

REVISED
AGENDA FOR THE WEST HAYMARKET
JOINT PUBLIC AGENCY (JPA)
TO BE HELD FRIDAY, July 29, 2011 AT 3:30 P.M.

CITY-COUNTY BUILDING
555 S. 10TH STREET
CITY COUNCIL CHAMBERS ROOM 112
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 July 15, 2011 (Chair Snyder)
 - (Staff recommendation is for the JPA Board to approve the minutes as presented)
4. West Haymarket Progress Report (Paula Yancey)
 - Public Comment
5. Bill No. WH 11-60 Resolution approving an Agreement of Purchase and Sale and Leaseback between the West Haymarket Joint Public Agency and USPS providing for the JPA's purchase of USPS Parcel for its appraised fair market value and the lease of the JPA Parcel to the USPS for nominal consideration. (Peo)
 - Public Comment
 - (Staff recommendation is for the JPA Board to approve the resolution)
6. Bill No. WH 11-61 Resolution approving Amendment No. 6 to the Agreement for Engineering Services with Olsson Associates for additional services for Phase I design of the ITS components for the project. (Blahak)
 - Public Comment
 - (Staff recommendation is for the JPA Board to approve the resolution)
7. Bill No. WH 11-62 Resolution approving an Agreement with TCW Construction, Inc. for the sum of \$674,989.00 to construct the street improvements and install traffic signals identified in the M&N Street Improvements Bid Package 1. The Bid Package improvements generally include the construction of an additional turn lane in 10th Street between K Street and N Street, an additional thru lane in N Street between 9th and 10th Streets, and associated traffic signals. The project also includes a temporary road connecting existing N Street near 6th Street to the new Amtrak station location. (Blahak)
 - Public Comment
 - (Staff recommendation is for the JPA Board to approve the resolution)

8. Bill No. WH 11-63 Approving the issuance of not to exceed \$100,000,000 of General Obligation Facility Bonds of the West Haymarket Joint Public Agency. (Wisner)
 - Public Comment
 - (Staff recommendation is for the JPA Board to approve the resolution)
9. Set Next Meeting Date: Tuesday August 9, 2011 (City Council Chambers Room 112)
10. Motion to Adjourn

WEST HAYMARKET JOINT PUBLIC AGENCY (JPA)
Board Meeting
July 15, 2011

Meeting Began At: 3:33 P.M.

Meeting Ended At: 5:10 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 with introductions of the Board members. She 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 announced that public comment is welcome. Individuals from the audience wishing to speak will be given a total of five minutes to speak on specific items listed on today's agenda. Those testifying should come forward, identify themselves for the official record and sign in, and comments need to be relative to the item on the agenda.

Item 3 – Approval of the minutes from the JPA meeting held June 24, 2011

Snyder asked for any corrections or changes to the meeting minutes of June 24, 2011. Hearing none, Clare motioned for approval of the minutes. Beutler seconded the motion. Motion carried 3-0.

Item 4 – West Haymarket Progress Report

None

Item 5 – Approval of Payment Registers

Don Herz, City Finance Director, presented the June financial reports to the Board, both for the capital and operating budget. One additional modification was made to the report this month to give additional information, which now shows not only the nature of the payment but a description for each project number. There were three payments to Union Bank and Trust. Those were the first interest payments for the first \$200 million JPA debt. This is the taxable rate. These are Build America Bonds and the subsidy comes in from U.S. Treasury as revenue. Then we make a total taxable payment to Union Bank. Clare wondered about the impact if the government shuts down. Don explained that the next payment is not due until December so we hope things are up and running then. We do have the cash in the bank to make the next payment.

There is a payment to Lonnie and Caroline Simpson for a temporary easement for the 'M' and 'N' project. Also, there is a \$3.3 million payment to BNSF Railroad for the additional payment

authorized at a prior meeting. Clare asked for confirmation that those dollars are in escrow and asked where that is held. Don confirmed that it is in escrow at U.S. Bank and paid out on a prescribed schedule. Snyder asked if we had bills approved against that amount. Don explained we are paying on a schedule, but he did not believe we had gone into the excess yet. On the second page, there shows a small payment to Eagle Eye Enterprises for a relocation expense. There is also a small payment to DeLeon's Mexican Food, which represents a rebate of an overpayment of Occupation Tax. The Board may occasionally see similar small payments for the same type of rebate. There is a \$57,000 payment to Engineering Services. Clare inquired as to the status of all payments being within the budget, and if we were clean from an audit standpoint -- behind the scenes paperwork, etc. Don affirmed that these are all part of contracts that have been approved and that we have made every effort to be sure everything is on track procedurally.

Snyder asked for any further comments from the public. Hearing none, Clare made a motion to approve the payment registers. Beutler seconded the motion. Motion carried 3-0.

Item 6 – Review of the June 2011 Expenditure Reports

Don Herz noted that there is no significant change from prior reports. There will be a modification coming to the total budget in the respect that they will be moving around dollars to create a budget amount for the general coordination line item; bringing those dollars from various projects. The intent is to bring before the Board a budget modification for the capital project in August for the total budget of \$321 million, and the operating budget for next fiscal year during that same time.

Snyder inquired about the parking dollars for Garage No. 2 as it appears there is none shown on this report. Don explained that will be coming as a reallocation from other line items when we do an annual modification to the capital budget. The contract is approved, but the modification is not. Responding to Clare, Don confirmed that there is no change to the bottom line as money is within the budget – just not shown right now in this line item.

Item 7 – Update on Next JPA Bond Issue (Herz/Keene)

Don introduced Scott Keene, Financial Advisor for the City with Ameritas, and Lauren Wismer, Bond Council for the City with Gilmore & Bell. Lauren distributed some draft documents for the Board to consider. They feel it is wise for the Board to consider issuing the last significant series of bonds due to the favorable interest rates. The draft information will be in packets and they will be suggesting approval at the next Board meeting. Don turned the presentation over to Scott Keene to discuss the market and why they feel it is wise to move forward now. Scott began by again stating that the interest rate environment is very favorable to proceed to market right now with this financing. Tax exempt rates have actually dropped about 80 basis points since the first of the year, so we are trying to catch that swing as best we can. Market activity is still very light. Pre 2008 market crash, the typical issuance in the U.S. of tax exempt debt was \$8 to \$12 billion every week. For the first part of this year it was \$2 billion and inched its way up to \$3 billion per week; so still very mild. But bond issues have been received well, and there is demand out there. Tax exempt interest rates have actually held better than treasury rates over the last two or three weeks. They started working on this in April and are trying to move along as

quickly as they can. They plan to be back before the board on July 29. Meetings are scheduled with Moody's and Standard and Poor's next week. It is expected they will affirm the AA1 and AAA ratings for the financing. Unlike prior ones, this will be done as tax exempt financing. They will be asking the Board for authority to issue up to \$100 million. They are currently doing an evaluation of the private activity component of the arena itself. This will determine how much, if any, the JPA will need to issue in taxable bonds. That analysis is what will drive the difference between \$80 and \$100 million. The hope is that there will not be any private activity issues that will require any taxable bonds at all, allowing the JPA to move forward with the \$100 million in tax exempt financing on August 9. Ratings are expected by August 2 allowing the sale to be finalized on August 9. The big question is what will happen in the market between now and then. The debt ceiling discussions are not putting a lot of panic into the market yet. The expectation is that an agreement will be reached before August 2 somewhat resolving the issue, if not permanently resolved. If changes are seen that may impact the market, delaying the timeline and pulling the financing will be considered.

Beutler wondered if the cost of issuance was the same as for the two prior. Scott explained that it was a little higher. The prior two issuances saved the JPA a significant amount of money. Rates were approximately 3.25% and 3.75%. A 35 year financing on a tax exempt right now would be 4.5%. A blended rate on the three financings would be 3.85% -- well below the 5% target when putting together the financing plans.

Snyder asked if this was the same bond issue on the City Council agenda under first reading for Monday. Lauren responded that yes, as under the JPA agreement, the City is required to approve any bonds. Hopefully, approval will be giving by the Council on July 25, which would be prior to the next meeting of the JPA Board. Final form documents will be given out with the next packet of information sent to the JPA Board members.

Clare asked if there was any real advantage to try to get this done sooner – ahead of the anticipated August 2 date. Scott explained that we are pretty boxed into the timeline as we want the ratings information available. Clare re-phrased the question about the consequences of the federal government not coming to agreement. We get a subsidy back from ARRA and he wondered if those subsidy payments would be in jeopardy. Scott stated that one of the ongoing questions was whether there was a guarantee these payments would be made. They were thought to be treated like tax refunds and, as long as someone is there to collect and pay out, they may be more stable. We were certainly given some assurance that these may actually be higher quality than Treasury Bonds. Rating agencies are going to be looking at different financings that have a link to the federal government. There is concern those payments or backstops could be interrupted if the federal government were to have difficulties. These would have been pre-refunded and secured by an escrowed account with treasuries or agencies. Neither agency ever mentioned ARRA bonds as being the least bit in jeopardy. We are getting a lot of assurances those payments will continue to come in. Clare confirmed the blended rate on the three financings as 3.85% and that the budget showed 5%, and stated that was a great job. Beutler asked if there was a cap on the issuance costs for the last financing. Lauren explained that in Section 2.12 of the draft, a cap is shown of 1.5% of underwriter's discount with true interest costs not to exceed 5.25%. This allows for some room for movement in the market. Scott anticipates to have priced lower, but this allows for some cushion without coming back.

Jayne Kinsey, during the public comment period, stated that some economists and financiers are talking about not buying municipal bonds as a good investment. Has there been any problem selling these and who is buying – Nebraska people or people over the country? Scott explained that people all over the country are buying as there is still a strong demand for these tax exempt bonds. There have been concerns about interest rates rising and the impact on any “fixed-income” investors. There are concerns, but still very active buying by individuals. Some had been pulling their money out of tax exempt mutual funds and appear now to be putting back into direct bonds. There is added security for those with high quality and ratings, especially with property tax backstop. We expect to see low interest rates and good demand. Don added that banks are also investing in select municipal bonds.

Item 8 -- Bill No. WH 11-45 Resolution to approve the Land Purchase Agreement with Jaylynn, L.L.C. (existing Watson Brickson site). (Marvin/Austin)

Item 9 -- Bill No. WH 11-46 Resolution to approve the Land Purchase Agreement with Jaylynn, L.L.C. (stormwater mitigation site/conservation easement). (Marvin/Austin)

Dan Marvin noted this was the third meeting where this item, along with Bill No. WH 11-46, appeared on the agenda. This was a very complex transaction, but we have come to an agreement and Peter Katt, attorney for Watson Brickson, is here as well. Bill Austin was pleased to announce that they have reached a full agreement with Jaylynn, the owner of Watson Brickson Lumber, to present to the Board today. There are two agreements. One is for the acquisition of the existing site of the Watson Brickson yard for \$481,000. Also, included within the agreement is relocation assistance which is consistent with the estimates.

Several of the Board members expressed that they had agreements showing a different amount. Dan and Bill thought those changes were a result of the back and forth negotiations on racking expenses that went from \$201,000 to \$121,000 and a determination as to where the \$80,000 difference should be appropriately allocated; \$40,000 moved from racking to compensation for the old site purchase and \$40,000 went to the new site. The total contractual amount is the same.

Clare stated he was not comfortable approving the agreement without having seen the latest information. Dan apologized as they were trying to meet a closing date for next week – closings are scheduled on the old site for the 19th and new site on the 20th. Bill stated that was the only change in the documents.

Snyder wondered about substituting pages 7 and 8 to show corrected amounts on to how the breakdowns are accounted for in the same overall amount. Dan explained that he and Bill went on site with Clint Thomas and Midwest Relocations. Jaylynn attorney was present also.

Section 5.1 remains the same at \$314,000. Section 5.2 for racking goes from \$201,446 to \$121,446. The total in Section 5.3 is \$435,446. Snyder again wanted to confirm with City Attorney Rod Confer that these could be amended and move forward with approvals.

Beutler requested confirmation that these were the only changes to the contract. He requested explanation as to the basic premise of the salvage agreement and whether this attachment would be blank in the final agreement. Bill stated that they were working on reaching an agreement on salvage. Dan thought we had a way to negotiate that on-site. Bill said the salvaged items in

Attachment B would not be left blank in the final. He also stated that there was a small adjustment in the Conservation Easement in WH 11-46. There would be no loss to the JPA in the salvaged items. This list is a work in progress. Beutler wanted to know what JPA would approve today regarding this salvaged list.

Peter Katt, representing Jaylynn, expressed his surprise that these detailed items were being requested. None of the material items are changing. He felt these were closing documents that could be handled as such. All the people working on behalf of the City and JPA have done a phenomenal job of working with a small business owner who is being displaced through no desire of their own. They have tried to ease as best they can a traumatic move. Beutler appreciated those efforts and just wants to be sure no one was back at a future meeting as items were not spelled out specifically. Dan again reiterated that everyone has worked at finalizing this contract over the last six months and was confident material items have been addressed.

Clare appreciated comments, but expressed again that documents need to be approved only after being fully reviewed. He indicated a willingness to stay as long as needed if corrected contracts could be provided to Board members for their review to facilitate approval yet today. Snyder wondered about changes on the next related item. Bill stated that the only change on WH 11-46 is the total adjustment from \$512,900 is \$552,900, reflecting the \$40,000 change in compensation. Also, as mentioned previously, there was a small change to the Conservation Easement. Snyder stated they would hold WH 11-45 and WH 11-46 (agenda items 8 and 9) and return to them at the end of the agenda.

Item 10 – Bill No. WH 11-48 Resolution delegating to the Project Manager/Secretary of the West Haymarket Joint Public Agency the power to execute Change Orders to contracts for the provision of services under certain conditions provided that the fiscal impact will be \$25,000.00 or less and delegating to the Chair of the West Haymarket Joint Public Agency the power to execute Change Orders to contracts for the provision of services under certain conditions provided that the fiscal impact will be \$100,000.00 or less. (Marvin)

Beutler suggested a motion to remove this item permanently from the agenda. He indicated that in checking with Law, it was his understanding that the previously executed Facilities Agreement already covers this process.

Clare asked for confirmation that this is covered in the Facilities Agreement. Confer stated that Assistant City Attorney Rick Peo may have reviewed the document but he was unfamiliar with this item. Dan did say it could be added back on if need be, but they would request a memo from Rick Peo in the meantime stating if it was covered in the Facilities Agreement.

Beutler made a motion to permanently remove this agenda item. Clare seconded for purposes of discussion. Snyder offered a friendly amendment to the original motion to hold this item until the next Board meeting on July 29. The amended motion carried 3-0.

Item 11 – Bill No. WH 11-54 Resolution to approve the Management Services Agreement between the West Haymarket Joint Public Agency and Marvin Investment Management Co. to render professional assistance in management oversight of the West Haymarket

Redevelopment Project for a one year term from June 15, 2011 through June 14, 2012, with the option to renew for one additional year. (Peo)

Rod Confer, Lincoln City Attorney and counsel for the West Haymarket JPA, acknowledged that this item was to renew an existing agreement with Dan Marvin. It is the same contract with a slight increase in compensation, from \$84,760 to \$88,150. His last contract expired on June 14, 2011. Clare clarified that this was covered in the budget.

Snyder asked for further comment. Being none, Clare moved approval of the resolution. Beutler seconded the motion. Motion carried 3-0.

Item 12 – Bill No. WH 11-55 Resolution to approve cancellation of SAIC contract. (Marvin)

Dan Marvin stated much had been in the paper regarding this last week. He explained that they had done an analysis of the management structure in place over time and this provided an opportunity for savings and consolidation. Beutler wanted to thank SAIC for their services to the JPA and City of Lincoln. They have helped to get the project to where it is today. This decision was based on the fact that a determination was made that we are management heavy on the project. With the assistance of a good sized engineering consortium called LHIT, our own Engineering Services engineers, and with PC Sports handling oversight of the arena itself; Beutler felt the JPA was well served and could afford to scale back on management costs. He indicated that the project continues to be on time and on budget, and he looked forward to continue on with the partners to get the project completed.

Jane Kinsey inquired if the paper was correct in that the project would save \$500,000 in cancelling this contract. Snyder explained it was unclear until completed, but hoped it was \$500,000 or more in savings. Jane wanted to know if we had to pay anything for cancellation of the contract, to which Dan responded there was no cancellation fee for termination. Jane wondered if we anticipated any legal action as a result of this cancellation, to which Confer responded that we do not anticipate legal action. In reference to Jane's question, Board members again responded it would not be until the end of the contract when we would know the exact savings.

Being no further discussion or questions, Beutler made a motion to approve the cancellation in WH 11-55. Clare seconded the motion. Motion carried 3-0.

