Attachment "A"

COMMERCIAL NET BUILDING AND GROUND LEASE

OF

LINCOLN AIR PARK WEST

This Lease Agreement for land is executed in duplicate this _____ day of _____, 2006, between Airport Authority of the City of Lincoln, Nebraska, hereinafter referred to as **"Authority"**, and the City of Lincoln, Nebraska, hereinafter referred to as **"Lessee"**.

Recitals

I

In accordance with Article 5, Chapter 3 of the Statutes of Nebraska, the City Council of the City of Lincoln, Nebraska, by appropriate action in 1959, created an Airport Authority and transferred to the Authority the right to use, occupy and manage certain real estate owned by or acquired in the name of the City of Lincoln, including the land leased herein, located on Lincoln Airport in an area denominated "Lincoln Air Park West"; and

II

The Authority deems it advantageous to the support, operation, and public purpose of the Airport to lease to the Lessee those certain buildings and parcel of land described herein; and

III

The Lessee proposes to lease on a net basis from the Authority, as herein provided, the ground area and buildings all as herein described.

NOW, THEREFORE, it is mutually agreed between the parties as follows:

1. **Leased Premises**. Authority, in consideration of the rents to be paid by Lessee as hereinafter set forth, and of the covenants and agreements hereinafter stipulated to be mutually

kept and performed by the parties hereto, does hereby lease unto Lessee the following-described premises situated in Lincoln Air Park West upon Lincoln Airport, Lincoln, Nebraska, to-wit:

> A parcel of land totaling approximately 42,400 square feet as outlined in red on the attached Exhibit "A";

together with the improvements and appurtenances thereunto belonging or in any wise appertaining, including the right of ingress and egress thereto and therefrom at all times. Authority agrees to keep a street open from the leased premises to a public street or highway.

2. **Term; Extension**.

(a) Lessee shall have and hold said premises for the basic term of 31 years beginning November 1, 2006, and ending October 31, 2037, unless sooner terminated or extended as hereinafter provided.

(b) Provided Lessee is not in default in performance of the terms and conditions of this Lease, this Lease shall automatically renew for an additional term of thirty (30) years on the same terms and conditions herein contained, except rent, unless Lessee notifies the Authority in writing at least one year before the expiration of the basic term that Lessee does not intend to renew.

3. **Rent**.

(a) Lessee shall pay Authority, as rent during the basic term for the premises herein leased that amount required to be paid under the Interlocal Agreement entered into of even date herewith, and any addendum thereto, for construction of the Fire Station, payable as provided in said Interlocal Agreement; provided however, should the sums due and owing to the Authority under said Interlocal be paid off in advance by the City at any time, then the rental to be paid by the City to the Authority shall be an amount equal to ten cents (10¢) per square foot per annum, paid in twelve (12) equal monthly payments in advance on the first of each month during the

remaining term of this Lease, commencing on the first of the month following the payoff. The rent figure of ten cents (10¢) per square foot shall be subject to adjustment every ten (10) years to reflect any increase in the cost of living from the commencement of this Lease as shown by the U.S. Consumer Price Index-All Urban, or any successor index.

(b) If this Lease is automatically extended as provided in Paragraph 2(b), the rental for the extended term shall be fixed at least six (6) months before the expiration of the basic term by agreement of the parties, but if the parties are unable to agree, then the rent shall be determined by three real estate appraisers to be chosen in the following manner: one to be chosen by each party and the appraisers so selected to choose the third real estate appraiser. A majority of the three so appointed shall determine the rent to be paid by Lessee for the extended term.

4. **Payment of Rent; Charge on Unpaid Items**. All rental payments due under this Lease shall be paid, without notice to the Lessee, to the Airport Authority of the City of Lincoln, Nebraska. An additional charge of fifteen percent (15%) per annum on unpaid items shall be paid by Lessee from the first day of the month due, of any amounts due under this Lease which shall remain unpaid for more than ten (10) days after due date. Such charge shall not accrue upon any item about which there exists a bona fide dispute.

