AGENDA FOR THE WEST HAYMARKET JOINT PUBLIC AGENCY (JPA)
TO BE HELD THURSDAY, June 2, 2011 AT 3:30 P.M.

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

1. Introductions and Notice of Open Meetings Law Posted by Door (Chair Snyder)

2. Public Comment and Time Limit Notification Announcement (Chair Snyder)

   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 May 5, 2011 (Chair Snyder)
   - (Staff recommendation is for the JPA Board to approve the minutes as presented)

4. West Haymarket Progress Report (Jim Martin)
   - Public Comment

5. Approval of Payment Registers (Don Herz)
   - Public Comment
   - (Staff recommendation is for the JPA Board to approve the payment registers)

6. Review of the April 2011 Expenditure Reports (Don Herz)
   - Public Comment

7. Bill No. WH 11-38 - Resolution to approve the final reconciliation to the Agreement with General Excavating for work associated with diesel plume remediation. (Miki Esposito)
   - Public Comment
   - (Staff recommendation is for the JPA Board to approve the resolution)

8. Bill No. WH 11-39 - Resolution to approve Amendment No. 2 to the Agreement with Alfred Benesch Company (formerly HWS) for services associated with environmental remediation. (Miki Esposito)
   - Public Comment
   - (Staff recommendation is for the JPA Board to approve the resolution)

9. Bill No. WH 11-40 - Resolution to approve Change Order No. 2 to the West Haymarket Utility Relocation Project Agreement with T.J. Osborn Construction for additional costs in the amount of $231,814.23 due to plan revisions changing the location of sanitary sewer pipe. (Figard/Blahak).
   - Public Comment
   - (Staff recommendation is for the JPA Board to approve the resolution)

10. Bill No. WH 11-41 - Resolution to approve reimbursement to BNSF for actual costs and expenses incurred for additional work and authorizing the Program Administrator to revise the draw schedule for the escrow agreement and to negotiate the terms and conditions for payments to BNSF for such additional work. (Confer)
    - Public Comment
    - (Staff recommendation is for the JPA Board to approve the resolution)

11. Bill No. WH 11-42 - Resolution to approve Amendment No. 1 to the Amended and Restated Construction Manager at Risk Contract with M.A. Mortenson Company adopting a revised Exhibit "E" (Subcontractor Procurement) which provides for use of the City of Lincoln's e-bid system to distribute information, allows responses to an RFQ and proposals to an RFP to be received directly by email and hard copy, requires a list of proposers to an RFP and a list of responders to an RFQ to be posted on Haymarket Now, and makes other minor changes for clarification. (Yancey/Peo)
    - Public Comment
    - (Staff recommendation is for the JPA Board to approve the resolution)

12. Bill No. WH 11-43 - Resolution to authorize the Program Administrator to execute a Right-of-Entry and/or Temporary Construction Easement with USPS, upon terms and conditions acceptable to the JPA's legal counsel, in order to allow the JPA to timely construct parking lot improvements on the south side of the Main Post Office Building and to remove the existing wall blocking the extension of 'R' Street to the west. (Marvin/Peo)
    - Public Comment
    - (Staff recommendation is for the JPA Board to approve the resolution)

13. Bill No. WH 11-44 - Resolution to amend the Memorandum of Understanding with 'N' Street Company LLC (Alter) to revise dates and to express the parties' intentions to use best efforts to cooperate during the lease term to allow 'N' Street to continue to operate its business during relocation. (Marvin/Austin)
    - Public Comment
    - (Staff recommendation is for the JPA Board to approve the resolution)

14. Bill No. WH 11-45 - Resolution to approve the Land Purchase Agreement with Jaylynn, L.L.C. (existing Watson Brickson site) (Marvin/Austin)
    - Public Comment
    - (Staff recommendation is for the JPA Board to approve the resolution)

15. Bill No. WH 11-46 - Resolution to approve the Land Purchase Agreement with Jaylynn, L.L.C. (stormwater mitigation site/conservation easement). (Marvin/Austin)
    - Public Comment
    - (Staff recommendation is for the JPA Board to approve the resolution)

16. Discussion Only: Proposed process for approving change orders (Herz/Marvin)

17. Other Issues

18. Set Next Meeting Date: Friday, June 24, 3:30 P.M. (Room 112, City Council Chambers)
    Previously scheduled meeting of June 16th has been cancelled.

19. Motion to Adjourn

WEST HAYMARKET JOINT PUBLIC AGENCY (JPA)
Board Meeting
May 5, 2011

Meeting Began At: 3:31 P.M.

Meeting Ended At: 4:10 P.M.

Members Present: Tim Clare, Jayne Snyder, Chris Beutler

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

Chair Snyder opened the meeting and advised that the open meetings law is in effect and is posted in the back of the room.

Item 2 – Public Comment and Time Limit Notification

Snyder 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 April 14, 2011

Snyder asked for any corrections or changes to the minutes from April 14, 2011. Hearing none, Beutler motioned for approval of the minutes. Clare seconded the motion. Motion carried 3-0.

Item 4 – West Haymarket Progress Report

Jim Martin, Program Manager with SAIC, came forward and distributed the April Progress Report to the Board. On the agenda today is the award of the second major infrastructure project involving a resolution for Site Preparation and for the USPS property. The 10th and Salt Creek project is ongoing. The arena schematic design is complete, and the architectural team is moving into design development. Mortensen continues to refine their estimates. All of the projects, looked at individually and within the scope of the estimates, are within their predicted budgets.

The updated simplified master schedule is included in the report. The work on 10th and Salt Creek needs to be completed before football season and is moving ahead well. The two month look ahead calendar is also included in the report.

The location for District Energy was sited in the second block down, just south of 'Q' Street. There is a partial design of parking garage #2 underway by Davis Design, part of the Haymarket Infrastructure Team. The two parking garages south of the Arena will actually share a common footing to allow for an economy of scale. This will not hamper the construction schedule of the

first garage. The District Energy design being done is not part of the JPA. There is contact with the DEC design team on a regular basis and they are on schedule. The goal is for them to provide heat for the Arena in the late fall or early winter of 2012 in order to allow work to continue, and then to provide cooling by the spring of 2013 to allow interior finishes to continue on schedule.

The Title 200 remediation work is complete. NDEQ is limiting their review time. We are doing very well environmentally. There will be an open house for the public to review plans the week of May 9th. Clare asked about the status of the State payment on Title 200. Jim responded that it had been applied for and Miki Esposito could clarify other progress. Dan Marvin clarified that it has not been received, but there is no indication of any problems with the reimbursement.

There were some right-of-way issues that postponed the second closing with BNSF, but that does not jeopardize the ability to move forward in anyway. The team is working through final negotiations with the Postal Service to acquire needed rights at 'R' Street.

As a summary, last meeting we brought forward requests to allow second opinion peer reviews. The draft report is back from Geo Technical. A $7,500 fee was paid for that work, with a rough estimate of a savings of $310,000 realized. So that was a fee well spent.

Beutler asked for confirmation that the costs for the DEC design and construction are being paid by DEC. Jim clarified that this work is not part of the JPA budget and is being paid by DEC. We are only paying for design of the footings. These are shared footings since those buildings will touch and there will be a shared savings for both parties.

Beutler inquired about the intersections at Sun Valley Blvd., West 'O' Street, and 1st and Cornhusker Highway not being part of the original budget. Jim confirmed they were not. The intersections and ability for smooth traffic flow through these intersections will be important to the overall feeling and experience. A total of $38,800 is being requested for Schemmer to look at some interim solutions for these intersections, such as extending a turn lane or restriping to benefit the West Haymarket. Synder asked if at one time we thought the State might pick up the construction of these areas. Dan Marvin explained that Sun Valley is the connector between 1st and Cornhusker and the 'O' Street intersection. The intersections at 1st and Cornhusker and 'O' Street would be part of that connection and typically there is an 80/20 match on those type of projects. Eventually the bridge will also need to be replaced. However, with the State delays we are looking at interim solutions. Clare asked if the State's current financial condition and roads budget issues will impact the timing of any funding for a long-term solution. Dan Marvin confirmed that it has been deferred beyond the six year timeframe, so it may be 10 years out. The State is working diligently on roadway funding issues so solutions could come sooner.

Item 5 – Bill No. WH 11-33 Resolution authorizing Jayne Snyder, Chair of the West Haymarket Joint Public Agency Board of Representatives, to execute all closing documents for the Second Closing between BNSF Railway Company and the West Haymarket Joint Public Agency.

Rod Confer, Lincoln City Attorney and Council to the West Haymarket JPA, explained that this resolution allows for administrative convenience. This project is sequenced with a number of BNSF closings as properties are needed for various projects to move forward. We are now ready for the second closing at the end of next week. This resolution allows Jayne Synder, as the JPA Chair, to execute the documents to make that closing. These are documents provided for in the master agreement and exchange agreement already executed by the Board.

Jane Kinsey came forward to ask if money would be crossing hands during these closings. If so, she inquired as to the source of the funding. Synder explained that it is in the budget already and this is just a formality. Dan Marvin explained that the first closing was done with BNSF on January 31, 2011. BNSF sold us the land for $1 million. We deposited $44 million into an escrow account to perform the work of moving the tracks and there was a draw schedule attached. In the master agreement with BNSF we identified five separate closings and agreed to do certain things associated with each closing. We are now at the second closing. Many of the things we have already done – such as allow for removal of the spur track that serves both the Watson Brickson and the Alter site. Other areas include providing title for the Alter sliver and a quick claim deed that will need to be executed. As far as dollars, there are no additional dollars attached. The funding comes from an escrow account on which we earn interest. That funding was from a previous bond issue.

Being no further comments on this item, Clare made a motion to approve Resolution WH 11-33. Beutler seconded the motion. Motion carried 3-0.

Item 6 – Bill No. WH 11-34 Resolution approving an Award of Contract to Judds Brothers Construction for the Initial Haymarket Site Preparation Project No. 870703 ($5,120,645.70) and the USPS Parking Lot Reconstruction Project No. 870303 ($519,264.60) for a total cost of $5,639,910.30.

Chad Blahak presented information on the second of the two major infrastructure projects to which Jim Martin had referred. The first part is the Initial Haymarket Site Preparation covering the bulk of the mass grading from 'O' Street north up to and including the arena pad site. There will also be some utility work within that project. The engineer's estimate for that project was approximately $5.6 million and the bid came in at $5.1 million.

The second project is the USPS Parking Lot Reconstruction which covers the parking lot and 'R' Street reconstruction in front of the post office. The engineer's estimate on this project was $500,000 and the bid came in at $520,000. Between the two projects, the bids came in at approximately $500,000 under the engineer's estimate. Clare asked what process was used for the bidding. Chad replied that the E-bid process was used.

Snyder asked for any comments from the public. Hearing none, Beutler made a motion to approve Resolution WH 11-34. Clare seconded the motion. Motion carried 3-0.

Item 7 – Bill No. WH 11-35 Resolution approving Amendment No. 4 to the Agreement for Engineering Services for the West Haymarket Infrastructure Design Contract with Olsson Associates at an additional cost of $1,825,047.00.

Chad Blahak indicated that there was a Motion to Amend No. 1 on this item. Jim Martin explained that the Intelligent Transportation Systems (ITS) work found in Appendix A-13 of this amendment is requested to be tabled. This is cutting edge technology and additional time is requested to further evaluate options that may work better or be more reasonably priced. It is planned to come back at a future date.

Chad went on to explain that Amendment No. 4 includes a number of service items. First were additional services for the 10th and Salt Creek Roadway improvements. While not part of the original scope, it was determined we need to design and build additional parking stalls at the Star City Federal Property. The project will expand the parking lot to the west to balance the taking of the additional property. There were additional construction phase services as well with this project. The complexity of the double roundabouts and the tight time schedule to meet UNL activity needs create a zero slip or no cushion schedule. Therefore, Olsson as the designers, were asked to provide some of the in-field construction phase services to ensure the schedules were met and changes were minimized. Additional surveys were done for the roundabouts to ensure they were done correctly.

Additional service needs were also needed on the 'M' and 'N' Street Project. Part of the original design provided a roadway to the Amtrak Station, threading it between tracks, and for the building design itself. However, left out of either of those scopes was the design of the pad site itself along with needed grading and drainage. Those services will be requested in this amendment. Additionally, the original scope called for minimal design efforts on the intersection and traffic signals at 9th and 10th Street. During the design process, the efforts were found to be greater to relocate the traffic signals which required additional signal work with timing and wiring. A third item was additional sanitary sewer abandonment work to remove sewer from under the tracks. It was found that a single house at 4th and J section took service off of one of the lines we needed to abandon. We had to find an alternative way to maintain sanitary sewer service to that house, which was done via a newer line that was close by. As part of this project, we are adding turn lanes along the west side of 10th Street, requiring moving of the existing curb line of 10th Street to the west. During the design process, we discovered that there was existing fiber conduit with live fiber directly under the sidewalk pavement, so those lines needed to be completely relocated and lowered. Those design services are also provided for in this amendment.

Clare requested clarification on the SAIC executive summary on this item that states "...which increases the total not to exceed contract amount accordingly..." as this seems to be a change in the scope. Jim Martin confirmed it is changing the scope of the work, but the contract is still a guaranteed maximum "not to exceed" type of contract. Chad went on to point out that the dollar amount of the total amendment will decrease with the removal of the ITS work.

The next item under this amendment is the construction phase services for the initial site preparation for the post office in the amount of about $574,000. This was not originally part of the LHIT contract. It was always assumed someone would be doing these construction phase services – whether that was City Engineering Services or the consultant. It this case, it was decided that the consultants would be the best choice to perform these services. Beutler asked about the last item and Chad confirmed that this is the amount referenced earlier by Jim Martin for Sun Valley in the amount of approximately $38,000.

Snyder asked if there were any questions from the public. Hearing none, Beutler made a motion to approve resolution WH11-35. Clare seconded the motion.

Snyder then asked if there were comments on the Motion to Amend No. 1. Beutler asked for clarification as to why it is called Motion to Amend No. 1. Rod Confer explained that Law does that in case there are a number of amendments. Snyder asked for confirmation that this would take out the dollars in the budget for the ITS components and dynamic messaging signs, but the Board would see this back at a later date. Jim Martin confirmed that was accurate. Being no further discussion, Beutler moved to approve the Motion to Amend No. 1. Clare seconded the motion. Motion carried 3-0.

Snyder asked if there was any further discussion on WH11-35 as amended approving the contract Amendment No. 4 to the agreement for engineering services with Olsson Associates. Being none, Motion carried 3-0.

Item 8 – Bill No. WH 11-36 Resolution establishing a budget item for Engineering Services Division services to be provided to the West Haymarket Joint Public Agency.

Chad Blahak noted that this item is before the Board in order for Public Works to quantify the charges to the West Haymarket project. There are three areas denoted on which Engineering Services would be providing service for the project. The first includes an estimated amount of $450,000 for administrative coverage for attendance at meetings from inception to 2013 timeframe (basically for Roger Figard and Chad Blahak for three years). Second is an estimate of hours for design phase services for support on specific projects in the amount of $447,000. Category C is for construction phase services for $343,000. The last amount is more dynamic and includes daily inspections and lab testing for the 10th and Salt Creek roadway project. Final costs will be adjusted for time actually spent. If on subsequent projects construction phase services will be needed, these costs may need adjusted or additional consultant amendments will be needed. Beutler questioned if these services are within the budget. Don Herz confirmed they are and explained that each month dollars are being approved for these types of services. This document now establishes an estimated budget for those costs.

Snyder asked for comments from the public. Hearing none, Beutler moved approval of the resolution. Clare seconded the motion. Motion carried 3-0.

Item 9 – Bill No. WH 11-37 Resolution approving Change Order No. 1 to the TCW Construction Inc. Agreement for additional bid items at a cost of $14,469.00.

Jim Martin advised that this requested change was to relocate some private utilities not identified during the original contract that was let and TCW was awarded. When discovered, the utilities had to be relocated. Had they been discovered prior to award of the contract, this cost would have been in the purchase or land swap agreement with the owner. In order to be expedient, it was easier to have the same work done and issue this change order.

Snyder asked if there were questions from the JPA or for comments from the public. Hearing none, Beutler made a motion to approve the resolution. Snyder seconded the motion. Motion carried 2-0, with Clare abstaining due to a conflict of interest.

Item 10 – Set Next Meeting Date

The next meeting will be held on Wednesday May 25, 2011 3:30 P.M. in Room 112.

Beutler made a motion to adjourn, Clare seconded the motion. Motion carried 3-0.

Meeting adjourned at 4:10 P.M.