Item 13 – Bill No. WH 11-56 Resolution to approve PC Sports agreement to provide interim services. (Marvin)

Dan Marvin explained that this allows us to retain PC Sports to provide services on the arena project, while allowing time to negotiate a full contract. Clare wanted to stress it was important to understand the role of PC Sports. Are they stepping into SAIC shoes or just expanding their own individual scope? Dan explained it was a little of both. They would be providing fuller project management experiences for a number of areas beyond the arena. But that program management for those levels of coordination will be minimized or written out of the contract. As Mayor Beutler suggested, we have a number of disciplines on task that can coordinate issues themselves. Clare asked who would be in charge from a hierarchical standpoint, to which Dan

responded it would be Paula Yancey of PC Sports. Clare expressed his concern that as part of this outstanding project, we not only complete the project on time and on budget, but that the process be correct as well. We owe that to the taxpayers.

Being no further comments, Beutler made a motion to accept the agreement with PC Sports. Clare seconded the motion. Motion carried 3-0.

Item 14 – Bill No. WH 11-57 Resolution authorizing Jayne Snyder to execute on behalf of the West Haymarket Joint Public Agency the Corporation Warranty Deed and all closing documents associated with conveyance of City Parcel One and City Parcel Two to Star City Federal LLC and the Star City Parcel to the West Haymarket Joint Public Agency. (Peo)

Rod Confer detailed that these documents were previously approved, but failed to include the authority for the Board chair to execute those closing documents. This is a housekeeping item to give that authority.

Being no further discussion or questions, Beutler made a motion to approve the resolution. Clare seconded the motion. Motion carried 3-0.

Item 15 – Bill No. WH 11-58 Resolution approving Change Order No. 3 to the TCW Construction Inc. agreement regarding the 10th and Salt Creek Roadway Haymarket Infrastructure Improvement Project to reflect additional cost due to unforeseen conditions and delays resulting in a contract increase amount of \$24,522.82. (Blahak)

Confer wanted to declare that Regent Clare has a conflict of interest since his law firm represents TCW. He will not be eligible for voting, but his vote is not necessary for approval of this item.

Chad Blahak, Public Works, explained this is Change Order No. 3 for the TCW contract on the 10th and Salt Creek roundabouts project. A couple of items of note within the change order are the incentive of \$7,000, which was the full amount of incentive available. Incentives are processed via change orders. Other items included are unforeseen things found underground. Snyder asked if the work had been completed. Chad confirmed that most of the work has been completed to avoid delays.

Jane Kinsey expressed concern with the number of changes coming forward. Is there an item in the budget to allow for these changes? Chad explained all projects include a contingency amount based on a percent of the estimate, as there is always the possibility for change orders. It is built into the budget.

Being no further discussion or questions, Beutler made a motion to adopt the resolution for Bill WH 11-58. Snyder seconded the motion. Motion carried 2-0, with Clare abstaining.

Item 16 – Bill No. WH 11-59 Resolution approving Change Order No. 1 to the Judds Brothers Construction Company agreement regarding the Initial Haymarket Site Preparation Project and the USPS Parking Lot Reconstruction Project to reflect additional work and quantities resulting in a contract increase amount of \$589,410.79. (Blahak)

Chad began by noting that the amount of this change order is greater than a normal change order. This is the first phase of the mass grading for the arena pad site, as well as developable sites when we get to them. To do this we had to bring in a substantial amount of materials to bring the grade up. The fill was planned to come from two locations. One quantity item in the contract is for fill to come from an off-site location. There is also a second quantity item showing fill to be relocated from an on-site stockpile to come from Burlington Northern's portion of the grading. The second stockpile has been rendered unusable at this time due to lack of access. That stockpile will be used later on. Therefore, on this change order we had to increase the amount of fill material from the off-site location. However, we can't decrease the amount of fill materials from the on-site amount until the end of the project after we actually use that material. That is why the substantial increase is showing now without the savings being realized. Snyder asked for clarification on access. Chad explained that there is a railroad temporary crossing that has not been completely updated. We cannot drive across as the heavy trucks have the potential to displace the preliminary grading before the tracks are laid and a proper crossing is constructed.

Being no further comments on this item, Beutler made a motion to accept WH 11-59. Clare seconded the motion. Motion carried 3-0.

Item 17 – Set Next Meeting Date

The next meeting will be held on Friday, July 29, 2011 3:30 P.M. in Room 112, City Council Chambers.

Snyder called a recess at 4:41 p.m. to give time to complete Items 8 and 9. Board came out of recess and back on the record at 5:02 p.m.

Returned Discussion to Items 8 and 9

Rod Confer explained that the original, as specified by Mr. Austin, was attached to Motion to Amend No. 2. However, the Board copies were made prior to that attachment. This item would require two votes to pass.

Board members were given copies of the updated Motion to Amend No. 2 for WH 11-45. Beutler asked for clarification that the copies just received by the Board on Bill No. WH 11-45 contains the latest agreements with the substitution of Attachment B as filled out on salvaged items provided to the Board separately. Bill Austin affirmed that to be true.

The compensation for the acquisition of the existing site for Watson Brickson Lumber is \$481,000. The next significant item is in Sections 5.1, 5.2 and 5.3 – those are the relocation costs agreed upon as \$314,000 for moving and \$121,446 for racking. Section 5.3 reflects that and under this provision Jaylynn will be paid one-half of the total relocation costs at closing with the remainder being paid once relocated.

Also attached to the agreement is a Lease Agreement including an understanding that Jaylynn will be able to remain on the site until November 30, 2011 to allow them to make an orderly transition to their new site. This will not impact progress on the project as truck traffic will be allowed to cross property, as well as other necessary uses. Finally, we do have a completed Attachment B allowing Jaylynn to salvage certain items with the understanding that the buildings will remain secure and their integrity will not be impaired.

Clare made a motion to approve WH 11-45. Beutler seconded the motion as described by Mr. Austin at the podium.

Beutler made a motion to approve Motion to Amend No. 2. Clare seconded the motion. Motion carried 3-0.

Main motion carried 3-0.

Regarding new documents handed to the Board for WH 11-46, Bill Austin explained briefly that this document is the one under which JPA will make two acquisitions. One is the storm mitigation site of approximately 5 acres, which is about half of the property that First Street Properties had available as a new site for the Watson Brickson yards. Item 1.2 should now reflect \$552,000 as the purchase price.

The JPA is also acquiring a Conservation Easement under which it will have assigned to it 10,271 cubic yards of fill within Storm Site 9 under the stormwater provisions of the Lincoln Municipal Code. This is being acquired for \$80,000. Overall compensation was increased by \$40,000. In summary, we have worked with several goals in mind including acquiring property needed by the JPA, providing some stormwater mitigation, and avoiding condemnation and bring a business that has been existing and flourishing in this area to a new site successfully.

Clare made a motion to approve WH 11-46. Beutler seconded the motion.

Clare made a motion to approve Motion to Amend No. 2. Beutler seconded the motion. Motion carried 3-0.

Main motion carried 3-0.

Item 18 – Motion to Adjourn

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

Meeting adjourned at 5:10 P.M.

Prepared by: Pam Gadeken, Public Works and Utilities

RESOLUTION NO. WH- _____

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

3 That the attached Agreement of Purchase and Sale and Leaseback (“Agreement”) between
4 the West Haymarket Joint Public Agency and USPS providing for the JPA’s purchase of the USPS
5 Parcel for its appraised fair market value and the long term lease of the JPA Parcel to the USPS for
6 nominal consideration, is hereby accepted and approved and the Chairperson of the West Haymarket
7 Joint Public Agency Board of Representatives is hereby authorized to execute said Agreement on
8 behalf of the JPA.

9 The Chairperson is hereby further authorized to execute the Ground Lease attached to the
10 Agreement as Exhibit C and all closing documents and other related documents necessary to
11 implement the conveyance of the USPS Parcel to the JPA.

12 The City Clerk is directed to return one fully executed original Agreement and a copy of this
13 Resolution to Rick Peo, Chief Assistant City Attorney, for transmittal to Shirley Wheeler, United
14 State Postal Service.

15 Adopted this _____ day of July, 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

AGREEMENT OF PURCHASE AND SALE AND LEASEBACK

THIS AGREEMENT OF PURCHASE AND SALE AND LEASEBACK ("Agreement") is entered into by the United States Postal Service ("USPS") and the West Haymarket Joint Public Agency, a political subdivision and body corporate and politic of the State of Nebraska ("Buyer").

RECITALS

A. On or about April 17, 2000, the Buyer and USPS entered into a reciprocal REVOCABLE JOINT LICENSE AGREEMENT ("License") for the use of each other's property for parking. A copy of the License is attached hereto and incorporated herein as Exhibit A. The License is for a term of fifteen years and automatically renews itself every fifteen years.

B. The Buyer desires to purchase the parcel of land from the USPS which is the described and referred to in the License as USPS Parcel 3. USPS Parcel 3 is an approximately 0.73 acre (31,982 square feet) parcel of real property generally located south of the downtown Lincoln USPS Main Post Office and southwest of the intersection of North 7th Street and R Street and for this Agreement is referred to as the "USPS Parcel". The USPS Parcel is more particularly described in Exhibit B, which is attached hereto and incorporated herein by reference.

C. USPS is willing to convey the USPS Parcel to the Buyer in exchange for the continued right to use that portion of the Buyer's property as described and referred to in the License as City Parcel 1 which was set aside for the USPS designated 80 parking stalls and for this Agreement is referred to as the "JPA Parcel."

D. Buyer is willing to provide the USPS with a ground lease for a minimum duration of fifty (50) years to continue its right to use the JPA Parcel ("Ground Lease") in exchange for the USPS Parcel. A copy of the ground lease is attached hereto and incorporated herein as Exhibit C.

1. AGREEMENT TO SELL AND PURCHASE

1.1 The Property. USPS Parcel does not have a specified street address but is located southwest of the intersection of North 7th Street and R Street south of the downtown Lincoln USPS Main Post Office located at 700 R Street, Lincoln, Nebraska. USPS agrees to sell the USPS Parcel as more particularly described in Exhibit B, together with any improvements constructed thereon, to Buyer, and Buyer agrees to purchase the Property from USPS, on the terms and conditions contained in this Agreement. This Agreement becomes effective on the date executed by USPS ("Effective Date").

1.2 Closing Date. The Closing Date shall occur on or before August 12, 2011, unless extended by the mutual written agreement of the parties.

1.3 Buyer's Right to Terminate. Buyer may terminate this Agreement for any reason whatsoever by written notice received by USPS prior to 5:00 p.m. on August 8, 2011 ("Contingency Removal Date") at which time Closing Agent will return the Deposit, as defined in ¶ 2.2.1, below, to Buyer, and neither party shall have any further obligations to or rights against the other except USPS's rights to indemnification under ¶ 4.1.1, and its rights to documents under ¶ 4.2.1, and in any attachments hereto.

1.4 Failure to Terminate. If Buyer fails to terminate this Agreement pursuant to ¶ 1.3, then (a) Buyer shall pay to USPS any additional deposit amount as required by ¶ 2.2.1, (b) the Deposit shall be non-refundable, except as provided in ¶¶ 3.2, 6.11, and in any attachment hereto, and (c) Buyer shall be deemed to represent to USPS that (i) Buyer has concluded whatever investigation it desires in accordance

with ¶ 4.1 or otherwise; and (ii) Buyer is satisfied with the condition of title except as timely objected to pursuant to ¶ 3.2.

2. PURCHASE PRICE

2.1 Amount of Purchase Price. The Purchase Price for the Property is its appraised fair market value of \$_____.

2.2 Terms of Payment. Buyer shall pay USPS the Purchase Price as follows:

2.2.1 Deposit. Upon Buyer's execution and delivery of this Agreement, Buyer shall pay USPS a Deposit of \$5,000. Payment shall be made to the Closing Agent defined in ¶ 5.2. Closing Agent will hold the Deposit in escrow by promptly placing the Deposit in an interest-bearing bank account; Closing Agent will provide the parties with all specific information concerning this account, including bank name, account number, etc. Closing Agent will return the Deposit to Buyer if either party elects to terminate this Agreement pursuant to ¶ 3.2, or if Buyer elects to terminate the Agreement pursuant to ¶ 1.3 or ¶ 6.11. Closing Agent will forward the Deposit to USPS upon any default by Buyer pursuant to ¶ 6.4 and ¶ 6.9.

2.2.2 Balance of Purchase Price. Buyer shall pay USPS the unpaid balance of the Purchase Price on the Closing Date in accordance with section 5.

3. TITLE

3.1 Condition of Title. At Closing, USPS shall convey the Property to Buyer by Quit Claim Deed

3.2 Objections to Title. Buyer shall notify USPS promptly of any exception regarding USPS's title, whether reflected on a survey or title report obtained by Buyer or otherwise. Until the Contingency Removal Date, Buyer or USPS may elect to terminate the Agreement, or they may reach a written agreement as to steps to take to satisfy Buyer's objections. After the Contingency Removal Date, Buyer understands it shall have no right to object to the condition of title, unless USPS has failed to take actions as agreed upon, in which case Buyer may terminate the Agreement. If either party elects to terminate this Agreement pursuant hereto, Closing Agent shall return the Deposit to Buyer, and neither party shall have any further obligations to or rights against the other except the USPS's rights to indemnification under ¶ 4.1.1 and its rights to documents under ¶¶ 4.1.2 and 4.2.1, and in any attachments hereto.

4. CONDITION OF REAL PROPERTY

4.1 Buyer's Right of Entry. USPS grants permission to Buyer and its agents to enter upon the Property, subject to notice to and approval by USPS, during the Contingency Period (which begins on the Effective Date and ends at 5:00 p.m. on the Contingency Removal Date) to investigate every aspect of the condition and status of the Property, including, without limitation, consistency with zoning and use limitations, construction of the improvements, the existence and availability of utility connections, soil and groundwater conditions, the presence of underground storage tanks and hazardous wastes or substances, and compliance or consistency with permits, approvals, and applications of or to governmental agencies in connection with the Property. After conducting any such investigation, Buyer, at its sole expense, shall restore the Property to the condition that it was in prior to the investigation, unless USPS expressly permits otherwise.

4.1.1 Buyer's Indemnity. Buyer shall indemnify USPS from and against any claims, liens, costs (including attorneys' fees or allocated costs of in-house counsel), liabilities, damages, losses, or causes of action of whatever kind or nature (collectively "Claims") arising out of or in any way connected, directly or indirectly, with Buyer's, its employees', agents', or contractors' performance or nonperformance hereunder as a result of entry on the Property. Buyer agrees to comply with all laws, regulations, and orders of government agencies pertaining to the presence or suspected presence of hazardous wastes or substances on or about the Property or groundwater, and shall indemnify USPS, and shall waive any of its

own Claims against USPS, from and against any Claim arising in connection with the release of any hazardous wastes or substances arising out of or related to Buyer's activities on the Property, including any liability under the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, or any other federal, state or local law, ordinance, or regulation pertaining to the presence or release of hazardous wastes or substances to the environment from or at the Property.

4.1.2 Studies and Reports/Nondisclosure. All reports, studies, and analyses, including environmental audits ("Reports"), obtained or prepared by Buyer relating to the Property shall be conspicuously labeled as a draft, and copies shall promptly be delivered to USPS. Prior to Closing, Buyer shall not disclose any Report to any party except pursuant to applicable statutory or regulatory requirements or the written consent of USPS, provided that Buyer may furnish a copy of the Reports, subject to this nondisclosure provision, to Buyer's potential mortgagees or investors, or to any consultants who prepare or review a Report. If the sale under this Agreement does not close for any reason, Buyer shall promptly deliver all copies of the Reports to USPS, which shall become the exclusive property of USPS.

4.2 USPS's Representations and Warranties.

4.2.1 Representations and Information provided to Buyer. USPS's Representative(s) is/are Shirley Wheeler. USPS's responsibilities under this Agreement extends only to information or documents that USPS's Representative(s), without investigation or inquiry of any kind, are personally aware of or have in their direct possession, and not information or documents USPS may have in its possession generally.

- USPS has not given any person or entity an option, right of first refusal, or other right to purchase the Property.
- To USPS's knowledge, there is no material litigation concerning the Property.
- Excepting appraisals, internal memoranda, valuation documents and similar documents, USPS shall promptly make available to Buyer for inspection and copying copies of all surveys, title insurance policies, plans, specifications, certificates of occupancy, permits, and licenses related to the construction, occupancy, or use of the Property, and copies of all contracts relating to operation of the Property, such as service and/or maintenance contracts and management agreements ("Contracts").
- After the Contingency Removal Date, USPS shall not, without Buyer's prior written consent, extend or modify any Contract or enter into any new Contracts unless cancelable on not more than thirty (30) days' notice.
- USPS will provide notice to Buyer of any asbestos-containing building materials, underground storage tanks, or disposals or releases of hazardous or toxic contaminants or petroleum products, on or from the Property, which are known to USPS.

All information and documents provided by USPS, which are without warranty of any kind whatsoever, are subject to the nondisclosure requirements of ¶ 4.1.2, and all copies shall promptly be returned to USPS if the transaction under this Agreement fails to close for any reason.