5. **Real Estate Taxes; Responsibility of Lessee**. It is understood and agreed that as of the initial date of this Lease, the leased premises may be subject to real estate taxes pursuant to Neb. Rev. Stat. § 77-201 et seq. (Reissue 2003) and may be subject to a payment in lieu of taxes. However, it is agreed that if the leased premises become subject to real estate tax or subject to a payment in lieu of tax, then Lessee shall pay the said tax or payment in lieu of tax, in addition to any rental fees specified in this Lease.

6. **Use of Leased Premises**. Lessee will use the premises for the purpose of construction and subsequent operation of a city fire station and such other uses as may be incidental and related thereto. Upon completion of construction the fire station will be designated as Building No. 2370 in Lincoln Air Park West.

7. **No Cost to Authority; Development, Maintenance, Repair at Lessee's Cost**. This Lease, in every sense, shall be without cost to Authority for the development, maintenance and improvement of the leased premises and Lessee shall, at its sole cost, except as herein otherwise specifically provided, keep, maintain and repair the entirety of the leased premises, and all improvements and facilities placed thereon, in good order, condition and repair as may be required by ordinary and reasonable use or fault on the part of the Lessee. By entry hereunder, Lessee accepts the premises as being in good order, condition and repair and agrees, upon termination of this Lease, to surrender the premises and appurtenances to Authority in the same condition as received, reasonable use and wear thereof and damage by fire, act of God or the elements excepted.

8. **Alterations**. Lessee shall have the right, during the term of this Lease, to make alterations, attach fixtures and erect signs in or upon the premises hereby leased (provided any exterior signs shall be erected only after written approval of plans by Authority), and all improvements, appliances, fixtures and all other property, of whatever nature made to or placed upon said premises by Lessee, shall be and remain the property of Lessee and may be removed prior to the termination of this Lease, provided only that Lessee shall restore the premises to the same condition as existing at the time of entry under this Lease, ordinary wear and tear excepted.

9. **Fire and Other Casualty Insurance**. Lessee shall, at its own cost and expense, insure the structure and improvements located at the premises against loss or damage by fire and

those perils covered by "extended coverage" insurance in an amount of not less than One Million Two Hundred Thousand Dollars ($1,200,000.00), which insurance shall name as the insured the Lessee and Authority as their interests may appear. Lessee shall be responsible for insuring or self-insuring, at its own expense, all of its personal property located at the premises.

10. **Destruction or Damage to Building; Cancellation of Lease**. If the building leased hereunder is destroyed, damaged or taken by fire or the elements or other casualty, or by condemnation, and the destruction or taking is such that, in the exercise of reasonable effort, it cannot be repaired or replaced within one hundred twenty (120) days or, if it is such as to exceed fifty percent (50%) of the value of the premises, Lessee or Authority may cancel this Lease by written notice mailed to the other party thirty (30) or more days before the effective date of cancellation and at any time within sixty (60) days after the damage or destruction. In such case Lessee is solely responsible for the demolition and removal of all improvements upon the demised premises. To the extent not covered by insurance proceeds, Lessee shall, in the event of such cancellation, pay to the Authority within thirty (30) days of the effective date of such cancellation, a sum equal to the balance of the unamortized principal and interest for actual construction costs funded by the Authority, up to One Million Two Hundred Thousand Dollars ($1,200,000.00) which construction costs were paid by the Authority as provided in the "Interlocal Agreement" entered into between the Authority and the Lessee on the _____ day of _____, 2006. If this Lease is not canceled as provided, Lessee, at its expense, shall, with diligence, repair, rebuild or restore the improvements as nearly as possible to the conditions existing just prior to the destruction or damage.