Prepared by: Pam Gadeken, Public Works and Utilities

West Haymarket JPA Meeting

Date 5-5-11

Page

Name (Please Print)	Address	Phone/E-Mail
JANE KINSEY DBA Watchdogs of Lincoln Government	6703 HAWKINS BEND	488-8519

Supplier Number	Name	Remark	Project	Do Ty	Document Number	Amount	Check Date	Check Number
81357	Great Plains Appraisal Inc	Cust#369	870903	PV	1266743	2,000.00	04/06/11	442838
594773	Alfred Benesch & Company		870601	OV	1266427	16,936.03	04/06/11	442839
594773	Alfred Benesch & Company		870602	OV	1266430	18,245.14	04/06/11	442839
594773	Alfred Benesch & Company		870603	OV	1266430	5,195.00	04/06/11	442839
594773	Alfred Benesch & Company		870604	OV	1266430	13,917.13	04/06/11	442839
594773	Alfred Benesch & Company		870100	OV	1266748	6,109.30	04/06/11	442839
596579	SMG	Cust#000839	870100	PV	1266749	347.95	04/06/11	442840
88022	T J Osborn Construction	Proj 870501	870501	OV	1266425	164,107.42	04/07/11	43660
249308	DLR Group Inc		870100	OV	1266744	20,587.20	04/07/11	43683
249308	DLR Group Inc		870100	OV	1266745	3,009.19	04/07/11	43683
81357	Great Plains Appraisal Inc	Cust#369	870304	PV	1267790	1,800.00	04/13/11	443293
81357	Great Plains Appraisal Inc	Cust#369	870303	PV	1267790	450.00	04/13/11	443293
81357	Great Plains Appraisal Inc	Cust#369	870201	PV	1267794	4,000.00	04/13/11	443293
98642	Information Services	Jan Wk/Feb Bill	06095	PV	1267939	94.18	04/13/11	443294
102154	Public Building Commission	Account 10011 04/11	06095	PV	1267940	80.50	04/13/11	443295
102154	Public Building Commission	Account 10011 04/11	06095	PV	1267940	8.75	04/13/11	443295
596338	Tree Guys	Stump removal	870304	PV	1268680	6,000.00	04/13/11	443296
36863	General Excavating	PP#3 Proj 870601	870601	OV	1268662	605,044.47	04/14/11	43744
308161	Midwest Right of Way Services Inc	MROW#237, March services	870903	PV	1268683	1,496.00	04/14/11	43845
343450	Fred W Briggs Real Estate PC	Appraisal review,1st St	870903	PV	1268681	800.00	04/14/11	43857
406174	BKD LLP	Client #60387 WHJPA 2010 Final	06095	PV	1267941	2,000.00	04/14/11	43864
591846	Marvin Investment Management Co	Expense Reimbursement	06095	PV	1267943	811.07	04/14/11	43906
591846	Marvin Investment Management Co	Program Admin 2/15/11-3/15/11	06095	PV	1267944	6,800.00	04/14/11	43906
593485	Thought District Inc	10-JPA-007 Ongoing Management	06095	PV	1267942	2,000.00	04/14/11	43914
126341	Jinni Chung Revocable Living Trust	Temporary easement	870302	PV	1270763	2,406.00	04/20/11	443924
131570	Erickson & Sederstrom PC	File#27354	870902	PV	1269981	3,976.14	04/20/11	443925
131570	Erickson & Sederstrom PC	File#27354	870903	PV	1269981	5,203.35	04/20/11	443925
295451	Terry Bitterlich	BNSF safety course/Castillo	870601	PV	1270766	11.00	04/20/11	443926
596338	Tree Guys	Tree removal	870502	PV	1270764	4,000.00	04/20/11	443927
597117	G G & L Company	Temporary easement	870302	PV	1270768	2,275.00	04/20/11	443928
38391	Lincoln Journal Star	Cust#60016059	870303	PV	1270767	10.74	04/21/11	43949
38391	Lincoln Journal Star	Cust#60016059	870703	PV	1270767	10.74	04/21/11	43949
595872	CSL Marketing Group	April'2011 retainer+rent	870100	OV	1270751	17,404.00	04/21/11	44078
596608	M A Mortenson Company	February,2011 billing	870100	OV	1270747	15,555.56	04/21/11	44082
596608	M A Mortenson Company	March,2011 billing	870100	OV	1270748	15,555.56	04/21/11	44082
596877	Olsson Associates	Work of 2/6-3/12/11	870301	OV	1269941	36,703.16	04/21/11	44085
596877	Olsson Associates	Work of 2/6-3/12/11	870201	OV	1269941	33,887.07	04/21/11	44085
596877	Olsson Associates	Work of 2/6-3/12/11	870305	OV	1269941	23,642.71	04/21/11	44085
596877	Olsson Associates	Work of 2/6-3/12/11	870202	OV	1269941	14,797.48	04/21/11	44085
596877	Olsson Associates	Work of 2/6-3/12/11	870951	OV	1269941	11,019.44	04/21/11	44085
596877	Olsson Associates	Work of 2/6-3/12/11	870303	OV	1269941	3,959.52	04/21/11	44085
596877	Olsson Associates	Work of 2/6-3/12/11	870304	OV	1269941	130,971.66	04/21/11	44085
596877	Olsson Associates	Work of 2/6-3/12/11	870703	OV	1269941	47,198.96	04/21/11	44085
596877	Olsson Associates	Work of 2/6-3/12/11	870302	OV	1269941	81,851.27	04/21/11	44085
596877	Olsson Associates	Work of 2/6-3/12/11	870306	OV	1269941	9,018.94	04/21/11	44085
596877	Olsson Associates	Work of 2/6-3/12/11	870307	OV	1269941	15,995.50	04/21/11	44085
596877	Olsson Associates	Work of 2/6-3/12/11	870906	OV	1269941	14,234.77	04/21/11	44085
82368	State of Nebraska	March monitoring for 10620	870602	PV	1271401	3,530.87	04/27/11	444430
594773	Alfred Benesch & Company	March geotechnical services	870100	OV	1271728	798.70	04/27/11	444431
594773	Alfred Benesch & Company	Site Remediation,3/7-4/3/11	870602	OV	1271732	50,995.31	04/27/11	444431
594773	Alfred Benesch & Company	Site Remediation,3/7-4/3/11	870604	OV	1271732	20,876.35	04/27/11	444431
594773	Alfred Benesch & Company	Site Remediation,3/7-4/3/11	870603	OV	1271732	10,158.74	04/27/11	444431
594773	Alfred Benesch & Company	Site Remediation,3/7-4/3/11	870601	OV	1271737	28,606.20	04/27/11	444431

Supplier Number	Name	Remark	Project	Do Ty	Document Number	Amount	Check Date	Check Number
Grand total						1,486,494.07		

5/10/2011

Public Works WHJPA Engineering Costs
4/1/11 through 4/30/11

Description	Explanation	Type	Doc Num	Fund	Business Unit	Object	Sub	Amount	G/L Date
Construction Engineering	WH Initial Haymrket Site Prep	EU	313302	00951	870703	6153	320	28.13	4/7/2011
Construction Engineering	WH NDEQ T-200	EU	313302	00951	870601	6153	320	14.07	4/7/2011
Construction Engineering	WH Sanitary Sewer Relocation	EU	313302	00951	870501	6153	320	1,230.41	4/7/2011
Construction Engineering	WH USPS Parking Lot Reconstct	EU	313302	00951	870303	6153	320	28.13	4/7/2011
Construction Engineering	WH 10th & Salt Ck Road Impr	EU	313302	00951	870304	6153	320	168.81	4/7/2011
Design Engineering	WH "M"&"N" St,7th to 10th St	EU	313302	00951	870302	6153	130	2,298.66	4/7/2011
Design Engineering	WH Core Area Roadways & Utilty	EU	313302	00951	870305	6153	130	981.42	4/7/2011
Design Engineering	WH Initial Haymrket Site Prep	EU	313302	00951	870703	6153	130	671.50	4/7/2011
Design Engineering	WH West Haymarket Park	EU	313302	00951	870000	6153	130	4,193.03	4/7/2011
Design Engineering	WH 10th & Salt Ck Road Impr	EU	313302	00951	870304	6153	130	154.95	4/7/2011
Observer/Inspections	WH BNSF Const, Rehab, Reloc	EU	313302	00951	870905	6153	325	591.34	4/7/2011
Observer/Inspections	WH Sanitary Sewer Relocation	EU	313302	00951	870501	6153	325	4,332.80	4/7/2011
Construction Engineering	WH Initial Haymrket Site Prep	EU	314161	00951	870703	6153	320	168.81	4/21/2011
Construction Engineering	WH Sanitary Sewer Relocation	EU	314161	00951	870501	6153	320	378.60	4/21/2011
Construction Engineering	WH USPS Parking Lot Reconstct	EU	314161	00951	870303	6153	320	112.55	4/21/2011
Construction Engineering	WH 10th & Salt Ck Road Impr	EU	314161	00951	870304	6153	320	5,807.98	4/21/2011
Design Engineering	WH "M"&"N" St,7th to 10th St	EU	314161	00951	870302	6153	130	1,614.49	4/21/2011
Design Engineering	WH Core Area Roadways & Utilty	EU	314161	00951	870305	6153	130	723.14	4/21/2011
Design Engineering	WH Initial Haymrket Site Prep	EU	314161	00951	870703	6153	130	671.50	4/21/2011
Design Engineering	WH ITS & Dynamic Message Sgns	EU	314161	00951	870951	6153	130	168.49	4/21/2011
Design Engineering	WH USPS Parking Lot Reconstct	EU	314161	00951	870303	6153	130	722.13	4/21/2011
Design Engineering	WH West Haymarket Park	EU	314161	00951	870000	6153	130	3,676.85	4/21/2011
Design Engineering	WH 10th & Salt Ck Road Impr	EU	314161	00951	870304	6153	130	323.44	4/21/2011
Laboratory & Testing	WH 10th & Salt Ck Road Impr	EU	314161	00951	870304	6153	350	582.17	4/21/2011
Observer/Inspections	WH Sanitary Sewer Relocation	EU	314161	00951	870501	6153	325	2,618.14	4/21/2011
Observer/Inspections	WH 10th & Salt Ck Road Impr	EU	314161	00951	870304	6153	325	2,470.08	4/21/2011
Construction Engineering	WH NDEQ T-200	AJ	314563	00951	870601	6153	320	(544.55)	4/30/2011
Design Engineering	WH NDEQ T-200	AJ	314563	00951	870601	6153	130	548.63	4/30/2011
								34,735.70	

City of Lincoln, NE
West Haymarket
Job Cost Report
As of April 30, 2011

	Total Budget	Expend.	Encumb.	Available Balance	Accounts Receivable	Adjusted Avail Bal
00951 West Haymarket Capital Proj						
70090 West Haymarket Park						
870000 WH West Haymarket Park		1,878,982	3,816,331	5,695,313-		5,695,313-
70090 West Haymarket Park		1,878,982	3,816,331	5,695,313-		5,695,313-
70091 Arena						
870100 WH Arena	161,899,950	2,991,249	11,470,603	147,438,098		147,438,098
870101 WH Arena Contingency	6,995,650			6,995,650		6,995,650
70091 Arena	168,895,600	2,991,249	11,470,603	154,433,748		154,433,748
70092 Parking						
870201 WH HymktPkLot.FestSp&PedGrdStr	14,089,426	71,995	1,992,175	12,025,256		12,025,256
870202 WH South Parking Garage	13,090,000	34,105	1,287,186	11,768,709		11,768,709
870203 WH Arena Parking Garage	10,352,100		698,599	9,653,501		9,653,501
70092 Parking	37,531,526	106,100	3,977,960	33,447,466		33,447,466
70093 Roads						
870301 WH Charleston Bridge/Roadway	4,835,720	96,051	729,290	4,010,379		4,010,379
870302 WH "M"&"N" St.7th to 10th St	2,280,000	273,736	197,157	1,809,107		1,809,107
870303 WH USPS Parking Lot Reconstct	885,000	84,140	53,862	746,998		746,998
870304 WH 10th & Salt Ck Road Impr	3,412,000	440,257	2,817,852	153,891		153,891
870305 WH Core Area Roadways & Utilty	14,668,960	44,005	1,150,304	13,474,651		13,474,651
870306 WH Traffic Analysis		40,216	70,643	110,859-		110,859-
870307 WH Streetscape		23,706	506,337	530,043-		530,043-
870308 WH Sun Valley Blvd & West "O"	737,400			737,400		737,400
70093 Roads	26,819,080	1,002,111	5,525,445	20,291,524		20,291,524
70094 Pedestrian Ways						
870401 WH Plaza	1,200,000			1,200,000		1,200,000
70094 Pedestrian Ways	1,200,000			1,200,000		1,200,000

	Total Budget	Expend.	Encumb.	Available Balance	Accounts Receivable	Adjusted Avail Bal
70095 Utilities						
870501 WH Sanitary Sewer Relocation	1,440,000	1,260,828	133	179,039		179,039
870502 WH Fiber Optic Comm & Other	650,880	273,271	223,143	154,466		154,466
70095 Utilities	2,090,880	1,534,099	223,276	333,505		333,505
70096 Environmental						
870601 WH NDEQ T-200	978,000	1,273,401	210,917	506,318-		506,318-
870602 WH Voluntary Clean-up Progrm	2,100,000	167,574	189,941	1,742,485		1,742,485
870603 WH Environmental Contngy Pln	2,400,000	46,044	18,768	2,335,188		2,335,188
870604 WH Other/Miscellaneous	525,600	148,565	119,881	257,154		257,154
70096 Environmental	6,003,600	1,635,584	539,507	3,828,509		3,828,509
70097 Dirt Moving						
870701 WH Stmwtr Mtgtn-Sth&WstOfBNSF	2,400,000			2,400,000		2,400,000
870703 WH Initial Haymrket Site Prep	2,088,360	170,167	150,686	1,767,507		1,767,507
870704 WH Other Strmwater Mitigation	3,105,840			3,105,840		3,105,840
70097 Dirt Moving	7,594,200	170,167	150,686	7,273,347		7,273,347
70098 TIF Improvements						
870800 WH TIF Improvements	5,515,693			5,515,693		5,515,693
70098 TIF Improvements	5,515,693			5,515,693		5,515,693
70099 Site Purchase						
870901 WH BNSF Land Acquisition	1,000,000	1,042,795		42,795-		42,795-
870902 WH Alter Site Purchase	4,080,000	25,334	41,750	4,012,916		4,012,916
870903 WH Jaylynn Site Purchase	3,080,000	24,399	8,310	3,047,291		3,047,291
870904 WH UP Site Purchase	1,000,000	1,326,248		326,248-		326,248-
870905 WH BNSF Const, Rehab, Reloc	44,000,000	46,325,938		2,325,938-		2,325,938-
870906 WH Amtrak Station	1,440,000	18,614	290,844	1,130,542		1,130,542

As of April 30, 2011

	Total Budget	Expend.	Encumb.	Available Balance	Accounts Receivable	Adjusted Avail Bal
00951 West Haymarket Capital Proj						
70099 Site Purchase						
870907 WH UP Track Mods West of Brdg	1,236,000	36,772		1,199,228		1,199,228
870908 WH Other Private Prop Acqstns	625,000			625,000		625,000
70099 Site Purchase	56,461,000	48,800,100	340,904	7,319,996		7,319,996
70100 Other Costs						
870951 WH ITS & Dynamic Message Sgns	2,700,000	15,800	48,145	2,636,055		2,636,055
870952 WH Community Space& Civic Art	1,500,000			1,500,000		1,500,000
870975 WH Miscellaneous	5,160,000			5,160,000		5,160,000
870976 WH Line of Credit		52,500		52,500-		52,500-
870977 WH Series 1 JPA Debt		1,535,168		1,535,168-		1,535,168-
870978 WH Series 2 JPA Debt		1,221,802		1,221,802-		1,221,802-
870979 WH Series 3 JPA Debt		577,661		577,661-		577,661-
70100 Other Costs	9,360,000	3,402,931	48,145	5,908,924		5,908,924
00951 West Haymarket Capital Proj	321,471,579	61,521,323	26,092,857	233,857,399		233,857,399

City of Lincoln, NE
West Haymarket JPA
Operating Expenditure Report
As of April 30, 2011

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					240	240-
5261 Postage	5,000			5,000	6,162	1,162-
5323 Bldg Maint Supplies					125	125-
11 Materials & Supplies	5,000			5,000	6,527	1,527-
12 Other Services & Charges						
5621 Misc Contractual Services	330,612			330,612	135,744	194,868
5624 Auditing Service	12,000			12,000	12,000	
5631 Data Processing Service					549	549-
5632 System Develop - I.S.	20,000			20,000		20,000
5633 Software					979	979-
5642 Legal Services	20,000			20,000	4,337	15,663
5643 Management Services	92,043			92,043	62,929	29,114
5725 Mileage - Personal Vehicles	1,000			1,000		1,000
5762 Photocopying	1,000			1,000	480	520
5763 Printing					529	529-
5829 Telephone	1,000			1,000		1,000
5928 Rent of Co/City Bldg Space	1,900			1,900	644	1,256
5931 Parking Rent Bldg Comm					70	70-
5952 Advertising/Media Serv	1,500			1,500	1,232	268
12 Other Services & Charges	481,055			481,055	219,493	261,562
13 Capital Outlay - Equipment						
6069 Data Processing Equipment	4,500			4,500	2,461	2,039
6072 Furniture & Fixtures	11,000			11,000	2,757	8,243
13 Capital Outlay - Equipment	15,500			15,500	5,218	10,282
06095 W Haymarket O & M	501,555			501,555	231,238	270,317

City of Lincoln, NE
West Haymarket JPA
Operating Expenditure Report
As of April 30, 2011

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						
6235 Bd Trustee Pmt-Interest			3,579,079	3,579,079	1,253,324	2,325,755
6236 Note Principal			2,000,000	2,000,000	2,000,000	
6237 Note Interest			2,397	2,397	2,397	
15 Debt Service			5,581,476	5,581,476	3,255,721	2,325,755
195011 JPA 2010A Debt Servic			5,581,476	5,581,476	3,255,721	2,325,755

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						
6235 Bd Trustee Pmt-Interest			3,165,607	3,165,607		3,165,607
15 Debt Service			3,165,607	3,165,607		3,165,607
195021 JPA 2010B/C Debt Serv			3,165,607	3,165,607		3,165,607
00950 West Haymarket Revenue	501,555		8,747,083	9,248,638	3,486,959	5,761,679

WH 11-38 Introduce: 6-2-11

RESOLUTION NO. WH- _____

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

That the Final Reconciliation Change Order to the Agreement with General Excavating for the West Haymarket Diesel Fuel Plume Remediation Project is hereby accepted and approved and the Chairperson of the West Haymarket Joint Public Agency Board of Representatives is hereby authorized to execute said Final Reconciliation Change Order on behalf of the West Haymarket Joint Public Agency.

The total Note Reconciliation to the Contract is $58,208.53.

Adopted this _____ day of _____, 2011.

Introduced by:

_____

Approved as to Form & Legality:

_____
Legal Counsel for
West Haymarket Joint Public Agency

West Haymarket Joint Public Agency
Board of Representatives

_____
Jayne Snyder, Chair

_____
Tim Clare

_____
Chris Beutler

FINAL RECONCILIATION
West Haymarket Diesel Fuel Plume Remediation
Bid No. 10-230

PROJECT DESCRIPTION: West Haymarket Diesel Plume Remediation

CONTRACTOR ADDRESS: Ken Imig, Project Manager
General Excavating
6701 Cornhusker Hwy
Lincoln, NE 68507-3313

NOTICE TO PROCEED: January 13, 2011
SUBSTANTIAL COMPLETION DATE: May 10, 2011

CHANGE ORDER: The West Haymarket Joint Public Agency (JPA), City of Lincoln, Nebraska and General Excavating, Inc. agree to the following revisions to reconcile the above-mentioned contract:

1) Pay item 3
Add 1521 CY of excavated soil @ $4.70/CY = $7,148.70.

2) Pay item 4
Add 5209 CY of imported soil & compaction @ $12.00/CY = $62,508.00.

3) Pay item 5
Remove on-site soil replacement & compaction (minus $50,400.00).

4) Pay item 6
Add 70 LF of fencing installation, maintenance & removal @ $7.40/LF = $518.00.

5) Pay item 8
Remove synthetic fabric silt fence installation (minus $2945.00).

6) Pay item 9
Remove synthetic fabric silt fence maintenance and removal (minus $1805.00).

7) Pay item 10
Remove bid item Replace sanitary sewer pipe, 10" (minus $13,856.70).

8) Pay item 12
Clarify JPA approval of up to 26 well abandonments; reduced to 23 @ $618.00/each. Previously authorized by JPA in the amount of $7416.00 reconciled to $5562.00 (minus $1854.00).

9) Pay item 19
Add 7373.58 T of soil hauling & disposal @ $18.40/T = $135,673.87.

10) Pay item 20
Reduce quantities for concrete & debris removal by 2677.49 T @ 18.60/T (minus $49,801.31).

