

**MEMORANDUM OF UNDERSTANDING  
(City Utilities in Lincoln Air Park West)**

**THIS MEMORANDUM OF UNDERSTANDING** is entered into by and between the Airport Authority of the City of Lincoln, Nebraska, a body corporate and politic, (the "Authority"), and the City of Lincoln, Nebraska, a municipal corporation, (the "City"), on this 1st day of November, 2007.

**RECITALS**

**I.**

The exclusive right of use and occupancy of certain lands comprising the area commonly known as Lincoln Air Park West, located generally west of the Air Operations Area of the Lincoln Airport, was conveyed, transferred, and assigned to the Authority pursuant to Resolution No. A-46618, adopted by the City Council of the City on May 11, 1959.

**II.**

The Lincoln Water System and the Lincoln Wastewater System are owned and operated by the City and have occupied various locations in Lincoln Air Park West with utility installations constructed or installed both before and after passage of the above referenced Resolution, with consent given to the subsequent occupancies by various consent agreements approved by the Authority over the years.

**III.**

The City and the Authority now find it mutually beneficial to enter into this Memorandum of Understanding so as to provide an overall framework for operation, installation, and abandonment of utilities by the Lincoln Water and Wastewater System within Lincoln Air Park West bounded by NW 34th Street on the East, NW 48th Street on the West, West Fletcher Road on the North and West Adams Street on the South, as shown on Exhibit "A".

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the City and the Authority agree as follows:

## ARTICLE I

### LICENSE FOR UTILITY INSTALLATIONS

**1.1 Existing Utilities in Lincoln Air Park West; Grant of License.** Water mains and wastewater mains lift stations, and siphons operated by the Lincoln Water System and the Lincoln Wastewater System in Lincoln Air Park West are shown on Exhibits "B" and "C", respectively. For every existing utility location as shown on Exhibits "B" and "C", the Authority grants to the City a license to occupy and use the premises for the purpose of maintaining, operating, repairing, and replacing the existing underground water mains, wastewater mains, and necessary appurtenances thereto, together with the right of ingress to and egress from said premises for the purpose of operating, maintaining, repairing, and replacing such facilities. Such license shall be subject to the terms and conditions as set forth in Section 1.3 hereof.

**1.2 Extensions and Enlargements; Addendums; Approvals; Form.** For any extension or enlargement of the existing facilities, or any new installation of a water or wastewater main, and necessary appurtenances thereto, the City shall submit a written addendum for attachment to this Memorandum, describing the kind of facility to be installed, together with a copy of the construction drawings, and shall describe with particularity the location of the proposed installation. Such addendum shall be subject to approval by the Executive Director of the Authority who shall, upon approval, affix his signature thereto and assign the next sequential number to that addendum. A copy of the addendum shall be returned to the City Clerk for its records and a copy shall be attached to this Memorandum of Understanding and become a part thereof. Any such installation, when approved, shall be subject to the terms and conditions as set forth in Section 1.3 hereof.

**1.3 Terms of License for Existing and New Installations.** The following terms and conditions shall apply to the license granted hereunder to the City for occupancy of existing and new locations in Lincoln Air Park West for water and wastewater mains:

**a. License; Width.** The license granted shall be thirty (30) feet in width (Where such space is physically available) on or over the main with the main being the centerline of the license area.

**b. Access.** Throughout the term of construction or repair of any main, the City agrees to maintain the continuous flow of at least one lane of vehicular traffic on adjoining streets and roads through and beyond the construction site. If the City finds it necessary to completely close any street or road during construction or repair, the City or its contractor shall obtain approval from the Executive Director of the Authority for such street or road closure.