4.2.2 No Warranties. No representation, warranty, agreement, or promise, if any, made by any person acting on behalf of USPS, which is not contained in this Agreement, shall be binding on USPS. Buyer agrees that USPS is not responsible for the acts and/or omissions of predecessors in title or management of the Property before USPS's acquisition of the Property. Except for those warranties and representations expressly set forth in this Agreement, Buyer understands that the sale provided for herein is made without any warranty by USPS, express or implied, as to the Property's development potential or zoning, the quality of the labor and/or materials included in any of the improvements, the nature, size, or quality of the Property or fitness for any particular purpose, the accuracy of any provided plats or plans, the Property's compliance with applicable laws, regulations, or codes, or the presence or suspected presence of underground storage tanks, piping, or hazardous wastes or substances on or about the Property or groundwater, including asbestos-containing material or lead-based paint.

4.3 AS-IS WHERE-IS Purchase. Buyer acknowledges that Buyer has inspected the Property and any improvements, and that Buyer agrees to purchase the Property in its AS-IS, WHERE-IS condition WITH ALL FAULTS, whether or not specifically raised herein or by attachment, without recourse, liability, or indemnification of any type from USPS, which includes but is not limited to hazardous substances and/or environmental contamination on the Property. In no event shall the Purchase Price be reduced or the sale rescinded if the Property fails to correspond to the standard expected, or if Buyer's costs

associated with its study and/or use of the Property exceed projections. With regards to the environmental condition of the Property, in the event the Buyer discovers environmental contamination and/or hazardous substances on the property that require environmental investigation, response, remediation, storage and/or disposal, and in any way cause the Buyer to incur cost after the date of closing, the Buyer shall further indemnify, defend and hold harmless the USPS, its officers, employees, agents, successors, and assigns ("USPS Indemnitees"), from and against all liabilities, claims, losses, obligations, damages, penalties, causes of action, costs and expenses, including but not limited to reasonable legal, accounting, consulting, engineering, expert fees, asserted against any of the USPS Indemnitees, regarding the environmental condition of the Property. The Buyer acknowledges that this indemnification survives closing.

4.3.1 **Buyer's Waiver of Claims.** Buyer agrees that USPS shall not be liable to Buyer or its successors or assigns on account of any errors, omissions, or construction defects ("Errors") for work performed by contractors and consultants in connection with the Property. USPS hereby assigns to Buyer, effective upon Closing, any and all claims, under contract, tort, or otherwise, it may have for any such Errors, and Buyer agrees to look solely and directly to USPS's contractors or consultants for any relief for such Errors

5. CLOSING

5.1 **Closing.** As of the Closing Date specified in ¶ 1.2, Buyer shall secure its own insurance, have all utilities transferred to its name, and assume all other responsibilities of ownership, including, without limitation, responsibility for utility payments, taxes and assessments, and for personal injury, property damage, or any loss or damage of any type which relate to the Property.

5.2 **Closing Agent.** The parties name Sonya Bailey, First American Title to serve as Escrow Holder or Closing Agent ("Closing Agent"). Closing Agent's address is 1125 17th Street, Suite 750, Denver CO 80202. On the Closing Date, the Closing Agent shall record the deed in accordance with local law, and shall provide USPS the balance of the Purchase Price, less any charges as provided under this Agreement.

5.3 **Closing Documents.** On or before the Closing Date, the parties will deliver the following documents and payments to the Closing Agent:

- (a) USPS shall deliver a Deed conveying the Property in accordance with the Agreement.
- (b) USPS shall deliver an executed assignment of the Leases, if any.
- (c) USPS shall deliver an executed assignment of all Contracts which Buyer has elected to assume, if any.
- (d) Buyer shall provide the balance of the Purchase Price, and execute all documents executed by USPS that assign Leases and Contracts to Buyer.

5.4 Reserved

5.5 **Further Documents.** USPS and Buyer hereby instruct the Closing Agent to use the Agreement as closing instructions. Each party shall perform such other actions or deliver such other documents, including additional closing instructions, as may be reasonable and necessary to complete the sale under the Agreement. Terms of the Agreement shall prevail over any inconsistent additional instruction, unless Buyer and USPS waive the inconsistency in writing.

5.6 **Prorations.** All items of income and expense, including taxes and assessments, if any, shall be prorated as of the date of Closing. Expense items undetermined as of the Closing Date, including, but not limited to, assessments and water and sewer charges, shall be prorated based on the prior month's or year's amount or on other available information. The parties shall make adjustments after Closing when the actual expenses become known.

5.7 **Costs.** Buyer shall pay all of the closing costs which includes but not limited to the Closing Agent's fees. In the event of a termination, if there are fees due the Closing Agent, Buyer's fees

shall be deducted from any refund of the Deposit under ¶¶ 3.2, 6.11 or by attachment hereto. Buyer agrees that USPS is not responsible for any other costs related to this transaction, including, without limitation, title evidence and costs, property surveys, insurance of any kind, taxes, recording fees and stamps, or environmental assessments, which costs shall not be credited towards the purchase price.

5.8 Leaseback by USPS and Termination of License

(a) At closing, Buyer shall lease its Property to the USPS for parking for a term of fifty years with xxxx renewal options. The rental rate shall be one (1) dollar per year. The lease agreement shall be in the Ground Lease form attached hereto as Exhibit

(b) This Agreement and closing is contingent upon the Buyer and USPS executing a Ground Lease, attached as Exhibit to this Agreement.

(c) The Parties agree that upon execution of the Ground Lease, the License shall terminate.

5.9 Other Covenants.

a. If the Property, in whole or in part, contains wetlands or is located in a 100-year floodplain, the instrument of conveyance must reference same and state that the Property may be restricted in use pursuant to federal, state, or local wetland and/or floodplain regulations.

b. Reserved

5.10 Possession. Possession of the Property shall be delivered to Buyer at Closing.

6. MISCELLANEOUS

6.1 Entire Agreement. This Agreement: (i) integrates all terms and conditions mentioned herein and in all amendments, (ii) supersedes all oral negotiations and prior writings with respect to the subject matter hereof, and (iii) is intended by the parties to be the complete and exclusive statement of the terms agreed to by the parties. This Agreement may only be amended by a written document that expressly refers to this Agreement and that is signed by both parties.

6.2 Authority to Execute. Buyer and USPS represent, and Buyer shall attach to this Agreement documentary evidence thereto, that the person executing this Agreement on their behalf is fully authorized to do so and to bind the respective party to the terms herein. As part of the attachment, Buyer shall indicate how it operates, e.g., as an individual, partnership, or corporation.

6.3 Notices. Any notices required by this Agreement shall be effective if made in writing and either delivered directly; sent by certified or registered mail, return receipt requested; or sent by USPS Express Mail to the following:

Buyer: West Haymarket Joint Public Agency
Attention: City Attorney
Address: 555 South 10th Street, Suite 300, Lincoln, NE 68508
Telephone: 402-441-7281
Facsimile: 402-441-8812

USPS: United States Postal Service
Attention: Shirley Wheeler
Address: 7500 East 53rd Place, Suite 1108, Denver, CO 80266-9918
Telephone: 303-227-5697
Facsimile: 651-675-1691

All notices shall be deemed received on the date of the return receipt or acknowledgment of delivery.

6.4 Assignment. Any assignment by Buyer without the prior written consent of USPS, which USPS may grant or withhold in its sole and absolute discretion, shall be null and void. At USPS's election, any such purported assignment shall constitute a default by Buyer, for which USPS may terminate this Agreement, and, notwithstanding ¶¶ 3.2, 6.11 and any attachment, retain the Deposit as liquidated damages in accordance with ¶ 6.9.1.

6.5 Survival of Agreement. The terms, conditions, indemnifications, representations, and warranties contained in this Agreement shall survive the Closing, and shall be binding upon and shall inure to the benefit of the successors and permitted assigns of the parties.

6.6 No Recordation. No document relating to the subject matter hereof shall be recorded without the prior written approval by USPS.

6.7 Governing Law. This Agreement shall be governed and interpreted in accordance with federal law.

6.8 Construction. USPS and Buyer acknowledge that each party has reviewed this Agreement and that the normal rule of construction that provides for ambiguities to be resolved against the drafting party shall not apply to the interpretation of this Agreement. This Agreement shall be construed neither for nor against USPS or Buyer, but shall be given a reasonable interpretation in accordance with the plain meaning of its terms.

6.9 Default; Damages. This provision does not limit any obligations or indemnities of the parties contained elsewhere in this Agreement.

6.9.1 Default by Buyer. In the event the sale of the Property does not close as provided herein because of a default of Buyer, including the Buyer delaying closing for any reason unless the delay is agreed to in writing in advance by USPS, USPS may terminate all rights of Buyer to purchase the Property, and Closing Agent shall forward the Deposit to USPS, and USPS shall receive and retain the Deposit as liquidated and agreed upon damages as USPS's sole remedy for such default. Buyer and USPS understand the impracticality and difficulty of fixing USPS's actual damages in the event of such default, and the parties therefore agree that the Deposit represents a reasonable estimate of the actual damages which USPS would incur.

6.9.2 Default by USPS. In the event of default by USPS, Closing Agent shall return the Deposit to Buyer. Under no circumstances shall Buyer be entitled to actual, special, or consequential damages, including, but not limited to, anticipated profits.

6.9.3 No Specific Performance. Under no circumstances shall Buyer be entitled to specific performance of this Agreement.

6.10 Destruction of Property. In the event that destruction or damage exceeding normal wear and tear occurs to the Property prior to Closing, USPS may, at its sole option, elect to restore the Property to its condition prior to said damage or destruction, or to such lesser condition acceptable to Buyer. If USPS does not so restore the Property, Buyer may elect to terminate this Agreement, in which case the Closing Agent shall return the Deposit to Buyer, and neither party shall have any rights against or obligations to the other party except USPS's rights to indemnification under ¶ 4.1.1 and its rights to documents under ¶¶ 4.1.2 and 4.2.1, and in any attachments hereto. If USPS restores the Property, or if Buyer elects not to terminate despite USPS's non-restoration, the Agreement shall continue in full force and effect with no reduction in Purchase Price, except the Closing Date shall be extended to allow for any restoration by USPS.

IN WITNESS WHEREOF, the parties hereby execute this Agreement.

BUYER: West Haymarket Joint Public Agency

Date: _____

By: Jayne Snyder
Its: Chair of the Board of Representatives of the West Haymarket Joint Public Agency

USPS: United States Postal Service

Date: _____

By:
Its: Contracting Officer

REVOCABLE JOINT LICENSE AGREEMENT

This REVOCABLE JOINT LICENSE AGREEMENT (hereinafter "Agreement"), is made and entered into by and between the City of Lincoln, Nebraska, a municipal corporation, (hereinafter "City"), and the United States Postal Service (hereinafter "USPS"), an independent establishment of the of the Executive Branch of the United States Government, and its successors and assignees, in accordance with the terms and conditions described herein and contained in the Exhibits, and Addendums attached hereto and incorporated herein.

1. PURPOSE OF THIS AGREEMENT

The City is the owner or long-term lessee of land generally located at 7th and "R", Streets, (hereinafter the "City Parcel") which is legally described in Exhibit A, (Parcels numbered 1 & 2) attached hereto and incorporated herein. The USPS is the owner of a parcel of land generally located at 7th and "R" Streets, (hereinafter the "USPS Parcel", Parcel numbered 3) which is legally described in Exhibit A, attached hereto and incorporated herein. Parcel No.1 is presently unimproved. An asphalt-surfaced parking lot will be constructed by the City on City Parcel No. 1. City Parcel No. 2 is presently used as a public parking lot. The USPS Parcel is presently used as an employee parking lot by USPS employees. A concrete wall (hereinafter the "Wall"), approximately eight feet high, separates Parcels 1 & 2 from Parcel 3. The location of the Wall is shown in Exhibit A, which is attached hereto and incorporated herein.

The City contacted the USPS in an effort to determine whether the USPS could provide assistance to the City with regard to a shortage of public parking in the Haymarket Business District. The City requested the USPS to make the USPS Parcel

available for parking to the members of the general public, and the City offered to make the City Parcel No. 1 available for parking by USPS employees. The primary purpose of this Agreement is to provide a license to the City in order to allow it and members of the general public to enter upon the USPS Parcel and to use a portion of the USPS Parcel which is identified in Exhibit A, attached hereto and incorporated herein, for public parking. Similarly, this agreement is to provide a license to the USPS and its employees to enter upon the City Parcel and use the parking spaces identified in Exhibit A for employee parking.

In order to effectuate the primary purpose of this agreement, it will be necessary to remove the Wall which divides the City Parcel and the USPS Parcel, and to construct other improvements in order to provide ingress and egress between the two parking lots. The conceptual plans for these improvements are more fully shown in Exhibit A attached hereto and incorporated herein. The secondary purpose of this agreement is to set forth the terms, conditions, obligations, and responsibilities between the parties concerning the removal of the Wall separating the parcels, and the related construction of the parking lots on Parcel 1 and any improvements to the City and USPS parking lots on Parcels 2 and 3 respectively.

2. DESCRIPTION OF PROPERTY AFFECTED & EXHIBITS:

**Exhibit A-
Parcels 1 & 2- City Parcel,
Parcel 3- USPS Parcel,
Wall Location,
USPS new Designated Parking Spaces on Parcel 1,
Parking Lot Improvements (Plans & Specifications to be provided by City to USPS for review and approval prior to any construction.)**

3. TERM

This Agreement is for a term of fifteen years beginning / / . The Agreement shall automatically renew itself every fifteen years thereafter unless written notice of termination is sent via certified mail, return receipt requested, six months prior to the end of the term, by either party to the other, to the individuals at the addresses set forth in Paragraph 7 below:

The license term shall not commence until the City has obtained ownership of Parcel No. 1 and furnishes the USPS with evidence of said ownership. This condition is not subject to Paragraph 5.L. below.

4. **PAYMENTS.**

Consideration for this agreement is \$1.00 payable to the USPS.

5. **OTHER PROVISIONS.**

By entering into this Agreement, the parties agree to the following additional provisions:

A. **Construction of the Parking Lot Improvements.**

(1) The City agrees to abide by the Construction Rider (Addendum 1), attached hereto and incorporated herein, Plans and Specifications, and Drawings for construction of the Parking Lot Improvements. For the purpose of this Agreement, the construction of parking lot improvements includes removal of the wall and construction of other improvements as to be identified and provided by the City to the USPS for review and approval prior to any construction. Said Plans and Specifications will become a part of this Agreement once finalized and approved by USPS. In addition to the attached Addendum's and Documents, the parties agree as follows:

(a) **Staged Construction of the New Parking Lot:**
Construction will be a phased construction. The City and/or its contractor will construct the Parking lot on Parcel No. 1 first. USPS will continue to have sole use of Parcel No. 3 for parking until such time as the parking lot on Parcel 1 is completed and turned over to the USPS for use. The last phase of construction will take place on Parcel No. 3 in order not to disrupt USPS use of the USPS Parcel.

- (b) The City shall select and contract with a general contractor or contractors to construct the Parking Lot Improvements in accordance with the City's competitive bidding procedures;
 - (i) Any such contractor is required to provide both performance and payment bonds in the full amount of the contract;
 - (ii) Right of entry- The USPS does hereby grant the City and/or the contractor or contractors hired by the City pursuant to this Agreement, permission to enter upon the USPS Parcel for construction, maintenance, and reconstruction of the Parking Lot Improvements and appurtenances thereto for the sole purpose of construction and maintenance of utilities related thereto.
 - (iii) Any such contractor shall be required to obtain an insurance policy which includes coverage for comprehensive general liability, including but not limited to standard blasting or explosion coverage, standard collapse coverage, standard underground coverage, completed operations and automobile liability. The minimum acceptable amounts of liability coverage are bodily injury, \$1,000,000 per person, \$1,000,000 per occurrence; property damage, \$1,000,000 each occurrence, and \$2,000,000 aggregate. The insurance shall name both the City and USPS as additional insureds. Such policy shall be endorsed to reflect contractual liability specifically relating to the indemnity provisions of this agreement. This insurance shall remain in effect until the completion of both the Parking Lot Improvements and all environmental testing and remediation associated therewith. The contractor or contractors shall furnish the City and USPS a certificate of insurance reflecting the policies as required above. Such certificate shall include an endorsement that the public liability insurance includes all extensions of coverage required and shall state that the insurance company shall give the City and USPS a minimum of 30 days written notice before cancellation of or any material changes in any of the policies. A failure of the City to enforce this insurance requirement upon its contractor shall cause the USPS to cancel this Agreement in accordance with Paragraph 5.L below.
- (2) Access to USPS Property. Upon execution of this Agreement, the USPS shall permit the City and its authorized representatives to enter in, over and upon the USPS Parcel for the purpose of performing surveys, environmental tests, surface tests, boring and soil condition

tests, and for any other necessary fact finding and preliminary steps for the preparation of the final Construction Documents for the parking lot improvements. This provision is subject to the insurance provisions above, and indemnity provisions of this Agreement, specifically, Paragraphs 5.B.(5), and 5.I.

