

AGENDA FOR THE WEST HAYMARKET
JOINT PUBLIC AGENCY (JPA)
TO BE HELD FRIDAY, February 22, 2013 AT 3:00 P.M.

COUNTY-CITY BUILDING
555 S. 10TH STREET
ROOM 303*
LINCOLN, NE 68508

1. Introductions and Notice of Open Meetings Law Posted by Door (Chair Beutler)
2. Public Comment and Time Limit Notification Announcement (Chair Beutler)

Individuals from the audience will be given a total of 5 minutes to speak on specific items listed on today's agenda. Those testifying should identify themselves for the official record.

3. Approval of the minutes from the JPA meeting held February 8, 2013 (Chair Beutler)
 - (Staff recommendation is for the JPA Board to approve the minutes as presented)
4. Approval of January 2013 Payment Registers (Steve Hubka)
 - Public Comment
 - (Staff recommendation is for the JPA Board to approve the payment registers)
5. Review of January 2013 Expenditure Reports (Steve Hubka)
 - Public Comment
6. WH 13-22 Resolution to accept the financial audit and management letter from BKD CPAs & Advisors LLP for the period ending August 31, 2012. (Steve Hubka and BKD)
 - Public Comment
 - (Staff recommendation is for the JPA Board to accept the Resolution)
7. WH 13-5 Resolution to approve a Letter Agreement between the West Haymarket Joint Public Agency and the University of Nebraska to amend the Lease and Operating Agreement to allow the assignment of and certain rights to three UNL Suites to the JPA. (Jeff Kirkpatrick)
 - Public Comment
 - (Staff recommendation is for the JPA Board to approve the resolution)
8. WH 13-17 Resolution to approve the Olsson Assignment and Assumption Agreement between the City of Lincoln, Nebraska and the West Haymarket Joint Public Agency providing for the City, as assignor, to assign, and for the JPA, as assignee, to assume all of the City's obligations to pay for the West Haymarket Monitoring Work under Amendment #2 to the Agreement between the City of Lincoln, Nebraska and Olsson Associates. (Paula Yancey)
 - Public Comment
 - (Staff recommendation is for the JPA Board to approve the resolution)

*If the conflicting meeting ends early, this meeting will be held in City Council Chambers Room 112.

9. WH 13-18 Resolution to approve the Consultant Agreement between Thought District and the West Haymarket Joint Public Agency to provide Website and Facebook Management Services. (Paula Yancey)
 - Public Comment
 - (Staff recommendation is for the JPA Board to approve the resolution)

10. WH 13-19 Resolution to approve Change Order No. 1 to the Consultant Agreement for Professional Marketing Services between the West Haymarket Joint Public Agency and Legends Sales and Marketing LLC to adjust the contract sum to reflect savings which have occurred. This Change Order reduces the contract sum from \$1,523,918.00 to \$1,138,918.00 (a decrease of \$385,000.00). (Paula Yancey)
 - Public Comment
 - (Staff recommendation is for the JPA Board to approve the resolution)

11. WH 13-20 Resolution to approve Change Order No. 4 to the Final Guaranteed Maximum Price Amendment to the Amended and Restated Construction Manager at Risk Contract with M.A. Mortenson to add additional work including ATMs, seating changes, parking lot revisions and electrical revisions for an additional contract amount of \$383,802.00 and to establish \$159,494,021.00 as the revised amount of the contract sum. (Paula Yancey)
 - Public Comment
 - (Staff recommendation is for the JPA Board to approve the resolution)

12. WH 13-21 Resolution to approve the Contract Agreement between Commonwealth Electric Company and the West Haymarket Joint Public Agency for Haymarket Infrastructure Improvement, Arena and Core Area Fiber Project, pursuant to Bid No. 13-040, in the base bid amount of \$87,186.95. (Paula Yancey)
 - Public Comment
 - (Staff recommendation is for the JPA Board to approve the resolution)

13. Set Next Meeting Date: Thursday, March 7, 2013 at 3:00 p.m. in County-City Building Room 303*

14. Motion to Adjourn

*If the conflicting meeting ends early, this meeting will be held in City Council Chambers Room 112.

WEST HAYMARKET JOINT PUBLIC AGENCY (JPA)
Board Meeting
February 8, 2013

Meeting Began At: 3:00 P.M.

Meeting Ended At: 3:35 P.M.

Members Present: Chris Beutler, Eugene Carroll, Tim Clare

Item 1 -- Introductions and Notice of Open Meetings Law Posted by Door

Chair Beutler opened the meeting with introduction of the Board members. He advised that the open meetings law posted at the back of the room is in effect.

Item 2 -- Public Comment and Time Limit Notification

Public comment is welcome. Beutler stated that individuals from the audience will be given a total of five minutes to speak on specific items listed on today's agenda. Those testifying should identify themselves for the official record and sign in.

Item 3 -- Approval of the minutes from the JPA meeting held January 24, 2013

Beutler asked for corrections or changes to the minutes of the January 24, 2013 meeting. Being none, Clare moved approval of the minutes. Carroll seconded the motion. Motion carried 3-0.

Item 4 -- West Haymarket Progress Report (Paula Yancey)

Paula Yancey, PC Sports, distributed a monthly information packet (attached hereto) on the status of the Pinnacle Bank Arena and associated infrastructure projects. She began the progress report with the local participation report on all workers, including engineering and professional services. Through December 2012 and January 2013 there have been 2,371 workers on site. Of the total workers, 1,369 (or 57%) live in Lincoln/Lancaster County and another 749 (or 32%) live in Nebraska outside Lancaster County. Only 253 (or 11%) were from outside Nebraska.

Looking at just the construction employees doing the work onsite who are using Davis Bacon certified payrolls there have been 2,090 workers on site. Of that total, 1,226 (or 59%) of the workers are from Lincoln/Lancaster County, 694 (or 33%) were from Nebraska, and only 170 (or 8%) were from outside of Nebraska. Responding to Clare, Yancey explained that they know where they come from based on zip code information based on the certified payroll information, which is entered into their database of workers.

The West Haymarket company participation numbers show 363 firms have been awarded contracts. Out of the total firms, 279 (or 77%) were Nebraska firms and only 84 (or 23%) were outside Nebraska. That equates to \$158 million out of a total \$215 million awarded to firms that actually have an address in Nebraska.

Adam Hoebelheinrich, PC Sports, proceeded with the infrastructure update for the area around the arena. Hoebelheinrich displayed images in the area including:

- The TDP's railyard development where Iron Horse Parking Lot used to be looking to the southeast
- A view of 7th and "R" Streets - Canopy Lofts on the left and the arena and garage on the right
- Parking Deck #1 (2 views) - putting up 12-14 pieces of precast daily - last week did first slab on grade pour
- View looking north down Pinnacle Arena Drive – on the right is DEC building, Parking Deck #1 and the arena - on the left the Amtrak building. This will be four lanes, but to give Amtrak access during winter months, two lanes were poured this last fall that will be the northbound lanes. On the right was the old Amtrak access road and parking lot, so building the two lanes allowed demo of that area. They will then be able to prep and finish the south lanes this spring.
- City's Lumberworks Garage – not part of West Haymarket, but in the area south of "O" Street where 7th Street used to be
- Iron Horse Park area public view looking northwest from fence – parking deck and Canopy Lofts, as well as TDP's drilling of concrete piles and footings for their hotel
- View looking north of future Canopy Street where the ramp will be and in between the two development buildings
- The pedestrian bridge looking north – rebar for footings for third pier
- Aerial view of the arena as of January 15
- Aerial view of the entire development area as of January 15

John Hinshaw, Mortenson Construction, reported on the Pinnacle Bank Arena progress. They have worked 31 consecutive days since the last recordable safety incident. The image displayed shows a labor foreman leading the workers at a daily stretch and bend. They average 300-350 craft workers onsite daily.

Regarding the concrete operations, the final slab on grade was poured yesterday. A laser screed is shown pulling back the slab on grade adjacent to the ice slab. All the garage foundations are complete.

Summary of the milestones achieved include:

- Drywall finishing has commenced
- Painting has started
- Erection of garage precast begun
- Building substantially enclosed – DEC is supplying temporary heat supplemented by temporary natural gas heat
- Ramp foundations started with the Post Office
- Ice floor construction commenced

Images include:

- Production drywall images -- shows pizza oven, a feature of premium lounge area
- Stadia steps being poured on premium level
- Mockup suite with millwork installed and tile being completed
- Seats in production from trip to Michigan plant – general seating close to completion

- Arena garage images looking east from Arena Drive – 250 garage attached to arena
- Installation of exterior finishes on the west elevation of the arena – cooper panels going on are shown on right of slide – green is gypsum board product and is being covered with the red vapor barrier – shown below is the mineral insulation that goes behind metal finished panels
- Cooper metal panel installation
- Two images show preparation of actual ice floor – warm water pipes on right to keep ground from heaving under the ice floor and backfilling shown. Cold water pipes get casted in the floor next month.
- Ramp foundation - toe of ramp being installed looking north with Post Office to the right and arena on the left

Jane Kinsey, Watchdogs of Lincoln Government, asked if the injured person was local and about their status. Hinshaw reported that the craft worker, who in January slipped on a ladder landing on his buttocks hurting his back vertebra, is currently under doctor’s supervision and is expected to return to work shortly. He is employed by a local sheet metal union and was treated by a local doctor.

Kinsey also questioned if we mail to companies and workers based on payroll zip codes. Hinshaw explained that certified payrolls are turned in by the different subcontractors to Mortenson and other contractors on the job. The companies certify to us where the employees are located through the addresses and where they are located – we do not mail to the employees direct. The general contractor, Mortenson, would pay the subcontractor, who then pays their employees. Mortenson either hands the companies a check if in the office or mails the check. The JPA is the ultimate source of payment. Kinsey wondered if a listing of companies would show whether they were local or out of state. Hinshaw affirmed and stated that those are the same companies publicly awarded the contracts. Some have offices out of state. When mailed, the check is sent to whatever address is requested. An e-mail request for information can be sent to Paula Yancey.

Item 5 -- WH 13-5 Resolution to approve a Letter Agreement between the West Haymarket Joint Public Agency and the University of Nebraska to amend the Lease and Operating Agreement to allow the assignment of and certain rights to three UNL Suites to the JPA. (Jeff Kirkpatrick)

Beutler explained that this item is requested to be held over to the next meeting on February 22. This will allow time for further conversations and work on the details of this agreement as advised by staff. Being no objection, the item was postponed.

Item 6 -- 13-13 Resolution to approve a Parking Rights Agreement between the West Haymarket Joint Public Agency and the City of Lincoln, Nebraska to provide the City of Lincoln with replacement parking in the JPA Parking Lot for the City’s loss of parking stalls in the City’s Lumberworks and Iron Horse Parking Lots which have been taken out of service. This Agreement is made effective as of October 1, 2012, and the City will pay the JPA \$3,500 per month for the use of the JPA Parking Lot. (Dan Marvin)

Dan Marvin, JPA Board Secretary, described this resolution as an effort to avoid a parking crunch. It creates a temporary parking lot at 7th and “O” Street under the overpass west of Lumberworks to replace stalls lost either at the Iron Horse Parking Lot or Lumberworks surface parking lot. The people who were paying the Parking Enterprise Fund to use those stalls were transitioned into this temporary lot. The agreement struck was for the Parking Enterprise Fund to pay a rental rate of \$3,500 monthly for those replacement stalls until either we have a development that would take those stalls away or they transition to a more permanent location.

Kinsey asked if the City has maintained ownership of the parking lots. Marvin explained that the land being used to park currently is owned by the JPA. People who were parking in Iron Horse or Lumberworks had to move due to construction. Iron Horse was purchased by JPA and subsequently sold to Traction Development Partners. Lumberworks was a City surface lot that is being converted into a parking garage. Due to the work, the parkers have been dislocated. This agreement allows the Parking Enterprise Fund to rent the space from the JPA until a more permanent location can be found. The City charges users for the parking on a monthly or hourly basis. The money collected goes into the Parking Enterprise Fund and this agreement provides a piece of that revenue be paid from the City to the JPA as compensation for use of the parking stalls. The previous amount the City paid to rent the Iron Horse Parking Lot was \$5,000 monthly. Therefore, the \$3,500 seemed reasonable as it has a similar number of stalls, but on a more temporary basis. The users pay for the stalls and City is a conduit for the monies via the Parking Enterprise Fund.

Clare moved approval of the resolution. Carroll seconded the motion. Motion carried 3-0.

Item 7 -- WH 13-14 Resolution to approve the StageRight Quotation to furnish Performance Staging and Accessories for the Pinnacle Bank Arena for the sum of \$199,349.00. (Paula Yancey)

Yancey detailed that this is authorizing the City's Purchasing Agent to enter into a purchase order agreement with StageRight Corporation. StageRight would be the provider for staging and associated accessories for the Pinnacle Bank Arena. This is the same staging system in use at Pershing allowing for consistency and integration of the two systems. This allows more flexibility to expand stage types and event types. The total amount \$199,349 is within the staging equipment budget for the FFE for the arena.

Kinsey asked if this is the same cost paid to Pershing and for a copy of the comparison costs. Yancey was not aware of the configuration procured by Pershing. However, she has purchased from StageRight in other venues and this is in line with typical costs. She was not aware of what or when items were purchased for Pershing and at what cost. She would have to check with City Finance or SMG.

Carroll moved approval of the resolution. Clare seconded the motion. Motion carried 3-0.

Item 8 -- WH 13-15 Resolution to approve Change Order No. 1 to the Agreement with Hausmann Construction, Inc. to adjust final contract quantities and to reduce the contract sum for the Haymarket Parking Lot Preliminary Grading Project to reflect actual work performed. (Paula Yancey)

Yancey introduced Caleb Swanson, PC Sports. He was the project manager overseeing this scope of work. Swanson stated that this resolution approves a change order to the Hausmann Construction contract to rectify the contract amounts. These types of contracts are initially awarded based on estimates and now they have the final amounts on this contract.

Swanson thanked Hausmann Construction and Olsson Associates. They did an excellent job on this project and were able to find efficiencies within this contract allowing a savings based on ability of \$251,872.53 to the JPA. They reduced the original scope from \$2,331,496.45 to \$2,079,623.92.

Responding to Clare, Swanson explained that this is a very typical closing out process on unit price contracts. An example given was that Hausmann found a large pile of mulch on the project site and used that onsite mulch versus purchasing additional mulch, thereby showing a savings.

Kinsey asked what the plans were for the savings. She inquired as to whether this was the Haymarket Parking Lot. Swanson responded that this savings was just realized and there was no firm plan for the money. It was put into the project contingency fund. Use of that money would be determined and reported to the JPA in the future. The Haymarket Parking Lot is often referred to as the festival space on the north side of the tracks from the arena. It is between the arena and the existing ballpark. It is not the lot discussed in relation to the Scott-Woodbury-Wiegert (S2W) project.

Carroll moved approval of the resolution. Clare seconded the motion. Motion carried 3-0.

Item 9 -- WH 13-16 Resolution to approve Amendment No. 8 to the Environmental Remediation Services Contract with Benesch & Company to amend the scope of services for an additional amount of \$138,108.00. (Frank Uhlarik)

Frank Uhlarik, Public Works & Utilities, introduced Amendment No 8, which includes \$138,000 amending Benesch's existing contract for work that was committed to with DEQ in the remedial action plan approved last spring.

\$35,000 of the total is for long-term groundwater monitoring fees for several wells that abut Salt Creek. This is a protection or monitoring measure to ensure that the low quality groundwater does not migrate constituents into the base flow of Salt Creek, thus degrading water quality. This was one of the contingent approvals of the remedial action plan by DEQ for all the areas north of "O" Street.

A second portion of this amendment includes \$48,000 for further assessment, characterization, and preparation of plans and specifications for the removal of impacted soil that parallels the 48" trunk line sewer on the west portion of the property. This is a historic problem dating back to the early 2000's when the trunk line was installed and chased out some workers. It is a health hazard and some additional assessment and removal of the soil will be necessary to allow utility workers to work safely in that area. This was approved by DEQ and is a continuation of items that we are expected to execute.

The last element is for ongoing compliance and oversight of the environmental contingency plan. This is for ongoing remedial work of the core area and major construction projects where samples will be taken. This ensures compliance with DEQ and local regulations throughout the process. It was planned for, budgeted for, and covers elements required and expected by DEQ for completion of the project.

Clare asked Uhlarik to clarify if this was within the budget and wondered about the grants status. Uhlarik explained that there was some give and take or shifting, but it is all within the same budget and with the same outcomes. April and May are the timeframes for the grants. \$200,000 each is requested for north and south of "N" Street. We believe Alter property may be a challenge, but still expect it will be within the budgetary reach. The grants would be helpful.

Kinsey asked if the grants referenced were the Brownfields Grant. Uhlarik explained that only the monies referenced at the very end are in the Brownfields Grant. Although hoping to obtain the grant, the monies were accounted for in the budget as well. DEQ guidance is that you should not base remedial decisions on receipt of grants.

Uhlarik continued that the \$138,108 is outside the area of the most recent Brownfields Grant. This recent grant application is focused on Alter Scrap and former Watson Brickson sites. The Alter Scrap is the bigger issue. However, the monies in the amendment are for areas north of "O" Street and not covered in the grant.

Carroll moved approval of the resolution. Clare seconded the motion. Motion carried 3-0.

Item 10 -- Set Next Meeting Date

The next meeting date is set for Friday, February 22, 2013 at 3:00 p.m. in County-City Building Room 303*

Item 11 -- Motion to Adjourn

Carroll made a motion to adjourn the meeting. Clare seconded the motion. The meeting adjourned at 3:35 p.m.

Prepared by: Pam Gadeken, Public Works and Utilities

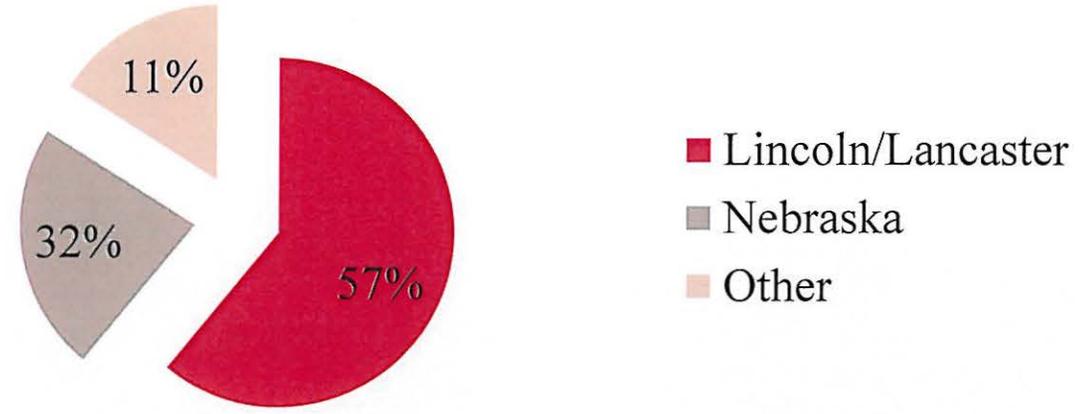
 **Pinnacle Bank Arena**

WEST HAYMARKET REDEVELOPMENT PROJECTS



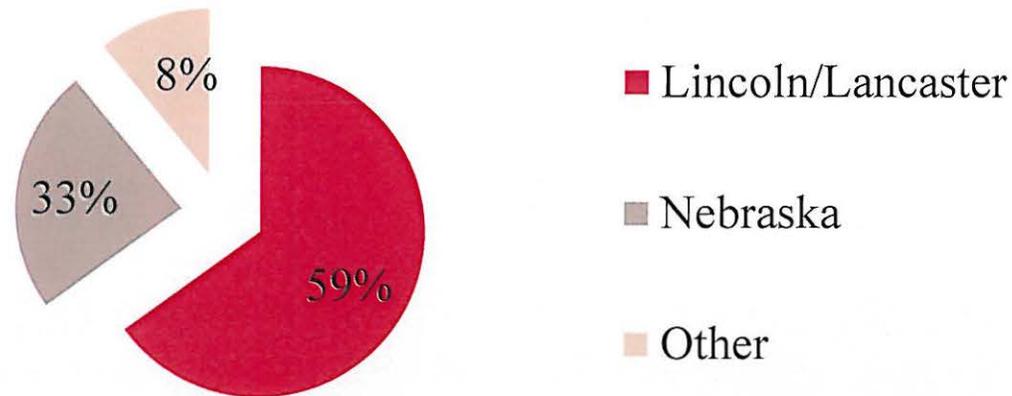
**West Haymarket Local Participation Report
All Workers – Including Engineering and Professional Services
Through December 2012 / January 2013**

	Total	Percentages
Lincoln/Lancaster County	1369	57%
Nebraska	749	32%
Other	253	11%
	2371	100%



**West Haymarket Local Participation Report
Davis Bacon Construction Employees
Through December 2012 / January 2013**

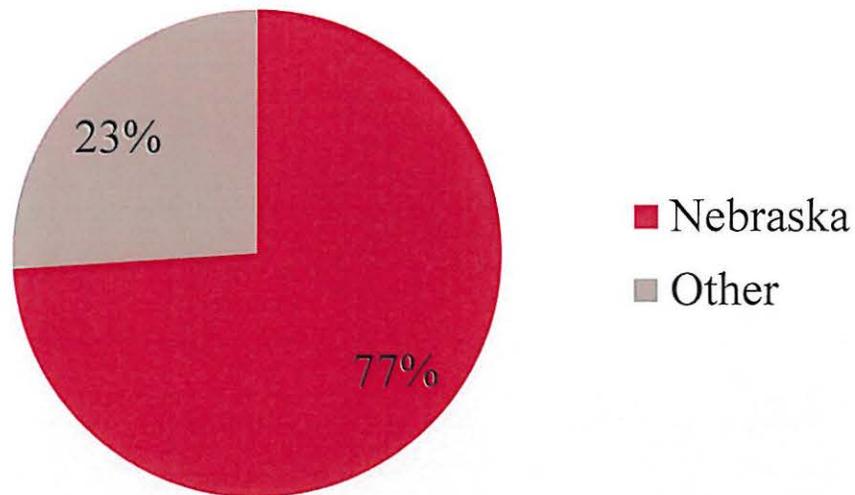
	Total	Percentages
Lincoln/Lancaster County	1,226	59%
Nebraska	694	33%
Other	170	8%
	2090	100%



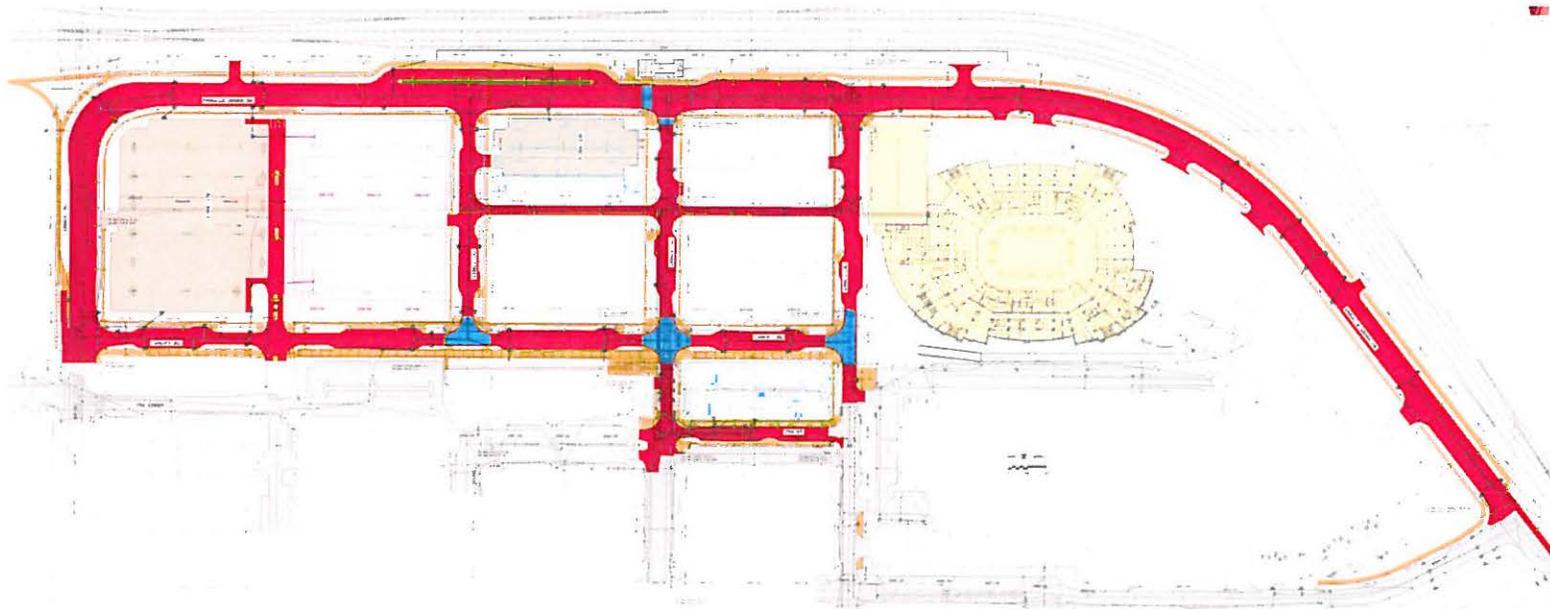
West Haymarket Company Participation

	Total	Percentage
Nebraska Contracts	279	77%
Other	84	23%
	363	100%

\$158 Million
Nebraska Dollars
out of \$215 Million



Infrastructure Progress



TDP'S RAILYARD DEVELOPMENT



VIEW DOWN "R" STREET FROM 7TH & "R"



PARKING DECK 1 PRECAST ERECTION





CONNECTING PRECAST WALL PANELS ON PARKING DECK 1



VIEW LOOKING NORTH ON ARENA DRIVE FROM "P" STREET



2013/02/04

**DRILLING
AUGER-CAST
CONCRETE PILES
FOR THE CITY OF
LINCOLN'S
LUMBERWORKS
GARAGE**



NW VIEW OF WEST HAYMARKET FROM IRON HORSE PARK



2013/02/04

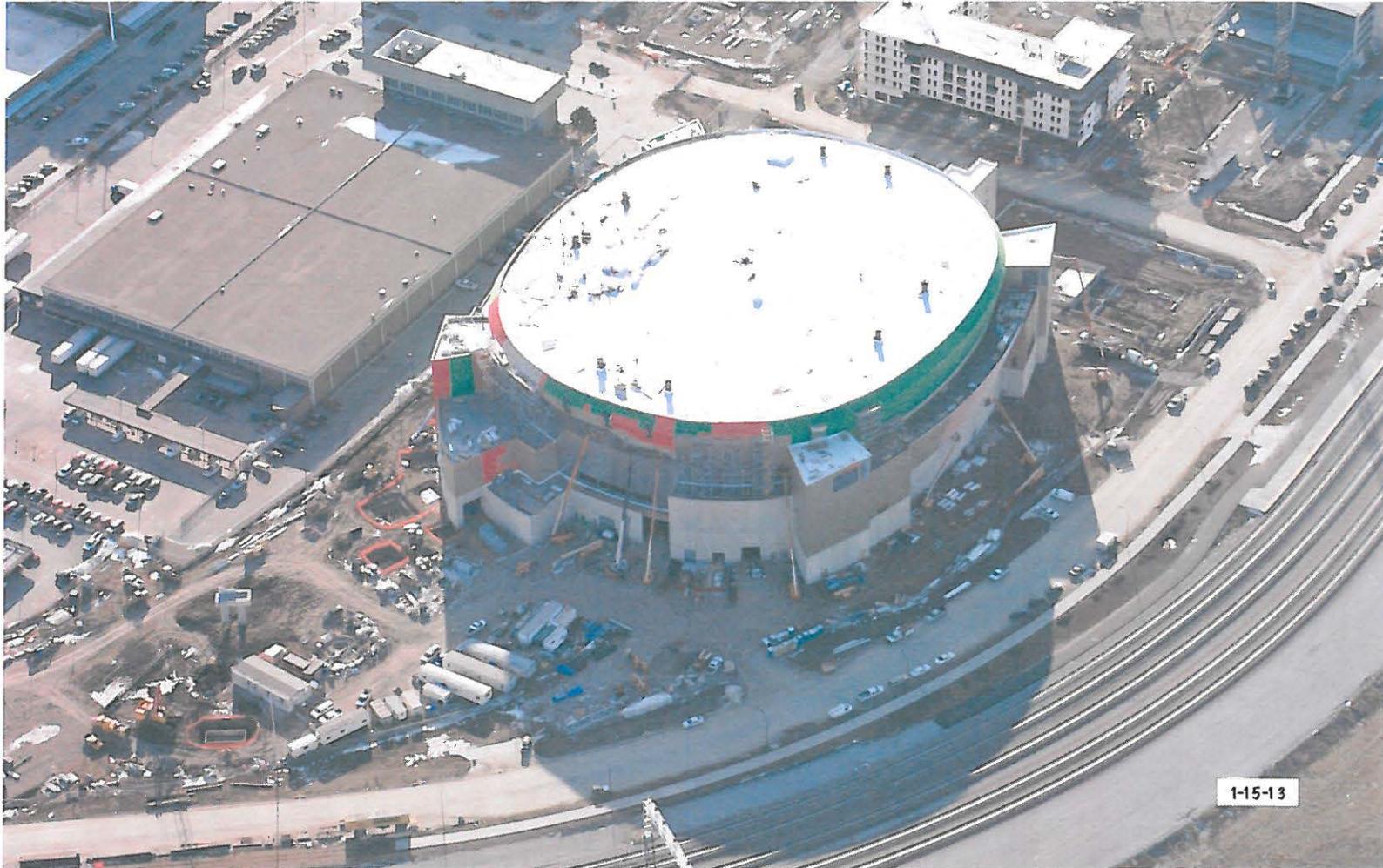
VIEW NORTH OF FUTURE CANOPY STREET



PIER FOOTING FOR FUTURE PEDESTRIAN BRIDGE



AERIAL 1-15-2013





AERIAL 1-15-2013



Presentation to the JPA

 **Pinnacle Bank Arena**

February 7, 2013



Safety

- Worked 31 consecutive days without a safety incident
- The Project averages over 300 Craft Workers daily



Concrete Operations

- Concrete work is nearly finished, with only ice slab on grade and 1 final arena slab.
- Garage Foundations have been completed.





Milestones Achieved

- Drywall finishing has commenced
- Painting has started
- Erection of garage precast begun
- Building substantially enclosed
- Ramp foundations started
- Ice floor construction commenced

Production Drywall



Production Drywall



Stadia Steps



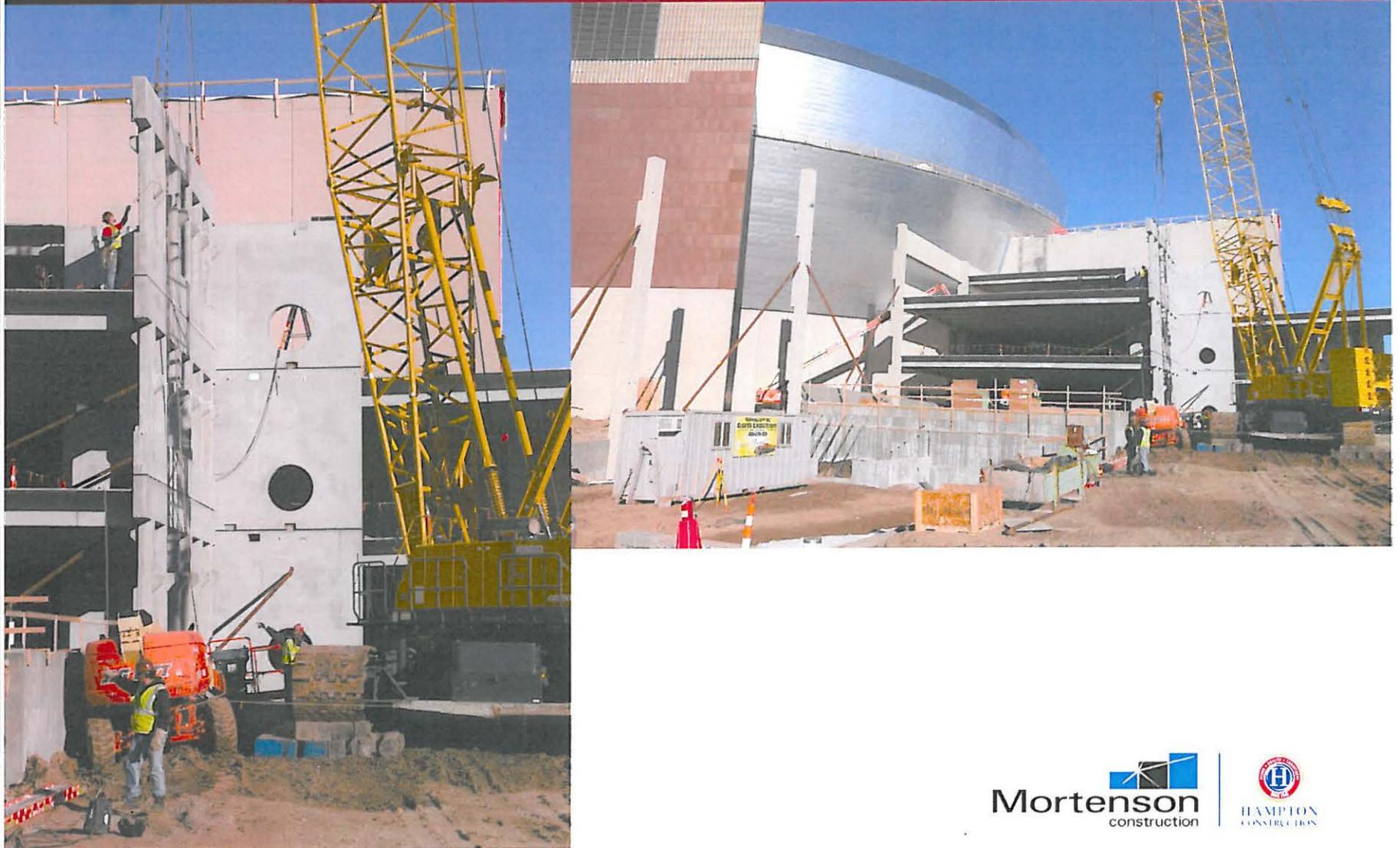
Mockup Suite



SEATS ARE IN PRODUCTION!!!!