**c. Restoration of Site.** In the event driveways, public or private streets, or any of the existing paving at those certain locations designated on Exhibit "D" are damaged or removed by the City or its contractors or employees during construction, reconstruction, or maintenance, the City will cause said improvements to be repaired and restored to a condition fully equal to that existing before such construction, reconstruction, or maintenance operations were commenced. Following the completion of construction, reconstruction, or maintenance, the City will leave the premises in a neat and presentable condition, and if necessary, restore the ground and shoulder areas by replacement of soil and seeding. All such restoration, repair, or replacement shall be to the original design and shall be performed to the satisfaction of the Authority. The City further agrees that it will require contractors and employees to limit the construction area to the real estate described in this Memorandum of Understanding or addendums thereto relating to the particular

improvement, including the area for storage of materials and supplies. If the contractor requires additional areas for the storage of materials and equipment during the progression of construction, the City or its contractor shall obtain approval from the Executive Director of the Authority for use of such additional areas.

**d. Other Utilities; Location.** Other public and private utilities, not part of the Lincoln Water and Wastewater System, may be permitted to occupy the licensed area, upon notice and approval of the City. All newly approved utilities shall be located at least three (3) feet from the City utility, except for service connections to City utilities. Limited information is available as to the location of existing private utilities. Known locations of existing Authority owned or controlled utilities are shown on Exhibit "E" and shall be deemed to have received City approval. The Authority will amend Exhibit "E" as new Authority owned or controlled utilities are installed. The Authority and City will coordinate creating a historical record of existing private utilities.

**e. Authority; Reservation of Rights.** The Authority reserves the right to use any licensed property or area for any above ground purpose whatsoever, except the construction of a building, subject only to the rights of the City as herein set forth. This reservation includes specifically the right to construct fences, signs, parking lots and streets on or over any licensed area, however, the City in the exercise of its rights hereunder is only obligated to repair or replace those improvements shown in Exhibit "D".

**f. No Assessment.** The City hereby agrees that no charge, assessment, or cost will be assessed against the Authority by reason of the installation, maintenance, replacement, repair, or removal of any of the facilities that are to be installed,

maintained, replaced, repaired, or removed under authority of this Memorandum of Understanding.

**g. Noninterference.** The City agrees that all operations conducted pursuant to this Memorandum will be conducted in such a manner as to not interfere with, impair, or otherwise affect any water or wastewater services of the Authority or its tenants, other than temporary interruptions during construction, reconstruction, or maintenance, or interfere with Airport operations, security, or safety, and will be in full compliance with all Federal Aviation Administration Regulations and the Rules and Regulations of the Authority.

**h. Sale of Property.** In the event of a sale of any property upon which a license has been granted to the City pursuant to this Memorandum of Understanding, the Authority agrees to grant to the City, prior to such sale, and at no cost, a standard easement over and through that portion of such property occupied by the water or wastewater main.

**i. Facilities; Abandonment.** Should any of the facilities that are the subject of this Memorandum be abandoned by the City for a period of five (5) years or more, the Authority may advise the City, in writing, that the right to maintain such facility granted hereunder is terminated and the Authority may request that the City take the main out of service at the City's cost, at which time the City, at its discretion, will either abandon the main in place or physically remove the same.

**1.4 Facilities; Relocation.** Any water or wastewater facility relocated due to the construction activities of the Airport Authority or its tenants shall be subject to City approval and at the relocating party's expense.

**1.5 Plan Review.** Construction projects that extend into or include the licensed area as referenced in Exhibits B and C; and projects including roadway or drainage for the Airport Authority or its tenants will be submitted to the City Engineer for coordination of plan review.

## **ARTICLE II**

### **REMOVAL OF MAINS FROM SERVICE**

**2.1** As of the date of this Memorandum, the City has determined that it was necessary to take certain existing water mains, indicated by dashed lines on Exhibit "B", out of service and to remove the same from the water system. Additionally, the City had determined that it is necessary to take certain existing wastewater mains, indicated by dashed line on Exhibit "C", and abandon those mains in place. Further, the City may, in the future, determine that it is necessary to take additional water mains, or wastewater mains, out of service and remove the same from the system. In that event, the City shall notify the Authority, and if Authority advises the City that no present or prospective tenant requires service from the water or wastewater main in question, the City may, at its own cost and expense, proceed to take the main out of service and either abandon the main in place or physically remove the same, if necessary.

