

**JENSEN PARK ESTATES
CONDITIONAL ANNEXATION AND ZONING AGREEMENT**

This Jensen Park Estates Conditional Annexation and Zoning Agreement ("Agreement") is made and entered into this _____ day of _____, 2006, by and between **Jensen Park L.L.C.**, a Nebraska limited liability company, 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 44.50 acres more or less of land generally located at the NE corner of South 84th and Yankee Hill Road. The approximately 44.50 acres is hereinafter referred to as the "Property" and is legally described and shown in Exhibit 'A' which is attached hereto and incorporated herein by this reference.

B. Owner has requested the City to rezone those portions of the Property as legally described in Exhibit 'A' which is attached hereto and incorporated herein by this reference, from AG Agriculture District to R-3 Residential District.

C. Owner has requested the City to approve Preliminary Plat No. 04030 as Jensen Park Estates. The property is also subject to a request by the Owner for a preliminary plat to develop 145 dwelling units on 109 single-family lots and 36 attached single family lots.

D. 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 of furnish water service to that portion of the Property located within the boundaries of District No.1. The City is willing to annex the Property, rezone the Property, 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 the Property located within the boundaries of District No. 1.

E. The Property is located within a 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 the Property as requested by Owner, provided Owner agrees to pay all costs needed for the City to assume and pay that portion of all outstanding obligations of the district which would otherwise constitute an obligation of the Property being annexed.

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

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

2. **Change of Zone and Preliminary Plat.** The City agrees to approve Change of Zone No. 04030 and rezone the Property from AG Agricultural District to R-3 Residential District, and agrees to approve the Jensen Park Estates Preliminary Plat No. 04030 for 145 dwelling units on 109 single family lots and 36 attached single family lots.

3. **Street Improvements.** The City and Owner covenant and agree that the following street improvements will be needed to serve the property:

A. South 84th Street. Owner shall, through the City's executive order process, pave at its own cost and expense South 84th Street from Yankee Hill Road north to North Property Line (hereinafter the "South 84th Temporary Paving Improvements") as described below:

The right-of-way shall be 120 feet in width, expanding to 130 feet in width at the intersection of South 84th Street and Yankee Hill Road and at the intersection of South 84th Street and Dunrovin Road. Paving improvements shall include temporary asphalt tapers at South 84th Street and Dunrovin Road intersections for safe delineation of the existing roadway to the proposed roadway. Turn lanes shall be constructed at this location and length identified in Exhibit "B".

The Owner shall pay 100 percent of the final cost of the South 84th Street Temporary Paving Improvements, which shall include grading, drainage, paving/ construction, and inspection fees. The Owner shall pay 100 percent of the cost of the design required for the Improvements; using Owner's choice of engineering consultants.

B. Yankee Hill Road. Owner shall, through the City's executive order process, pave, at its own cost and expense, Yankee Hill Road from South 84th Street and Yankee Hill Road to the West R.O.W. line of the OPPD Railroad (hereinafter the "Yankee Hill Paving Improvements") as follows:

Phase I

Build full intersection at Sutherland Street and Future Yankee Hill Road Intersection with temporary connection to existing Yankee Hill Road. Construction to take place when the development reaches 115 occupancy permits. The roadway shall be constructed as identified in the Exhibit "C".

Phase II

Yankee Hill Road from 84th street east to the west R.O.W. of the OPPD railroad, to be constructed in 2009. The right-of-way shall be 120 feet in width expanding to 130 feet in width at the intersections of South 84th Street and Yankee Hill Road and at the intersection of Sutherland Road and Yankee Hill Road extending 750 feet east of South 84th Street and 225 feet east of Dunrovin Road measured from the centerline of said intersections respectively. The Yankee Hill Paving Improvements shall include two permanent concrete paved lanes measuring 26 feet from the back of the curb to back of curb; 13-foot wide paved single lane for right and left turns at the intersections of South 84th Street and Yankee Hill Road and 13-foot wide paved single lane for left turns at Yankee Hill and Dunrovin Road. The Yankee Hill Road Paving Improvements shall also include tapers west of South 84th street at this intersection for safe delineation of the existing roadway to the proposed roadway. The roadway shall be constructed as part of the third party agreement between Jensen Park L.L.C. and Krueger Development. See Exhibit "C" and "G".

In addition, Owner agrees, unless otherwise directed by the City, to construct Yankee Hill Road from the west R.O.W. line of the OPPD railroad east to the Cheney connection at the same time as owner constructs Phase II.

The Owner shall be eligible for reimbursement, as provided in Subparagraph E below, of 100 percent of the final cost of the Yankee Hill Paving Improvements (except for the temporary connection to existing Yankee Hill Road), which shall include grading of R.O.W., storm sewer, paving, seeding, engineering and inspections fees. Owner must go through the City public bidding and Executive Order process to be eligible for reimbursement. Notwithstanding the above, the City agrees to reimburse Owner for Owner's cost to construct the extension of Yankee Hill Road from the west R.O.W. of the OPPD railroad to the Cheney connection within 90 days following completion of construction.

C. Conveyance of Right-of-way. Owner agrees to convey at no cost to the City the right-of-way for the South 84th Paving Improvements and Yankee Hill Road Paving Improvements shown in Exhibit "D". Notwithstanding the above, the City agrees to pay the Owner the sum of \$45,000 for additional R.O.W. required to shift 84th & Yankee Hill as shown in Exhibit "D".