11) Pay item 21
Remove stockpile management (minus $21,314.00).

12) Pay item 26
Reduce quantities for placement of granular material by 250.31T @ 34.78/T (minus $8,705.78).

13) New pay item
Oil water separator rental, setup, and maintenance at lump sum fee of $3041.75

Total additions = $208,890.32
Total deductions = $150,681.79

Net Reconciliation to Contract = $58,208.53

All other provisions of this contract shall remain the same. The changes included in this final reconciliation are to be accomplished in accordance with the terms, stipulations, and conditions of the original contract as though included therein.

ACCEPTED BY THE CONTRACTOR ON May 16, 2011.

By: _____

Title: Vice President.

Company: General Excavating.

West Haymarket Joint Public Agency
Board of Representatives

_____ _____
Jayne Snyder, Chair Date

WH 11-39 Introduce: 6-2-11

RESOLUTION NO. WH- _____

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

That Amendment No. 2 to the Agreement between Alfred Benesch & Company and the West Haymarket Joint Public Agency to provide Geotechnical Engineering Services for the Arena and Parking Garage structures for the West Haymarket Project, attached hereto as Attachment "A" and incorporated herein by this reference, is hereby approved and the Chairperson of the West Haymarket Joint Public Agency Board of Representatives is hereby authorized to execute said Amendment No. 1 on behalf of the West Haymarket Joint Public Agency.

Adopted this _____ day of _____, 2011.

Introduced by:

_____

Approved as to Form & Legality:

_____
Legal Counsel for
West Haymarket Joint Public Agency

West Haymarket Joint Public Agency
Board of Representatives

_____
Jayne Snyder, Chair

_____
Tim Clare

_____
Chris Beutler

Amendment No. 2 to Scope of Services

Qualified Environmental Consultants

Haymarket Environmental Remediation Services - Specification no. 10-083

This Contract Amendment is made by and between Alfred Benesch & Company (Consultant), and the West Haymarket Joint Public Agency, hereinafter called JPA, this _____ day of _____, 2011 and approved by Resolution No. _____.

WHEREAS, it is the mutual desire of the parties hereto to amend the Agreement to provide professional services associated with the West Haymarket Environmental Remediation Contract which was entered into with the City of Lincoln on July 15, 2010 by Executive Order No. 083296 to provide environmental remediation consulting services. Such agreement was approved by the JPA under Resolution *WH-JPA Resolution for Assignment and Assumption Agreements* on July 22, 2010.

The general description of work to be added to the existing Agreement and covered by this Amendment shall include an expanded scope of environmental remediation consulting services for existing tasks. A detailed breakdown of scope and fee for this amendment is included in the attached "**Amendment No. 2 to Scope of Services**."

The total estimated fee for completion of the work associated with this Amendment No. 2 is $184,505.00, which increases the total not-to-exceed contract amount from $832,038.00 to $1,016,543.00.

NOW THEREFORE, it is hereby agreed that the existing Agreement be amended to include the services as described in the attached "**Amendment No. 2 to Scope of Services**."

This AMENDMENT shall be deemed a part of, and shall 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.

West Haymarket Joint Public Agency

_____

Title: _____

Environmental Consultant – Alfred Benesch & Company

By: James L. Lundquist

Title: Exec. Vice President

Amendment no. 2 to Scope of Services

Qualified Environmental Consultants

Haymarket Environmental Remediation Services - Specification no. 10-083

On July 15, 2010, Alfred Benesch & Company (Consultant) entered into an agreement with the City of Lincoln under EO 083296 to provide environmental remediation consulting services. The agreement allows for adjustments in the scope of services and corresponding adjustments in compensation for such changes in the scope of services.

This Amendment No. 2 provides for expanded scope of services and fee for Task 5 – Supplemental Phase I Environmental Site Assessments, Task 6 – Environmental Contingency Plan and Task 15 – Remedial Action Plan Oversight (Title 200 Petroleum Remediation Project) as described below.

Task 5 – Supplemental Phase I Environmental Site Assessments

Current Contract Estimated Fee: $34,745.00

Supplemental Request: $3,970.00

Consultant has extended additional effort in coordination and execution of Phase I ESA reports in the conduct of Phase I ESAs related to JPA transactions with the U.S. Postal Service; 1st Street Properties; and 8th and T, LLC due to multiple user determinations, interviews and delays/modifications associated with completion of reports beyond the scope considered for this work. Additional fee is requested to account for out of scope fees and to reserve fees for any additional planned (or un-planned) need to conduct due diligence services associated with the project. The total increase in fees associated with the increased scope of services for Task 5 is $3,970.00 as broken out in the attached Table 1. This supplemental request brings the total fee for Task 5 to $38,715.00.

Task 6 – Prepare and Implement Environmental Contingency Plan

Current Contract Estimated Fee: $64,280.00

Supplemental Request: $173,450.00

Consultant has been requested to provide asbestos inspection and abatement design services; lead based – paint assessment and abatement design services; procurement of lead-based paint abatement services; oversight and administration of construction dewatering sampling, laboratory analysis, regulatory coordination and preparation of discharge monitoring reports as required for the site-wide NPDES dewatering permit issued by the Nebraska Department of Environmental Quality (NDEQ). The total increase in fees associated with the increased scope of services for Task 6 is $173,450.00 as broken out in the attached Table 2. This supplemental request brings the total fee for Task 6 to $237,730.00.

Task 15 - Oversight of Title 200 Petroleum Remediation Project

Current Contract Estimated Fee: $42,650.00.

Supplemental Request: $7085.00

The increase in scope and fee related to the T-200 RAP Oversight includes supplemental labor and expense to account for additional time and labor to accommodate oversight and administration of General Excavating Contract (including entry and administration of contractual bid items into City's contracts administration system), deployment of Geoprobe services for purposes of soil disposal characterization purposes required by NDEQ and additional labor for field inspection over an extended time period of time than originally budgeted for. This would increase the total budget of Task 15 by $7085.00 as broken out in Table 3 to a total of budget $49,735.00.

Table 1 – Supplement 2 Task 5 Fee

FEE ESTIMATE			
PROJECT NAME:	WHRA		
PROJECT LOCATION:	Lincoln, NE		
CLIENT:	City of Lincoln		
		Task 5A	
ITEM/DESCRIPTION	RATE	Supplemental Phase I ESAs	
LABOR		HRS	$$
Staff Scientist/Geologist	$90.00	32	$2,880
Drafting/GIS	$80.00	2	$160
WP Support/Accounting	$50.00	2	$100
TOTAL LABOR (HRS/$)		40	$3,620
Benesch Expenses	RATE	UNITS	$$
EDR Reports	$350.00	1	$350
Total Benesch Expenses:			$350
Task 5 Supplemental Fee:			$3,970

Table 2 – Supplement 2 Task 6 Fee

FEE ESTIMATE			
PROJECT NAME:	WHRA		
PROJECT LOCATION:	Lincoln, NE		
CLIENT:	City of Lincoln		
		Task 6	
ITEM/DESCRIPTION	RATE	ECP	
LABOR		HRS	$$
Project Manager Uhlarik	$140.00	24	$3,360
Project Designer/Tuthill	$110.00	120	$13,200
Project Engineer/Lim	$110.00	60	$6,600
Senior Scientist/Asbestos/LBP QC (Johnson)	$130.00	24	$3,120
Staff Scientist/Geologist	$90.00	80	$7,200
Sr. Technician	$65.00	120	$7,800
Survey/Staking	$90.00	32	$2,880
Drafting/GIS	$80.00	8	$640
WP Support/Accounting	$50.00	4	$200
TOTAL LABOR (HRS/$)		472	$45,000
Benesch Expenses	RATE	UNITS	$$
Subcontractor Labor/Disposal Fees	LS	1	$25,000
Procurement/Oversight of LBP Abatement Svcs.	LS	1	$90,000
Travel/Air Fare (Tuthill)	$500.00	3	$1,500
Travel/Rental Vehicle	$300.00	3	$900
Travel/Per Diem	$175.00	10	$1,750
Drilling Services (Geoprobe)	$1,500.00	1	$1,500
On-site Lab Supplies	$20.00	15	$300
Lab Expenses	$500.00	15	$7,500
Total Benesch Expenses:			$128,450
Task 6 Supplemental Fee:			$173,450

Table 3 – Supplement 2 Task 15 Fee

FEE ESTIMATE			
PROJECT NAME:	WHRA		
PROJECT LOCATION:	Lincoln, NE		
CLIENT:	City of Lincoln		
	Task 15		
ITEM/DESCRIPTION	RATE	Remedial Action Oversight - T-200	
LABOR		HRS	$$
Staff Scientist/Geologist	$90.00	12	$900
Sr. Technician	$65.00	72	$4,680
TOTAL LABOR (HRS/$)		84	$5,580
Benesch Expenses	RATE	UNITS	$$
Drilling Services (Geoprobe)	$1,505.00	1	$1,505
Total Benesch Expenses:			$1,505
Task 15 Supplemental Fee:			$7,085

WH 11-40 Introduce: 6-2-11

RESOLUTION NO. WH- _____

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

That the attached Change Order No. 2 to the West Haymarket Utility Relocation Project Agreement between the West Haymarket Joint Public Agency (Agency) and T.J. Osborn Construction to increase the contract sum by $231,814.23 to pay for additional costs due to plan revisions changing the location where the sanitary sewer pipe would be installed, is hereby accepted and approved and the Chair is hereby authorized to execute said Change Order on behalf of the Agency.

Adopted this ____ day of _____, 2011.

Introduced by:

_____

Approved as to Form & Legality:

West Haymarket Joint Public Agency
Board of Representatives

_____
Legal Counsel for
West Haymarket Joint Public Agency

_____
Jayne Snyder, Chair

_____
Tim Clare

_____
Chris Beutler

CHANGE ORDER NO. 2
West Haymarket Utility Relocation
870501.365.5621

PROJECT DESCRIPTION: West Haymarket Utility Relocation

CONTRACTOR: TJ Osborn Construction.
ADDRESS: 5801 Johanna Road
Lincoln NE

BID DATE: September 22, 2010
ORIGINAL COMPLETION DATE: June 1, 2011

REASON FOR CHANGE ORDER: See Attached Change Order No. 2

The Joint Public Agency (JPA), City of Lincoln, Nebraska, BNSF Railroad, and TJ Osborn Construction. agree to the following revisions to the above-mentioned contract.

I. QUANTITY REVISIONS

Contract Change Order No. 2	$54,818.18
SubTotal Quantity Revision Costs	$54,818.18

II. ADDITIONAL BID ITEMS

Contract Change Order No. 2	$176,996.05
SubTotal Additional Bid Items Cost	$176,996.05

Total of Both Quantity Revisions and Additional Bid Items Cost: $231,814.23

III. REVISED CONTRACT COST

The estimated contract construction cost is revised as follows:

Original Bid Estimated Construction Cost	=	$1,161,714.00
Change Order No. 1	=	$17,000.00
Change Order No. 2	=	$231,814.23
Revised Estimated Construction Cost	=	$1,410,528.23

CONTRACT CHANGE ORDER

Contract : 870501.5621.365, West Haymarket Utility Relocation Project 870501

Change Order No. : 2

Change Order Date : 02/08/2011

Approved Date :

Owner :

Contractor :

T. J. OSBORN CONSTRUCTION, INC.

5801 JOHANNA ROAD

SUMMARY OF CHANGES

ORIGINAL CONTRACT AMOUNT	$1,161,714.00
CURRENT CONTRACT AMOUNT	$1,178,714.00
NET CHANGE THIS ORDER	$231,814.23
AMOUNT AFTER CHANGE	$1,410,528.23

SHORT DESCRIPTION

Extra Work due to Plan Revision

DESCRIPTION OF CHANGES

Items that increased or decreased were mostly due to a Plan Revision or not needed due to other work being done on the construction site.
New Items
1 - Changing the inverts in manholes after a Revision changed the locaction of the pipe coming into the manholes.
2 - This fill material being hauled in is used for backfilling of pipe trenches and bore pits. No dirt is hauled out in this operation.
3 - Material that is removed from trench or bore pit that can't be reused as fill material is removed from site.
4 - Realignment changed in the project @ Sta 29+01.03.
5 - Realingment of the 15" at Sta 29+01.03.
6 - Dirt piles from new sanitary sewer pipe excavation moved to one stock pile area onsite
7 - Confirm flow line for an existing twin box and abandoned box, all storm sewer. Needed information for future design of possible Sanitary Sewer
8 - Revised plans show adding a 4" conduit that follows the alignment of the twin 2" conduits. This will be used as the conduit for the future city fiber line.
9 - Realingment of th 15" san. sewer pipe at Sta 29+01..03.
10 - Did not need any rock on project.

INCREASE/DECREASE

Line No.	Pay Item No.	Description	Unit	Proposed Qty	Unit Price	Total
04	10.0010	Crushed Rock Surfacing (In Place)	TN	-497.0000	25.0000	-$12,425.00
05	11.0700	FLOWABLE FILL	CY	30.6000	250.0000	$7,650.00
08	21.0930	Reinf Steel for Structures (In Place)	LBS	1275.0000	1.5000	$1,912.50
24	50.0001	Furnish Waste Storage Container	EA	-5.0000	150.0000	-$750.00
25	50.0005	Sanitary Sewer Pipe, 15" - Pipe Burst Installation	LF	-494.0000	120.0000	-$59,280.00
28	50.0005	Smth Steel Cs, 0.438" Th, Open Cut, 26"	LF	76.0000	172.0000	$13,072.00
30	50.0010	Management of Contaminated Soil	CY	-200.0000	25.0000	-$5,000.00
31	50.0010	REMOVAL OF UNSUITABLE MATERIAL	CY	833.0000	15.0000	$12,495.00
44	50.0060	Waste Storage Container	CDAY	-225.0000	17.5000	-$3,937.50

Line No.	Pay Item No.	Description	Unit	Proposed Qty	Unit Price	Total
21	30.0110	Seeding, Ty "E"	AC	-2.3500	2000.0000	-$4,700.00
22	32.0040	Synthetic Fabric Silt Fence Inst	LF	-3309.0000	2.5000	-$8,272.50
23	32.0050	Synthetic Fabric Silt Fence Maint	LF	-6809.0000	0.5000	-$3,404.50
10	22.0050	Sanitary Sewer Pipe, 15"	LF	849.7400	69.0000	$58,632.06
06	20.0705	Smth Steel Cs, 0.438" Th, BIP, 26"	LF	178.0000	335.0000	$59,630.00
41	50.0020	COVER CROP SEEDING	AC	-2.8500	650.0000	-$1,852.50
42	50.0035	Disposal of Petroleum Contaminated Soil	TON	52.5100	36.5000	$1,916.62
11	22.0060	Sanitary Sewer Pipe, 12"	LF	6.0000	65.0000	$390.00
16	22.0740	Concrete for Plugs & Collars (In Place)	CY	3.8800	350.0000	$1,358.00
18	22.0780	Remove Sanitary Sewer Manhole (Cmpl)	EA	-2.0000	500.0000	-$1,000.00
20	24.0895	Conduit, 2" B	LF	0.0000	14.0000	$0.00
15	22.0670	Std. Manhole, Type "P"	VF	-4.0400	400.0000	-$1,616.00
12	22.0620	Std. Manhole, Type "G"	EA	0.0000	14000.0000	$0.00
				Total		**$54,818.18**

NEW ITEMS

Line No.	Pay Item No.	Description	Unit	Proposed Qty	Unit Price	Total
	50.0001	Misc. Rebuild Manhole Invert	EA	4.0000	750.0000	$3,000.00
	50.0010	Imported Backfill Material Hauled In Only to Site	CY	6590.0000	12.0000	$79,080.00
	50.0001	Std. Drop Manhole, Type Q	EA	1.0000	12000.0000	$12,000.00
	50.0030	Std. Drop Manhole, Type Q	VF	13.1000	500.0000	$6,550.00
	50.0005	Remove existing 12" San. Sewer Pipe	LF	15.0000	20.0000	$300.00
	50.0010	Hauling Material Across Site to Stock Pile	CY	3570.0000	6.0000	$21,420.00
	50.0015	Exploratory Digging For Storm Sewer At 6th & N Sts.	LS	1.0000	6500.0000	$6,500.00
	50.0005	Conduit, 4" Bore	LF	1112.9500	19.0000	$21,146.05
	50.0015	Bypass Pumping Sta 29+01.03	LS	1.0000	15000.0000	$15,000.00
	50.0015	Temperary Shoring Sta 27+68 to 29+01	LS	1.0000	6000.0000	$6,000.00
	50.0015	Temporary Shoring at Sta 17+96 to 18+96.52	LS	1.0000	6000.0000	$6,000.00
				Total		**$176,996.05**

CONTRACT TIME

Contract Begin Date	Original Contract Days	Current Contract Days	Additional Contract Days
10/22/2010	222.00	222.00	0.00

IV. COMPLETION DATE

The completion date for this contract shall remain the same.

All other provisions of this contract shall remain the same. The changes included in this change order are to be accomplished in accordance with the terms, stipulations, and conditions of the original contract as though included therein.

ACCEPTED BY THE CONTRACTOR ON 5/1, 2011.

By: _____
President ()

WH 11-41 Introduce: 6-2-11

RESOLUTION NO. WH- _____

WHEREAS, the West Haymarket Joint Public Agency ("JPA") is currently engaged in constructing, equipping, furnishing and financing public facilities in the West Haymarket area of the City including but not limited to a sports/entertainment arena (the "Arena"), roads, streets, sidewalks, pedestrian overpass, public plaza space, sanitary sewer mains, water mains, electric transmission lines, drainage systems, flood control, parking garages and surface parking lots (the "West Haymarket Facilities"); and

WHEREAS, it is essential that the Arena be completed in time for the 2013 University of Nebraska - Lincoln ("UNL") men's and women's basketball seasons; and

WHEREAS, Exhibit A attached hereto and incorporated herein demonstrates that BNSF requires JPA's agreement to reimburse BNSF for additional costs that BNSF will incur to complete its work in order to complete the Arena as scheduled, and Exhibit B attached hereto and incorporated herein presents the reasons underlying said request.

NOW THEREFORE, it is hereby resolved by the Board of Representatives of the West Haymarket Joint Public Agency:

1. That the JPA agrees to reimburse BNSF for actual costs and expenses incurred for additional work as shown in Exhibit A, in an amount not to exceed $3,379,913.

2. That the Program Manager with the assistance of other JPA personnel is authorized to revise the draw schedule for the escrow agreement between JPA and BNSF to allow such work to proceed and to negotiate terms and conditions for payments to BNSF for the additional work authorized herein.

Adopted this _____ day of _____, 2011.