Garage Precast Erection



Installing exterior finishes



Installing Metal Panels



Preparing ice floor



Preparing ice floor



Ramp foundation work



City of Lincoln, NE
 West Haymarket Joint Public Agency
 Job Cost Report
 As of January 31, 2013

		Total Budget	Expend.	Encumb.	Available Balance	Accounts Receivable	Adjusted Avail Bal

00951	West Haymarket Capital Proj						
70090	West Haymarket Park						
	870000 WH General Coordination	6,674,522	5,439,388	1,121,247	113,887		113,887

70090	West Haymarket Park	6,674,522	5,439,388	1,121,247	113,887		113,887

70091	Arena						
	870100 WH Arena	178,079,903	108,759,924	67,073,634	2,246,345		2,246,345
	870101 WH Arena Contingency	6,643,925			6,643,925		6,643,925
	870203 WH Arena Parking Garage	726,438	618,767	107,028	643		643

70091	Arena	185,450,266	109,378,691	67,180,662	8,890,913		8,890,913

70092	Parking						
	870201 WH HymktPkLot, FestSp&PedGrdStr	14,983,049	4,784,435	10,209,723	11,109-		11,109-
	870202 WH Parking Garage #1	14,234,442	3,776,391	10,245,341	212,710		212,710
	870204 WH Parking Garage #2	207,036	203,219	3,817			

70092	Parking	29,424,527	8,764,045	20,458,881	201,601		201,601

70093	Roads						
	870301 WH Charleston Bridge/Roadway	258,985	252,015		6,970		6,970
	870302 WH "M"&"N" St,7th to 10th St	3,432,807	3,432,529	65,980	65,702-		65,702-
	870303 WH USPS Parking Lot Reconstctn	698,178	696,054		2,124		2,124
	870304 WH 10th & Salt Creek Road Impr	3,444,647	3,436,721		7,926		7,926
	870305 WH Core Area Roadway & Utility	15,914,406	10,255,612	5,009,036	649,758		649,758
	870306 WH Traffic Analysis	78,170	71,885		6,285		6,285
	870307 WH Streetscape	425,638	337,068	69,552	19,018		19,018
	870308 WH Sun Valley Blvd & West "O"	29,370	23,682	5,689	1-		1-

70093	Roads	24,282,201	18,505,566	5,150,257	626,378		626,378

City of Lincoln, NE
 West Haymarket Joint Public Agency
 Job Cost Report
 As of January 31, 2013

		Total Budget	Expend.	Encumb.	Available Balance	Accounts Receivable	Adjusted Avail Bal

00951	West Haymarket Capital Proj						
70094	Pedestrian Ways						
	870401 WH Plaza						
	870402 WH Canopy Phase II	1,424,060	461,809	862,223	100,028		100,028

70094	Pedestrian Ways	1,424,060	461,809	862,223	100,028		100,028
70095	Utilities						
	870501 WH Sanitary Sewer Relocation	1,492,905	1,492,905				
	870502 WH Fiber Optic Comm & Other	506,035	506,035				

70095	Utilities	1,998,940	1,998,940				
70096	Environmental						
	870601 WH NDEQ T-200	2,413,851	1,598,921	5,482	809,448		809,448
	870602 WH Voluntary Clean-up Program	1,157,029	920,153	209,869	27,007		27,007
	870603 WH Environmental Contngy Pln	2,315,878	1,272,538	18,533	1,024,807		1,024,807
	870604 WH Other/Miscellaneous	926,292	624,666	98,074	203,552		203,552
	870605 WH Canopy Phase I-Lead Abatemt						

70096	Environmental	6,813,050	4,416,278	331,958	2,064,814		2,064,814
70097	Dirt Moving						
	870701 WH Stmwtr Mtgtn-Sth&WstOf BNSF						
	870703 WH Initial Haymarket Site Prep	6,063,449	6,087,617	8,314	32,482-		32,482-
	870704 WH Other Stormwater Mitigation						

70097	Dirt Moving	6,063,449	6,087,617	8,314	32,482-		32,482-
70098	TIF Improvements						
	870800 WH TIF Improvements						

70098	TIF Improvements						

City of Lincoln, NE
 West Haymarket Joint Public Agency
 Job Cost Report
 As of January 31, 2013

		Total Budget	Expend.	Encumb.	Available Balance	Accounts Receivable	Adjusted Avail Bal

70099	Site Purchase						
	870901 WH BNSF Land Acquisition	1,060,419	1,060,419				
	870902 WH Alter Site Purchase	4,846,286	4,544,444		301,842		301,842
	870903 WH Jaylynn Site Purchase	1,700,176	1,700,182		6-		6-
	870904 WH UP Site Purchase	1,326,248	1,326,248				
	870905 WH BNSF Const, Rehab, Reloc	47,695,867	47,671,699		24,168		24,168
	870906 WH Amtrak Station	2,367,186	2,361,623	599	4,964		4,964
	870907 WH UP Track Mod West of Bridge	1,225,232	1,225,232				
	870908 WH Other Private Prop Acqstns	2,264,241	2,214,227		50,014		50,014

70099	Site Purchase	62,485,655	62,104,074	599	380,982		380,982

70100	Other Costs						
	870951 WH ITS & Dynamic Message Signs	1,826,827	205,170	221,622	1,400,035		1,400,035
	870952 WH Community Space & Civic Art	1,500,000	147,715	236,070	1,116,215		1,116,215

70100	Other Costs	3,326,827	352,885	457,692	2,516,250		2,516,250

70105	Bond Related Costs						
	870975 WH Miscellaneous	528,317			528,317		528,317
	870976 WH Line of Credit	53,227	53,227				
	870977 WH Series 1 JPA Debt	1,535,168	1,535,168				
	870978 WH Series 2 JPA Debt	1,221,802	1,221,802				
	870979 WH Series 3 JPA Debt	577,661	577,661				
	870980 WH Series 4 JPA Debt	1,243,825	1,243,825				

70105	Bond Related Costs	5,160,000	4,631,683		528,317		528,317

00951	West Haymarket Capital Proj	333,103,497	222,140,976	95,571,833	15,390,688		15,390,688

City of Lincoln, NE
 West Haymarket Joint Public Agency
 Operating Expenditure Report
 As of January 31, 2013

00950 West Haymarket Reven
 06095 W Haymarket O & M

	ORIGINAL BUDGET	REAPPROP & P/Y ENC	BUDGET REVISIONS	TOTAL	YTD EXPEND	AVAILABLE BALANCE
00950 West Haymarket Revenue						
06095 W Haymarket O & M						
11 Materials & Supplies						
5221 Office Supplies	250			250	92	158
5261 Postage	2,000			2,000	297	1,703
5323 Bldg Maint Supplies	560			560	89	471
11 Materials & Supplies	2,810			2,810	478	2,332
12 Other Services & Charges						
5621 Misc Contractual Services	454,945			454,945	104,945	350,000
5624 Auditing Service	15,500			15,500	12,000	3,500
5631 Data Processing Service	6,992			6,992	664	6,328
5633 Software	1,100			1,100		1,100
5643 Management Services	53,000			53,000	20,000	33,000
5683.04 Snow Removal					703	703-
5683.05 Fire Alarm Monitor	500			500	205	295
5762 Photocopying	500			500	191	309
5763 Printing	500			500	121	379
5794 Public Officials	27,000			27,000		27,000
5821 Electricity - Bldg & Grnds	4,000			4,000	2,452	1,548
5825 Natural Gas					694	694-
5829 Telephone	1,200			1,200	469	731
5830 Water	6,000			6,000	114	5,886
5856 City Share Linc Center Main					1,087	1,087-
5870 Other Bldg Maintenance	4,000			4,000	1,983	2,017
5928 Rent of Co/City Bldg Space	2,456			2,456	1,023	1,433
5931 Parking Rent Bldg Comm	627			627	261	366
5952 Advertising/Media Serv	2,850			2,850	360	2,490
12 Other Services & Charges	581,170			581,170	147,272	433,898
06095 W Haymarket O & M	583,980			583,980	147,750	436,230

City of Lincoln, NE
 West Haymarket Joint Public Agency
 Operating Expenditure Report
 As of January 31, 2013

00950 West Haymarket Reven
 195011 JPA 2010A Debt Servi

	ORIGINAL BUDGET	REAPPROP & P/Y ENC	BUDGET REVISIONS	TOTAL	YTD EXPEND	AVAILABLE BALANCE
-----	-----	-----	-----	-----	-----	-----
195011 JPA 2010A Debt Servic						
15 Debt Service						
6233 Bd Trustee Pmt-Serv Chg	524			524	524	
6235 Bd Trustee Pmt-Interest	4,651,510			4,651,510	2,325,755	2,325,755
-----	-----	-----	-----	-----	-----	-----
15 Debt Service	4,652,034			4,652,034	2,326,279	2,325,755
-----	-----	-----	-----	-----	-----	-----
195011 JPA 2010A Debt Servic	4,652,034			4,652,034	2,326,279	2,325,755

83410
MARK
JPAADMIN

City of Lincoln, NE
West Haymarket Joint Public Agency
Operating Expenditure Report
As of January 31, 2013

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00950 West Haymarket Reven
195021 JPA 2010B/C Debt Ser

	ORIGINAL BUDGET	REAPPROP & P/Y ENC	BUDGET REVISIONS	TOTAL	YTD EXPEND	AVAILABLE BALANCE

195021 JPA 2010B/C Debt Serv						
15 Debt Service						
6233 Bd Trustee Pmt-Serv Chg	1,048			1,048	848	200
6235 Bd Trustee Pmt-Interest	5,874,322			5,874,322	2,937,161	2,937,161

15 Debt Service	5,875,370			5,875,370	2,938,009	2,937,361

195021 JPA 2010B/C Debt Serv	5,875,370			5,875,370	2,938,009	2,937,361

83410
MARK
JPAADMIN

City of Lincoln, NE
West Haymarket Joint Public Agency
Operating Expenditure Report
As of January 31, 2013

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02/13/13
07:45:35

00950 West Haymarket Reven
195031 JPA 2011 Debt Servic

	ORIGINAL BUDGET	REAPPROP & P/Y ENC	BUDGET REVISIONS	TOTAL	YTD EXPEND	AVAILABLE BALANCE

195031 JPA 2011 Debt Service						
15 Debt Service						
6233 Bd Trustee Pmt-Serv Chg	424			424		424
6235 Bd Trustee Pmt-Interest	4,591,688			4,591,688	2,295,844	2,295,844

15 Debt Service	4,592,112			4,592,112	2,295,844	2,296,268

195031 JPA 2011 Debt Service	4,592,112			4,592,112	2,295,844	2,296,268

00950 West Haymarket Revenue	15,703,496			15,703,496	7,707,882	7,995,614

West Haymarket Joint Public Agency
 Payment Register
 1/1/2013 through 1/31/2013

Vendor Number	Name	Remark	Project	Description	Do Ty	Doc Number	Amount	Payment Date	Payment Number
74405	City of Lincoln - Building & Safety	600 R St. Building Permit	870201	WH HymktPkLot,FestSp&PedGrdStr	PV	1418773	33,325.60	01/02/13	485300
77921	County/City Property Management	CITY CONTROLLER-JPA	06095	W Haymarket O & M	PV	1418775	74.74	01/02/13	485301
108417	Citizen Information Center	WHJPA Video 12/6/12,12/18/12	06095	W Haymarket O & M	PV	1418779	135.00	01/02/13	485302
38391	Lincoln Journal Star	Cust#60016059	870100	WH Arena	PV	1418247	20.35	01/03/13	58607
53356	Lincoln Electric System	525 N St, 10/31-12/3/12	870305	WH Core Area Roadway & Utility	PV	1418281	125.06	01/03/13	58612
53356	Lincoln Electric System	601 N St, 10/31-12/3/12	870305	WH Core Area Roadway & Utility	PV	1418282	55.45	01/03/13	58612
53356	Lincoln Electric System	601 N St.2,10/31-12/3/12	870305	WH Core Area Roadway & Utility	PV	1418283	55.45	01/03/13	58612
77462	Lancaster County Treasurer	7th St & Angle Parking	06095	W Haymarket O & M	PV	1418774	1,086.96	01/03/13	58620
98079	Black Hills Energy	525 N St, 10/19-11/19/12	870305	WH Core Area Roadway & Utility	PV	1418280	60.67	01/03/13	58634
222586	Don Herz	Services for Aug-Nov 2012	06095	W Haymarket O & M	PV	1418782	1,581.25	01/03/13	58645
249308	DLR Group Inc	Dec,2012 IPTV design	870100	WH Arena	OV	1418286	4,455.00	01/03/13	58647
320143	Hawkins Construction	Roadway work,11/25-12/8/12	870305	WH Core Area Roadway & Utility	OV	1418083	172,164.26	01/03/13	58652
592575	Rush Creek Construction Inc	BNSF Crossing work to 12/6	870201	WH HymktPkLot,FestSp&PedGrdStr	OV	1418285	63,278.80	01/03/13	58664
74405	City of Lincoln - Building & Safety	Rev Flood Plain Permit 901 N 6	870201	WH HymktPkLot,FestSp&PedGrdStr	PV	1420846	800.00	01/09/13	24173
76881	Windstream	Billing Number 402-477-6387	06095	W Haymarket O & M	PV	1419804	93.34	01/09/13	485672
602342	Dimensional Innovations	Ped Bridge work,Dec'2012	870201	WH HymktPkLot,FestSp&PedGrdStr	OV	1418287	331,605.00	01/10/13	58860
82368	State of Nebraska	Nov,2012 Monitoring Plan#0637	870602	WH Voluntary Clean-up Program	PV	1419585	1,559.35	01/16/13	486216
82368	State of Nebraska	Nov,2012 Monitoring Plan#10620	870602	WH Voluntary Clean-up Program	PV	1419586	447.57	01/16/13	486216
96760	Petty Cash - Law	Filing fee reimbursement	870000	WH General Coordination	PV	1419837	16.00	01/16/13	486217
97885	Copy Services	Customer 595381	06095	W Haymarket O & M	PV	1421948	36.18	01/16/13	486218
98415	Lincoln Water System	510 N St	06095	W Haymarket O & M	PV	1421951	58.55	01/16/13	486219
98415	Lincoln Water System	541 N St, 10/24-12/26/12	870902	WH Alter Site Purchase	PV	1421960	16.25	01/16/13	486219
102154	Public Building Commission	Finance- Mark L 01/13	06095	W Haymarket O & M	PV	1421954	52.24	01/16/13	486220
102154	Public Building Commission	Finance- Mark L 01/13	06095	W Haymarket O & M	PV	1421954	204.62	01/16/13	486220
125330	NECO Inc	Jan-Mar 13 Alarm Services	06095	W Haymarket O & M	PV	1421955	102.60	01/16/13	486221
133428	LeGrande Excavating Inc	Job #1013H Amtrak Station	06095	W Haymarket O & M	PV	1422238	702.75	01/16/13	486222
324566	Union Bank & Trust Company	WHJPA Series 2010B Admin 2012	195021	JPA 2010B/C Debt Service	PV	1421957	424.00	01/16/13	486223
324566	Union Bank & Trust Company	WHJPA Series 2010C Admin 2012	195021	JPA 2010B/C Debt Service	PV	1421958	424.00	01/16/13	486223
594773	Alfred Benesch & Company	Load inspection,11/5-12/2	870100	WH Arena	OV	1419575	1,644.70	01/16/13	486224
594773	Alfred Benesch & Company	Environmental,10/29-11/25	870601	WH NDEQ T-200	OV	1421774	2,436.50	01/16/13	486224
594773	Alfred Benesch & Company	Environmental,10/29-11/25	870604	WH Other/Miscellaneous	OV	1421777	10,835.00	01/16/13	486224
594773	Alfred Benesch & Company	Environmental,10/29-11/25	870602	WH Voluntary Clean-up Program	OV	1421777	51,361.75	01/16/13	486224
594773	Alfred Benesch & Company	Environmental,10/29-11/25	870603	WH Environmental Contngy Pln	OV	1421777	6,199.50	01/16/13	486224
38391	Lincoln Journal Star	Cust#60016059	870100	WH Arena	PV	1419588	18.09	01/17/13	58894
38391	Lincoln Journal Star	Cust#60016059	870100	WH Arena	PV	1419590	17.52	01/17/13	58894
38391	Lincoln Journal Star	Bid#13 011, Ped Bridge	870201	WH HymktPkLot,FestSp&PedGrdStr	PV	1419836	16.39	01/17/13	58894
40310	Commonwealth Electric Co of the Midwe	Fiber test,7th & O Sts.	870305	WH Core Area Roadway & Utility	PV	1419579	846.00	01/17/13	58899
53356	Lincoln Electric System	510 N St	06095	W Haymarket O & M	PV	1421947	320.49	01/17/13	58906
98079	Black Hills Energy	510,525 N St,11/19-12/19/12	06095	W Haymarket O & M	PV	1419582	149.50	01/17/13	58950
98079	Black Hills Energy	510,525 N St,11/19-12/19/12	870305	WH Core Area Roadway & Utility	PV	1419582	111.49	01/17/13	58950
196867	Terracon Consultants Inc	Inspections thru 12/1/12	870100	WH Arena	OV	1419850	59,223.10	01/17/13	58969
320143	Hawkins Construction	3021-W.Haymarket-Canopy	870402	WH Canopy Phase II	OV	1419841	157,241.24	01/17/13	58983
593485	Thought District Inc	10-JPA-0007 Ongoing Mgmt 12/12	06095	W Haymarket O & M	PV	1421959	2,000.00	01/17/13	59028
594458	Ronco Construction Company Inc	Amtrak Station,part ret pd	870906	WH Amtrak Station	OV	1421802	61,547.57	01/17/13	59036
596579	SMG	Schilling,Lorenz misc. exps	870100	WH Arena	PV	1419831	80.19	01/17/13	59041
596579	SMG	Lorenz,Rosenblum,Sept. misc.	870100	WH Arena	PV	1419832	860.51	01/17/13	59041
596579	SMG	Benevento Sept. exps	870100	WH Arena	PV	1419833	1,099.24	01/17/13	59041
596579	SMG	Rosenblum Sept. misc. exps	870100	WH Arena	PV	1419834	231.00	01/17/13	59041
596579	SMG	Romano Aug misc travel exp	870100	WH Arena	PV	1419835	511.04	01/17/13	59041
596579	SMG	Aug,2012 consulting	870100	WH Arena	OV	1419843	5,000.00	01/17/13	59041
596579	SMG	Sept,2012 consulting	870100	WH Arena	OV	1419844	5,000.00	01/17/13	59041
596579	SMG	Oct,2012 consulting fee	870100	WH Arena	OV	1421804	5,000.00	01/17/13	59041
596608	M A Mortenson Company	Dec,2012 scheduling	870000	WH General Coordination	OV	1421782	8,333.00	01/17/13	59042

West Haymarket Joint Public Agency
 Payment Register
 1/1/2013 through 1/31/2013

Vendor Number	Name	Remark	Project	Description	Do Ty	Doc Number	Amount	Payment Date	Payment Number
596608	M A Mortenson Company	Jan,2012 scheduling	870000	WH General Coordination	OV	1421784	16,666.00	01/17/13	59042
596608	M A Mortenson Company	Arena work in Dec,2012	870100	WH Arena	OV	1421803	8,097,159.00	01/17/13	59042
596877	Olsson Associates	Infrastructure,11/4-12/1/12	870307	WH Streetscape	OV	1419577	8,197.00	01/17/13	59043
596877	Olsson Associates	Infrastructure,11/4-12/1/12	870201	WH HymktPkLot,FestSp&PedGrdStr	OV	1419577	135,358.95	01/17/13	59043
596877	Olsson Associates	Infrastructure,11/4-12/1/12	870952	WH Community Space & Civic Art	OV	1419577	521.00	01/17/13	59043
596877	Olsson Associates	Infrastructure,11/4-12/1/12	870000	WH General Coordination	OV	1419577	33,870.12	01/17/13	59043
596877	Olsson Associates	Infrastructure,11/4-12/1/12	870305	WH Core Area Roadway & Utility	OV	1419577	60,918.49	01/17/13	59043
596877	Olsson Associates	Infrastructure,11/4-12/1/12	870202	WH Parking Garage #1	OV	1419577	18,581.80	01/17/13	59043
596877	Olsson Associates	Infrastructure,11/4-12/1/12	870951	WH ITS & Dynamic Message Signs	OV	1419577	17,252.14	01/17/13	59043
598263	PC Sports LLC	Dec'2012 Program Mgmt	870000	WH General Coordination	OV	1419576	68,050.00	01/17/13	59046
598263	PC Sports LLC	Dec'2012 Arena Mgmt	870100	WH Arena	OV	1419576	30,450.00	01/17/13	59046
77921	County/City Property Management	CITY CONTROLLER-JPA	06095	W Haymarket O & M	PV	1423813	52.07	01/23/13	486629
77921	County/City Property Management	December 2012 Amtrak Station	06095	W Haymarket O & M	PV	1423815	413.18	01/23/13	486629
131481	Public Works Business Office	City Staff-Pam Gaden	06095	W Haymarket O & M	PV	1423816	437.81	01/23/13	486630
37233	Olsson Associates	Testing 11/4-12/1/12	870202	WH Parking Garage #1	OV	1423181	1,757.75	01/24/13	59072
53356	Lincoln Electric System	525 N St, 12/5-1/2/13	870305	WH Core Area Roadway & Utility	PV	1423185	215.82	01/24/13	59083
98079	Black Hills Energy	Alter, 525 N St,11/19-11/30/12	870305	WH Core Area Roadway & Utility	PV	1423184	51.62	01/24/13	59108
320143	Hawkins Construction	Roadway work,12/9-12/29/12	870305	WH Core Area Roadway & Utility	OV	1423183	147,655.36	01/24/13	59133
602078	Hausmann-Dunn, a Joint Venture	Prkg Deck 1 work to 1/3/13	870202	WH Parking Garage #1	OV	1423182	1,185,481.00	01/24/13	59162
602474	Baring Industries Inc	Food service prep 12/31/12	870100	WH Arena	OV	1423442	197,172.00	01/24/13	59163
120272	City of Lincoln - Accounting Dept	Reimb Sal/Ben 8/16/12-11/21/12	06095	W Haymarket O & M	PV	1425512	93,483.49	01/30/13	487038
215600	Nebraska Nursery & Color Gardens LLC	Landscaping to 1/19/13	870201	WH HymktPkLot,FestSp&PedGrdStr	OV	1424875	3,562.50	01/30/13	487039
594773	Alfred Benesch & Company	Site investiage,Oct'2012	870601	WH NDEQ T-200	OV	1424869	3,242.50	01/30/13	487040
594773	Alfred Benesch & Company	Environmental,Oct'2012	870602	WH Voluntary Clean-up Program	OV	1424870	11,176.99	01/30/13	487040
594773	Alfred Benesch & Company	Environmental,Oct'2012	870604	WH Other/Miscellaneous	OV	1424870	14,070.15	01/30/13	487040
594773	Alfred Benesch & Company	Environmental,Oct'2012	870603	WH Environmental Contngy Pln	OV	1424870	12,775.55	01/30/13	487040
594773	Alfred Benesch & Company	Environmental,11/26-12/23	870602	WH Voluntary Clean-up Program	OV	1424871	49,066.73	01/30/13	487040
594773	Alfred Benesch & Company	Environmental,11/26-12/23	870604	WH Other/Miscellaneous	OV	1424871	15,003.99	01/30/13	487040
594773	Alfred Benesch & Company	Environmental,11/26-12/23	870603	WH Environmental Contngy Pln	OV	1424871	2,625.50	01/30/13	487040
594773	Alfred Benesch & Company	Site investigte,11/26-12/23	870601	WH NDEQ T-200	OV	1424873	1,617.50	01/30/13	487040
602522	Evan Corporation	Protection sys to 12/31/12	870100	WH Arena	OV	1424923	16,150.00	01/30/13	487041
38391	Lincoln Journal Star	Cust#60016059	870100	WH Arena	PV	1424954	15.83	01/31/13	59198
53356	Lincoln Electric System	601 N St, 12/4-1/3/13	870305	WH Core Area Roadway & Utility	PV	1424942	58.10	01/31/13	59213
53356	Lincoln Electric System	601 N St,2 - 12/4-1/3/13	870305	WH Core Area Roadway & Utility	PV	1424943	58.10	01/31/13	59213
53356	Lincoln Electric System	601 N St, 1/4-1/9/13 Final	870305	WH Core Area Roadway & Utility	PV	1424951	13.72	01/31/13	59213
98079	Black Hills Energy	510 N St 12/19/12-01/21/13	06095	W Haymarket O & M	PV	1425511	504.01	01/31/13	59245
196867	Terracon Consultants Inc	Testing to 12/29/12	870100	WH Arena	OV	1424924	34,470.67	01/31/13	59272
249308	DLR Group Inc	Dec,2012 Arena design	870100	WH Arena	OV	1424902	112,500.00	01/31/13	59277
249308	DLR Group Inc	Dec'2012 Ded Wrk Area LNC	870100	WH Arena	OV	1424903	1,504.64	01/31/13	59277
249308	DLR Group Inc	Dec,2012 Furn Interiors	870100	WH Arena	OV	1424904	5,910.00	01/31/13	59277
249308	DLR Group Inc	Dec,2012 Prkg Garage	870203	WH Arena Parking Garage	OV	1424905	15,289.90	01/31/13	59277
249308	DLR Group Inc	Dec,2012 Reimb Exps	870100	WH Arena	OV	1424906	10,000.00	01/31/13	59277
249308	DLR Group Inc	Dec,2012 Signage CattLyon	870100	WH Arena	OV	1424920	14,768.47	01/31/13	59277
320143	Hawkins Construction	Lot & Ped Brdg to 1/19/13	870201	WH HymktPkLot,FestSp&PedGrdStr	OV	1424874	516,915.38	01/31/13	59282
585350	Hausmann Construction	Lot Improv,12/9-1/12/13	870201	WH HymktPkLot,FestSp&PedGrdStr	OV	1424922	109,889.96	01/31/13	59301
591846	Marvin Investment Management Co	Program Admin 9/16/12-1/15/13	06095	W Haymarket O & M	PV	1425513	16,000.00	01/31/13	59306
596877	Olsson Associates	Design work 12/2-12/29/12	870000	WH General Coordination	OV	1425039	26,085.69	01/31/13	59317
596877	Olsson Associates	Design work, 12/2-12/29/12	870201	WH HymktPkLot,FestSp&PedGrdStr	OV	1425039	92,141.72	01/31/13	59317
596877	Olsson Associates	Design work, 12/2-12/29/12	870951	WH ITS & Dynamic Message Signs	OV	1425039	16,831.79	01/31/13	59317
596877	Olsson Associates	Design work, 12/2-12/29/12	870202	WH Parking Garage #1	OV	1425039	16,958.25	01/31/13	59317
596877	Olsson Associates	Design work, 12/2-12/29/12	870305	WH Core Area Roadway & Utility	OV	1425039	95,029.61	01/31/13	59317
599315	Legends Sales & Marketing LLC	Dec,2012 ret+rent+sal+Frspg	870100	WH Arena	OV	1424901	21,350.89	01/31/13	59323
602342	Dimensional Innovations	Ped Bridge desgn to 1/31/13	870201	WH HymktPkLot,FestSp&PedGrdStr	OV	1424921	135,963.90	01/31/13	59334

West Haymarket Joint Public Agency
Payment Register
1/1/2013 through 1/31/2013

Vendor Number	Name	Remark	Project	Description	Do Ty	Doc Number	Amount	Payment Date	Payment Number
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Grand total							12,478,341.50		

West Haymarket Joint Public Agency
 Public Works Engineering Costs
 12/1/2012 through 12/31/2012

Description	Fund	Project	Description	Do Ty	Document Number	Object	Sub	Amount	G/L Date
Design Engineering	00951	870000	WH General Coordination	EU	357160	6153	130	341.60	01/10/13
Design Engineering	00951	870201	WH HymktPkLot,FestSp&PedGrdStr	EU	357160	6153	130	113.88	01/10/13
Design Engineering	00951	870305	WH Core Area Roadway & Utility	EU	357160	6153	130	163.80	01/10/13
Design Engineering	00951	870000	WH General Coordination	EU	358143	6153	130	2,254.17	01/24/13
Design Engineering	00951	870201	WH HymktPkLot,FestSp&PedGrdStr	EU	358143	6153	130	1,227.27	01/24/13
Observer/Inspections	00951	870302	WH "M"&"N" St,7th to 10th St	EU	358143	6153	325	65.56	01/24/13
Design Engineering	00951	870305	WH Core Area Roadway & Utility	EU	358143	6153	130	349.51	01/24/13
Design Engineering	00951	870306	WH Traffic Analysis	EU	358143	6153	130	124.58	01/24/13
Design Engineering	00951	870951	WH ITS & Dynamic Message Signs	EU	358143	6153	130	31.13	01/24/13
Grand total								4,671.50	

RESOLUTION NO. WH- _____

1 BE IT RESOLVED by the Board of Representatives of the West Haymarket Joint Public
2 Agency:

3 That the Financial Audit and Management Letter from BKD CPAs & Advisors LLP for
4 the period ending August 31, 2012 is hereby accepted.

5 The City Clerk is directed to return a fully executed copy of this Resolution to Steve
6 Hubka, Finance Director.

7 Adopted this _____ day of February, 2013.

Introduced by:

Approved as to Form & Legality:

West Haymarket Joint Public Agency
Board of Representatives

Legal Counsel for
West Haymarket Joint Public Agency

Chris Beutler, Chair

Tim Clare

Eugene Carroll

Board of Representatives and Management
West Haymarket Joint Public Agency
Lincoln, Nebraska

As part of our audit of the financial statements of West Haymarket Joint Public Agency (herein referred to as the "Agency") as of and for the year ended August 31, 2012, we wish to communicate the following to you.

AUDIT SCOPE AND RESULTS

Auditor's Responsibility Under Auditing Standards Generally Accepted in the United States of America and the Standards Applicable to Financial Audits Contained in Government Auditing Standards Issued by the Comptroller General of the United States

An audit performed in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards* issued by the Comptroller General of the United States, is designed to obtain reasonable, rather than absolute, assurance about the financial statements. In performing auditing procedures, we establish scopes of audit tests in relation to the financial statements taken as a whole. Our engagement does not include a detailed audit of every transaction. Our engagement letter more specifically describes our responsibilities.

These standards require communication of significant matters related to the financial statement audit that are relevant to the responsibilities of those charged with governance in overseeing the financial reporting process. Such matters are communicated in the remainder of this letter or have previously been communicated during other phases of the audit. The standards do not require the auditor to design procedures for the purpose of identifying other matters to be communicated with those charged with governance.

An audit of the financial statements does not relieve management or those charged with governance of their responsibilities. Our engagement letter more specifically describes your responsibilities.

Qualitative Aspects of Significant Accounting Policies and Practices

Significant Accounting Policies

The Agency's significant accounting policies are described in Note 1 of the audited financial statements. The following accounting policies and practices are of significant importance to the Agency's financial statements:

- *Fund accounting and the reconciliation of the governmental fund and government-wide financial statements*
- *Revenue recognition, fund and Agency level*

Alternative Accounting Treatments

No matters are reportable.

Management Judgments and Accounting Estimates

No matters are reportable.

Financial Statement Disclosures

The following areas involve particularly sensitive financial statement disclosures for which we are prepared to discuss the issues involved and related judgments made in formulating those disclosures:

- *Risks associated with deposits and investments held by the Agency*
- *Terms related to various debt issuances*
- *Environmental remediation*

Audit Adjustments

No audit adjustments were proposed.

Auditor's Judgments About the Quality of the Entity's Accounting Principles

No matters are reportable.