Owner shall also convey such temporary construction easements over its ownership of the Property abutting the rights-of-way as may be necessary for construction of the street improvements.

D. Phasing of Street Improvements. The phasing of Jensen Park Estates shall be accomplished in the order and manner illustrated in Exhibit "C", ("Phasing Plan") which is attached

hereto and incorporated herein by this reference. The grading and paving of South 84th Street and Yankee Hill Road shall be accomplished in phases, in accordance with the Phasing Plan.

E. Reimbursement.

(1) Directed Arterial Street Impact Fees. The City agrees to reimburse Owner for the cost to construct Yankee Hill Road identified in Exhibit "C" from Directed Arterial Street Impact Fees up to the Arterial Street Impact Fee Amount of \$281,233 which reflects the amount attributable to 100% development of the proposed development of the Property in 2006 based upon the 2006 Arterial Street Impact Fee Schedule. Reimbursement shall be subject to the following conditions:

(a) The reimbursement shall be repaid quarterly from Arterial Street Impact Fees collected from the Property;

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

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

(2) Owner's Cost in Excess of Directed Impact Fees. In the event Owner's costs to construct Yankee Hill Road are in excess of the Directed Arterial Street Impact Fee Amount of \$281,233 the City agrees to use its best efforts to reimburse Owner with interest for the excess costs from other Arterial Street Impact Fees collected from this and/or other developments within the same benefit district within eleven years from the date the fee is paid. Reimbursement from Impact Fees shall be subject to the same conditions listed in subparagraph C.(1) above. Interest on the outstanding balance shall draw interest at the rate of 2% per annum, provided, however interest shall not begin to accrue until Owner has substantially completed construction of Yankee Hill Road to the satisfaction of the City. Notwithstanding the above, the City's best efforts to reimburse Owner with Impact Fees collected from other development 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 Arterial Street Impact Fee Facility Improvements. If a developer does not fund the construction of Arterial Street 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.

4. Public Sanitary Sewer.

A. Construction. Owner understands and acknowledges that the Property is not presently sewerable by the City's public sanitary sewer system and that in order to make the Property sewerable, a trunk sewer main located west of South 70th Street needs to be constructed from South 70th to South 84th Street identified in Exhibit "E". Owner further understands that the City did not intend to extend its public sanitary sewer system to serve the Property within the next

one to six years. Owner desires to be immediately connected to the public sanitary sewer and therefore agrees to construct by executive order construction the above-described trunk sewer main. The total cost of construction of the trunk sanitary sewer line is estimated to be \$300,000 and the actual cost of the design and construction shall be paid by Owner, except that the City agrees to reimburse Owner for the cost to construct those portions of the trunk sewer which qualify as a Wastewater Impact Fee Facility Improvement (i.e., greater than eight inches). The City further agrees that those non-reimbursable portions of the trunk sewer which are eight inches in size will potentially sewer other properties that are not subject to this Agreement (collectively "Other Properties"). Therefore, pursuant to Lincoln Municipal Code §24.52.010, the City agrees to charge the owners of said Other Properties a fair share cost of said eight-inch trunk sewer based upon a per-acre formula or some other "fair share" formula approved by the City in order to permit said Other Properties to be zoned, annexed, or subdivided, and to be connected to said eight-inch trunk sewer at a cost roughly equivalent to that paid by Owner to sewer the Property on a per-acre basis. If said connection is made within six years from the date of this Agreement, the City agrees to pay the amount of any connection fees so collected to Owner. Notwithstanding the above, Owner understands and agrees that the City cannot contract away its police powers and legislative discretion and thus the duty of the City to use its best efforts to charge the owners of the Other Properties their fair share of the cost of constructing the eight-inch wastewater main does not require the City Council for the City to adopt nor restrict the Council from adopting ordinances affecting the City's ability to charge property owners for the right to connect to the City's wastewater collection system. Owner further agrees that the City shall not be liable to Owner in the event of any failure on the part of the City by negligence or otherwise to collect all or any part of such connection fees.

Because the amount of the City's reimbursement exceeds \$10,000, the parties agree that the contract for the construction of the sanitary sewer lines shall be awarded only after competitive bidding in accordance with City procedures. The construction shall be completed by no later than December 31, 2007.

B. Easement. Owner shall convey such permanent and temporary construction easements over its ownership of the Property as may be necessary for construction of the sewer. If requested by Owner, the City agrees to use its eminent domain powers to acquire any permanent and temporary construction easements from other parties needed for the sanitary sewer to be extended from South 70th Street to South 84th Street. Owner agrees to reimburse City for the cost of such acquisition. The location of the sanitary sewer easement shall be subject to the approval of the City's Department of Public Works and Utilities.