**2.2** In the event that any out of service water main as shown on Exhibit "B" or any main subsequently removed pursuant to this Memorandum is determined in the future to be needed by the Authority, the City agrees, upon request of the Authority, to replace such main to the area in Lincoln Air Park West from which service had been removed. Such replacement shall be at the cost of the City. It is understood and agreed that the replacement service need not be in the exact location or be in the exact size of the originally removed main, the intention being that a replacement water or wastewater main will be provided that is adequate for the purpose of permitting the Authority or its tenants to connect to the water or wastewater system and obtain service.

2.3 Any replacement water or wastewater main will be constructed in a location in accordance with the Lincoln Airport Authority's Air Park West Master Plan and will conform to the City of Lincoln design standards in effect at the time of construction. Replacement service may be located within public or private roadway alignments, which may require premises to be served in the future through extended private water service lines. Such private service lines shall be installed and maintained at the cost of the Authority.

### ARTICLE III

#### GENERAL PROVISIONS

3.1 **Term.** This Memorandum of Understanding shall remain in effect between the parties unless and until a six (6) month notice of termination is served by the terminating party on the other party; provided, however, the termination of this Memorandum shall not affect the right of the City to maintain and all water and wastewater mains then existing in Lincoln Air Park West in accordance with the terms of the license granted hereunder.

3.2 **Amendment.** This Memorandum of Understanding may be amended at any time by written agreement approved and signed by both parties.

3.3 **Notices.** Any notice or contact hereunder shall be given or made to the following individuals (or such other individual or officer as may be subsequently designated by a party hereto):

For Lincoln Wastewater System:      Utilities Coordinator, Wastewater  
2400 Theresa Street  
Lincoln, NE 68521

For Lincoln Water System:            Utilities Coordinator of Water Works  
2021 North 27th Street  
Lincoln, NE 68503

For Plan Review:                        City Engineer  
531 Westgate Blvd., Suite 100  
Lincoln, NE 68528

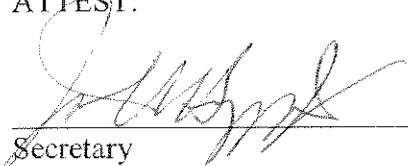
For Lincoln Airport Authority:

Deputy Director of Operations  
P.O. Box 80407  
Lincoln, NE 68501  
(402) 458-2400

**3.4 Suppression.** It is the intention of the parties that this Agreement shall supersede all existing consent agreements previously entered into between the City and the Authority for the installation of water and wastewater utilities in Lincoln Air Park West, it being specifically understood that this Memorandum of Understanding relates only to Lincoln Air Park West and does not address any water or wastewater mains located or to be located in the Air Operations Area or any consent agreements covering that area.

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

ATTEST:

  
\_\_\_\_\_  
Secretary

**AIRPORT AUTHORITY OF THE  
CITY OF LINCOLN, NEBRASKA,**  
a Body Corporate and Politic

By:   
\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
City Clerk

**CITY OF LINCOLN, NEBRASKA,**  
a Municipal Corporation

By: \_\_\_\_\_  
Chris Beutler, Mayor of Lincoln



4" THROAT PIPE  
Extends to 100' DIA. ST.  
FLETCHER AVE.