Difficulties Encountered in Performing the Audit

No matters are reportable.

Significant Issues Discussed with Management

- *Accounting treatment for land held for resale by the Agency to Developers*

Other Material Written Communication

Listed below is another material written communication between management and us related to the audit:

- *Management representation letter (attached)*

OTHER MATTERS

We observed the following matters and offer these comments and suggestions with respect to matters which came to our attention during the course of the audit of the financial statements. Our audit procedures are designed primarily to enable us to form an opinion on the financial statements and, therefore, may not bring to light all weaknesses in policies and procedures that may exist. However, these matters are offered as constructive suggestions for the consideration of management as part of the ongoing process of modifying and improving financial and administrative practices and procedures. We can discuss these matters further at your convenience and may provide implementation assistance for changes or improvements if you require.

New Accounting and Auditing Standards

Statement on Auditing Standards No. 122, Clarification and Recodification

In October 2011, the American Institute of Certified Public Accountants (AICPA) released Statement on Auditing Standards No. 122, *Clarification and Recodification*, commonly known as the Clarity Standards. While the Clarity Standards primarily clarify existing standards, they include several changes and some new requirements. BKD is currently evaluating the effect of these changes and new requirements and will discuss with management how these items will impact the Agency's audit as soon as further information is available.

The Clarity Standards will be effective for the Agency's audit for its fiscal year ending August 31, 2013.

Governmental Accounting Standards Board Statement No. 62

The Governmental Accounting Standards Board (GASB) has issued Statement No. 62, *Codification of Accounting and Financial Reporting Guidance Contained in Pre-November 30, 1989 FASB and AICPA Pronouncements*, to incorporate into the GASB's authoritative literature certain accounting and financial reporting guidance that is included in pre-November 30, 1989 FASB and AICPA pronouncements, which does not conflict with or contradict GASB pronouncements.

This Statement also supersedes Statement No. 20, *Accounting and Financial Reporting for Proprietary Funds and Other Governmental Entities That Use Proprietary Fund Accounting*, thereby eliminating the election provided in paragraph seven of that Statement for enterprise funds and business-type activities to apply post-November 30, 1989, FASB Statements and Interpretations that do not conflict with or contradict GASB pronouncements. This statement will eliminate the need for financial statement preparers and auditors to determine which FASB and AICPA pronouncement provisions apply to governments, thereby resulting in a more consistent application of applicable guidance in financial statements of governmental entities.

Statement 62 is effective for the Agency's fiscal year ending August 31, 2013.

Governmental Accounting Standards Board Statement No. 63

The Governmental Accounting Standards Board (GASB) has issued Statement No. 63, *Financial Reporting of Deferred Outflows of Resources, Deferred Inflows of Resources, and Net Position*. This Statement amends the net asset reporting requirements in GASB Statement No. 34 and other pronouncements by incorporating deferred outflows of resources and deferred inflows of resources into the definitions of the required components of the residual measure and by renaming that measure as net position, rather than net assets. This Statement provides guidance for reporting net position within a framework that includes deferred outflows of resources and deferred inflows of resources, in addition to assets and liabilities, which was not addressed in previous accounting guidance.

Statement 63 is effective for the Agency's fiscal year ending August 31, 2013.

Governmental Accounting Standards Board Statement No. 65

The Governmental Accounting Standards Board (GASB) has issued Statement No. 65, *Items Previously Reported as Assets and Liabilities*. This Statement establishes accounting and financial reporting standards that reclassify certain items that were previously reported as assets and liabilities as deferred outflows or deferred inflows of resources, or as current period outflows or inflows of resources. The requirements of this Statement will improve financial reporting by clarifying the appropriate use of deferred outflows of resources and deferred inflows of resources to ensure consistency in financial reporting.

Statement 65 is effective for the Agency's fiscal year ending August 31, 2014.

Governmental Accounting Standards Board Statement No. 66

The Governmental Accounting Standards Board (GASB) has issued Statement No. 66, *Technical Corrections-2012*. This Statement enhances the usefulness of financial reports by resolving conflicting accounting and financial reporting guidance that could diminish the consistency of financial reporting. GASB 66 amends both GASB Statement No. 10, *Accounting and Financial Reporting for Risk Financing and Related Insurance Issues*, and GASB Statement No. 62, *Codification of Accounting and Financial Reporting Guidance Contained in Pre-November 30, 1989 FASB and AICPA Pronouncements*.

Statement 66 is effective for the Agency's fiscal year ending August 31, 2014.

Accounting Standards Currently Being Proposed by GASB

Economic Condition Reporting: Financial Projections

The Governmental Accounting Standards Board (GASB) is deliberating the issuance of a new standard that would require governments of all types and sizes to include forward-looking information (projections) in their financial statements to provide an assessment of fiscal sustainability. GASB has issued Preliminary Views for this proposed standard and deliberations are expected to continue throughout 2013.

This communication is intended solely for the information and use of management, Board of Representatives and others within the organization and is not intended to be and should not be used by anyone other than these specified parties.

BKD, LLP

February 4, 2013

West Haymarket Joint Public Agency
555 South 10th Street
Lincoln, Nebraska 68508

February 4, 2013

BKD, LLP
Certified Public Accountants
1248 'O' Street, Suite 1040
Lincoln, Nebraska 68508

We are providing this letter in connection with your audit of our financial statements as of and for the year ended August 31, 2012. We confirm that we are responsible for the fair presentation of the financial statements in conformity with accounting principles generally accepted in the United States of America. We are also responsible for adopting sound accounting policies, establishing and maintaining effective internal control over financial reporting, operations and compliance, and preventing and detecting fraud.

Certain representations in this letter are described as being limited to matters that are material. Items are considered material, regardless of size, if they involve an omission or misstatement of accounting information that, in light of surrounding circumstances, makes it probable that the judgment of a reasonable person relying on the information would be changed or influenced by the omission or misstatement.

We confirm, to the best of our knowledge and belief, the following:

1. The financial statements referred to above are fairly presented in conformity with accounting principles generally accepted in the United States of America.
2. We have reviewed and approved a draft of the financial statements and related notes referred to above, which you prepared in connection with your audit of our financial statements. We acknowledge that we are responsible for the fair presentation of the financial statements and related notes.
3. We have made available to you:
 - (a) All financial records and related data.
 - (b) All minutes of meetings of the governing body held through the date of this letter.
 - (c) All significant contracts and grants.

4. We have informed you of all current risks of a material amount that are not adequately prevented or detected by entity procedures with respect to:
 - (a) Misappropriation of assets.
 - (b) Misrepresented or misstated assets, liabilities or net assets.
5. We acknowledge our responsibility for the design and implementation of programs and controls to prevent and detect fraud.
6. We have no knowledge of any known or suspected:
 - (a) Fraudulent financial reporting or misappropriation of assets involving management or employees who have significant roles in internal control.
 - (b) Fraudulent financial reporting or misappropriation of assets involving others that could have a material effect on the financial statements.
7. We have no knowledge of any allegations of fraud or suspected fraud affecting the Agency received in communications from employees, customers, regulators, suppliers or others.
8. Except as reflected in the financial statements, there are no:
 - (a) Plans or intentions that may materially affect carrying values or classifications of assets and liabilities.
 - (b) Material transactions omitted or improperly recorded in the financial statements.
 - (c) Material gain/loss contingencies requiring accrual or disclosure, including those arising from environmental remediation obligations.
 - (d) Events occurring subsequent to the balance sheet/statement of net assets date through the date of this letter requiring adjustment or disclosure in the financial statements.
 - (e) Related party transactions, balances, arrangements or guarantees. We understand that the term related party refers to an affiliate; management, and members of their immediate families, component units; and any other party with which the entity may deal if it can significantly influence, or be influenced by, the management or operating policies of the other. The term affiliate refers to a party that directly or indirectly controls, or is controlled by, or is under common control with us.
 - (f) Agreements to purchase assets previously sold.

- (g) Violations of law, regulations, contracts, grants or requirements of regulatory agencies for which losses should be accrued or matters disclosed in the financial statements.
 - (h) Unasserted claims or assessments that our attorneys have advised us are probable of assertion.
 - (i) Restrictions on cash balances or compensating balance agreements.
 - (j) Guarantees, whether written or oral, under which the Agency is contingently liable.
9. Adequate provisions and allowances have been accrued for any material losses from:
- (a) Uncollectible receivables.
 - (b) Purchase commitments in excess of normal requirements or above prevailing market prices.
10. Except as disclosed in the financial statements, we have:
- (a) Satisfactory title to all recorded assets, and they are not subject to any liens, pledges or other encumbrances.
 - (b) Complied with all aspects of contractual and grant agreements, for which noncompliance would materially affect the financial statements.
11. We have not been designated as a potentially responsible party (PRP or equivalent status) by the Environmental Protection Agency (EPA) or other cognizant regulatory agency with authority to enforce environmental laws and regulations.
12. With regard to deposit and investment activities:
- (a) All deposit, repurchase and reverse repurchase agreements and investment transactions have been made in accordance with legal and contractual requirements.
 - (b) Disclosures of deposit and investment balances and risks in the financial statements are consistent with our understanding of the applicable laws regarding enforceability of any pledges of collateral.
 - (c) We understand that your audit does not represent an opinion regarding the enforceability of any collateral pledges.

13. With respect to any nonattest services you have provided us during the year, including preparing a draft of the financial statements and related notes:
 - (a) We have designated a qualified management-level individual to be responsible and accountable for overseeing the nonattest services.
 - (b) We have established and monitored the performance of the nonattest services to ensure that they meet our objectives.
 - (c) We have made any and all decisions involving management functions with respect to the nonattest services and accept full responsibility for such decisions.
 - (d) We have evaluated the adequacy of the services performed and any findings that resulted.
14. We acknowledge that we are responsible for compliance with applicable laws, regulations and provisions of contracts and grant agreements.
15. We have identified and disclosed to you all laws, regulations and provisions of contracts and grant agreements that have a direct and material effect on the determination of amounts in our financial statements or other financial data significant to the audit objectives.
16. We have identified and disclosed to you any violations or possible violations of laws, regulations and provisions of contracts and grant agreements whose effects should be considered for recognition and/or disclosure in the financial statements or for your reporting on noncompliance.
17. We have taken or will take timely and appropriate steps to remedy any fraud, abuse, illegal acts or violations of provisions of contracts or grant agreements that you or other auditors report.
18. We have a process to track the status of audit findings and recommendations.
19. We have identified to you any previous financial audits, attestation engagements, performance audits or other studies related to the objectives of your audit and the corrective actions taken to address any significant findings and recommendations made in such audits, attestation engagements or other studies.
20. The supplementary information required by the Governmental Accounting Standards Board, consisting of management's discussion and analysis, has been prepared and is measured and presented in conformity with the applicable GASB pronouncements, and we acknowledge our responsibility for the information. The information contained therein is based on all facts, decisions and conditions currently known to us and is measured using the same methods and assumptions as were used in the preparation of the financial statements. We believe the

significant assumptions underlying the measurement and/or presentation of the information are reasonable and appropriate. There has been no change from the preceding period in the methods of measurement and presentation.

21. We believe the receivable recorded for the interest subsidies, related to the Build America Bonds and the Recovery Zone Economic Development Bonds, meets the definition of an asset under the provisions of GASB Statement No. 33.
22. In relation to environmental remediation, although future costs may be incurred, it is not possible at this time to reasonably estimate the amount of any obligation for remediation activities because of uncertainties with respect to assessing the extent of contamination or the applicable regulatory requirements.



Steve Hubka, City of Lincoln Finance
Director and West Haymarket Joint
Public Agency Treasurer



Mark Leikam, Assistant City Controller and
West Haymarket Joint Public Agency
Accountant

West Haymarket Joint Public Agency

(A Component Unit of the City of Lincoln, Nebraska)
Accountants' Report and Financial Statements

August 31, 2012



West Haymarket Joint Public Agency
(A Component Unit of the City of Lincoln, Nebraska)
August 31, 2012

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Independent Accountants' Report on Financial Statements and Supplementary Information

Board of Representatives
West Haymarket Joint Public Agency
Lincoln, Nebraska

We have audited the accompanying financial statements of the governmental activities and the major fund of the West Haymarket Joint Public Agency (the Agency) (a component unit of the City of Lincoln, Nebraska) as of and for the year ended August 31, 2012, which collectively comprise the Agency's basic financial statements as listed in the table of contents. These financial statements are the responsibility of the Agency's management. Our responsibility is to express opinions on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinions.

In our opinion, the financial statements referred to above present fairly, in all material respects, the respective financial position of the governmental activities and the major fund of West Haymarket Joint Public Agency, as of August 31, 2012, and the respective changes in financial position thereof for the year then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued our report dated February 4, 2013, on our consideration of the Agency's internal control over financial reporting and our tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing, and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis listed in the table of contents be presented to supplement the basic financial statements. Such information, although not part of the basic financial statements, is required by the Governmental Accounting Standards Board, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

BKD, LLP

February 4, 2013

West Haymarket Joint Public Agency
(A Component Unit of the City of Lincoln, Nebraska)
Management's Discussion and Analysis
August 31, 2012

As management of the West Haymarket Joint Public Agency (the Agency), we offer readers of the Agency's basic financial statements this narrative and analysis of the financial activities of the Agency as of and for the year ended August 31, 2012. We encourage readers to consider the information presented here in conjunction with additional information provided in the basic financial statements.

The West Haymarket Joint Public Agency was organized as a joint public agency on April 2, 2010, created by a Joint Public Agency Agreement entered into between the City of Lincoln, Nebraska and the Board of Regents of the University of Nebraska. The Agency is a component unit of the City of Lincoln, Nebraska.

Overview of Basic Financial Statements

This discussion and analysis is intended to serve as an introduction to the Agency's basic financial statements. These basic financial statements are comprised of three components: 1) government-wide financial statements, 2) fund financial statements and 3) notes to the financial statements.

Government-Wide Financial Statements

The government-wide financial statements are designed to provide readers with a broad overview of the Agency's finances in a manner similar to a private-sector business.

The statement of net assets presents information on all of the Agency's assets and liabilities, with the difference between the two reported as net assets. Over time, increases or decreases in net assets may serve as a useful indicator of whether the financial position of the Agency is improving or deteriorating.

The statement of activities presents information showing how the Agency's net assets changed during the year. All changes in net assets are reported as soon as the underlying event giving rise to the change occurs, regardless of the timing of related cash flows. Thus, revenues and expenses are reported in this statement for some items that will result in cash flow changes only in future fiscal periods.

Fund Financial Statements

A fund is a grouping of related accounts that is used to maintain control over resources that have been segregated for specific activities or objectives. The Agency, like other local governments, uses fund accounting to ensure and demonstrate compliance with finance-related legal requirements. Governmental funds are used to account for essentially the same functions reported as governmental activities in the government-wide financial statements. The Agency maintains one governmental fund - the Project Fund.

West Haymarket Joint Public Agency
(A Component Unit of the City of Lincoln, Nebraska)
Management's Discussion and Analysis
August 31, 2012

Fund Financial Statements - Continued

The Agency is not required by the Nebraska State Budget Act to adopt an annual budget, therefore, a budgetary comparison has not been provided in the basic financial statements. The significant expenditures to be made by the Agency will be for capital purposes, which are not appropriated on an annual basis.

Notes to Basic Financial Statements

The notes provide additional information that is essential to a full understanding of the data provided in the basic financial statements.

Government-Wide Financial Analysis

As noted earlier, net assets may serve over time as a useful indicator of the Agency's financial position. In the case of the West Haymarket Joint Public Agency, as of August 31, 2012, net assets were \$12,653,721. The Agency's condensed financial information as of August 31, 2012 and 2011 is found below.

Condensed Statement of Net Assets

	2012	2011
Assets		
Equity in pooled cash and investments	\$ 38,277,666	\$ 123,470,657
Investments	126,448,862	105,940,874
Capital assets, net of accumulated depreciation	167,809,904	80,856,914
Other	8,136,351	8,006,884
Total assets	340,672,783	318,275,329
Liabilities		
Other liabilities	23,349,202	8,783,137
Long-term liabilities	304,669,860	304,669,860
Total liabilities	328,019,062	313,452,997
Net Assets		
Invested in capital assets, net of related debt	6,712,581	1,712,581
Restricted for improvements	1,000,000	-
Restricted by enabling legislation	4,941,140	3,109,751
Total net assets	\$ 12,653,721	\$ 4,822,332

West Haymarket Joint Public Agency
(A Component Unit of the City of Lincoln, Nebraska)
Management's Discussion and Analysis
August 31, 2012

Government-Wide Financial Analysis - Continued

Condensed Statement of Activities

	<u>2012</u>	<u>2011</u>
Revenues		
Occupation taxes	\$ 12,913,394	\$ 7,653,744
Intergovernmental	3,900,278	3,289,725
Investment income	573,396	944,303
Miscellaneous	14,225	-
Total revenues	<u>17,401,293</u>	<u>11,887,772</u>
Expenses		
General government	757,446	454,329
Debt service	15,119,886	9,016,304
Total expenses	<u>15,877,332</u>	<u>9,470,633</u>
Capital Contributions	<u>6,307,428</u>	<u>809,449</u>
Increase in Net Assets	7,831,389	3,226,588
Net Assets		
Beginning of period	<u>4,822,332</u>	<u>1,595,744</u>
End of period	<u>\$ 12,653,721</u>	<u>\$ 4,822,332</u>

Capital Assets

The Agency's investment in capital assets as of August 31, 2012 amounts to \$167,809,904.

Major capital asset expenditures during the fiscal year included the following:

- Arena design and construction of approximately \$64,000,000
- Land purchases of approximately \$9,600,000
- Road and utility work of approximately \$5,400,000
- Environmental remediation of approximately \$1,700,000

Additional information on the Agency's capital assets can be found in the notes to the financial statements.

West Haymarket Joint Public Agency
(A Component Unit of the City of Lincoln, Nebraska)
Management's Discussion and Analysis
August 31, 2012

Debt Administration

At August 31, 2012, the Agency had total bonded debt outstanding of \$300,000,000 being used to fund a portion of the Agency's construction costs. Additional information on the Agency's debt can be found in the notes to the financial statements.

Occupation Taxes

Beginning January 1, 2011, occupation taxes were imposed within the City of Lincoln at a rate of 2% on bar and restaurant revenues and a rate of 4% on car rental and hotel revenues. This tax revenue is generated to finance the activities of the Agency and is pledged to repayment of any outstanding Agency bonds.

Financial Analysis of the Agency's Funds

The Agency has one governmental fund, the Project Fund. The Project Fund is considered a major fund and is used to account for the Agency's general operations, construction, and debt activities. Activity during the year ended August 31, 2012, resulted in a fund surplus of \$78,241,451, resulting in a total fund balance at August 31, 2012 of \$147,191,453. The fund balance is a result of the issuance of bonds in prior years, occupation tax and donation revenue, less the Agency's expenditures for construction, debt service and general operations.

Request for Information

This financial report is designed to provide a general overview of the Agency's finances for all those with an interest in the Agency. Questions concerning any of the information provided in this report or requests for additional financial information should be addressed to the City of Lincoln Finance Department, 555 South 10th Street, Lincoln, NE 68508.

West Haymarket Joint Public Agency
(A Component Unit of the City of Lincoln, Nebraska)
Governmental Fund Balance Sheet / Statement of Net Assets
August 31, 2012

	Project Fund	Adjustments (Note 1)	Statement of Net Assets
Assets			
Equity in pooled cash and investments	\$ 38,277,666	\$ -	\$ 38,277,666
Investments	126,448,862	-	126,448,862
Occupation taxes receivable	1,236,093	-	1,236,093
Accounts receivable	17,304	-	17,304
Interest receivable	338,149	-	338,149
Due from other funds	1,044,032	-	1,044,032
Due from other governments	893,503	-	893,503
Deferred charges	-	4,578,456	4,578,456
Capital assets, net of accumulated depreciation of \$134,144	-	167,809,904	167,809,904
Other	28,814	-	28,814
Total assets	<u>168,284,423</u>	<u>172,388,360</u>	<u>340,672,783</u>
Liabilities			
Accounts payable	13,896,339	-	13,896,339
Retainages payable	3,798,733	-	3,798,733
Interest payable	-	3,149,735	3,149,735
Due to other funds	12,987	-	12,987
Good faith deposit	165,000	-	165,000
Unearned revenue	2,326,408	-	2,326,408
Deferred revenue	893,503	(893,503)	-
Long-term liabilities	-	304,669,860	304,669,860
Total liabilities	<u>21,092,970</u>	<u>306,926,092</u>	<u>328,019,062</u>
Fund Balance/Net Assets			
Fund balance			
Nonspendable	28,814	(28,814)	-
Restricted for capital projects	135,151,772	(135,151,772)	-
Restricted by enabling legislation	12,010,867	(12,010,867)	-
Total fund balance	<u>147,191,453</u>	<u>(147,191,453)</u>	<u>-</u>
Total liabilities and fund balance	<u>\$168,284,423</u>		
Net assets			
Invested in capital assets, net of related debt		6,712,581	6,712,581
Restricted for improvements		1,000,000	1,000,000
Restricted by enabling legislation		4,941,140	4,941,140
Total net assets		<u>\$ 12,653,721</u>	<u>\$ 12,653,721</u>

West Haymarket Joint Public Agency
(A Component Unit of the City of Lincoln, Nebraska)
Statement of Governmental Fund Revenues, Expenditures and
Changes in Fund Balance / Statement of Activities
Year ended August 31, 2012

	Project Fund	Adjustments (Note 1)	Statement of Activities
Revenues			
Occupation taxes	\$ 12,913,394	\$ -	\$ 12,913,394
Intergovernmental	3,900,278	-	3,900,278
Investment income	573,396	-	573,396
Miscellaneous	14,225	-	14,225
	<u>17,401,293</u>	<u>-</u>	<u>17,401,293</u>
Expenditures/Expenses			
General government	623,302	134,144	757,446
Debt service	14,239,736	880,150	15,119,886
Capital outlay	87,087,134	(87,087,134)	-
	<u>101,950,172</u>	<u>(86,072,840)</u>	<u>15,877,332</u>
Capital Contributions	<u>6,307,428</u>	<u>-</u>	<u>6,307,428</u>
Expenditures in excess of revenues and capital contributions	(78,241,451)	78,241,451	-
Change in Net Assets	-	7,831,389	7,831,389
Fund Balance/Net Assets			
Beginning of Year	<u>225,432,904</u>	<u>(220,610,572)</u>	<u>4,822,332</u>
End of Year	<u>\$147,191,453</u>	<u>\$(134,537,732)</u>	<u>\$ 12,653,721</u>

West Haymarket Joint Public Agency
(A Component Unit of the City of Lincoln, Nebraska)
Notes to Financial Statements
August 31, 2012

Note 1: Nature of Operations and Summary of Significant Accounting Policies

Nature of Operations

The West Haymarket Joint Public Agency (the Agency) was organized as a joint public agency under the Nebraska Joint Public Agency Act on April 2, 2010, to facilitate land acquisition, relocation of existing businesses, environmental remediation, site preparation and the construction, equipping, furnishing and financing of public facilities including, but not limited to, a sports/entertainment arena, roads, streets, sidewalks, a pedestrian overpass, public plaza space, sanitary sewer mains, water mains, electric transmission lines, drainage systems, flood control, parking garages and surface parking lots (collectively considered the West Haymarket Development Project or Project) for the benefit of residents of the City of Lincoln, Nebraska (the City). The Agency was created pursuant to a Joint Public Agency Agreement entered into between the City and the Board of Regents of the University of Nebraska.

Reporting Entity

As required by accounting principles generally accepted in the United States of America, these basic financial statements present the financial activities of the Agency. The Agency follows the Governmental Accounting Standards Board (GASB) accounting pronouncements, which provide guidance for determining the governmental activities, organizations, and functions that should be included within the financial reporting entity. GASB pronouncements set forth the financial accountability of a governmental organization's governing body as the basic criterion for including a possible component governmental organization in a primary government's legal entity. Financial accountability includes, but is not limited to, appointment of a voting majority of the organization's governing body, ability to impose its will on the organization, a potential for the organization to provide specific financial benefits or burdens and fiscal dependency.

The Agency is not financially accountable for any other organization. Under current GASB pronouncements, the Agency has been determined to be a component unit of the City of Lincoln, Nebraska – the primary government. As such, the Agency's financial results are included in the City of Lincoln, Nebraska's Comprehensive Annual Financial Report.

Measurement Focus, Basis of Accounting, and Financial Statement Presentation

The government-wide financial statements (*i.e.*, the statement of net assets and the statement of activities) report information on all of the Agency's financial activities. Governmental activities are normally supported by taxes and intergovernmental revenue which are reported as general revenues.

West Haymarket Joint Public Agency
(A Component Unit of the City of Lincoln, Nebraska)
Notes to Financial Statements
August 31, 2012

Note 1: Nature of Operations and Summary of Significant Accounting Policies - Continued

Measurement Focus, Basis of Accounting, and Financial Statement Presentation - Continued

The accounting and financial reporting treatment applied to a fund is determined by its measurement focus. The government-wide financial statements are presented using the total economic resources measurement focus and the accrual basis of accounting. Revenues are recorded when earned and expenses are recognized when a liability is incurred, regardless of the timing of the related cash flows.

Governmental fund financial statements are reported using the current financial resources measurement focus and the modified accrual basis of accounting. With this measurement focus, the operating statement presents increases and decreases in net current assets and unreserved fund balance is a measure of available spendable resources. This means that only current liabilities are generally included on the governmental fund balance sheet.

The statement of net assets does not equal the governmental funds balance sheet at August 31, 2012, due to net capital assets, debt issuance costs, and bond principal and interest that are not payable from available spendable resources in the statement of net assets.

Under the modified accrual basis of accounting, revenues are recognized as soon as they are both measurable and available. Measurable means the amount of the transaction can be determined; available means collectible within the current period, or soon enough thereafter, to pay liabilities of the current period. Revenues are considered to be available if collected within 60 days after year end. Expenditures are recorded when the related fund liability is incurred and is expected to be paid from available spendable resources.

Occupation taxes and intergovernmental revenues are considered to be susceptible to accrual and are recorded as revenue in the period to which they relate.

Fund Accounting

The accounts of the Agency are organized on the basis of funds. The operations of the Project Fund are accounted for with a set of self-balancing accounts that comprise its assets, liabilities, fund equity, revenues and expenditures. Resources are allocated to and accounted for in the Project Fund based upon the purposes for which they are to be spent and the means by which spending activities are controlled.

The major fund presented in the accompanying basic financial statements is the Project Fund. The Project Fund is the Agency's only fund and is used to account for general government operational activities.

West Haymarket Joint Public Agency
(A Component Unit of the City of Lincoln, Nebraska)
Notes to Financial Statements
August 31, 2012

Note 1: Nature of Operations and Summary of Significant Accounting Policies - Continued

Fund Accounting - Continued

Private sector standards of accounting and financial reporting issued prior to November 30, 1989, generally are followed in the government-wide financial statements to the extent that those standards do not conflict with or contradict guidance of the Governmental Accounting Standards Board. The Agency has elected not to follow private-sector guidance issued after November 30, 1989.

When both restricted and unrestricted resources are available for use, it is the Agency's policy to use restricted resources first, then unrestricted resources as they are needed.

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues, expenses and other changes in net assets during the reporting period. Actual results could differ from those estimates.

Deposits and Investments

The Agency participates in a cash management pool managed by the City. The pool consists of bank deposits and investments. Cash balances in excess of current requirements are invested along with cash from other City funds and interest earned on these investments is allocated monthly to the various funds by the City Treasurer on a pro rata basis of using aggregate quarterly balances. The Agency's interest in the pool is shown as equity in pooled cash and investments in the statement of net assets. Fair value of the equity in the pool is the same as the value of the pool shares determined using the fair value of the pool's underlying investment portfolio.

The Agency may invest in certificates of deposit, in time deposits, and in any securities in which the state investment officer is authorized to invest pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act and as provided in the authorized investment guidelines of the Nebraska Investment Council in effect on the date the investment is made.

U.S. Agency obligations are carried at fair value as determined based on quoted market price.

Investment income includes interest income and the net change for the year in the fair value of investments carried at fair value.

West Haymarket Joint Public Agency
(A Component Unit of the City of Lincoln, Nebraska)
Notes to Financial Statements
August 31, 2012

Note 1: Nature of Operations and Summary of Significant Accounting Policies - Continued

Occupation Taxes

Beginning January 1, 2011, occupation taxes were imposed within the City of Lincoln at a rate of 2% on bar and restaurant revenues and a rate of 4% on car rental and hotel revenues. As stated in the related ordinance, occupation taxes, less any administrative expenses, shall be used to fund expenditures of the Agency.

Deferred Charges

Deferred charges are comprised of debt issuance costs. The issuance costs are amortized over the term of the related debt using the bonds-outstanding method. No amortization was recognized in 2012.

Capital Assets

Arena and infrastructure planning, design and construction costs are capitalized on the government-wide financial statements. At August 31, 2012, certain infrastructure assets were in-service, and were being depreciated on a straight-line basis over their estimated useful lives of 25-40 years.

Unearned Revenue

Unearned revenue is comprised of security deposits and advance payments received for various arena suites and loge boxes. Revenue for these agreements will be recognized when the term of the related agreements commences on September 1, 2013.

Fund Balances

Fund balances are shown only in the governmental fund financial statements. Nonspendable fund balance reflects amounts that are not in spendable form. Fund balance is reported as restricted when constraints placed on the use are either externally imposed by creditors, grantors, contributors or laws or regulations of other governments; or imposed by law through constitutional provisions or enabling legislation.

Net Assets

Net assets are required to be classified into three components - invested in capital assets, net of related debt, restricted and unrestricted. These classifications are defined as follows:

West Haymarket Joint Public Agency
(A Component Unit of the City of Lincoln, Nebraska)
Notes to Financial Statements
August 31, 2012

Note 1: Nature of Operations and Summary of Significant Accounting Policies - Continued

Net Assets - Continued

Invested in capital assets, net of related debt - This component of net assets consists of capital assets, net of accumulated depreciation reduced by the outstanding balances of any bonds, mortgages, notes or other borrowings that are attributable to the acquisition, construction or improvements of those assets. If there are significant unspent related debt proceeds at year-end, the portion of debt attributable to the unspent proceeds is not included in the calculation of invested capital assets, net of related debt.

Restricted - This component of net assets consists of restrictions placed on net assets use through external constraints imposed by creditors (such as through debt covenants), contributors or law or regulations of other governments or constraints imposed by law through constitutional provisions or enabling legislation.

Unrestricted - This component of net assets consists of net assets that do not meet the definition of “restricted” or “invested in capital assets, net of related debt.”

Adjustments Column

The adjustments column on the governmental fund balance sheet/statement of net assets represents the recording of capital assets and certain liabilities as required by GASB Statement No. 34.

The adjustments on the governmental fund balance sheet/statement of net assets is comprised of the following as of August 31, 2012:

Amounts reported for the Project Fund are different from the statement of net assets because of:

Deferred charges	\$ 4,578,456
Capital assets, net of accumulated depreciation	167,809,904
Interest payable	(3,149,735)
Deferred revenue	893,503
Long-term liabilities	<u>(304,669,860)</u>
Total adjustment amount	<u>\$ (134,537,732)</u>

West Haymarket Joint Public Agency
(A Component Unit of the City of Lincoln, Nebraska)
Notes to Financial Statements
August 31, 2012

Note 1: Nature of Operations and Summary of Significant Accounting Policies - Continued

Adjustments Column - Continued

The adjustments column on the statement of governmental fund revenues, expenditures and changes in fund balance/statement of activities is comprised of the following for the year ended August 31, 2012:

Amounts reported for the Project Fund are different from the statement of activities because of:

Repayment of debt, related interest and costs	\$ (880,150)
Capital outlay	87,087,134
Depreciation expense	<u>(134,144)</u>
Total adjustment amount	<u><u>\$ 86,072,840</u></u>

Note 2: Deposits, Investments and Investment Return

Deposits

State statutes require banks either to provide a bond or to pledge government securities to the City Treasurer in the amount of the City's deposits. The Agency has been allocated a portion of the City's pooled cash and investments. Pursuant to legislation enacted in 2010, the Federal Deposit Insurance Corporation (FDIC) will fully insure all noninterest-bearing transaction accounts beginning December 31, 2010 through December 31, 2012, at all FDIC institutions. For interest-bearing cash accounts, the City's cash deposits, including certificates of deposit, are insured up to \$250,000 by the FDIC. Any cash deposits or certificates of deposit in excess of FDIC limits are covered by collateral held in a Federal Reserve pledge account or by an agent for the City and thus no custodial credit risk exists. No legal opinion has been obtained regarding the enforceability of any of the collateral arrangements.

West Haymarket Joint Public Agency
(A Component Unit of the City of Lincoln, Nebraska)
Notes to Financial Statements
August 31, 2012

Note 2: Deposits, Investments and Investment Return - Continued

Investments

The Agency generally follows the investment policy adopted by the City Council and utilized by the City Treasurer. The Agency may legally invest in U.S. government securities and agencies, U.S. government sponsored agencies, and in bank repurchase agreements. It may also invest to a limited extent in corporate bonds, bankers' acceptances and investment agreements.