C. Reimbursement.

(1) Directed Wastewater Impact Fees. The City agrees to reimburse Owner for the cost to extend those portions of the sanitary sewer from South 70th Street to South 84th Street identified in Exhibit "E" which are greater than eight inches from Directed Wastewater Impact Fees up to the Directed Wastewater Impact Fee Amount of \$90,743 which reflects the amount attributable to 100% development of the proposed development of the Property in 2006 based upon

the 2006 Wastewater Impact Fee Schedule. Reimbursement shall be subject to the following conditions:

(a) The reimbursement shall be repaid quarterly from Wastewater Impact Fees collected from the Property;

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

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

(2) **Owner's Cost in Excess of Directed Wastewater Impact Fees.** In the event Owner's costs to extend sanitary sewer from South 70th Street to South 84th Street are in excess of the Directed Wastewater Impact Fee Amount of \$90,743 the City agrees to use its best efforts to reimburse Owner with interest for the excess costs from other Wastewater Impact Fees collected from this and/or other developments within eleven years from the date the connection fee is paid. Reimbursement from Impact Fees shall be subject to the same conditions listed in subparagraph C.(1) above. Interest on the outstanding balance shall draw interest at the rate of 2% per annum, provided, however interest shall not begin to accrue until Owner has substantially completed construction of the sanitary sewer extension from South 70th Street to South 84th Street to the satisfaction of the City. Notwithstanding the above, the City's best efforts to reimburse Owner with Impact Fees collected from other development does not restrict the City from agreeing to reimburse future developers from Directed Impact Fees collected against the entire development of their property if those developers fund the construction of Wastewater Impact Fee Facility Improvements. If a developer does not fund the construction of Wastewater 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.

(3) Notwithstanding subparagraphs (1) and (2) above, the City agrees to use its best efforts to reimburse Owner for the cost to construct those portions of the sanitary sewer greater than eight inches by November 30, 2007 if funding for the sanitary sewer is included in Year One of the City's 2007/2008 Six-Year Capital Improvement Program.

5. Public Water Main.

A. The City agrees to construct a 24-inch water main in South 84th Street from Yankee Hill Road north 2,500 feet in South 84th Street by May 31, 2008. Notwithstanding the foregoing, Owner shall have the option to design, competitively bid, construct, and fund the 24-inch water main through the City's executive order process if Owner desires said main to be constructed prior to May 31, 2008. If Owner constructs the 24-inch water main through the City's executive order process, the City agrees to use its best efforts to reimburse Owner for said cost by May 31, 2008.

B. The Owner agrees to construct by executive order construction a 12-inch water main from South 84th to Yankee Hill Road through the subdivision. The actual cost of the design and construction shall be paid by Owner, except that the City agrees to subsidize Owner for the cost of the 12-inch water main in excess of the equivalent cost of a 6-inch water main within sixty (60) days following completion of construction (except for the City's fixed fee for engineering services). Owner understands and agrees that if the amount of the City's subsidy exceeds \$10,000, the contract for the construction of the water main extensions shall be awarded only after competitive bidding in accordance with City procedures.

C. Easement. Owner shall convey such permanent and temporary construction easements over its ownership of the Property as may be necessary for construction of the water main as shown in Exhibit "F".

6. Security. Owner shall, provide the City a bond, escrow, or other security agreement, approved by the City Attorney to insure Owner's share of the cost of the improvements described in this Agreement as part of the executive order construction process or at the time of final platting of the Property, whichever occurs first.

7. District No. 1. Owner understands and acknowledges that the City may not furnish water to serve that portion of the Phase I Property 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 agrees to pay all the cost needed to obtain District No. 1's approval for the City to furnish water to the Phase I Property lying within the boundaries of District No. 1.

8. Contribution for Rural Fire District. Owner understands and acknowledges that the City may not annex the Phase I Property 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 Property 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. Future Cost Responsibilities. Owner understands and acknowledges that the proposed development of the Property shall be subject to the payment of impact fees and Owner agrees to pay said impact fees if development occurs. Owner understands that based upon the City's standard formula for calculating such costs the City believes that no funds will be required to be paid to the District.

10. Executive Orders. Owner may submit requests for executive orders permitting construction of improvements referred to above prior to approval of the Preliminary Plat. City agrees to issue such executive orders and review plans upon payment of design review fees, but City reserves the right to withhold permission to proceed with construction until the Preliminary Plat is approved by the City. Owner shall be required to post security for construction of improvements in

amounts equal to Owner's estimated share of costs pursuant to percentages set forth in this Agreement.

11. Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, devisees, personal representatives, successors and assigns and shall inure to and run with the Preliminary Plat Property.

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

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

14. 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.

15. 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.

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

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

18. 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 hereunder, unless a specific release in writing is given and signed by the other parties to this Agreement.

19. Default. Owner and City agree that the annexation, change of zone, preliminary plat, and community unit plan 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 Property to its previous designations 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.