- (3) Review of Construction Documents and Construction Schedule. The Construction Documents for the parking lot improvements which include but are not limited to the technical drawings, schedules, diagrams, construction plan, and Plans and Specifications setting forth in detail the requirements for construction of the parking lot improvements (hereinafter "Construction Documents"), shall be submitted to the USPS Contracting Officer for his review and approval prior to award of a construction contract. Similarly, the Contractor's proposed construction schedule shall be submitted to the USPS Contracting Officer for his review and approval. The Contracting Officer shall approve or reject the Construction Documents, and the Contractor's construction schedule within (14) calendar days after receipt of the same. If the USPS disapproves the Construction Documents and/or the Contractor's Construction Schedule, the USPS shall set forth in writing the reasons for such disapproval and thereafter the USPS and the City shall work in good faith to reach agreement of the changes, if any, to the Construction Documents, and/ Contractor's construction schedule. The failure of the USPS to approve or reject the Construction Documents and/or Contractor's construction schedule within (14) calendar days shall constitute approval thereof. The review and approval of the above documents shall not be construed as relieving the City and/or its Architect Engineer and/or its Contractor of responsibility for any errors, deficiencies, or problems in design and/or construction. Additionally, the review and approval of these documents shall not make the USPS liable and/or responsible for errors, design deficiencies, and/or design errors.

B. Environmental Conditions.

The license term shall not commence until the USPS receives notice which is acceptable to the USPS from the City by certified mail at the office of the Contracting Officer, and the City receives written concurrence from the USPS that it agrees that these actions have occurred and that the license term should commence:

- (1) As used in this Paragraph B., the following terms have the following meanings:

- (a) "Hazardous Materials" shall mean: (i) any toxic substance or hazardous waste, substance or related material, or any pollutant or contaminant which is or may hereafter be defined as or included in the definition of "hazardous substances," "toxic substances," "hazardous materials," "hazardous waste" or words of similar import under any and all environmental laws or legal requirements, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601, et seq.; the Hazardous Materials Transportation Act as amended 49 U.S.C. §1801, et seq.; the Resource Conservation and Recovery Act, as amended 42 U.S.C. §6901, et seq.; and the Federal Water Pollution Control Act, as amended, 33 U.S.C. §1251 et seq.; (ii) petroleum, radon gas, asbestos in any form which is or could become friable, urea formaldehyde foam insulation, transformers or the equipment which contain dielectric fluid containing levels of polychlorinated biphenyls in excess of federal, state or local safety guidelines, whichever are more stringent; or (iii) any substance, gas material or chemical which is or may hereafter be defined as or included in the definition of "hazardous substances," "toxic substances," "hazardous materials," "hazardous waste" or words of similar import under any environmental law or legal requirement, including, but not limited to, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601, et seq.; the Hazardous Materials Transportation Act as amended 49 U.S.C. §1801, et seq.; the Resource Conservation and Recovery Act, as amended 42 U.S.C. §6901, et seq.; and the Federal Water Pollution Control Act, as amended, 33 U.S.C. §1251 et seq.
- (b) "Environmental Laws" shall mean any and all applicable federal, state or local statutes, laws, ordinances, rules or regulations, relating to protection of human health or the environment, including without limitation: a) all laws relating to reporting, licensing, permitting, investigation or remediation of emissions, discharges, releases or threatened releases of hazardous materials into the air, surface water, groundwater or land, or relating to the manufacture, processing, distribution, use treatment, storage, disposal, transport or handling of hazardous materials; and b) all laws pertaining to the protection of the health and safety of employees or the public.

- (c) "Release" shall mean any discharge, disposal, spill, release, contamination or similar occurrence of Hazardous Materials which occurred in, on, or under the premises present in such quantities as would require remediation under any Environmental Laws as are in effect on the date of this agreement.
 - (d) "Phase II Environmental Assessment" shall mean HWS Consulting Group, Inc. (hereinafter "Consultant") Phase II Environmental Assessment dated August 1998.
 - (e) Nebraska Department of Environmental Quality (NDEQ) Findings Letter shall mean NDEQ's evaluation of the Phase II Environmental Assessment as set forth in the February 12, 1999 letter from David Chambers, Nebraska Department of Environmental Quality, to Rick Peo, City Attorney's Office.
- (2) The City agrees to comply with all applicable Environmental Laws in connection with the construction activities associated with the removal of the wall, and parking lot improvements.
- (3) The City shall remove and properly dispose of, at its sole liability and expense, any contaminated soil and/or water, or other hazardous materials, and soils, which may be encountered either on the USPS Parcel or the City Parcel's, in implementing its construction plans for the alterations and improvements identified in the Agreement which includes but is not limited to the Construction Rider, Addendums, Plans and Specifications, and Drawings, to this Agreement. The City will also provide USPS with copies of any studies, reports or investigations dealing with any contamination found. In furtherance of this agreement, the City agrees to the following:
- (a) The City will excavate and remove all hazardous materials, soils and/or water that are required by any and all Environmental Laws;
 - (b) The City shall excavate and remove all hazardous materials, and/or soils and/or water in the areas identified by any State or Federal Agencies for remediation in accordance with the environmental laws as set forth in Paragraph (2) above, so that there is either no evidence of contamination or hazardous materials, or in the alternative, so that the level of contamination is acceptable to all appropriate State and Federal Agencies and in accordance with applicable environmental laws. In carrying out the provisions of this

subparagraph, the City shall demonstrate in a manner set forth below to the USPS that there is no evidence of contamination or hazardous materials or that the level of contamination meets the requirements of appropriate State or Federal Agencies and applicable environmental laws:

- (c) The City shall provide the USPS with copies of all environmental studies and reports generated by any environmental assessments, tests, studies, measurements or analyses, conducted by or at the direction of the City and/or its designees in complying with the provisions of this sub-paragraph. The City shall also provide copies of such environmental studies and reports, where required by law or regulation, to the applicable State and/or Federal Agencies for review. With respect to the requirements of this subparagraph, USPS acknowledges that USPS has been provided with a copy of the Phase II Environmental Assessment and the NDEQ Findings Letter.
- (4) The City shall obtain from the appropriate State or Federal agency a letter stating that the USPS and/or its assignee is an innocent party and not a responsible person or party under any and all federal and state environmental laws for any release of hazardous materials in connection with or related to the construction activities pursuant to this Agreement. The letter shall include language that the State and/or Federal Agency also acknowledges that the USPS and/or its assignee is an innocent party and not a responsible person or party for the construction activities relating to this agreement, and/or any associated remedial actions required by any State or Federal Agency or by the provisions of this Agreement.
- (5) In addition to the Indemnifications set forth in Paragraph 5.1 below, the City shall further indemnify and hold harmless the USPS, its officers, employees, agents, successors, and assigns ("USPS Indemnities"), from and against all liabilities, claims, losses, obligations, damages, penalties, causes of action, costs, and expenses, including, without limitation, reasonable legal, accounting, consulting, engineering, expert fees, and other expenses incurred by or asserted against any of the USPS Indemnities by any other party or parties (including, without limitation, a governmental entity), arising out of, in connection with, or relating to (i) the City's activities associated with removal of the wall and construction activities in connection with the City Parcel, USPS Parcel, and/or the Combined Parking Lot; (ii) the City's activities on the USPS Parcel throughout the term of this Agreement, which includes but is not limited to, City construction,

maintenance, and general use of the USPS parcel for City purposes after the date of this agreement and as a result of this Agreement; (iii) any environmental investigation, response or remediation, storage, and/or disposal undertaken by or on the behalf of the City or USPS in any way associated with the City's activities in connection with the removal of the wall, and construction activities related to the City Parcel, USPS Parcel, and/or the Combined Parking Lot; (iv) any hazardous materials and environmental contamination existing on the City Parcel and/or USPS Parcel at the date of this Agreement and off-site hazardous materials and environmental contamination to adjacent property which is the result of environmental contamination from the City Parcel that is associated with the removal of the wall and construction activities in connection with the Combined Parking Lot; (v) any environmental investigation, response or remediation, storage, and/or disposal undertaken by or on the behalf of the City or USPS after the date of this Agreement in any way associated with the City's activities in connection with the removal of the wall, and construction activities related to the City Parcel, USPS Parcel, and/or the Combined Parking Lot if the investigation and/or response action began before the date of this Agreement.

- (6) Following the City's completion of (2), (3), and (4) above, the City shall notify the USPS by certified mail at the office of the Contracting Officer, that these actions have been completed. Within 10 business days after receipt of said City's notice, the USPS shall notify the City that it concurs that all of the above conditions (2), (3), (4), have been completed to the satisfaction of the USPS and in accordance with the appropriate State or Federal Agency regulations and applicable environmental laws, guidelines and/ or regulations as set forth in Paragraph (2) above, or, in the alternative, that the USPS does not concur and the reasons for non-concurrence. If the USPS shall not concur, the City shall correct the deficiencies to the satisfaction of the USPS. The license term as stated above shall not commence until the USPS provides written concurrence to the City that all of the above conditions are met. Such concurrence by the USPS is not intended, and does not in any way modify the obligations, responsibilities, and/or obligations of the City under this Agreement.
- (7) If the City fails to deliver notice of the completion of the requirements of Paragraphs 5.A. Construction of the Parking Lot Improvements and 5.B. Environmental Conditions, within 90 days of acceptance of this Agreement by the USPS Contracting Officer, then the USPS shall have the option of terminating this Agreement in accordance with the procedures set forth in Paragraph 5.L of this

Agreement and the City shall not have a remedy against the USPS for its expenses. This remedy shall supplement all other remedies available to the USPS including those set forth in this Agreement and those otherwise available by law, and is not intended to supersede or revoke any remedies available to the USPS including but not limited to the indemnification's set forth in this Agreement.

C. Operation of the Combined Parking Lot.

- (1) **General.** Following completion of the Parking Lot Improvements, the City shall manage and operate the parking lot on the City Parcel No. 2 and the parking lot on the USPS Parcel. The City will maintain the parking lot on City Parcel No. 1. The USPS shall manage and operate the parking lot on City Parcel Number 1. (hereinafter "Combined Parking Lots").
- (2) **City's Management Firm.** USPS acknowledges that the City may delegate said management and operation of the Combined Parking Lots to its management firm. The acknowledgment of using a parking management firm shall not be construed as its approval and USPS assumes no liability and/or responsibility for management and operation of the Combined Parking Lots. Nor should said acknowledgement be construed as relieving the City and/or its Management Firm of responsibility for mismanagement and/or negligent operation of the Combined Parking Lots. The Indemnification Provisions in this Agreement, Paragraph 5.I. govern liability and/or responsibility of the parties.
- (3) **USPS Parking.**
 - (a) **USPS Guaranteed Parking.** The City shall continuously and without interruption, grant the USPS the right to exclusive use of a minimum of (80) parking spaces in the Combined Parking Lots for the term of this Agreement. The USPS parking spaces are identified in Exhibit A. The 80 parking spaces will be segregated from the parking for the general public by a gate which is controlled by the USPS and maintained by the City and approximately located in accordance with Exhibit A. USPS employees will enter and exit the parking area from the north end, or the portion of the Combined Parking Lot that is identified in Exhibit A as Designated USPS Parking 80 Stalls, Employees Enter/Exit. The parties agree to post a sign which states the hours of operation for public parking within the USPS segregated parking area. The parties further agree that the public is permitted access to the USPS guaranteed parking only as

indicated on the posted parking sign. The USPS reserves the right to tow at the owners expense non USPS vehicles that are parked in USPS guaranteed spaces at times prohibited by the posted parking sign.

- (b) Key cards. The City shall provide the USPS with 550 key cards which will access the 80 guaranteed spaces within the Combined Parking Lots for parking by USPS employees. USPS understands that the key cards will not access the south entrance and exit of the Combined Parking Lot. Key cards will be provided by the City and disbursed in a manner determined by the USPS.
- (c) USPS Validated Parking. The City shall authorize USPS to validate without cost to USPS, 1,500 parking entrance tickets per year in Lots 2 and 3 (365 days for training and casual employee usage by USPS).
- (d) Public Parking. Except for the USPS Guaranteed Parking, the Combined Parking Lot may be used for public parking as determined by the City. However, the City agrees to use and permit use of the Combined Parking Lots only for lawful purposes consistent with the applicable laws, codes, and regulations, and shall comply fully and act in accordance with the Rules and Regulations Governing Conduct on Postal Property, (Title 39; Code of Federal Regulations, Part 232) (Addendum 2), attached hereto, and incorporated herein or as subsequently amended. The City further agrees to require its guests and invitees to observe the Rules and Regulations.

D. Alterations.

The City shall not make any additions, improvements, repairs, or alterations to the USPS Parcel except as specified in this agreement without the prior written consent of the USPS in each and every instance. The USPS has sole discretion in determining whether to grant such approval. If this provision is violated, the City is liable for the cost of removal and restoration, plus applicable administrative costs.

E. Maintenance.

- (1) The City, except for the damage resulting from the negligence of USPS agents or employees, shall at the City's sole cost and expense, maintain, and keep the Combined Parking Lots, including

buildings, any and all equipment, lighting, fixtures, and appurtenances, in good repair and in a safe condition from hazards, ice, snow, debris, and all other dangers. For the purpose of so maintaining said premises and property, the City may at reasonable times, and upon reasonable notice to the USPS Contracting Officer, enter and inspect the same and make necessary repairs thereto. Additionally, the City shall designate maintenance repairmen for electrical emergencies, sewage, plumbing, and other emergencies who may be called by USPS in the event of any emergency situation involving maintenance when the City or the City's agent cannot be contacted within a reasonable time.

(2) Whenever there is a need for maintenance or a repair under this Maintenance provision, or for restoration of the premises or any part thereof to a state of good repair and tenable condition, the USPS shall give the City written notice thereof, specifying a time for completion of the work which is reasonable and commensurate with the nature of the work required. A copy of any such notice shall be sent by certified or registered mail to the City. If the City fails to prosecute the work with such diligence as will ensure its completion within the time specified in the written notice (or any extension thereof as may be granted at the sole discretion of the USPS), or if the City fails to complete the work within said time, the parties agree to the following:

- (a) The USPS shall have the right to perform the work and bill the City for the cost thereof;
- (b) The City shall reimburse the USPS for the cost of said repairs within (60) days following receipt of said bill;
- (c) In the event the City fails to reimburse the USPS within (60) days, the USPS has the right to terminate this Agreement in accordance with Paragraph 5.L. below. All disputes under this paragraph are subject to the Paragraph 5.K. of this Agreement;

F. Damage to or Destruction of the Combined Parking Lot.

The City shall be responsible for damages to the Combined Parking Lot in the event the property is damaged or destroyed by fire or acts of God or other casualties. In the event that such damage occurs, either the USPS or the City may elect upon written notice of such election to terminate this Agreement.

G. The USPS shall not be responsible for damages to property or injuries which may arise from or be incident to the use and occupation of the Combined Parking Lot, nor for damages to the property or injuries to the person of the City or of others who may be on said premises at the City's invitation and the City shall hold the USPS harmless, and shall defend and indemnify the USPS, from any and all claims for such damages or injuries during the period the City operates the Combined Parking Lot, in accordance with Paragraph 5.I below.

H. Insurance.

The City must obtain at no cost to the USPS a public liability insurance policy which includes coverage for personal injury liability for the Combined Parking Lot and its appurtenances in the amount of \$1,000,000 for injury or death with a \$1,000,000 aggregate for injury or death of any number of persons in one occurrence, and property damage liability in the amount of \$500,000 for each occurrence, and \$1,000,000 aggregate. The City further agrees to name the USPS as an additional insured on said policy.

I. Indemnification.

(a) Indemnification of USPS. The City agrees to defend, indemnify and save USPS harmless against any and all claims, demands, damages, costs, expenses, and legal fees, for any loss, injury, death or damage to persons or property which at any time is suffered or sustained by USPS, its employees, the public, or by any person whosoever may at any time be using, occupying, or visiting the Combined Parking Lot, or be on or about the Combined Parking Lot, when such loss, injury, death or damage is asserted to have been cause by any negligent act or omission or intentional misconduct of the City or its agents, servants, employees, invitees, customers, and contractors. In case of any action or proceeding brought against the USPS by reason of such a claim, upon notice from USPS, the City covenants to defend such action or proceeding. The USPS shall not be liable and the City waives and releases the USPS from all claims for damage to persons or property sustained by the City, or City's employees, agents, servants, invitees, contractors and customers resulting by reason of occupying or visiting the Combined Parking Lot and/or appertaining to any equipment or appurtenances thereunto becoming out of repair. All property belonging to the City or any uses of the Combined Parking Lot shall be there at the risk of the City or such other person only, and the USPS shall not be liable for damage thereto or theft or misappropriation thereof.

