

LINCOLN REGIONAL CENTER ANNEXATION AGREEMENT

This Lincoln Regional Center Annexation Agreement ("Agreement") is made and entered into this _____ day of _____, 2003, by and between the **State of Nebraska, acting through the Nebraska Department of Administrative Services**, hereinafter referred to as "Owner," and the **City of Lincoln, Nebraska**, a municipal corporation, hereinafter referred to as "City."

RECITALS

A. Owner has requested the City to annex the east 1525 feet of Lot 14, Irregular Tract, located in the North 1/2 of Section 3, Township 9 North, Range 6 East of the 6th P.M., Lancaster County, Nebraska (i.e., the Lincoln Regional Center) and other properties presently served with water from the Lincoln Regional Center water system generally located at West Van Dorn Street and South Folsom Street, hereinafter collectively referred to as the "Property."

B. Owner is the legal owner of the Lincoln Regional Center.

C. In order to provide adequate water service to the Lincoln Regional Center and its water customers, it will be necessary to construct a 16-inch water main along West Van Dorn Street from Coddington and the new Pioneers Pump Station to South Folsom Street, a 16-inch main in Folsom from West Van Dorn (W. Prospector) south to Calvert Street, and a 12-inch main in Calvert from Folsom to the State's service. It is anticipated that the main in Van Dorn will be constructed as a Capital Improvements Project and that the main in Folsom will be constructed either through a water district or as a capital improvement project. It will also be necessary to construct a water pump station in the vicinity of SW 15th Street and Van Dorn to provide adequate water pressure.

D. The City is willing to annex the Property as requested by Owner, provided Owner agrees to pay for the construction of the above-described water mains and to contribute to the cost of construction of the water pump station which are necessary in order to serve the Property.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties do agree as follows:

1. Annexation by the City. The City agrees to annex the Property.

2. Public Water Main. City agrees to construct a 16-inch water main along West Van Dorn Street from Coddington and the new Pioneers Pump Station to South Folsom Street, a 16-inch main in Folsom from West Van Dorn (W. Prospector) south to Calvert Street, and a 12-inch main in Calvert from Folsom to the State's service. The City agrees to use its best efforts to complete said construction by April 2004. City further agrees as part of said construction to reconstruct the individual services for those properties currently connected to the Regional Center water system and to connect those individual services (if annexed) and the Regional Center to the Lincoln Water System. However, the owners of those properties currently connected to the Regional Center water system will be responsible at their own cost and expense to make an application for service and to pay the required permit fee in accordance with Chapter 17.10 of the Lincoln Municipal Code.

3. Owner's Responsibility.

A. Contribution. As an inducement for the City to proceed with the annexation and construction of the water improvements necessary to serve the Lincoln Regional Center, Owner agrees to pay one hundred percent (100%) of the actual cost of the water mains described in paragraph 2 and to pay up to twenty percent (20%) of the actual cost of the Pioneers water pump station at SW 15th Street and Van Dorn provided that Owner's total contribution shall not exceed Seven Hundred Twenty Thousand Dollars (\$720,000). Owner's payment shall be made to the City within thirty (30) days following completion of the improvements to enable the Regional Center to connect to the Lincoln Water System.

B. Easement. Owner agrees to convey to City, at no cost to the City, an easement satisfactory to the City for the 16 inch water main along West Van Dorn Street from

Coddington to South Folsom Street in order to save the existing trees which would be destroyed if the water main were located in the public right-of-way.

C. **Equipment.** In addition to the maximum \$720,000 contribution provided for in subparagraph A above, Owner shall be responsible at its own cost and expense to pay for all meters, back flow preventors, etc. that will be required for the Regional Center connection to the Lincoln Water System.

D. **Notice.** Owner agrees to provide written notice to all property owners connected to the Regional Center water system that their water service will be terminated upon the Regional Center's connection to the Lincoln Water System and that said owners shall be required to connect to the Lincoln Water System unless such owner, prior to annexation, has a water well used for domestic purposes. Owner further agrees to provide the City with a copy of each notice.

4. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, devisees, personal representatives, successors and assigns.

5. Amendments. This Agreement may only be amended or modified in writing signed by the parties to this Agreement.

6. Further Assurances. Each party will use its best and reasonable efforts to successfully carry out and complete each task, covenant, and obligation as stated herein. Each of the parties shall cooperate in good faith with the other and shall do any and all acts and execute, acknowledge, and deliver any and all documents so requested in order to satisfy the conditions set forth herein and carry out the intent and purposes of this Agreement.

7. Governing Law. All aspects of this Agreement shall be governed by the laws of the State of Nebraska. The invalidity of any portion of this Agreement shall not invalidate the remaining provisions.

8. Interpretations. Any uncertainty or ambiguity existing herein shall not be interpreted against either party because such party prepared any portion of this Agreement, but shall be interpreted according to the application of rules of interpretation of contracts generally.

9. Construction. Whenever used herein, including acknowledgments, the singular shall be construed to include the plural, the plural the singular, and the use of any gender shall be construed to include and be applicable to all genders as the context shall warrant.

10. Relationship of Parties. Neither the method of computation of funding or any other provisions contained in this Agreement or any acts of any party shall be deemed or construed by the City, Owner, or by any third person to create the relationship of partnership or of joint venture or of any association between the parties other than the contractual relationship stated in this Agreement.

11. Notices. All notices to the Owner shall be addressed to:

Administrator, State Building Division
Suite 500
521 South 14th Street
Lincoln, NE 68509

12. Fair Share. Owner and City agree that the City has a legitimate interest in the public health, safety and welfare which is promoted by requiring Owner to pay its fair share of the cost to construct the public water improvements to serve the Regional Center and that an essential nexus exists between the City's legitimate interests and the conditions placed upon Owner under this Agreement. In addition, City and Owner have made an individualized determination and agree that the conditions placed upon Owner under this Agreement are related both in nature and extent and are in rough proportionality to the projected adverse effects annexation of the Regional Center would have on public water system which serves the Regional Center.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first written above.

ATTEST:

THE CITY OF LINCOLN, NEBRASKA
a municipal corporation

City Clerk

By: _____
Coleen J. Seng, Mayor

STATE OF NEBRASKA
Acting through the Nebraska
Department of Administrative Services

By: _____
Ken Fougeron, Administrator
Nebraska Department of Administrative
Services, State Building Division

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2003, by Coleen J. Seng, Mayor of the City of Lincoln, Nebraska on behalf of the City.

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2003, by Ken Fougeron, Administrator, Nebraska Department of Administrative Services, State Building Division, on behalf of the State of Nebraska.

Notary Public