20. Definitions. 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.

21. Recordation. 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:

THE CITY OF LINCOLN, NEBRASKA
a municipal corporation

City Clerk

By: _____
Mayor Coleen J. Seng

JENSEN PARK, LLC, Owner
a Nebraska limited liability company

By: _____
Title: Manager

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

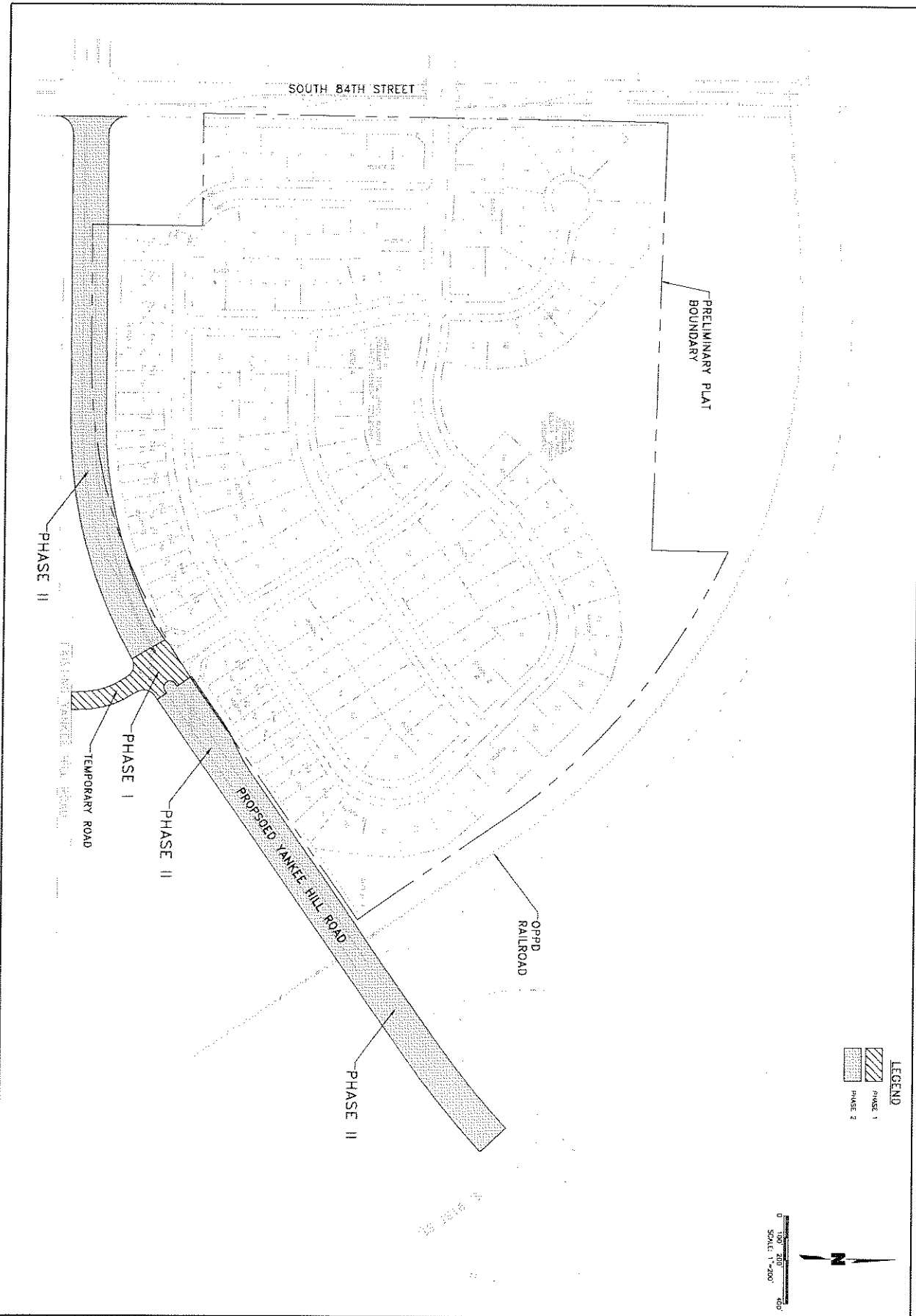
The foregoing instrument was acknowledged before me this _____ day of _____, 2006, by Coleen J. Seng, Mayor of the City of Lincoln, Nebraska on behalf of the City.

Notary Public



STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2006, by _____, Manager of Jensen Park, LLC, a Nebraska limited liability company, on behalf of said limited liability company.


