# WILDERNESS HEIGHTS
## CONDITIONAL ANNEXATION AND ZONING AGREEMENT

This Wilderness Heights Conditional Annexation and Zoning Agreement ("Agreement") is made and entered into this day of _____, 2008, by and between **LINCOLN FEDERAL BANCORP**, a federal corporation, 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 approximately 153 acres, more or less, of land generally located on the east side of South 40th Street and south of Yankee Hill Road hereinafter referred to as "Wilderness Heights" and is legally described on Exhibit A attached hereto. The City has also been requested to annex approximately 94 acres more or less of land generally located on the west side of South 40th Street and south of Yankee Hill Road. The approximately 94 acres is hereinafter referred to as "Wilderness Commons."

B. Owner has requested the City to approve a change of zone from AG Agriculture District to B-2 Planned Neighborhood Business District designated as an overlay Planned Unit Development District with a Development Plan for Wilderness Heights that proposed modifications to the Zoning Ordinance to allow approximately 309 residential dwelling units and 250,000 square feet of commercial floor area. The City has also been requested by the developers of Wilderness Commons to approve a Change of Zone from AG Agriculture District to B-2 Planned Neighborhood Business District and R-5 Residential District designated as an Overlay Planned Unit Development District with a Development Plan for Wilderness Commons that proposes modifications to the Zoning Ordinance and Land Subdivision Ordinance to approve approximately 300 dwelling units

in the underlying R-5 zoned area and approximately 600,000 square feet of office/retail floor area in the underlying B-2 zoned area.

C. The City is willing to annex Wilderness Heights and approve the change of zone provided that Owner agrees to make Impact Fee Facility improvements to South 40th Street to address the impacts attributable to this development, subject to reimbursement as provided for in this Agreement.

D. Owner and the developers of Wilderness Commons have agreed in the 40th Street Paving Agreement, attached hereto as Exhibit B, to share in the costs of the Impact Fee Facility Improvements to South 40th Street to be constructed by the parties hereto, subject to reimbursement as provided for in this Agreement.

E. In order to provide water service to Wilderness Heights, it will be necessary to obtain approval from Rural Water District No. 1, Lancaster County, Nebraska, hereinafter "District No. 1" in order for the City to furnish water to that portion of Wilderness Heights located within the boundaries of District No. 1. The City is willing to annex Wilderness Heights and rezone Wilderness Heights as requested by Owner provided Owner agrees to pay all of the cost needed to obtain approval from District No. 1 for the City to furnish water for that portion of Wilderness Heights located within the boundaries of District No. 1.

E. Wilderness Heights is located within the Southeast Rural Fire Protection District. *Neb. Rev. Stat.* § 35-514, dealing with the City's annexation of territory from rural fire protection districts, provides in part that: "(7) Areas duly incorporated within the boundaries of a municipality shall be automatically annexed from the boundaries of the district notwithstanding the provisions of §31-766 and shall not be subject to further tax levy or other charges by the district, except that before the annexation is complete, the municipality shall assume and pay that portion of all

outstanding obligations of the district which would otherwise constitute an obligation of the area annexed or incorporated." The City is willing to annex Wilderness Heights as requested by Owner, provided Owner agrees to reimburse City for that portion of all outstanding obligations of the district the City is required to assume and pay.

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

**1. <u>Annexation by the City</u>.** The City agrees to annex Wilderness Heights.

**2. <u>Change of Zone</u>.** The City agrees to approve the Changes of Zone for Wilderness Heights as set forth above.

**3. <u>40th Street</u>.**

A. South 40th Street from Yankee Hill Road to Rokeby Road is presently a two-lane rural section roadway. Such section of South 40th Street is shown in the Lincoln City-Lancaster County Comprehensive Plan to be constructed as an arterial street during the 25-year planning period with four lanes plus turn lanes (South 40th Street Impact Fee Facility Improvements). Owner agrees at its expense, subject to reimbursement as provided in subparagraph B below, to design, grade and construct the South 40th Street Impact Fee Facility Improvements, from Yankee Hill Road south to Willow Road then tapering back to the two-lane rural roadway section at the bridge over the creek as shown on Exhibit C attached hereto and incorporated herein by reference, through the City's executive order construction process. The design, grading and construction is required to be in accordance with City standards and specifications and subject to approval of the Director Public Works and Utilities. Left and right turn lanes will shall be provided at all intersections of public and private streets. The City may, at its discretion, allow the construction to be completed in one or more phases as part of the final plat process.

B. (1) Reimbursement from Directed Arterial Street Impact Fees. The City agrees to reimburse Owner for the cost to construct the 40th Street Arterial Street Impact Fee Facility Improvements without interest from Directed Arterial Street Impact Fees collected against the properties identified as unplatted Wilderness Hills, Wilderness Heights and Wilderness Commons on Exhibit C - 40th Street Directed Impact Fees attached hereto and incorporated herein by reference (collectively "Directed Impact Fee Reimbursement Properties"). The Directed Impact Fee Reimbursement Properties are more particularly described on Exhibit D, attached hereto and incorporated herein by reference. Reimbursement is subject to the following conditions:

(i) Said reimbursement shall be paid quarterly from Impact Fees actually received from development of the Directed Impact Fee Reimbursement Properties.

(ii) Any reimbursement to be paid from Impact Fees shall not constitute a general obligation or debt of the City.

(2) Owner's Cost in Excess of Directed Arterial Street Impact Fees. In the event Owner's cost of construction of the improvements described in subparagraph A above are in excess of the Combined Arterial Street Impact Fee Amount of $4,199,725 for Wilderness Commons and Wilderness Heights as reflected on Exhibits E and F attached hereto and incorporated herein by reference, the City agrees to use its best efforts to reimburse Owner with interest for the excess cost from other Arterial Street Impact Fees collected from this and/or other developments within the same benefit district within eleven (11) years from the date the improvements described in subparagraph B(1) above are substantially completed as determined by the City, subject to the following conditions:

(a) The reimbursement shall be repaid quarterly from Arterial Street Impact Fees collected from the same benefit district the Directed Impact Fee Reimbursement Properties are located in;

(b) Owner shall not be entitled to any reimbursement of said costs in excess of Impact Fees actually received; and

(c) Any reimbursement to be paid from such Impact Fees shall not constitute a general obligation or debt of the City.

Interest on the outstanding balance will draw interest at the rate of two percent (2%) per annum, provided, however, interest shall not begin to accrue until Owner advances any excess funds to the City. Notwithstanding the above, the City's best efforts to reimburse Owner with Impact Fees collected from other developments within the same benefit district does not restrict the City from agreeing to reimburse future developers within the same benefit district from Directed Impact Fees collected against the entire development of their property if those developers fund the construction of Impact Fee Facility Improvements. If a developer does not fund the construction of Impact Fee Facility Improvements, the Impact Fees that are collected from that development shall be used to pay the oldest reimbursement obligation that the City may have in the same benefit district.