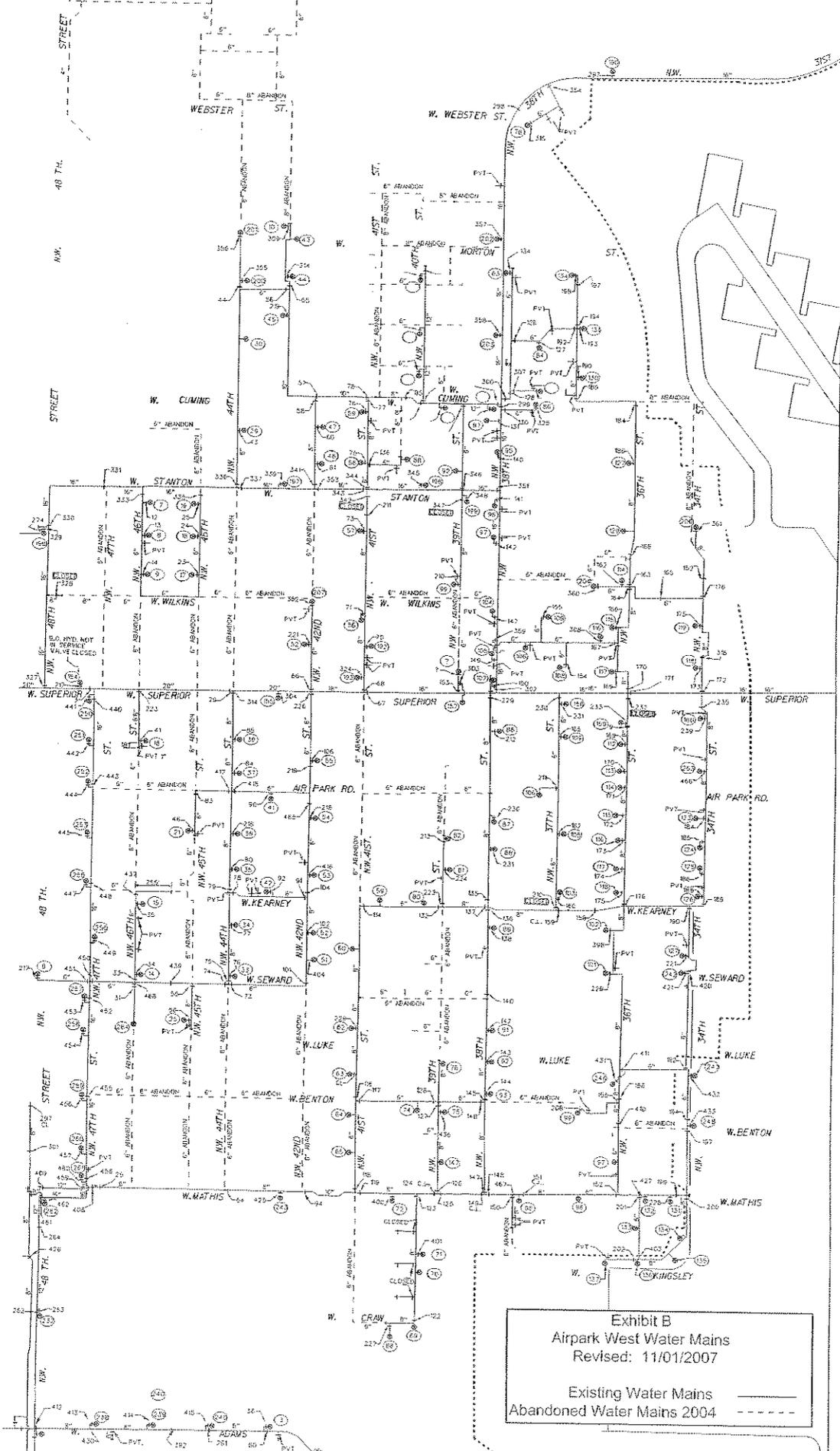


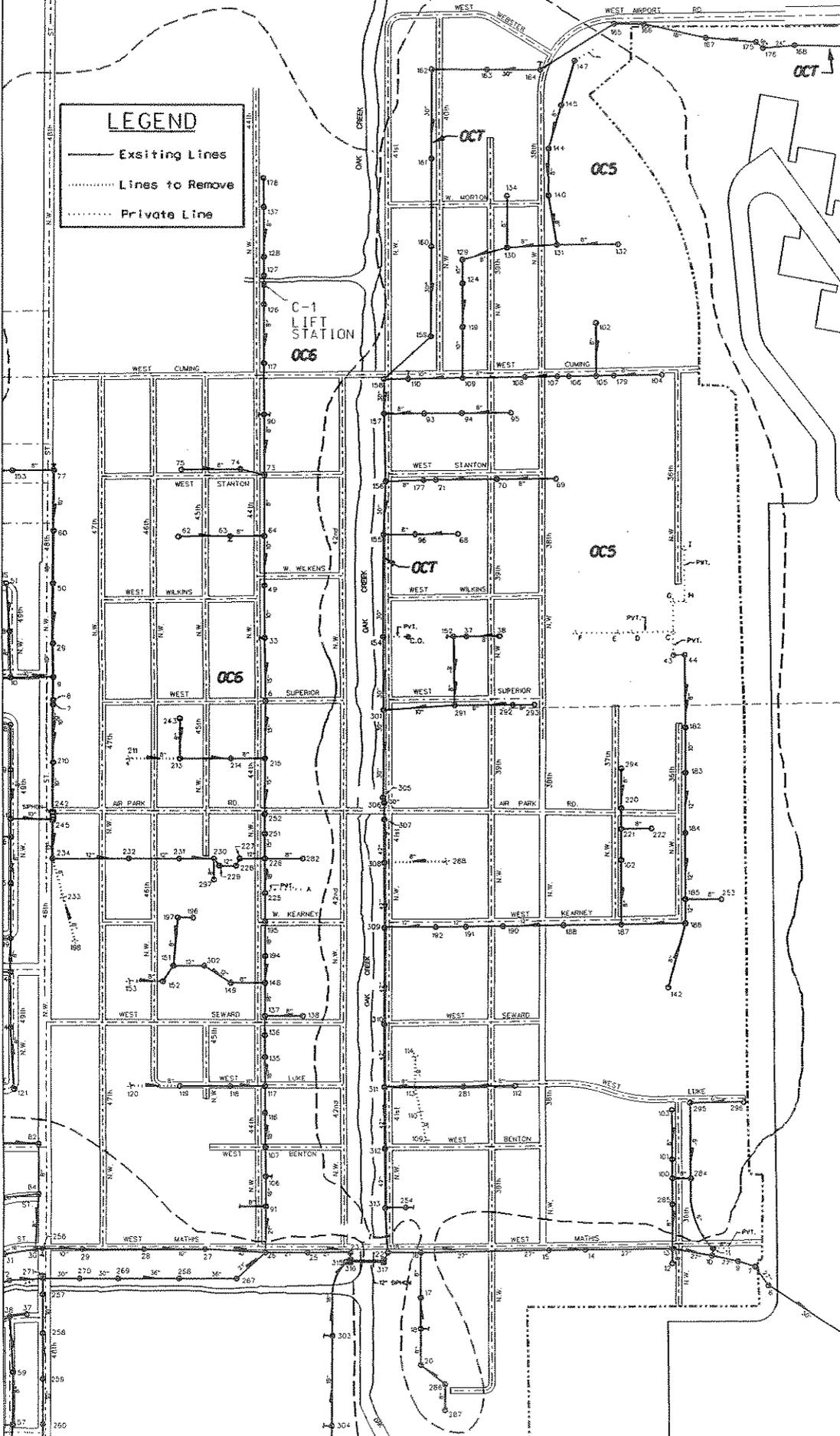
Exhibit B  
Airpark West Water Mains  
Revised: 11/01/2007