(b) Indemnification of City. Subject to and in accordance with the provisions of the Federal Tort Claims Act, 28 U.S.C. § 2671, et seq., the USPS expressly agrees to be responsible for claims, loss, damage, actions, causes of action, expense, and/or liability resulting from the negligent or wrongful act or omission by any employee of the USPS while acting within the scope of employment under circumstances where the United States Postal Service, if a private person would be liable in accordance with the laws in the State of Nebraska.

J. Gratuities.

- (1) The USPS may terminate this Agreement for default if after notice and a hearing the USPS Board of Contract Appeals determines that the City, its agents or other representatives:
- (a) Offered or gave a gratuity or gift (as defined in 5 CFR 2635) to an officer or employee of the USPS: and
 - (b) Intended by the gratuity or gift to obtain a contract or favorable treatment under a contract.

K. Claims and Disputes.

This Agreement is subject to the Contract Disputes Act of 1978 (41 U.S.C. 601-13, (the "CDA"). Except as provided for in the CDA, all disputes arising under or relating to this Agreement must be resolved under the provisions of and in accordance with the CDA and implementing regulations of the USPS.

L. Notice-Termination/Cancellation.

The USPS Contracting Officer may by written notice of default to the City terminate this Agreement in whole or part after providing the City with thirty (30) days written notice of the default, neglect, or violation of terms and conditions of this Agreement. The City shall cure the default, neglect or violation of the terms and conditions of this Agreement within the thirty (30) days. In the event the City fails to cure and/or provide assurances satisfactory to the USPS within said thirty (30) days, that the default, neglect or violation will be cured in a time period that is acceptable to the USPS, the USPS Contracting Officer has the following options:

- (1) Take whatever action, including legal equitable, or administrative action, which may appear necessary or desirable to the USPS to collect any payments due or to recover any damages incurred under this Agreement from the City, or to enforce performance and observance of any obligation, agreement, or covenant of the City under this Agreement; or

- (2) Terminate this Agreement upon written notice to the City of not less than 60 days. A termination and/or cancellation may be effected by delivery to the City of a notice of termination specifying the effective date of termination. Unless otherwise directed by the Contracting Officer, the City, by the effective date of the termination, must stop all parking on the USPS Parcel and restore the USPS Parcel to the same condition that existed prior to this Agreement. In addition, the City, by the effective date of termination, shall first vacate the USPS Parcel Number 3 and restore it to "Postal Condition." "Postal condition shall mean that the City will remove access gates that are City controlled so that the USPS has the ability to access the lot in the same manner as prior to this Agreement; remove all City signs and postings, restore parking stalls to the same arrangement and number (80) at the original date of this Agreement, and the parking lot surface in acceptable condition (i.e. no pot holes, no equipment on site). The Contracting Officer may waive any or all of these items at the time of termination. After the USPS is satisfied that the USPS Parcel is restored to "Postal Condition," the USPS shall vacate the City Parcel Number 1 and return the parking area to the City of Lincoln. The City is liable for all costs of removal and restoration, plus applicable administrative costs.
- (3) The rights and remedies under Paragraph 5.L. are in addition to any other rights and remedies provided by law or under this Agreement. In addition, the City shall not have a remedy against the USPS for its expenses. The parties agree that any and all disputes under this Clause are subject to only the Contract Disputes Act as set forth in Paragraph 5.K. of this Agreement.

6. **AUTHORIZATION.**

The undersigned parties hereby warrant and represent that all necessary actions to duly approve the execution, delivery, and performance of this Agreement have been taken and this Agreement constitutes a valid and binding agreement of the parties enforceable in accordance with its terms.

7. **NOTICES**

Any notice hereunder shall be given in writing to the party for whom it is intended in person or by certified mail to the following addresses or such future addresses as may be designated in writing:

City: City of Lincoln
Attention: Mayor
555 South 10th St.
Lincoln, NE 68508-2828

With a copy to: Director of Public Works and Utilities
555 South 10th Street
Lincoln, NE 68508-3994

USPS: Contracting Officer
United States Postal Service
Kansas City Facilities Office
6800 W. 64th St.
Building 8, Suite 100
Overland Park, KS 66202-4179

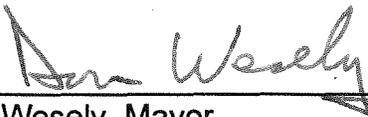
Postmaster, City of Lincoln
700 R Street
Lincoln NE 68501-9998

With a copy to: Rozann M. Heininger
Attorney
United States Postal Service
St. Louis Law Department
P.O. Box 66640
St. Louis, MO 63166-6640

IN WITNESS WHEREOF, the parties have signed this Agreement as of the day and year indicated below.

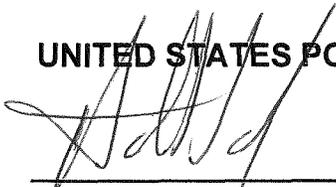
Executed by City this 31st day of March, 2000.

THE CITY OF LINCOLN, NEBRASKA
A Municipal Corporation

By: 
Don Wesely, Mayor

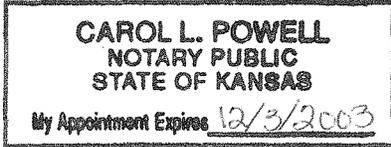
Executed by USPS this 17 day of April, 2000.

UNITED STATES POSTAL SERVICE

By: 
Howard Townsend
Contracting Officer

STATE OF Kansas)
) ss.
COUNTY OF Johnson)

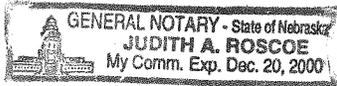
The foregoing instrument was acknowledged before me this 17th day of April, 2000, by Howard Townsend, Contracting Officer, on behalf of the United States Postal Service.



Carol L. Powell
Notary Public

STATE OF NEBRASKA)
) ss.
LANCASTER COUNTY)

The foregoing instrument was acknowledged before me this 31st day of March, 2000, by Don Wesely, Mayor of the City of Lincoln, Nebraska.



Judith A. Roscoe
Notary Public

ADDENDUM 1 Construction Rider:

Lincoln, Nebraska Main Post Office and City of Lincoln Parking:

1. The USPS Parcel and the City Parcels will contain areas and spaces, improvements and appurtenances furnished as provided in accordance with the Construction Documents which will comply with the Handbook RE-4, Standards for Facility Accessibility by the Physically Handicapped (dated April 19, 1985): Said Construction Documents are to be furnished by the City and approved by the US PS prior to construction and will be attached and made a part of this Agreement.

2. The City agrees that it must own or control the Parcel 1 prior to the start of construction and shall furnish the USPS with evidence of said ownership. The City further agrees that:

a. Said improvements, additions, repairs or remodeling shall be completed to the satisfaction of the USPS no later than _____ calendar days after written notice of Plan approval is given by the Contracting Officer.

b. The City shall record and furnish a copy of the Recorded Agreement to the USPS within 30 days after its receipt and execution by the City.

c. Performance and Labor and Material Payment Bonds are required. The City shall submit copies of such bonds within thirty (30) days after acceptance of City's Construction Contract.

3. All parties hereby agree that the term of this agreement will commence upon execution of the Agreement by both the City and Postal Service.

4. The provisions of this Construction Rider, including any and all Construction Documents other attachments made a part of the Agreement, hereunder, shall govern in the event of conflict with any other terms and conditions of the Agreement.

5. This Agreement may not be assigned nor ownership of the USPS Parcel and the City Parcel transferred.

6. TERMINATION FOR DEFAULT - DAMAGES FOR DELAY - TIME EXTENSIONS

a. If the City refuses or fails to begin construction or acquire the site, if applicable, or to prosecute the work with such diligence as will ensure its completion within the time specified in this Agreement, or any extension thereof, or fails to complete said work within such time, the Postal Service may, by written notice to the City, terminate this Agreement and right to proceed with the work in accordance with the

procedures set forth in Paragraph 5.L. of this Agreement. Whether or not the City's right to proceed with the work is terminated, their sureties are liable for any damage to the Postal Service resulting from his refusal or failure to complete the work within the specified time.

b. The City's right to proceed shall not be so terminated nor the City charged with resulting damage if:

(1) The delay in the completion of the work arises from unforeseeable causes beyond the control and without the fault or negligence of the City, including but not restricted to acts of God, acts of the public enemy, acts of Government in either its sovereign or contractual capacity, acts of another contractor in the performance of a contract with the Postal Service, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of both the City and such subcontractors or suppliers; and

(2) The City, within 20 days from the beginning of any such delay (unless the contracting officer grants a further period of time before completion and acceptance under the Agreement), notifies the Contracting Officer in writing of the causes of delay.

c. The Contracting Officer must ascertain the facts and the extent of the delay and extend the time for completing the work when, in his judgment, the findings of facts justify such an extension, and his findings of fact shall be final and conclusive on the parties, subject to appeal as provided in the clause of this contract entitled "Claims and Disputes." Pending final decision on an extension of time hereunder, the City must proceed diligently with the performance of the Agreement and in accordance with the contracting officer's decision. Inability to comply with state, city, or local construction or zoning laws or ordinances, or with restrictive covenants, or obtaining financing shall not be regarded as an unforeseeable cause.

d. The rights and remedies of the Postal Service provided in this clause are in addition to any other rights and remedies which may be available to the Postal Service by law or under this Agreement.

7. INSPECTION

a. The City must, without charge, replace any material, correct any workmanship or supply omitted work found by the Postal Service not to comply with the contract requirements, unless in its interest the Postal Service consents to accept such material or workmanship or omitted work.

b. The premises must be accessible for inspection by the authorized representative of the contracting officer to determine whether contractual requirements are being met during construction and/or acceptance inspection of construction of the facility. Failure of the Postal Service to identify deficient work or materials shall not shift the responsibility for correction of such deficient work or materials to the Postal Service.

c. If the City does not replace rejected material, correct rejected workmanship, or supply omitted work, then in addition to any other remedies available to it, the Postal Service may terminate this Agreement in accordance with the procedures set forth in Paragraph 5.L. of this Agreement.

d. In the absence of a specific agreement, time allowed for completion of any work required under the provisions of this paragraph is limited to thirty (30) days.

8. PAYMENT FOR LABOR AND MATERIALS

The City agrees to post at the job site in a prominent place, a photostat or certified copy of the bond, where it can easily be seen by all persons who have furnished, or have been requested to furnish labor, material, or both, used or reasonably required for use in the performance of this agreement.

9. LICENSES, PERMITS, SAFETY, INDEMNIFICATION

a. The City is, without additional expense to the Postal Service, responsible for identifying and complying with zoning requirements, if applicable, obtaining any necessary licenses and permits required, and for complying with any applicable federal, state, and municipal laws, codes, and regulations, in connection with the performance required under or related to this Agreement. The City must take proper safety and health precautions to protect the work, the workers, the public and the property of others. The City is responsible also for all materials delivered and work performed until completion and acceptance of the entire construction work, except for any completed unit of construction that may have been accepted.

b. The City agrees to indemnify and hold harmless, the Postal Service and its officers, agents, representatives, and employees from all claims, loss, damage, actions, causes of action, expense and/or liability, including the cost of defense, resulting from, brought for, or on account of any personal injury or death or property damage received or sustained by any persons or property, growing out of, occurring, or attributable to any work performed under or related to this Construction Rider and/or Agreement. This Paragraph is intended to supplement Paragraph 5.I. Indemnification of the Agreement.

10. COMPLIANCE BY STATES WITH LABOR STANDARDS

To the extent required by law, the City agrees to comply with the Contract Work Hours and Safety Standards Act - Overtime Compensation, Davis-Bacon Act,

and with applicable OSHA standards, and to provide for similar compliance in subcontracts.

11. SITE

The City must examine the site and be thoroughly acquainted with conditions thereon. The City will be responsible for site conditions including but not limited to subsurface or latent physical conditions or unknown physical conditions.

12. BONDS

No work or services under this contract may be commenced until required bonds have been furnished and the City has received written notice from the Contracting Officer that the bonds are acceptable.

13. DISPUTES CONCERNING LABOR STANDARDS

Disputes arising out of the labor standards provisions of this contract will not be subject to the Claims and Disputes clause of this contract. Such disputes must be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the City (or any of the City's subcontractors) and the contracting agency, the U. S. Department of Labor, or the employees or their representatives.

14. SAFETY AND HEALTH STANDARDS

a. Materials, supplies, articles, or equipment manufactured or furnished under this contract or order must conform to the Occupational Safety and Health Standards (29 CFR 1910) pursuant to authority in the Occupational Safety and Health Act of 1970 (OSHA), and to other safety and health requirements specified in this Agreement or order.

b. If no OSHA standard exists, federal or other nationally recognized standards apply. Copies of current Occupational Safety and Health Standards are available from regional and/or area offices of the U. S. Department of Labor, Occupational Safety and Health Administration.

c. If this Agreement or order contains a Postal Service standard and an OSHA standard covering the same general area of applicability, the Postal Service standard governs and takes precedence, unless the OSHA standard contains more rigorous or stringent safety requirements, in which case the OSHA standard governs and takes precedence.

15. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT--
OVERTIME COMPENSATION

To the extent required by law, the City agrees to comply with the requirements of this clause.

a. Overtime Requirements. No contractor or subcontractor contracting for any part of the contract work may require or permit any laborer or mechanic to work more than 40 hours in any workweek on work subject to the provisions of the Contract Work Hours and Safety Standards Act, unless the laborer or mechanic receives compensation at a rate not less than one-and-one-half times the laborer's or mechanic's basic rate of pay for all such hours worked in excess of 40 hours.

b. Violation, Liability for Unpaid Wages, and Liquidated Damages. In the event of any violation of paragraph a above, the City and any subcontractor responsible for the violation are liable to any affected employee for unpaid wages.

c. Records. The City or subcontractor must maintain for three years from the completion of the contract for each laborer and mechanic (including watchmen and guards) working on the contract payroll records which contain the name, address, social security number, and classification(s) of each such employee, hourly rates of wages paid, number of daily and weekly hours worked, deductions made, and actual wages paid. The City or subcontractor must make these records available for inspection, copying, or transcription by authorized representatives of the USPS and the Department of Labor, and must permit such representatives to interview employees during working hours on the job. (The Department of Labor information collection and record keeping requirements in this paragraph d have been approved by the Office of Management and Budget under OMB control numbers 1215-0140 and 1215-0017.)

d. Subcontracts. The City must insert paragraphs a through d of this clause in all subcontracts, and must require their inclusion in all subcontracts at any tier.

16. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT--SAFETY STANDARDS

a. To the extent that the work includes construction, alteration, repair, painting, or decorating, the City may not require any laborer or mechanic to work in surroundings or under conditions that are unsanitary, hazardous, or dangerous to the laborer's or mechanic's health or safety, as provided under standards promulgated by the Secretary of Labor under the authority of 40 U.S.C. 333 (see 29 CFR 1910 and 1926).

b. If the City fails to comply with this clause, the Postal Service, at its discretion, may terminate this Agreement in accordance with the procedures set forth in

Paragraph 5.L. of this Agreement, and charge to the City any costs incurred to put the USPS property back to it's original condition.

c. The City agrees to insert this clause, including this paragraph c. in all contracts, subcontracts and to require its inclusion in all contracts, subcontracts at any tier. The term "City," as used in this clause in any contract, or subcontractor, is deemed to refer to the lower-tier subcontractor.

17. OMISSIONS AND DEFECTS

If omissions and defects from the contract requirements and approved construction plans remain on the scheduled Postal Service date of beneficial occupancy, the Postal Service may take beneficial occupancy and notify the City in writing of the obligation to complete or correct the remaining deficiencies or defects by a designated date. The City must complete or correct the omissions or defects by the designated date or the Postal Service may terminate this Agreement.

18. CONVICT LABOR

In connection with the work under this contract, the City agrees not to employ any person undergoing sentence of imprisonment, except as provided by Public Law 89-176, September 10, 1965 (18 U.S.C. 4082(c)(2)) and Executive Order 11755, December 29, 1973.

19. WARRANTY (CONSTRUCTION)

a. If, within one year of acceptance for beneficial occupancy, the Postal Service finds that any work performed by the City or its contractor needs to be repaired or changed because materials, equipment, or workmanship were inferior, defective, or not in accordance with the Agreement terms, the City must promptly and without expense to the Postal Service:

1. Place in a satisfactory condition all of the defective, unsatisfactory or inferior work;
2. Satisfactorily correct all damage to equipment, the site, the building, or its contents that is the result of such unsatisfactory work; and
3. Satisfactorily correct any work, materials, or equipment disturbed in fulfilling this warranty.

b. Should the City fail to proceed promptly in accordance with this warranty, the Postal Service may terminate this Agreement in accordance with the procedures set forth in Paragraph 5.L. of this Agreement, and charge to the City any costs incurred to put the USPS property back to it's original condition.