The City further agrees to use its best efforts to adopt another equivalent funding option for payment of the South 40th Street Impact Fee Facility Improvements in the event Arterial Street Impact Fees are repealed. Notwithstanding the above, Owner understands and agrees that the City cannot contract away any of its police powers and legislative discretion. Owner further understands and agree that the present intent of the City to adopt another equivalent funding option for payment of the South 40th Street Impact Fee Facility Improvements in the event Arterial Street

Impact Fees are repealed does not require the City Council for the City of Lincoln to do so and Owner agrees that the City shall not be liable to Owner in the event of any failure on the part of the City for any reason to adopt another equivalent funding option for payment of the South 40th Street Impact Fee Facility Improvements in the event Arterial Street Impact Fees are repealed.

In the event Owner and the developers of Wilderness Commons jointly construct the South 40th Street Impact Fee Facility Improvements pursuant to the 40th Street Paving Agreement (Exhibit B), the City agrees to reimburse said parties from directed impact fees collected from the Directed Impact Fee Reimbursement Properties and distribute said impact fees as provided for in paragraph 2, Impact Fees, of said Agreement.

**4. District No. 1.** Owner understands and acknowledges that the City may not furnish water to serve that portion of Wilderness Heights lying within the boundaries of District No. 1 without the consent and approval of District No. 1. Owner desires to be connected to the City's public water system and therefore agree to pay all the cost needed to obtain District No. 1's approval for the City to furnish water to Wilderness Heights lying within the boundaries of District No. 1.

**5. Restriction on Development.**

A. Building Permits. No building permits shall be approved until Owner has obtained District No. 1's written approval for the City to furnish water to the Property lying within the boundaries of District No. 1 as provided in paragraph 6 above.

B. Certificates of Occupancy. No certificate of occupancy in the Phase II Commercial Area of Wilderness Heights will be issued until 40th Street has been constructed as a four-lane urban road as provided in paragraph 3 above.

**6. Binding Effect.** This Agreement shall run with Wilderness Heights and be binding upon and inure to the benefit of the parties hereto and their respective heirs, devisees, personal representatives, successors and assigns.

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

**8. Contribution for Rural Fire District.** Owner understands and acknowledges that the City may not annex and portion of Wilderness Heights lying within the boundaries of the Southeast Rural Fire District except by the City assuming and paying that portion of all outstanding obligations of the District which would otherwise constitute an obligation of the portion of Wilderness Heights being annexed. Owner desires to be annexed by the City and therefore agrees to pay the amount which must be paid to the Southeast Rural Fire Protection District in order for the annexation to be complete. The parties anticipate that no payment shall be required.

**9. Further Assurances.** Each party will use 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.

**10. 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.

**11. 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.

**12. <u>Construction</u>.** 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.

**13. <u>Relationship of Parties</u>.** 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.

**14. <u>Assignment</u>.** In the case of the assignment of this Agreement by any of the parties, prompt written notice shall be given to the other parties who shall at the time of such notice be furnished with a duplicate of such assignment by such assignor. Any such assignment shall not terminate the liability of the assignor to perform its obligations hereunder, unless a specific release in writing is given and signed by the other parties to this Agreement.

**15. <u>Default</u>.** Owner and City agree that the annexation and change of zone promote the public health, safety, and welfare so long as Owner fulfills all of the conditions and responsibilities set forth in this Agreement. In the event Owner defaults in fulfilling any of its covenants and responsibilities as set forth in this Agreement, the City may in its legislative authority rezone the rezoned Wilderness Heights to its previous designation or such other designations as the City may deem appropriate under the then existing circumstances, or take such other remedies, legal or equitable, which the City may have to enforce this Agreement or to obtain damages for its breach.

**16. <u>Definitions</u>.** For purposes of this Agreement, the words and phrases “cost” or “entire cost” of a type of improvement shall be deemed to include all design and engineering fees, testing expenses, construction costs, publication costs, financing costs, and related miscellaneous costs. For

the purposes of this Agreement the words and phrases "building permit," "development," "Impact Fee Facility," Impact Fee Facility Improvement," and "site-related improvements" shall have the same meaning as provided for said words and phrases in the Impact Fee Ordinance.

**17. <u>Recordation</u>.** This Agreement or a memorandum thereof shall be filed in the Office of the Register of Deeds of Lancaster County, Nebraska at Owner's cost and expense.

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

ATTEST:

**CITY OF LINCOLN, NEBRASKA**,
a municipal corporation

_____
City Clerk

By: _____
Chris Beutler, Mayor of Lincoln

**LINCOLN FEDERAL BANCORP, INC.**
a federal corporation

By: _____
Leo J. Schumacher, President

STATE OF NEBRASKA )
) ss.
COUNTY OF LANCASTER )

The foregoing instrument was acknowledged before me this ____ day of _____, 2008, by Chris Beutler, Mayor of the City of Lincoln, Nebraska, a municipal corporation.

_____
Notary Public

STATE OF NEBRASKA )
) ss.
COUNTY OF LANCASTER )

The foregoing instrument was acknowledged before me this ____ day of _____, 2008, by Leo J. Schumacher, President of **Lincoln Federal Bancorp, Inc.**, a federal corporation, on behalf of said corporation.

_____
Notary Public

# LEGAL DESCRIPTION WILDERNESS HEIGHTS

PRELIMINARY PLAT LEGAL DESCRIPTION

A LEGAL DESCRIPTION OF A TRACT OF LAND BEING LOTS 49 AND 50, LOCATED IN THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE SIXTH PRINCIPAL MERIDIAN, LANCASTER COUNTY, NEBRASKA. SAID TRACT OF LAND SHALL BE MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS.