11. **Indemnification**. Lessee shall defend, indemnify and hold Authority and its agents, officers and employees harmless from and against any and all claims, suits, demands,

actions, liabilities, losses, damages, judgments or fines arising by reason of injury or death of any person, or damage to any property, including all reasonable costs for investigation and defense thereof (including, but not limited to, attorney fees, court costs, investigator fees, and expert fees) of any nature whatsoever arising out of Lessee's activities on Authority's property, or in its use or occupancy of the leased premises, regardless of where the injury, death or damage may occur, except to the extent such injury, death or damage is caused by the negligent act or omission or willful misconduct of Authority. Authority shall give Lessee reasonable notice of, and an opportunity to defend against, any such claims or actions. Notwithstanding the above indemnification, Lessee shall give Authority reasonable notice of any matter covered herein and shall forward to Authority a copy of every demand, notice, summons or other process received in any claim or legal proceeding covered hereby.

Lessee agrees to obtain liability insurance in the amount of One Million Dollars ($1,000,000.00) including the Authority as an additional insured, or Lessee may self-insure for liability claims. Said insurance policy shall contain a provision to notify Authority in writing thirty (30) days prior to any cancellation or reduction of coverage; or, in the alternative, Lessee, if it proposes to self-insure for liability purposes, shall provide the Authority a certificate of self-insurance evidencing that portion of the required coverage for which Lessee is self-insuring.

12. **Utilities**. Lessee shall pay for all water, sewer, gas, heat, light, power and telephone service supplied to the said premises, including standard metering devices for the measurement of such services. In the event it shall become necessary, as a condition of service, to make changes upon the premises, or within the building covered by this Lease, of any wiring, plumbing or similar installations, Lessee will make such changes and installations, at its expense, as directed and required by the utility organizations. It is further agreed that Authority shall have

the right, without cost to Lessee, to install and maintain in, on or across the leased premises, sewer, water, gas, electric, steam and telephone lines, or other installations necessary to the operation of the Airport or to serve other tenants of the Authority; provided, however, that Authority shall carry out such work and locate any above-ground structures in a manner so as not to unreasonably interfere with Lessee's use of the premises.

13. **Storage; Removal of Garbage**. Lessee agrees that all storage of equipment, materials or supplies will be maintained within the building (temporary storage for loading or unloading excepted), and Lessee will cause to be removed, at its own expense, all junk, waste, garbage and rubbish and perform necessary mowing and snow removal and agrees not to deposit the same on any part of the Airport, except that Lessee may deposit the same temporarily on the leased premises in connection with collection for removal.

14. **Compliance with Laws**. Lessee shall, in the use of the premises, comply with all applicable requirements of all municipal, state and Federal authorities now in force, or which may hereafter be in force, and will observe all applicable municipal ordinances, state and Federal statutes now in force, or hereafter to be in force, and Lessee and its tenants, employees, agents and servants shall obey such reasonable rules and regulations as may from time to time be promulgated by Authority, or its authorized agents in charge of the Airport, to insure the safe or orderly conduct of operations of the Airport and traffic to, from and upon the leased premises.

15. **Aerial Approaches; Protection**. Authority reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent Lessee from erecting, or permitting to be erected, any building or other structure on the Airport which, in the opinion of Authority, would limit the usefulness of the Airport or constitute a hazard to aircraft.

16. **No Adverse Effect on Airport**. It is understood and agreed that the rights granted by this Lease will not be exercised in such a way as to interfere with or adversely affect the use, operation, maintenance or development of the Airport.

17. **Rights Reserved; Noise and Airspace**. There is hereby reserved to Authority, its successors and assigns, for the use and benefit of the public, a free and unrestricted right of flight for the passage of aircraft in the airspace above the surface of the premises herein conveyed, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using said airspace or landing at, taking off from, or operating on or about the Airport.

18. **No Assignment**. Lessee shall not assign this Lease, or any interest therein, and shall not sublet the premises in whole or in part and any such assignment or subletting shall be void and shall, at the option of Authority, terminate this Lease.

19. **Authority; Access to Leased Premises**. Authority shall have free access to the leased premises at all reasonable times for the purposes of examining or inspecting the conditions thereof relevant to any right or power reserved by Authority pursuant to the terms of this Lease.