At August 31, 2012, the Agency had the following investments, maturities and credit ratings:

<u>Type</u>	<u>Fair Value</u>	<u>Maturities in Years Less than 1</u>	<u>Credit Ratings Moody's / S&P</u>
U.S. agency obligations	\$ 126,448,862	\$ 126,448,862	Aaa / AA+

Custodial Credit Risk

For an investment, custodial credit risk is the risk that, in the event of the failure of the counterparty, the Agency will not be able to recover the value of its investment securities that are in the possession of an outside party.

Interest Rate Risk

Interest rate risk is the risk that changes in interest rates will adversely affect the fair values of a government's financial instruments or a government's cash flows. The Agency has limited its interest rate risk by investing in securities with maturities no longer than twenty-four months.

Credit Risk

Credit risk is the risk that an issuer or other counterparty to an investment will not fulfill its obligations. The City's investment policy establishes requirements for certain investment securities to be rated at certain rates or higher without having collateral pledged to the City. The following investment types must be rated at the minimum rates noted below:

	<u>S & P</u>	<u>Moody's</u>
Money Markets	AA	Aa
Corporate Notes	AA-	Aa3
Investment Agreements	AA-	Aa3

West Haymarket Joint Public Agency
(A Component Unit of the City of Lincoln, Nebraska)
Notes to Financial Statements
August 31, 2012

Note 2: Deposits, Investments and Investment Return - Continued

Concentration of Credit Risk

Concentration of credit risk is the risk associated with the amount of investments the Agency has with any one issuer that exceeds 5% or more of its total investments. Investments issued or explicitly guaranteed by the U.S. Government are excluded from this requirement. At August 31, 2012, the Agency's investments had the following composition:

	<u>Portfolio Composition</u>
U.S. agency obligations	
Federal Home Loan Bank	36.26 %

Summary of Carrying Values

The carrying values of deposits and investments are as follows:

Carrying value	
Investments	\$ 126,448,862
Equity in pooled cash and investments	<u>38,277,666</u>
	<u><u>\$ 164,726,528</u></u>

Investment Income

Investment income, consisting of interest income and the unrealized gain on investments, was \$573,396 for the year ended August 31, 2012.

Note 3: Capital Assets

As of August 31, 2012, the Agency's capital assets consisted of the following:

Depreciable assets	
Infrastructure	<u>\$ 11,765,822</u>
Total depreciable assets	<u>11,765,822</u>
Nondepreciable assets	
Land	70,755,404
Construction in progress	<u>85,422,822</u>
Total nondepreciable assets	<u>156,178,226</u>
Total capital assets	<u><u>\$ 167,944,048</u></u>

West Haymarket Joint Public Agency
(A Component Unit of the City of Lincoln, Nebraska)
Notes to Financial Statements
August 31, 2012

Note 3: Capital Assets - Continued

Capital asset activity for 2012 was:

	Beginning Balance	Additions	Retirements	Ending Balance
Infrastructure	\$ -	\$ 11,765,822	\$ -	\$ 11,765,822
Land	53,860,512	16,894,892		70,755,404
Construction in progress	26,996,402	58,426,420	-	85,422,822
Total capital assets	80,856,914	87,087,134	-	167,944,048
Less accumulated depreciation	-	(134,144)	-	(134,144)
Capital assets, net	<u>\$ 80,856,914</u>	<u>\$ 86,952,990</u>	<u>\$ -</u>	<u>\$ 167,809,904</u>

Note 4: Long-term Liabilities

	Beginning Balance September 1, 2011	Additions	Reductions	Ending Balance August 31, 2012
Bonds payable	\$300,000,000	\$ -	\$ -	\$300,000,000
Unamortized premium on bonds	4,669,860	-	-	4,669,860
	<u>\$304,669,860</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$304,669,860</u>

In September 2010, the Agency issued \$100,000,000 in General Obligation Facility Bonds, Taxable Series 2010A. Semi-annual interest payments began in December 2010. Annual principal payments begin in December 2020 at amounts that range from \$2,440,000 to \$5,855,000 with the final maturity in December 2045. The bonds are Build America Bonds and, as such, the Agency has elected to receive a federal subsidy of 35 percent from the United States Department of the Treasury (Treasury) for a portion of the interest payable on the bonds. The interest rates on the bonds range from 3.50 to 5.00 percent prior to the federal subsidy. The federal subsidy reduces the true interest cost to 3.20 percent.

In December 2010, the Agency issued \$67,965,000 in General Obligation Facility Bonds, Taxable Series 2010B. Semi-annual interest payments began in June 2011. Annual principal payments begin in December 2020 at amounts that range from \$2,440,000 to \$4,650,000 with the final maturity in December 2039. The bonds are direct pay Build America Bonds, with a federal subsidy of 35 percent from the Treasury for a portion of the interest payable on the bonds. The interest rates on the bonds range from 4.00 to 6.00 percent prior to the federal subsidy. The federal subsidy reduces the true interest cost to 3.73 percent.

West Haymarket Joint Public Agency
(A Component Unit of the City of Lincoln, Nebraska)
Notes to Financial Statements
August 31, 2012

Note 4: Long-term Liabilities - Continued

In December 2010, the Agency issued \$32,035,000 in General Obligation Recovery Zone Economic Development Bonds, Taxable Series 2010C. Semi-annual interest payments began in June 2011. Annual principal payments begin in December 2040 at amounts that range from \$4,865,000 to \$5,855,000 with the final maturity in December 2045. The bonds are direct pay General Obligation Recovery Zone Economic Development Bonds, with a federal subsidy of 45 percent from the Treasury for a portion of the interest payable on the bonds. The interest rate on the bonds is 6.75 percent prior to the federal subsidy. The federal subsidy reduces the true interest cost to 3.79 percent.

In August 2011, the Agency issued \$100,000,000 in General Obligation Facility Bonds, Series 2011. Semi-annual interest payments began in December 2011. Annual principal payments begin in December 2021 at amounts that range from \$3,115,000 to \$6,660,000 with the final maturity in December 2042. The interest rates on the bonds range from 3.50 to 5.00 percent.

All bonds were issued to provide a portion of the funds necessary to pay the costs of constructing, equipping, furnishing, and financing the development of the West Haymarket facilities. The full faith and credit and the taxing powers of the City are pledged for the payment of the principal of and interest on the bonds.

Annual requirements to pay principal and interest to maturity on outstanding debt is as follow:

Years Ending August 31	Principal	Interest	Interest Subsidy	Net Interest
2013	\$ -	\$ 15,117,520	\$ (3,900,278)	\$ 11,217,242
2014	-	15,117,520	(3,900,278)	11,217,242
2015	-	15,117,520	(3,900,278)	11,217,242
2016	-	15,117,520	(3,900,278)	11,217,242
2017	-	15,117,520	(3,900,278)	11,217,242
2018-2022	13,015,000	75,137,335	(19,371,052)	55,766,283
2023-2027	44,410,000	67,985,414	(17,834,798)	50,150,616
2028-2032	52,445,000	56,933,304	(15,367,894)	41,565,410
2033-2037	62,955,000	43,266,951	(12,143,848)	31,123,103
2038-2042	76,235,000	25,395,919	(7,989,237)	17,406,682
2043-2046	50,940,000	5,492,775	(2,170,174)	3,322,601
	<u>\$300,000,000</u>	<u>\$349,799,298</u>	<u>\$ (94,378,393)</u>	<u>\$255,420,905</u>

West Haymarket Joint Public Agency
(A Component Unit of the City of Lincoln, Nebraska)
Notes to Financial Statements
August 31, 2012

Note 4: Long-term Liabilities - Continued

The Series 2010A, 2010B and 2010C bonds were issued as direct pay Build America Bonds and General Obligation Recovery Zone Economic Development Bonds, respectively, in accordance with the American Recovery and Reinvestment Act of 2009, which allows the Agency to receive a U.S. Treasury subsidy equal to 35% and 45%, respectively, of the amount of interest payable on those bonds.

The interest subsidy is reflected in the table above as the Agency expects to receive these payments throughout the term of the related Bonds. The subsidy is reflected as intergovernmental revenue in the Statement of Activities.

Note 5: Operating Lease

In 2012, the Agency entered into a lease agreement with AMTRAK for the lease and use of West Haymarket Station (“Station”). The lease provides for a thirty-five year term, with the Agency receiving monthly payments of \$2,845, adjusted annually for inflation using the Consumer Price Index. Income from the lease totaled \$9,905 during 2012 and is included in miscellaneous revenue on the statement of activities.

Note 6: Risk Management

The Agency is exposed to various risks of loss related to torts; theft of, damage to, and destruction of assets; injuries to employees; and natural disasters. The Agency carries commercial insurance for risks of loss, including liability, property, errors and omissions, and workers’ compensation. Specifically related to the construction of the Arena, the Agency also carries pollution and builders risk insurance. The Agency has had no claims or judgments exceeding the policy limits.

Note 7: Related Party Transactions

The City provides certain administrative services to the Agency for which the Agency pays fees to the City. These fees amounted to approximately \$357,000 for the year ended August 31, 2012. These charges are recorded as general government expenses in the statement of governmental fund revenues, expenditures and changes in fund balance and statement of activities. Engineering services totaling approximately \$211,000 and miscellaneous other project services totaling approximately \$25,000 for the year ended August 31, 2012, provided by the City, were capitalized into the project and are included in capital assets in the statement of net assets.

West Haymarket Joint Public Agency
(A Component Unit of the City of Lincoln, Nebraska)
Notes to Financial Statements
August 31, 2012

Note 7: Related Party Transactions - Continued

The City transferred \$307,428 in funds to the Agency in 2012 to assist in sharing the cost of street lighting for the development area. This is reflected as capital contribution revenue in the Statement of Activities.

As discussed in Note 1, the Agency is invested in the City of Lincoln, Nebraska's pooled cash and investment management system.

Note 8: Commitments

Construction

The Agency has commitments under major construction contracts in progress of approximately \$135,000,000 at August 31, 2012.

Environmental Matters

In connection with the West Haymarket Development Project, the Agency is involved with the clean-up and remediation of several development sites relating to soil and groundwater contamination. This clean-up and remediation is performed as sites are developed, as the Agency has not been designated as a potentially responsible party (PRP or equivalent status) by any regulatory agency requiring the immediate clean-up of impacted areas. Although future costs may be incurred, it is not possible at this time to reasonably estimate the amount of any obligation for remediation activities because of uncertainties with respect to assessing the extent of the contamination or the applicable regulatory requirements. No liability has been recorded for potential future remediation activities as of August 31, 2012.

**Independent Accountants' Report on Internal Control Over
Financial Reporting and on Compliance and Other Matters
Based on an Audit of the Financial Statements Performed
In Accordance with *Government Auditing Standards***

Board of Representatives
West Haymarket Joint Public Agency
Lincoln, Nebraska

We have audited the financial statements of the governmental activities and the major fund of the West Haymarket Joint Public Agency (the Agency) (a component unit of the City of Lincoln, Nebraska) as of and for the year ended August 31, 2012, which collectively comprise the Agency's basic financial statements and have issued our report thereon dated February 4, 2013. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control Over Financial Reporting

Management of the Organization is responsible for establishing and maintaining effective internal control over financial reporting. In planning and performing our audit, we considered the Agency's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Agency's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Agency's internal control over financial reporting.

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect and correct misstatements on a timely basis. A material weakness is a deficiency, or a combination of deficiencies, in internal control such that there is a reasonable possibility that a material misstatement of the Agency's financial statements will not be prevented or detected and corrected on a timely basis.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and was not designed to identify all deficiencies in internal control over financial reporting that might be deficiencies, significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses as defined above.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Agency's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

We noted certain matters that we reported to the Agency's management in a separate letter dated February 4, 2013.

This report is intended solely for the information and use of the Board of Representatives, management and others within the Agency and is not intended to be and should not be used by anyone other than these specified parties.

BKD, LLP

February 4, 2013

West Haymarket Joint Public Agency
(A Component Unit of the City of Lincoln, Nebraska)
Schedule of Findings and Responses
Year Ended August 31, 2012

Reference Number	Finding	Questioned Costs
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No matters are reportable

RESOLUTION NO. WH- _____

1 BE IT RESOLVED by the Board of Representatives of the West Haymarket Joint Public
2 Agency:

3 That the attached Letter Agreement between the West Haymarket Joint Public Agency
4 and the University of Nebraska to amend the Lease and Operating Agreement to allow the
5 assignment of and certain rights to three UNL Suites to the JPA is hereby approved and the
6 Chairperson of the West Haymarket Joint Public Agency Board of Representatives is hereby
7 authorized to execute said Letter Agreement on behalf of the JPA.

8 The City Clerk is directed to return a fully executed original of the Letter Agreement to
9 Carmen Maurer, Associate General Counsel, University of Nebraska, 3835 Holdrege Street,
10 Lincoln, NE 68583-0745.

11 Adopted this _____ day of February, 2013.

Introduced by:

Approved as to Form & Legality:

West Haymarket Joint Public Agency
Board of Representatives

Legal Counsel for
West Haymarket Joint Public Agency

Chris Beutler, Chair

Tim Clare

Eugene Carroll

December 13, 2012

The City of Lincoln
Attn: Office of the Mayor
555 S. 10th Street
Lincoln, Nebraska 68508

The City of Lincoln
Attn: Office of the City Attorney
555 S. 10th Street
Lincoln, Nebraska 68508

Re: Lease and Operating Agreement
Arena Suite Assignment

To the City of Lincoln:

The purpose of this letter is to provide for an assignment to the ~~City of Lincoln~~ (the "City") by the University of Nebraska (the "University"), certain rights to *suite seating* belonging to the University pursuant to Section 9.C. of the Lease and Operating Agreement (the "Agreement") entered into between these two parties and dated November 7, 2011.

*west Haymarket
Joint Public Agency
JPA
JPA*

Section 9.C. of the Agreement states of the suites constructed within the "Arena," ... "four (4) will be designated as UNL Suites, two (2) will be designated as City Suites and the remaining 30 suites will be designated as Private Suites...The City will market and sell all of the Private Suites, retaining the related Suite revenues, provided that Athletics [the University] will be provided and retain sole control of the 4 UNL Suites for all Arena events from the initial phase of construction to market, sell or use as determined by Athletics..."

The University hereby licenses to the City and assigns any and all of its rights, except as otherwise specifically stated in this letter, to **three** of the four UNL Suites described by the Agreement. Such license and assignment shall commence on the date the City accepts these rights, as evidenced by its signing and delivery of this letter to the University's representative, and end on June 30, 2018 (the "License Term"), unless the License Term is extended or renewed, as provided for later in this letter. The University shall be permitted to select which of its three suites are licensed to the City.

In exchange for the assignment of rights, the City shall pay to the University or its designee,

a sum equal to 88% of the gross revenue collected by the City from its suiteholders in relation to the rights granted to those suiteholders for the three licensed UNL Suites during the License Term; provided that the City shall exert its best efforts to keep the three suites occupied and to collect revenues. The amount owed to the University described in this paragraph shall be paid to the University as an additional "Credit Against UNL Rent," under the Agreement's *Section 8. UNL Rent*.

At the end of the License Term, the City agrees to return the assigned rights in the UNL Suites to the University in full, as such rights exist or will exist under the Agreement. No additional encumbrances, including such things as suite naming rights or sponsorship recognition, shall exist upon the UNL Suites at the end of the License Term. In addition, the suites shall be returned to the University in substantially the same condition as they will be upon their completion when they are ready for occupancy, normal wear and tear excepted.

With respect to event tickets and all amenities, the three UNL Suites will be treated in the same manner as all other Private Suites administered by the City, that is the City will provide to the suiteholders tickets to events appearing in the Arena, including University of Nebraska Cornhusker Men's and Women's Basketball. Such basketball tickets shall be purchased from the University of Nebraska Department of Intercollegiate Athletics and paid in full, under such terms and conditions as are generally offered to season ticket purchasers for Cornhusker Men's and Women's Basketball. Should additional contests or events be hosted by the University of Nebraska-Lincoln Department of Intercollegiate Athletics in the Arena, then the City agrees to purchase the additional event tickets for its suiteholders from the University. Failure to purchase and pay for any such University tickets described in this paragraph shall be cause to immediately terminate the license described in this letter.

No later than 180 days before the expiration of the License Term, the University shall inform the City in writing whether or not the University wishes to extend the License Term for an additional five years. Failure to so notify the City of the extension will result in the expiration of this assignment at the end of the License Term.

If the terms of this letter are agreeable to the City, please have an authorized representative of the City sign this letter where indicated below and return the executed letter to me.

Thank you very much for your consideration and cooperation with respect to this matter.

Very truly yours,



Carmen K. Maurer
Associate General Counsel

On behalf of the City of Lincoln, I represent and warrant that I am authorized to execute this letter and do hereby agree to its terms and provisions.

Signature

Date

Title

atharenasuiteassign.ckm

University of Nebraska Memorial Stadium
Pinnacle Bank Arena Suites
Annual Rent Reduction Calculation
Men's and Women's Basketball
3 Suites (12 seats per suite)

Fiscal Yr				Men's Basketball			Women's Basketball			Less Total	Annual Rent Reduction All Suites (3)	% of Ticket Cost Over Revenue Rec'd	% of Gross Revenue Given as Rent Reduction	Dollar Amt Reduction at 88%
	\$45k Suite (2) Revenue	\$55k Suite (1) Revenue	Annual Revenue Rec'd by City	\$18 Price Level Ticket Cost	Assumed Number of Home Games	# of Tickets	\$8 Price Level Ticket Cost	Assumed Number of Home Games	# of Tickets					
FY14	\$90,000	\$55,000	\$145,000	\$18.00	19	36	\$8.00	19	36	\$17,784	\$127,216	12.26%	87.74%	\$127,600
FY15	\$90,000	\$55,000	\$145,000	\$18.18	19	36	\$8.08	19	36	\$17,962	\$127,038	12.39%	87.61%	\$127,600
FY16	\$93,600	\$57,200	\$150,800	\$18.36	19	36	\$8.16	19	36	\$18,141	\$132,659	12.03%	87.97%	\$132,704
FY17	\$97,344	\$59,488	\$156,832	\$18.55	19	36	\$8.24	19	36	\$18,323	\$138,509	11.68%	88.32%	\$138,012
FY18	\$101,238	\$61,868	\$163,106	\$18.73	19	36	\$8.32	19	36	\$18,506	\$144,600	11.35%	88.65%	\$143,533
Totals	\$472,182	\$288,556	\$760,738							\$90,716	\$670,022	11.94%	88.06%	\$669,449

5-yr average **88.0%**

City Suite Costs	
\$45,000	\$55,000
\$45,000	\$55,000
\$46,800	\$57,200
\$48,672	\$59,488
\$50,619	\$61,868
\$236,091	\$288,556

Assumptions:

- We assumed a 1% inflation rate for the price of tickets.
- We used 19 home games for women's basketball as they have had home games of 18, 18, 19 over the past 3 years.
- We used 19 home games for men's basketball as they have had home game of 21, 18, 19 over the past 3 years.

RESOLUTION NO. WH- _____

1 BE IT RESOLVED by the Board of Representatives of the West Haymarket Joint Public Agency:

2 That the Olsson Assignment and Assumption Agreement, which is attached hereto marked as
3 Attachment "1" and incorporated herein by this reference, between the City of Lincoln, Nebraska (City)
4 and the West Haymarket Joint Public Agency (JPA) providing for the City, as assignor, to assign and for
5 the JPA, as assignee, to assume all of the City's rights, interests, duties and obligations for the West
6 Haymarket Monitoring Work under Amendment #2 to the Agreement between the City of Lincoln,
7 Nebraska and Olsson Associates (Exhibit "A" to Attachment "1") is hereby accepted and approved and
8 the Chair is hereby authorized to execute said Olsson Assignment and Assumption Agreement on behalf
9 of the West Haymarket Joint Public Agency. This Assignment and Assumption Agreement only pertains
10 to the West Haymarket Monitoring Services under Amendment #2 and the City remains responsible for
11 all other monitoring services provided for in the Agreement as amended by Amendment #1 and #2.

12 The City Clerk is directed to return a fully executed original Contract Agreement and a copy of
13 this Resolution to Rick Peo, Chief Assistant City Attorney, for transmittal to Olsson Associates.

14 Adopted this _____ day of February, 2013.

Introduced by:

Approved as to Form & Legality:

West Haymarket Joint Public Agency
Board of Representatives

Legal Counsel for
West Haymarket Joint Public Agency

Chris Beutler, Chair

Tim Clare

Eugene Carroll

OLSSON ASSIGNMENT AND ASSUMPTION AGREEMENT

This Olsson Assignment and Assumption Agreement ("Assignment") is made and entered into as of the ____ day of _____, 2013, between the **City of Lincoln, Nebraska**, a municipal corporation ("City") and the **West Haymarket Joint Public Agency**, a political subdivision and corporate body politic of the State of Nebraska ("JPA").

RECITALS

I.

The JPA has been created and established by and between the University of Nebraska and the City of Lincoln for the purpose of (a) constructing, equipping, furnishing and financing public facilities in the West Haymarket area of the City including but not limited to a sports/entertainment arena; roads, streets and sidewalks; a pedestrian grade separation; public plaza space; sanitary sewer mains; water mains; electric transmission lines; drainage systems; flood control; parking garages; and surface parking lots, and (b) to undertake environmental remediation and site preparation as necessary and appropriate for the construction, equipping, furnishing and financing of the West Haymarket Facilities.

II.

The JPA and the City have entered into a Facilities Agreement dated July 26, 2010, providing that the JPA pay the costs of acquiring and constructing each of the Projects for and on behalf of the City.

III.

In order to carry out the above purpose of the JPA and its obligations under the Facilities Agreement, the parties desire that the City, as Assignor, assign to the JPA, as Assignee, all of its obligations to pay for West Haymarket Monitoring Services under Amendment #2 to the Agreement with Olsson Associates and that the JPA assume all such obligations of the City under said Amendment #2.

NOW, THEREFORE, in consideration of the above Recitals, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

1. Assignment. City does hereby sell, assign, transfer, and convey to JPA all of the City's duty to pay for West Haymarket Monitoring Services under Amendment #2 to the Agreement attached hereto as Exhibit A.

2. Assumption. JPA does hereby assume and covenant and agree to fully, completely, and timely pay Olsson Associates for the West Haymarket Monitoring Services under said Amendment #2.

3. No Assignment/Assumption. The parties agree that this Assignment and Assumption Agreement only pertains to the West Haymarket Monitoring Services under Amendment #2 and that the City remains responsible for the Monitoring Services provided for in the Agreement and Amendment #1 to the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Benham Assignment and Assumption Agreement as of the ____ day of _____, 2013.

ATTEST:

City of Lincoln, Nebraska
a municipal corporation

City Clerk

By: _____
Chris Beutler, Mayor of Lincoln

**West Haymarket Joint Public Agency
Board of Representatives**

By: _____
Chris Beutler, Chairperson

AMENDMENT NO. 2
to AGREEMENT for ENGINEERING SERVICES
between Olsson Associates and CITY OF LINCOLN, NEBRASKA
under Executive Order No. 82615 – Mitigation Stream and Wetland Monitoring Project
Project No. 702405.265.5621

This Contract Amendment is made by and between Olsson Associates hereinafter called ENGINEER, and the City of Lincoln, Nebraska, hereinafter called CITY, this 24th day of August, 2012 and approved by Executive Order No. 82615.

WHEREAS, it is the mutual desire of the parties hereto to amend Executive Order Agreement for a Mitigation Stream and Wetland Monitoring Project which was entered into on October 6, 2009, hereinafter called the existing Agreement.

NOW THEREFORE, it is hereby agreed that the existing Agreement be amended as follows and as in the attached Exhibit A:

WEST HAYMARKET MONITORING

Mitigation Monitoring

Olsson will conduct wetland monitoring and/or stream monitoring as appropriate for the monitoring site which will include the following:

- Inspect buffer areas and side slopes of mitigation wetland to determine if any areas are subject to erosion or failure.
- Evaluate development of wetland mitigation area, including vegetation and evidence of hydrology.
- Prepare a report of findings including photographs and pertinent aerial photograph and site maps.
- Submit report by deadline set by the Corps.
- Complete 5 annual monitoring surveys to include activities listed above.

Monitoring Report

Monitoring reports will be prepared for each monitoring event and will include:

- Findings including photographs taken of general vegetative growth and pertinent aerial photographs and site maps.
- A set of as-built plans of the restoration to serve as the baseline for future monitoring with locations marked for observation photos.
- GPS tracking of wetland development.
- Submit report by the deadline set by the Corps.
- Complete 5 annual monitoring surveys to include activities listed above. Monitoring reports will be due December 1 of each year, following the monitoring event.

The cost for monitoring services and submittal of the report of findings for this site will be \$13,243.79 over the five year monitoring period.

EXCLUSIONS

If monitoring activities indicate that any part of the mitigation stream channels are failing, or mitigation wetlands do not meet permit requirements, additional construction, seeding, or monitoring may be required. If these services are required, additional fees will apply.

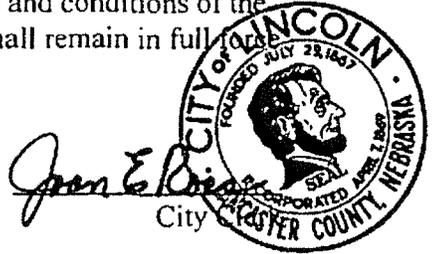
SCHEDULE

Field activities would be anticipated to begin within a month of the notice to proceed, dependent upon weather conditions. A report would be submitted to the Corps following completion of field work prior to reporting deadlines as set by the Corps.

This AMENDMENT shall be deemed a part of, and be subject to all terms and conditions of the existing Agreement. Except as modified above, the existing Agreement shall remain in full force and effect.

CITY OF LINCOLN, NEBRASKA

Attest:



Miki Esposito

Miki Esposito, Director of Public Works

By:

Jan Daryl

Olsson Associates

EXHIBIT "A" to GENERAL PROVISIONS ATTACHED TO
LETTER AGREEMENT FOR PROFESSIONAL SERVICES
BETWEEN CLIENT AND OLSSON, DATED AUGUST 24, 2012

DESCRIPTION OF BASIC PROFESSIONAL SERVICES AND RELATED MATTERS

This is an exhibit attached to and made a part of the General Provisions attached to the Proposed Letter Agreement for Professional Services dated August 24, 2012, between City of Lincoln Public Works/Utilities Department (Client) and Olsson Associates (Olsson) providing for professional services. The Basic Services of Olsson are as indicated below.

GENERAL

Olsson shall perform for Client professional services in all phases of the Project to which this Agreement applies as hereinafter provided. These services will include serving as Client's professional representative for the Project, providing professional consultation and advice and furnishing customary services incidental thereto.

Mitigation Monitoring

Olsson will conduct wetland monitoring and/or stream monitoring as appropriate for the monitoring site which will include the following:

- Inspect buffer areas and side slopes of mitigation wetland to determine if any areas are subject to erosion or failure.
- Evaluate development of wetland mitigation area, including vegetation and evidence of hydrology.
- Prepare a report of findings including photographs and pertinent aerial photograph and site maps.
- Submit report by deadline set by the Corps.
- Complete 5 annual monitoring surveys to include activities listed above.

Monitoring Report

Monitoring reports will be prepared for each monitoring event and will include:

- Findings including photographs taken of general vegetative growth and pertinent aerial photographs and site maps.
- A set of as-built plans of the restoration to serve as the baseline for future monitoring with locations marked for observation photos.
- GPS tracking of wetland development.
- Submit report by the deadline set by the Corps.
- Complete 5 annual monitoring surveys to include activities listed above. Monitoring reports will be due December 1 of each year, following the monitoring event.

The cost for monitoring services and submittal of the report of findings for this site will be \$13,243.79 over the five year monitoring period.

EXCLUSIONS

If monitoring activities indicate that any part of the mitigation stream channels are failing, or mitigation wetlands do not meet permit requirements, additional construction, seeding, or monitoring may be required. If these services are required, additional fees will apply.

SCHEDULE

Field activities would be anticipated to begin within a month of the notice to proceed, dependent upon weather conditions. A report would be submitted to the Corps following completion of field work prior to reporting deadlines as set by the Corps.

RESOLUTION NO. WH- _____

1 BE IT RESOLVED by the Board of Representatives of the West Haymarket Joint Public
2 Agency:

3 That the Consultant Agreement between Thought District and the West Haymarket Joint
4 Public Agency to provide Website and Facebook Management Services for the West Haymarket
5 Joint Public Agency, attached hereto and incorporated herein by this reference, is hereby
6 approved and the Chairperson of the West Haymarket Joint Public Agency Board of
7 Representatives is hereby authorized to execute said Agreement on behalf of the West
8 Haymarket Joint Public Agency.

9 Adopted this ____ day of _____, 2013.

Introduced by:

Approved as to Form & Legality:

West Haymarket Joint Public Agency
Board of Representatives

Legal Counsel for
West Haymarket Joint Public Agency

Chris Beutler, Chair

Tim Clare

Eugene Carroll

CONSULTANT AGREEMENT

THIS AGREEMENT is entered into this ____ day of _____, 2013 (Execution Date), by and between the West Haymarket Joint Public Agency, hereinafter referred to as “JPA” and “Thought District”, hereinafter referred to as “Consultant.”

RECITALS

A.

The JPA proposes to engage Consultant in accordance with the terms and conditions set forth herein to render professional assistance in facebook page and website management for the JPA and Haymarket Arena. (“Consultant Services”).

B.

Consultant possesses certain skills, experience, education and competency to perform the Consultant Services on behalf of the JPA, and the JPA desires to engage Consultant for such Consultant Services on the terms herein provided.

C.

Consultant hereby represents that Consultant is willing and able to perform the Consultant Services in accordance with the proposed Consultant Services submitted with this Agreement.

NOW, THEREFORE, IN CONSIDERATION of the above Recitals and the mutual obligations of the parties hereto, the parties do agree as follows:

I.

ADMINISTRATOR OF AGREEMENT

Dan Marvin, JPA Project Manager and JPA Board Secretary, shall be the JPA’s representative for the purposes of administering this Agreement and shall have authority on behalf of the JPA to give approvals under this Agreement. Eric Dinger, shall be the Consultant’s representative and will supervise all services and be in charge of performance of the Consultant Services as set forth in this Agreement.

II.

SCOPE OF SERVICES

Consultant has performed Phase One services related to the development and design of the website and facebook page. This Agreement involves Phase Two wherein Consultant agrees to undertake, perform and complete in an expeditious, satisfactory and professional manner, services on behalf of the JPA for Phase Two: ongoing management of the Haymarket NOW website and facebook page. There are three main services to be provided under Phase Two:

1. Copyright and content collection - Consultant shall keep the website updated with new content and provide high quality marketing copy to encourage visitors to interact and direct users to specific areas of the site;

2. Website/Social Media Integration and Mangement - Consultant will monitor and manage the website and facebook page for the Haymarket Now! Project. Consultant will integrate the facebook page onto the website, share and upload content and funnel and direct all queries and pertinent comments to the JPA;

3. Website and Facebook Page Promotion.

III. TERM OF AGREEMENT

The term of this Agreement shall commence upon execution of this Agreement by both parties and shall continue for one year from the date of execution of this Agreement. This Agreement may be renewed for two additional one year terms at the request of the JPA and upon mutual consent of both parties.

IV. COMPENSATION

The JPA agrees to pay Consultant for the Phase Two services set forth in Attachment "A" a sum not to exceed \$2,000 per month. The Consultant will furnish to the JPA a monthly services report and request for payment itemizing hours worked on services provided, with any supporting documentation, on the 5th day of each month for the previous month's services. Monthly payments, based upon the services performed as requested and provided in Attachment "A", shall be payable within fifteen days receipt of the report and supporting documentation for the previous month's services, acceptable to the JPA, for the work completed for that month.

V. NON-RAIDING CLAUSE

Consultant shall not engage the services of any person or persons presently in the employ of the JPA for work covered by this Agreement without the written consent of the JPA.

VI. TERMINATION OF AGREEMENT

A. This Agreement may be terminated by the Consultant if the JPA fails to adequately perform any material obligation required by this Agreement ("Default"). Termination rights under this paragraph may be exercised only if the JPA fails to cure a Default within ten (10) calendar days after receiving written notice from the Consultant specifying the nature of the Default.

B. The JPA may terminate this Agreement, in whole or part, for any reason for the JPA's own convenience upon at least ten days written notice to the Consultant.

If the Agreement is terminated by either the JPA or Consultant as provided in A or B above, Consultant shall be paid for all approved services performed, and reimbursable expenses incurred, not to exceed the above-mentioned Agreement amounts, up until the date of termination.

Consultant hereby expressly waives any and all claims for damages or compensation arising under this Agreement except as set forth in this paragraph in the event of termination.