COMMENCING AT THE NORTH 1/4 CORNER OF SAID SECTION 29, TOWNSHIP 9 NORTH, RANGE 7 EAST; THENCE SOUTH 00 DEGREES 08 MINUTES 51 SECONDS EAST FOR A DISTANCE OF 50.00 FEET TO A POINT OF BEGINNING; THENCE SOUTH 89 DEGREES 51 MINUTES 09 SECONDS WEST FOR A DISTANCE OF 2016.68 FEET; THENCE SOUTH 00 DEGREES 08 MINUTES 51 SECONDS EAST FOR A DISTANCE OF 10.00 FEET; THENCE SOUTH 89 DEGREES 51 MINUTES 09 SECONDS WEST FOR A DISTANCE OF 536.33 FEET; THENCE SOUTH 44 DEGREES 54 MINUTES 13 SECONDS WEST FOR A DISTANCE OF 39.63 FEET; THENCE SOUTH 00 DEGREES 02 MINUTES 43 SECONDS EAST FOR A DISTANCE OF 1255.58 FEET; THENCE SOUTH 89 DEGREES 58 MINUTES 23 SECONDS WEST FOR A DISTANCE OF 10.00 FEET; THENCE SOUTH 00 DEGREES 02 MINUTES 43 SECONDS EAST FOR A DISTANCE OF 435.10 FEET; THENCE SOUTH 89 DEGREES 25 MINUTES 43 SECONDS EAST FOR A DISTANCE OF 10.00 FEET; THENCE SOUTH 00 DEGREES 02 MINUTES 43 SECONDS EAST FOR A DISTANCE OF 336.19 FEET; THENCE SOUTH 89 DEGREES 57 MINUTES 17 SECONDS WEST FOR A DISTANCE OF 10.00 FEET; THENCE SOUTH 00 DEGREES 02 MINUTES 43 SECONDS EAST FOR A DISTANCE OF 521.01 FEET; THENCE NORTH 89 DEGREES 59 MINUTES 30 SECONDS EAST FOR A DISTANCE OF 2585.61 FEET; THENCE NORTH 00 DEGREES 04 MINUTES 25 SECONDS EAST FOR A DISTANCE OF 2592.27 FEET AND THE POINT OF BEGINNING.

SAID PROPERTY CONTAINS 153.331 ACRES MORE OR LESS.

EDC
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402-438-4014 • Fax 402-438-4026

**WILDERNESS HEIGHTS**
**BOUNDARY LEGAL**
**LINCOLN, NEBRASKA**

Drawn By: CMM
Dwg.: PUDfeeLayout
Date: 11/07/2008
Job#: 04-060

**EXHIBIT B**

# 40TH STREET PAVING AGREEMENT

This 40TH STREET PAVING Agreement (hereinafter "Agreement") is entered into this _____ day of _____, 2008 (hereinafter "Effective Date") by and between **LINCOLN FEDERAL BANCORP, INC.**, a federal corporation ("hereinafter "First Party") and **ASSURITY LIFE INSURANCE COMPANY**, a Nebraska stock life insurance company, successor in interest to Security Financial Life Insurance Co., **SWITCH GRASS LLC**, a Nebraska limited liability company, **B&J PARTNERSHIP LTD.**, a Nebraska limited partnership, **LINCOLN FEDERAL BANCORP, INC.**, a federal corporation, and **ALLEN R. HOHENSEE** and **SUSAN K. HOHENSEE**, husband and wife (hereinafter collectively, "Second Party").

WHEREAS, First Party is the fee owner of the real estate more particularly described on Exhibit "A" which is attached hereto and incorporated herein (the "Lincoln Federal Property"). First Party has requested the City of Lincoln to annex the Lincoln Federal Property which consists of approximately 153.2 acres more or less generally located on the east side of 40th Street and south of Yankee Hill Road. In addition, First Party has requested of the City of Lincoln approval for a Change of Zone from AG Agriculture District to B-2 Planned Unit Development for approximately 225,000 square feet of commercial floor area and from AG Agriculture District to R-3 Residential for 66 residential dwelling units; and

WHEREAS, Second Party is the fee owner of the property more particularly described in Exhibit "B" which is attached hereto and incorporated herein (the "Wilderness Hills Property"). Second Party has requested of the City of Lincoln to annex the Wilderness Hills Property which consists of approximately 92 acres more or less generally located on the west side of 40th Street and south of Yankee Hill Road. Second Party has also requested approval of the City for a Change of Zone from AG Agriculture District to B-2 Planned Neighborhood Business District and R-5 Residential District and for a Planned Unit Development District designation to allow for approximately 300 dwelling units in the underlying R-5 zoned area and approximately 600,000 square feet of office/retail for the area in the underlying B-2 zoned area; and

WHEREAS, the parties are desirous of providing for an agreement with respect to their respective obligations in connection with the construction of the improvements to 40th Street from Yankee Hill Road south to Willow Road as shown on Exhibit "C" which is attached hereto and incorporated herein,

required by the City of Lincoln in connection with the development of the Lincoln Federal Property and the Wilderness Hills Property (collectively, the "40th Street Improvements").

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

1. **40th Street Improvements**. It is agreed that upon approval of the request for annexation and changes of zone to the Lincoln Federal Property and the Wilderness Hills Property as described above, the parties agree to commence construction of the 40th Street Improvements in Spring 2009. The cost of the 40th Street Improvements shall be allocated as follows:

| | | |
|---|---|---|
| First Party | 31.52% | |
| Second Party | 68.48% | |
| | Lincoln Federal | 23.96% |
| | Assurity | 13.70% |
| | B&J | 13.70% |
| | Switch Grass | 13.70% |
| | Hohensee | 3.42% |

2. **Impact Fees**. The City of Lincoln has agreed to reimburse each party for the cost to construct the 40th Street Improvements without interest from Directed Arterial impact fees collected against the real property reflected on Exhibit "D" attached hereto and incorporated herein by this reference, which reflects the Lincoln Federal Property (Parcels E & G), the Wilderness Hills Property (Parcels A & B), and additional real property owned by First Party (Parcels C, D & F) (collectively, the "Property"). As such impact fees are collected, the City shall distribute the same to the parties as follows:

| | | |
|---|---|---|
| First Party | 31.52% | |
| Second Party | 68.48% | |
| | Lincoln Federal | 23.96% |
| | Assurity | 13.70% |
| | B&J | 13.70% |
| | Switch Grass | 13.70% |
| | Hohensee | 3.42% |

3. **Governing Law**. All aspects of this Agreement shall be governed by the laws of the State of Nebraska. Invalidity of

any portion of this Agreement shall not invalidate the remaining portions.

4. **Assignment**. In the case of the assignment of this Agreement by any of the parties, prompt written notice shall be given to the other parties who shall at the time of such notice be furnished with a duplicate of such assignment by such Assignor. Any such assignment shall not terminate the liability of the Assignor to perform its obligations thereunder, unless a specific release in writing is given and signed by the other parties to this Agreement.

5. **Time of Essence**. It is specifically understood and agreed that time is an essential element of each and every term and provision of this Agreement.

6. **Binding Effect**. It is agreed that this Agreement is binding on the parties herein and their successors and/or assigns in title.

7. **Recordation**. This Agreement or a Memorandum or Notice thereof shall be filed in the office of the Register of Deeds of Lancaster County, Nebraska.

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

**LINCOLN FEDERAL BANCORP, INC.,**
a federal corporation

By:_____
Title

**ASSURITY LIFE INSURANCE COMPANY,**
a Nebraska stock life insurance company

By:_____
Title

**SWITCH GRASS, LLC,**
a Nebraska limited liability company

By: _____
Donald W. Linscott, Manager

**B&J PARTNERSHIP LTD,**
a Nebraska limited Partnership

By: _____
Title

**ALLEN R. HOHENSEE** and **SUSAN K. HOHENSEE**

_____
Allen R. Hohensee

_____
Susan K. Hohensee

STATE OF NEBRASKA )
) ss.
COUNTY OF LANCASTER )

The foregoing instrument was acknowledged before me this _____ day of _____, 2008, by _____, of **Lincoln Federal Bancorp, Inc.**, a federal corporation, on behalf of said corporation.