Introduced by:

_____

Approved as to Form & Legality:

_____
Legal Counsel for
West Haymarket Joint Public Agency

West Haymarket Joint Public Agency
Board of Representatives

_____
Jayne Snyder, Chair

_____
Tim Clare

_____
Chris Beutler

EXHIBIT "A"

From: Rick R. Peo
Sent: Thursday, May 12, 2011 2:36 PM
To: Rodney M. Confer
Subject: FW: BNSF work to catch up
Attachments: 030411 Additional Cost Exhibit - Late Start.xls

Follow Up Flag: Follow up
Flag Status: Flagged

FYI

From: Scherwinski, Chad L [mailto:Chad.Scherwinski@BNSF.com]
Sent: Thursday, May 12, 2011 2:07 PM
To: Rick R. Peo
Cc: Scherwinski, Chad L; Boileau, Robert J; Chamberlain, Richard; Maczuga, Gerald J; Schmidt, Thomas B
Subject: RE: BNSF work to catch up

Rick –

BNSF requires that the JPA provide financial commitment prior to June 1, 2011 regarding, but not limited to the items within "030411 Additional Cost Exhibit – Late Start" which total $3,379,913 as a result of the late start in 2010. JPA approval will help, BNSF overcome schedule impacts suffered in 2010. It will allow BNSF to compress the current schedule and accommodate the required manpower to meet a completion by September 2012. If we do not have approval to accelerate our schedule by June 1, 2011, BNSF will be forced to delay scheduled BNSF construction gang work until funding resolution is resolved. Any further construction delay will ultimately make any hope of schedule recovery a physically impossibility regardless of financial escalation.

Chad Scherwinski
Manager Engineering
BNSF Railway Company
80 44th Avenue NE
Minneapolis, MN 55421
Office **(763) 782-3476**
Cell **(612) 812-9928**
Fax (763) 782-3061

From: Rick R. Peo [mailto:rpeo@lincoln.ne.gov]
Sent: Monday, May 09, 2011 10:31 AM
To: Boileau, Robert J; Chamberlain, Richard; Maczuga, Gerald J; Scherwinski, Chad L
Subject: BNSF work to catch up

Would you please provide me with a brief letter expressing the urgency for getting a commitment from the JPA to fund the BNSF cost to catch up due to the loss of the 2010 construction season . Please include a description of potential consequences if the catch up work is not commenced by (date), such as increased cost to catch up later or delay in completion timeline

Additional Cost Exhibit - Late Start/Delay Costs Loss of 2010 Work - West Haymarket

Task	Description	Quantity	Unit	Cost	Comment
Track	Distribute Cross Ties/OTM	1,350	MH	$35,304	
	Flagging	1,134	MH	$27,350	
	Gang Supervision	844	MH	$36,114	
	General Ground Labor	2,025	MH	$48,839	
	Maintain Equipment	338	MH	$9,490	
	Place Concrete/Cross Ties	5,188	MH	$131,608	Additional labor needed to accommodate condensed
	Surfacing	2,970	MH	$81,360	schedule along with contracting work.
	Payroll Associated Costs/Overhead	1	LS	$744,188	
	Equipment Expenses	1	LS	$331,573	
	Contracting	1	LS	$1,000,000	
	Contingency	1	LS	$225,524	
			SUB TOTAL =	**$2,671,350**	
Signal	Signal Field Labor	4,471	MH	$116,515	
	Additional Equipment/Maintenance	1	LS	$172,258	
	Payroll Associated Costs/Overhead	1	LS	$229,827	Additional labor needed to accommodate track work on
	Equipment Expenses	1	LS	$36,294	condensed schedule
	Contingency	1	LS	$54,885	
			SUB TOTAL =	**$609,779**	
Structures	Temporary Housing Monthly Cost	3	Month	$45,000	**Place holder at $15,000/month. Subject to change
			SUB TOTAL =	**$45,000**	when estimates received.
BNSF Grading	No Stockpile Available	1	LS	$53,784	1st BNSF/City Closing delayed resulting in no available
			SUB TOTAL =	**$53,784**	stockpile per agreements
			TOTAL ADDITIONAL COST =	**$3,379,913**	

Revised 3/4/2011

EXHIBIT "B"

From: Dan Marvin [dmarvin@neb.rr.com]
Sent: Monday, May 16, 2011 10:33 AM
To: Rodney M. Confer
Subject: FW: BNSF Premium payment

This was Tom Leikam's note regarding this issue

From: Dan Marvin [mailto:dmarvin@neb.rr.com]
Sent: Monday, May 16, 2011 8:35 AM
To: 'Trish A. Owen'
Subject: FW: BNSF Premium payment

From: Tom Leikam [mailto:tleikam@oaconsulting.com]
Sent: Thursday, May 05, 2011 2:53 PM
To: Martin, James W.
Cc: Dan Marvin; wh-1@oaconsulting.com; John Olsson
Subject: RE: BNSF Premium payment

Jim,

This came up at the City-BNSF conference call last week. Bob Boileau with BNSF indicated that this was their estimate of what the "premium" cost may be to make up for the lost 2010 construction season. It would include overtime pay (with the associated overhead charges), allowance for increases in labor costs over 2010 rates, allowance for increased material costs, equipment rental costs that may be needed due to additional work compressed into the 2011/2012 construction season (BNSF has a significant capital improvement program underway and a large portion of their resources and equipment will be committed to these projects thus requiring the need to rent/lease equipment at additional costs) and to allow the BNSF the flexibility to utilize outside contractor's if necessary to maintain the construction schedule.

The one thing Bob did say was that this is an estimate and they would bill the City/JPA based upon actual additional costs that are incurred. I believe he may even had suggested that maybe initially the entire amount may not need to be paid into escrow. You might want to touch base with Dan Marvin, he was on that particular conference call as well and see if this is similar to what he recalls.

With regard to the 2nd closing, this has been moved back to May 10th since the street vacations will not be final until that time (these are the street ROW's being vacated and transferred to the BNSF).

Thomas A. Leikam P.E. | Olsson Associates | Transportation
1111 Lincoln Mall, Suite 111 | Lincoln, NE 68508 | tleikam@oaconsulting.com
DIR 402.458.5619 | TEL 402.474.6311 | FAX 402.474.5160

From: Martin, James W. [mailto:JAMES.W.MARTIN@saic.com]
Sent: Thursday, May 05, 2011 2:29 PM
To: Tom Leikam
Subject: FW: BNSF Premium payment

Tom, I let this slip. We were asking BNSF for some clarifications on their invoice. Did you ever talk to Gerald about this? The

second closing is tomorrow, if I'm not mistaken.

From: Chris J. Connolly [mailto:CConnolly@lincoln.ne.gov]
Sent: Thursday, May 05, 2011 1:56 PM
To: Martin, James W.
Cc: Rick R. Peo; Daniel K. Marvin
Subject: BNSF Premium payment

Jim: BNSF wants us to make the premium payment of $3,379, 913 at this second closing. Is this a reasonable amount and are we satisfied we know what work was done for this money? CJC

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WH 11-42 Introduce: 6-2-11

RESOLUTION NO. WH- _____

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

That the attached Amendment No. 1 to the Amended and Restated Construction Manager at Risk Contract with M.A. Mortenson Company adopting a revised Exhibit "E" (Subcontractor Procurement) which provides for use of the City of Lincoln's e-bid system to distribute information, allows responses to an RFQ and proposals to an RFP to be received directly by email and hard copy, requires a list of proposers to an RFP and a list of responders to an RFQ to be posted on Haymarket Now, and makes other minor changes for clarification, is hereby accepted and approved and the Chair is hereby authorized to execute said Amendment No. 1 on behalf of the JPA.

Adopted this ____ day of _____, 2011.

Introduced by:

_____

Approved as to Form & Legality:

West Haymarket Joint Public Agency
Board of Representatives

_____
Legal Counsel for
West Haymarket Joint Public Agency

_____
Jayne Snyder, Chair

_____
Tim Clare

_____
Chris Beutler

AMENDMENT NO. 1

THIS Amendment No. 1 to the Amended and Restated Construction Manager at Risk Contract between the West Haymarket Joint Public Agency (JPA) and M.A. Mortenson Company (CMR) is entered into this ____ day of June, 2011.

WHEREAS, are the parties hereto mutually desire to amend said Amended and Restated Construction Manager at Risk Contract in order to adopt a new Exhibit "E" (Subcontractor Procurement).

NOW, THEREFORE, it is hereby agreed that the existing Contract be amended as follows:

1. That Exhibit "E" attached hereto be substituted for Exhibit "E" attached to the Amended and Restated Construction Manager at Risk Contract.

2. Except as modified above, the existing Amended and Restated Construction Manager at Risk Contract shall remain in full force and effect.

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

WEST HAYMARKET JOINT PUBLIC AGENCY

By: _____
Jayne Snyder, Chair
Board of Representatives

M.A. MORTENSON COMPANY,

By: _____
Title: _____

E x h i b i t E
Subcontractor Procurement

1.1 All subcontracts shall be procured on the basis of best value offered to the Project and shall be lump sum subcontracts. There will be two processes utilized for the best value selection of subcontractors: one-step RFP and two-step RFQ/RFP. The complexity of the work package, completeness of the Contract Documents at the time of procurement, and the size of the package will determine if one-step or two-step procurement will be utilized.

1.2 One-step process: Construction Manager shall, for each scope package: (1) draft a request for proposal specific to the scope of work (RFP) that includes the evaluation criteria from Section 1.4 that will be considered for the scope in question; (2) publish an RFP as an open invitation to offer a proposal; (3) advertise the RFP on Haymarket Now!, (a link will be provided from the City of Lincoln's eBid system) and conduct public outreach to prospective subcontractors; (4) conduct an advertised pre-proposal meeting with prospective subcontractors; (5) publish RFP addenda as necessary; (6) receive proposals directly via e-mail and hard copy, and post a list of the proposers on Haymarket Now!; (7) conduct a private opening of proposals; (8) review and reconcile proposals to the extent possible based on the proposals themselves; (9) create a short-list of proposers to be interviewed (generally between three to five proposers); (10) conduct interviews of the short- listed proposers; (11) further reconcile and evaluate the proposals based on the criteria established under Section 1.4 below; (12) provide a recommendation of award by Construction Manager for the best value subcontractor; (13) subject to approval of Owner, award a lump sum subcontract to the proposer that offers the best value to the Project, which may or may not be the proposer offering the lowest price; and (14) after award, publish a scorecard that includes the resultant evaluation of all the proposers. Reconciliation of proposals may include requiring proposers to make adjustments to correct for unacceptable proposal clarifications, scope omissions, insufficient commitment to the project goals, and/or scope ambiguities. The purpose of the reconciliation is to ensure the proposals are comparable in all respects so that they can be fairly evaluated.

1.3. Two-step process: Construction Manager shall, for each scope package: (1) draft a request for qualifications (RFQ) that includes some or all of the qualitative items included in Section 1.4, and a request for proposal (RFP) instructions tailored to the scope of work and level of development of the Construction Documents that includes some or all of the qualitative items included in Section 1.4 and specifically including price. The RFQ and RFP will include the evaluation criteria from Section 1.4 that will be considered for the scope in question; (2) publish the RFQ as an open invitation to offer qualifications; (3) advertise the RFQ on Haymarket Now!, (a link will be provided from the City of Lincoln's eBid system) and conduct public outreach to prospective subcontractors; (4) conduct an advertised pre-submission meeting with prospective subcontractors; (5) publish RFQ addenda as necessary; (6) receive RFQ responses directly via e-mail and hard copy, and post a list of the responders on Haymarket Now!; (7) conduct a private opening of RFQ responses; (8) review and evaluate the qualifications of the responders based on the criteria established under Section 1.4 below; (9) create a short-list of responders to be invited to advance in the selection process and provide a proposal (generally between three to five responders); (10) notify both the unsuccessful and successful responders of the names on the short list (11) publish the RFP to the short listed responders to offer a proposal; (12) publish RFP addenda as necessary; (13) receive proposals directly via e-mail and hard copy and publish the names of the proposers and the scoring criteria to be used in the evaluation; (14) conduct a private opening of proposals; (15) review and reconcile proposals to the extent possible based on the proposals themselves; (16) conduct interviews of the firms submitting proposals; (17) further reconcile and evaluate the proposals based on the criteria established under Section 1.4 below; (18) provide a recommendation of award by Construction Manager for the best value subcontractor; (19) subject to approval of Owner, award a lump sum subcontract to the

proposer that offers the best value to the Project, which may or may not be the proposer offering the lowest price; and (20) after award of the subcontract, publish a scorecard that includes the resultant evaluation of all the proposers. Reconciliation of proposals may include requiring proposers to make adjustments to correct for unacceptable proposal clarifications, scope omissions, insufficient commitment to the project goals, and/or scope ambiguities. The purpose of the reconciliation is to ensure the proposals are comparable in all respects so that they can be fairly evaluated.

1.4 Construction Manager will, for each scope package, prepare weighted criteria to be used to determine the proposer offering the best value to the Project. These criteria may include price, project approach, qualifications, technical competence, key personnel, relevant experience, resource capacity, financial strength and bonding capacity, community participation, local workforce and business utilization, responses of references, safety approach and safety record, quality approach and quality record, commitment to schedule, and other criteria to be determined by Construction Manager. Proposals will be required to include a proposed lump sum price and information that will permit the Construction Manager to evaluate the proposal based on the criteria established.

1.5 At all times during the evaluation process, a member, or staff member, of the JPA may observe the Construction Manager in subcontractor procurement.

RESOLUTION NO. WH- _____

RECITALS

A. The USPS presently owns USPS Parcel One ("USPS Main Post Office Site in Lincoln") and USPS Parcel Two ("Parking Lot") as shown on Exhibit "A", which is attached hereto and incorporated herein by this reference (collectively "Existing USPS Properties").

B. Under the Revocable Joint License Agreement executed by the City of Lincoln and USPS in 2000, the City permits USPS to use a portion of the JPA Parcel (defined below) for USPS employee parking, and USPS permits the City to use USPS Parcel Two for public parking.

C. In order to implement the Lincoln Haymarket Arena project, the JPA and BNSF Railway Company have entered into a Land Exchange Agreement effective October 18, 2010, which in part provides for BNSF to convey to JPA property ("JPA Parcel") currently used by USPS employees for parking. The JPA Parcel is more particularly shown on Exhibit "C" attached hereto and incorporated herein by this reference.

D. In order to extend R Street to the west to provide additional access to the Lincoln Haymarket Arena project, the JPA needs to acquire USPS Parcel Two from the USPS. In order to accommodate the JPA's need to acquire USPS Parcel Two, the USPS has proposed to enter into a Purchase/Sale Agreement, which would (1) provide for the sale of the USPS's Parcel Two to the JPA at a price equal to its appraised fair market value, (2) allow the USPS to continue to use the JPA Parcel for USPS parking, and (3) require the JPA to reconstruct the USPS parking lot on USPS Parcel One by reconfiguring and relocating certain driveway access points and parking stalls in order to make USPS whole from any loss of parking and functionality of

operations associated with the USPS Main Post Office Facility ("USPS Work"). The USPS Work is shown on Exhibit "D" which is attached hereto and incorporated herein by this reference.

E. The USPS Work is tied to the start of the Site Preparation Project for the new arena in the R-Street Corridor which is scheduled to begin May 31, 2011 ("Commencement Date").

F. USPS has advised that the Purchase/Sale Agreement must be initially drafted by USPS on its own forms. USPS has indicated that it cannot complete the necessary documents by the Commencement Date. USPS has further advised that it would be agreeable to granting the JPA a Right-of-Entry and/or Temporary Construction Easement to construct the USPS Work and to remove the wall in order for R Street to be extended to the west.

G. In order to keep the Arena Project on schedule, the JPA needs to complete all supporting activities on time as well, including the USPS Work. Due to these time constraints, the JPA needs to execute the Right-of-Entry and/or Temporary Construction Easement as soon as acceptable documents are available for execution without waiting for further approval by the Board of Representatives.

NOW, THEREFORE, BE IT RESOLVED by the Board of Representatives of the West Haymarket Joint Public Agency:

That Dan Marvin is hereby authorized to execute a Right-of-Entry and/or Temporary Construction Easement between the USPS and JPA for construction of the USPS Work upon terms and conditions approved by the legal counsel for the JPA.

Adopted this ____ day of _____, 2011.