Further, Consultant agrees that, upon termination as provided in this paragraph, it shall not be employed by any developer or other party who is or may be interested in the work effort as defined in Section II, or interested in the decisional process relating to the application of such findings as may result from the tasks performed as defined in Section II for a period of one (1) year after such termination, without prior approval of the JPA.

VII. ADDITIONAL SERVICES

The JPA may from time to time, require additional services from the Consultant including but not limited to, special reports, graphics, attendance at meetings or presentations. Such additional services, including the amount of compensation for such additional services, which are mutually agreed upon by and between the JPA and Consultant shall be effective when incorporated in written amendments to this Agreement.

VIII. FAIR EMPLOYMENT

In connection with the performance of work under this Agreement, Consultant agrees that it shall not discriminate against any employee or applicant for employment with respect to compensation, terms, advancement potential, conditions, or privileges of employment, because of such person's race, color, religion, sex, disability, national origin, ancestry, age, or marital status in accordance with the requirements of Lincoln Municipal Code Chapter 11.08 and *Neb. Rev. Stat.* § 48-1122, as amended.

IX. FAIR LABOR STANDARDS

The Consultant shall maintain Fair Labor Standards in the performance of this Agreement as required by Chapter 73, Nebraska Revised Statutes, as amended.

X.

ASSIGNABILITY

The Consultant shall not assign any interest in this Agreement, except for the work of the Subconsultants identified in this Agreement, delegate any duties or work required under this Agreement, or transfer any interest in the same (whether by assignment or novation), without the prior written consent of the JPA thereto; provided, however, that claims for money due or to become due to the Consultant from JPA under this Agreement maybe assigned without such approval, but notice of any such assignment shall be furnished promptly to the JPA.

XI. INTEREST OF CONSULTANT

Consultant covenants that Consultant presently has no interest, including but not limited to, other projects or independent contracts, and shall not acquire any such interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed or retained by Consultant under this Agreement.

XII. OWNERSHIP, PUBLICATION, REPRODUCTION AND USE OF MATERIAL

Consultant agrees to and hereby transfers all rights it has, including those of a property or copyright nature, in any marketing copy and content, reports, studies, information, data, digital files, imagery, metadata, maps, statistics, forms and any other works or materials produced by the Consultant under the terms of this Agreement. No such work or materials produced, in whole or in part, under this Agreement, shall be subject to private use or copyright by Consultant without the express written consent of JPA.

JPA shall have the unrestricted rights of ownership of such works or materials and may freely copy, reproduce, broadcast, or otherwise utilize such works or materials as the JPA deems appropriate. The JPA shall also retain all such rights for any derivative works based on such works or materials.

XIII. COPYRIGHTS, ROYALTIES & PATENTS

Without exception, Consultant represents the consideration for this Agreement includes Consultant's payment for any and all royalties or costs arising from patents, trademarks, copyrights, and other similar intangible rights in any way involved with or related to this Agreement. Further, Consultant shall pay all related royalties, license fees, or other similar fees for any such intangible rights. Consultant shall defend suits or claims for infringement of any

patent, copyright, trademark, or other intangible rights that Consultant has used in the course of performing this Agreement.

**XIV.
COPYRIGHT; CONSULTANT'S WARRANTY**

A. Consultant represents that all materials, processes, or other protected rights to be used in the Consultant Services have been duly licensed or authorized by the appropriate parties for such use.

B. Consultant agrees to furnish the JPA upon demand written documentation of such license or authorization. If unable to do so, Consultant agrees that the JPA may withhold a reasonable amount from Consultant's compensation herein to defray any associated costs to secure such license or authorization or defend any infringement claim.

**XV.
INDEMNIFICATION**

To the fullest extent permitted by law, Consultant shall indemnify and hold harmless JPA, its elected officials, officers, agents, and employees, as indemnitees, from and against all claims, damages, losses, and expenses, including but not limited to attorney's fees, arising out of or resulting from the performance of this Agreement, that results in any claim for damage whatsoever, including without limitation, any bodily injury, sickness, disease, death, or any injury to or destruction of tangible or intangible property, including any loss of use resulting therefrom, that is caused in whole or in part by Consultant or anyone directly or indirectly employed by Consultant or anyone for whose acts any of the them may be liable. This section will not require Consultant to indemnify or hold harmless the JPA for any losses, claims, damages, and expenses arising out of or resulting from the negligence of the JPA. The JPA does not waive its governmental immunity by entering into this Agreement and fully retains all immunities and defenses provided by law with regard to any action based on this Agreement. The provisions of this section survive any termination of this Agreement.

**XVI.
INSURANCE**

A. Insurance Coverage. At all times during the term of this Agreement, the Consultant shall maintain insurance coverage as follows:

1. Workers' Compensation; Employer's Liability. Such insurance coverage as will fully protect both Consultant and JPA from any and all claims under any Worker's Compensation Act or Employer's Liability Law. Consultant shall exonerate, indemnify and hold harmless JPA from and against, and shall assume full responsibility for payment of all federal, state, and local taxes and contributions imposed or required under unemployment insurance, social security and income tax laws with respect to Consultant or any such employees of

Consultant as may be engaged in the performance of this Agreement. The minimum acceptable limits of liability to be provided by such Workers' Compensation policy shall be as follows:

Coverage	Listing	Min. Amount	Notes
Worker's Comp.			
	State	Statutory	
	Applicable Federal	Statutory	
Employer's Liability			
	Bodily Injury by accident	\$500,000	each accident
	Bodily Injury by disease	\$500,000	each employee
	Bodily Injury	\$500,000	policy limit

2. General Liability Insurance. General Liability Insurance, naming and protecting Consultant and the JPA, its officials, employees and volunteers as insured, against claims for damages resulting from (a) all acts or omissions, (b) bodily injury, including wrongful death, (c) personal injury liability, and (d) property damage which may arise from operations under this Agreement whether such operations by Consultant and Consultant's employees, students, or those directly or indirectly employed by Consultant. The minimum acceptable limits of liability to be provided by such insurance shall be as follows:

- i. All Acts or Omissions - \$1,000,000 each Occurrence; \$2,000,000 Aggregate; and
- ii. Bodily Injury/Property Damage - \$1,000,000 each Occurrence; \$2,000,000 Aggregate; and
- iii. Personal Injury Damage - \$1,000,000 each Occurrence; and
- iv. Contractual Liability - \$1,000,000 each Occurrence; and
- v. Products Liability and Completed Operations - \$1,000,000 each Occurrence; and
- vi. Medical Expenses (any one person) - \$10,000.

If the Consultant does not possess General Liability Insurance in the amounts as provided in this Agreement, the Consultant may use Excess or Umbrella Insurance to supplement the General

Liability Insurance to reach the minimum acceptable limits of liability as provided in this Agreement.

B. Minimum Scope of Insurance. All liability insurance policies (except Professional Liability) shall be written on an “occurrence” basis only. All insurance coverages are to be placed with insurers 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 not less than A:VIII unless specific approval has been granted by the JPA.

C. Deductibles. All deductibles on any policy shall be the responsibility of the Consultant and shall be disclosed to the JPA at the time the evidence of insurance is provided.

D. Certificate of Insurance. All Certificates of Insurance shall be filed with the JPA on the standard ACORD CERTIFICATE OF INSURANCE form showing the specific limits of insurance coverage required by the preceding sections, and showing the JPA as an additional insured for General Liability Insurance and Excess or Umbrella Insurance if used to supplement the General Liability Insurance. The Consultant may present evidence of equivalent self-insurance in place of a certificate of insurance for General Liability Insurance. The JPA shall be treated as an additional insured as if the Consultant possessed General Liability Insurance. Such certificate shall specifically state that insurance policies are to be endorsed to require the insurer to provide the JPA thirty days notice of reduction in amount, increase in deductibles, cancellation, or non-renewal of insurance coverage.

XVII. NOTICE

Any notice or notices required or permitted to be given pursuant to this Agreement may be personally served on the other party by the party giving such notice, or may be served by fax, commercial carrier or certified mail, postage prepaid, return receipt requested to the following addresses:

West Haymarket JPA
Dan Marvin, JPA Project Manager
2523 Woods Blvd
Lincoln NE 68502

Thought District
Eric Dinger, President
300 S. 13th Street
Lincoln, NE 68508

XVIII. INDEPENDENT CONTRACTOR

The JPA is interested only in the results produced by this Agreement. Consultant has sole and exclusive charge and control of the manner and means of performance. Consultant shall perform as an independent contractor and it is expressly understood and agreed that Consultant is not an employee of the JPA and is not entitled to any benefits to which JPA employees are

entitled, including, but not limited to, overtime, retirement benefits, workmen's compensation benefits, sick leave or and injury leave.

**XIX.
NEBRASKA LAW**

This Agreement shall be construed and interpreted according to the laws of the State of Nebraska.

**XX.
INTEGRATION**

This Agreement represents the entire agreement between the parties and all prior negotiations and representations are hereby expressly excluded from this Agreement.

**XXI.
AMENDMENT**

This Agreement may be amended or modified only in writing signed by both the JPA and Consultant.

**XXII.
SEVERABILITY**

If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

**XXIII.
WAIVER OF CONTRACTUAL RIGHT**

The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

**XIV.
AUDIT AND REVIEW**

The Consultant shall make available to the JPA copies of all financial and performance related records and materials germane to this Agreement as allowed by law.

XXV.
FEDERAL IMMIGRATION VERIFICATION

A. If the Consultant is a business entity or corporation, then in accordance with *Neb. Rev. Stat.* § 4-108 through 4-114, the Consultant agrees to register with and use a federal immigration verification system, to determine the work eligibility status of new employees performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 USC 1324 a, otherwise known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986. The Consultant shall not discriminate against any employee or applicant for employment to be employed in the performance of this section pursuant to the requirements of state law and 8 U.S.C.A. 1324b. The Consultant shall require any subcontractor to comply with the provisions of this section. For information on the E-Verify Program, go to www.uscis.gov/everify.

XXVI.
REPRESENTATIONS

Each party hereby certifies, represents and warrants to the other party that the execution of this Agreement is duly authorized and constitutes a legal, valid and binding obligation of said party.

IN WITNESS WHEREOF, Consultant and the JPA do hereby execute this Agreement as of the Execution Date set forth above.

THOUGHT DISTRICT

**WEST HAYMARKET JOINT
PUBLIC AGENCY**

By: _____
Eric Dinger, President

By: _____
Chris Beutler, Chair

RESOLUTION NO. WH- _____

1 BE IT RESOLVED by the Board of Representatives of the West Haymarket Joint Public
2 Agency:

3 That the attached Change Order No. 1 to the Consultant Agreement for Professional
4 Marketing Services between the West Haymarket Joint Public Agency and Legends Sales and
5 Marketing LLC to adjust the contract sum to reflect savings which have occurred, is hereby
6 approved and the Chairperson of the West Haymarket Joint Public Agency Board of
7 Representatives is hereby authorized to execute said Change Order No. 1 on behalf of the West
8 Haymarket Joint Public Agency. This Change Order reduces the contract sum from \$1,523,918.00
9 to \$1,138,918.00 (a decrease of \$385,000.00).

10 The City Clerk is directed to return one fully executed copy of Change Order No. 1 and a
11 copy of this Resolution to Rick Peo, Chief Assistant City Attorney, for transmittal to Legends Sales
12 and Marketing LLC.

13 Adopted this _____ day of _____, 2013.

Introduced by:

Approved as to Form & Legality:

Legal Counsel for
West Haymarket Joint Public Agency

West Haymarket Joint Public Agency
Board of Representatives

Chris Beutler, Chair

Tim Clare

Eugene Carroll

West Haymarket Joint Public Agency

CONTRACT AMENDMENT / CHANGE ORDER																			
PROJECT: Pinnacle Bank Arena Sponsorships	CHANGE ORDER NO.: <u>One (1)</u>																		
PROJECT ID #: 870100	CHANGE ORDER DATE: <u>February 11, 2013</u>																		
CONTRACTOR: Legends (formerly CSL Marketing) 7200 Bishop Road, Suite 220 Plano, TX 75024	CONTRACT DATE: <u>October 19, 2010</u>																		
<p>You are directed to make the following changes to the contract:</p> <table style="width: 100%; margin-left: 40px;"> <tr><td>3 Sales Support Savings</td><td style="text-align: right;">(\$150,000.00)</td></tr> <tr><td>4 Sales Center Buildout Savings</td><td style="text-align: right;">(\$75,000.00)</td></tr> <tr><td>6 Arena Model Savings</td><td style="text-align: right;">(\$20,000.00)</td></tr> <tr><td>7 Audio-Visual Savings</td><td style="text-align: right;">(\$50,000.00)</td></tr> <tr><td>8 Architectural Sales Tools Savings</td><td style="text-align: right;">(\$15,000.00)</td></tr> <tr><td>9 Website Savings</td><td style="text-align: right;">(\$37,500.00)</td></tr> <tr><td>10 Functions Savings</td><td style="text-align: right;">(\$37,500.00)</td></tr> <tr><td colspan="2" style="text-align: right; padding-top: 10px;">Total</td></tr> <tr><td colspan="2" style="text-align: right;">(\$385,000.00)</td></tr> </table>		3 Sales Support Savings	(\$150,000.00)	4 Sales Center Buildout Savings	(\$75,000.00)	6 Arena Model Savings	(\$20,000.00)	7 Audio-Visual Savings	(\$50,000.00)	8 Architectural Sales Tools Savings	(\$15,000.00)	9 Website Savings	(\$37,500.00)	10 Functions Savings	(\$37,500.00)	Total		(\$385,000.00)	
3 Sales Support Savings	(\$150,000.00)																		
4 Sales Center Buildout Savings	(\$75,000.00)																		
6 Arena Model Savings	(\$20,000.00)																		
7 Audio-Visual Savings	(\$50,000.00)																		
8 Architectural Sales Tools Savings	(\$15,000.00)																		
9 Website Savings	(\$37,500.00)																		
10 Functions Savings	(\$37,500.00)																		
Total																			
(\$385,000.00)																			
The Original Contract Sum:	\$ 1,523,918.00																		
Net Change by Previously Authorized Change Order:	\$ -																		
The Contract Sum prior to this Change Order:	\$ 1,523,918.00																		
The Contract Sum will be (increased)(decreased)(unchanged):	\$ (385,000.00)																		
The New Contract Sum including this Change Order:	\$ 1,138,918.00																		
The Contract Time will be (increased)(decreased)(unchanged):	0 days																		

Reviewed / Approved:

Paula Yancey
PC Sports
Date: 2/12/13

Bill R
Legends
Date: 2/12/2013

If over \$25,000 and under \$99,999.99

Mayor Beutler
Date: _____

If over \$100,000

JPA Approval
Date: _____

RESOLUTION NO. WH- _____

1 BE IT RESOLVED by the Board of Representatives of the West Haymarket Joint Public
2 Agency:

3 That the attached Change Order No. 4 to the Final Guaranteed Maximum Price
4 Amendment to the Amended and Restated Construction Manager at Risk Contract with M.A.
5 Mortenson to add additional work including ATMs, seating changes, parking lot revisions and
6 electrical revisions for an additional contract amount of \$382,802 and to establish \$159,494,021
7 as the revised amount the contract sum (GMP) shall not exceed, is hereby approved and the
8 Chairperson of the West Haymarket Joint Public Agency Board of Representatives is hereby
9 authorized to execute said Change Order No. 4 on behalf of the West Haymarket Joint Public
10 Agency.

11 The City Clerk is directed to return one fully executed copy of Change Order No. 4 and a
12 copy of this Resolution to Rick Peo, Chief Assistant City Attorney, for transmittal to M.A.
13 Mortenson Company.

14 Adopted this ____ day of _____, 2013.

Introduced by:

Approved as to Form & Legality:

West Haymarket Joint Public Agency
Board of Representatives

Legal Counsel for
West Haymarket Joint Public Agency

Chris Beutler, Chair

Tim Clare

Eugene Carroll

WHJPA-Pinnacle Bank Arena

**CHANGE ORDER
No. 004**

Title: Change Order #04
Project: WHJPA-Pinnacle Bank Arena
To: **M. A. Mortenson Company**
 National Projects Group Operations
 440 NORTH 8th STREET
 SUITE 110
 Lincoln NE 68508

Date: 28-JAN-13
Project No: 10150002
Contract No:
Phone:

DESCRIPTION OF CHANGE

This change order is for all costs associated with the specified changes below that include adding ATM's, seating changes, parking lot revisions, and electrical revisions.

COLLECTED CHANGES

PCO	Issue	Description	Amount
95.0	00570	A - CCA 041: Pinnacle Bank ATM's & Displays	6,952.00
127.0	00865	A - North End Retractable	17,073.00
128.0	00866	A - Removable Rails @ Front Precast	55,407.00
132.2	00915	A - West Side Parking Lot (Alternate L-2)	34,775.00
136.0	00920	A - DEC Flowmeters	17,753.00
143.0	00935	A - Shims @ North Retractable for Future Ice Floor	51,320.00
147.0	00964	A - CCA 47 & 47.1 Electrical Costs	99,345.00
156.0	90035	A - BP#5: PBA Data Conduits (Outside Building)	63,312.00
157.0	90036	CCA 033 - Triangle Area & Other Low Voltage Change	15,130.00
163.0	90039	A - Concession Area Office	21,735.00

Total of collected changes \$ 382,802.00

The original Contract Sum was	\$	156,270,167.00
Net change by previously authorized Change Orders	\$	2,841,052.00
The Contract Sum prior to this Change Order was	\$	159,111,219.00
The Contract Sum will be modified in the amount of	\$	382,802.00
The new Contract Sum including this Change Order will be	\$	159,494,021.00

WHJPA-Pinnacle Bank Arena

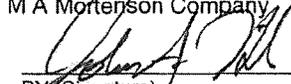
**CHANGE ORDER
No. 004**

Title: Change Order #04
Project: WHJPA-Pinnacle Bank Arena
To: M. A. Mortenson Company

Date: 28-JAN-13
Project No: 10150002
Contract No:

ACCEPTED:

M A Mortenson Company


BY (Signature)

John A. Hinshaw
(Printed Name)

2/6/13
DATE

ACCEPTED:

MAYOR BEUTLER OR JOINT PUBLIC AGENCY

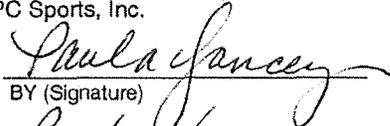
BY (Signature)

(Printed Name)

DATE

ACCEPTED:

PC Sports, Inc.

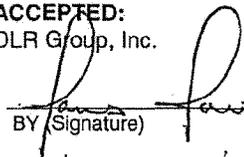

BY (Signature)

Paula Yancey
(Printed Name)

2/11/13
DATE

ACCEPTED:

DLR Group, Inc.


BY (Signature)

James Jaros
(Printed Name)

2-6-13
DATE

RESOLUTION NO. WH- _____

1 BE IT RESOLVED by the Board of Representatives of the West Haymarket Joint Public Agency:

2 That the Contract Agreement between Commonwealth Electric Company and the West
3 Haymarket Joint Public Agency for Haymarket Infrastructure Improvement, Arena and Core Area Fiber
4 Project, pursuant to Bid No. 13-040, attached hereto and incorporated herein by this reference, in the base
5 bid amount of \$87,186.95, is hereby approved and the Chairperson of the West Haymarket Joint Public
6 Agency Board of Representatives is hereby authorized to execute said Contract Agreement on behalf of
7 the West Haymarket Joint Public Agency.

8 The City Clerk is directed to return one fully executed copy of this Resolution and the Contract
9 Agreement to Commonwealth Electric Company, 1901 Y Street, Suite 100, Lincoln, NE 68503.

10 Adopted this _____ day of _____, 2013.

Introduced by:

Approved as to Form & Legality:

West Haymarket Joint Public Agency
Board of Representatives

Legal Counsel for
West Haymarket Joint Public Agency

Chris Beutler, Chair

Tim Clare

Eugene Carroll

WEST HAYMARKET JOINT PUBLIC AGENCY (JPA)

BID NO. 13-040

C O N T R A C T A G R E E M E N T

THIS JPA CONTRACT AGREEMENT ("Contract") is made and entered into as of the ____ day of _____, 2013, by and between **COMMONWEALTH ELECTRIC COMPANY**, hereinafter called Contractor, and the **WEST HAYMARKET JOINT PUBLIC AGENCY**, hereinafter called JPA.

RECITALS

WHEREAS, JPA has caused to be prepared, in accordance with law, Specifications, Plans, and other Contract Documents for the Work herein described, and has approved and adopted said documents and has caused to be published An Invitation to Bid advertisement for and in connection with said Work, to wit:

Haymarket Infrastructure Improvement
Arena & Core Area Fiber Project
Bid No. 13-040

WHEREAS, the Contractor, in response to such advertisement, has submitted to the JPA, in the manner and at the time specified, a sealed Bid in accordance with the terms of said advertisement.

WHEREAS, JPA, in the manner prescribed by law, has publicly advertised, opened, examined, and canvassed the Bids submitted in response to such advertisement, and as a result of such canvass has determined and declared the Contractor to be the lowest and best bidder for the said Work for the sum or sums named in the Contractor's Bid. Copies of the Bid Opportunity Detail, Invitation to Bid, Addendum Nos. 1 and 2, and the Supplier's Response (collectively "Bid Documents") are attached hereto as Exhibit A.

WHEREAS, Contractor understands and acknowledges that American Recovery and Reinvestment Act (ARRA) tax-favored bonds will fund all or a portion of the Work and therefore this Contract is subject to the Davis-Bacon Act; and that the Contractor is required to comply with the Contract clauses in 29 C.F.R. §5.5(a) which are made part of this Contract.

WHEREAS, Contractor understands and acknowledges that since future use of the site will be for a building, the Contractor is required to pay Davis-Bacon Act prevailing wages in accordance with Heavy Construction General Wage Decision NE130050 dated 01/04/2013 ("NE50 Wage Decision").

WHEREAS, the NE50 Wage Decision is hereinafter referred to as the "Effective Wage Decision."

WHEREAS, the use of the term "Contracting Officer" in 29 C.F.R. parts 1, 3 and 5 shall be deemed to refer to the JPA.

WHEREAS, Contractor possesses certain skills, experience, education and competency to perform the Work on behalf of the JPA and the JPA desires to engage Contractor for such services on the terms and conditions provided herein.

WHEREAS, Contractor is willing and able to perform the Work in accordance with this Contract.

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the Parties contained herein and incorporating all of the above Recitals into this Contract as if fully set forth herein, the Contractor and JPA have agreed and hereby agree as follows:

AWARD OF CONTRACT – The JPA does hereby accept the Contractor's Bid as set forth in Exhibit A and award this Contract to Contractor to perform the Work in the Contractor's Base Bid, with the option to select any of the Contractor's Bids for the Bid Alternates as set forth in Exhibit A at a later date.

ACCEPTANCE OF THE AWARD OF THE CONTRACT – Contractor hereby accepts the award of the Contract for the work described in the Contractor's Base Bid, including the JPA's option to select any of the Contractor's Bids for the Bid Alternates as set forth in Exhibit A at a later date.

PERFORMANCE OF WORK - The Contractor agrees to (a) furnish all tools, equipment, supplies, superintendence, transportation, and other construction accessories, services, and facilities; (b) furnish all materials, supplies, and equipment specified to be incorporated into and form a permanent part of the complete Work; (c) provide and perform all necessary labor in a substantial and workmanlike manner and in accordance with the provisions of the Contract Documents; and (d) execute, construct, and complete all Work included in and covered by JPA's official award of this Contract to the Contractor.

CHANGE IN SCOPE OF SERVICES. If an additive or subtractive change in scope is encountered on the site or requested by the JPA, a detailed Proposed Change Order request is to be provided by the Contractor. This must include a breakout of the estimated labor, materials, tools, and equipment required to complete the actual work. The maximum markup for all other items not associated with the work shall be ten percent (10%). This is to include all onsite and offsite overhead, all general conditions, profit, and any other costs not associated with the actual performance of the work.

COMPENSATION - JPA agrees to pay to the Contractor for the performance of the Work embraced in this Contract, and the Contractor agrees to accept as full compensation therefore, the sums and prices for all Work covered by and included in the Contractor's Base Bid of \$87,186.95 and the sum in any Bid Alternate selected at a later date by the JPA, payment thereof to be made in the manner provided in Article VIII of the City of Lincoln Standard Specifications for Municipal Construction (2011 Edition).

COMPLETION DATE - The Contractor agrees that the Work in this Contract shall begin as soon after the Notice to Proceed as is necessary for the Contractor to complete the Work within the number of calendar days allowed and prior to the stated completion date.

INDEMNIFICATION - Contractor agrees to defend, indemnify and hold harmless JPA to the same extent and under the same terms and conditions as required by the Indemnification of JPA in the Indemnification and Insurance Requirements for All West Haymarket Joint Public Agency Contracts included as part of the Other Attached Contract Documents attached hereto as Exhibit D.

INSURANCE – Contractor shall at all times during the term of this Agreement purchase and maintain in place insurance coverage as required by the Insurance Requirements for All West Haymarket Joint Public Agency Contracts included as part of the Other Attached Contract Documents attached hereto as Exhibit D.

DAVIS-BACON ACT – Contractor agrees to comply with the Davis-Bacon Act. Contractor further agrees to comply with contract clauses set forth in 29 C.F.R. §5.5(a) included as part of the Other Attached Contract Documents (Exhibit D) which provide in part that Contractor shall:

- On a weekly basis pay all laborers and mechanics not less than the federal prevailing wages listed in the wage determinations included in the contract;
- Submit weekly certified payroll records to the JPA; and
- Post the applicable Davis-Bacon wage determinations with the Davis Bacon poster (WH-1321) on the job site in a prominent and accessible place where they can be easily seen by the Contractor's workers.

Contractor further agrees to pay the prevailing wages set forth in the Effective Wage Decision. Said Effective Wage Decision is included in the Other Attached Contract Documents (Exhibit D). Contractor agrees to attach the Effective Wage Decision and include and/or incorporate the 29 C.F.R. §5.5(a) contract clauses in any subcontract in connection with the Work. Contractor shall also include a clause in any subcontract that the subcontractor shall attach the Effective Wage Decision and include and/or incorporate the 29 C.F.R. §5.5(a) contract clauses in any lower tier subcontract. Contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 C.F.R. §5.5(a) and payment of prevailing wages in accordance with the Effective Wage Decision.

NEB. REV. STAT. § 77-1323 CERTIFIED STATEMENT – Contractor, pursuant to the requirements of Neb. Rev. Stat. § 77-1323, has executed the Certified Statement attached hereto as part of Exhibit D certifying that all equipment to be used in performance of the Work, except

that acquired since the assessment date has been assessed for the current year. Contractor understands and acknowledges that under Neb. Rev. Stat. §77-1324, any person, partnership, limited liability company, association, or corporation falsifying any statement required by Neb. Rev. Stat. § 77-1323 shall be guilty of a Class IV misdemeanor.

CONTRACT DOCUMENTS - The Contract Documents comprise the Contract, and consist of the following, whether or not attached hereto:

1. Bid Documents (Exhibit A).
2. Exhibit B – Intentionally Omitted.
3. Exhibit C – Intentionally Omitted.
4. Other Attached Contract Documents (Exhibit D).
 - a. Commentary to Accompany Construction Bonds.
 - b. Construction Performance Bond.
 - c. Construction Payment Bond.
 - d. Indemnification and Insurance Requirements for all West Haymarket Joint Public Agency Contracts (approved March 2012).
 - e. Executive Order No 83319.
 - f. 29 C.F.R. § 5.5(a) Contract Provisions.
 - g. Effective Wage Decision.
 - h. Certified Statement Pursuant to Neb. Rev. Stat. § 77-1323.
 - i. Special Provisions.
5. Other Non-Attached Contract Documents.
 - a. City of Lincoln Standard Specifications for Municipal Construction (2011 Edition). References to City in the Standard Specifications shall mean JPA, references to City Project Manager shall mean PC Sports. Notwithstanding any provisions to the contrary in the Standard Specifications, Change Orders shall be approved in accordance with the JPA’s Change Order Process adopted by JPA Resolution No. WH00195.
 - b. Lincoln Standard Plans 2010.
 - c. Sales Tax Exempt Forms (to be provided upon award of the Special Purchase).
 - i. Form of Nebraska Resale or Exempt Sales Certificate.
 - ii. Form of Purchasing Agent Appointment.

Note: Any portion of this project used for providing water service, such as pipe for water mains, are not tax exempt and are subject to sales and use tax.

Note: The remainder of this project, including items exclusively used for providing fire protection, such as fire hydrants, is exempt from sales and use tax.
 - d. Requirements in 29 C.F.R. parts 1, 3 and 5.
3. Any Bid Documents and/or Bid Attachments listed in the Bid Opportunity Detail not attached as part of Exhibit A.

This Contract, together with the other Contract Documents herein above mentioned, form this Contract and they are as fully a part of the Contract as if hereto attached or herein repeated.

The Contractor and JPA hereby agree that all the terms and conditions of this Contract shall, by these presents, be binding upon themselves, and their heirs, administrators, executors, legal and personal representatives, successors, and assigns.

IN WITNESS WHEREOF, the Contractor and JPA do hereby execute this Contract.

CONTRACTOR:

COMMONWEALTH ELECTRIC COMPANY

By: _____
Title: _____

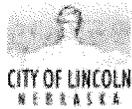
JPA:

**WEST HAYMARKET JOINT PUBLIC
AGENCY**

By: _____
Chris Beutler, Chairperson of the West
Haymarket Joint Public Agency Board of
Representatives

EXHIBIT A

Bid Documents



[Return to Login](#) • [Supplier Registration](#)

Bid Opportunity Detail

Bid Number 13-040 Addendum 2 (Haymarket Infrastructure Improvement Arena & Core Area Fiber, Project 870951a (PW/U - Eng. Services))

Close Date & Time 2/6/2013 12:00:00 PM Central

Bid Duration 19 days 3 hours 9 minutes 6 seconds

Bid Information

Bid Type Bid
Issue Date & Time 1/18/2013 8:50:53 AM Central
Close Date & Time 2/6/2013 12:00:00 PM Central
Bid Status Unsealed
Bid Notes If you need assistance in preparing your bid, 1) Click the "Help" button in the upper right hand corner of any screen; 2) Contact our office at 402-441-7417 to set up a training session in Purchasing or assistance over the phone.

Contact Information

Contact Name Vince M. Mejer
Address Purchasing\City & County
 440 S. 8th St.
 Lincoln, NE 68508 USA
Contact Phone (402) 441-8314
Contact Fax (402) 441-6513
Contact Email vmejer@lincoln.ne.gov

Award Attachments

Location	File Name	Description
Header	Bid Tabs 870951.pdf (45KB)	ITEMIZED PRICING
Header	Bid Tabs Alt 1.pdf (27KB)	ITEMIZED PRICING - ALT 1
Header	Bid Tabs Alt 2.pdf (39KB)	ITEMIZED PRICING - ALT 2
Header	Bid Tabs Alt 3.pdf (38KB)	ITEMIZED PRICING - ALT 3

Bid Documents

Document	Format	Description
Invitation Document	Adobe (PDF)	PDF Invitation to Bid
Bid Tabulation by Supplier Spreadsheet	Spreadsheet (XLS)	Bid Tabulation by Supplier Spreadsheet
Bid Tabulation by Line Item Spreadsheet	Spreadsheet (XLS)	Bid Tabulation by Line Item Spreadsheet

Bid Attachments

Location	File Name	Description
Header	13-040_adv.pdf (7KB)	Notice to Bidders
Header	Insurance Clause City 2005 revised.pdf (23KB)	Insurance Requirements
Header	Contract PW Eng Serv.pdf (31KB)	Sample Contract & Bond
Header	Empl_Class_Act_EO.pdf (288KB)	Employee Classification Act, Executive Order 83319
Header	Empl_Class_Act_Aff.pdf (52KB)	Employee Classification Act Affidavit
Header	870951A Fiber Special Provisions.pdf (757KB)	Special Provisions
Header	FTP site.pdf (327KB)	Plans/Drawings
Header	ADDENDUM NO 1 Fiber disclaimer.pdf (470KB)	Addendum No. 1
Header	ADDENDUM NO 2.pdf (470KB)	Addendum No. 2
Line 2	13-040 Bid Proposal.XLS (197KB)	Itemized Pricing - Base Bid
Line 3	13-0401 Bid Proposal.XLS (195KB)	Itemized Pricing (Alt 1)
Line 4	13-0402 Bid Proposal.XLS (196KB)	Itemized Pricing (Alt 2)
Line 5	13-0403 Bid Proposal.XLS (196KB)	Itemized Pricing (Alt 3)

Event Activities

Activity Date	Title	Description
2/6/2013 12:00:00 PM CST	General Contractor Listing	General Contractors - Call 402-441-7417 or e-mail purchasing@lincoln.ne.gov to be added to this list.
2/6/2013 12:00:00 PM CST	Sub-Contractor Listing	Sub-Contractors - Call 402-441-7417 or e-mail purchasing@lincoln.ne.gov to be added to this list.