Existing Water Mains ———  
Abandoned Water Mains 2004 - - - -

**Exhibit C**  
**Existing Sanitary Sewer**  
**Airpark West - November 1, 2007**

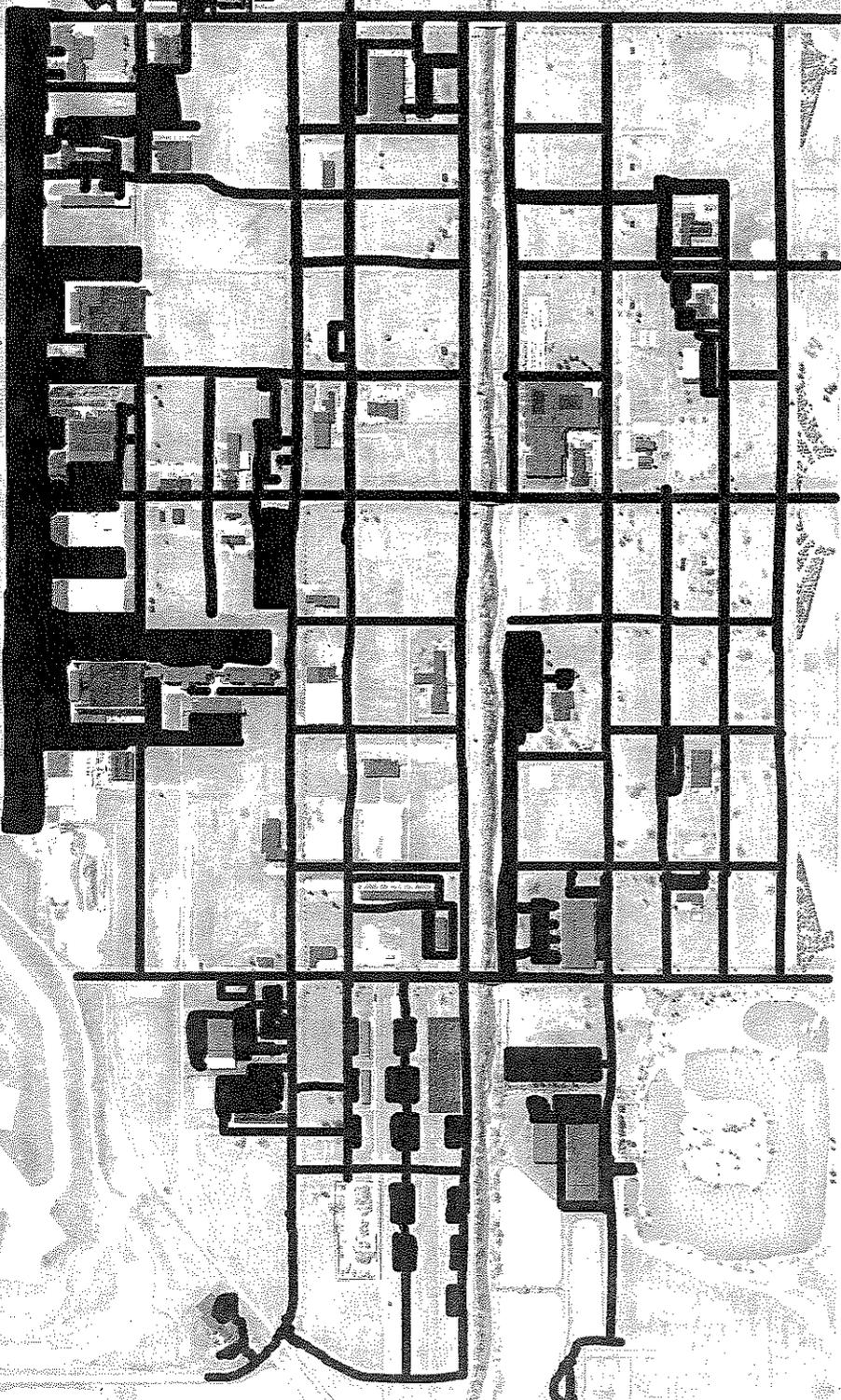
**LEGEND**

- Existing Lines
- ⋯ Lines to Remove
- ⋯ Private Line