Introduced by:

_____

Approved as to Form & Legality:

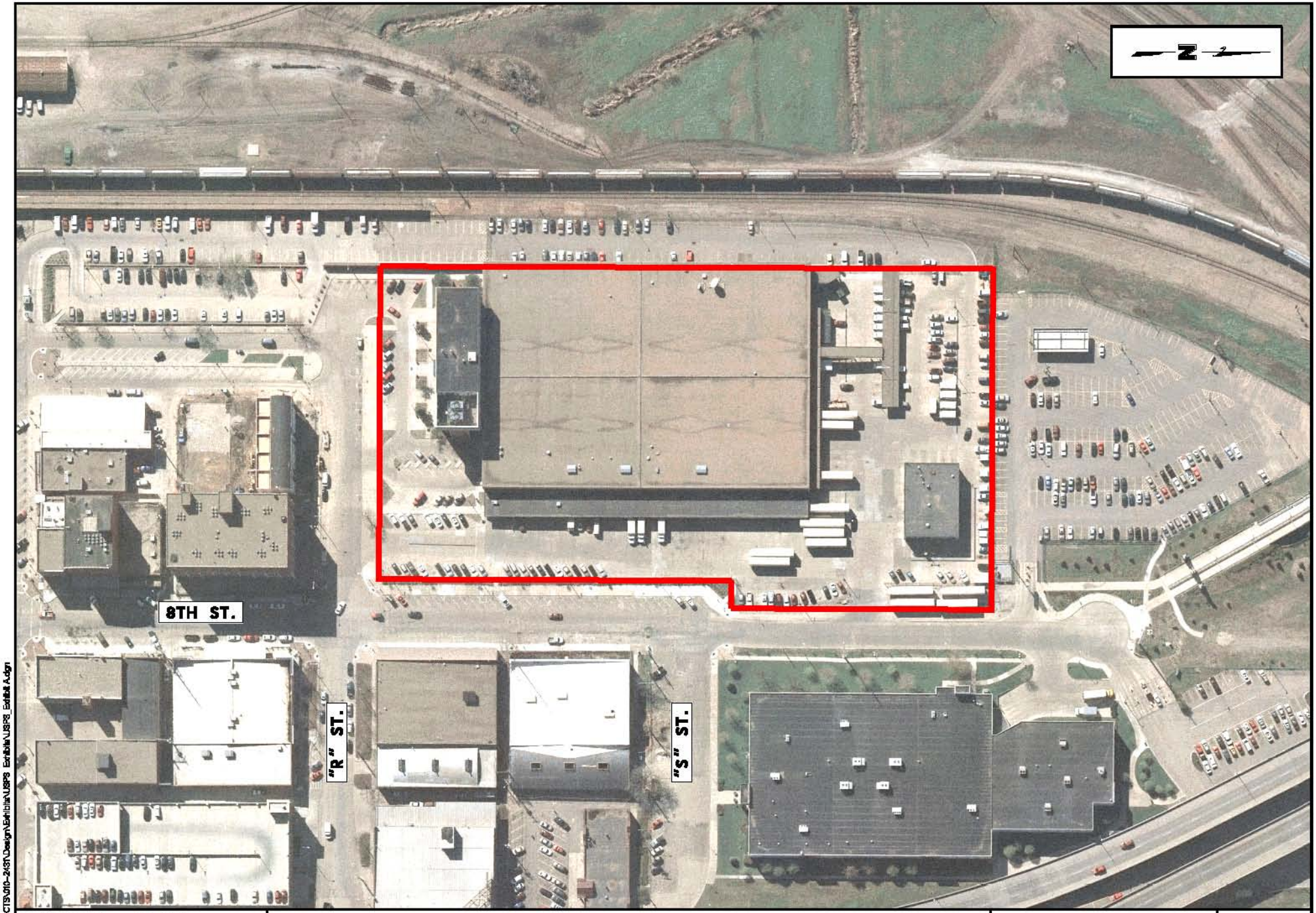
West Haymarket Joint Public Agency
Board of Representatives

_____
Legal Counsel for
West Haymarket Joint Public Agency

_____
Jayne Snyder, Chair

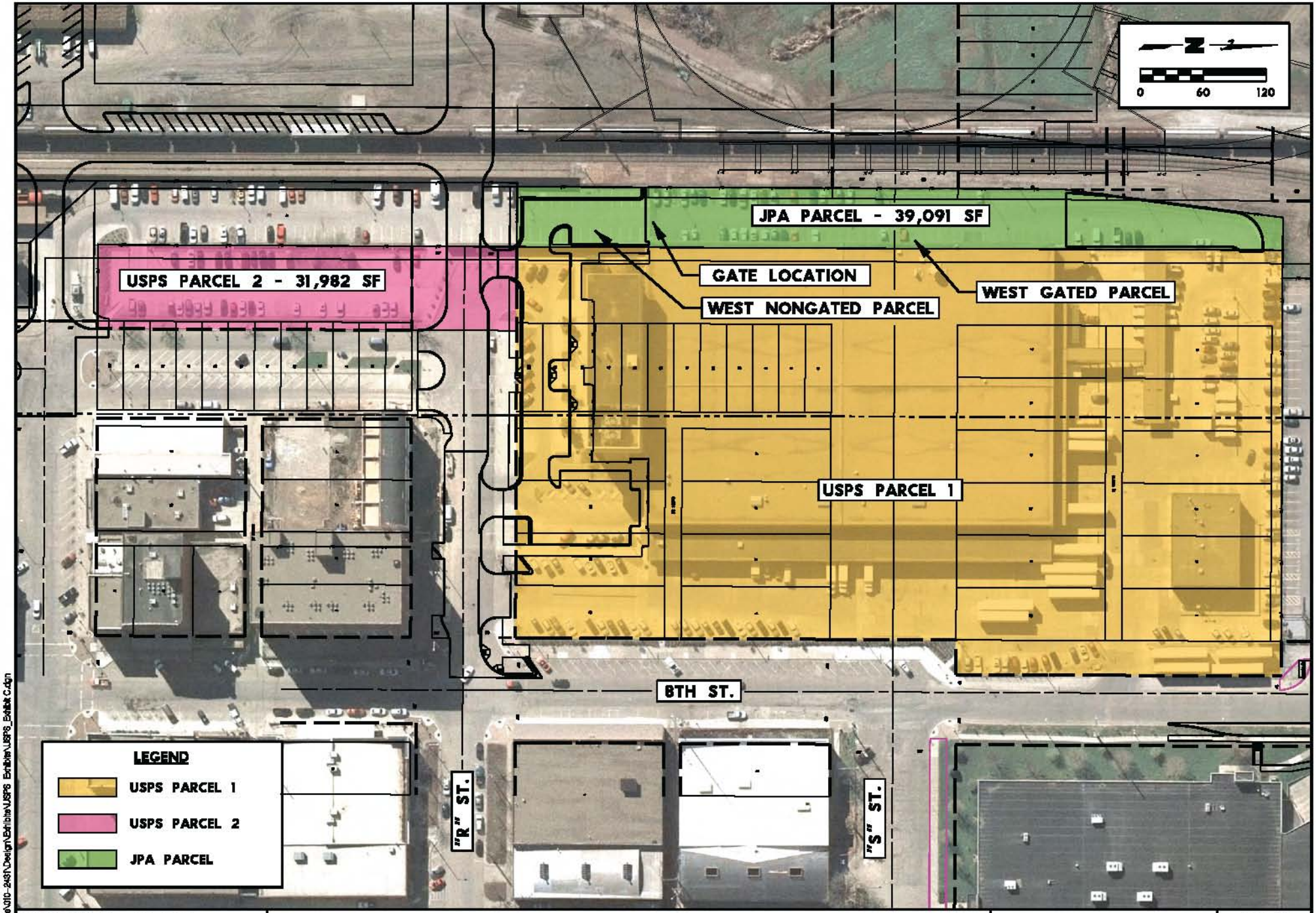
_____
Tim Clare

_____
Chris Beutler



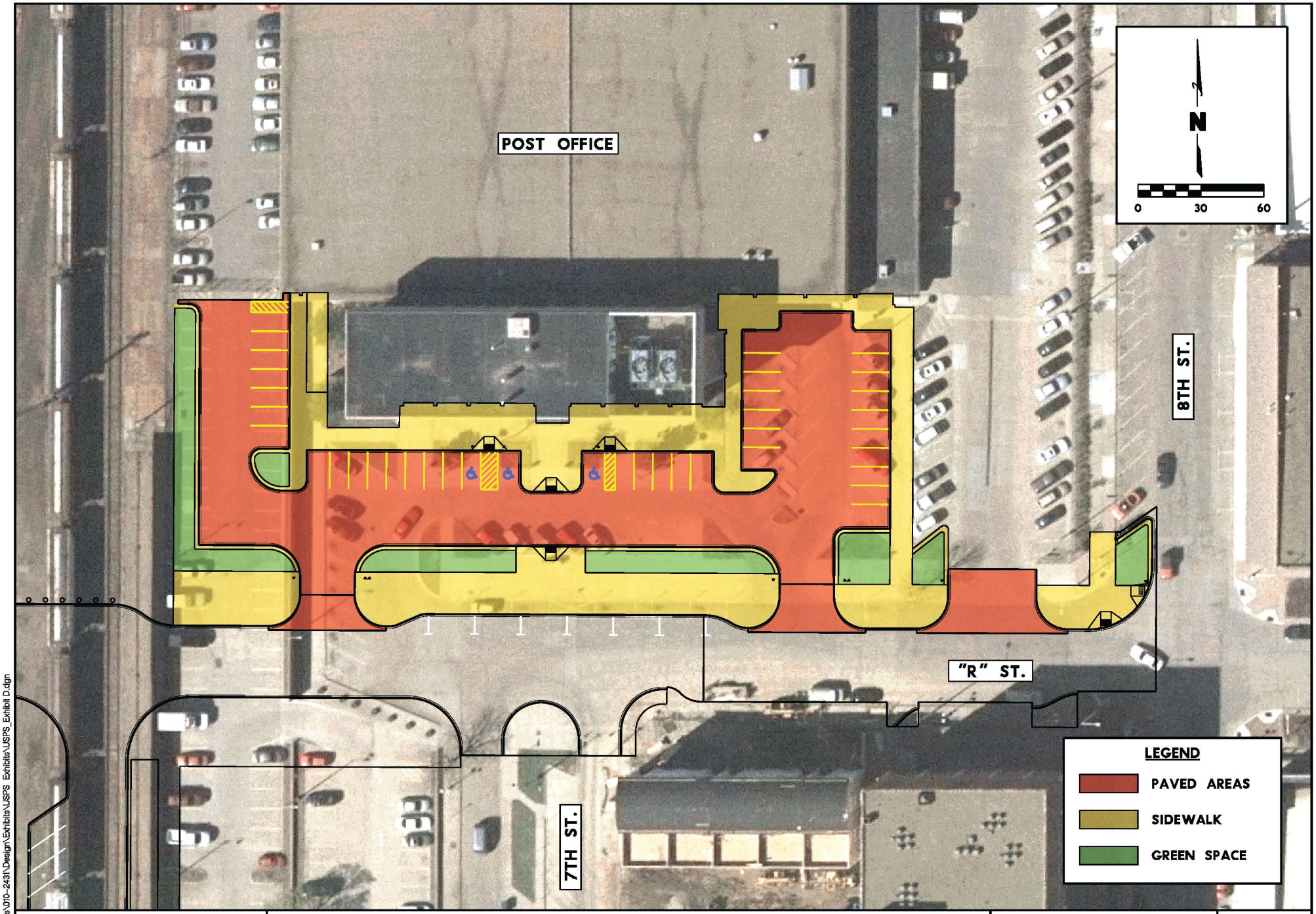
PROJECT NO: 010-2431	USPS PARCEL 1 (AERIAL VIEW)	OLSSON ASSOCIATES	EXHIBIT
DRAWN BY: JJW			A
DATE: 2/23/2011			

DATE: 2/23/2011
DGN: F:\PROJECTS\010-2431\Design\Exhibits\USPS_Exhibit A.dgn



PROJECT NO: 010-2431	PROPERTY EXCHANGE	OLSSON ASSOCIATES	EXHIBIT
DRAWN BY: JJW			C
DATE: 2/23/2011			

DATE: 2/23/2011
DGN: F:\Projects\010-2431\Design\Exhibits\USPS_Exhibits\USPS_Exhibit C.dgn



PROJECT NO: 010-2431	USPS PARKING LOT RECONFIGURATION	OLSSON ASSOCIATES	EXHIBIT
DRAWN BY: JJW			D
DATE: 2/23/2011			

DATE: 2/23/2011
DGN: F:\Projects\010-2431\Design\Exhibits\USPS_Exhibits\USPS_Exhibit D.dgn

WH 11-44 Introduce: 6-2-11

RESOLUTION NO. WH- _____

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

That the Amendment to the Memorandum of Understanding between the West Haymarket Joint Public Agency and N Street Company LLC to revise dates and to express the parties' intentions to use best efforts to cooperate during the lease term to allow N Street Company LLC to continue to operate its business during relocation, attached hereto as Attachment "A" and incorporated herein by this reference, is hereby approved and the Chairperson of the West Haymarket Joint Public Agency Board of Representatives is hereby authorized to execute said Amendment on behalf of the West Haymarket Joint Public Agency.

Adopted this _____ day of _____, 2011.

Introduced by:

_____

Approved as to Form & Legality:

_____
Legal Counsel for
West Haymarket Joint Public Agency

West Haymarket Joint Public Agency
Board of Representatives

_____
Jayne Snyder, Chair

_____
Tim Clare

_____
Chris Beutler

AMENDMENT TO MEMORANDUM OF UNDERSTANDING

THIS AMENDMENT TO MEMORANDUM OF UNDERSTANDING ("Amendment") is made and entered into this ___ day of May, 2011, by and between N Street Company, LLC ("N Street") and the West Haymarket Joint Public Agency ("JPA").

WITNESSETH:

WHEREAS, N Street and JPA entered into a Memorandum of Understanding dated March 9, 2011 ("MOU"), relating to certain real property owned by N Street at 601 N Street, Lincoln, Nebraska (identified therein and herein as the "N Street Property"), and

WHEREAS, attached to the MOU is a Declaration of Restrictive Covenant ("Covenant") which N Street agreed to sign, and

WHEREAS, JPA has requested that certain changes be made to the Covenant that was attached to the MOU, and N Street has agreed to sign the revised Covenant subject to the terms and conditions of this Amendment, and

WHEREAS, the parties have also agreed to the extension of certain deadlines in the MOU as hereinafter set forth.

NOW, THEREFORE, the parties hereto agree as follows:

1. Paragraph 2 shall be amended by adding the following new sentence at the end of the Paragraph:

"Notwithstanding the quitclaim by N Street of the its property and certain street rights of way, the parties will use their best efforts to cooperate during the lease term to allow N Street to continue to operate its business and to relocate its facility in an orderly manner consistent with the needs of the BNSF rail relocation and the needs of the West Haymarket Arena Project."

2. Paragraph 4 of the MOU shall be amended by deleting the existing Paragraph 4 and substituting the following new Paragraph 4 in its place:

"4. A spur track presently serves the currently preferred replacement property (545 West O Street) for N Street. The JPA agrees that, to the extent that such spur track requires service, realignment or repair to bring it up to standards required by BNSF to allow it to provide rail service to the preferred replacement property, the JPA agrees to pay the costs (not to exceed $300,000) of such servicing, realignment and repair, provided that N Street acquires 545 West O Street as its replacement property. The parties acknowledge that any funds that may

be available to N Street for track work at any other replacement site that may be acquired by Alter will have to be the subject to future negotiations between the parties."

3. Paragraph 6 of the MOU shall be amended by deleting the date "July 1, 2011" therefrom and inserting "August 1, 2011" in its place

4. The Covenant that is attached hereto shall be substituted for the Covenant that is attached to the MOU.

5. The parties acknowledge that JPA has requested that N Street quitclaim its interest in certain street rights of way to be vacated by the City of Lincoln, Nebraska. N Street is willing to voluntarily execute and deliver such quitclaim deed based on its understanding with JPA that N Street will, subject to that certain BNSF Easement filed in the office of the Register of Deeds for Lancaster County as Instrument No. 2011-021272, be allowed to continue to utilize such rights of way for the conduct of its business operations, except storage of materials, until such time as its facility is relocated as contemplated by the MOU; so long as such use is not inconsistent with and does not unreasonably interfere with the needs of the BNSF rail relocation and the needs of the West Haymarket Arena Project, including environmental remediation..

6. Except as specifically amended hereby, the MOU shall remain in full force and effect as originally executed. This Amendment shall be binding on the successors and assigns of the parties hereto.

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

N Street Company, LLC

By: _____
Its: SVP-COO

West Haymarket Joint Public Agency

By: _____
Its: _____

DOCS/1038734.2

WH 11-45 Introduce: 6-2-11

RESOLUTION NO. WH- _____

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

That the Land Purchase Agreement between the West Haymarket Joint Public Agency and Jaylynn, L.L.C. for the acquisition of the existing Watson Brickson site, attached hereto as Attachment "A" and incorporated herein by this reference, is hereby approved and the Chairperson of the West Haymarket Joint Public Agency Board of Representatives is hereby authorized to execute said Agreement on behalf of the West Haymarket Joint Public Agency.

Adopted this _____ day of _____, 2011.

Introduced by:

_____

Approved as to Form & Legality:

_____
Legal Counsel for
West Haymarket Joint Public Agency

West Haymarket Joint Public Agency
Board of Representatives

_____
Jayne Snyder, Chair

_____
Tim Clare

_____
Chris Beutler

DRAFT OF 05/24/11

West Haymarket Project, T.C. _____

PURCHASE AGREEMENT

(Jaylynn Existing Site)

THIS AGREEMENT is made and entered into on this _____ day of _____, 2011, by and between Jaylynn, L.L.C., a Nebraska limited liability company, ("Seller"), and the West Haymarket Joint Public Agency, a political subdivision and body corporate and politic of the State of Nebraska created under the Joint Public Agency Act ("JPA").

RECITALS

I.

Seller is the owner of certain real estate (as defined in Neb. Rev. Stat. § 76-201) and improvements commonly known as 660 N Street in Lincoln, Lancaster County, Nebraska, and more fully described hereinafter (the "Property"); and

II.

Seller is agreeable to selling and JPA desires to acquire the Property in fee simple, subject to the terms and conditions as set forth hereinafter.

NOW, THEREFORE, in consideration of, and based on, the foregoing Recitals and the mutual promises and agreements set forth below, the parties agree as follows:

1. Conveyance.

1.1. Sale and Conveyance. Seller agrees to sell and convey to the JPA and JPA agrees to buy and take from the Seller, upon the terms and conditions hereinafter set forth, the real property owned by Seller legally described as: All of Lots 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15, Block 51 in the City of Lincoln, Lancaster County, Nebraska, and the West 25.0 feet of Lot 16 of said Block 51, excepting therefrom, a 17.0 foot wide corridor, being 8.5 feet wide on each side of the Burlington Northern and Santa Fe Railway Company's (formerly Chicago, Burlington & Quincy Railroad Company) spur track centerline, as now located and constructed upon, over and across said Lots 7, 8 and 15, in Lincoln, Lancaster County, Nebraska, together with and including all buildings, improvements, fixtures, rights, privileges and appurtenances thereunto belonging, if any, (hereinafter referred to as the "Property").

Seller represents and warrants that it has good, valid, and marketable title, in fee simple, and agrees at closing (as hereinafter defined) to convey title to the Property to JPA by warranty deed free and clear of all liens, encumbrances, or special taxes levied or assessed, or other restrictions, except the Permitted Exceptions as hereinafter defined.

1.2. Compensation. JPA shall pay to Seller Four Hundred Forty-One Thousand Dollars ($441,000.00), ("Purchase Price"), payable at Closing, subject to adjustments and prorations as herein provided.

1.3. Date of Closing. Seller and JPA agree to close and complete this sale in accordance herewith on or before the ~~15th~~ _____ day of June, 2011, ("Closing").

1.4. Evidence of Title. Within thirty (30) days from the date of this Agreement, JPA shall obtain a title commitment (the "Title Commitment") for an ALTA owner's title insurance policy issued by a title insurance company duly authorized to do business in Nebraska (the "Title Company") covering title to the Property and showing the condition of title to the Property. For purposes hereof, "Permitted Exceptions" shall mean (i) covenants, conditions and restrictions of record which shall be approved by JPA if they do not interfere with JPA's intended use of the Property; (ii) taxes not yet due and payable; (iii) public utility easements of record which shall be approved by JPA, and which do not interfere with JPA's intended use of the Property; (iv) title exceptions pertaining to liens or encumbrances of a definite or ascertainable amount which may be removed by the payment of money at the time of closing and which Seller is willing to and does so remove at closing; (v) title exceptions caused by the acts or omissions of JPA, specifically including the Declaration of Restrictive Covenant by and between Jaylynn, LLC, and BNSF Railway Company requested by the JPA; (vi) easements and use restrictions to be granted under this Agreement; ~~and~~ (vii) any other title exceptions shown on the Title Commitment and which are not properly and timely objected to by JPA; and (viii) the rights, if any, of Lamar Outdoor Advertising under that certain lease filed in the office of the Register of Deeds of Lancaster County, Nebraska, as Instrument No. 2004-071992. The cost of the owner's title insurance policy shall be paid by the JPA. Within fourteen (14) days of JPA's receipt of the title commitment, the JPA shall notify Seller of any objections to the title to the Property disclosed by the title commitment. Seller shall have a reasonable period to cure or correct JPA's objections to the title and deliver an amended title commitment; otherwise, JPA may, at its option, either terminate this Agreement or waive the objection and proceed to Closing.