20. **Holding Over**. The failure of Lessee to surrender the leased premises on the date provided herein for the termination of this Lease term, and the subsequent holding over by Lessee, with or without the consent of Authority, shall result in the creation of a tenancy from month-to-month. This holding over shall not result in a renewal or extension of this Lease. All other terms and conditions of this Lease shall remain in full force and effect during any month-to-month tenancy hereunder, except rental rate, which may be increased by Authority after notice to Lessee.

21. **Default and Right of Termination.**

(a) If Lessee shall fail to perform, keep or observe any of the terms, covenants or conditions herein contained on its part to be performed, kept or observed, the Authority may give written notice to Lessee to comply with such terms, covenants or conditions, specifying the nature of the failure. If such condition or default shall continue for thirty (30) days after service of such notice, Authority may commence an action at law or equity for specific performance, or may give notice of its election to terminate this Lease and, twenty (20) days after service of such notice, this Lease shall cease and terminate. Such election to terminate shall not be construed as a waiver of any claim Authority may have against Lessee consistent with such termination.

If, however, any default is of such nature that it cannot physically be remedied within thirty (30) days, and Lessee shall have commenced the elimination of such default promptly after the receipt of such notice and shall continuously and diligently proceed in good faith to eliminate such default, then the period for correction shall be extended for such length of time as is reasonably necessary to complete such correction.

This provision, however, shall not affect any rights of Authority if there should be any default in the payment by Lessee of the rent and charges provided herein. If there be such default, Authority may give Lessee a thirty (30) day written notice to pay all sums then due, owing and unpaid, and if such payment be not made within such thirty (30) day period, this Lease and Lessee's rights hereunder shall, at the election of Authority stated therein, forthwith terminate.

(b) If Authority shall fail to perform, keep or observe any of the terms, covenants, or conditions herein contained on its part to be performed, kept, or observed, the Lessee may give written notice to Authority to comply with such terms, covenants, or conditions, specifying the

nature of the failure. If such condition or default shall continue for thirty (30) days after service of such notice, Lessee may commence an action at law or equity for specific performance and, if the entire unpaid balance of the construction costs plus interest payable to the Authority under the Interlocal Agreement entered into of even date herewith has been paid in full, Lessee may give notice of its election to terminate this Lease and, twenty (20) days after service of such notice, this Lease shall cease and terminate.

If, however, any default is of such nature that it cannot physically be remedied within thirty (30) days, and Authority shall have commenced the elimination of such default promptly after the receipt of such notice and shall continuously and diligently proceed in good faith to eliminate such default, then the period for correction shall be extended for such length of time as is reasonably necessary to complete such correction.

(c) It is understood that no act of default, termination, or cancellation by either party shall excuse the Lessee's duty to reimburse the Authority the amount due it under the terms of the Interlocal Agreement.

(d) The acceptance of Authority of any payment by Lessee hereunder for or during any period or periods after a default of any of the terms, covenants and conditions contained herein to be performed, kept and observed by Lessee, shall not be deemed a waiver of any right on the part of Authority to terminate this Lease for failure of Lessee to so perform, keep or observe any of such terms, covenants or conditions.

22. **Addendum; FAA Funding**. Lessee agrees that it will, by Lease Addendum, agree to such additional provisions as may be required by the FAA as a condition of granting to Authority funds for Airport improvement projects or as FAA or Authority deem necessary for the operations, safety and security of the Airport.

23. **Hazardous Substance**. Lessee shall not cause or permit any hazardous substance or material to be brought upon, kept or used in or about the premises by Lessee, its agents, employees, contractors or invitees, except for such use as is in compliance with all laws, ordinances and regulations. Lessee shall defend, indemnify, and hold harmless Authority from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs, or expenses (including, without limitation, attorneys' and consults' fees, court costs, and litigation expenses) of whatever kind or nature, known or unknown, contingent or otherwise, arising out of or in any way related to:

(a) The presence, disposal, release or threatened release of any hazardous substance or material that is on, from, or effects soil, water, vegetation, buildings, personal property, persons, animals, or otherwise;

(b) Any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to such hazardous substance or material;

(c) Any lawsuit brought or threatened, settlement reached, or government order relating to such hazardous substance or materials; or

(d) Any violation of any laws applicable thereto.