Notary Public



LEGEND

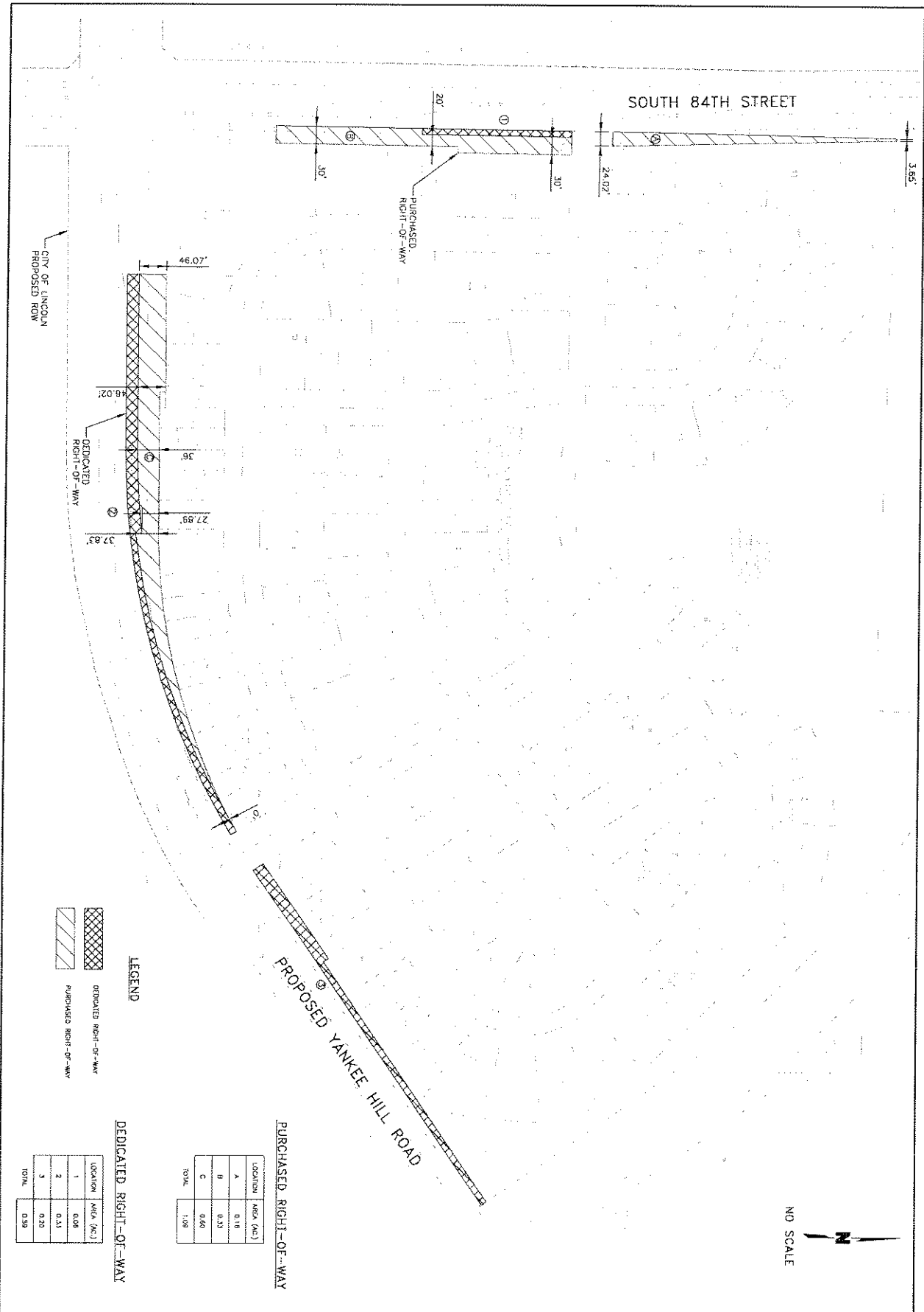
-  PHASE 1
-  PHASE 2

0 100 200 300
 FEET
 SCALE: 1"=200'



SHEET 1 OF 1	Jensen Park Estates Lincoln, Nebraska		Design By: DAN Drawn By: LKR Checked By: PLD	Project #: 03-085 Drawing: exhibit c.dwg Date: 05/16/2005
	Yankee Hill Road Improvements - Exhibit C		By: _____ Revisions: _____ Date: _____	_____ _____ _____