1.5. Survey. JPA may, at its option, obtain an ALTA/ASCM survey with minimum standard detail requirements showing area dimensions and location of the real property, the nearest monument streets, adjoining streets, roadways and properties, location of all buildings, improvements, and encroachments, if any, the location of all recorded easements, square footage, together with all current floodplain zoning designations of the Property.

1.6. Title and Possession. Seller agrees to deliver at Closing a properly executed Warranty Deed conveying the Property to JPA free and clear of all adverse mortgages, deeds of trusts, leases, encumbrances, liens, statutory rights, assessments, covenants, charges or adverse claims of any kind or character whatsoever, except for Permitted Exceptions. Seller shall deliver possession of the Property to JPA ~~at the time of Closing~~on or before August 31, 2011, and shall occupy the Property up until that time pursuant to the provisions of the Lease, attached hereto and marked as Attachment "A."

1.7. Environmental; Tests. Prior to Closing, JPA and its agents or representatives shall have the right to have access to the Property to perform any type of environmental studies, including without limitation, Phase I and Phase 2 environmental site assessments and/or full site characterizations to identify the vertical and horizontal extent of any environmental contamination that exists on the Property (collectively "Tests"). In the event JPA determines to its reasonable satisfaction based upon the Tests that there exists environmental hazards, materials, or liabilities or other matters which are material to the use of the Property, then JPA*'s* sole remedy shall be the right to terminate this Agreement. A copy of the Tests together with related documents, reports and test reports shall be delivered to the Seller. JPA shall have until the Closing Date to complete the Tests and to provide notice of termination to the Seller.

JPA and its agents or representatives shall be responsible for and hereby agree to indemnify and hold Seller harmless from any damages, loss, or expenses as a result of any damages arising out of any entry or use of the Property as a result of the due diligence or Tests undertaken by JPA or its representatives. JPA and its representatives shall take all reasonable efforts to maintain the security of the premises Property while performing any due diligence or survey Tests activities on the site, and shall, in the event of any termination of this Agreement, promptly repair any damage to the Property, including fill in of any holes bored on the Property.

1.8. Taxes, Assessments and Other Costs. All taxes related to the Property for 2010, and all prior years, shall be paid by Seller at or prior to closing. Any tax related to the Property for 2011, shall be ~~prorated to the date of Closing based on the most recent property valuation and the most recent levy~~the responsibility of JPA. Any special assessment arising out of any improvement completed or under construction prior to Closing, whether then levied or unlevied, assessed or unassessed, shall be borne by Seller. Rents, if any, are to be adjusted on and as of the date of closing and completion of the sale. JPA shall pay any and all transfer taxes or similar fees which are payable upon the recording of the Warranty Deed from Seller to JPA. JPA shall pay its own costs of the preparation of all documents and other related expenses in connection with the sale of the Property. The closing of the sale shall be paid by JPA.

2. Representations and Warranties.

2.1. Representations and Warranties of Seller. Seller represents and warrants to JPA as follows:

2.1.1. Organization; Power; Good Standing. Seller is a limited liability company, duly organized and validly existing in good standing under the laws of the State of Nebraska and has all requisite power and authority to own and operate its property and carry on its business as now being conducted and to enter into this Agreement and perform the obligations hereunder.

2.1.2. Authority Relative to Agreement. This Agreement has been duly executed and delivered by Seller and constitutes a legal, valid, and binding obligation of Seller, enforceable against Seller in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization or other laws affecting the enforcement of creditor's rights generally, or by judicial discretion in connection with the application of equitable remedies. Seller is the owner of the Property and no other persons have any interest in such real estate, except as set forth in this Agreement.

2.1.3. Effect of Agreement. The execution, delivery and performance of this Agreement by Seller and the consummation of the transactions contemplated hereby have been duly authorized by all necessary action by Seller and will not require the consent, waiver, approval, license or authorization of any person or public authority on the part of Seller to be obtained; and will not violate, with or without the giving of notice and/or the passage of time, any provision of law applicable to Seller, and will not conflict with or result in a breach or termination of any provision of, or constitute a default under, or result in the creation of any adverse lien, charge or encumbrance upon the Property pursuant to any mortgage, deed of trust, indenture or other agreement or instrument or any order, judgment, decree, statute, regulation or any other restriction of any kind or character whatsoever, to which Seller is a party or by which the Property may be bound.

2.1.4. Brokers. Seller has not entered into any contract, arrangement or understanding with any person or firm which may result in the obligation of JPA to pay any finder's fee, brokerage or agent's commission or other like payment in connection with the negotiations leading to this Agreement or the consummation of the transactions contemplated hereby, and Seller is not aware of any claim or basis for any claim for payment of any finder's fee, brokerage or agent's commission or other like payment in connection with the negotiations leading to this Agreement or the consummation of the transactions contemplated hereby.

2.1.5. "Non-Foreign Person." Seller is not prohibited from consummating the transactions contemplated hereby and is not a "foreign person" as defined in Section 1445(f) of the Internal Revenue Code of 1986, as amended.

2.2. Representations and Warranties of JPA.

2.2.1. Organization; Power; Good Standing. JPA is a political subdivision and body corporate and politic organized under the laws of the State of Nebraska and has all requisite power and authority to own and operate its property and carry on its business as now being conducted and to enter into this Agreement and perform the obligations hereunder.

2.2.2. Authority Relative to Agreement. This Agreement has been duly executed and delivered by JPA and constitutes a legal, valid and binding obligation of JPA, enforceable against JPA in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization or other laws affecting the enforcement of creditor's rights generally, or by judicial discretion in connection with the application of equitable remedies.

2.2.3. Effect of Agreement. The execution, delivery and performance of this Agreement by JPA and the consummation of the transactions contemplated hereby have been duly authorized by all necessary action by JPA and will not require the consent, waiver, approval, license or authorization of any person or public authority on the part of JPA to be obtained; and will not violate, with or without the giving of notice and/or the passage of time, any provision of law applicable to JPA, and will not conflict with or result in a breach or termination of any provision of, or constitute a default under, or result in the creation of any adverse lien, charge or encumbrance upon the Property pursuant to any mortgage, deed of trust, indenture or other agreement or instrument or any order, judgment, decree, statute, regulation or any other restriction of any kind or character whatsoever, to which JPA is a party or by which the Property may be bound.

3. Indemnification.

3.1. Indemnification by Seller. Upon the terms and subject to the conditions set forth in Section 3.3 hereof and this Section, Seller agrees to indemnify and hold JPA harmless against, and will reimburse JPA upon demand for, any payment, loss, cost or expense (including reasonable professional fees and reasonable costs of investigation incurred in defending against such payment, loss, cost or expense or claim therefore) made or incurred by or asserted against JPA in respect of any and all damages or deficiencies resulting from: (a) any omission, misrepresentation, breach of warranty, or nonfulfillment of any term, provision, covenant, or agreement on the part of Seller contained in this Agreement; ~~(b) any environmental matter which is related to the Property and involves an event occurring or condition existing prior to Closing;~~ and (~~c~~b) any deed, exhibit, certificate, instrument or other agreement furnished or to be furnished to JPA pursuant to this Agreement or any other agreement involving the parties hereto and contemplated hereby.

3.2. Indemnification by JPA. Upon the terms and subject to the conditions set forth in Section 3.3 hereof and this Section, JPA agrees to indemnify and hold Seller harmless

against, and will reimburse Seller upon demand for, any payment, loss, cost or expense (including reasonable professional fees and reasonable costs of investigation incurred in defending against such payment, loss, cost or expense or claim therefore) made or incurred by or asserted against Seller in respect of any and all damages or deficiencies resulting from any omission, misrepresentation, breach of warranty, or nonfulfillment of any term, provision, covenant, or agreement on the part of JPA contained in this Agreement or any exhibit, certificate, instrument, or other agreement furnished or to be furnished to Seller pursuant to this Agreement or any other agreement involving the parties hereto and contemplated hereby.

3.3. Conditions of Indemnification. With respect to any actual or potential claim, any written demand, commencement of any action, or the occurrence of any other event which involves any matter or related series of matters (Claim) against which a party hereto is indemnified (Indemnified Party) by another party (Indemnifying Party) under Sections 3.1 or 3.2 hereof:

3.3.1. Promptly after the Indemnified Party first receives written documents pertaining to the Claim, or if such Claim does not involve a third party Claim, promptly after the Indemnified Party first has actual knowledge of such Claim, the Indemnified Party shall give notice to the Indemnifying Party of such Claim in reasonable detail and stating the amount involved, if known, together with copies of any such written documents; and

3.3.2. If the Claim involves a third party Claim, then the Indemnifying Party shall have the right, at its sole cost, expense and ultimate liability regardless of outcome, through counsel of its choice, to litigate, defend, settle, or otherwise attempt to resolve such Claim, except that the Indemnified Party may elect, at any time and at the Indemnified Party's sole cost, expense and ultimate liability, regardless of outcome, and through counsel of its choice, to litigate, defend, settle, or otherwise attempt to resolve such Claim. If the Indemnified Party so elects (for reasons other than the Indemnifying Party's inability, failure, or refusal to provide a defense to such Claim), then the Indemnifying Party shall have no obligation to indemnify the Indemnified Party with respect to such Claim. In any event, all parties hereto shall fully cooperate with any other party and their respective counsel in connection with any such litigation, defense, settlement, or other attempt at resolution.

3.4. Inspection and Testing. At any time after the date of this Agreement, JPA and its employees and agents shall have the right to enter upon the Property and perform such tests and inspections as it deems necessary to determine suitability of the Property for its intended use. JPA shall where necessary restore the Property to original condition if such tests alter the grade, compaction, or vegetation.

4. Conditions of Closing.

4.1. JPA's Conditions of Closing. Unless waived by JPA in writing, the obligations of JPA to close under this Agreement are subject to fulfillment of the following conditions:

4.1.1. Executed Instruments. JPA shall receive at Closing:

4.1.1.1. The executed warranty deed and easements, if any, in accordance with this Agreement; and

4.1.1.2. A "non-foreign person" affidavit reasonably acceptable to JPA, signed and sworn to by Seller.

4.1.2. Representations and Warranties. There have been no material inaccuracies in the representations and warranties of Seller and such representations and warranties shall be true as of Closing as though made on and as of such date.

4.2. Seller's Conditions of Closing. Unless waived by Seller in writing, the obligations of Seller to close under this Agreement are subject to fulfillment of the following conditions:

4.2.1. Payment. At Closing, Seller shall receive the Purchase Price in Good Funds from JPA.

4.2.2. Representations and Warranties. There have been no material inaccuracies in the representations and warranties of JPA and such representations and warranties shall be true as of Closing as though made on and as of such date.

4.3. Termination. If the conditions of Closing for a party have not been materially complied with or performed and such noncompliance or nonperformance shall not have been waived by the other, such other party may terminate this Agreement and upon such termination neither JPA nor Seller shall have any liability one to the other.

4.4. Risk of Loss. All risk of loss or damage to the Property by fire or other casualty until the delivery of the executed instruments as provided in this Agreement is assumed by the Seller, and in such event, JPA shall have the right and option to cancel this Agreement and receive all monies paid under the Agreement.

5. Relocation Costs. Seller and JPA understand and agree that Seller is entitled, under the Relocation Assistance Act (Neb. Rev. Stat. § 76-1214, et seq.) and regulations promulgated thereunder, to relocation assistance as a result of the acquisition of the Property by the JPA. Further, Seller and JPA agree that existing lumber racking within the buildings currently located on the Property shall be considered personal property to be relocated under the provisions of the Relocation Assistance Act and regulations promulgated thereunder.

The parties understand and agree that the amount of relocation assistance is presently estimated at _____ Dollars ($_____) for the racking and at Three

Hundred Fourteen Thousand Dollars ($314,000.00) for moving costs, but the final amount of relocation assistance is subject to the actual eligible costs related to Seller's relocation to its new site pursuant to the Act and the regulations promulgated thereunder. JPA shall pay to Seller, at Closing, an amount equal to one-half (1/2) of the relocation costs described above in partial satisfaction of its obligations under the Relocation Assistance Act and regulations promulgated thereunder.

6. Miscellaneous.

6.1. Binding Effect - Benefits. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. Notwithstanding anything contained in this Agreement to the contrary, nothing in this Agreement, expressed or implied, is intended to confer on any person other than the parties hereto or their respective successors and assigns any right, remedy, obligation, or liability under or by reason of this Agreement.

6.2. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

6.3. Further Assurances. Each of the parties hereto, without further consideration, agrees to execute and deliver such other documents and take such other action, whether prior to or subsequent to Closing, as may be necessary to more effectively consummate the intent and purpose of this Agreement.

6.4. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Nebraska.

6.5. Notices. All notices, requests, demands, and other communications under this Agreement shall be in writing and shall be deemed to have been duly given when delivered personally or 48 hours after being mailed registered or certified mail, return receipt requested, postage prepaid, to the party at the following addresses or to such other address as any party hereto may from time to time in writing designate to the other parties:

If to JPA: West Haymarket Joint Public Agency
c/o City Attorney's Office
555 S. 10th Street, Suite 300
Lincoln, NE 68508

With a Copy to: Dan Marvin
555 S. 10th Street
Lincoln, NE 68508

If to Seller: Jaylynn, L.L.C.
Attention: Brad Devall
660 N Street

Lincoln, NE 68508

With a Copy to: Peter W. Katt, Esq.
Baylor, Evnen, Curtiss
Grimit & Witt, LLP
Wells Fargo Center
1248 O Street, Suite 600
Lincoln, NE 68508

6.6. Severability. If for any reason whatsoever, any one or more of the provisions of this Agreement shall be held or deemed to be inoperative, unenforceable, or invalid as applied to any particular case or in all cases, such circumstances shall not have the effect of rendering such provision invalid in any other case or of rendering any of the other provisions of this Agreement inoperative, unenforceable, or invalid.

6.7. Survival and Nonmerger. All terms, conditions, representations, and warranties contained in this Agreement shall survive the execution hereof and the Closing hereunder, including, but not limited to, the execution and delivery of any deed related to the Property to be conveyed hereunder, and shall not merge into any deed.

6.8. Time of Essence. The parties agree that time is of the essence in the performance of their respective obligations hereunder.

6.9. Waiver. Either JPA or Seller may, by written notice to the other, (a) extend the time for the performance of any of the obligations or other actions of the other under this Agreement; (b) waive any inaccuracies in the representations or warranties of the other contained in this Agreement or in any document delivered pursuant to this Agreement; (c) waive compliance with any of the conditions or covenants of the other contained in this Agreement; or (d) waive performance of any of the obligations of the other under this Agreement. Except as provided in the preceding sentence, no action taken pursuant to this Agreement, including, without limitation, any investigation by or on behalf of any party, shall be deemed to constitute a waiver by the party taking such action of compliance with any representations, warranties, covenants, or agreements contained in this Agreement. The waiver by any party hereto of a breach of any provision hereunder shall not operate or be construed as a waiver of any prior or subsequent breach of the same or any other provision hereunder.

6.10. Construction. The parties hereto acknowledge and agree that each party has participated in the drafting of this Agreement and that this document has been reviewed by the respective legal counsel for the parties hereto and that the normal rule of construction to the effect that any ambiguity is to be resolved against the drafting party shall not apply to the interpretation of this Agreement. No inference in favor of, or against, any party shall be drawn by the fact that one party has drafted any portion hereof.

EXECUTED by Seller this _____ day of _____, 2011.

JAYLYNN, L.L.C., a Nebraska limited liability company

By: _____

Title: _____

_____
Fed. Id. No. or Social Security No.

EXECUTED by JPA this _____ day of _____, 2011.

WEST HAYMARKET JOINT PUBLIC AGENCY, a political subdivision and body corporate and politic

By: _____

Title: _____

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

On the _____ day of _____, 2011, before me, the undersigned, a Notary Public duly commissioned for and qualified in said County, personally came _____, known to me to be the _____ of Jaylynn, L.L.C., a Nebraska limited liability company, and identical person who signed the foregoing instrument and acknowledged the execution thereof to be his/her voluntary act and deed.

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

_____
Notary Public

STATE OF NEBRASKA)

) ss:
COUNTY OF LANCASTER)

On the _____ day of _____, 2011, before me, the undersigned, a Notary Public duly commissioned for and qualified in said County, personally came _____, known to me to be the _____ of the West Haymarket Joint Public Agency, a political subdivision and body corporate and politic, and identical person who signed the foregoing instrument and acknowledged the execution thereof to be his/her voluntary act and deed as such officer and the voluntary act and deed of said agency by its authority.

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

_____
Notary Public

ATTACHMENT "A"

LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into on this _____ day of _____, 2011, by and between the West Haymarket Joint Public Agency, a political subdivision and body corporate and politic of the state of Nebraska created under the Joint Public Agency Act ("Lessor"), and Jaylynn, L.L.C., a Nebraska limited liability company ("Lessee").

RECITALS

I.

Lessee is selling to Lessor the property hereinafter described as the premises, but finds it necessary to retain possession thereof for a period of time after the closing in order to proceed with orderly removal of its business to a new location.

II.

Lessor is agreeable to leasing the premises back to Lessee for the term set forth below so as to allow Lessee to make an orderly transfer of its business to its new location, upon the terms and conditions as herein set forth.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained here, the parties agree as follows:

1. Premises. Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the premises located at 660 N Street, Lincoln, Nebraska, and legally described as:

> All of Lots 6, 7, 8, 9, 10, 11, 12, 13, 14, and 15, Block 51, in the City of Lincoln, Lancaster County, Nebraska, and the West 25.0 feet of Lot 16 of said Block 51, excepting therefrom a 17 foot wide corridor, being 8.5 feet wide on each side of the Burlington Northern and Santa Fe Railway Company's (formerly Chicago

Burlington and Quincy Railroad Company) spur track center line, as now located and constructed upon, over and across said Lots 7, 8 and 15, in Lincoln, Lancaster County, Nebraska (the "Premises").

2. Term. The term of this Lease shall commence on June ____, 2011, and shall terminate upon the earlier of (i) Lessee's notification that it has vacated the Premises, or (ii) August 31, 2011.

3. Rent. Lessee shall pay to Lessor the sum of One Dollar ($1.00) as rent for the full term of this Lease, receipt of which is hereby acknowledged.