_____
Notary Public

STATE OF NEBRASKA )
) ss.
COUNTY OF LANCASTER )

The foregoing instrument was acknowledged before me this _____ day of _____, 2008, by_____, _____ of **Assurity Life Insurance Company**, a Nebraska stock life insurance company, on behalf of said company.

_____
Notary Public

STATE OF NEBRASKA )
) ss.
COUNTY OF LANCASTER )

The foregoing instrument was acknowledged before me this ___ day of _____, 2008, by Donald W. Linscott, Manager of **Switch Grass, LLC**, a Nebraska limited liability company, on behalf of said limited liability company.

_____
Notary Public

STATE OF NEBRASKA )
) ss.
COUNTY OF LANCASTER )

The foregoing instrument was acknowledged before me this ___ day of _____, 2008, by _____, _____ of **B&J Partnership Ltd.**, a Nebraska limited partnership, on behalf of said partnership.

_____
Notary Public

STATE OF NEBRASKA )
) ss.
COUNTY OF LANCASTER )

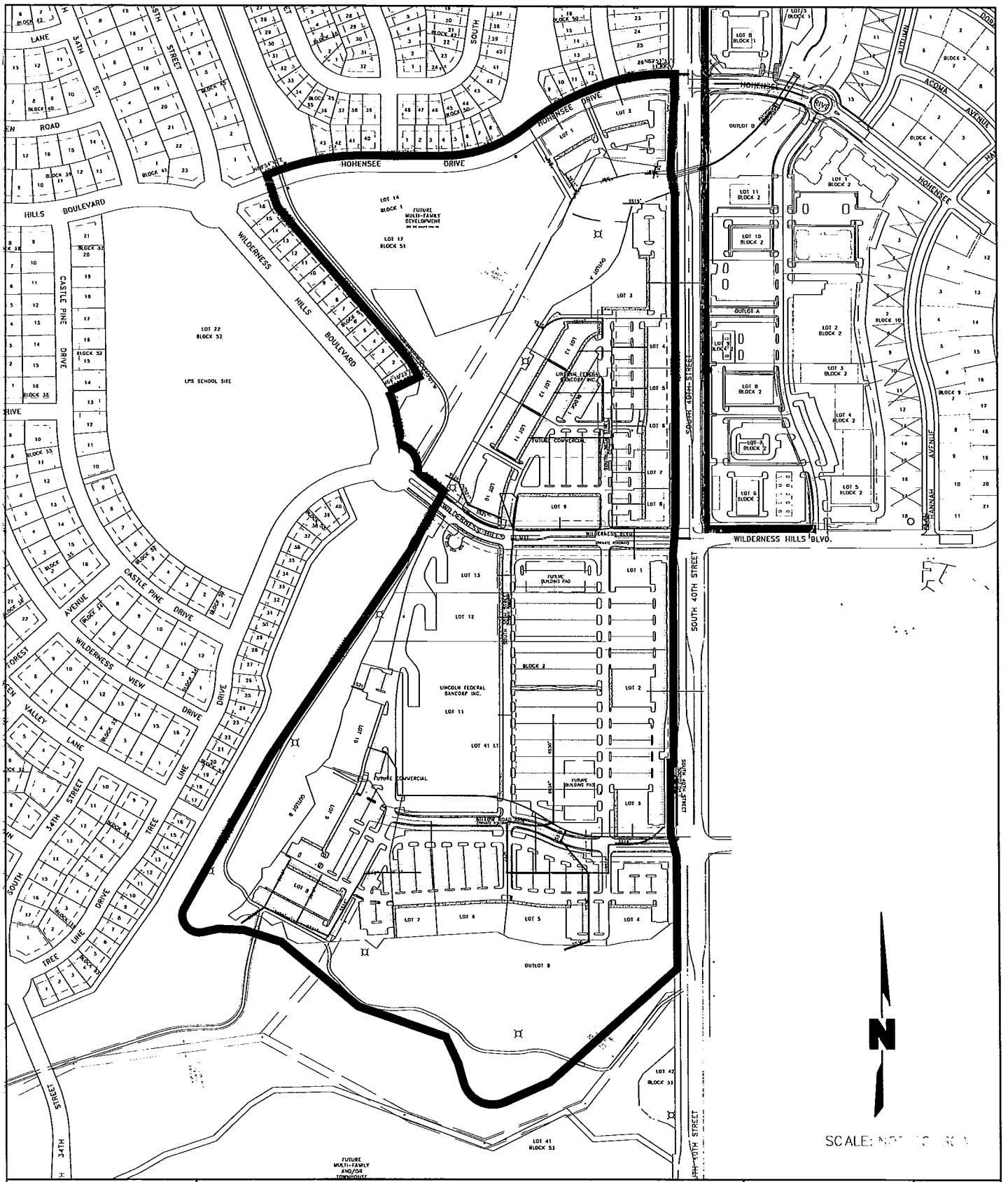
The foregoing instrument was acknowledged before me this ___ day of _____, 2008 by **Allen R. Hohensee**, a married person.

_____
Notary Public

STATE OF NEBRASKA )
) ss.
COUNTY OF LANCASTER )

The foregoing instrument was acknowledged before me this ___ day of _____, 2008 by **Susan K. Hohensee**, a married person.