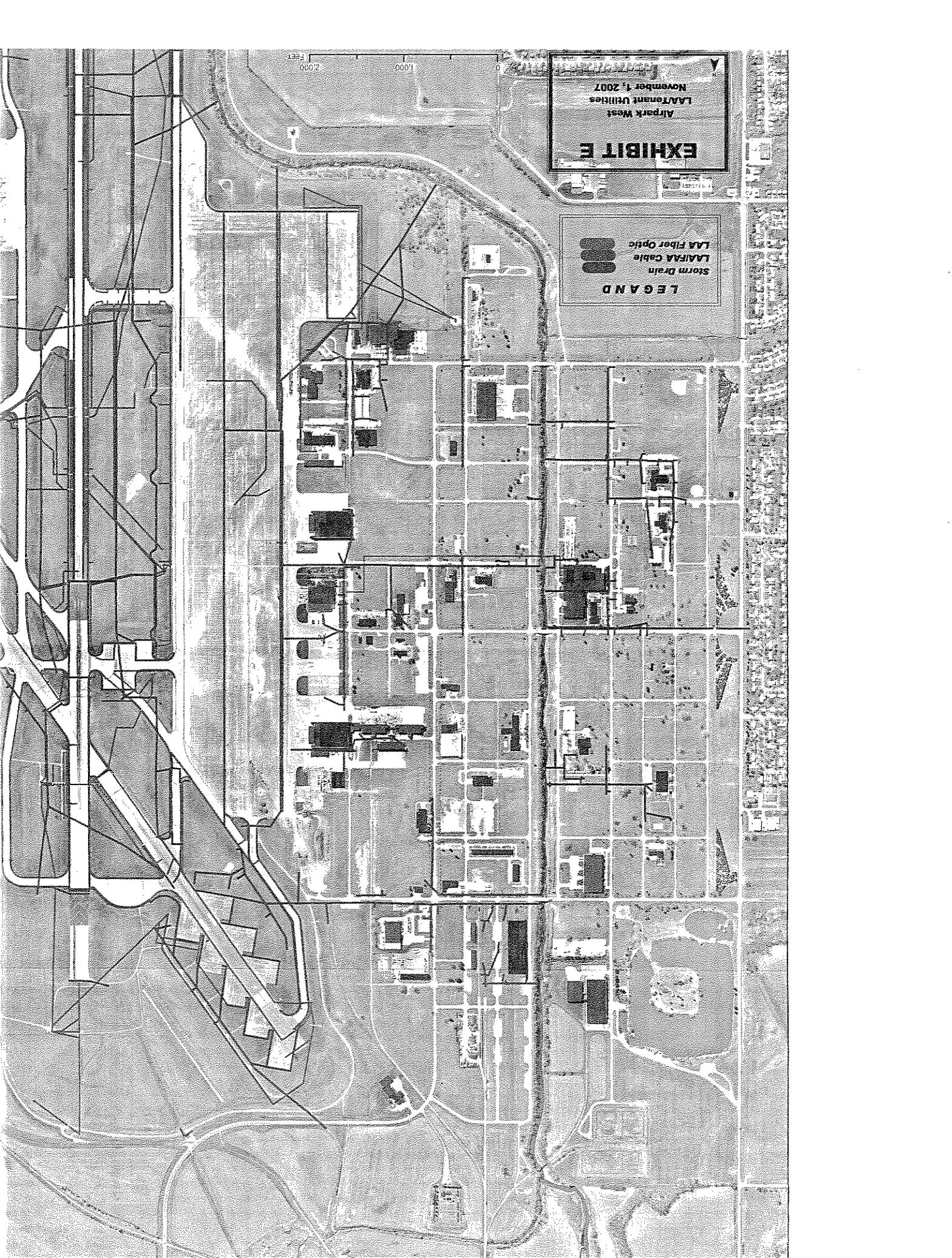


LEGAND  
Pavement

**EXHIBIT D**  
Airpark West Pavement  
November 1, 2007



0 1000 2000



**EXHIBIT E**  
Airport West  
LAA/Tenant Utilities  
November 1, 2007

**LEGEND**  
Storm Drain  
LAA/FAA Cable  
LAA Fiber Optic

1,000 FEET  
2,000 FEET