4. Use of Premises. The Premises described herein shall be used by Lessee for the purpose of conducting the business of a lumber yard and for no other purpose without the written consent of the Lessor. Notwithstanding Lessee's right to use the Premises as hereinabove described, Lessee agrees that Lessor shall be entitled to enter upon the Premises as may be necessary to conduct such tests, engage in surveys, or other inspections as may be necessary in furtherance of the West Haymarket Arena Project and, in addition thereto, it is specifically understood and agreed that Lessor shall be entitled to clear and operate two-way truck traffic and other vehicular traffic over and across the westerly ____ feet of the Premises during the term of this Lease.

5. Utilities. Lessee shall pay the cost and charges of all utilities and any other services which may be furnished to the Premises and shall indemnify and hold Lessor harmless for the same. Lessor shall not be liable for interruptions to the telephone, plumbing, heating, ventilating, air conditioning, electrical or other mechanical or utility systems or cleaning services, by reason of accident, emergency, or repairs, alterations, improvements, or shortages or lack of availability of materials or services.

6. Maintenance and Repairs. Lessee shall, at its sole expense, maintain and make repairs and replacements as needed to the improvements on the Premises, including, but not limited to, interior maintenance (including heating, ventilation and air conditioning systems), exterior

maintenance, snow removal, lawn care and parking maintenance. Lessee shall maintain the Premises in clean, safe, and good condition and keep and return the Premises in at least as good condition as they currently exist, ordinary wear and tear excepted.

7. Alterations or Improvements. Lessee shall not make any improvements or alterations to the Premises during the term of this Lease.

8. Americans with Disabilities Act; Compliance. Lessee shall be solely responsible for any expenses necessary to comply with the American with Disabilities Act and similar state statutes or requirements triggered solely by a disability of one or more of Lessee's employees.

9. Signs. Lessee shall have the right to maintain that signage existing on the Premises at the time of execution of this Lease and no other signage.

10. Insurance.

(a) Lessee shall insure the Premises against fire and other casualty for not less than the full replacement value thereof with proceeds to be payable to Lessor and Lessee as their interest may appear.

(b) Lessee, at its own cost and expense, shall procure and maintain, at all times, comprehensive commercial liability insurance in an amount of not less than One Million Dollars ($1,000,000.00) per occurrence with respect to personal injury or death and damage to property. Said policy shall name Lessor as an additional insured, contain a wavier of subrogation in favor or Lessor, and provide that said insurance cannot be cancelled or modified unless thirty (30) days prior written notice has been given to the Lessor.

Said policies or certificates thereof shall be delivered to Lessor by Lessee upon the commencement of the term of this Lease and upon each renewal of said insurance.

11. Indemnification. Lessee hereby agrees to indemnify and hold harmless Lessor, its agents and employees from and against any and all claims or demands for the loss, theft, or damage to property or for injury or death to any person from any cause whatsoever while in, upon, or about the Premises, during the term of this Lease, except to the extent that such claim is compensated by insurance and except further that Lessee's indemnification shall not include an indemnification for liability for the gross negligence of willful misconduct of Lessor, its agents or employees. Each party agrees to indemnify and hold the other harmless from any and all claims and demands of third parties arising from any breach or default of such indemnifying party in the performance of any obligation of such indemnifying party under this Lease or arising from or based upon any alleged act, omission, or negligence of such indemnifying party, or any of its agents, employees, licensees, servants, invitees, or employees.

12. Mutual Waiver of Subrogation. Without limiting the obligation of Lessee to maintain insurance which permits waiver of subrogation (unless otherwise approved in writing by Lessor), and notwithstanding the indemnification provision set forth above or anything else to the contrary set forth herein, Lessor and Lessee hereby waive all causes of action and rights of recovery against each other for any loss occurring to the property of Lessor or Lessee resulting from any of the perils insured against under any and all fire or other extended casualty insurance policies in effect at the time of any such loss, regardless of cause or origin of such loss.

13. Destruction of Premises. If the Premises are damaged by fire or other casualty or peril so as to become untenantable, this Lease shall automatically terminate.

14. Environmental Provisions. Lessee shall not allow any hazardous materials as defined by the Environmental Protection Agencies of the state or federal government to come upon the

Premises or be used thereon and shall not allow any obnoxious odors or vapors to be omitted from the Premises.

15. Holding Over. Should Lessee hold possession hereunder after the expiration of the term of this Lease, Lessee shall be deemed to be a tenant at sufferance and subject to removal pursuant to the Forcible Entry and Detainer statutes of the state of Nebraska (Neb. Rev. Stat. § 25-21,219 et seq.).

16. Notices. Notices under this Lease shall be given in writing and may be served personally by facsimile transmittal or by mail if addressed as follows:

To Lessor: West Haymarket Joint Public Agency
Attention: Dan Marvin
555 S. 10th Street
Lincoln, NE 68508
Fax: (402) _____

To Lessee: Jaylynn, LLC
Attention: Brad Devall
660 N Street
Lincoln, NE 68508
Fax: (402) _____

Each party reserves the right to change the name, address, and/or telephone and fax numbers with respect to which notices are to be sent by giving written notice of such change to the other party at any time.

17. Time is of the Essence. It is hereby agreed that time is of the essence of this Lease.

18. Entire Agreement. This Lease represents all agreements between Lessor and Lessee as regards this subject and can only be amended in writing signed and agreed to by both parties.

19. Successors and Assigns. Lessee shall not assign, sublease or otherwise transfer, by operation of law or otherwise, this Lease or the Premises or any interest herein or portion thereof

without the prior written consent of Lessor, which may be withheld in Lessor's sole discretion. This Lease is for the benefit and shall be binding upon the successors and assigns of each party.

20. Security. Lessee shall be solely responsible for the security of the Premises and for the security of Lessee's employees, agents, guest, and invitees on the Premises. Lessee shall be responsible to lock and secure all doors, windows and entrances to the Premises and to take all other reasonable security measures to protect persons and properties upon the Premises.

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

JAYLYNN, L.L.C., a Nebraska limited liability company

By: _____
Brad Devall, Managing Member

WEST HAYMARKET JOINT PUBLIC AGENCY, a political subdivision and body corporate and politic

By: _____
_____, Chairman

WH 11-46 Introduce: 6-2-11

RESOLUTION NO. WH- _____

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

That the Land Purchase Agreement between the West Haymarket Joint Public Agency and Jaylynn, L.L.C. for the acquisition of the stormwater mitigation site/conservation easement, attached hereto as Attachment "A" and incorporated herein by this reference, is hereby approved and the Chairperson of the West Haymarket Joint Public Agency Board of Representatives is hereby authorized to execute said Agreement on behalf of the West Haymarket Joint Public Agency.

Adopted this _____ day of _____, 2011.

Introduced by:

_____

Approved as to Form & Legality:

_____
Legal Counsel for
West Haymarket Joint Public Agency

West Haymarket Joint Public Agency
Board of Representatives

_____
Jayne Snyder, Chair

_____
Tim Clare

_____
Chris Beutler

West Haymarket Project, T.C. _____

PURCHASE AGREEMENT

(Jaylynn New Site)

THIS AGREEMENT is made and entered into on this _____ day of _____, 2011, by and between Jaylynn, L.L.C., a Nebraska limited liability company, ("Seller"), and the West Haymarket Joint Public Agency, a political subdivision and body corporate and politic of the State of Nebraska created under the Joint Public Agency Act ("JPA").

RECITALS

I.

Seller has agreed to sell and convey to the JPA certain real estate located at 660 N Street, which real estate presently serves as the business location of the Watson Brickson Lumber Company owned by Seller.

II.

Seller has contracted to purchase certain real estate located at 335 P Street and legally described in the attached Exhibit "A" from First Street Properties, a Nebraska general partnership, to provide a new location at which to reestablish the Watson Brickson Lumber Company.

III.

For purposes of storm water mitigation requirements, the JPA is desirous of acquiring a portion of the real estate being acquired by the Seller from First Street Properties, which portion is legally described on the attached Exhibit "B" (the "Property"), with the remainder of the real estate to serve as Seller's new site (the "New Site").

IV.

Seller desires to sell and JPA desires to acquire the Property in fee simple, subject to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of, and based on, the foregoing Recitals and the mutual promises and agreements set forth below, the parties agree as follows:

1. Conveyance.

1.1. Sale and Conveyance. Seller agrees to sell and convey to the JPA and JPA agrees to buy and take from the Seller, upon the terms and conditions hereinafter set forth, the real property owned by Seller legally described on Exhibit "B" (the "Property").

Seller represents and warrants that it has good, valid, and marketable title, in fee simple and agrees at closing (as hereinafter defined) to convey title to the Property to JPA by warranty deed free and clear of all liens, encumbrances or special taxes levied or assessed or other restrictions, except the Permitted Exceptions as hereinafter defined.

1.2. Compensation.

1.2.1. JPA shall pay to Seller Five Hundred Twelve Thousand Nine Hundred Dollars ($512,900.00), ("Property Purchase Price") for the Property, payable at Closing, subject to adjustments and prorations as herein provided.

1.2.2. JPA shall pay to the Seller Eighty Thousand Dollars ($80,000.00) ("Conservation Easement Purchase Price") for the Conservation Easement, as more particularly described in paragraph 5.4 hereof, payable at Closing, subject to the terms and provisions hereof.

The Property Purchase Price and the Conservation Easement Purchase Price shall collectively be referred to hereinafter as the "Purchase Price."

1.3. Date of Closing. Seller and JPA agree to close and complete this sale in accordance herewith on or before the ~~15th~~ _____ day of June, 2011, ("Closing").

1.4. Evidence of Title. Within thirty (30) days from the date of this Agreement, JPA shall obtain a title commitment (the "Title Commitment") for an ALTA owner's title insurance policy issued by a title insurance company duly authorized to do business in Nebraska (the "Title Company") covering title to the Property and showing the condition of title to the Property. For purposes hereof, "Permitted Exceptions" shall mean (i) covenants, conditions and restrictions of record which shall be approved by JPA if they do not interfere with JPA's intended use of the Property; (ii) taxes not yet due and payable; (iii) public utility easements of record which shall be approved by JPA, and which do not interfere with JPA's intended use of the Property; (iv) title exceptions pertaining to liens or encumbrances of a definite or ascertainable amount which may be removed by the payment of money at the time of closing and which Seller is willing to and does so remove at closing; (v) title exceptions caused by the acts or omissions of JPA; (vi) easements and use restrictions to be granted under this Agreement; and (vii) any other title exceptions shown on the Title Commitment and which are not properly and timely objected to by JPA. The cost of the owner's title

insurance policy shall be paid by the JPA. Within fourteen (14) days of JPA's receipt of the title commitment, the JPA shall notify Seller of any objections to the title to the Property disclosed by the title commitment. Seller shall have a reasonable period to cure or correct JPA's objections to the title and deliver an amended title commitment; otherwise, JPA may, at its option, either terminate this Agreement or waive the objection and proceed to Closing.

1.5. Survey. JPA may, at its option, obtain an ALTA/ASCM survey with minimum standard detail requirements showing area dimensions and location of the real property, the nearest monument streets, adjoining streets, roadways and properties, location of all buildings, improvements, and encroachments, if any, the location of all recorded easements, square footage, together with all current floodplain zoning designations of the Property.

1.6. Title and Possession. Seller agrees to deliver at Closing a properly executed Warranty Deed conveying the Property to JPA free and clear of all adverse mortgages, deeds of trusts, leases, encumbrances, liens, statutory rights, assessments, covenants, charges or adverse claims of any kind or character whatsoever, except for Permitted Exceptions. Seller shall deliver possession of the Property to JPA at the time of Closing.

1.7. Environmental; Tests. Prior to Closing, JPA and its agents or representatives shall have the right to have access to the Property to perform any type of environmental studies, including without limitation, Phase I and Phase 2 environmental site assessments and/or full site characterizations to identify the vertical and horizontal extent of any environmental contamination that exists on the Property (collectively "Tests"). In the event JPA determines to its reasonable satisfaction based upon the Tests that there exists environmental hazards, materials, or liabilities or other matters which are material to the use of the Property, then JPA's sole remedy shall be the right to terminate this Agreement. A copy of the Tests together with related documents, reports and test reports shall be delivered to the Seller. JPA shall have until the Closing Date to complete the Tests and to provide notice of termination to the Seller.

JPA and its agents or representatives shall be responsible for and hereby agree to indemnify and hold Seller harmless from any damages, loss, or expenses as a result of any damages arising out of any entry or use of the Property as a result of the due diligence or Tests undertaken by JPA or its representatives. JPA and its representatives shall take all reasonable efforts to maintain the security of the premises Property while performing any due diligence or survey Tests activities on the site, and shall, in the event of any termination of this Agreement, promptly repair any damage to the Property, including fill in of any holes bored on the Property.

1.8. Taxes, Assessments and Other Costs. All taxes related to the Property for 2010, and all prior years, shall be paid by Seller at or prior to closing. Any tax related to the Property for 2011, shall be ~~prorated to the date of Closing based on the most recent property valuation and the most recent levy~~the responsibility of the JPA. Any special assessment arising out of any improvement completed or under construction prior to Closing, whether

then levied or unlevied, assessed or unassessed, shall be borne by Seller. Rents, if any, are to be adjusted on and as of the date of closing and completion of the sale. JPA shall pay any and all transfer taxes or similar fees which are payable upon the recording of the Warranty Deed from Seller to JPA. JPA shall pay its own costs of the preparation of all documents and other related expenses in connection with the sale of the Property. The closing of the sale shall be paid by JPA.

2. Representations and Warranties.

2.1. Representations and Warranties of Seller. Seller represents and warrants to JPA as follows:

2.1.1. Organization; Power; Good Standing. Seller is a limited liability company, duly organized and validly existing in good standing under the laws of the State of Nebraska and has all requisite power and authority to own and operate its property and carry on its business as now being conducted and to enter into this Agreement and perform the obligations hereunder.

2.1.2. Authority Relative to Agreement. This Agreement has been duly executed and delivered by Seller and constitutes a legal, valid and binding obligation of Seller, enforceable against Seller in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization or other laws affecting the enforcement of creditor's rights generally, or by judicial discretion in connection with the application of equitable remedies. Seller is the owner of the Property and no other persons have any interest in such real estate, except as set forth in this Agreement.

2.1.3. Effect of Agreement. The execution, delivery and performance of this Agreement by Seller and the consummation of the transactions contemplated hereby have been duly authorized by all necessary action by Seller and will not require the consent, waiver, approval, license or authorization of any person or public authority on the part of Seller to be obtained; and will not violate, with or without the giving of notice and/or the passage of time, any provision of law applicable to Seller, and will not conflict with or result in a breach or termination of any provision of, or constitute a default under, or result in the creation of any adverse lien, charge or encumbrance upon the Property pursuant to any mortgage, deed of trust, indenture or other agreement or instrument or any order, judgment, decree, statute, regulation or any other restriction of any kind or character whatsoever, to which Seller is a party or by which the Property may be bound.

2.1.4. Brokers. Seller has not entered into any contract, arrangement or understanding with any person or firm which may result in the obligation of JPA to pay any finder's fee, brokerage or agent's commission or other like payment in connection with the negotiations leading to this Agreement or the consummation of the transactions contemplated hereby, and Seller is not aware of any claim or basis

for any claim for payment of any finder's fee, brokerage or agent's commission or other like payment in connection with the negotiations leading to this Agreement or the consummation of the transactions contemplated hereby.

2.1.5. "Non-Foreign Person." Seller is not prohibited from consummating the transactions contemplated hereby and is not a "foreign person" as defined in Section 1445(f) of the Internal Revenue Code of 1986, as amended.

2.2. Representations and Warranties of JPA.

2.2.1. Organization; Power; Good Standing. JPA is a political subdivision and body corporate and politic organized under the laws of the State of Nebraska and has all requisite power and authority to own and operate its property and carry on its business as now being conducted and to enter into this Agreement and perform the obligations hereunder.

2.2.2. Authority Relative to Agreement. This Agreement has been duly executed and delivered by JPA and constitutes a legal, valid, and binding obligation of JPA, enforceable against JPA in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization or other laws affecting the enforcement of creditor's rights generally, or by judicial discretion in connection with the application of equitable remedies.

2.2.3. Effect of Agreement. The execution, delivery and performance of this Agreement by JPA and the consummation of the transactions contemplated hereby have been duly authorized by all necessary action by JPA and will not require the consent, waiver, approval, license or authorization of any person or public authority on the part of JPA to be obtained; and will not violate, with or without the giving of notice and/or the passage of time, any provision of law applicable to JPA, and will not conflict with or result in a breach or termination of any provision of, or constitute a default under, or result in the creation of any adverse lien, charge or encumbrance upon the Property pursuant to any mortgage, deed of trust, indenture or other agreement or instrument or any order, judgment, decree, statute, regulation or any other restriction of any kind or character whatsoever, to which JPA is a party or by which the Property may be bound.

3. Indemnification.

3.1. Indemnification by Seller. Upon the terms and subject to the conditions set forth in Section 3.3 hereof and this Section, Seller agrees to indemnify and hold JPA harmless against, and will reimburse JPA upon demand for, any payment, loss, cost or expense (including reasonable professional fees and reasonable costs of investigation incurred in defending against such payment, loss, cost or expense or claim therefore) made or incurred by or asserted against JPA in respect of any and all damages or deficiencies resulting from: (a) any omission, misrepresentation, breach of warranty, or nonfulfillment of

any term, provision, covenant, or agreement on the part of Seller contained in this Agreement; ~~(b) any environmental matter which is related to the Property and involves an event occurring or condition existing prior to Closing;~~ and (~~c~~b) any deed, exhibit, certificate, instrument or other agreement furnished or to be furnished to JPA pursuant to this Agreement or any other agreement involving the parties hereto and contemplated hereby.

3.2. Indemnification by JPA. Upon the terms and subject to the conditions set forth in Section 3.3 hereof and this Section, JPA agrees to indemnify and hold Seller harmless against, and will reimburse Seller upon demand for, any payment, loss, cost or expense (including reasonable professional fees and reasonable costs of investigation incurred in defending against such payment, loss, cost or expense or claim therefore) made or incurred by or asserted against Seller in respect of any and all damages or deficiencies resulting from any omission, misrepresentation, breach of warranty, or nonfulfillment of any term, provision, covenant, or agreement on the part of JPA contained in this Agreement or any exhibit, certificate, instrument, or other agreement furnished or to be furnished to Seller pursuant to this Agreement or any other agreement involving the parties hereto and contemplated hereby.