_____
Notary Public



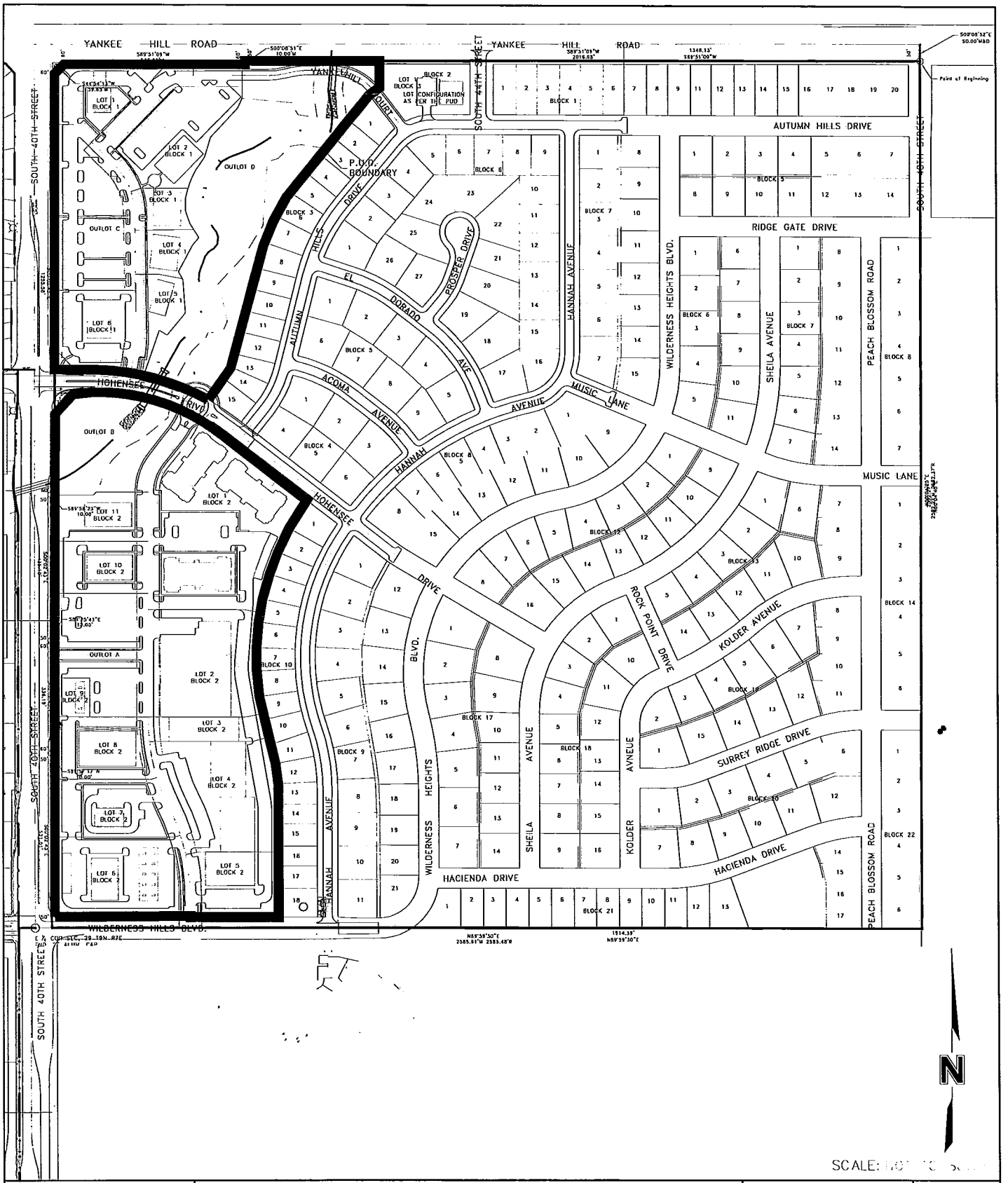

SCALE: NOT TO SCALE

EDC
Engineering Design Consultants
2200 Fletcher Ave. Suite 102, Lincoln NE 68521
402-438-4014 • Fax 402-438-4026

# WILDERNESS COMMONS
## BOUNDARY EXHIBIT B
## LINCOLN, NEBRASKA

Drawn By: CMM
Dwg.: PUDfeeLoyout
Date: 11/10/2008
Job#: 04-060

SHEET 1 OF 2




SCALE: NOT TO SCALE

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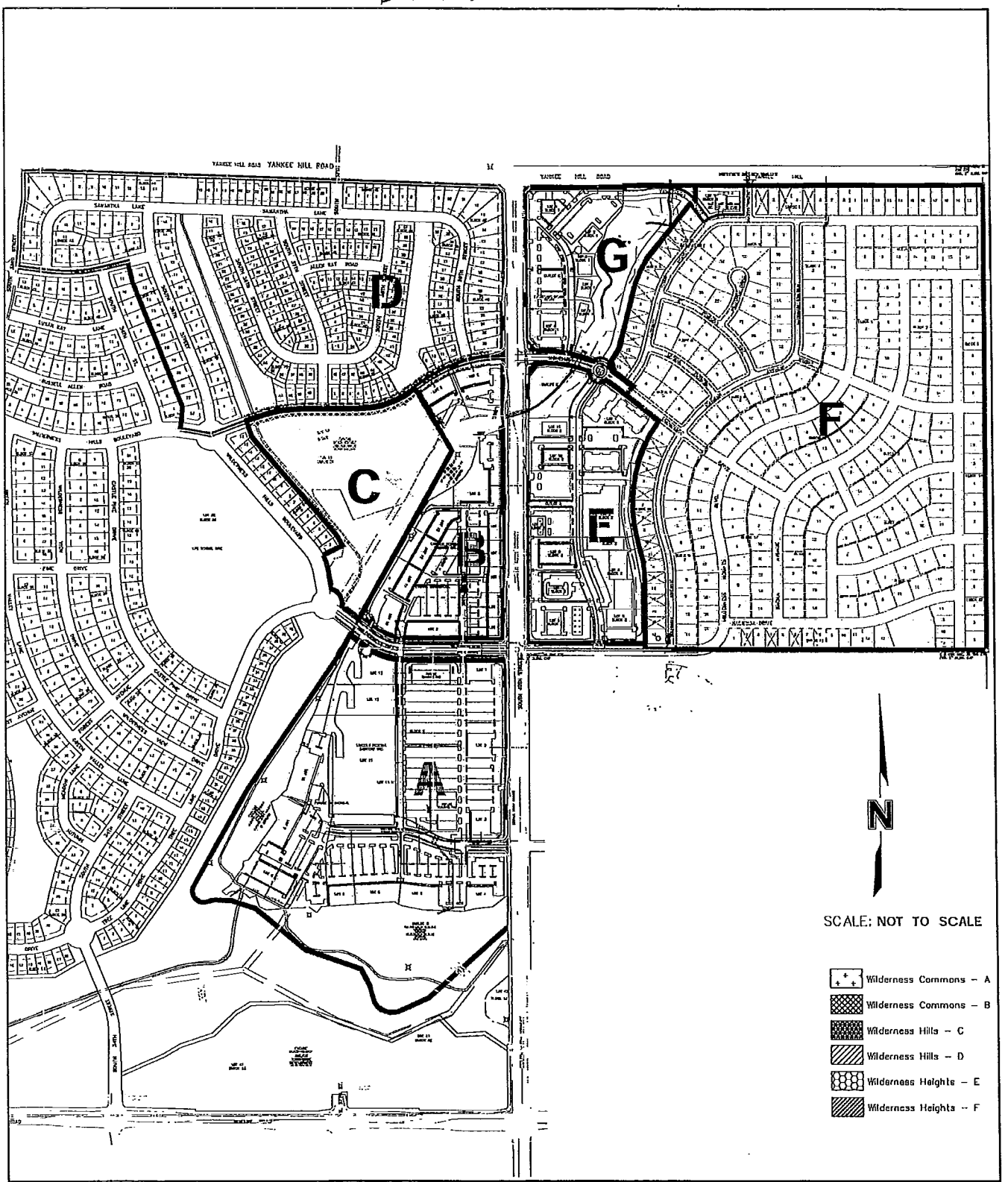
402-438-4014 • Fax 402-438-4026

