Attachment A

PUBLIC MARKET CONTRACT

THIS CONTRACT is made and entered into on this _____ day of _____, 2010, by and between the City of Lincoln, Nebraska, a municipal corporation, hereinafter referred to as "City", and Lincoln Haymarket Development Corporation, hereinafter referred to as "Contractor".

WHEREAS, it is in the public interest to promote the commercial use of the Haymarket area with innovative and unique attractions; and

WHEREAS, Article VIII, Section 13 of the Charter of the City of Lincoln empowers the City Council to contract with any person or persons to conduct and regulate a public market.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, it is agreed by and between the parties as follows:

1. City hereby authorizes the contractor to establish, supervise and maintain the Haymarket public marketplace on a non-exclusive basis. It is understood and agreed that Contractor may subcontract with other parties for the actual operation of said public market, but shall at all times be primarily responsible to the City for the proper operation for said public market.

2. Contractor is granted the exclusive right to use 7th Street and also "P" Street beginning at the southeast corner of 7th and "Q" Streets thence south along the east line of 7th Street to the northeast corner of 7th and "P" Streets then easterly along the north side of "P" Street to the west line of 8th Street thence south across 8th Street to the south line of "P" Street thence westerly along "P" Street to the west line of 7th Street thence north along the west line of 7th Street to the southwest corner of 7th and "Q" Streets then across 7th Street on a southeasterly line to the southeast corner of 7th and "Q" Streets, to which this line shall not encroach more than eighteen feet north of the north curb face, of the south median nose of 7th Street at "Q" Street, for the location of a public market, as contemplated hereunder, between the hours of 5:30 a.m. and 1:30 p.m. on Saturdays from May 1, 2010 through and including October 9, 2010 and also 8th Street beginning at the corner of 8th and "P" Streets thence westerly along the north line of "P" street thence north to the south line of "Q" Street thence easterly to the northeast corner of 8th and Q Streets thence south to the north line of "P" Street between the hours of 5:30 a.m. and 1:30 p.m. on Saturdays from June 5, 2010 through and including August 28, 2010 for the location of a public market as contemplated herein. Barricades, fences and signs required for closure will be subcontracted out by Contractor and placed on location by others to conform to the standards outlined in the MUTCD for roadway closures, and depicted in Attachment "D".

3. Stalls shall be assigned only when a completed form is sent with payment. Spaces will be assigned by the Market Supervisor. First right of refusal will be given to those vendors who have sold in previous years. Nebraska producers will be given priority over non-Nebraska producers. Daily and seasonal permits may be issued for the use of said stalls by sellers. Stall rental fees shall be established by the Contractor and shall be approved by executive order of the Mayor. A copy of the stall plan to be used for the Haymarket location is attached hereto, marked as Attachment "D", and made a part hereof by reference.

4. Sellers shall be allowed to sell home-grown fruit, vegetables, eggs, honey, plants, flowers and similar produce. Meat, sausage and cheese may be sold; provided, however, such products shall be processed in a licensed plant, shall be prepackaged, and kept in temperatures of 45 degrees Fahrenheit or below. Contractor may also permit a maximum of fifty percent (50%) of the stalls to be utilized for the sale of prepared foods items or crafts; however, the number of stalls may be increased to fifty-five percent (55%) of the stalls should there be insufficient produce available for sale during the months of May and October.

5. The Contractor shall appoint, or shall cause to be appointed, an individual to serve as Market Supervisor, who shall generally supervise the market during the hours of operations, and who shall be responsible to see that the terms and conditions of this Contract are being complied with. Contractor may also promulgate such rules and regulations as it shall deem necessary to govern the operation of said market.

6. The market shall be run in strict compliance with all pertinent health and regulatory codes of the City of Lincoln, the State of Nebraska, and United States of America. The Director of the County-City Health Department, or his authorized representative, shall be entitled to make inspections of any goods offered for sale in the public market area. If the Director, or his authorized representative, find any violations of any pertinent health codes or any of the requirements of this contract relating to the handling of products, the Market Supervisor shall be notified and it shall be the duty of the Market Supervisor to revoke the permit of the seller found to be in violation until such violations are satisfactorily corrected.

