas not already in agricultural use at the time of the dedication of this easement;
- xi. Removal of tree masses;

- xii. Sedimentation of the Easement Area due to grading or construction activities outside the Easement Area on the land owned by Ag. Society;
- xiii. Any other act which would be detrimental to the scenic beauty, wildlife habitat, wetlands, the natural beauty, or natural resources of the Easement Area reasonably within the control of the Ag. Society.

2. Term. The term of this Conservation Easement will be in perpetuity unless earlier terminated pursuant to any of the following provisions:

- i. By the City and NRD pursuant to the provisions of Neb. Rev. Stat. § 76-2,113.
- ii. By the Lancaster County District Court pursuant to the provisions of Neb. Rev. Stat. § 76-2,114.

The parties agree that termination of this Agreement may be total and affect the entire Easement Area, or may be partial and result in the termination of the easement over only a portion of the Easement Area.

3. Condition of the Easement Area at Time of Grant. The condition of the Easement Area without limiting the generality of the terms is defined to mean the open space, drainageway, wetlands, tree masses, and the functional integrity of other water resources and biologic resources of the floodplain/floodprone area identified on Exhibit B, as evidenced by reports, photographs and scientific documentation on file with the City's Planning Department.

4. Protection and Maintenance of the Easement Area.

A. Ag. Society agrees to pay any real estate taxes, estate taxes or assessments levied by competent authorities on the Easement Area, including but not limited to any tax or assessment affecting the easement granted herein. Ag. Society retains the right to challenge the assessed value of the property and to challenge the validity of any such tax or assessment.

B. Ag. Society shall cooperate with and assist the City and NRD at the City or NRD's cost in applying for, obtaining, protecting, maintaining and enhancing any and all surface water and ground water rights and privileges related to the Easement Area by signing applications which the City deems necessary or desirable for the management, maintenance or development of the Easement Area for the purposes provided for herein.

C. The Ag. Society shall, at its sole cost and expense, maintain the Easement Area. Maintenance shall consist of routine noxious weed control, routine weed and brush control, routine removal of trash and debris, and routine non-structural maintenance of stream bed and bank stability measures following installation. If Ag. Society fails to maintain the Easement Area the City and/or NRD may carry out such maintenance and bill the cost thereof to Ag. Society. Ag. Society shall pay said cost within thirty days from receipt of said billing.

5. Inspections and Access by City. The City and NRD shall have the right of reasonable ingress and egress to and from the Easement Area from public roads and streets and from adjacent properties for its employees, contractors, vehicles and equipment for the purpose of revegetating and for inspecting, maintaining, protecting or enhancing the floodplain/floodprone area within the Easement Area, including but not limited to stream stabilization projects, as the City or NRD may deem necessary or desirable. Such right of access will be modified as reasonably necessary upon subdivision or development of said adjacent properties.

6. Enforcement. Ag. Society agrees that the City and NRD may enforce the provisions of this Conservation Easement by any proceeding at law or in equity, including but not limited to, the right to require restoration of the Easement Area to the condition at the time of this grant. Ag. Society further agrees that the City or NRD may seek an injunction restraining any person from violating the terms of this Conservation Easement and that the City or NRD may be granted such injunction without posting of any bond whatsoever. Ag. Society further agrees that the City and NRD do not waive or forfeit the right to take any action as they deem

necessary to insure compliance with the covenants and purposes of this grant by any prior failure to act. Ag. Society further agrees that should Ag. Society undertake any activity requiring the approval of the City and NRD without or in advance of securing such approval, or undertake any activity in violation of the terms of this Conservation Easement that City and NRD shall have the right to enforce the restoration of that portion of the Easement Area affected by such activity to the condition that existed prior to the undertaking of such unauthorized activity. In such case, the cost of such restoration and the City's and/or NRD's cost of suit shall be paid by Ag. Society.

7. Title to Easement Area. Ag. Society covenants that Ag. Society is the owner of marketable title to all of the Easement Area, has legal right, title and capacity to grant the Conservation Easement granted herein subject to easements and restrictions of record.

8. Transfer of Interest.

A. Owner's Title to Easement Area. If the land subject to this Conservation Easement Agreement or any interest therein is subsequently transferred by Owner to a third party, Owner shall notify the City and NRD in writing prior to the transfer of the land and the document transferring the interest shall be made subject to this Conservation Easement Agreement.

B. City and NRD's Conservation Easement. The City and NRD shall have the right to transfer this Conservation Easement to any public agency, charitable organization or trust that, at the time of transfer, is an organization qualified to assume the responsibility imposed on the City and NRD by this Conservation Easement Agreement.

9. Binding Affect. The Conservation Easement granted herein shall run with the land and shall inure to the benefit of and be binding upon the heirs, successors and assigns of Ag. Society, City and NRD.

10. Approvals. Any approval required under this Agreement shall not be unreasonably withheld.

11. Recordation. The parties agree that this Agreement shall be duly filed by the City and NRD with the Lancaster County Register of Deeds upon execution and acceptance by the City and NRD.

12. Severability. If any provision of this Conservation Easement or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of the Conservation Easement and the application of such provisions to persons or circumstances other than those to which it is found to be invalid shall not be affected thereby.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth above.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth above.

LANCASTER COUNTY AGRICULTURAL
SOCIETY, INC.

By: _____

Ron Dowding, President

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2012, by Ron Dowding, President of Lancaster County Agricultural Society, Inc., a Nebraska nonprofit corporation, on behalf of the corporation.

Notary Public

ATTEST:

CITY OF LINCOLN, NEBRASKA

City Clerk

By:

Chris Beutler, Mayor

LOWER PLATTE SOUTH NATURAL
RESOURCES DISTRICT

By:

_____, _____

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2012, by _____, _____ of Lower Platte South Natural Resources District, a natural resource district, on behalf of the district.

Notary Public



LANCASTER COUNTY AGRICULTURAL SOCIETY CONSERVATION EASEMENT EXHIBIT



REGA ENGINEERING 402-484-7342 OFFICE
1620 S 70TH ST.
SUITE 103 402-484-7344 FAX
LINCOLN, NE 68506

JOB NAME: LANCASTER EVENT CENTER
LOCATION: 84TH AND HAVELOCK
LINCOLN, NEBRASKA

DESCRIPTION: CONSERVATION EASEMENT EXHIBIT

DRAWN BY: FBS CHECKED BY: FBS/DR

SCALE: 1"=200'

DATE: 2-22-2012

JOB NUMBER

SHEET

111133

1 OF 2

REGA
ENGINEERING
GROUP, INC.

1620 S 70TH, SUITE 103
LINCOLN, NEBRASKA 68506
(402) 484-7342

- ENGINEERING
- PLANNING