20. SPECIFICATIONS AND DRAWINGS

a. The City must keep, at the site, copies of the drawings and specifications and must at all times give the USPS access to them. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, is of like effect as if shown or mentioned in both. In case of difference between drawings and specifications, the specifications will govern.

b. In case of differences between small- and large-scale drawings, the large-scale drawings will govern. Schedules on any contract drawing will take precedence over conflicting information on that or any other contract drawing. On any of the drawings in which a portion of the work is detailed or drawn out and the remainder is shown in outline, the parts detailed or drawn out will apply also to all other like portions of the work.

c. When the word "similar" appears on drawings, it has a general meaning and must not be interpreted as meaning identical, and all details must be worked out in relation to their location and connection with other parts of the work.

d. In case of discrepancy either in figures or drawings or specifications, the matter must be promptly submitted to the Contracting Officer, who will promptly make a determination in writing. Any adjustment by the City without such a determination will be at the City's own risk and expense.

21. DESIGN AND APPROVAL REQUIREMENTS

a. Unless otherwise exempted within this Agreement, the City must employ the services of an architect-engineer, who is licensed to practice in the State of Nebraska, to prepare for the approval of the Postal Service, complete specifications and working drawings including architectural, structural, mechanical, electrical and site improvement work for the construction of the facility in accordance with all requirements included in this Agreement. All final drawings must bear the appropriate registration seal. All fees or charges required for architect/engineer services, for necessary permits or approvals, for connection charges, or for similar fees incidental to construction of the Combined Parking Lots, must be at the City's sole cost and expense.

b. All submissions required for approval by the Postal Service must be correlated, checked and signed by a responsible official of the architect-engineer's firm and must be accompanied by a certification in the following format:

"I certify that all phases of this project (1) have been coordinated and checked for accuracy, (2) are complete in accordance with all applicable requirements, and (3) are in compliance with local building codes and Postal Service requirements."

c. All improvements, and all appurtenances thereto, must be designed and constructed in conformity with all applicable local laws, ordinances, and regulations which relate to construction, safety and sanitation or, in the absence of such codes, ordinances or regulations, in conformity with one of the following codes: Southern Building Code Congress; Southern Standard Building Code; International Conference of Building Officials; Uniform Building Code; Building Officials Conference of America, Inc., or Basic Building Code. The final drawings must be signed and sealed by the architect-engineer with this statement:

"This Project has been designed and must be constructed in strict accordance with the ____ building (regulations) (code) dated _____."

d. The minimum requirements established by this agreement must not be construed as lowering the standards established by the local, county, or state laws, ordinances, or regulations. When such local, county or state requirements are more stringent than the minimum requirements set forth in this agreement, the more stringent requirements must govern.

e. Approval by the Postal Service of any drawings and specifications constitutes approval of general arrangement only and is not to be construed as waiving or changing any requirements set forth in this agreement unless a deviation, waiver or other change is specifically identified and approved by the contracting officer.

f. The City must be responsible, in all cases, for the proper design and coordination of architectural, structural, plumbing, electrical, heating, ventilation, air conditioning, site elements, etc., for the project.

g. Unless otherwise specified, no construction activity at the site may be commenced until the City has received written notice from the Contracting Officer of approval of final Construction Documents. Changes or modifications which may be required during construction must be approved in writing by the Contracting Officer prior to proceeding with such changes.

PROPOSED CITY OF LINCOLN, NEBRASKA
COMBINED PARKING LOT BOUNDARY.

EXHIBIT A

PARKING BOUNDARY DESCRIPTION FOR COMBINED PARKING LOT AS REFERENCED IN THE LETTER OF NOV. 8, 1999 TO THE UNITED STATES POSTAL SERVICE.

BEGINNING AT THE SOUTHWEST CORNER OF LOT 20, BLOCK 31, ORIGINAL PLAT OF LINCOLN; THENCE SOUTH 0°08'05" EAST A DISTANCE OF 85.01 FEET; THENCE SOUTH 89°53'44" WEST A DISTANCE OF 74.60 FEET; THENCE NORTH 42°22'05" WEST A DISTANCE OF 87.83 FEET; THENCE NORTH 0°08'37" WEST A DISTANCE OF 855.68 FEET; THENCE NORTH 06°24'08" EAST A DISTANCE OF 288.18 FEET; THENCE NORTH 89°51'55" EAST A DISTANCE OF 30.76 FEET; THENCE SOUTH 0°08'06" EAST A DISTANCE OF 758.68 FEET; THENCE SOUTH 72°21'01" EAST A DISTANCE OF 83.81 FEET; THENCE SOUTH 0°08'05" EAST A DISTANCE OF 35.89 FEET; THENCE SOUTH 89°51'55" WEST A DISTANCE OF 728.00 FEET; THENCE SOUTH 0°08'05" EAST A DISTANCE OF 300.00 FEET TO THE POINT OF BEGINNING, CONTAINING AN AREA OF 1.63 ACRES MORE OR LESS.



① CITY PARCEL LEGAL DESCRIPTION AS OWNER/BNSFR

A PORTION OF THE VACATED 7TH STREET RIGHT-OF-WAY LYING BETWEEN "R" STREET AND "T" STREET; A PORTION OF THE VACATED "S" STREET RIGHT-OF-WAY LYING WEST OF 7TH STREET; A PORTION OF THE VACATED ALLEY LOCATED WEST OF 7TH STREET AND IN BLOCK 270, ORIGINAL PLAT OF LINCOLN; A PORTION OF LOT 18, BLOCK 270, ORIGINAL PLAT OF LINCOLN, ALL LOCATED IN THE SOUTH HALF OF SECTION 28, TOWNSHIP 10 NORTH, RANGE 8 EAST; AND A PORTION OF THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 10 NORTH, RANGE 8 EAST, LYING SOUTH OF "S" STREET AND LYING WEST OF 7TH STREET; ALL LOCATED IN THE 6TH PRINCIPAL MERIDIAN, IN THE CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA; MORE PARTICULARLY DESCRIBED AS FOLLOWS:

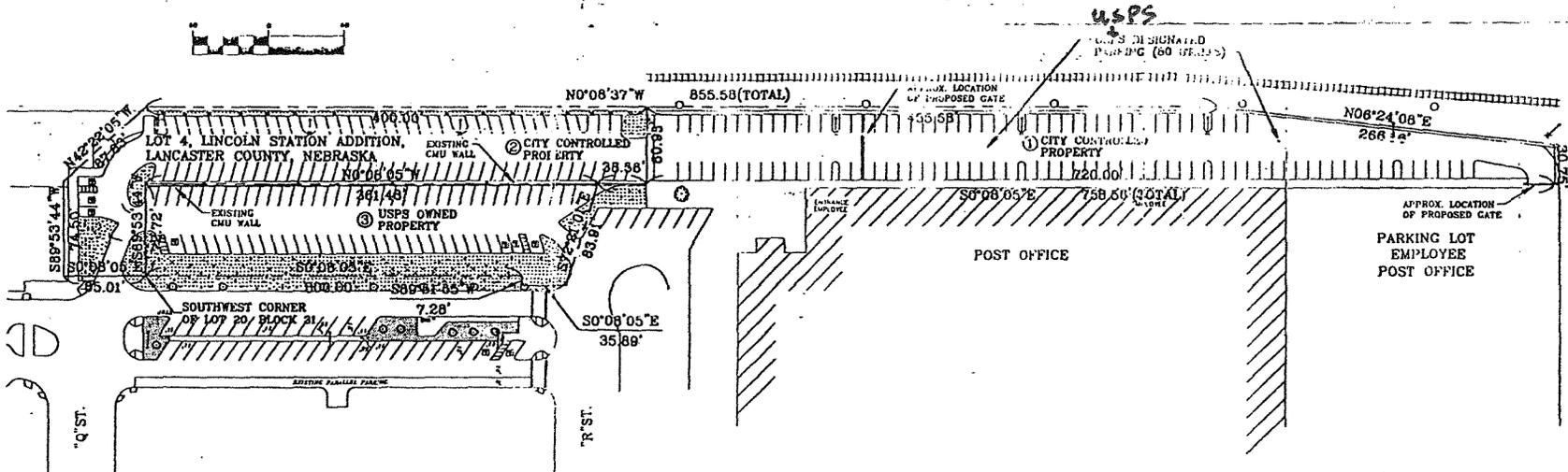
BEGINNING AT THE NORTHWEST CORNER OF LOT 4, LINCOLN STATION; THENCE NORTH ALONG THE EXTENSION OF THE WEST LINE OF SAID LOT 4, A DISTANCE OF 455.68 FEET; THENCE NORTHEASTERLY ALONG A STRAIGHT LINE, TO THE INTERSECTION WITH THE SOUTH LINE OF "T" STREET AT A POINT LOCATED 103.48 FEET WEST OF THE EAST LINE OF 7TH STREET; THENCE EAST ALONG THE SOUTH LINE OF "T" STREET, A DISTANCE OF 30.76 FEET; THENCE SOUTH ALONG A STRAIGHT LINE, A DISTANCE OF 728.00 FEET TO THE NORTHEAST CORNER OF LOT 4, LINCOLN STATION; THENCE WEST ALONG THE NORTH LINE OF SAID LOT 4, A DISTANCE OF 80.98 FEET TO THE POINT OF BEGINNING, CONTAINING AN AREA OF 0.92 ACRES, MORE OR LESS.

② CITY PARCEL LEGAL DESCRIPTION AS LESSEE

LOT 4, LINCOLN STATION ADDITION, LINCOLN, LANCASTER COUNTY, NEBRASKA.

③ USPS PARCEL LEGAL DESCRIPTION

BEGINNING AT THE SOUTHWEST CORNER OF LOT 20, BLOCK 31, ORIGINAL PLAT OF LINCOLN; THENCE WEST ALONG THE EXTENSION OF THE SOUTH LINE OF SAID LOT 20, ALSO KNOWN AS THE NORTH LINE OF LOT 4, LINCOLN STATION, A DISTANCE OF 72.72 FEET; THENCE NORTH ALONG THE EAST LINE OF SAID LOT 4, LINCOLN STATION, A DISTANCE OF 381.48 FEET; THENCE SOUTHEASTERLY ALONG A STRAIGHT LINE TO A POINT LOCATED 35.89 FEET NORTH OF THE SOUTH LINE OF "R" STREET AND 7.28 FEET EAST OF THE EAST LINE OF 7TH STREET; THENCE SOUTH ALONG A LINE LOCATED 7.28 FEET EAST OF AND PARALLEL WITH THE EAST LINE OF 7TH STREET, A DISTANCE OF 31.89 FEET TO THE SOUTH LINE OF "S" STREET; THENCE WEST ALONG THE SOUTH LINE OF "S" STREET, A DISTANCE OF 7.28 FEET TO THE EAST LINE OF 7TH STREET; THENCE SOUTH ALONG THE SAID EAST LINE, A DISTANCE OF 300.00 FEET TO THE POINT OF BEGINNING, CONTAINING AN AREA OF 0.63 ACRES, MORE OR LESS.



DESIGNED	DRAWN	CHECKED	DATE
			7/24/00

DATE	BY
7/24/00	

SCHUMMER
Architectural Drafting

USPS / CITY OF LINCOLN
COMBINED PARKING LOT BOUNDARY

JOB NO. 200001
0011

SHEET 1-1

1 OF 1

Exhibit.dwg 2-24-00 10:01:02 am CST

EXHIBIT A

LEGAL DESCRIPTION

A TRACT OF LAND COMPOSED OF THE WEST 7.28 FEET OF LOTS 5 THRU 8 AND 13 THRU 20, BLOCK 31 OF THE ORIGINAL TOWN, A PART OF VACATED 7TH STREET RIGHT-OF-WAY, AND A PART OF VACATED "R" STREET RIGHT-OF-WAY, ALL LOCATED IN THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 10 NORTH, RANGE 6 EAST OF THE 6TH PM LANCASTER COUNTY, CITY OF LINCOLN, NEBRASKA, AND IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH RIGHT-OF-WAY LINE OF VACATED "R" STREET, SAID POINT BEING 12.72 FEET WEST OF THE CENTERLINE OF 7TH STREET, SAID POINT ALSO BEING THE NORTHEAST CORNER OF LOT 4 LINCOLN STATION; THENCE SOUTH 89 DEGREES 45 MINUTES 39 SECONDS EAST, ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID VACATED "R" STREET, A DISTANCE OF 80.00 FEET TO A POINT 7.28 FEET EAST OF THE EAST RIGHT-OF-WAY LINE OF VACATED 7TH STREET; THENCE SOUTH 00 DEGREES 16 MINUTES 37 SECONDS WEST, ALONG A LINE 7.28 FEET EAST OF AND PARALLEL WITH THE EAST RIGHT-OF-WAY LINE OF VACATED 7TH STREET, SAID LINE ALSO BEING THE WEST LINE OF BLOCK 31, ORIGINAL TOWN, A DISTANCE OF 399.76 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF "Q" STREET; THENCE NORTH 89 DEGREES 41 MINUTES 38 SECONDS WEST, ALONG THE NORTH RIGHT-OF-WAY LINE OF SAID "Q" STREET, SAID LINE ALSO BEING A LINE COMMON TO LOT 4, LINCOLN STATION, A DISTANCE OF 79.91 FEET TO A EASTERLY LOT CORNER OF SAID LOT 4; THENCE NORTH 0 DEGREES 15 MINUTES 52 SECONDS EAST, ALONG THE EAST LINE OF SAID LOT 4, A DISTANCE OF 399.67 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINS A CALCULATED AREA OF 31,960.00 SQUARE FEET, (0.73 ACRES) MORE OR LESS.

RESOLUTION NO. WH- _____

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

3 That Amendment No. 6 to the Agreement for Engineering Services with Olsson Associates
4 for the Haymarket Infrastructure Design Project providing for additional services for Phase I design
5 of the ITS components for the project is hereby accepted and approved and the Chairperson of the
6 West Haymarket Joint Public Agency Board of Representatives is hereby authorized to execute
7 said Amendment No. 6 on behalf of the West Haymarket Joint Public Agency.

8 The total estimated fee for the work associated with this Amendment No. 6 is \$125,056.00,
9 which increases the total contract amount from \$8,719,772.00 to \$8,844,828.00.

10 The City Clerk is directed to return one fully executed original Amendment No. 6 and a copy
11 of this Resolution to Tom Leikam, Olsson Associates, 1111 Lincoln Mall, Suite 111, Lincoln, NE
12 68508.

13 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. 6
to AGREEMENT for ENGINEERING SERVICES
between OLSSON ASSOCIATES
dba LINCOLN HAYMARKET INFRASTRUCTURE TEAM and the
WEST HAYMARKET JOINT PUBLIC AGENCY
HAYMARKET INFRASTRUCTURE DESIGN PROJECT
Project No. 870000

This Contract Amendment is made by and between Olsson Associates, dba Lincoln Haymarket Infrastructure Team, hereinafter called ENGINEER, 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 Haymarket Infrastructure Design Contract which was entered into on November 18, 2010 under Resolution WH-12, hereinafter called the existing Agreement. The general description of work to be added to the existing Agreement under this Amendment generally shall include design of Phase 1 of the ITS and Dynamic Message Signs, in particular for the design of fiber communications conduit and cable within the core Haymarket area. A detailed breakdown of scope of services for each of these project components is included in the attached appendices as shown below:

- ITS & Dynamic Message Signs – Phase I – Appendix A-13

The fee for ITS Dynamic Message Signs is \$125,056.00. The total fee for the work associated with this Amendment is \$125,056.00 which increases the total contract amount from \$8,719,772 to \$8,844,828.00.

NOW THEREFORE, it is hereby agreed that the existing Agreement be amended to include the services as described in Appendix A-13.

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: _____

**Engineer – Olsson Associates dba
Lincoln Haymarket Infrastructure Team**

By: _____
Title: _____

By: _____
Title: _____

APPENDIX A-13 Scope of Services

HAYMARKET INFRASTRUCTURE PROJECT ITS & DYNAMIC MESSAGE SIGNS – PHASE I FIBER COMMUNICATIONS AND CONDUIT BUILD IN CORE AREA

JPA Project Number 870951

General Description of Scope of Services

This scope of services generally includes services related to design of Phase I of the ITS & Dynamic Message Signs implementation for the Haymarket Arena project area. This work is anticipated to include the design of fiber communications conduit and cable within the core Haymarket Arena project area. Specific design work included with this scope of services would include preliminary and final design of communications conduit, fiber design including splicing and termination details and integration of existing and new traffic signals to fiber communications. As part of the work, fiber connections between Memorial Stadium, the new Haymarket Arena and Haymarket Park will be provided for the University of Nebraska. Best efforts will be made to provide diverse and redundant fiber paths for all fiber connections. Additionally, City of Lincoln fiber communications connections to existing and new buildings in the area will be completed with this work. The majority of all new conduit design will be placed in conjunction with the construction of new roadway infrastructure in the area.