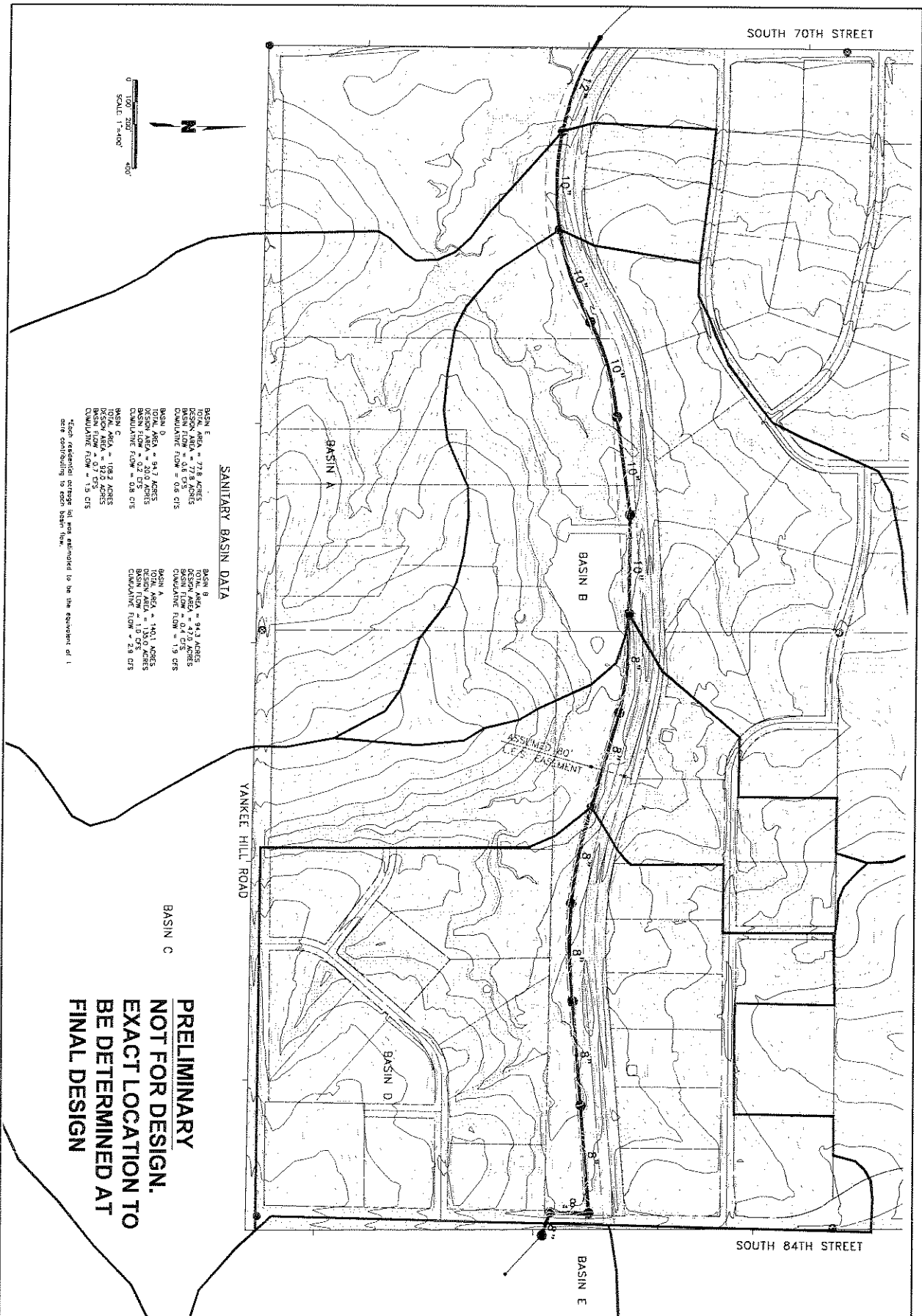
Jensen Park Estates
Lincoln, Nebraska

Right-of-Way - Exhibit D

Design By: DAN	Project #: 02-085
Drawn By: DAN	Drawing: exhibit d.ewg
Checked By: DAN	Date: 4-26-06
By:	Revisions:
	Date:



SOUTH 70TH STREET



SANITARY BASIN DATA

BASIN E
 TOTAL AREA = 778 ACRES
 DESIGN FLOW = 1.0 CFS
 BASIN FLOW = 0.6 CFS
 CUMULATIVE FLOW = 0.6 CFS

BASIN D
 TOTAL AREA = 912 ACRES
 DESIGN FLOW = 1.0 CFS
 BASIN FLOW = 0.2 CFS
 CUMULATIVE FLOW = 0.8 CFS

BASIN C
 TOTAL AREA = 1082 ACRES
 DESIGN FLOW = 1.0 CFS
 BASIN FLOW = 0.8 CFS
 CUMULATIVE FLOW = 1.6 CFS

BASIN B
 TOTAL AREA = 913 ACRES
 DESIGN FLOW = 1.0 CFS
 BASIN FLOW = 0.4 CFS
 CUMULATIVE FLOW = 2.0 CFS

BASIN A
 TOTAL AREA = 1001 ACRES
 DESIGN FLOW = 1.0 CFS
 BASIN FLOW = 1.0 CFS
 CUMULATIVE FLOW = 3.0 CFS

BASIN C
 TOTAL AREA = 1082 ACRES
 DESIGN FLOW = 1.0 CFS
 BASIN FLOW = 0.8 CFS
 CUMULATIVE FLOW = 2.8 CFS

BASIN D
 TOTAL AREA = 912 ACRES
 DESIGN FLOW = 1.0 CFS
 BASIN FLOW = 0.2 CFS
 CUMULATIVE FLOW = 3.0 CFS

BASIN E
 TOTAL AREA = 778 ACRES
 DESIGN FLOW = 1.0 CFS
 BASIN FLOW = 0.6 CFS
 CUMULATIVE FLOW = 3.6 CFS

Note: Elevation coverage not permitted to be the equivalent of 1 acre contributing to each basin flow.

**PRELIMINARY
 NOT FOR DESIGN.
 EXACT LOCATION TO
 BE DETERMINED AT
 FINAL DESIGN**

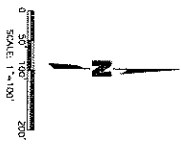
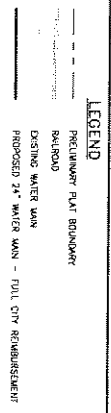
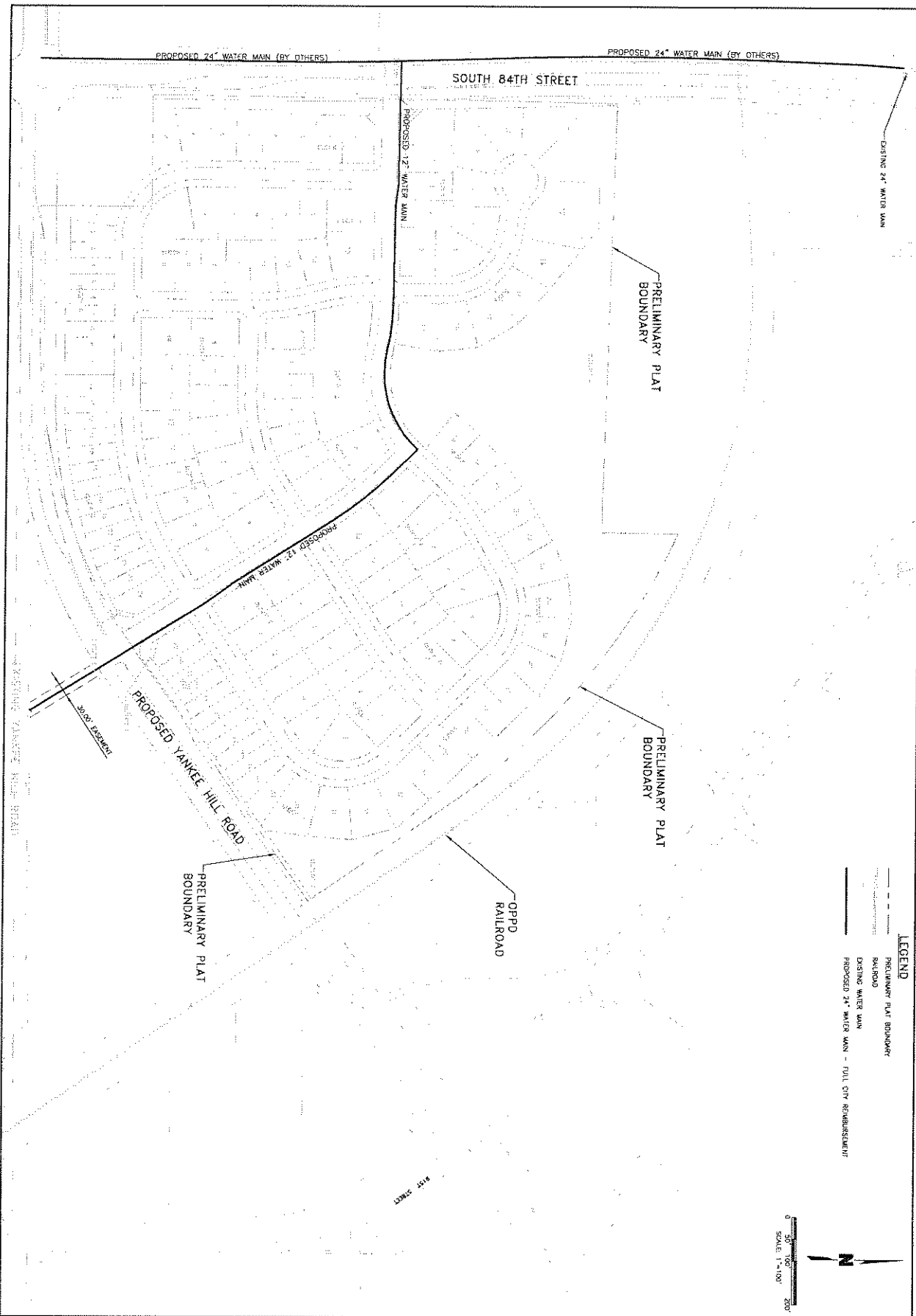
JENSEN PARK ESTATES