City of Lincoln/Lancaster County

Bid Information

Bid Owner Deb Winkler Systems
 Administrator
 dwinkler@lincoln.ne.gov
Phone 1 (402) 441-7410
Fax 1 (402) 441-6513

Bid Number 13-040 Addendum 2
Title Haymarket Infrastructure
 Improvement Arena & Core Area
 Fiber, Project 870951a (PW/U -
 Eng. Services)
Bid Type Bid
Issue Date 01/18/2013
Close Date 2/6/2013 12:00:00 PM

Contact Information

Address Purchasing\City & County
 440 S. 8th St.
 Lincoln, NE 68508
Contact Vince M. Mejer
Department
Building
Floor/Room
Telephone (402) 441-8314
Fax (402) 441-6513
Email vmejer@lincoln.ne.gov

Ship to Information

Address

Contact
Department
Building
Floor/Room
Telephone
Fax
Email

Supplier Information

Company Name _____
Contact Name _____
Address _____

Telephone _____
Fax _____
Email _____

Signature _____

Supplier Notes

Date ____ / ____ / ____

Bid Notes

If you need assistance in preparing your bid, 1) Click the "Help" button in the upper right hand corner of any screen; 2) Contact our office at 402-441-7417 to set up a training session in Purchasing or assistance over the phone.

Bid Activities

Date	Name	Description
2/6/2013 12:00:00 PM	General Contractor Listing	General Contractors - Call 402-441-7417 or e-mail purchasing@lincoln.ne.gov to be added to this list.
2/6/2013 12:00:00 PM	Sub-Contractor Listing	Sub-Contractors - Call 402-441-7417 or e-mail purchasing@lincoln.ne.gov to be added to this list.

Bid Messages

Bid Attachments

The following attachments are associated with this opportunity and will need to be retrieved separately

Line	Filename	Description
Header	13-040_adv.pdf	Notice to Bidders
Header	Instructions to Bidders City - B 04-05-12.pdf	Instructions to Bidders

Header	Insurance Clause City 2005 revised.pdf	Insurance Requirements
Header	Contract PW Eng Serv.pdf	Sample Contract & Bond
Header	Empl_Class_Act_EO.pdf	Employee Classification Act, Executive Order 83319
Header	Empl_Class_Act_Aff.pdf	Employee Classification Act Affidavit
Header	870951A Fiber Special Provisions.pdf	Special Provisions
Header	FTP site.pdf	Plans/Drawings
Header	ADDENDUM NO 1 Fiber disclaimer.pdf	Addendum No. 1
Header	ADDENDUM NO 2.pdf	Addendum No. 2
1	13-040 Bid Proposal.XLS	Itemized Pricing - Base Bid
2	13-0401 Bid Proposal.XLS	Itemized Pricing (Alt 1)
3	13-0402 Bid Proposal.XLS	Itemized Pricing (Alt 2)
4	13-0403 Bid Proposal.XLS	Itemized Pricing (Alt 3)

Bid Attributes

Please review the following and respond where necessary

#	Name	Note	Response
1	Standard Specifications for Municipal Construction	I acknowledge reading and understanding the current City of Lincoln Standard Specifications for Municipal Construction and Lincoln Standard Plans (including General Provisions and Requirements, and Material and Construction Specifications) View at: http://www.lincoln.ne.gov/city/pworks/engine/dconst/standard/stndspec/index.htm	_____ (Required)
2	NDOR Standard Specs for Hwy Construction	I acknowledge reading and understanding the current Nebraska Department of Road's Standard Specifications for Highway Construction Supplemental Specifications to the Standard Specifications for Highway Construction, view at: http://www.dor.state.ne.us/ref-man/	_____ (Required)
3	Form of Contract Agreement	I acknowledge reading and understanding the Contract Agreement Forms.	_____ (Required)
4	Form of Bonds	I acknowledge that a Performance Bond and a Payment Bond each in the amount of 100% of the Contract amount will be required with the signed contract upon award of this job.	_____ (Required)
5	Special Provisions/Traffic Control Provisions	I acknowledge reading and understanding the Special Provisions and/or Traffic Control Provisions.	_____ (Required)
6	Instructions to Bidders	I acknowledge reading and understanding the Instructions to Bidders.	_____ (Required)
7	Insurance Requirements	I acknowledge reading and understanding the Insurance Requirements.	_____ (Required)
8	Specifications	I acknowledge reading and understanding the Specifications.	_____ (Required)

- 9 Plan, Profile & Detail Sheets I acknowledge reading and understanding the Plan, Profile _____ (Required)
& Detail Sheets included with this bid.
- 10 Tax Exempt Certificate Forms Materials being purchased in this bid are tax exempt and _____ (Required)
unit prices are reflected as such. A Purchasing Agent
Appointment form and a Exempt Sales Certificate form
shall be issued with contract documents. (Note: State Tax
Law does not provide for sales tax exemption for
proprietary functions for government, thereby Water
projects are taxable.)
- 11 Bid Bond Submission - City I acknowledge and understand that my bid will not be _____ (Required)
considered unless a bid bond or certified check in the sum
of five percent (5%) of the total amount of the bid is made
payable to the order of the City Treasurer as a guarantee
of good faith prior to the bid opening. The bid security may
be scanned and attached to the 'Response Attachments'
section of your response or faxed to the Purchasing Office
(402)441-6513. The original bond/check must then be
received in the Purchasing Office, 440 S. 8th Street, Ste.
200, Lincoln, NE 68508 within three (3) days of bid
closing.

YOU MUST INDICATE YOUR METHOD OF BID BOND
SUBMISSION IN BOX TO RIGHT!
Valid Responses: Select from list below:, I have faxed my
bid bond., I have scanned and attached my bid bond., I
have mailed my bid bond., I have delivered my bid bond.
- 12 Unit Pricing Rules I acknowledge the Excel spreadsheet is attached to this _____ (Required)
bid in the Response Attachment Section. The unit price of
the Excel Spreadsheet takes precedence over the total
submitted in Line Items.
- 13 Project Dates The Contractor agrees that the Work in this Contract shall _____ (Required)
begin as soon after the Notice to Proceed as is necessary
for the Contractor to complete the Work within the number
of calendar days allowed and prior to the stated completion
date. The completion date shall be as listed in Special
Provisions - Final Completion section.
- 14 Employee Class Act EO I acknowledge reading and understanding the Employee _____ (Required)
Classification Act, Executive Order 83319.
- 15 Employee Class Act Affidavit I acknowledge if awarded the contract I will abide by the _____ (Required)
law, notarize and attach the Employee Classification Act
Affidavit to my contract.
- 16 Contact Name of person submitting this bid: _____ (Required)
- 17 Electronic Signature Please check here for your electronic signature. _____ (Required)
- 18 Agreement to Addendum No. 1 Respondent hereby certifies that the change set forth in _____ (Required)
this addendum has been incorporated in their proposal and
is part of their bid.
Reason: Attached Addendum No.
1
- 19 Agreement to Addendum No. 2 Respondent hereby certifies that the change set forth in _____ (Required)
this addendum has been incorporated in their proposal and
is part of their bid.
Reason: Attached Addendum No.
2.

Line Items

#	Qty	UOM	Description	Response
1	1	Lump Sum	Base Bid - Haymarket Infrastructure Improvement Arena & Core Area Fiber, Project 870951a - Total Lump Sum of Base Bid	\$ _____

Item Notes: Fill out the itemized Excel spreadsheet attached below. Attach completed spreadsheet on the 'Response Attachments' of your response.

Supplier Notes: _____

2	1	Lump Sum	Alternate Bid 1 - Terminating both ends of the 96 IO fiber placed as part of the Base Bid between HuskerVision in Memorial Stadium and HuskerVision in the Arena - Total Lump Sum of Alternate Bid 1	\$ _____
---	---	----------	--	----------

Item Notes: Fill out the itemized Excel spreadsheet attached below. Attach completed spreadsheet on the 'Response Attachments' of your response.

Supplier Notes: _____

3	1	Lump Sum	Alternate Bid 2 - Furnish and install the materials indicated on the plans from HuskerVision in Memorial Stadium to HuskerVision in Haymarket Park - Total Lump Sum of Alternate Bid 2	\$ _____
---	---	----------	--	----------

Item Notes: Fill out the itemized Excel spreadsheet attached below. Attach completed spreadsheet on the 'Response Attachments' of your response.

Supplier Notes: _____

4	1	Lump Sum	Alternate Bid 3 - Furnish and install the materials indicated on the plans from HuskerVision in Mmemorial Stadium to HuskerVision in the Arena via the "north redundant route" as indicated on the plans - Total Lump Sum of Alternate Bid 3	\$ _____
---	---	----------	--	----------

Item Notes: Fill out the itemized Excel spreadsheet attached below. Attach completed spreadsheet on the 'Response Attachments' of your response.

Supplier Notes: _____

ADDENDUM NO. 1

**WEST HAYMARKET JOINT PUBLIC AGENCY
HAYMARKET INFRASTRUCTURE IMPROVEMENT
ARENA & CORE AREA FIBER
PROJECT NO. 870951A
BID NO. 13-040**

Addenda are instruments issued by the Purchasing Office prior to the date or time for receipt of offers which will modify or interpret the specifications document by addition, deletion, clarification or correction.

Please acknowledge receipt of this addendum in the space provided in the Attribute Section.

Please be advised of the following changes and clarifications to the City's specification and bidding documents:

1. Refer to Plan Sheet No. 2 – General Project Notes

Delete Note 9 in its entirety and replace with the following Note 9:

“9. All fiber shown on these plans shall be placed in the 1” innerduct which may result in multiple fiber within the 1” innerduct. The Contractor shall not install any of the fiber shown on the plans in the 1.25” innerducts.”

2. Refer to the attached questions from prospective bidders and the associated responses.

Dated this 24th day of January 2013.

Questions from Prospective Bidders

1. It is stated the "All fiber in these plans shall be placed in the 1" innerduct", is this the same intention when there is more than one fiber in the IDG? (ex. one 96 SM and one 96 I/O)

Response: See Addendum No. 1, item no. 1

2. Is there a need for this contractor to supply any of the fiber enclosures to terminate the fibers in (LIU's), or are these going to be supplied by others?

Response: The Contractor does not need to supply splice enclosures.

ADDENDUM NO. 2

WEST HAYMARKET JOINT PUBLIC AGENCY
HAYMARKET INFRASTRUCTURE IMPROVEMENT
ARENA & CORE AREA FIBER
PROJECT NO. 870951A
BID NO. 13-040

Addenda are instruments issued by the Purchasing Office prior to the date or time for receipt of offers which will modify or interpret the specifications document by addition, deletion, clarification or correction.

Please acknowledge receipt of this addendum in the space provided in the Attribute Section.

Please be advised of the following changes and clarifications to the City's specification and bidding documents:

1. Refer to Plan Sheet No. 2 – General Project Notes

Add the following Note 10:

"10. All existing conduit in which the innerduct group shall be installed is either 4-inch diameter Schedule 40 PVC or 4-inch diameter Schedule 40 High Density Polyethylene (HDPE) that has been previously installed in accordance with the City of Lincoln Standard Specifications for Municipal Construction by others".

2. Refer to Plan Sheet No. 2 – General Project Notes

Add the following Note 11:

"11. The size of existing conduit paths inside buildings shown on the plans may vary."

Dated this 1st day of February 2013.

Questions from Prospective Bidders

1. I can't find in the bid specs the size of the existing conduit that we are pulling the innerduct group thru. Can you tell me what size the existing conduit is?

Response: See Addendum No. 2, item no. 1

This document was originally issued and sealed by Shane A. King, E-12448 on February 1, 2013. This media should not be considered a certified document.

City of Lincoln/Lancaster County (Lincoln Purchasing) Supplier Response

Bid Information		Contact Information		Ship to Information
Bid Creator	Deb Winkler Systems Administrator	Address	Purchasing\City & County 440 S. 8th St. Lincoln, NE 68508	Address
Email	dwinkler@lincoln.ne.gov	Contact	Vince M. Mejer	Contact
Phone	1 (402) 441-7410	Department		Department
Fax	1 (402) 441-6513	Building		Building
Bid Number	13-040 Addendum 2	Floor/Room		Floor/Room
Title	Haymarket Infrastructure Improvement Arena & Core Area Fiber, Project 870951a (PW/U - Eng. Services)	Telephone	(402) 441-8314	Telephone
Bid Type	Bid	Fax	(402) 441-6513	Fax
Issue Date	01/18/2013	Email	vmejer@lincoln.ne.gov	Email
Close Date	2/6/2013 12:00:00 PM CST			
Need by Date				

Supplier Information

Company	Commonwealth Electric Company of the Midwest
Address	1901 Y Street, Suite 100 PO Box 80638 Lincoln, NE 68503
Contact	
Department	
Building	
Floor/Room	
Telephone	1 (402) 474-1341
Fax	1 (402) 474-0114
Email	
Submitted	2/6/2013 8:38:51 AM CST
Total	\$168,381.74

Signature _____

Supplier Notes

Bid Notes

If you need assistance in preparing your bid, 1) Click the "Help" button in the upper right hand corner of any screen; 2) Contact our office at 402-441-7417 to set up a training session in Purchasing or assistance over the phone.

Bid Activities

Date	Name	Description
2/6/2013 12:00:00 PM	General Contractor Listing	General Contractors - Call 402-441-7417 or e-mail purchasing@lincoln.ne.gov to be added to this list.
2/6/2013 12:00:00 PM	Sub-Contractor Listing	Sub-Contractors - Call 402-441-7417 or e-mail purchasing@lincoln.ne.gov to be added to this list.

Bid Messages

Please review the following and respond where necessary

#	Name	Note	Response
1	Standard Specifications for Municipal Construction	I acknowledge reading and understanding the current City of Lincoln Standard Specifications for Municipal Construction and Lincoln Standard Plans (including General Provisions and Requirements, and Material and Construction Specifications) View at: http://www.lincoln.ne.gov/city/pworks/engine/dconst/standard/stndspec/index.htm	Yes
2	NDOR Standard Specs for Hwy Construction	I acknowledge reading and understanding the current Nebraska Department of Road's Standard Specifications for Highway Construction Supplemental Specifications to the Standard Specifications for Highway Construction, view at: http://www.dor.state.ne.us/ref-man/	Yes
3	Form of Contract Agreement	I acknowledge reading and understanding the Contract Agreement Forms.	Yes
4	Form of Bonds	I acknowledge that a Performance Bond and a Payment Bond each in the amount of 100% of the Contract amount will be required with the signed contract upon award of this job.	Yes
5	Special Provisions/Traffic Control Provisions	I acknowledge reading and understanding the Special Provisions and/or Traffic Control Provisions.	Yes
6	Instructions to Bidders	I acknowledge reading and understanding the Instructions to Bidders.	Yes
7	Insurance Requirements	I acknowledge reading and understanding the Insurance Requirements.	Yes
8	Specifications	I acknowledge reading and understanding the Specifications.	Yes
9	Plan, Profile & Detail Sheets	I acknowledge reading and understanding the Plan, Profile & Detail Sheets included with this bid.	Yes
10	Tax Exempt Certificate Forms	Materials being purchased in this bid are tax exempt and unit prices are reflected as such. A Purchasing Agent Appointment form and a Exempt Sales Certificate form shall be issued with contract documents. (Note: State Tax Law does not provide for sales tax exemption for proprietary functions for government, thereby Water projects are taxable.)	Yes
11	Bid Bond Submission - City	I acknowledge and understand that my bid will not be considered unless a bid bond or certified check in the sum of five percent (5%) of the total amount of the bid is made payable to the order of the City Treasurer as a guarantee of good faith prior to the bid opening. The bid security may be scanned and attached to the 'Response Attachments' section of your response or faxed to the Purchasing Office (402)441-6513. The original bond/check must then be received in the Purchasing Office, 440 S. 8th Street, Ste. 200, Lincoln, NE 68508 within three (3) days of bid closing. YOU MUST INDICATE YOUR METHOD OF BID BOND	I have delivered my bid bond.

SUBMISSION IN BOX TO RIGHT!

- | | | | |
|----|------------------------------|---|---------------------|
| 12 | Unit Pricing Rules | I acknowledge the Excel spreadsheet is attached to this bid in the Response Attachment Section. The unit price of the Excel Spreadsheet takes precedence over the total submitted in Line Items. | Yes |
| 13 | Project Dates | The Contractor agrees that the Work in this Contract shall begin as soon after the Notice to Proceed as is necessary for the Contractor to complete the Work within the number of calendar days allowed and prior to the stated completion date. The completion date shall be as listed in Special Provisions - Final Completion section. | Yes |
| 14 | Employee Class Act EO | I acknowledge reading and understanding the Employee Classification Act, Executive Order 83319. | Yes |
| 15 | Employee Class Act Affidavit | I acknowledge if awarded the contract I will abide by the law, notarize and attach the Employee Classification Act Affidavit to my contract. | Yes |
| 16 | Contact | Name of person submitting this bid: | Jerry Van Amerongen |
| 17 | Electronic Signature | Please check here for your electronic signature. | Yes |
| 18 | Agreement to Addendum No. 1 | Respondent hereby certifies that the change set forth in this addendum has been incorporated in their proposal and is part of their bid.
Reason: Attached Addendum No. 1 | Yes |
| 19 | Agreement to Addendum No. 2 | Respondent hereby certifies that the change set forth in this addendum has been incorporated in their proposal and is part of their bid.
Reason: Attached Addendum No. 2. | Yes |

Line Items

#	Qty	UOM	Description	Response
1	1	Lump Sum	Base Bid - Haymarket Infrastructure Improvement Arena & Core Area Fiber, Project 870951a - Total Lump Sum of Base Bid	\$87,186.95
Item Notes: Fill out the itemized Excel spreadsheet attached below. Attach completed spreadsheet on the 'Response Attachments' of your response.				
Supplier Notes:				
2	1	Lump Sum	Alternate Bid 1 - Terminating both ends of the 96 IO fiber placed as part of the Base Bid between HuskerVision in Memorial Stadium and HuskerVision in the Arena - Total Lump Sum of Alternate Bid 1	\$6,976.00
Item Notes: Fill out the itemized Excel spreadsheet attached below. Attach completed spreadsheet on the 'Response Attachments' of your response.				
Supplier Notes:				
3	1	Lump Sum	Alternate Bid 2 - Furnish and install the materials indicated on the plans from HuskerVision in Memorial Stadium to HuskerVision in Haymarket Park - Total Lump Sum of Alternate Bid 2	\$44,628.89
Item Notes: Fill out the itemized Excel spreadsheet attached below. Attach completed spreadsheet on the 'Response Attachments' of your response.				
Supplier Notes:				
4	1	Lump Sum	Alternate Bid 3 - Furnish and install the materials indicated on the plans from HuskerVision in Mmeorial Stadium to HuskerVision in the Arena via the "north redundant route" as indicated on the plans - Total Lump Sum of Alternate Bid 3	\$29,589.90
Item Notes: Fill out the itemized Excel spreadsheet attached below. Attach completed spreadsheet on the 'Response Attachments' of your response.				
Supplier Notes:				
Response Total:				\$168,381.74

COMMONWEALTH ELECTRIC

Line No.	Pay Item No.	Description	Quantity	Unit	Unit Price	Amount	Section	AlternateCode
01	01.00001	Mobilization	1.0000	LS	\$1,000.00	\$1,000.00	GENERAL	Base Bid
02	15.09001	Traffic Control for Const	1.0000	LS	\$250.00	\$250.00	TRAFFIC CONTROL	Base Bid
03	24.01022	Rem Pull Box	1.0000	EA	\$200.00	\$200.00	TRAFFIC SIGNAL & LIGHTING	Base Bid
04	24.03333	Conduit Sock, 3" 3 Cell	1,208.0000	LF	\$3.68	\$4,445.44	TRAFFIC SIGNAL & LIGHTING	Base Bid
05	24.12100	Cable, Tracer Wire	884.0000	LF	\$0.45	\$397.80	TRAFFIC SIGNAL & LIGHTING	Base Bid
06	50.00001	Fiber Vault (30" x 48" x 36")	1.0000	EA	\$1,500.00	\$1,500.00	MISC	Base Bid
07	50.00005	Innerduct Group	7,305.0000	LF	\$6.00	\$43,830.00	MISC	Base Bid
08	50.00005	Cable, 24 Single Mode Fiber	2,671.0000	LF	\$1.00	\$2,671.00	MISC	Base Bid
09	50.00005	Cable, 96 Single Mode Fiber	6,199.0000	LF	\$1.89	\$11,716.11	MISC	Base Bid
10	50.00005	Cable, 24 Single Mode Plenum Fiber	844.0000	LF	\$2.48	\$2,093.12	MISC	Base Bid
11	50.00005	Cable, 96 Single Mode Indoor/Outdoor Fiber	5,646.0000	LF	\$3.38	\$19,083.48	MISC	Base Bid
						\$87,186.95 Total Amount		

13-0401

COMMONWEALTH ELECTRIC

Line No.	Pay Item No.	Description	Quantity	Unit	Unit Price	Amount	Section	AlternateCode
1	24.12852	Fan Out Kit, 12 Fiber Cable	16.0000	EA	\$100.00	\$1,600.00	TRAFFIC SIGNAL & LIGHTING	Base Bid
2	24.12861	Connector, SC Fiber Cable	192.0000	EA	\$28.00	\$5,376.00	TRAFFIC SIGNAL & LIGHTING	Base Bid
						\$6,976.00 Total Amount		

13-0402

COMMONWEALTH ELECTRIC

Line No.	Pay Item No.	Description	Quantity	Unit	Unit Price	Amount	Section	AlternateCode
1	15.09001	Traffic Control for Const	1.0000	LS	\$500.00	\$500.00	TRAFFIC CONTROL	Base Bid
2	24.03333	Conduit Sock, 3" 3 Cell	706.0000	LF	\$3.68	\$2,598.08	TRAFFIC SIGNAL & LIGHTING	Base Bid
3	24.12100	Cable, Tracer Wire	65.0000	LF	\$0.45	\$29.25	TRAFFIC SIGNAL & LIGHTING	Base Bid
4	24.12852	Fan Out Kit, 12 Fiber Cable	16.0000	EA	\$100.00	\$1,600.00	TRAFFIC SIGNAL & LIGHTING	Base Bid
5	24.12861	Connector, SC Fiber Cable	192.0000	EA	\$28.00	\$5,376.00	TRAFFIC SIGNAL & LIGHTING	Base Bid
6	50.00005	Innerduct Group	2,283.0000	LF	\$6.00	\$13,698.00	MISC	Base Bid
7	50.00005	Cable, 96 Single Mode Indoor/Outdoor Fiber	6,162.0000	LF	\$3.38	\$20,827.56	MISC	Base Bid
						\$44,628.89	Total Amount	

EXHIBIT A TO CONTRACT AGREEMENT

13-0403

COMMONWEALTH ELECTRIC

Line No.	Pay Item No.	Description	Quantity	Unit	Unit Price	Amount	Section	AlternateCode
1	15.09001	Traffic Control for Const	1.0000	LS	\$500.00	\$500.00	TRAFFIC CONTROL	Base Bid
2	24.12100	Cable, Tracer Wire	866.0000	LF	\$0.45	\$389.70	TRAFFIC SIGNAL & LIGHTING	Base Bid
3	24.12852	Fan Out Kit, 12 Fiber Cable	16.0000	EA	\$100.00	\$1,600.00	TRAFFIC SIGNAL & LIGHTING	Base Bid
4	24.12861	Connector, SC Fiber Cable	192.0000	EA	\$28.00	\$5,376.00	TRAFFIC SIGNAL & LIGHTING	Base Bid
5	50.00005	Innerduct Group	866.0000	LF	\$6.00	\$5,196.00	MISC	Base Bid
6	50.00005	Cable, 96 Single Mode Inddor/Outdoor Fiber	4,890.0000	LF	\$3.38	\$16,528.20	MISC	Base Bid
						\$29,589.90	Total Amount	

EXHIBIT A TO CONTRACT AGREEMENT

EXHIBIT B

Intentionally Omitted

EXHIBIT C

Intentionally Omitted

EXHIBIT D

Other Contract Documents

COMMENTARY TO ACCOMPANY CONSTRUCTION BONDS

A. GENERAL INFORMATION

There are two types of construction bonds that are required by statutes for public work in many jurisdictions and are widely used for other projects as well.

Construction Performance Bond
Construction Payment Bond

The Construction Performance Bond is an instrument that is used to assure the availability of funds to complete the construction.

The Construction Payment Bond is an instrument that is used to assure the availability of sufficient funds to pay for labor, materials and equipment used in the construction. For public work the Construction Payment Bond provides rights of recovery for workers and suppliers similar to their rights under the mechanics lien laws applying to private work.

The objective underlying the re-writing of construction bond forms was to make them more understandable to provide guidance to users. The intention was to define the rights and responsibilities of the parties, without changing the traditional rights and responsibilities that have been decided by the courts. The new bond forms provide helpful guidance regarding time periods for various notices and actions and clarify the extent of available remedies.

The concept of pre-default meeting has been incorporated into the Construction Performance Bond. All of the participants favored early and informal resolution of the problems that may precipitate a default, but some Surety companies were reluctant to participate in pre-default settings absent specific authorization in the bond form.

The responsibilities of the Owner and the options available to the Surety when a default occurs are set forth in the Construction Performance Bond. Procedures for making a claim under the Construction Payment Bond are set forth in the form.

EJCDC recommends the use of two separate bonds rather than a combined form. Normally the amount of each bond is 100 percent of the contract amount. The bonds have different purposes and are separate and distinct obligations of the Surety. The Surety Association reports that the usual practice is to charge a single premium for both bonds and there is no reduction in premium for using a combined form or for issuing one bond without the other.

B. COMPLETING THE FORMS

Bonds have important legal consequences; consultation with an attorney and a bond specialist is encouraged with respect to federal, state and local laws applicable to bonds and with respect to completing or modifying the bond forms.

Both bond forms have a similar format and the information to be filled in is ordinarily the same on both bonds. If modification is necessary, the modifications may be different.

The bond forms are prepared for execution by the Contractor and the Surety. Evidence of authority to bind the Surety is usually provided in the form of a power of attorney designating the agent who is authorized to sign on behalf of the Surety. The power of attorney should be filed with the signed bonds.

Each bond must be executed separately since they cover separate and distinct obligations.

Preferably the bond date should be the same date as the contract, but in no case should the bond date precede the date of the contract.

CONSTRUCTION PERFORMANCE BOND

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):

SURETY (Name and Principal
Place of Business):

Owner (Name and Address):
West Haymarket Joint Public Agency
555 South 10th St.
Lincoln, NE 68508

CONSTRUCTION CONTRACT

Date:
Amount:

Description (Name and Location):
For all labor, material and equipment necessary for (Bid Name and Number)

BOND
Date:
Amount:
Modifications to this Bond Form:

CONTRACTOR AS PRINCIPAL
Company:

(Corp. Seal) SURETY
Company:

(Corp. Seal)

Signature: _____
Name and Title: Name and Title:

Signature: _____

EJCDC NO. 1910-28a (1984 Edition)
Prepared through the joint efforts of The Surety Assoc. of America, Engineers' Joint Contract Documents Committee, The
Associated General Contractors of America, and the American Institute of Architects.

1. The Contractor and the Surety, jointly and severally, bind themselves their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.
2. If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except to participate in conferences as provided in Subparagraph 3.1.
3. If there is no Owner Default, the Surety's obligation under this Bond shall arise after:
 - 3.1 The Owner has notified the Contractor and the Surety at its address described in Paragraph 10 below, that the Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than fifteen days after receipt of such notice to discuss methods of performing the Construction Contract. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default and
 - 3.2 The Owner has declared a Contractor Default and formally terminated the Contractor's right to complete the contract. Such Contractor Default shall not be declared earlier than twenty days after the Contractor and the Surety have received notice as provided in Sub-paragraph 3.1; and
 - 3.3 The Owner has agreed to pay the Balance of the Contract Price to the Surety in accordance with the terms of the Construction Contract or to a contractor selected to perform the Construction Contract in accordance with the terms of the contract with the Owner.
4. When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:
 - 4.1 Arrange for the Contractor, with consent of the Owner, to perform and complete the Construction Contract, or
 - 4.2 Undertake to perform and complete the Construction Contract itself, through its agents or through independent contractors; or
 - 4.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and the contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 6 in excess of the Balance of the Contract Price incurred by the Owner resulting from the Contractor's default, or
 - 4.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:
 1. After investigation, determine the amount for which it may be liable to the Owner and as soon as practicable after the amount is determined tender payment therefore to the Owner; or
 2. Deny liability in whole or in part and notify the Owner citing reasons therefore.
5. If the Surety does not proceed as provided in Paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond fifteen days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Subparagraph 4.4 and the Owner refuses payment tendered or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.
6. After the Owner has terminated the Contractor's right to complete the Construction Contract, and if the Surety elects to act under Subparagraph 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. To the limit of the amount of this Bond, but subject to commitment by the Owner of the Balance of the Contract Price to mitigation of costs and damages on the Construction Contract, the Surety is obligated without duplication for:
 - 6.1 The responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
 - 6.2 Additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 4; and
 - 6.3 Liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.
7. The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, or successors.
8. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related sub-contracts, purchase orders and other obligations.
9. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
10. Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page.
11. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.
12. Definitions.
 - 12.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.
 - 12.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.
 - 12.3 Contractor Default: Failure of the Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Construction Contract.
 - 12.4 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

CONSTRUCTION PAYMENT BOND

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):

SURETY (Name and Principal Place
Of Business):

Owner (Name and Address):
West Haymarket Joint Public Agency
555 South 10th St.
Lincoln, NE 68508

CONSTRUCTION CONTRACT

Date:
Amount:

Description (Name and Location):
For all labor, material and equipment necessary for (Bid Name and Number)

BOND
Date:
Amount:

Modifications to this Bond Form:

CONTRACTOR AS PRINCIPAL
Company: (Corp. Seal)

SURETY
Company: (Corp. Seal)

Signature: _____

Signature: _____

Name and Title:

Name and Title:

EJCDC NO. 1910-28B (1984 Edition)
Prepared through the joint efforts of The Surety Assoc. of America, Engineers' Joint Contract Documents Committee, The
Associated General Contractors of America, and the American Institute of Architects.

1. The Contractor and the Surety, jointly and severally, bind themselves their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference.
2. With respect to the Owner, this obligation shall be null and void if the Contractor:
 - 2.1 Promptly makes payment, directly or indirectly, for all sums due Claimants, and
 - 2.2 Defends, indemnifies and holds harmless the Owner from all claims, demands, liens or suits by any person or entity who furnished labor, materials or equipment for use in the performance of the Construction Contract, provided the Owner has promptly notified the Contractor and the Surety (at the address described in Paragraph 12) of any claims, demands, liens or suits and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety, and provided there is no Owner Default.
3. With respect to Claimants, this obligation shall be null and void if the Contractor promptly makes payment, directly or indirectly, for all sums due.
4. The Surety shall have no obligation to Claimants under this Bond until:
 - 4.1 Claimants who do not have a direct contract with the Contractor have given notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof to the Owner, stating that a claim is being made under this Bond and with substantial accuracy the amount of the claim.
 - 4.2 Claimants who do not have a direct contract with the Contractor:
 1. Have furnished written notice to the Contractor and sent a copy, or notice thereof, to the Owner, within 90 days after having last performed labor or last furnished materials or equipment included in the claim stating, with substantial accuracy, the amount of the claim and the name of the party to whom the materials were furnished or supplied or for whom the labor was done or performed, and
 2. Have either received a rejection in whole or in part from the Contractor, or not received within 30 days of furnishing the above notice any communication from the Contractor by which the Contractor has indicated the claim will be paid directly or indirectly, and
 3. Not having been paid within the above 30 days, have sent a written notice to the Surety (at the address described in Paragraph 12) and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to the Contractor.
5. If a notice required by Paragraph 4 is given by the Owner to the Contractor or to the Surety, that is sufficient compliance.
6. When the Claimant has satisfied the conditions of Paragraph 4, the Surety shall promptly and at the Surety's expense take the following actions:
 - 6.1 Send an answer to the Claimant, with a copy to the Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed.
 - 6.2 Pay or arrange for payment of any undisputed amounts.
7. The Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.
8. Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any Construction Performance Bond.