The provisions of this Lease shall be in addition to any other obligations and liabilities Lessee may have to Authority at law or in equity and shall survive the transactions contemplated herein and shall survive the termination of this Lease.

As used herein, the term "hazardous substance or material" means:

(a) Any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976, as amended from time to time, and regulations promulgated thereunder;

(b) Any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended from time to time, and regulations promulgated thereunder;

(c) Any glycol, oil, petroleum products, and their byproducts; and

(d) Any material or substance which is or becomes regulated by any federal, state, or local governmental authority.

Authority warrants that it has no knowledge of any hazardous substance or material on the Fire Station property. It is further understood and agreed that certain chemicals and other fire suppression and life saving materials will likely be present and maintained on the premises, but Lessee agrees that such chemicals and materials shall be used and maintained in accordance with all applicable rules, regulations and standards, and, in the event of any spill of or contamination from such chemicals or materials on the premises, Lessee shall, at its cost, be responsible for any and all costs of cleanup or remediation, or for any fines or penalties incurred as a result thereof.

24. **Compliance with Regulations**. Lessee shall comply with all regulations promulgated by the Federal Aviation Agency, Environmental Protection Agency, Nebraska Department of Environmental Quality, Nebraska Department of Health, the Lincoln-Lancaster County Department of Health and any other agency of municipal, state or Federal government which regulates Lessee's use of the premises.

25. **Notices**. All notices to be given pursuant to this Lease shall be addressed to the Lincoln Airport Authority, Attention: Executive Director, P.O. Box 80407, Lincoln, Nebraska 68501, or to the Lessee herein addressed to City Clerk, City of Lincoln, 555 South 10th Street, Lincoln, Nebraska 68508, with a copy to City of Lincoln Fire Department, 1801 Q Street, Lincoln, Nebraska 68508, or to such other address as either party may designate in writing.

Notice shall be deemed to have been fully given if and when enclosed in a properly sealed envelope or wrapper addressed as aforesaid and deposited, postage prepaid, in a post office regularly maintained by the United States Government.

26. **Surrender**. On the last day of the term of this Lease or any extension thereof, or on the earlier termination of this Lease, the Lessee shall peaceably surrender the premises in good condition and repair, reasonable wear and tear excepted, consistent with the Lessee's duty to make repairs as provided in this Lease. The Lessee shall, at its expense, remove all of its equipment from the leased premises, and any property not removed shall be deemed abandoned. If, at the time of surrender, the fire station cannot, in the sole opinion of the Authority, be economically put to an alternate use, Authority may, at its discretion, require Lessee to demolish and remove the same at Lessee's cost and expense, but this provision for demolition and removal shall not apply if the Lease is terminated because of default by the Authority.

27. **Time**. In the performance of actions contemplated under this Lease, time is of the essence.

28. **Amendment**. No amendment of this Lease shall be valid unless it is in writing and is signed by the parties or their duly authorized representatives.

29. **Successors**. This Agreement shall be binding on and shall inure to the benefit of the parties to this Agreement and to their respective successors.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and year first above written.

Attest:

AIRPORT AUTHORITY OF THE CITY OF LINCOLN, NEBRASKA, Lessor

_____ By: _____

Secretary

Chairperson

CITY OF LINCOLN, NEBRASKA, Lessee

_____ By: _____

Witness

Mayor

APPROVED AS TO FORM:

_____

William F. Austin
Legal Counsel for the
Airport Authority of the
City of Lincoln, Nebraska

APPROVED AS TO FORM:

_____

City Attorney

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me on this _____ day of _____, 2006, by _____, Chairman of the Airport Authority of the City of Lincoln, Nebraska, on behalf of the Airport Authority.