Lincoln, Nebraska

Sanitary Outfall Sewer - Exhibit E

Design By: DAN	Project #: 03-085
Drawn By: LKR	Drawing: exhibit e.dwg
Checked By: PLD	Date: 04/26/06
By:	Revisions
	Date

EDC
 Engineering & Construction
 1000 North 17th Street
 Lincoln, NE 68502
 Phone: 402.476.1111
 Fax: 402.476.1112
 Website: www.edcinc.com



SHEET 1 OF 1		Jensen Park Estates Lincoln, Nebraska	Design By: DAN Drawn By: LKR Checked By: PLD	Project #: 03-085 Drawing exhibit 1 new.dwg Date: 07/05/06			
		Water Extension - Exhibit F	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 5%;">By</th> <th style="width: 15%;">Revisions</th> <th style="width: 10%;">Date</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>	By		Revisions	Date
By	Revisions	Date					

COPY

**YANKEE HILL ROAD
IMPROVEMENT AGREEMENT**
Exhibit G

This Yankee Hill Road Improvements Agreement is made and entered into this 18 day of August, 2006, by and between Jensen Park L.L.C., a Nebraska limited liability company, and R.C. Krueger Development Co. Inc., a Nebraska Corporation, CalRuby L.L.C., a Nebraska limited liability company, Carl R. & Vicki A. Schmidt, 3AP-SE. L.L.C. a Nebraska limited liability company and Midwest Net Lease L.L.C., a Nebraska limited liability company.

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

1. **Street Improvements.** The parties covenant and agree that the following street improvements will be needed to serve each parties respective property:

A. Yankee Hill Road. Jensen Park L.L.C. shall, through the City's executive order process, pave, at its own cost and expense, Yankee Hill Road from South 84th Street and Yankee Hill Road to the West R.O.W. line of the OPPD Railroad (hereinafter the "Yankee Hill Paving Improvements") as follows:

Phase I

Sutherland Street and Future Yankee Hill Road Intersection with temporary connection to existing Yankee Hill Road. Construction to take place when the development reaches 115 occupancy permits. (2008).

Phase II

Yankee Hill Road from 84th street east to 91st street to be constructed in 2009. The right-of-way shall be 120 feet in width expanding to 130 feet in width at the intersections of South 84th Street and Yankee Hill Road and at the intersection of Sutherland Road and Yankee Hill Road

extending 750 feet east of South 84th Street and 225 feet east of Dunrovin Road measured from the centerline of said intersections respectively. The Yankee Hill Paving Improvements shall include two permanent concrete paved lanes measuring 26 feet from the back of the curb to back of curb; 13-foot wide paved single lane for right and left turns at the intersections of South 84th Street and Yankee Hill Road and 13-foot wide paved single lane for left turns at Yankee Hill and Dunrovin Road. The Yankee Hill Road Paving Improvements shall also include tapers west of South 84th street at this intersection for safe delineation of the existing roadway to the proposed roadway.

Jensen Park L.L.C. shall be eligible for reimbursement of 100 percent of the final cost of the Yankee Hill Paving Improvements, which shall include grading of R.O.W., storm sewer, paving, seeding, engineering and inspections fees. Jensen Park L.L.C. must go through the City RFP Executive Order process to be eligible for reimbursement.

Cost Share:

Jensen Park L.L.C. agrees to pay for any and all permanent paving grading of R.O.W., storm sewer, seeding improvements for Yankee Hill east of the centerline of South 84th street.

R.C. Krueger Development Co. Inc., CalRuby L.L.C., Carl R. & Vicki A. Schmidt, 3AP-SE. L.L.C., and Midwest Net Lease L.L.C., agrees to pay for any and all permanent paving, grading of R.O.W., storm sewer, seeding improvements for Yankee Hill west of the centerline of South 84th street. Any temporary improvement will be at the cost of Jensen Park L.L.C.