- By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and the Surety under this Bond, subject to the Owner's priority to the funds for the completion of the work.
9. The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligations to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.
 10. The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.
 11. No suite or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the location in which the work or part of the work is located or after the expiration of one year from the date (1) on which the Claimant gave the notice required by Subparagraph 4.1 or Clause 4.1 (iii), or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.
 12. Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page. Actual receipt of notice by Surety, the Owner or the Contractor, however accomplished, shall be sufficient compliance as of the date received at the address shown on the signature page.
 13. When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted here from and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is, that this Bond shall be construed as a statutory bond and not as a common law bond.
 14. Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor shall promptly furnish a copy of this Bond or shall permit a copy to be made.
 15. DEFINITIONS
 - 15.1 Claimant: An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Contract. The intent of this Bond shall be to include without limitation in the terms "labor, materials, or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.
 - 15.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and charges thereto.
 - 15.3 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

(FOR INFORMATION ONLY - NAME, ADDRESS AND TELEPHONE)
AGENT OR BROKER: OWNER'S REPRESENTATIVE (ARCHITECT, ENGINEER OR OTHER PARTY)

**INDEMNIFICATION AND INSURANCE REQUIREMENTS
FOR ALL WEST HAYMARKET JOINT
PUBLIC AGENCY CONTRACTS**

1. INDEMNIFICATION

A. Indemnification of JPA

TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR SHALL RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS JPA AND JPA'S MEMBERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, EMPLOYEES AND AGENTS FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS AND ATTORNEYS' FEES) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON (INCLUDING, WITHOUT LIMITATION, THE EMPLOYEES OF THE PARTIES HERETO) (COLLECTIVELY, "LIABILITIES") ARISING OUT OF, RESULTING FROM OR CAUSALLY RELATED TO (IN WHOLE OR IN PART), PERFORMANCE OF THE CONTRACT THAT RESULTS IN BODILY INJURY, SICKNESS, DISEASE, OR DEATH CAUSED IN WHOLE OR IN PART BY ANY ACT OR OMISSION OF THE CONTRACTOR, ANY SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE WHETHER OR NOT IT IS CAUSED IN WHOLE OR PART BY A PARTY INDEMNIFIED HEREUNDER.

Such indemnification shall not be construed to negate, abridge, limit or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this section.

- B. In any and all claims by any employee (whether an employee of the Contractor or subcontractor, or their respective agents or assigns or by anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable as an employer) in whole or in part against JPA, its officers, agents, employees, volunteers or consultants, the above indemnification shall not be limited in any way by the amount of damages, compensation, benefits or other contributions payable by or on behalf of a the employer under Worker's Compensation statutes, disability benefit acts, or any other employee benefit or payment acts as the case may be.
- C. The obligations of indemnification herein shall not include or extend to:
- (1) Any outside engineer's or architect's professional errors and omissions involving the approval or furnishing of maps, drawings, opinions, reports, surveys, change orders, designs or specifications within the scope of professional services provided to JPA and related to the Contract; and
 - (2) Any claims wholly caused by the JPA's sole negligence and excluding claims to the extent such claims are caused by the willful misconduct or gross negligence of the JPA.
- D. In the event of any litigation of any such claims shall be commenced against JPA, Contractor shall defend the same at Contractor's sole expense upon notice thereof from JPA. Contractor shall notify the insuring company that JPA reserves and does not waive any statutory or governmental immunity and neither Contractor, nor Contractor's counsel whether employed by Contractor or by an insurer on behalf of the Contractor shall waive such defenses or enter into any settlement or other disposition requiring waiver of any defenses or immunity of JPA without the express written consent of the JPA.

2. INSURANCE GENERAL PROVISIONS

- A. **Approved Coverage Prior to Commencing Work/Subcontractors Included.** Contractor shall purchase and maintain in place insurance to protect Contractor and JPA, its officers, agents, employees, volunteers and consultants from and against all liabilities and hazards as provided in these insurance requirements throughout the duration of the Contract. Contractor shall not commence work under this contract until the Contractor has obtained all insurance required under Section 2. below and such insurance has been approved by the City Attorney for JPA, nor shall the Contractor allow any subcontractor to commence work on any subcontract until all similar insurance required of the subcontractor has been so obtained and approved.
- B. **Occurrence Basis Coverage.** All insurance shall be provided on an occurrence basis and not on a claims made basis, except for hazardous materials, errors and omissions, or other coverage not reasonably available on an occurrence basis; provided that all such claims made coverage is subject to the prior written approval of the City Attorney and must be clearly indicated as such in any certificate showing coverage.
- C. **Authorized and Rated Insurers Required.** All insurance coverage are to be placed with insurers 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 Attorney.
- D. **Certificates Showing Coverage.** Prior to commencing the Work, Contractor must furnish to JPA adequate written documentation including certificate(s) of insurance, which have the original signature of the authorized representative, declaration pages or other acceptable policy information evidencing the required coverage, endorsements, and amendments. The policy(ies) must contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify JPA in writing at least 30 days prior to any cancellation, except that only ten (10) days prior notice is required for cancellation due to nonpayment of premium. Upon request from JPA, a certified duplicate original of any required policy must be furnished. Certificate(s) should be sent to the following address:

West Haymarket Joint Public Agency
c/o City Attorney
City of Lincoln, Nebraska
555 South 10th Street
Lincoln, NE 68508

Certificates of insurance may utilize an appropriate standard ACORD Certificate of Insurance form showing the specific limits of insurance coverage required by this Article; provided that restrictions, qualifications or declarations inconsistent with the requirements of this Article shall not relieve the Contractor from providing insurance as required herein. Such certificates shall show JPA as additional insured except for applicable Worker's Compensation coverage, to include all work performed for JPA and specifically including, but not limited to, any liability caused or contributed to by the act, error, or omission of the Contractor, including any related subcontractors, third parties, agents, employees, officers or assigns of any of them. The inclusion of JPA as additional insured shall be for coverage only on a primary basis for liability coverage, and no coverage shall contain a policy or other restriction or attempt to provide restricted coverage for JPA, whether on an excess, contributory or other basis regardless of any other insurance coverage available to JPA, including by specific endorsement where necessary, as indicated in the following requirements.

- E. **Terminology.** The terms "insurance," "insurance policy," or "coverage" as used in this article are used interchangeably and shall have the same meaning as "insurance" unless the context clearly requires otherwise. References to "ISO®" forms are merely for convenience and ease of reference, and an equivalent or better form as determined acceptable by the City Attorney may be used. (Note: ISO® is a registered trademark of ISO Properties, Inc.)

F. **Other Requirements.** Contractor agrees to waive its right of recovery against JPA for all claims and suits against JPA, except for claims and suits arising wholly out of the sole negligence, or to the extent caused by the gross negligence or willful misconduct, of JPA. In addition, its insurers, through the terms of the policy or policy endorsement, waive their right of subrogation against JPA for all claims and suits, except for claims and suits arising wholly out of the sole negligence, or to the extent caused by the gross negligence or willful misconduct, of JPA. The certificate of insurance must reflect the waiver of subrogation endorsement. Contractor further waives its right of recovery, and its insurers also waive their right of subrogation against JPA for loss of its owned or leased property or property under Contractor's care, custody or control, except for the right of recovery or right of subrogation arising wholly out of the sole negligence, or to the extent caused by the gross negligence or willful misconduct, of JPA.

Contractor is not allowed to self-insure without the prior written consent of JPA. If granted by JPA, any deductible, self-insured retention or other financial responsibility for claims must be covered directly by Contractor in lieu of insurance. Any and all JPA liabilities that would otherwise, in accordance with the provisions of this Agreement, be covered by Contractor's insurance will be covered as if Contractor elected not to include a deductible, self-insured retention or other financial responsibility for claims.

Upon notification to JPA of cancellation, non-removal, substitution or material alteration of any such policy(ies), JPA shall have the option to (i) if feasible, pay, on behalf of the Contractor, any and all such premiums, penalties, fees for expenses necessary to keep such policy(ies) in full force and effect; or (ii) in the event that such policy(ies) cannot be kept in full force and effect, enter into the open market to procure such policy(ies) of insurance on behalf of Contractor as required by this Agreement at the then current market rate. Upon any of the above occurrences, JPA shall invoice the Contractor for reimbursement of such premiums, penalties, fees, or expenses advanced on the JPA's behalf plus an additional fifteen percent (15%) of such advanced amounts as remuneration for JPA's overhead. Such amounts advanced by JPA shall be paid by the Contractor within thirty (30) days after delivery of a statement for such expense.

Contractor represents that this Agreement has been thoroughly reviewed by Contractor's insurance agent(s)/broker(s), who have been instructed by Contractor to procure the insurance coverage required by this Agreement. Allocated Loss Expense must be in addition to all policy limits for coverages referenced above.

If any portion of the operation is to be subcontracted by Contractor, Contractor must require that its subcontractors provide and maintain the insurance coverages set forth herein, naming JPA as an additional insured, and requiring that the subcontractors release, defend and indemnify JPA to the same extent and under the same terms and conditions as Contractor is required to release, defend and indemnify JPA herein.

Failure to provide evidence as required by Section 2. will entitle, but not require, JPA to immediately suspend work under this Agreement until such evidence is provided. Acceptance of a certificate that does not comply with this section will not operate as a waiver of Contractor's obligations hereunder. The fact that insurance (including, without limitation, self-insurance) is obtained by Contractor will not be deemed to release or diminish the liability of Contractor including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by JPA will not be limited by the amount of the required insurance coverage.

3. INSURANCE REQUIREMENTS

A. **Scope of Required Coverage.** The Contractor shall take out and maintain during the life of the Contract such insurance in the forms and minimum amounts as specified in this Section and as will protect Contractor and JPA from the following claims arising out of or resulting from or in connection with the Contractor's operations, undertakings or omissions directly or indirectly related to the Contract, whether by the Contractor or any Subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- (1) Claims under workers' compensation, disability benefit, or other employee benefit acts;
- (2) Claims arising out of bodily injury, occupational sickness or disease, or death of an employee or any other person;
- (3) Claims customarily covered under personal injury liability coverage;
- (4) Claims other than to the work itself arising out of an injury to or destruction of tangible property, including the loss of use resulting therefrom;
- (5) Claims arising out of ownership, maintenance or use of any motor vehicle;
- (6) Railroad protective liability coverage in the event the contract involves work to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing.

B. Worker's Compensation Insurance and Employer's Liability Insurance. The Contractor shall provide applicable statutory Worker's Compensation Insurance with minimum limits as provided below covering all Contractor's employees, and in the case of any subcontracted work, the Contractor shall require the subcontractor similarly to provide Worker's Compensation Insurance for Subcontractor's employees. This policy shall contain the following endorsement or language: "Waiver of subrogation in favor of JPA."

The Contractor shall provide Employer's Liability Insurance with minimum limits as provided below placed with an insurance company authorized to write such insurance in all states where the Contractor will have employees located in the performance of this contract, and the Contractor shall require each Subcontractor similarly to maintain Employer's Liability Insurance on the Subcontractor's employees.

Coverage	Listing	Min Amt	Notes
Worker's Comp.			
	State	Statutory	
	Applicable Federal	Statutory	
Employer's Liability			
	Bodily Injury by accident	\$500,000	each accident
	Bodily Injury by disease	\$500,000	each employee
	Bodily Injury	\$500,000	policy limit

C. Commercial General Liability Insurance.

- (1) The Contractor shall provide Commercial General Liability Insurance in a policy form providing broad form contractual liability no less comprehensive and no more restrictive coverage than provided under the ISO® form CG00010798 or newer with standard exclusions "a" through "o" and with minimum limits as provided below.

Coverage	Min Amt	Notes
General	\$5,000,000/\$10,000,000	Each Occurrence/Aggregate
Products and Completed Operations	\$5,000,000/\$10,000,000	Each Occurrence/Aggregate
Personal and Advertising Injury	\$5,000,000/\$10,000,000	Each Occurrence/Aggregate
Fire Damage Limit	\$ 100,000	any one fire
Medical Damage Limit	\$ 10,000	any one person

- (2) The required Commercial General Liability Insurance shall also include coverage for the following:
- Bodily injury and property damage.
 - Fire legal liability
 - Coverage for all premises and operations.
 - Personal and advertising injury.
 - Operations by independent contractors.
 - X.C.U. Coverage including coverage for demolition of any building or structure, collapse, explosion, blasting, excavation and damage to property below the surface of ground.
 - Any fellow employee exclusions shall be deleted.
 - Coverage shall not contain an absolute pollution exclusion, and applicable remaining coverage shall apply for pollution exposures arising from products and completed operations.
 - Coverage for products and completed operations maintained for duration of work and shall be maintained for a minimum of three years after final acceptance under the Contract or the warranty period for the same whichever is longer, unless modified in any Special Provisions.
 - Liability coverage which shall include contractually assumed defense costs in addition to any policy limits.
 - Contractual liability coverage.
- (3) This policy shall also include the following endorsements which shall be indicated on the Certificate of Insurance.
- The definition of insured contract shall be amended to remove any exclusion or other limitation for work being done within 50 feet of railroad property.
 - Endorsement to provide the general aggregate per project endorsement.
 - Endorsement to provide waiver of subrogation in favor of and acceptable to JPA.
 - Endorsement to provide that the policy shall be primary and non-contributory with respect to any insurance carried by the JPA.
 - Separation of insureds.
 - Additional insured endorsement in favor of and acceptable to the JPA.
- (4) If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing, Railroad Contractual Liability Endorsement (ISO® form CG24170196 or newer). The definition of insured contract shall be amended to remove any exclusion or other limitation for any work done within fifty (50) feet of railroad property.

D. Vehicle liability insurance coverage.

The Contractor shall provide reasonable insurance coverage for all owned, non-owned, hired and leased vehicles. This insurance shall contain a combined single limit of at least \$1,000,000 per occurrence, and include coverage for, but not limited to the following:

- Bodily injury and property damage
- Any and all vehicles owned, used or hired

This policy shall also contain the following endorsements or language, which shall be indicated on the certificate of insurance:

- Waiver of subrogation in favor of and acceptable to JPA.
- Additional insured endorsement in favor of and acceptable to JPA.
- Separation of insureds.
- The policy shall be primary and non-contributing with respect to any insurance carried by JPA.
- Endorsements to include contractual liability coverage and delete any fellow employee exclusion.
- If specifically required in the Special Provisions, the required coverage shall also include an endorsement for auto cargo pollution (ISO® form CA 99 48).

E. Umbrella/Excess Insurance. At the Contractor's option, the Commercial General Liability Insurance coverage limits specified in Section 3.C. above may be satisfied with a combination of primary and Umbrella/Excess Insurance.

F. Railroad Protective Liability. If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing or otherwise required by the Special Provisions or applicable requirements of an affected railroad, the Contractor shall provide Railroad Protective Liability Insurance naming the affected railroad/s as insured with minimum limits for bodily injury and property damage of \$5,000,000 per occurrence, \$10,000,000 aggregate, or such other limits as required in the Special Provisions or by the affected railroad. The original of the policy shall be furnished to the railroad and a certified copy of the same furnished to the City Attorney's office prior to any related construction or entry upon railroad premises by the Contractor or for work related to the Contract.

The policy shall be issued on a standard ISO form CG 00 35 10 93 and include the following endorsements:

- Endorsed to include the Pollution Exclusion Amendment (ISO form CG 28 31 10 93)
- Endorsed to include the Limited Seepage and Pollution Endorsement.

No other endorsements restricting coverage may be added. The original policy must be provided to Railroad prior to performing any work or services under this C&M Agreement.

In lieu of providing a Railroad Protective Liability Policy, Contractor may participate in ANY RAILROAD'S Blanket Railroad Protective Liability Insurance Policy available to JPA and JPA Contractors.

G. Special Provision. At the JPA's option, the minimum insurance requirements specified above may be increased or decreased by special provision in a JPA contract.

4. CONTRACTOR'S INSURANCE FOR OTHER LOSSES.

- A. Contractor shall assume full responsibility for all loss or damage from any cause whatsoever to any tools owned, rented or used in connection with the Contract including any tools, machinery, equipment, storage devices, containers, sheds, temporary structures, staging structures, scaffolding, fences, forms, braces, jigs, screens, brackets, vehicles and the like owned or rented by Contractor, or Contractor's agents, subcontractors, suppliers, or employees.
- B. In connection with the above, Contractor shall cause or require any applicable insurance related to physical damage of the same to provide a waiver of a right of subrogation against JPA.

5. NOTIFICATION IN EVENT OF LIABILITY OR DAMAGE.

- A. The Contractor shall promptly notify JPA in writing and provide a copy of all claims and information presented to any of Contractor's insurance carrier/s upon any loss or claim or upon any occurrence giving rise to any liability or potential liability related to the Contract or related work. The notice to JPA shall include pertinent details of the claim or liability and an estimate of damages, names of witnesses, and other pertinent information including the amount of the claim, if any.
- B. In the event JPA receives a claim or otherwise has actual knowledge of any loss or claim arising out of the Contract or related work and not otherwise known to or made against the Contractor, JPA shall promptly notify the Contractor of the same in writing, including pertinent details of the claim or liability; Provided, however JPA shall have no duty to inspect the project to obtain such knowledge, and provided further that JPA's obligations, if any, shall not relieve the Contractor of any liability or obligation hereunder.

6. PROPERTY INSURANCE/ BUILDER'S RISK.

- A. The Contractor shall provide property insurance (a/k/a Builder's Risk or installation Floater) on all Projects involving construction or installation of buildings or structures and other projects where provided in the Special Provisions. Such insurance shall be provided in the minimum amount of the total contract sum and in addition applicable modifications thereto for the entire work on a replacement cost basis. Such insurance shall be maintained until JPA completes final acceptance of the work as provided in the Contract. Such insurance shall be written and endorsed, where applicable, to include the interests of JPA, Contractor, Subcontractors, Sub-subcontractors in the related work. The maximum deductible for such insurance shall be \$5,000 for each occurrence, which deductible shall be the responsibility of the Contractor. Such insurance shall contain a "permission to occupy" endorsement.
- B. All related Property Insurance shall be provided on a "Special Perils" or similar policy form and shall at a minimum insure against perils of fire including extended coverage and physical loss or damage including without limitation or duplication of coverage: flood, earthquake, theft, vandalism, malicious mischief, collapse, and debris removal, including demolition whether occasioned by the loss or by enforcement of applicable legal or safety requirements including compensation or costs for JPA's related costs and expenses (as owner) including labor required as a result of such loss.
- C. All related Property Insurance shall include coverage for falsework, temporary buildings, work stored off-site or in-transit to the site, whether in whole or in part. Coverage for work off-site or in-transit shall be a minimum of 10% of the amount of the policy.
- D. The Contractor's Property Insurance shall be primary coverage for any insured loss related to or arising out of the Contract and shall not be reduced by or coordinated with separate property insurance maintained by JPA.

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CITY OF LINCOLN
EXECUTIVE ORDER

NO. 083319

WHEREAS, there is concern over the inappropriate competitive advantages in the public bidding process for local publicly funded construction and delivery service contracts resulting from the misclassification of individuals performing construction labor services as "independent contractors" rather than "employees"; such "independent contractors" are commonly referred to as "1099 workers" due to the IRS form they receive rather than a W-4 which an employee receives;

WHEREAS, this misclassification of such individuals as "independent contractors" rather than as "employees" eliminates any obligation to pay these individuals legally required minimum or overtime wages, to provide legally required workers' compensation insurance, to make unemployment insurance payments, to pay legally required employment and payroll taxes, and to provide any other health, pension, or benefit such individuals would typically receive if properly classified as employees;

WHEREAS, this misclassification of individuals performing construction labor services for the contractor as "independent contractors" rather than "employees" is a violation of federal and state law, but is difficult to enforce once public construction or delivery service contracts have been bid, awarded, and entered into;

WHEREAS, the use of public funds to compensate contractors who unlawfully avoid their obligation to pay legally required minimum or overtime wages, to provide legally required workers' compensation insurance, to make unemployment insurance payments, to pay legally required employment and payroll taxes, and to provide any other health, pension, or benefit is not in the public interest; and

WHEREAS, the Employee Classification Act, Neb. Rev. Stat. §§ 48-2901 to 48-2912 (effective July 15, 2010) provides that any contract entered into between a political subdivision and a contractor shall require that each contractor who performs construction or delivery service pursuant to the contract submit to the political subdivision an affidavit attesting that (1) each individual performing services for such contractor is properly classified under the Employee Classification Act, (2) such contractor has completed a federal I-9 immigration form and has such form on file for each employee performing services, (3) such contractor has complied with Neb. Rev. Stat. § 4-114 requirements that the contractor register and use a federal immigration employment verification system to determine the work eligibility status of new employees physically performing services in the State of Nebraska, (4) such contractor has no reasonable basis to believe that any individual performing services for such contractor is an undocumented worker, and (5) as of the time of the contract, such contractor is not barred from contracting with the state or any political subdivision pursuant to § 48-2912 of the Employee Classification Act.

NOW, THEREFORE, BY VIRTUE OF THE AUTHORITY VESTED IN ME by the Charter of the City of Lincoln, I hereby establish the following policy as to the bid and award of contracts to contractors for construction and delivery services with the City of Lincoln:

The Purchasing Agent shall immediately include in the City of Lincoln's notice to bidders for construction contracts that all contractors submitting bids in response to the notice shall affirmatively certify to the Purchasing Agent that all individuals hired to perform construction or delivery labor services for the contractor under the contract shall be properly classified as employees and not as independent contractors if the individual does not meet the requirements of an independent contractor under federal and state law (including the requirements of the State of Nebraska Employee Classification Act), and that the contractor will comply with all legal obligations with respect to these employees (including, but not limited to, minimum and overtime pay, workers' compensation, unemployment compensation, and payment of federal and state payroll taxes). The

notice to bidders shall further provide that contractors may use affidavits required pursuant to the Employee Classification Act for this purpose, but that a failure to make the affirmative certification to the Purchasing Agent shall render the bidder ineligible for award of the contract.

The Purchasing Agent shall immediately include the following provisions in contracts for construction or delivery services:

(1) Contractor agrees that each individual performing services for the contractor shall be properly classified as an employee and not as an independent contractor if the individual does not meet the requirements of an independent contractor under the State of Nebraska's Employee Classification Act and that contractor shall comply with all legal obligations with respect to the employee (including, but not limited to, minimum and overtime pay, workers' compensation, unemployment compensation, and payment of federal and state payroll taxes).

(2) Contractor understands and agrees that failure to classify each individual hired to perform services under the contract as an employee rather than as an independent contractor if the individual does not meet the requirements of an independent contractor under the State of Nebraska's Employee Classification Act and/or failure to comply with legal obligations with respect to the employee (including, but not limited to, minimum and overtime pay, workers' compensation, unemployment compensation, and payment of federal and state payroll taxes) shall be considered a breach of the contract and is a grounds for rescission of the contract by the City.

(3) Contractor additionally agrees to include the following provisions in each subcontract entered into with a subcontractor as part of the contractor's contract with the City:

(a) Subcontractor agrees that each individual performing services for the subcontractor shall be properly classified as an employee and not as an independent contractor if the individual does not meet the requirements of an independent contractor under the State of Nebraska's Employee Classification Act and that subcontractor shall comply with all legal obligations with respect to the employee (including, but not limited to, minimum and overtime pay,

workers' compensation, unemployment compensation, and payment of federal and state payroll taxes).

(b) Subcontractor understands and agrees that subcontractor's failure to properly classify individuals hired to perform services under the subcontract as employees and not as independent contractors if the individual does not meet the requirements of an independent contractor under the State of Nebraska's Employee Classification Act and/or failure to comply with legal obligations with respect to the employee (including, but not limited to, minimum and overtime pay, workers' compensation, unemployment compensation, and payment of federal and state payroll taxes) shall be considered a breach of the contract and is a grounds for rescission of the subcontract by the contractor.

(4) Contractor agrees that if subcontractor fails to or is suspected of failing to properly classify each individual hired pursuant to the subcontract as an employee and not as an independent contractor if the individual does not meet the requirements of an independent contractor under the State of Nebraska's Employee Classification Act and/or fails to comply with legal obligations with respect to the subcontractor's employee, the contractor shall take appropriate corrective action including, but not limited to, reporting the suspected violation of the State of Nebraska Employee Classification Act to the Nebraska Department of Labor or rescission of the subcontract by the contractor. Written notification of the corrective action shall be submitted to the City of Lincoln Purchasing Department. Contractor understands and agrees that contractor's failure to take appropriate corrective action shall be considered a breach of the contractor's contract with the City of Lincoln and is a grounds for rescission of the contract by the City.

(5) The City of Lincoln shall notify the Nebraska Department of Labor of any contractor or subcontractor it has determined is in breach of contract due to the terms of this order.

(6) Any contractor or subcontractor who shall have been determined by the Nebraska Department of Labor to have knowingly provided a false affidavit to the City of Lincoln

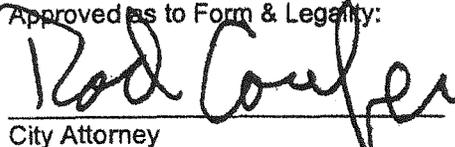
under the State of Nebraska's Employee Classification Act shall be referred to the Purchasing Agent of the City who shall determine whether to declare such contractor or subcontractor an irresponsible bidder who shall be disqualified from receiving any business from the municipality for a stated period of time, in accordance with Lincoln Municipal Code § 2.18.030(n)(1) or (2).

(7) This policy does not prohibit a contractor or subcontractor from hiring individuals to perform construction labor services as independent contractors, provided that the contractor's or subcontractor's use of such individuals as an independent contractor complies with the criteria found in subdivision 5 of Neb. Rev. Stat. § 48-604 and is otherwise valid under federal and state law and is not intended to circumvent lawful obligations under federal and state law or city contractual requirements.

The City Clerk is directed to send a copy of this Executive Order to Vince Mejer, City Purchasing Agent, for his record.

Dated this 28 day of July, 2010.


Chris Beutler, Mayor of Lincoln

Approved as to Form & Legality:

City Attorney

EMPLOYEE CLASSIFICATION ACT AFFIDAVIT

For the purposes of complying with THE NEBRASKA EMPLOYEE CLASSIFICATION ACT, I, _____, herein below known as the Contractor, state under oath and swear as follows:

- 1. Each individual performing services for the Contractor is properly classified under the Employee Classification Act.
- 2. The Contractor has completed a federal I-9 immigration form and has such form on file for each employee performing services.
- 3. The Contractor has complied with Neb Rev Stat 4-114.
- 4. The Contractor has no reasonable basis to believe that any individual performing services for the Contractor is an undocumented worker.
- 5. The Contractor is not barred from contracting with the state or any political subdivision pursuant to section 12 of this Act.
- 6. As the Contractor I understand that pursuant to the Employee Classification Act a violation of the Act by a contractor is grounds for rescission of the contract by the City. I understand that pursuant to the Act any contractor who knowingly provides a false affidavit may be subject to criminal penalties and upon a second or subsequent violation shall be barred from contracting with the City for a period of three years after the date of discovery of the falsehood.

I hereby affirm and swear that the statements and information provided on this affidavit are true, complete and accurate. The undersigned person does hereby agree and represent that he or she is legally capable to sign this affidavit and to lawfully bind the Contractor to this affidavit.

PRINT NAME: _____
(First, Middle, Last)

SIGNATURE: _____

TITLE: _____

State of Nebraska)
) ss.
County of _____)

This affidavit was signed and sworn to before me, the undersigned Notary Public, on this _____ day of _____, 20__.

Notary Public

29 C.F.R. § 5.5

Code of Federal Regulations Currentness

Title 29. Labor

Subtitle A. Office of the Secretary of Labor

Part 5. Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (Also Labor Standards Provisions Applicable to Nonconstruction Contracts Subject to the Contract Work Hours and Safety Standards Act)

Subpart A. Davis-Bacon and Related Acts Provisions and Procedures

§ 5.5 Contract provisions and related matters.

(a) The Agency head shall cause or require the contracting officer to insert in full in any contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1, the following clauses (or any modifications thereof to meet the particular needs of the agency, *Provided*, That such modifications are first approved by the Department of Labor):

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1 (b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when

the following criteria have been met:

- (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) **Withholding.** The (write in name of Federal Agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract,

the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1) (iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency). The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency), the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the (write the name of the agency) or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees--

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency

recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the (write in the name of the Federal agency) may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(b) Contract Work Hours and Safety Standards Act. The Agency Head shall cause or require the contracting officer to insert the following clauses set forth in paragraphs (b)(1), (2), (3), and (4) of this section in full in any contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by § 5.5(a) or 4.6 of part 4 of this title. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

(c) In addition to the clauses contained in paragraph (b), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in § 5.1, the Agency Head shall cause or require the contracting officer to insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the

name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Agency Head shall cause or require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the (write the name of agency) and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

(The information collection, recordkeeping, and reporting requirements contained in the following paragraphs of this section were approved by the Office of Management and Budget:

Paragraph	OMB Control Number
(a)(1)(ii)(B)	1215-014
(a)(1)(ii)(C)	1215-014
(a)(1)(iv)	1215-014
(a)(3)(i)	1215-0140, 1215-00:
(a)(3)(ii)(A)	1215-014
(c)	1215-0140, 1215-00:

[29 FR 100, Jan. 4, 1964, as amended at 29 FR 13463, Sept. 30, 1964; 30 FR 13136, Oct. 15, 1965; 36 FR 19304, Oct. 2, 1971; 40 FR 30481, July 21, 1975; 41 FR 10063, March 9, 1976; 47 FR 145, Jan. 5, 1982; 51 FR 12265, April 9, 1986; 54 FR 4243, Jan. 27, 1989; 55 FR 50150, Dec. 4, 1990; 57 FR 28776, June 26, 1992; 58 FR 58955, Nov. 5, 1993; 61 FR 40716, Aug. 5, 1996; 61 FR 68641, Dec. 30, 1996; 65 FR 69693, Nov. 20, 2000; 73 FR 77511, Dec. 19, 2008; 74 FR 2862, Jan. 16, 2009]

SOURCE: 48 FR 19541, April 29, 1983; 51 FR 12265, April 9, 1986; 61 FR 40716, Aug. 5, 1996; 65 FR 80278, Dec. 20, 2000; 73 FR 77511, Dec. 19, 2008, unless otherwise noted.

AUTHORITY: 5 U.S.C. 301; R.S. 161, 64 Stat. 1267; Reorganization Plan No. 14 of 1950, 5 U.S.C. appendix; 40 U.S.C. 3141 et seq.; 40 U.S.C. 3145; 40 U.S.C. 3148; 40 U.S.C. 3701 et seq.; and the laws listed in 5.1(a) of this part; Secretary's Order 01-2008; and Employment Standards Order No. 2001-01.; 40 U.S.C. 276a-276a-7; 40 U.S.C. 276c; 40 U.S.C. 327-332; Reorganization Plan No. 14 of 1950, 5 U.S.C. Appendix; 5 U.S.C. 301; and the statutes listed in section 5.1(a) of this part.

NOTES OF DECISIONS

29 C. F. R. § 5.5, 29 CFR § 5.5

Current through December 15, 2011; 76 FR 77913.

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END OF DOCUMENT

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TRUCK DRIVER: Dump and Tandem		
Truck.....	\$ 13.62	2.60

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is union or non-union.

Union Identifiers

An identifier enclosed in dotted lines beginning with characters other than "SU" denotes that the union classification and rate have found to be prevailing for that classification. Example: PLUM0198-005 07/01/2011. The first four letters , PLUM, indicate the international union and the four-digit number, 0198, that follows indicates the local union number or district council number where applicable , i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. The date, 07/01/2011, following these characters is the effective date of the most current negotiated rate/collective bargaining agreement which would be July 1, 2011 in the above example.

Union prevailing wage rates will be updated to reflect any changes in the collective bargaining agreements governing the rates.

0000/9999: weighted union wage rates will be published annually each January.

Non-Union Identifiers

Classifications listed under an "SU" identifier were derived from survey data by computing average rates and are not union rates; however, the data used in computing these rates may include both union and non-union data. Example: SULA2004-007 5/13/2010. SU indicates the rates are not union majority rates, LA indicates the State of Louisiana; 2004 is the year of the

survey; and 007 is an internal number used in producing the wage determination. A 1993 or later date, 5/13/2010, indicates the classifications and rates under that identifier were issued as a General Wage Determination on that date.

Survey wage rates will remain in effect and will not change until a new survey is conducted.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board

U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION

Certified Statement Pursuant to Neb. Rev. Stat. § 77-1323

§ 77-1323 Every person, partnership, limited liability company, association, or corporation furnishing labor or material in the repair, alteration, improvement, erection, or construction of any public improvement shall furnish a certified statement to be attached to the contract that all equipment to be used on the project, except that acquired since the assessment date, has been assessed for taxation for the current year, giving the county where assessed.

Pursuant to Neb. Rev. Stat. § 77-1323, I, _____, do hereby certify that all equipment to be used on JPA Project/Bid No. _____, except that equipment acquired since the assessment date, has been assessed for taxation for the current year, in Lancaster County, Nebraska.

DATED this ____ day of _____, 20__.

By: _____

Title: _____

STATE OF NEBRASKA)
) ss.
COUNTY OF _____)

On _____, 20__, before me, the undersigned Notary Public duly commissioned for and qualified in said County, personally came _____, to me known to be the identical person, whose name is affixed to the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed.

Witness my hand and notarial seal the day and year last above written.