The following are the task items that are included as part of the scope of services for the ITS & DMS Message Signs – Phase I design.

Task 1. Project Management

a. Maintain Schedule and Invoicing

The Design Team Project Manager will serve as point of contact, maintain project schedule and budget, and be responsible for coordinating work of the design team for this project. This work will include providing regular progress reports to support invoicing and updates on design schedule. Project Management efforts will follow appropriate guidance as given in the City of Lincoln's website "Guiding Principles and Procedures (GP&P)".

b. Coordination with Others

The Design Team will coordinate their design with agencies and/or Consultants that are involved with this project or adjacent projects. Coordination includes group or one-on-one meetings with the agencies or Consultants. This includes coordination with the following:

- City of Lincoln Public Works & Utilities Department
 - Engineering Services
 - StarTran
- Nebraska Department of Roads
- City of Lincoln, Urban Development Department
 - Parking Services
- City of Lincoln-Lancaster Planning Department
 - Zoning, Subdivision & Design Standards
- City of Lincoln Police Department
- University of Nebraska-Lincoln
- LHIT

Task 2. General Project Meetings

a. Progress Meetings

The Design Team Project Manager and appropriate design staff will attend progress meetings for this work. It is anticipated that the majority of this work will occur in conjunction with other infrastructure project designs in the area. This scope estimates attendance at four (4) progress meetings. At this time it is anticipated that these meetings would be for the Core Area Roadway and Utilities project and the Haymarket Parking Lot, Festival Space & Pedestrian Grade Separation project.

b. Review Meetings

The Design Team Lead Designer and appropriate design staff will schedule and attend review meetings to receive the JPA's review comments for the various design segments or discuss key decision items with appropriate JPA staff. This scope estimates two (2) review meetings.

c. Plan-in-Hand

The Design Team will attend plan-in-hand meetings. These meetings are to be held during preliminary phases of design for the Core Area Roadway and Utilities project and the Haymarket Parking Lot, Festival Space & Pedestrian Grade Separation project. The primary purpose of these meetings will be to evaluate and finalize building entrance locations, review existing fiber facilities and verify the preliminary design for the various segments. This scope estimates two (2) plan-in-hand meetings.

Task 3. Utility Coordination

a. Utility Review Meetings/Coordination

The Design Team Lead Designer shall attend regularly scheduled monthly utility coordination meetings with other utilities and/or interests in the project area. The purpose of these meetings will be to guarantee coordination between the designs of all utility infrastructure so that best efforts are made to co-locate to save costs. These meetings are currently scheduled to occur through March 2012. This scope estimates eight (8) utility coordination meetings.

Task 4. Fiber Plan

a. Develop Fiber Plan

Through coordination meetings with key project stakeholders who have fiber interests in the area, the Design Team will develop a Fiber plan that builds upon the existing City of Lincoln owned fiber and the future Fiber master plan. This plan will also rely upon third party fiber sharing agreements currently in place as well as potential new sharing opportunities. The overall goal of the fiber layout that is developed for this project will be to maximize the fiber build in the area while minimizing project costs. Also, developing a fiber ring structure that provides a diverse and redundant fiber path to devices, where feasible, should be a goal of the plan. Once this plan is developed, it will be submitted to all interested parties for approval before the design of fiber cable commences.

b. Fiber Design

All fiber and communication infrastructure design will occur under tasks 5 – 8 of this scope of services.

Task 5. First Submittal

Because this work will be designed in conjunction with multiple infrastructure projects in the area to reduce costs, multiple submittal packages are anticipated.

The Design Team will prepare first submittal construction bid packages for the West Haymarket Arena. The submittal packages will substantiate that the design is progressing, and that adequate coordination is being provided between the various technical areas. Information submitted with the first submittal shall be sufficient to conduct a constructability "plan-in-hand" walkthrough between the Consultant and the JPA.

a. Preliminary Designs

The Design Team shall prepare project base files and plan sheets in accordance with the City of Lincoln CADD standards. Plan sheets to be included in the first submittal include the following:

- Cover Sheet
- General Notes Sheets
- Network Architecture Sheets
- Plan Sheets

This plan set will include the following elements:

- Pull boxes, fiber vaults and building entrances
- Location and routing of communication infrastructure
- Conduit size and installation

b. Cost Estimates

The Design Team shall prepare a cost estimate with the submittal packages.

Task 6. Second Submittal

Because this work will be designed in conjunction with multiple infrastructure projects in the area to reduce costs, multiple submittal packages are anticipated.

The Design Team will prepare the second submittal packages based upon review comments and plan changes from the first submittals. Information submitted with the second submittals shall be sufficient to permit bidding and construction of the system.

a. Second Submittal Design

The Design Team shall prepare project base files and plan sheets in accordance with the City of Lincoln CADD standards. All sheets that will be included in the PS&E plan set will be included in the second submittal. This includes, but not limited to, the following sheets:

- Cover Sheet
- Summary of Quantities Sheet
- General Notes Sheets
- Network Architecture Sheets
- ITS Infrastructure Plan Sheets
- Design Detail Sheets
- Splice/Termination Diagrams

b. Cost Estimates

The Design Team shall prepare an updated total project cost estimate.

c. Special Provisions

The Design Team will submit Special Provisions with the second submittal.

Task 7. Quality Assurance / Quality Control (QA / QC)

The Design Team will give a copy of their QA / QC plan to the Program Manager and the JPA Project Management Team at the start of the project. The Design Team will submit in writing that this plan has been used during the project at each submittal with the name of the person responsible for performing the QA / QC aspects.

Task 8. PS&E Submittals

Because this work will be designed in conjunction with multiple infrastructure projects in the area to reduce costs, multiple submittal packages are anticipated.

a. PS&E Submittal

Upon incorporating review comments into the plan set and special provisions, the Design Team shall prepare and submit all drawings, special provisions, and an updated total project cost estimate to the JPA Project Management Team for the final PS&E review. Upon JPA acceptance of the PS&E plans, the Design Team shall submit the bid package to the JPA Project Management Team. The bid packages will include sealed bond drawings, sealed special provisions, and an electronic file with final bid items and quantities. The bid package will also be accompanied by an electronic copy of the design in MicroStation, GEOPAK format. GEOPAK GPK files will also be submitted.

Task 9. Bidding Phase

a. Attend Pre-Bid Meeting and answer questions

b. Answer Design Questions

c. Addenda to be prepared by JPA Purchasing Representatives

Task 10. Construction Phase

a. Attend Pre-Construction Meeting

b. Review Shop Drawings and material submittals

c. Prepare Revision Sheets

d. Answer Design Questions and Consultation to clarify plans/specifications

e. Evaluate Substitute "or equal" Bids items as requested by the Program Manager

f. Conduct Site Visits as requested by the Program Manager

g. OTDR Trace Review

JPA Responsibilities

The JPA will supply the following information:

- Copies of available reports/data
- Current bid item listing

GENERAL INFORMATION

1. PLAN FORMAT

Two Half size (11" x 17") white paper bond copies of the plans will be submitted at the first submittal, second submittal, and draft PS&E submittal. One half size (11" x 17") white paper bond copy of the plans will be submitted for PS&E review. Any material, which does not produce an acceptable reproduction will be returned to the Design Team for rectification. All submittals, except final submittal, shall be bound with post screws or staples. In addition to the paper copies, PDF's of the plans and Special Provisions will be submitted for all reviews.

Final plans will be submitted on 11" x 17" bond paper and will be accompanied by an electronic copy of the design in MicroStation, GEOPAK format. GEOPAK GPK files will also be submitted.

All sheets will be plotted at the City of Lincoln's standard sheet scales.

Care will be exercised in drawing all construction details. All notes will be properly spaced and all lettering will be of an engineering style. Clarity must be maintained to allow the plans to be archived on microfilm; the background topography, grid lines etc. on plan and profile sheets will be removed behind the text.

The Design Team shall follow the City of Lincoln's CADD drafting procedures and guidelines in preparing the plans.

The CADD files will conform to the following standards and conventions. All plans, specifications, and documents will be in English units using the following working units:

- a) Master Units = Ft
- b) Sub Units = 1000th
- c) Position Units = 1

Global origin of the graphics design plane will be located at x= 0.0000, y= 0.0000.

Reports, Studies and Technical Information:

The Design Team shall prepare and submit the following items:

1. Technical memos for all pertinent meetings
2. Meeting minutes from all meetings
3. Miscellaneous correspondence and information related to the project
4. Summary of quantities and opinion of probable cost
5. Permit applications
6. Special Provisions for items not covered by the City of Lincoln Standard Specifications
7. Coordination with Existing Parking Software

**Appendix A-13
Total Project Fee**

**Arena ITS & Dynamic Message Sign - Phase I
City Project Number 870951**

Task No.	Task Description		Fee Estimate
1	Project Management		\$12,756.00
2	General Project Meetings		\$7,776.00
3	Utility Coordination		\$1,776.00
4	Fiber Plan		\$8,516.00
5	First Submittal		\$29,286.00
6	Second Submittal		\$42,202.00
7	Quality Assurance / Quality Control (QA/QC)		\$2,968.00
8	PS&E Submittals		\$1,312.00
9	Bidding Phase		\$2,188.00
10	Construction Phase		\$15,096.00
	Expenses		\$1,180.00
		Total Project Cost	\$125,056.00

PAY RATES (BASED ON HOURLY RATE SCHEDULE PER CLASSIFICATION)

Overhead Rate : 0%

Profit : 0%

Personnel		Total Hr.	Salary \$ Per Hr.	Labor Cost	Total Cost
Principal/Project Manager	P/PM	16	\$180.00	\$2,880	\$2,880.00
Team Leader	TL	62	\$162.00	\$10,044	\$10,044.00
Group Leader	GL	150	\$148.00	\$22,200	\$22,200.00
Senior Engineer	SE	0	\$155.00	\$0	\$0.00
Senior Project Engineer	SPE	234	\$142.00	\$33,228	\$33,228.00
Project Engineer	PE	180	\$115.00	\$20,700	\$20,700.00
Associate Engineer	AE	0	\$98.00	\$0	\$0.00
Assistant Engineer	ASE	178	\$85.00	\$15,130	\$15,130.00
Senior Scientist	SS	0	\$120.00	\$0	\$0.00
Senior Project Scientist	SPS	0	\$105.00	\$0	\$0.00
Project Scientist	PS	0	\$90.00	\$0	\$0.00
Associate Scientist	ACS	0	\$70.00	\$0	\$0.00
Assistant Scientist	AS	0	\$60.00	\$0	\$0.00
Surveyor	SM	0	\$80.00	\$0	\$0.00
Survey Crew Member (CM)	SCM	0	\$55.00	\$0	\$0.00
Technical Manager	TM	0	\$118.00	\$0	\$0.00
Design Technician	DT	0	\$84.00	\$0	\$0.00
Senior Technician	ST	0	\$80.00	\$0	\$0.00
Technicain	Tech	274	\$71.00	\$19,454	\$19,454.00
Administrative Coordinator	AC	0	\$70.00	\$0	\$0.00
Administrative Assistant	AA	4	\$60.00	\$240	\$240.00
Expenses					\$1,180.00
		1098		\$123,876	\$125,056.00

TOTAL EXPENSES

Expenses	Amount		\$ Ea.		Cost
Design					
Travel, mile (car)		MILES	0.50		\$0.00
Travel, mile (survey vehicle)		MILES	0.68		\$0.00
Half Size Plots (each)	600	L.S.	0.3		\$180.00
Mylars, Half Size Plots (each)		EA.	0.3		\$0.00
Miscellaneous Expenses(Plots, Copies, Reports, etc.)	1	EA.	1000		\$1,000.00
					\$0.00
					\$0.00
					\$0.00
				Sub Total	\$1,180.00
Survey Expenses					
Public Involvement Expenses					
				Total	\$1,180.00

MAN-HOUR ESTIMATE - ARENA ITS DESIGN & DYNAMIC MESSAGE SIGNS - PHASE I / PROJECT NUMBER 870951

Task No.	Description of Work Items / Tasks	P/PM	TL	GL	SE	SPE	PE	AE	ASE	SS	SPS	PS	ACS	AS	SM	SCM	TM	DT	ST	Tech	AC	AA	Total	Total	Overhead	Total	Profit	Total Fee	
																							Manhours	Labor Fee	0.00%	(A+B)	0.00%	(A+B+C)	
1	Project Management																												
	Maintain Schedule and Invoicing	8	20	8																				36	\$5,864	\$0	\$5,864	\$0	\$5,864.00
	Coordination with Others	8	20	8			4	4																44	\$6,892	\$0	\$6,892	\$0	\$6,892.00
																													\$12,756.00
2	General Project Meetings																												
	Progress Meetings		8	8			8																	24	\$3,616	\$0	\$3,616	\$0	\$3,616.00
	Review Meetings			4			4																	8	\$1,160	\$0	\$1,160	\$0	\$1,160.00
	Plan-in-Hand			8			8				8													24	\$3,000	\$0	\$3,000	\$0	\$3,000.00
																													\$7,776.00
3	Utility Coordination																												
	Utility Review Meetings/Coordination			12																				12	\$1,776	\$0	\$1,776	\$0	\$1,776.00
																													\$1,776.00
4	Fiber Plan																												
	Develop Fiber Plan		8	20			20														20			68	\$8,516	\$0	\$8,516	\$0	\$8,516.00
																													\$8,516.00
5	First Submittal																												
	Preliminary Designs																												
	Cover Sheets											2									2			4	\$372	\$0	\$372	\$0	\$372.00
	General Notes Sheets											4									4			8	\$744	\$0	\$744	\$0	\$744.00
	Network Architecture Sheets											4	2								8			14	\$1,366	\$0	\$1,366	\$0	\$1,366.00
	Plan Sheets			20			8	80			80										80			268	\$25,776	\$0	\$25,776	\$0	\$25,776.00
	Cost Estimates						4	4																8	\$1,028	\$0	\$1,028	\$0	\$1,028.00
																													\$29,286.00
6	Second Submittal																												
	Second Submittal Design																												
	Cover Sheets																				2			2	\$142	\$0	\$142	\$0	\$142.00
	Summary of Quantities Sheets											8									8			16	\$1,248	\$0	\$1,248	\$0	\$1,248.00
	General Notes Sheets											2									2			4	\$312	\$0	\$312	\$0	\$312.00
	Network Architecture Sheets											4									4			8	\$852	\$0	\$852	\$0	\$852.00
	Plan Sheets			20			8	40			80										80			228	\$21,176	\$0	\$21,176	\$0	\$21,176.00
	Design Detail Sheets						16	4													16			36	\$3,868	\$0	\$3,868	\$0	\$3,868.00
	Splice/Termination Diagrams						60														20			80	\$9,940	\$0	\$9,940	\$0	\$9,940.00
	Cost Estimates						4	4																8	\$1,028	\$0	\$1,028	\$0	\$1,028.00
	Special Provisions			16			4	4														4		28	\$3,636	\$0	\$3,636	\$0	\$3,636.00
																													\$42,202.00
7	QA/QC																												
	Plan Review		4	8			8																	20	\$2,968	\$0	\$2,968	\$0	\$2,968.00
																													\$2,968.00
8	PS&E Submittals																												
	Final PS&E Submittal							4														12		16	\$1,312	\$0	\$1,312	\$0	\$1,312.00
																													\$1,312.00
9	Bidding Phase																												
	Attend Pre-Bid Meeting			4			4																	8	\$1,160	\$0	\$1,160	\$0	\$1,160.00
	Answer Design Questions						4	4																8	\$1,028	\$0	\$1,028	\$0	\$1,028.00
																													\$2,188.00
10	Construction Phase																												
	Attend Pre-Construction Meeting			4			4																	8	\$1,160	\$0	\$1,160	\$0	\$1,160.00
	Review Shop Drawings and material submittals						8	8																16	\$2,056	\$0	\$2,056	\$0	\$2,056.00
	Prepare Revision Sheets						2	8													16			26	\$2,340	\$0	\$2,340	\$0	\$2,340.00
	Answer Design Questions			4			4	8																16	\$2,080	\$0	\$2,080	\$0	\$2,080.00
	Evaluate substitute "or equal" bids		2	2																				4	\$620	\$0	\$620	\$0	\$620.00
	Conduct Site Visits (2 visits)			4			4																	8	\$1,160	\$0	\$1,160	\$0	\$1,160.00
	OTDR Trace Review						40																	40	\$5,680	\$0	\$5,680	\$0	\$5,680.00
																													\$15,096.00
	Total Manhours	16	62	150	0	234	180	0	178	0	0	0	0	0	0	0	0	0	0	0	274	0	4	1098					
	Total	\$2,880	\$10,044	\$22,200	\$0	\$33,228	\$20,700	\$0	\$15,130	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$19,454	\$0	\$240	\$123,876	\$123,876	\$0	\$123,876	\$0	\$123,876.00
	Total Labor, OH & Profit	\$2,880	\$10,044	\$22,200	\$0	\$33,228	\$20,700	\$0	\$15,130	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$19,454	\$0	\$240					\$123,876.00	

RESOLUTION NO. WH- _____

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

3 That the Agreement with TCW Construction, Inc. for the sum of \$674,989.00 to
4 construct the street improvements and install traffic signals identified in the M&N Street
5 Improvements Bid Package 1 is hereby accepted and approved and the Chairperson of the West
6 Haymarket Joint Public Agency Board of Representatives is hereby authorized to execute said
7 Amendment No. 6 on behalf of the West Haymarket Joint Public Agency. The Bid Package
8 improvements generally include the construction of an additional turn lane in 10th Street
9 between K Street and N Street, an additional thru lane in N Street between 9th and 10th Streets,
10 and associated traffic signals. The project also includes a temporary road connecting existing N
11 Street near 6th Street to the new Amtrak station location.