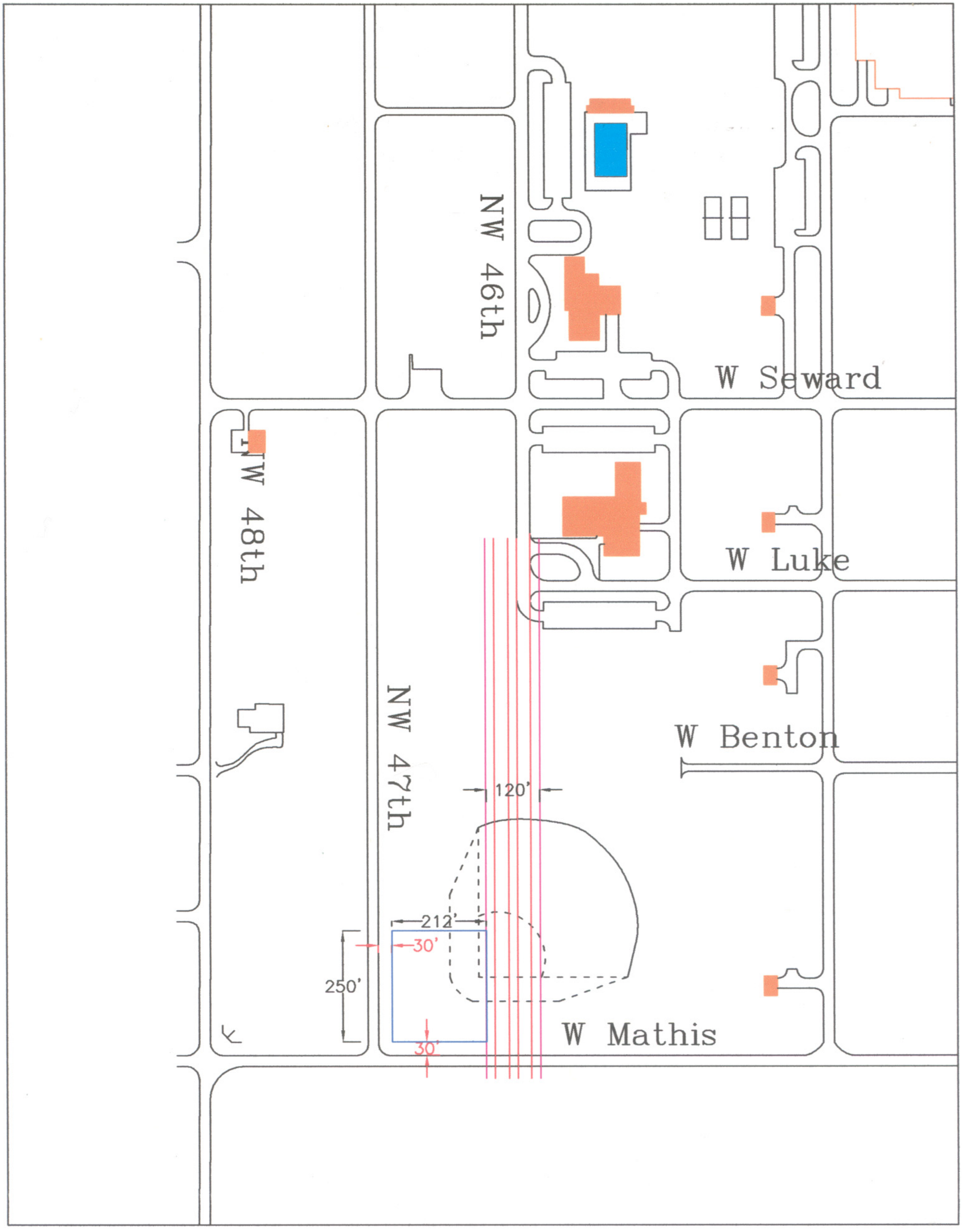
_____
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me on this _____ day of _____, 2006, by _____, Mayor of the City of Lincoln, Nebraska, on behalf of the City, the Lessee.

_____
Notary Public

Exhibit A


NW 46th
W Seward
NW 48th
W Luke
W Benton
NW 47th
120'
212'
30'
250'
30'
W Mathis