7. All stalls shall be so operated and so conducted as not to interfere with the free flow of pedestrian traffic on sidewalks, pedestrian crossings and handicapped ramps within the public right-of-way and while maintaining a minimum eight (8) foot wide pedestrian corridor throughout the market area. In the Haymarket public market, vehicles shall be parked on-street roadway surfacing only and in stalls marked on Attachment "B". Stalls shall be operated and so conducted as not to encroach within three feet of City fire hydrants, bike racks, trash receptacles, street light poles, benches, kiosks and sign posts.

8. Contractor shall be responsible for continuously maintaining the market area in a neat and clean condition during the operation of the public market. Upon the termination of each day's business, Contractor shall be responsible for ensuring that the market area is clear of accumulated garbage, trash and litter, and all structures, tables, stands and other obstructions erected during the operation of the market. Contractor shall make such arrangements as may be necessary for the use of sanitary facilities for the general public and producers, either by permission with area property owners or by obtaining portable units at Contractor's expense.

9. Contractor agrees that any time on a market day that market operations cease for lack of additional goods and produce, or for any other reason, the Contractor's exclusive right to use the public space shall terminate, and the public right-of-way shall immediately be returned to public use.

10. Prior to commencing any operations under this Contract, Contractor shall:

(a) Provide a bond approved as to form by the City Attorney, executed by a bonding company or a surety company authorized to do business in the State of Nebraska in the sum of $5,000.00 conditioned upon the faithful execution of all terms and conditions of this Contract;

(b) Take out and maintain during the life of this Contract the applicable Employer's Liability and Worker's Compensation Insurance with an insurance company authorized to write such insurance in this state covering all of the Contractor's employees, and in the case of any work sublet, the Contractor shall require the Subcontractor similarly to provide statutory Workmen's Compensation Insurance for the latter's employees as follows:

Worker's Compensation	
State	Statutory
Applicable Federal	Statutory
Employer's Liability	$300,000

(c) Maintain during the life of this Contract, Public Liability Insurance, naming protecting Contractor and the City of Lincoln, its officials, employees and volunteers as insured, against claims for damages resulting from (i) bodily injury, including wrongful death, (ii) personal injury liability, and (iii) property damages which may arise from operations under this Contract whether such operations be by Contractor or by any Subcontractor or anyone directly or indirectly employed by either of them. The minimum acceptable limits of liability to be provided by such insurance shall be as follows:

A.	Bodily Injury and Property Damage	$1,000,000 Each Occurrence
B.	Personal Injury Damage	$1,000,000 Each Occurrence
C.	Contractual Liability	$1,000,000 Each Occurrence
D.	Products Liability and Completed Operations	$1,000,000 Each Occurrence

The Public Liability Insurance required by the preceding paragraph shall include the following extensions of coverage:

A. The coverage shall be provided under a Commercial General Liability form or similar thereto.

B. Contractual Liability coverage shall be included.

C. Products Liability and/or Completed Operations coverage shall be included.

D. Personal Injury Liability coverage shall be included.

11. All Liability Insurance policies shall be written on an "occurrence" basis only. All insurance coverages are to be placed with insurer's authorized to do business in the State of Nebraska and must be placed with an insurer that has an A.M. Best's Rating of no less than A:VII unless specific approval has been granted by the City of Lincoln.

12. All Certificates of Insurance shall be filed with the City of Lincoln on the standard ACORD CERTIFICATE OF INSURANCE form showing the specific limits of Insurance coverage required by Section 10 above and showing the City of Lincoln as an additional insured. Such certificate shall specifically state that Insurance policies are to be endorsed to require the insurer to provide the City of Lincoln thirty days notice of cancellation, non-renewal, or any material reduction of insurance coverage.

13. The Contract shall indemnify and save harmless the City of Lincoln, Nebraska from and against all losses, claims, damages and expenses, including attorney's fees, arising out of or resulting from the performance of the contract that results in bodily injury, sickness, disease, death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom and is caused in whole or in part by the Contractor, any subcontractor, either directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. This section will not require the Contractor to indemnify or hold harmless the City of Lincoln for any losses, claims, damages, and expenses arising out of or resulting from the sole negligence of the City of Lincoln, Nebraska.

14. The City is interested only in the results produced by this agreement. The Contractor has sole and exclusive charge and control of the manner and means of performance. The Contractor shall perform as an independent contractor and it is expressly understood that the Contractor is not an employee of the City and is not entitled to any City employee benefits including, but not limited to, overtime, retirement benefits, worker's compensation, sick leave, or injury leave.