# WILDERNESS HEIGHTS
## BOUNDARY EXHIBIT A
## LINCOLN, NEBRASKA

Drawn By: CMM
Dwg.: PUDfeeLayout
Date: 11/10/2008
Job#: 04-060

SHEET 1 OF 2

Exhibit "C"




EDC
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402-438-4014 Fax 402-438-4076

# WILDERNESS DEVEOPMENT
## IMPACT FEE LAYOUT DIRECTED TO 40th STREET
LINCOLN< NEBRASKA

Drawn By: CMM
Dwg.: PUDfeeLayout
Date: 10/28/2008
Job#: 04--060

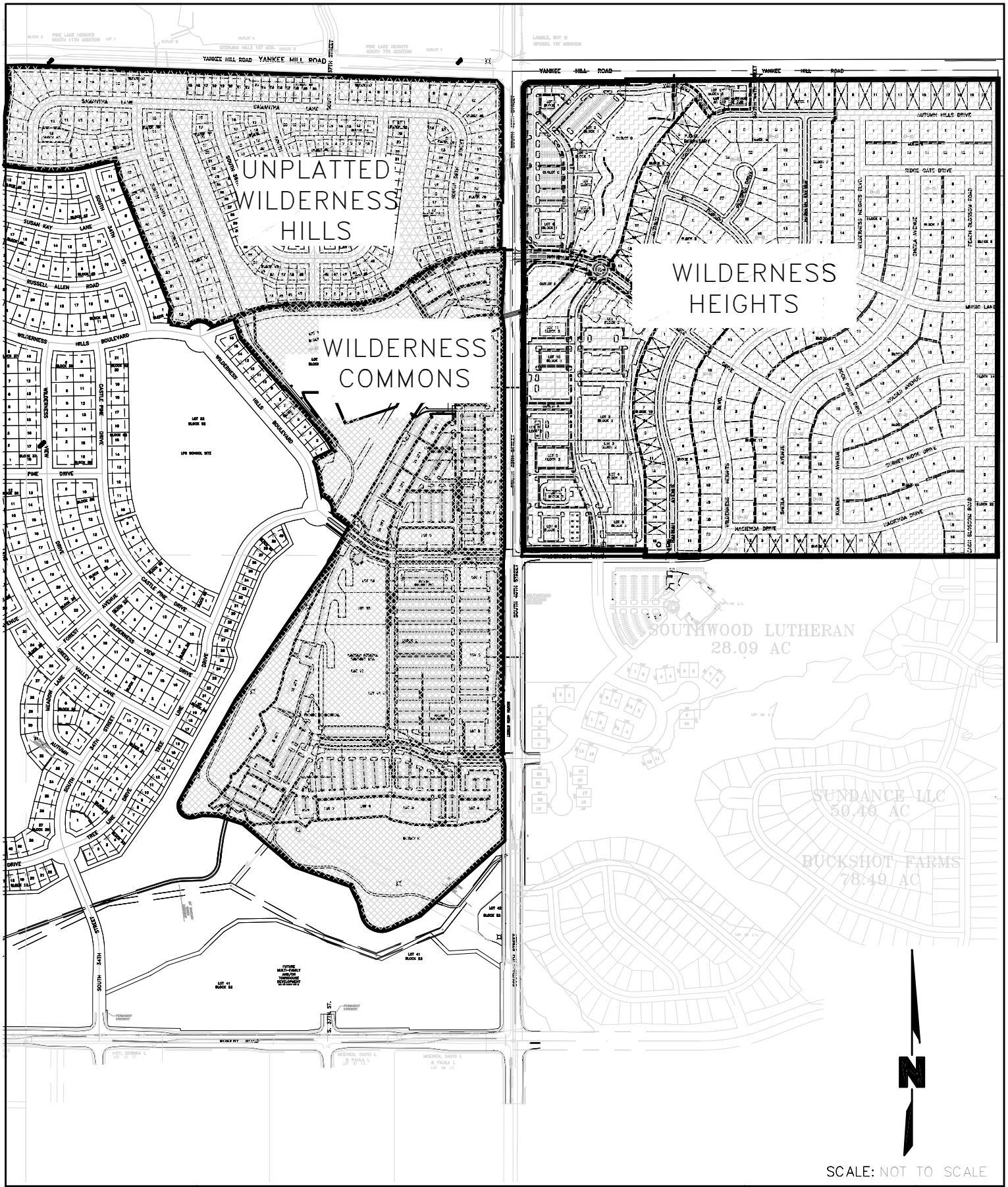
SHEET 1 OF 1

# WILDERNESS DEVELOPMENT IMPACT FEES SUMMARY TO BE DIRECTED TO 40TH STREET

All Parcels as of 10-28-08

| Arterial Street Impact Fees | |
|---|---|
| Wilderness Commons PUD (dated 10/06) "A" | $1,758,387.96 |
| Wilderness Commons PUD (dated 10/06) "B" | $547,860.00 |
| Wilderness Commons PUD (dated 10/06) "C" | $490,420.00 |
| Wilderness Hills Preliminary Plat (dated 3/07) "D" | $406,266.00 |
| Wilderness Heights (dated 1/07) "E" | $771,283.94 |
| Wilderness Heights(dated 1/07) "F" | $800,184.00 |
| Wilderness Heights(dated 1/07) "G" | $181,710.00 |
| **SUBTOTAL** | **$4,956,111.90** |

**EXHIBIT D (p.1)**




SCALE: NOT TO SCALE

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# 40th STREET
## DERECTED IMPACT FEES
### LINCOLN, NEBRASKA