Notary Public

(SEAL)



SPECIAL PROVISIONS

**WEST HAYMARKET JOINT PUBLIC AGENCY
(2013)**

**HAYMARKET INFRASTRUCTURE
IMPROVEMENTS**

ARENA & CORE AREA FIBER

PROJECT NO. 870951A

BID NO. 13-040

JANUARY 2013

**WEST HAYMARKET JOINT PUBLIC AGENCY
HAYMARKET INFRASTRUCTURE IMPROVEMENTS
ARENA & CORE AREA FIBER
PROJECT No. 870951A**

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**SPECIAL PROVISIONS
WEST HAYMARKET JOINT PUBLIC AGENCY (2013)
HAYMARKET INFRASTRUCTURE IMPROVEMENTS
ARENA & CORE AREA FIBER
PROJECT NO. 870951A**

GENERAL CONTRACT REQUIREMENTS

The work as detailed on the plans shall be completed in accordance with the requirements of the 2011 City of Lincoln Standard Specifications for Municipal Construction. The 2011 City of Lincoln Standard Specifications for Municipal Construction including all amendments, Supplemental Specifications and additions thereto effective at the date of the contract, the Special Provisions, plans, and all supplementary documents are essential parts of the contract. A requirement occurring in one is as binding as though occurring in all. They are intended to be complementary and to describe and provide for a complete project.

The Contractor shall not take advantage of any apparent error, discrepancy or omission in the plans or specifications. Upon discovery of such an error, discrepancy or omission, the Contractor shall notify the Engineer immediately. The Engineer will then make such corrections or interpretations as necessary to fulfill the intent of the plans and specifications.

Materials or work described in words which, so applied, have known technical or trade meaning shall be held to refer to such recognized standards.

Figured dimensions on the plans shall be taken as correct but shall be checked by the Contractor before starting construction. Any errors, omissions, or discrepancies shall be brought to the attention of the Engineer and the Engineer's decision thereon shall be final. Correction of errors or omissions on the drawings or specifications may be made by the Engineer when such correction is necessary for the proper execution of the work.

The JPA reserves the right to award any, all, or none of the base bid work. Pictures contained in the plans can be made available upon request.

Any reference to the City, or OWNER, in the City of Lincoln Standard Specifications for Municipal Construction shall be considered reference to the West Haymarket Joint Public Agency (JPA), its employees, or representatives hired by the JPA as a consultant for construction project management, observation or testing services. The JPA's address is 555 South 10th Street, Lincoln, Nebraska 68508.

JPA: JPA shall mean the West Haymarket Joint Public Agency, a joint administrative entity under the Interlocal Cooperation Act, comprised of the City of Lincoln and the University of Nebraska – Lincoln for the purpose of implementing and overseeing the operation of the West Haymarket arena and infrastructure improvement projects.

BONDING PERIOD

The City of Lincoln Standard Specifications, General Provisions and Requirements has been amended as follows:

- A. Award and Execution of Contract.
- B. Construction Performance and Construction Payment Bonds and Execution of Contract.

Within **five (5) days** after the acceptance of the bid, the successful Bidder must execute a written Contract between the Bidder and the JPA, said Contract will incorporate the JPA's Contract Documents and be on forms provided by the JPA, Construction Performance and Construction Payment Bonds, in a sum not less than the contract price, executed by the Bidder and by a corporate surety company authorized to transact business in the State of Nebraska.

ALTERNATE BIDS

The project is set up for respective bidders to provide prices to complete the base bid project along with three alternate bid packages with individual bid items for each alternate bid package. The alternate bid packages include the following:

- ALTERNATE BID 1: Terminating both ends of the 96 IO fiber placed as part of the Base Bid between HuskerVision in Memorial Stadium and HuskerVision in the Arena.
- ALTERNATE BID 2: Furnish and install the materials indicated on the plans from HuskerVision in Memorial Stadium to HuskerVision in Haymarket Park.
- ALTERNATE BID 3: Furnish and install the materials indicated on the plans from HuskerVision in Memorial Stadium to HuskerVision in the Arena via the "north redundant route" as indicated on the plans.

The JPA reserves the right to award any, all, or none of the bid alternates at the time of award of the base bid. The determination of the lowest responsive bidder will be based upon the total amount of the base bid along with the bid alternates selected by the JPA at the time of initial award of a contract for this project. Furthermore the JPA reserves the right to award any bid alternate not originally awarded with the base bid within a period of sixty days past the initial project award date and the Contractor shall guarantee the original bid prices for all alternates during this period.

CHANGES IN WORK

As part of the normal prosecution of site and utility work, unforeseen conditions may be encountered that could not reasonably have been anticipated based upon the available information at the time the plans and contract documents were prepared. To address these conditions additional work may be necessary that was not included within the original project scope of work as outlined in the contract documents. Prior to performing the additional work the

Contractor or JPA construction site representative shall contact the Program Manager and provide them with a written description of the work, an approximate cost to complete the additional work and any request for additional contract time required to complete the work. The Program Manager shall review the information and provide the Contractor written direction on how to proceed.

The Contractor can expect the Program Manager to respond to the additional work request within the following timeframe following receipt of information and provide the Contractor direction on how to proceed:

- For minor changes in the work that have an additional cost less than \$25,000 and that can be completed using existing unit prices, a negotiated price or on actual time and expense, the Contractor can expect a response within 24 hours from the time the Program Manager receives the information from the Contractor or JPA construction site representative.
- For major changes in the work that have an additional cost between \$25,000 and \$100,000, the Contractor can expect a response within 72 hours from the time the Program Manager receives the information from the Contractor or JPA construction site representative.
- Major changes in the work greater than \$100,000 will require approval by the JPA Board. This will require 21 days from the time the Program Manager receives the information from the Contractor or JPA construction site representative.

All approved additional work shall be documented in writing. Additional work completed by the Contractor without the prior approval of the Program Manager shall not be paid for under this contract. The Program Manager point of contact for the review and approval of all changes in the work under this contract is Adam Hoebelheinrich. He can be contacted at 402-405-9311. In the event the Contractor or JPA site representative cannot reach Adam they shall contact Paula Yancey at 210-601-3053 or PC Sports at 402-477-0487.

VERIFICATION OF EXISTING CONDITIONS

All prospective bidders shall visit the site to familiarize themselves with the existing site conditions, access locations, site constraints, existing site drainage, existing utilities and other construction currently underway or planned within the project area. Verification of existing site conditions and utility locations shall not be paid for directly except where shown on the plans or as directed by the Engineer.

The Contractor should be aware that some of the design files shown in the plans set reference previously completed work or work that is currently in progress. Locations of pull boxes, vaults, and conduits may vary slightly from what is shown.

The Contractor and JPA construction site representative are responsible for continuously reviewing existing site conditions and constraints as the work progresses to ensure that the proposed work is compatible with the existing conditions. If discrepancies are discovered that may impact the proposed work then the Contractor or site representative shall immediately report them to the Engineer for resolution prior to starting work in the particular area in question.

SPECIAL BIDDING CONDITIONS (Liquidated Damages)

Schedule is a critical element of the West Haymarket Project. As such, the work to be completed under this contract will support the opening and use of the Arena and other adjacent development that will be on-going during the duration of this project. It is the desire of the JPA that the Base Bid work on this project between HuskerVision in Memorial Stadium and HuskerVision in the Arena, Alternate Bid 1 (if pursued), and Alternate Bid 3 (if pursued) be complete by June 28, 2013. The remaining work shown in the Base Bid plans between the County/City Building and the Arena (including parking garage connections) shall be complete by July 26, 2013. The work associated with Alternate Bid 2 (if pursued) shall be complete by August 16, 2013.

To tie work on this project with the work proposed on adjacent projects, this contract has been broken down into individual contract phases with separate and distinct final completion dates. The contract phases are outlined in the "Final Completion" section of these Special Provisions. A liquidated damages amount is specified for each of the contract phases as shown in the "Final Completion" Special Provision.

The Contractor shall familiarize themselves with these dates and the required scheduling of resources that will be required to meet these dates based upon the anticipated Notice to Proceed dates shown. With the aggressive project schedule, it is anticipated that the Contractor may need to mobilize multiple work crews and complete different phases or work operations concurrently in order to meet the scheduled completion dates that are a part of this contract.

Determination of the Final Completion dates for each contract phase of the project shall be subject to the Engineer's approval. The amount of liquidated damages assessed for failure to achieve the required final completion dates for the various contract phases of the project will be deducted from the money due the Contractor prior to final payment or in the case where the remaining amount due the Contractor is less than the total amount of the assessed disincentives, the JPA shall have the right to recover the difference from the Contractor or the Contractor's Surety.

FINAL COMPLETION

Work on this project has been broken down into three separate contract phases in regard to determination of final completion dates. These milestone dates will have a corresponding liquidated damage amount assessed if the required work is not completed by the milestone date stipulated. The purpose for the multiple completion dates is to accommodate other projects. The Contractor shall carefully review and familiarize themselves with the requirements for final completion for each contract phase and take this into consideration when preparing their bid. Separate liquidated damages shall apply to the contract phases as outlined in these Special Provisions.

- Contract Phase I – this includes Base Bid work associated with furnishing and installing the materials indicated on the plans from HuskerVision in Memorial Stadium to HuskerVision in the Arena. It also includes Alternate Bid 1 and Alternate Bid 3.

- Contract Phase II – this includes Base Bid work associated with furnishing and installing the materials indicated on the plans from the County/City Building the Arena. It also includes all parking garage connections.
- Contract Phase III – this includes work associated with Alternate Bid 2. Specifically, furnishing and installing the materials indicated on the plans from HuskerVision in Memorial Stadium to HuskerVision in Haymarket Park.

The contract phases on this project each have separate final completion dates as outlined below. The final completion dates for each contract phase is based upon the anticipated notice to proceed (NTP) date shown.

The following are the final completion dates for the contract phases based upon the anticipated NTP. In addition, the table shows the liquidated damages amount per calendar day that will be charged to the Contractor in the event the work as outlined for final completion of the respective contract phase is not met unless an approved extension in contract time has been approved by the JPA.

Final Completion Based on NTP of February 26, 2013		
Contract Phase	Final Completion Date	Final Completion LD/Day
I	6/28/2013	\$2,500
II	7/26/2013	\$2,500
III	8/16/2013	\$2,500

Determination of Final Completion for each of the contract phases shall be subject to the Program Manager and Engineer’s approval.

SPECIAL PROSECUTION AND PROGRESS

The following prosecution and progress of work shall be used in developing the baseline schedule for the project.

Traffic Control

The Contractor shall be responsible for providing the traffic control plan and submitting to the owner for approval for each phase of the work. The Contractor shall also be responsible for supplying all temporary construction signs and traffic control devices for the project as outlined in the City of Lincoln Standard Specifications for Municipal Construction.

Access During Construction

The Contractor shall not close any portion of the public roads or begin any work which may impact drive access to adjacent properties without the permission of the Engineer.

Pedestrian Accommodations

Sidewalk closures and detours shall be clearly posted and maintained throughout the course of the project to direct pedestrians around the work area. The Contractor will be required to maintain pedestrian access to the adjacent properties as directed by the Engineer throughout the duration of the project. All temporary pedestrian pathways shall be a continuous hard surface throughout the entire length of the temporary facility and shall be ADA compliant.

This document was originally issued and sealed by Shane A. King, E-12448 on January 16, 2013. This media should not be considered a certified document.

STATUS OF RIGHT-OF-WAY

All work to be completed shall be performed in existing public right-of-way, new right-of-way or City / UNL properties where a right-of-entry will be obtained. The Contractor will not be allowed to perform work outside the public right-of-way or City / UNL properties.

STATUS OF UTILITIES

The following information is current as of January 8, 2013. The Contractor should request a utility status update at the project pre-construction meeting, and/or prior to starting work. The Contractor shall coordinate all construction activities with affected utilities.

City of Lincoln

The City of Lincoln has existing conduit and cables within the limits of the project. All existing cable functions shall remain operational during work.

The point of contact for the City of Lincoln is:

City of Lincoln Engineering Services
Contact: Dave Bernt
Phone: (402) 441-7711

City of Lincoln City/County Building
Contact: Mike Cutshall
Phone: (402) 441-6191

UNL Information Services

It will be necessary to work on the UNL Campus, and inside Memorial Stadium and Haymarket Park. The Contractor will be required to obtain any necessary permits / permission to perform this work.

The point of contact for UNL is:

UNL Information Services
Contact: Blake France
Phone: (402) 472-1105

UTILITIES

Add the following paragraphs to Article II, Section A (EXAMINATION OF PLANS, SPECIFICATIONS, SPECIAL PROVISIONS, AND SITE OF WORK):

The Contractor shall notify the Digger's Hotline of Nebraska (HOTLINE), Phone Number 1-800-331-5666, at least 48 hours in advance of the commencement of work at any site to allow the member utilities to examine the construction site and mark the location of the utilities' respective facilities.

The Contractor acknowledges that some (or all) of the utility companies, with facilities shown on the drawings may not be members of the Hotline and, therefore, not automatically contacted by

the above-referenced telephone number. The Contractor shall be responsible for making itself aware of utility company facilities not reported by the Hotline, and shall be liable for any and all damages stemming from repair or delay costs or any other expenses resulting from the unanticipated discovery of underground utilities. The Contractor shall also be responsible for verifying that each utility has responded to such notification.

The only area the Contractor is expected to perform digging is the replacement of Pull Box A with Fiber Vault 1 in the southwest corner of 9th & K.

WORKER VISIBILITY

Pursuant to Part 634, Title 23, Code of Federal Regulations, the following modified rule is being implemented:

Effective on January 1, 2008, all workers within the right-of-way who are exposed either to traffic (vehicles using the highway for purposes of travel) or to construction equipment within the work area shall wear high-visibility safety apparel.

High-visibility safety apparel is defined to mean personal protective safety clothing that:

- 1 - is intended to provide conspicuity during both daytime and nighttime usage, and
- 2 - meets the Performance Class 2 or Class 3 requirements of the ANSI/ISEA 107-2004 publication entitled "American National Standards for High-Visibility Safety Apparel and Headwear."

If the Contractor fails to comply with the worker visibility requirements and as a result, Federal and State authorities withhold Federal Funds, then JPA reserves the right to seek reimbursement from the Contractor for the loss of federal funds that are attributed to the Contractor's non-compliance.

COORDINATION WITH OTHERS

The Contractor will be required to coordinate their work with multiple projects in the West Haymarket that will be under construction concurrently with this project. These include the work at the new arena; the work associated with construction of the new parking garage located along the east side of Pinnacle Arena Drive between "Q" and "R" Streets; the work on a new City Parking Garage located along the south side of "O" Street east of Canopy Street; and the work in the Core Area to install many of the conduits to be utilized by this project. The Contractor shall familiarize themselves with these projects, the location of the work and the staging areas designated for each project.

The Contractor will also have to coordinate with UNL, Haymarket Park, and City of Lincoln personnel regarding access to buildings / rooms where work is required. The contacts listed may have requirements that must be met by Contractor employees and restrictions as to certain days or hours for performing the necessary work.

Arena Project

The new arena project is currently under construction to the north of “R” Street. Mortensen Construction may require the Contractor to pass a safety training prior to accessing the Arena.

The point of contact for the Arena Construction Manager at Risk is:

John Hinshaw
Mortensen Construction
Phone: (502) 377-4194

New Parking Garage, East Side of Pinnacle Arena Drive, “Q” Street to “R” Street

Construction at the new parking garage site has begun.

The Contractor shall coordinate their fiber pulling work with the installation of necessary conduit by the parking garage contractor.

The point of contact for the Parking Garage Construction Manager at Risk is:

Ray Rice
JE Dunn
Phone: 816-985-5423

Jon Mackling
Hausmann Construction
Phone: 402-610-1979

New City Parking Garage at 7th and “O” Street and Parking Lots

The City of Lincoln is planning for construction of a new parking garage generally located south of “O” Street near 7th Street (east of the new Canopy Street). Construction on the site has begun.

The point of contact for the Parking Garage Construction Manager at Risk is:

John Schroeder
Sampson Construction
Phone: 402-610-7474

Core Area Conduits

Conduits are being placed in the Core Area which are identified as Existing in this plan set. It will be necessary to coordinate with this work to ensure schedules are met.

The points of contact for the Core Area conduit work are:

Tom Crockett
Hawkins Construction
Phone: 402-221-7637

John Kooistra
General Excavating
Phone: 402-440-0327

Kent Rohren
JPA Construction Manager
Phone: 402-499-5730

UNL Facilities

This will include access to the steam tunnel, Memorial Stadium, and the designated room in Haymarket Park.

The point of contact for the UNL Facilities is:

Blake France
UNL Information Services
Phone: 402-472-1105

County/City Building

This will include access to the necessary inside conduits / closets, and designated room in the County/City Building.

The point of contact for the County/City Building is:

Mike Cutshall
County/City Building
Phone: 402-441-6191

Haymarket Park

This will include access inside the locket gates of Haymarket Park and potentially the Husker Vision room.

The point of contact for Haymarket Park is:

Dave Aschwege
Stadium Operations
Phone: 402-730-7629

TECHNICAL PROVISIONS

The following Special Provisions amend or supplement the 2011 City of Lincoln Standard Specifications for Municipal Construction. All provisions which are not so amended or supplemented remain in full force and effect.

FIBER VAULT

The Contractor shall furnish and install fiber vaults at the locations shown on the plans and as directed by the Engineer. The fiber vaults and their covers are required to conform to all test provisions of ANSI/SCTE 77 "Specifications For Underground Enclosure Integrity" Tier 22 and labeled as such inside the vault and on top of the cover. All covers are required to have a minimum coefficient of friction of 0.05 in accordance with ASTM C1028. Independent third party verification or test reports stamped by a registered Professional Engineer certifying that all test provisions of this specification have been met are required with each submittal.

The fiber vault shall be constructed of epoxy or polyester resin mortar with woven glass fiber reinforcement and have appropriate aggregate dimensions of 30" X 48" X 36"(Depth) with an open bottom. Fiber vault covers shall have a split lid and be labeled "FIBER" on top as indicated in plans.

The fiber vault shall rest firmly on a bed of ¾" washed crushed limestone rock with a minimum depth of 12" below the bottom, extending at least 3" beyond the outside edges of the vault. Avoid placing these vaults in concrete. Set handholes flush with the finished surface of the surrounding ground. Do not install lid bolts. Fiber vault edges, lid and lifting eye shall be kept clear of concrete and foreign material. Conduit shall enter the handhole from the bottom and extend conduit ends between four (4) and six (6) inches above the aggregate bedding. Side penetrations are not permitted.

Fiber vaults, complete, in place and accepted by the Engineer, will be measured for payment as single units and shall be paid for at the contract unit price bid per each for the pay item "Fiber Vault (30" X 48" X 36)". This price shall be full compensation for all excavation required; for furnishing and installing the pull box; for conduit, conduit stub out, concrete, and crushed rock; and for all labor equipment, tools, materials, and incidentals required to complete the work.

24 SINGLE-MODE FIBER

The Contractor shall furnish and install fiber as indicated in the plans that adheres to City Standard Specifications and/or these Special Provisions. In cases where the two overlap, the stricter of the two shall supersede.

The cable shall meet the latest applicable standard specifications by American National Standards Institute (ANSI), Electronic Industries Association (EIA) and Telecommunications Industries Association (TIA) for the single-mode fiber cable of the size specified per the Plans.

The fiber optic cable coating shall be a dual layer, UV-cured acrylate applied by the fiber manufacturer and mechanically or chemically strippable without fiber damage. The cable central member shall be a glass reinforced plastic rod designed to prevent the buckling of the cable. The

cable core interstices shall be filled with water blocking tape to prevent water filtration. Include dielectric fillers in the cable core as needed to improve cross-section cable symmetry.

Buffer tubes shall be of dual layer construction with the inner layer made of polycarbonate and the outer layer made of polyester. Each buffer tube shall be dry core. Buffer tubes shall be stranded around the central member using reverse oscillation or "SZ" stranding process. The cable tensile strength shall be provided by a high tensile strength aramid yarn and/or fiber glass.

Sheath all dielectric cables without armoring with medium density polyethylene. The minimum nominal jacket thickness shall be one (1) millimeter. Apply jacketing material directly over the tensile strength members and flooding compound. Mark the jacket or sheath in a contrasting color with the manufacturer's name, the words "Optical Cable", the year of manufacture, and sequential length marks. Repeat markings every linear foot. Mark the jacket with a durable weather proof label indicating the actual attenuation of each fiber expressed in dB/km. The actual length of the cable shall be equal to or plus one (+1) percent of the marked length.

Supply loose tube dielectric cable constructed with industry standard 3mm buffer tubes stranded around a central strength member. The buffer tubes shall be compatible with standard hardware, cable routing and fan-out kits. The cable core shall be water blocked with dry water blocking materials to improve access and handling of individual tubes. The cables shall be designed for point-to-point applications as well as mid-span access, and provide a high-level of protection for fiber installed in the outside plant environment.

Supply single-mode, dispersion-unshifted fiber meeting ITUT G.652c requirements. The fiber shall be fully capable of handling existing and legacy single-mode applications which traditionally operate in the 1310 nm and 1550 nm regions and shall also be designed to handle the new and emerging applications that utilize the "Extended" E-band, 1360 nm to 1460 nm. The fiber shall be designed to provide optimum performance from 1265 nm to 1625 nm intended for 16-channel Course Wavelength Division Multiplexing applications.

Physical Specifications

Fiber Count	Subunits	Outer Diameter in.(mm)	Weight lbs/ft (kg/km)	Minimum Bend Radius in.(cm)		Max. Tensile Load lbs.(Newtons)		Maximum Vertical Rise Feet (Meters)
				Loaded	Unloaded	Short Term	Long Term	
4 - 48	5	0.46 (11.7)	63 (94)	9.2 (23.4)	4.6 (11.7)	607.0 (2700)	180.0 (800)	2856 (871)
72	6	0.50 (12.7)	72 (107)	10.0 (25.4)	5.0 (12.7)	607.0 (2700)	180.0 (800)	2509 (765)
96	8	0.58 (14.7)	95 (141)	11.5 (29.4)	5.8 (14.7)	607.0 (2700)	180.0 (800)	1904 (580)
144	12	0.74 (18.9)	146 (217)	14.8 (37.8)	7.4 (18.9)	607.0 (2700)	180.0 (800)	1237 (377)
288	24	0.86 (21.9)	211 (315)	17.2 (43.8)	8.6 (21.9)	607.0 (2700)	180.0 (800)	852 (-260.0)

Note* There are 12 fibers per tube.

Environmental and Mechanical:

	Specification	Test Method
Operating Temperature	-40°to +70°C	FOTP - 3
Installation Temperature	-20°to +70°C	N/A
Storage Temperature	-40°to +70°C	N/A
Crush Resistance	44 N/mm	FOTP - 41
Impact Resistance	Exceeds	FOTP - 25
Flexing	Exceeds	FOTP - 104
Twist Bend	Exceeds	FOTP - 85

Cable Identification**Buffer Tubes and Fibers are identified with standard color coding:**

1 - Blue	5 - Slate	9 - Yellow
2 - Orange	6 - White	10 - Violet
3 - Green	7 - Red	11 - Rose
4 - Brown	8 - Black	12 - Aqua

Buffer tubes 13 through 24 repeat the color sequence with tracer stripe:
e.g. fiber 13 is blue with tracer stripe.

Physical Specifications

Core Diameter:	8.3 μm nominal
Cladding Diameter:	125.0 (\pm 0.7) μm
Core/Clad Offset:	< 0.5 μm
Cladding Non-Circularity:	< 1%
Coated Fiber Diameter:	245 (\pm 10) μm
Cladding/Coating Offset:	< 12 μm
Colored Fiber Diameter:	254 (\pm 7) μm
Proof Test:	0.7 GPa
Fiber Curl:	> 4 m
Dynamic Fatigue Parameter:	> 18
Macrobend (100 turns, 50 mm mandrel):	0.10 dB @ 1310 nm, and 1550 nm
Macrobend (1 turn on a 32mm mandrel):	0.50 dB @ 1310 nm and 1550 nm

Optical Specifications

Mode Field Diameter:	9.2 (\pm 0.3) μm @ 1310 nm	10.4 (nominal) @ 1550 nm
Group Index of Refraction:	1.466 @ 1310 nm and 1383 (\pm 3) nm, 1.467 @ 1550 nm	
Attenuation:	0.35 dB/km @ 1310 nm	
	0.24 dB/km @ 1550 nm	
Maximum Dispersion:	3.5 ps/nm-km 1285 to 1330 nm, 18ps/nm-km @ 1550 nm	
Zero-Dispersion Wavelength:	1300 - 1322 nm	
Zero-Dispersion Slope:	0.092 ps/((nm)2km)	
Polarization Mode Dispersion LDV:	0.08 ps/(km)1/2	

96 SINGLE-MODE FIBER

The 96 Single-mode Fiber shall adhere to all requirements set forth in the “24 SINGLE-MODE FIBER” Section.

24 SINGLE-MODE PLENUM FIBER

The Contractor shall furnish and install fiber as indicated in the plans that adheres to City Standard Specifications and/or these Special Provisions. In cases where the two overlap, the stricter of the two shall supersede.

Single-mode OFNP Indoor Fiber Optic Cable – Dielectric: Supply a dielectric cable constructed with industry standard 900 μm tight buffer tubes stranded around a central strength member. The stranded subunits shall allow quick and easy identification and be surrounded by dielectric strength members and protected by a flame-retardant outer jacket. The fiber optic cable must meet the application requirements of the National Electrical Code (NEC) and must be listed OFNP, CSA FT-6, ICEA S-83-596 and NFPA 262 flame resistant.

Supply single-mode, dispersion-unshifted fiber meeting ITUT G.652 D requirements. The fiber shall be fully capable of handling existing and legacy single-mode applications which traditionally operate in the 1310 nm and 1550 nm regions and shall also be designed to handle the new and emerging applications that utilize the "Extended" E-band, 1360 nm to 1460 nm. The fiber shall be designed to provide optimum performance from 1265 nm to 1625 nm intended for 16-channel Course Wavelength Division Multiplexing applications.

Environmental:		
	Specification	
Operating Temperature	0°to +70°C	
Installation Temperature	0°to +70°C	
Storage Temperature	-40°to +70°C	
Optical Specifications		
Mode Field Diameter:	9.2 (± 0.3) μm @ 1310 nm	10.4 (nominal) @ 1550 nm
Attenuation:	1.0 dB/km @ 1310 nm	
	1.0 dB/km @ 1383 nm	
	0.75 dB/km @ 1550 nm	

96 SINGLE-MODE INDOOR/OUTDOOR FIBER

The Contractor shall furnish and install fiber as indicated in the plans that adheres to City Standard Specifications and/or these Special Provisions. In cases where the two overlap, the stricter of the two shall supersede.

Single-mode OFNR Indoor/Outdoor Fiber Optic Cable – Dielectric: Supply loose tube dielectric cable constructed with industry standard 3mm buffer tubes stranded around a central strength member. The buffer tubes shall be compatible with standard hardware, cable routing and fan-out kits. The cable core shall be water blocked with dry water blocking materials to improve access and handling of individual tubes. The cables shall be designed for point-to-point applications as well as mid-span access, and provide a high-level of protection for fiber installed in the outside plant environment. The fiber optic cable must meet the application requirements of the National Electrical Code (NEC) and must be listed OFNR, and CSA OFN FT-4.

Supply single-mode, dispersion-unshifted fiber meeting ITUT G.652c requirements. The fiber shall be fully capable of handling existing and legacy single-mode applications which traditionally operate in the 1310 nm and 1550 nm regions and shall also be designed to handle the new and emerging applications that utilize the "Extended" E-band, 1360 nm to 1460 nm. The fiber shall be designed to provide optimum performance from 1265 nm to 1625 nm intended for 16-channel Course Wavelength Division Multiplexing applications.

Physical Specifications							
Fiber Count	Subunits	Outer Diameter in.(mm)	Weight lbs/kft (kg/km)	Minimum Bend Radius in.(cm)		Max. Tensile Load lbs.(Newtons)	
				Loaded	Unloaded	Short Term	Long Term
4 - 60	5	0.51 (12.9)	91 (136)	7.6 (19.4)	5.1 (12.9)	600.0 (2700)	180.0 (810)
72	6	0.50 (12.7)	100 (150)	7.9 (20.0)	5.2 (13.3)	600.0 (2700)	180.0 (810)
96	8	0.58 (14.7)	133 (199)	9.2 (23.3)	6.1 (15.5)	600.0 (2700)	180.0 (810)

Note* There are 12 fibers per tube.

Environmental and Mechanical:		
	Specification	Test Method
Operating Temperature	-40°to +70°C	FOTP - 3
Installation Temperature	-20°to +70°C	N/A
Storage Temperature	-40°to +70°C	N/A
Crush Resistance	44 N/mm	FOTP - 41
Impact Resistance	Exceeds	FOTP - 25
Flexing	Exceeds	FOTP - 104
Twist Bend	Exceeds	FOTP - 85

Cable Identification

Buffer Tubes and Fibers are identified with standard color coding:

1 - Blue	5 - Slate	9 - Yellow
2 - Orange	6 - White	10 - Violet
3 - Green	7 - Red	11 - Rose
4 - Brown	8 - Black	12 - Aqua

Buffer tubes 13 through 24 repeat the color sequence with tracer stripe:
e.g. fiber 13 is blue with tracer stripe.

FIBER OPTIC CABLE TESTING

The following specification outlines the requirements that shall be followed when testing the fiber optic cable.

- A. Visually inspect fiber optic cable prior to installation and report any defects.
- B. One hundred percent of the cable's fiber count shall be tested with an Optical Time Domain Reflectometer (OTDR) at 1310 nm and 1550 nm in addition; an Optical Loss Test Set (OLTS) shall be used to test the fiber. The contractor shall provide the Engineer with up to five copies of any software required for viewing electronic files of the OLTS and OTDR traces. Use a EXFO FTB-500 or equal OTDR meter and a Fluke DTX-CLT or equal OLTS meter.
- C. All test equipment shall be factory certified within the last year. The Contractor shall provide copies of the certification 10 days prior to testing.
- D. Test results will be recorded on a form supplied by the Contractor and approved by the Engineer, with data compiled and printed through the meter manufacture's software. No additional alternation using software from the Contractor beyond this software will be allowed. Prior to testing the Contractor shall submit a sample form to the Engineer. Completed test forms on each fiber shall be handed over to the Engineer. At a minimum, test results shall show the following:
 - Cable and fiber identification
 - Operator name
 - Engineer
 - Date and Time
 - Setup and test parameters including wavelength, pulse width, range, scale and ambient temperature.
 - Test results for OTDR test averaged for total fiber trace, splice loss/gain (dB), connector loss (dB), all events greater than .05 dB, measured length from cable markings and total length from OTDR.
 - Test results for attenuation test including measured cable length (cable marking) total length (from OTDR test) number of splices (from as-builts) and total link attenuation versus allowed attenuation.
- E. OTDR testing shall use a launch and receiving cables minimum 500 meters or greater than the dead zone for the OTDR used for this test.

- F. All fiber connectors must be cleaned and checked for dirt, scratches or chips before installed in adapters and testing. All dust covers must be installed after testing is complete.
- G. The objective for all fiber optic cable is to have a maximum attenuation of 0.4 dB/km at 1310 nm and 0.3 dB/km at 1550 nm when measured bi-directionally with an OTDR. Fibers that exceed the max attenuation loss specification will be identified as Out Of Specification (OOS) and subject to penalties of \$150.00 of each OOS trace.
- H. The objective for each connector is an averaged loss value of 0.25 dB or less when measured bi-directionally with an OTDR at 1310 nm and 1550 nm. Fibers not meeting the max loss of 0.5 dB average 0.25 dB (no negative losses will be accepted) specification will be identified as Out Of Specification (OOS) and subject to penalties of \$150.00 of each OOS trace.
- I. Remove malfunctioning units, replace with new units, and retest as specified above.

ADDITIONAL CONSTRUCTION REQUIREMENTS AND METHODS

Damage - The Contractor agrees to perform construction in such a manner as to avoid possible damage to the Conduit System. Should the Contractor become aware of damage to the Conduit System, Contractor agrees to notify the City of damages. If damage is attributable to Contractor negligence, Contractor agrees to bear full responsibility for all cost associated with the repair and restoration of the affected area. Contractor and the Engineer shall cooperate to determine the best means of restoration.

Cable Identification - Contractor will attach cable identification tags to the fiber cables. Cable identification tags will contain the name and contact information for the Lessee and be located in each manhole and handhole where Lessee-owned cable is present.

Installing Communications Cable - All fiber optic cable shall be installed using a powered pulling winch and hydraulic powered assist pulling wheels. The maximum pulling force to be applied to the fiber optic cable shall be 600 pounds. Sufficient pulling assists will be available and used to insure the maximum pulling force is not exceeded at any point along the pull. The cable can also be installed via other methods as long as maximum pulling force on the cable does not exceed 600 pounds. All cables shall be lubricated with Polywater or approved equal. A pulling swivel with a break-away rated at 600 pounds shall be used at all times during the pulling operation.

All slack loops will be securely mounted to the manhole walls using generally accepted industry practices and will not interfere with conduit, innerduct, or manhole access. No slack will be allowed on the manhole floor.

All manholes and handholes will be kept clean and free of trash, unsecured slack loops, unsecured splice cases, and or other debris at all times.

All conduits, innerducts, locate wire, and fiber shall have a lubricant applied at each conduit ingress and egress location and during the pull operation. Lubricant shall be Polywater (type specific to be approved per project) or equal.