3.3. Conditions of Indemnification. With respect to any actual or potential claim, any written demand, commencement of any action, or the occurrence of any other event which involves any matter or related series of matters (Claim) against which a party hereto is indemnified (Indemnified Party) by another party (Indemnifying Party) under Sections 3.1 or 3.2 hereof:

3.3.1. Promptly after the Indemnified Party first receives written documents pertaining to the Claim, or if such Claim does not involve a third party Claim, promptly after the Indemnified Party first has actual knowledge of such Claim, the Indemnified Party shall give notice to the Indemnifying Party of such Claim in reasonable detail and stating the amount involved, if known, together with copies of any such written documents; and

3.3.2. If the Claim involves a third party Claim, then the Indemnifying Party shall have the right, at its sole cost, expense and ultimate liability regardless of outcome, through counsel of its choice, to litigate, defend, settle, or otherwise attempt to resolve such Claim, except that the Indemnified Party may elect, at any time and at the Indemnified Party's sole cost, expense and ultimate liability, regardless of outcome, and through counsel of its choice, to litigate, defend, settle, or otherwise attempt to resolve such Claim. If the Indemnified Party so elects (for reasons other than the Indemnifying Party's inability, failure, or refusal to provide a defense to such Claim), then the Indemnifying Party shall have no obligation to indemnify the Indemnified Party with respect to such Claim. In any event, all parties hereto shall fully cooperate with any other party and their respective counsel in connection with any such litigation, defense, settlement, or other attempt at resolution.

3.4. Inspection and Testing. At any time after the date of this Agreement, JPA and its employees and agents shall have the right to enter upon the Property and perform such tests and inspections as it deems necessary to determine suitability of the Property for its intended use. JPA shall where necessary restore the Property to original condition if such tests alter the grade, compaction, or vegetation.

4. Conditions of Closing.

4.1. JPA's Conditions of Closing. Unless waived by JPA in writing, the obligations of JPA to close under this Agreement are subject to fulfillment of the following conditions:

4.1.1. Executed Instruments. JPA shall receive at Closing:

4.1.1.1. The executed warranty deed;

4.1.1.2. The Conservation Easement;

4.1.1.3. A "non-foreign person" affidavit reasonably acceptable to JPA, signed and sworn to by Seller.

4.1.2. Representations and Warranties. There have been no material inaccuracies in the representations and warranties of Seller and such representations and warranties shall be true as of Closing as though made on and as of such date.

4.2. Seller's Conditions of Closing. Unless waived by Seller in writing, the obligations of Seller to close under this Agreement are subject to fulfillment of the following conditions:

4.2.1. Payment. At Closing, Seller shall receive the Purchase Price in Good Funds from JPA.

4.2.2. Representations and Warranties. There have been no material inaccuracies in the representations and warranties of JPA and such representations and warranties shall be true as of Closing as though made on and as of such date.

4.3. Termination. If the conditions of Closing for a party have not been materially complied with or performed and such noncompliance or nonperformance shall not have been waived by the other, such other party may terminate this Agreement and upon such termination neither JPA nor Seller shall have any liability one to the other.

4.4. Risk of Loss. All risk of loss or damage to the Property by fire or other casualty until the delivery of the executed instruments as provided in this Agreement is assumed by the Seller, and in such event, JPA shall have the right and option to cancel this Agreement and receive all monies paid under the Agreement.

5. Special Provisions.

5.1. Subdivision Approval. In the event that subdivision approval is needed to authorize the conveyance of the Property to the JPA, then and in that event the JPA shall be responsible, at its own cost and expense, for making application and obtaining approval from the City for any necessary subdivision or plat.

5.2. Fill. The JPA agrees that, at the option of the Seller, the JPA shall deposit upon Seller's ~~n~~New ~~s~~Site such fill as the JPA intends to remove from the Property in furtherance of its intended use of the site as a storm water mitigation facility. JPA in no way warrants the suitability of such soil for fill purposes, and upon deposit upon Seller's new site, such fill shall for all purposes become the property of the Seller. The volume and location of the fill to be placed on the New Site shall be as shown on Exhibit "C."

5.3. Vehicular Access. The JPA agrees to obtain approval (if necessary) for a driveway access on Seller's New Site providing access from Seller's New Site onto North 2nd Street. Such driveway access shall be located generally south of the common property line between the Property and Seller's New Site as shown on Exhibit "~~C~~D."

5.4. Grant of Conservation Easement to JPA. Seller shall, at the time of Closing, deliver to the JPA an easement over those portions of the Seller's New Site, more specifically set forth in the Conservation Easement, a copy of which is attached hereto as Exhibit "~~C~~E," relinquishing Seller's right to the allowable fill assigned to the area covered by the Conservation Easement as otherwise permitted under Chapter 27.52 of the Lincoln Municipal Code. ~~[*Must be at least 1 to 1 ½ acres in size.*]~~

6. Miscellaneous.

6.1. Binding Effect - Benefits. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns. Notwithstanding anything contained in this Agreement to the contrary, nothing in this Agreement, expressed or implied, is intended to confer on any person other than the parties hereto or their respective successors and assigns any right, remedy, obligation, or liability under or by reason of this Agreement.

6.2. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

6.3. Further Assurances. Each of the parties hereto, without further consideration, agrees to execute and deliver such other documents and take such other action, whether prior

to or subsequent to Closing, as may be necessary to more effectively consummate the intent and purpose of this Agreement.

6.4. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Nebraska.

6.5. Notices. All notices, requests, demands, and other communications under this Agreement shall be in writing and shall be deemed to have been duly given when delivered personally or 48 hours after being mailed registered or certified mail, return receipt requested, postage prepaid, to the party at the following addresses or to such other address as any party hereto may from time to time in writing designate to the other parties:

If to JPA:	West Haymarket Joint Public Agency c/o City Attorney's Office 555 S. 10th Street, Suite 300 Lincoln, NE 68508
With a Copy to:	Dan Marvin 555 S. 10th Street Lincoln, NE 68508
If to Seller:	Jaylynn, L.L.C. Attention: Brad Devall 660 N Street Lincoln, NE 68508
With a Copy to:	Peter W. Katt, Esq. Baylor, Evnen, Curtiss Grimit & Witt, LLP Wells Fargo Center 1248 O Street, Suite 600 Lincoln, NE 68508

6.6. Severability. If for any reason whatsoever, any one or more of the provisions of this Agreement shall be held or deemed to be inoperative, unenforceable, or invalid as applied to any particular case or in all cases, such circumstances shall not have the effect of rendering such provision invalid in any other case or of rendering any of the other provisions of this Agreement inoperative, unenforceable, or invalid.

6.7. Survival and Nonmerger. All terms, conditions, representations, and warranties contained in this Agreement shall survive the execution hereof and the Closing hereunder, including, but not limited to, the execution and delivery of any deed related to the Property to be conveyed hereunder, and shall not merge into any deed.

6.8. Time of Essence. The parties agree that time is of the essence in the performance of their respective obligations hereunder.

6.9. Waiver. Either JPA or Seller may, by written notice to the other, (a) extend the time for the performance of any of the obligations or other actions of the other under this Agreement; (b) waive any inaccuracies in the representations or warranties of the other contained in this Agreement or in any document delivered pursuant to this Agreement; (c) waive compliance with any of the conditions or covenants of the other contained in this Agreement; or (d) waive performance of any of the obligations of the other under this Agreement. Except as provided in the preceding sentence, no action taken pursuant to this Agreement, including, without limitation, any investigation by or on behalf of any party, shall be deemed to constitute a waiver by the party taking such action of compliance with any representations, warranties, covenants, or agreements contained in this Agreement. The waiver by any party hereto of a breach of any provision hereunder shall not operate or be construed as a waiver of any prior or subsequent breach of the same or any other provision hereunder.

6.10. Construction. The parties hereto acknowledge and agree that each party has participated in the drafting of this Agreement and that this document has been reviewed by the respective legal counsel for the parties hereto and that the normal rule of construction to the effect that any ambiguity is to be resolved against the drafting party shall not apply to the interpretation of this Agreement. No inference in favor of, or against, any party shall be drawn by the fact that one party has drafted any portion hereof.

EXECUTED by Seller this _____ day of _____, 2011.

JAYLYNN, L.L.C., a Nebraska limited liability company

By: _____

Title: _____

_____
Fed. Id. No. or Social Security No.

EXECUTED by JPA this _____ day of _____, 2011.

WEST HAYMARKET JOINT PUBLIC AGENCY, a political subdivision and body corporate and politic

By: _____

Title: _____

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

On the _____ day of _____, 2011, before me, the undersigned, a Notary Public duly commissioned for and qualified in said County, personally came _____, known to me to be the _____ of Jaylynn, L.L.C., a Nebraska limited liability company, and identical person who signed the foregoing instrument and acknowledged the execution thereof to be his/her voluntary act and deed.

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

_____
Notary Public

STATE OF NEBRASKA)
) ss:
COUNTY OF LANCASTER)

On the _____ day of _____, 2011, before me, the undersigned, a Notary Public duly commissioned for and qualified in said County, personally came _____, known to me to be the _____ of the West Haymarket Joint Public Agency, a political subdivision and body corporate and politic, and identical person who signed the foregoing instrument and acknowledged the execution thereof to be his/her voluntary act and deed as such officer and the voluntary act and deed of said agency by its authority.

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

_____
Notary Public

1st Street Properties

LOTS ONE (1) THROUGH SIX (6) INCLUSIVE, BLOCK TWO HUNDRED FIFTY-THREE (253) AND THE NORTH 1/2 OF THE VACATED ALLEY ADJACENT TO THE SOUTH LOT LINE OF SAID LOTS. ALL OF BLOCK 262 AND THE VACATED PORTION OF THE EAST-WEST ALLEY THAT BISECTS BLOCK 262 AND THE VACATED PORTION OF Q STREET THAT IS ADJACENT TO THE SOUTH LOT LINE OF LOTS 7-12 INCLUSIVE OF BLOCK 262. ALL OF THE WEST 1/2 PORTION OF VACATED 3RD STREET STARTING AT THE EXTENSION OF THE SOUTH LOT LINE OF LOT 1, BLOCK 253 AND EXTENDING NORTH TO THE POINT WHERE 3RD STREET INTERSECTS WITH THE UNION PACIFIC RAILROAD RIGHT OF WAY, ORIGINAL PLAT LINCOLN, LANCASTER COUNTY, NEBRASKA, ALL LOCATED UPON THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 10 NORTH, RANGE 6 EAST OF THE 6TH P. M., LINCOLN, LANCASTER COUNTY, NEBRASKA;

and

THAT PORTION OF LOTS THREE (3) THROUGH TWELVE (12), INCLUSIVE, BLOCK TWO HUNDRED SEVENTY-FOUR (274) THAT LIE WEST AND SOUTH OF THE UNION PACIFIC RAILROAD RIGHT OF WAY INCLUDING THE VACATED EAST-WEST ALLEY BISECTING BLOCK 274 AND THE VACATED PORTION OF S STREET THAT LIES BETWEEN BLOCK 274 AND BLOCK 265. ALL OF BLOCK 265 INCLUDING THE VACATED EAST-WEST ALLEY BISECTING BLOCK 265 AND THE VACATED PORTION OF R STREET THAT LIES BETWEEN BLOCK 265 AND BLOCK 262, ORIGINAL PLAT LINCOLN, LANCASTER COUNTY, NEBRASKA, ALL LOCATED UPON THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 10 NORTH, RANGE 6 EAST OF THE 6TH P.M., LINCOLN, LANCASTER COUNTY, NEBRASKA.

ALL-STATE LEGAL®
EXHIBIT
"A"

EXHIBIT "E"

CONSERVATION EASEMENT AGREEMENT

THIS CONSERVATION EASEMENT AGREEMENT is entered into on this _____ day of _____, 2011, by and between Jaylynn, L.L.C., a Nebraska limited liability company ("Owner"), and the West Haymarket Joint Public Agency, a political subdivision and body corporate and politic of the state of Nebraska created under the Joint Public Agency Act ("JPA").

RECITALS

I.

Owner is the owner in fee simple of _____, Lincoln, Lancaster County, Nebraska ("Property"). Owner desires to convey and JPA desires to accept a permanent conservation easement to preserve the flood storage capacity on that portion of the property legally described below, hereinafter "Easement Area."

II.

The Easement Area is located within the Salt Creek Flood Storage Area No. 9 and has been assigned an allowable fill, for flood storage purposes, of no more than forty percent (40%) on a volumetric basis, all as shown on Exhibit "A," which has been adopted by the City of Lincoln as part of the "Standards for Salt Creek Flood Storage Area" (LMC 27.52.035).

III.

The Owner is agreeable to granting and conveying to the JPA a permanent conservation easement relinquishing to the JPA the allowable fill capacity otherwise assigned to the Easement Area as described above, which the JPA may, or may not, at its option, assign to another location within Storage Area No. 9 as contemplated by LMC 27.52.035.

IV.

The JPA is authorized to accept and hold this Conservation Easement under the terms of this Agreement and the Conservation and Preservation Easements Act (Neb. Rev. Stat. § 76-2,111 et seq.).

V.

This Agreement has been submitted to the Lincoln City-Lancaster County Planning Commission pursuant to the provisions of Neb. Rev. Stat. § 76-2,112 for review and recommendation and said Commission has found that the Conservation Easement is in conformance with the Lincoln City Comprehensive Plan.

VI.

The Board of Representatives of the JPA has approved and accepted this Conservation Easement after duly considering the recommendations of the Lincoln City-Lancaster County Planning Commission and has authorized the Chairman to execute this Agreement on behalf of the JPA.

NOW, THEREFORE, in consideration of the mutual value to the Owner and JPA and to encourage and preserve wetlands, the Owner and JPA agree as follows:

1. Grant of Conservation Easement. Owner hereby creates, establishes, grants and conveys to the JPA for its benefit and the benefit of the public, a conservation easement over the

Easement Area relinquishing its right to place upon or within the Easement Area the otherwise allowable fill assigned to the Easement Area pursuant to the Standards for Salt Creek Flood Storage Area as adopted by the City of Lincoln (LMC 27.52.035). The use of the Easement Area is restricted to open space (which may include a surface parking area) and the Owner shall protect and preserve the flood storage capacity of the Easement Area and shall restrict development and use of the property that will significantly impair or interfere with the flood storage capacity of the Easement Area.

A. The following uses and practices, although not an exhaustive recital of the inconsistent uses and practices, are inconsistent with the purposes of this Conservation Easement and shall be prohibited within the Easement Area;

i. Construction or placement of fill material, cement, buildings, fences, signs, or any other structure;

ii. Any other use or practice that would adversely impact the flood storage capacity.

B. The term of this Conservation Easement shall be in perpetuity unless earlier terminated pursuant to any of the following provisions:

i. By the JPA pursuant to the provisions of Neb. Rev. Stat. § 76-2,113.

ii. By the Lancaster County District Court pursuant to the provisions of Neb. Rev. Stat. § 76-2,114.

The parties agree that termination of this Agreement may be total and affect the entire Easement Area, or may be partial and result in the termination of the easement over only a portion of the Easement Area.

C. The Owner understands and agrees that the JPA may, at its option, transfer a portion or the total amount of the allowable fill capacity assigned to the Easement Area pursuant to the "Standards for Salt Creek Flood Storage Area" adopted by the City of Lincoln to another location within the same storage area.

2. Condition of the Easement Area at Time of Grant. The conditions of the Easement Area at the time of this grant shall mean the flood storage capacity of the Easement Area existing at the time of this grant as shown on the attached Exhibit "B."

3. Protection and Maintenance of the Easement Area.

A. Owner agrees at Owner's own cost and expense to protect and maintain the flood storage capacity of the Easement Area in the same condition existing at the time of this grant except as otherwise authorized by this Conservation Easement.

B. Owner agrees to pay any real estate taxes, or assessments levied by competent authorities on the Easement Area, including, but not limited to, any tax or assessment affecting the easement granted herein. Owner further agrees to obtain, pay for, and continuously maintain liability and property insurance covering the Easement Area.

C. Owner shall cooperate with and assist the JPA at JPA's cost in applying for, obtaining, protecting, maintaining and enhancing any and all surface water and ground water rights and privileges related to the Easement Area by signing applications which the JPA deems necessary or desirable for the management, maintenance or development of the Easement Area for the purposes provided for herein.

4. Inspection and Access by City. The JPA shall have the right of reasonable ingress and egress to and from the Easement Area from public roads and streets and from adjacent

properties for its employees, contractors, vehicles and equipment for the purpose of inspecting, maintaining, or protecting the flood storage capacity of the Easement Area as the JPA may deem necessary or desirable.

5. Enforcement. Owner agrees that the JPA may enforce the provisions of this Conservation Easement by any proceeding at law or in equity, including, but not limited to, the right to require restoration of the Easement Area to the condition at the time of this grant. Owner further agrees that the JPA may seek an injunction restraining any person from violating the terms of this Conservation Easement and that the JPA may be granted such injunction without posting of any bond whatsoever. Owner further agrees that the JPA does not waive or forfeit the right to take any action as it deems necessary to insure compliance with the covenants and purposes of this grant by any prior failure to act. Owner further agrees that should Owner undertake any activity requiring the approval of the JPA without or in advance of securing such approval, or undertake any activity in violation of the terms of this Conservation Easement that JPA shall have the right to enforce the restoration of that portion of the Easement Area affected by such activity to the condition that existed prior to the undertaking of such unauthorized activity. In such case, the cost of such restoration and the JPA's cost of suit, including reasonable attorney fees, shall be paid by Owner.

6. Title to Easement Area. Owner covenants that Owner is the owner of marketable title to all of the Easement Area, has legal right, title and capacity to grant the Conservation Easement granted herein subject to easements and restrictions of record.

7. Binding Affect. The Conservation Easement granted herein shall run with the land and shall inure to the benefit of and be binding upon the heirs, successors and assigns of Owner and JPA.

8. Recordation. The parties agree that this Agreement shall be duly filed by the JPA with the Lancaster County Register of Deeds upon execution and acceptance by the JPA. Filing fees shall be paid in advance by the Owner.

9. Severability. If any provision of this Conservation Easement or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of the Conservation Easement and the application of such provisions to persons or circumstances other than those to which it is found to be invalid shall not be affected thereby.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date set forth above.

JAYLYNN, L.L.C., a Nebraska limited liability company, Owner

By: _____
Brad Devall, Managing Member

WEST HAYMARKET JOINT PUBLIC AGENCY, a political subdivision and body corporate and politic

By: _____
_____, Chairman

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

On the _____ day of _____, 2011, before me, the undersigned, a Notary Public duly commissioned for and qualified in said County, personally came _____, known to me to be the _____ of Jaylynn, L.L.C., a Nebraska limited liability company, and identical person who signed the foregoing instrument and acknowledged the execution thereof to be his/her voluntary act and deed.

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

_____
Notary Public

STATE OF NEBRASKA)
) ss:
COUNTY OF LANCASTER)

On the _____ day of _____, 2011, before me, the undersigned, a Notary Public duly commissioned for and qualified in said County, personally came _____, known to me to be the _____ of the West Haymarket Joint Public Agency, a political subdivision and body corporate and politic, and identical person who signed the foregoing instrument and acknowledged the execution thereof to be his/her voluntary act and deed as such officer and the voluntary act and deed of said agency by its authority.

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

_____
Notary Public