Drawn By: CMM
Dwg.: PUDfeeLayout
Date: 11/07/2008
Job#: 04-060

SHEET
1 OF 1

# LEGAL DESCRIPTION UNPLATTED WILDERNESS HILLS

A LEGAL DESCRIPTION OF A PORTION OF LOTS 49 AND 50 LOCATED IN THE NORTHWEST QUARTER OF SECTION 29 TOWNSHIP 9 NORTH RANGE 7 EAST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA TO BE MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCING FROM THE NORTH 1/4 OF SECTION 30 TOWNSHIP 9 NORTH RANGE 7 EAST OF THE 6TH PRINCIPAL MERIDIAN; THENCE NORTH 88 DEGREES 20 MINUTES 40 SECONDS WEST FOR A DISTANCE OF 57.03 FEET; THENCE SOUTH 01 DERGEE 54 MINUTES 12 SECONDS WEST FOR A DISTANCE OF 87.62 FEET TO A POINT ON THE SOUTH RIGHT OF WAY OF YANKEE HILL ROAD AND THE POINT OF BEGINNING; THENCE SOUTH 00 DEGREES 02 MINUTES 27 SECONDS EAST FOR A DISTANCE OF 620.42 FEET TO A POINT ON THE WEST RIGHT OF WAY OF 40TH STREET; THENCE NORTH 89 DEGREES 40 MINUTES 17 SECONDS WEST FOR A DISTANCE OF 10.00 FEET; THENCE SOUTH 00 DEGREES 02 MINUTES 27 SECONDS EAST FOR A DISTANCE OF 264.26 FEET; THENCE ON A CHORD SOUTH 77 DEGREES 55 MINUTES 09 SECONDS WEST FOR A CHORD LENGTH OF 308.77 FEET; THENCE ON A CHORD SOUTH 59 DEGREES 52 MINUTES 13 SECONDS WEST WITH A CHORD LENGTH OF 242.42 FEET; THENCE SOUTH 51 DEGREES 11 MINUTES 40 SECONDS WEST FOR A DISTANCE OF 8.94 FEET; THENCE ON A CHORD SOUTH 70 DEGREES 25 MINUTES 16 SECONDS WEST FOR A CHORD LENGTH OF 320.50 FEET; THENCE SOUTH 89 DEGREES 57 MINUTES 23 SECONDS WEST FOR A DISTANCE OF 294.11 FEET; THENCE ON A CHORD SOUTH 79 DEGREES 25 MINUTES 49 SECONDS WEST FOR A CHORD DISTANCE OF 304.97; THENCE SOUTH 68 DEGREES 54 MINUTES 15 SECONDS WEST FOR A DISTANCE OF 171.23; THENCE ON A CHORD SOUTH 89 DEGREES 07 MINUTES 43 SECONDS WEST FOR A CHORD DISTANCE OF 149.41 FEET; THENCE NORTH 79 DEGREES 24 MINUTES 09 SECONDS WEST FOR A DISTANCE OF 44.61 FEET; THENCE ON A CHORD NORTH 81 DEGREES 52 MINUTES 47 SECONDS WEST FOR A CHORD LENGTH OF 55.52 FEET; THENCE NORTH 05 DEGREES 38 MINUTES 34 SECONDS EAST FOR A DISTANCE OF 87.00 FEET; THENCE NORTH 21 DEGREES 40 MINUTES 55 SECONDS WEST FOR A DISTANCE OF 742.59 FEET; THENCE NORTH 14 DEGREES 02 MINUTES 45 SECONDS WEST FOR A DISTANCE OF 118.58 FEET; THENCE SOUTH 75 DEGREES 57 MINUTES 15 SECONDS WEST FOR A DISTANCE OF 143.74 FEET; THENCE ON A CHORD SOUTH 86 DEGREES 25 MINUTES 40 SECONDS WEST FOR A CHORD LENTGH OF 290.85 FEET; THENCE NORTH 83 DEGREES 05 MINUTES 55 SECONDS WEST FOR A DISTANCE OF 186.85 FEET; THENCE ON A CHORD NORTH 03 DEGREES 21 MINUTES 30 SECONDS EAST FOR A CHORD LENGTH OF 248.70 FEET; THENCE NORTH 08 DEGREES 06 MINUTES 52 SECONDS EAST FOR A DISTANCE OF 135.60 FEET; THENCE NORTH 00 DEGREES 09 MINUTES 12 SECONDS WEST FOR A DISTANCE OF 152.05 FEET; THENCE NORTH 88 DEGREES 45 MINUTES 48 SECONDS EAST FOR A DISTANCE OF 98.72 FEET; THENCE SOUTH 88 DEGREES 06 MINUTES 13 SECONDS EAST FOR A DISTANCE OF 2554.39 FEET; THENCE SOUTH 44 DEGREES 07 MINUTES 12 SECONDS EAST TO THE SOUTH RIGHT OF WAY OF YANKEE HILL ROAD FOR A DISTANCE OF 40.27 TO THE POINT OF BEGINNING.

SAID PROPERTY CONTAINS 64.07 ACRES MORE OR LESS.

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**WILDERNESS HILLS**
**UNPLATTED LEGAL**
**LINCOLN, NEBRASKA**

Drawn By: CMM
Dwg.: PUDfeeLayout
Date: 11/07/2008
Job#: 04-060

# LEGAL DESCRIPTION WILDERNESS COMMONS

A survey of a tract of land located in the East one half of Section 30 Township 9 North RaNge 7 East of the Sixth Principal Meridian, Lancaster County, Nebraska. Said tract of land shall be more particularly described by metes and bounds as follows:

Commencing at the East 1/4 Corner of Section 30, and the POINT OF BEGINNING; THENCE North 89 degrees 49 minutes 35 seconds West (an assumed bearing) for a distance of 50.00 feet to a point on the West right of way of South 40th Street, and the POINT OF BEGINNING; THENCE South 00 degrees 02 minutes 04 seconds East for a distance of 1545.23 feet on said West right of way; THENCE South 48 degrees 20 minutes 15 seconds West for a distance of 611.52 feet; THENCE South 65 degrees 56 minutes 02 seconds West for a distance of 179.00 feet; THENCE along a curve to the right having a radius of 107.08 feet and an arc length of 185.01 feet, being subtended by a chord of North 64 degrees 34 minutes 08 seconds West for a distance of 162.84 feet; THENCE North 15 degrees 04 minutes 17 seconds West for a distance of 72.44 feet; THENCE North 25 degrees 05 minutes 23 seconds West for a distance of 103.56 feet; THENCE North 67 degrees 55 minutes 09 seconds West for a distance of 159.48 feet; THENCE North 73 degrees 23 minutes 00 seconds West for a distance of 170.43 feet; THENCE North 49 degrees 56 minutes 24 seconds West for a distance of 358.87 feet; THENCE North 71 degrees 58 minutes 39 seconds West for a distance of 139.85 feet; THENCE North 87 degrees 29 minutes 51 seconds West for a distance of 88.38 feet; THENCE South 77 degrees 39 minutes 26 seconds West for a distance of 58.15 feet; THENCE along a curve to the right having a radius of 56.35 feet and an arc length of 102.99 feet, being subtended by a chord of North 49 degrees 58 minutes 59 seconds West for a distance of 89.24 feet; THENCE North 02 degrees 22 minutes 29 seconds East for a distance of 24.50 feet; THENCE North 29 degrees 13 minutes 11 seconds East for a distance of 628.09 feet; THENCE North 34 degrees 08 minutes 39 seconds East for a distance of 903.63 feet; THENCE North 29 degrees 04 minutes 29 seconds East for a distance of 235.39 feet; THENCE North 52 degrees 42 minutes 43 seconds West for a distance of 116.81 feet; THENCE along a curve to the left having a radius of 86.50 feet and an arc length of 120.35 feet, being subtended by a chord of North 31 degrees 37 minutes 12 seconds West for a distance of 110.88 feet; THENCE North 10 degrees 31 minutes 41 seconds West for a distance of 120.25 feet; THENCE along a curve to the left having a radius of 292.00 feet and an arc length of 77.46 feet, being subtended by a chord of North 18 degrees 07 minutes 39 seconds West for a distance of 77.23 feet; THENCE North 64 degrees 16 minutes 23 seconds East for a distance of 120.00 feet; THENCE North 30 degrees 15 minutes 01 seconds West for a distance of 64.98 feet; THENCE North 38 degrees 37 minutes 07 seconds West for a distance of 59.96 feet; THENCE North 40 degrees 46 minutes 55 seconds West for a distance of 570.00 feet; THENCE North 39 degrees 35 minutes 59 seconds West for a distance of 96.87 feet; THENCE North 18 degrees 35 minutes 20 seconds West for a distance of 119.44 feet; THENCE North 68 degrees 54 minutes 15 seconds East for a distance of 40.99 feet; THENCE along a curve to the right having a radius of 830.00 feet and an arc length of 304.97 feet, being subtended by a chord of North 79 degrees 25 minutes 49 seconds East for a distance of 303.25 feet; THENCE North 89 degrees 57 minutes 23 seconds East for a distance of 294.11 feet; THENCE along a curve to the left having a radius of 470.00 feet and an arc length of 320.50 feet, being subtended by a chord of North 70 degrees 25 minutes 16 seconds East for a distance of 314.32 feet; THENCE along a curve to the right having a radius of 830.00 feet and an arc length of 251.36 feet, being subtended by a chord of North 59 degrees 33 minutes 42 seconds East for a distance of 250.40 feet; THENCE along a curve to the right having a radius of 710.19 feet and an arc length of 316.95 feet, being subtended by a chord of North 78 degrees 14 minutes 57 seconds East for a distance of 314.32 feet; THENCE North 89 degrees 57 minutes 33 seconds East for a distance of 11.82 feet; THENCE South 00 degrees 02 minutes 27 seconds East for a distance of 81.63 feet to a point on the West right of way of South 40th Street; THENCE South 03 degrees 11 minutes 37 seconds West for a distance of 265.85 feet on said West right of way; THENCE South 10 degrees 04 minutes 25 seconds East for a distance of 86.10 feet on said right of way; THENCE South 00 degrees 02 minutes 57 seconds East for a distance of 1233.23 feet on the west right of way of South 40th Street, to the POINT OF BEGINNING and containing a calculated area of 94.193 acres more or less.

| CURVE TABLE | | | | | |
|---|---|---|---|---|---|
| CURVE | DELTA | ARC LENGTH | RADIUS | CHORD BEARING | CHORD LENGTH |
| C1 | 98°59'35" | 185.01' | 107.08' | N64°34'08"W | 162.84' |
| C2 | 104°42'54" | 102.99' | 56.35' | N49°58'59"W | 89.24' |
| C3 | 79°43'09" | 120.35' | 86.50' | N31°37'12"W | 110.88' |
| C4 | 15°11'56" | 77.46' | 292.00' | N18°07'39"E | 77.23' |
| C5 | 21°03'08" | 304.97' | 830.00' | N79°25'49"E | 303.25' |
| C6 | 39°04'14" | 320.50' | 470.00' | N70°25'16"E | 314.32' |
| C7 | 17°21'07" | 251.36' | 830.00' | N59°33'42"E | 250.40' |
| C8 | 25°34'14" | 316.95' | 710.19' | N78°14'57"E | 314.32' |

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**WILDERNESS COMMONS**
**BOUNDARY LEGAL**
**LINCOLN, NEBRASKA**

Drawn By: CMM
Dwg.: PUDfeeLayout
Date: 11/07/2008
Job#: 04-060

# LEGAL DESCRIPTION WILDERNESS HEIGHTS

PRELIMINARY PLAT LEGAL DESCRIPTION

A LEGAL DESCRIPTION OF A TRACT OF LAND BEING LOTS 49 AND 50, LOCATED IN THE NORTHWEST QUARTER OF SECTION 29, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE SIXTH PRINCIPAL MERIDIAN, LANCASTER COUNTY, NEBRASKA. SAID TRACT OF LAND SHALL BE MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS.

COMMENCING AT THE NORTH 1/4 CORNER OF SAID SECTION 29, TOWNSHIP 9 NORTH, RANGE 7 EAST; THENCE SOUTH 00 DEGREES 08 MINUTES 51 SECONDS EAST FOR A DISTANCE OF 50.00 FEET TO A POINT OF BEGINNING; THENCE SOUTH 89 DEGREES 51 MINUTES 09 SECONDS WEST FOR A DISTANCE OF 2016.68 FEET; THENCE SOUTH 00 DEGREES 08 MINUTES 51 SECONDS EAST FOR A DISTANCE OF 10.00 FEET; THENCE SOUTH 89 DEGREES 51 MINUTES 09 SECONDS WEST FOR A DISTANCE OF 536.33 FEET; THENCE SOUTH 44 DEGREES 54 MINUTES 13 SECONDS WEST FOR A DISTANCE OF 39.63 FEET; THENCE SOUTH 00 DEGREES 02 MINUTES 43 SECONDS EAST FOR A DISTANCE OF 1255.58 FEET; THENCE SOUTH 89 DEGREES 58 MINUTES 23 SECONDS WEST FOR A DISTANCE OF 10.00 FEET; THENCE SOUTH 00 DEGREES 02 MINUTES 43 SECONDS EAST FOR A DISTANCE OF 435.10 FEET; THENCE SOUTH 89 DEGREES 25 MINUTES 43 SECONDS EAST FOR A DISTANCE OF 10.00 FEET; THENCE SOUTH 00 DEGREES 02 MINUTES 43 SECONDS EAST FOR A DISTANCE OF 336.19 FEET; THENCE SOUTH 89 DEGREES 57 MINUTES 17 SECONDS WEST FOR A DISTANCE OF 10.00 FEET; THENCE SOUTH 00 DEGREES 02 MINUTES 43 SECONDS EAST FOR A DISTANCE OF 521.01 FEET; THENCE NORTH 89 DEGREES 59 MINUTES 30 SECONDS EAST FOR A DISTANCE OF 2585.61 FEET; THENCE NORTH 00 DEGREES 04 MINUTES 25 SECONDS EAST FOR A DISTANCE OF 2592.27 FEET AND THE POINT OF BEGINNING.

SAID PROPERTY CONTAINS 153.331 ACRES MORE OR LESS.

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**WILDERNESS HEIGHTS**
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