15. The City agrees to waive the normal fee for the hooding of parking meters in the market area.

16. If additional right-of-way is requested by the Contractor for use in conjunction with the Haymarket public market, the Mayor is authorized to modify paragraph No. 2 of this Contract to grant Contractor the exclusive use of an additional portion of the right-of-way; provided, however, such grant of additional right-of-way use shall be subject to approval of the City Traffic Engineer and shall be subject to all applicable terms and conditions of this Contract.

17. The City hereby reserves in its proper officers the authority to supervise and control the use of all public property for the benefit of the public. Contractor may be required by the City at any time to vacate all or any portion of the service space of the public rights-of-way granted hereunder when necessary for the public good.

18. In connection with the performance of work under this agreement, Contractor agrees that it shall not discriminate against any employee, applicant for employment, or applicant for stall rental because of race, color, religion, sex, disability, national origin, age, or marital status. In the employment of persons, Contractor shall fully comply with the provisions of Chapter 11.08 of the Lincoln Municipal Code and shall take affirmative action to ensure that applicants are employed and employees are treated during employment without regard to their race, color, religion, sex, disability, national origin, age, or marital status.

19. City agrees that Contractor may operate other markets in the downtown area on private property, provided Contractor has obtained written permission from the owner of the property on which Contractor intends to locate all or any portion of its market and such owner acknowledges that said operation by Contractor is not an official act of the City. Contractor agrees not to use the name of the City in any advertisement, circular, tickets, or other means whatsoever in the advertising or in the furtherance of its operation of markets on private property. It is understood that Contractor intends to operate a market on private property at the following locations: (a) the promenade area on the west side of Lincoln Station.

20. The term of this Contract shall be from May 1, 2010, through and including October 9, 2010.

21. If Contractor should fail to perform all the terms and conditions as provided in this Contract, the City may, in addition to availing itself of all other legal remedies, treat this Contract as terminated and all the rights and interests of the parties herein shall thereupon be null and void.

IN WITNESS OF, the parties have caused this Contract to be executed on the date and year first above written.

ATTEST:

CITY OF LINCOLN, NEBRASKA,
A Municipal Corporation

City Clerk

Chris Beutler, Mayor of Lincoln

ATTEST:

LINCOLN HAYMARKET
DEVELOPMENT CORPORATION

Title:

Title: PRESIDENT

ACORD®

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 8/26/2009

PRODUCER (402)434-7200 FAX: (402)434-7272
UNICO Group
4435 O Street
P. O. Box 30275
Lincoln NE 68510

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURED
Lincoln Haymarket Development Corp.
335 North 8th St, Suite B
Lincoln NE 68508

INSURERS AFFORDING COVERAGE	NAIC #
INSURER A: Colony Insurance Company	
INSURER B: Scottsdale	
INSURER C:	
INSURER D:	
INSURER E:	

COVERAGES

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	ADD'L INSRD	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YYYY)	POLICY EXPIRATION DATE (MM/DD/YYYY)	LIMITS	
A	X	GENERAL LIABILITY X COMMERCIAL GENERAL LIABILITY CLAIMS MADE X OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: X POLICY PRO-JECT LOC	GL3051740	9/1/2009	9/1/2010	EACH OCCURRENCE	$ 1,000,000
						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 100,000
						MED EXP (Any one person)	$ 5,000
						PERSONAL & ADV INJURY	$ 1,000,000
						GENERAL AGGREGATE	$ 2,000,000
						PRODUCTS - COMP/OP AGG	$ 2,000,000
		AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS				COMBINED SINGLE LIMIT (Ea accident)	$
						BODILY INJURY (Per person)	$
						BODILY INJURY (Per accident)	$
						PROPERTY DAMAGE (Per accident)	$
		GARAGE LIABILITY ANY AUTO				AUTO ONLY - EA ACCIDENT	$
						OTHER THAN AUTO ONLY: EA ACC	$
						AGG	$
B		EXCESS / UMBRELLA LIABILITY X OCCUR CLAIMS MADE DEDUCTIBLE X RETENTION $ 0	XLS0061684	9/1/2009	9/1/2010	EACH OCCURRENCE	$ 2,000,000
						AGGREGATE	$ 2,000,000
							$
							$
							$
		WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N (Mandatory in NH) If yes, describe under SPECIAL PROVISIONS below				WC STATU-TORY LIMITS / OTH-ER	
						E.L. EACH ACCIDENT	$
						E.L. DISEASE - EA EMPLOYEE	$
		OTHER				E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS
City of Lincoln is listed as an additional insured.