Reimbursement:

R.C. Krueger Development Co. Inc., CalRuby L.L.C., Carl R. & Vicki A. Schmidt, 3AP-SE. L.L.C., and Midwest Net Lease L.L.C., agrees to reimburse Jensen Park L.L.C. for the permanent improvements west of the centerline of South 84th street on a unit cost basis from the contractor. Quantities to be determined by

Jensen Park L.L.C. engineer and approved by R.C. Krueger Development Co. Inc., CalRuby L.L.C., Carl R. & Vicki A. Schmidt, 3AP-SE. L.L.C., and Midwest Net Lease L.L.C. Reimbursement shall take place on July 1st 2009 or at the time R.C. Krueger Development Co. Inc., CalRuby L.L.C., Carl R. & Vicki A. Schmidt, 3AP-SE. L.L.C., and Midwest Net Lease L.L.C., makes improvements to Yankee Hill Road west of South 84th, which ever is sooner.

2. **Future Cost Responsibilities.** Jensen Park L.L.C., by making the improvements outlined in this Agreement, shall not be responsible for any future cost responsibilities relating to the property, including but not limited to, the property identified on the Jensen Park Estates Preliminary Plat, unless Jensen Park L.L.C. proposes changes in land use, zoning or intensity of development which causes a need for additional street improvements in the immediate area of the Preliminary Plat.

3. **Executive Orders.** Jensen Park L.L.C. may submit requests for executive orders permitting construction of improvements referred to above. Jensen Park L.L.C. shall be required to post security for construction of improvements.

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

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

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

7. **Governing Law.** The laws of the State of Nebraska shall govern all aspects of this Agreement. The invalidity of any portion of this Agreement shall not invalidate the remaining provisions.

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

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

10. **Relationship of Parties.** Neither the method of computation of funding or any other provisions contained in this Agreement or any acts of any party shall be deemed or construed by Jensen Park L.L.C., R.C. Krueger Development Co. Inc., CalRuby L.L.C., Carl R. & Vicki A. Schmidt, 3AP-SE. L.L.C., and Midwest Net Lease L.L.C., or by any third person to create the relationship of partnership or of joint venture or of any association between the parties other than the contractual relationship stated in this Agreement.

11. **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 hereunder, unless a specific release in writing is given and signed by the other parties to this Agreement.

12. **Cost Defined.** 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, but shall exclude Jensen Park L.L.C personnel costs, unless otherwise defined herein.

13. **Recordation.** 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.

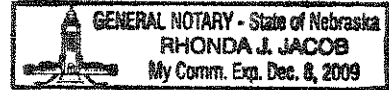
R.C. Krueger Development Co., Inc.
A Nebraska Corporation

By: Richard C. Krueger
Richard C. Krueger, President

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 22 day of May, 2006, by Richard C. Krueger of R.C. Krueger Development Co. Inc., A Nebraska Corporation.

Rhonda J. Jacob
Notary Public



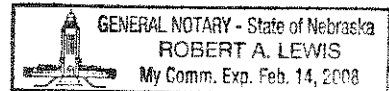
JENSEN PARK, L.L.C.
A Nebraska limited liability company

By: Robert D. Hampton
Robert D. Hampton Manager

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 18 day of August, 2006, by Robert D. Hampton of Jensen Park, LLC, a Nebraska limited liability company, on behalf of said limited liability company.

Robert A. Lewis
Notary Public



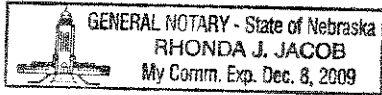
CalRuby, L.L.C.
A Nebraska limited liability company

By: Richard C. Krueger
Richard C. Krueger Manager

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 12 day of May, 2006, by Richard C. Krueger, of CalRuby, L.L.C. a Nebraska limited liability company, on behalf of said limited liability company.

Rhonda J. Jacob
Notary Public



Carl R. Schmidt and Vicki A. Schmidt

By: Carl R. Schmidt
Carl R. Schmidt
By: Vicki A. Schmidt
Vicki A. Schmidt

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 30th day of May, 2006, by Carl R. Schmidt.

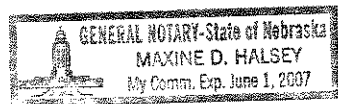
Maxine D. Halsey
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)



The foregoing instrument was acknowledged before me this 30th day of May, 2006, by Vicki A. Schmidt.

Maxine D. Halsey
Notary Public



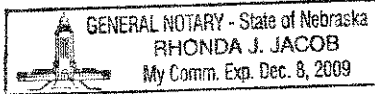
3 AP-SE, L.L.C.
A Nebraska limited liability company

By: *Kent C. Thompson*
Kent C. Thompson Manager

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 22 day of May, 2006, by Kent C. Thompson, of 3AP-SE L.L.C., a Nebraska limited liability company, on behalf of said limited liability company.

Rhonda J. Jacob
Notary Public



Midwest Net Lease L.L.C.
A Nebraska limited liability company

By: *Kent C. Thompson*
Kent C. Thompson Manager

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 22 day of May, 2006, by Kent C. Thompson, of Midwest Net Lease L.L.C., a Nebraska limited liability company, on behalf of said limited liability company.

Rhonda J. Jacob
Notary Public