CERTIFICATE HOLDER
441-8325
City of Lincoln
City Clerks Office
Attn: Teresa
555 South 10th Street
Lincoln, NE 68508

CANCELLATION
SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.

AUTHORIZED REPRESENTATIVE
Edward Packard/CREINS

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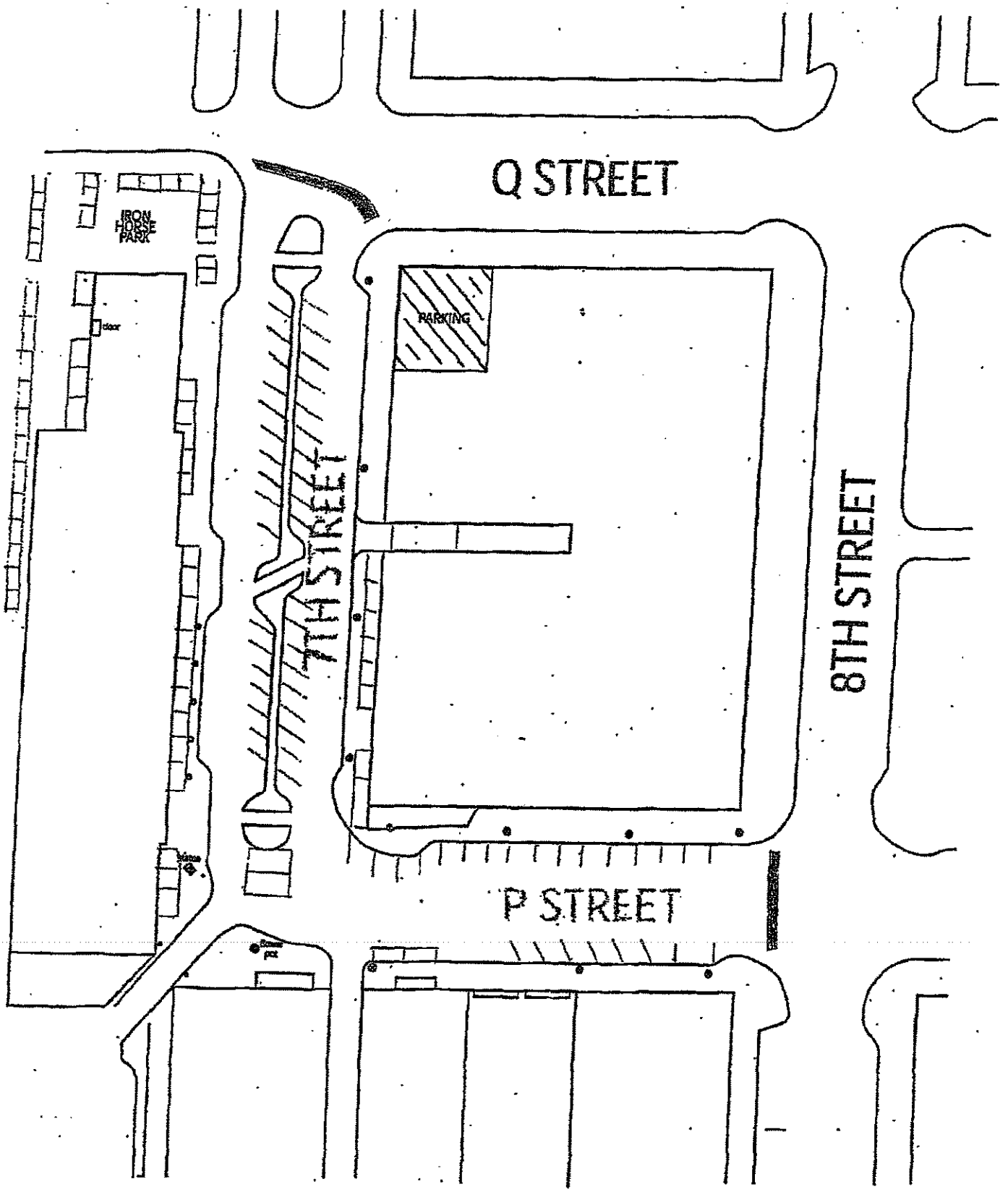
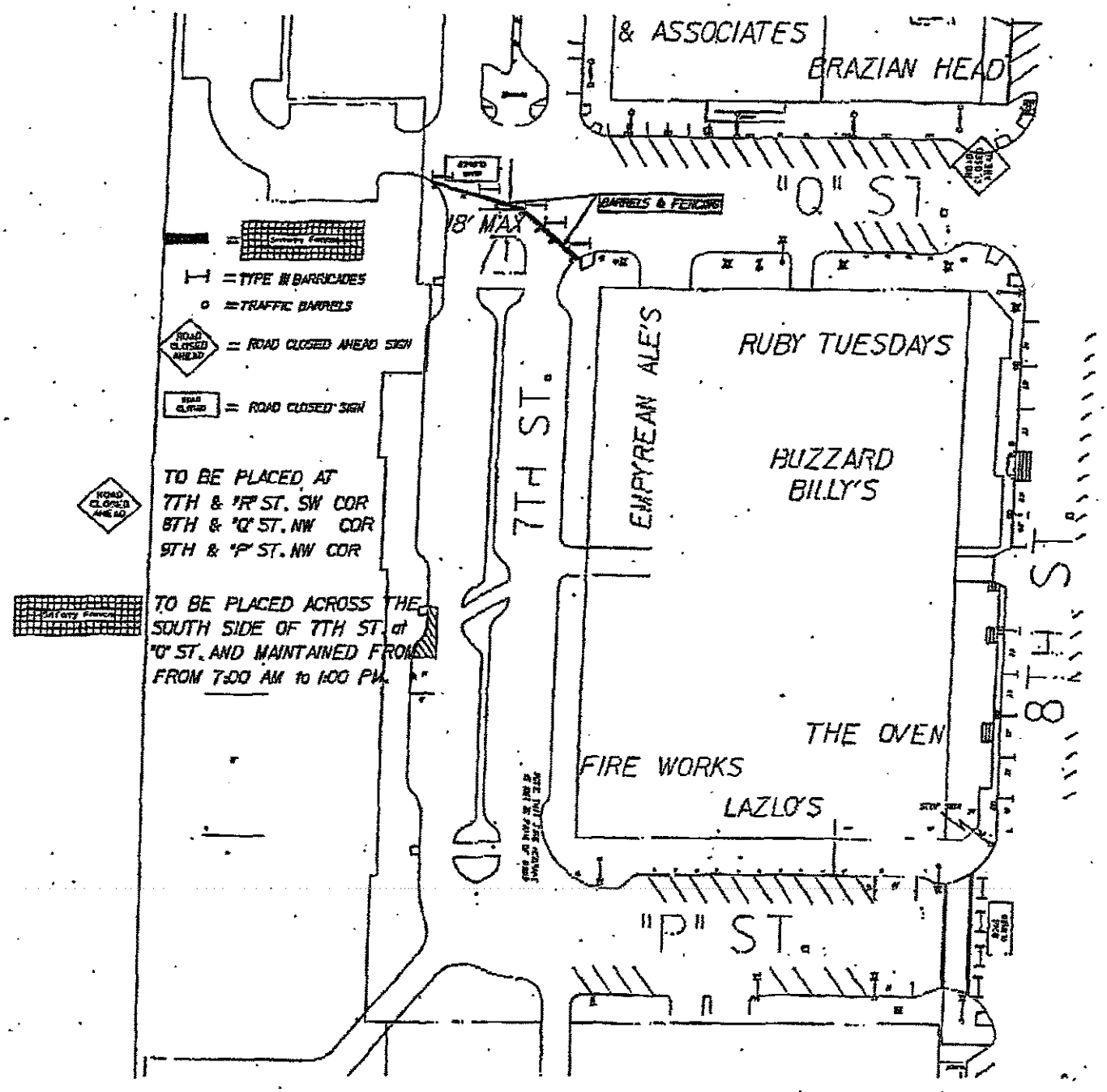
Attachment B



Attachment "D"