12 The City Clerk is directed to return one fully executed original Agreement and a copy of
13 this Resolution to Chad Blahak, Public Works and Utilities Department, for transmittal to TCW.

14 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

**Advertise 1 time
Friday, June 17, 2011**

**City of Lincoln/Lancaster
Purchasing Division
NOTICE TO BIDDERS**

Sealed bids will be received by the Purchasing Agent of the City of Lincoln/Lancaster County, Nebraska **BY ELECTRONIC BID PROCESS** until: **12:00 p.m, Wednesday, July 6, 2011** for the following project:

**West Haymarket, M & N Street
JPA Project 870302
Bid No. 11-152**

Bidders must be registered on the City/County's E-Bid site in order to respond to the above Bid. To Register go to: lincoln.ne.gov (type: e-bid - in search box, then click "Supplier Registration")

Once registered, vendors will receive e-mail bid notification, first acknowledging registration, then approval of registration. Upon e-mail notification of registration approval, you may go to the E-Bid site to respond to this bid. Questions concerning this bid process may be directed to City/County Purchasing at (402) 441-8314 or 441-7410 or vmejer@lincoln.ne.gov

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

Bid Information		Contact Information		Ship to Information
Bid Creator	Deb Winkler Systems Administrator	Address	Purchasing\City & County 440 S. 8th St. Lincoln, NE 68508	Address
Email	dwinkler@lincoln.ne.gov			Contact
Phone	1 (402) 441-7410	Contact	Vince Mejer Purchasing Agent	Department
Fax	1 (402) 441-6513			Building
Bid Number	11-152 Addendum 8	Department		Floor/Room
Title	West Haymarket, M & N Street, JPA Project 870302, Bid Package 1 (PW/U - Eng. Services)	Building		Telephone
Bid Type	Bid	Floor/Room		Fax
Issue Date	06/17/2011	Telephone	1 (402) 441-8314	Email
Close Date	7/19/2011 12:00:00 PM CST	Fax	1 (402) 441-6513	
Need by Date		Email	vmejer@lincoln.ne.gov	

Supplier Information

Company TCW Construction Inc.
 Address 141 M St.
 Lincoln, NE 68508

Contact
 Department
 Building
 Floor/Room
 Telephone 1 (402) 4755030
 Fax 1 (402) 4755049
 Email
 Submitted 7/19/2011 11:32:09 AM CST
 Total \$674,989.00

Signature _____

Supplier Notes

Bid Notes

A pre-bid meeting has been scheduled for this bid.

If you need assistance in preparing your bid, there are several options.

1) Click the "Help" button in the upper right hand corner of any screen; 2) Contact our office for a training session in Purchasing or assistance over the phone; 3) View the PowerPoint presentation at <http://www.lincoln.ne.gov/city/finance/purch/spec/bidinst.ppt>

Bid Activities

Date	Name	Description
6/29/2011 1:00:00 PM	Pre-Bid	Pre-Bid meeting on Wednesday, June 29, 2011 in the Training Room at City of Lincoln, Engineering Services, 901 W. Bond St., Ste 100, Lincoln, NE. 1:00 p.m. to 3:00 p.m.
7/6/2011 12:00:00 PM	General Contractors - Call 402-441-7410 or e-mail purchasing@lincoln.ne.gov to be added to this list.	Suppliers who will bid as a general contractor on this bid.
7/6/2011 12:00:00 PM	Sub-Contractors - Call 402-441-7410 or e-mail purchasing@lincoln.ne.gov to be added to this list.	Suppliers who will bid as a sub-contractor.

Bid Messages

Please review the following and respond where necessary

#	Name	Note	Response
1	Standard Specifications for Municipal Construction	I acknowledge reading and understanding the current City of Lincoln Standard Specifications for Municipal Construction and Lincoln Standard Plans (including General Provisions and Requirements, and Material and Construction Specifications) View at: http://www.lincoln.ne.gov/city/pworks/engine/dconst/standard/stndspect/index.htm	Yes
2	NDOR Standard Specs for Hwy Construction	I acknowledge reading and understanding the current Nebraska Department of Road's Standard Specifications for Highway Construction Supplemental Specifications to the Standard Specifications for Highway Construction, view at: http://www.dor.state.ne.us/ref-man/	Yes
3	Form of Contract Agreement	I acknowledge reading and understanding the Contract Agreement Forms.	Yes
4	Form of Bonds	I acknowledge that a Performance Bond and a Payment Bond each in the amount of 100% of the Contract amount will be required with the signed contract upon award of this job.	Yes
5	Special Provisions/Traffic Control Provisions	I acknowledge reading and understanding the Special Provisions and/or Traffic Control Provisions.	Yes
6	Instructions to Bidders	I acknowledge reading and understanding the Instructions to Bidders.	Yes
7	Insurance Requirements	I acknowledge reading and understanding the Insurance Requirements.	Yes
8	Specifications	I acknowledge reading and understanding the Specifications.	Yes
9	Plan, Profile & Detail Sheets	I acknowledge reading and understanding the Plan, Profile & Detail Sheets included with this bid.	Yes
10	Tax Exempt Certificate Forms	Materials being purchased in this bid are tax exempt and unit prices are reflected as such. A Purchasing Agent Appointment form and a Exempt Sales Certificate form shall be issued with contract documents. (Note: State Tax Law does not provide for sales tax exemption for proprietary functions for government, thereby Water	Yes

projects are taxable.)

- | | | | |
|----|------------------------------|--|--|
| 11 | Bid Bond Submission - City | I acknowledge and understand that my bid will not be considered unless a bid bond or certified check in the sum of five percent (5%) of the total amount of the bid is made payable to the order of the City Treasurer as a guarantee of good faith prior to the bid opening. The bid security may be scanned and attached to the 'Response Attachments' section of your response or faxed to the Purchasing Office (402)441-6513. The original bond/check must then be received in the Purchasing Office, 440 S. 8th Street, Ste. 200, Lincoln, NE 68508 within three (3) days of bid closing.
YOU MUST INDICATE YOUR METHOD OF BID BOND SUBMISSION IN BOX TO RIGHT! | I have scanned and attached my bid bond. |
| 12 | Unit Pricing Rules | I acknowledge the Excel spreadsheet is attached to this bid in the Response Attachment Section. The unit price of the Excel Spreadsheet takes precedence over the total submitted in Line Items. | Yes |
| 13 | Project Dates | The Contractor agrees that the Work in this Contract shall begin as soon after the Notice to Proceed as is necessary for the Contractor to complete the Work within the number of calendar days allowed and prior to the stated completion date. The completion date shall be March 15, 2012. | YES |
| 14 | Contact | Name of person submitting this bid: | Casey Thompson |
| 15 | Electronic Signature | Please check here for your electronic signature. | Yes |
| 16 | Employee Class Act EO | I acknowledge reading and understanding the Employee Classification Act, Executive Order 83319. | Yes |
| 17 | Employee Class Act Affidavit | I acknowledge if awarded the contract I will abide by the law, notarize and attach the Employee Classification Act Affidavit to my contract. | Yes |
| 18 | Agreement to Addendum No. 1 | Respondent hereby certifies that the change set forth in this addendum has been incorporated in their proposal and is part of their bid.
Reason: Attached Addendum No. 1. | Yes |
| 19 | Agreement to Addendum No. 2 | Respondent hereby certifies that the change set forth in this addendum has been incorporated in their proposal and is part of their bid.
Reason: Attached Addendum No. 2 and revised Itemized Pricing Sheet. | Yes |
| 20 | Agreement to Addendum No. 3 | Respondent hereby certifies that the change set forth in this addendum has been incorporated in their proposal and is part of their bid.
Reason: Attached Addendum No. 3. | Yes |
| 21 | Agreement to Addendum No. 4 | Respondent hereby certifies that the change set forth in this addendum has been incorporated in their proposal and is part of their bid.
Reason: Attached Addendum No. 4. | Yes |
| 22 | Agreement to Addendum No. 5 | Respondent hereby certifies that the change set forth in this addendum has been incorporated in their proposal and is part of their bid.
Reason: Attached Addendum No. 5. | Yes |
| 23 | Agreement to Addendum No. 6 | Respondent hereby certifies that the change set forth in this addendum has been incorporated in their proposal and is part of their bid.
Reason: Attached Addendum No. 6. | Yes |

24 Agreement to Addendum No. 7

Respondent hereby certifies that the change set forth in this addendum has been incorporated in their proposal and is part of their bid. Reason: Attached Addendum No. 7. Yes

25 Agreement to Addendum No. 8

Respondent hereby certifies that the change set forth in this addendum has been incorporated in their proposal and is part of their bid. Reason: Attached Addendum No. 8. Yes

Line Items

#	Qty	UOM	Description	Response
1	1	Lump Sum	Antelope Creek Mainstream Water Quality Project 240309 - Total Lump Sum of Bid	\$674,989.00

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

Supplier Notes:

Response Total: \$674,989.00

TCW CONSTRUCTION, INC

Line No.	Pay Item No.	Description	Quantity	Unit	Unit Price	Amount
01	00.2000	Const Staking	1.0000	LS	\$9,710.00	\$9,710.00
02	00.4000	Mobilization	1.0000	LS	\$30,850.00	\$30,850.00
03	01.0100	Pavt & Sidewalk Rem	710.0000	CY	\$12.50	\$8,875.00
04	01.0170	Adj MH to Grade, Cmpl	10.0000	EA	\$265.00	\$2,650.00
05	01.0180	Adj Water Valve Box To Grade, Cmpl	6.0000	EA	\$94.50	\$567.00
06	01.0210	Sawing, Type "A"	2,185.0000	LF	\$4.50	\$9,832.50
07	01.0230	Sawing, Type "C"	414.0000	LF	\$6.25	\$2,587.50
08	02.0010	Gen Clearing & Grubbing	1.0000	LS	\$1,270.00	\$1,270.00
09	02.0601	Earthwork Measured in Embankment	3,980.0000	CY	\$11.00	\$43,780.00
10	02.0301	Excavation	1,030.0000	CY	\$8.00	\$8,240.00
11	02.0303	Over-Excavation	500.0000	CY	\$25.50	\$12,750.00
12	03.0040	PCC Pavt, 7"	572.0000	SY	\$39.50	\$22,594.00
13	03.0060	PCC Pavt w/ Int Curb, 9"	2,019.0000	SY	\$56.00	\$113,064.00
14	07.0010	Conc Sidewalk, 5"	14,121.0000	SF	\$3.60	\$50,835.60
15	07.0100	Detectable Warning Panels	168.0000	SF	\$34.00	\$5,712.00
16	10.0010	Crushed Rock Surfacing (In Place)	7.0000	TON	\$34.50	\$241.50
17	50.0001	Remove Parking Meter Post	7.0000	EA	\$58.00	\$406.00
18	50.0001	Remove Parking Meter & Post	17.0000	EA	\$58.00	\$986.00
19	50.0005	Integral Concrete Sidewalk Curb	276.0000	LF	\$13.00	\$3,588.00
20	50.0005	Construction Fence	2,855.0000	LF	\$2.60	\$7,423.00
21	15.0001	Traffic Ctrl for Const	1.0000	LS	\$13,130.00	\$13,130.00
22	13.0275	Paint Mkg, 4" W	1,896.0000	LF	\$0.50	\$948.00
23	13.0270	Paint Mkg, 4" Y	428.0000	LF	\$0.50	\$214.00
24	13.0315	Paint Mkg, 24" W	440.0000	LF	\$3.70	\$1,628.00
25	13.0320	Paint Mkg, Lt. Arrow	6.0000	EA	\$158.00	\$948.00
26	13.0340	Paint Mkg, "ONLY"	3.0000	EA	\$205.00	\$615.00
27	13.0530	Rem Paint Mkg, 4"	354.0000	LF	\$1.10	\$389.40
28	13.0534	Rem Paint Mkg, 16"	319.0000	LF	\$3.70	\$1,180.30
29	13.0536	Rem Paint Mkg, Arrow	4.0000	EA	\$100.00	\$400.00
30	13.0538	Rem Paint Mkg, "ONLY"	4.0000	EA	\$100.00	\$400.00
31	14.0001	Traffic Sign, < 4 Sq Ft	1.0000	EA	\$100.00	\$100.00
32	14.0002	Traffic Sign, FYG, < 4 SQ FT	12.0000	EA	\$116.00	\$1,392.00
33	14.0007	"U" Channel Sign Posts	122.0000	LF	\$16.00	\$1,952.00
34	14.0009	Street Name (Round) Posts	12.0000	LF	\$8.00	\$96.00
35	14.0015	Remove Traffic Sign and Post	9.0000	EA	\$79.00	\$711.00
36	50.0001	Paint Bike Lane Arrow	1.0000	EA	\$158.00	\$158.00

37	50.0001	Paint Bike Lane Symbol	1.0000	EA	\$158.00	\$158.00
38	50.0001	Paint Straight Left Arrow	3.0000	EA	\$205.00	\$615.00
39	50.0005	Painte 6" White	282.0000	LF	\$0.80	\$225.60
40	21.0110	RCP Storm Sewer, CI III, 15"	54.0000	LF	\$37.50	\$2,025.00
41	21.0770	Storm Sewer Inlet (Cmpl), 72"	1.0000	EA	\$1,970.00	\$1,970.00
42	21.0790	Radius Storm Sewer Inlet (Cmpl), 72"	1.0000	EA	\$1,810.00	\$1,810.00
43	21.0850	Grate Inlet, Ty "H" (Cmpl)	5.0000	EA	\$1,870.00	\$9,350.00
44	21.1080	Tap Ex RC Box	1.0000	EA	\$1,180.00	\$1,180.00
45	21.1320	Rem Storm Sewer Pipe, 15"	12.0000	LF	\$18.50	\$222.00
46	21.1710	Rem Ex Inlet (Cmpl)	6.0000	EA	\$110.00	\$660.00
47	50.0005	12" CMP Storm Sewer, 16 Gauge	70.0000	LF	\$29.50	\$2,065.00
48	50.0005	24" CMP Storm Sewer, 16 Gauge	71.0000	LF	\$41.00	\$2,911.00
49	32.0040	Synthetic Fabric Silt Fence Inst	1,726.0000	LF	\$2.90	\$5,005.40
50	32.0050	Synthetic Fabric Silt Fence Maint	1,726.0000	LF	\$0.50	\$863.00
51	32.0060	Synthetic Fabric Silt Fence Rem	1,726.0000	LF	\$0.25	\$431.50
52	50.0020	Cover Crop Seeding	1.5000	AC	\$893.00	\$1,339.50
53	24.0101	TS, Rem, Cmpl	10.0000	EA	\$1,160.00	\$11,600.00
54	24.0102	SL, Rem, Cmpl	4.0000	EA	\$420.00	\$1,680.00
55	24.0103	Found, Rem TS Pole	10.0000	EA	\$1,470.00	\$14,700.00
56	24.0104	Found, Rem SL Pole	7.0000	EA	\$735.00	\$5,145.00
57	24.0105	PB, Rem	12.0000	EA	\$499.00	\$5,988.00
58	24.0121	Head, Rem On Shaft	1.0000	EA	\$147.00	\$147.00
59	24.0157	Cabinet, Rem, Cmpl	1.0000	EA	\$641.00	\$641.00
60	24.0223	Pole, Rel SL, Cmpl (req found)	3.0000	EA	\$1,180.00	\$3,540.00
61	24.0225	Sign, Rel Metro Street Name	2.0000	EA	\$341.00	\$682.00
62	24.0712	Found, F3540	3.0000	EA	\$848.00	\$2,544.00
63	50.0001	Pull Box, Type FOR27 (Labled Fiber)	5.0000	EA	\$853.00	\$4,265.00
64	50.0001	Pull Box, Type FOR27 (Labled Traffic)	12.0000	EA	\$853.00	\$10,236.00
65	24.0894	Conduit, 1 1/2" B	191.0000	LF	\$10.50	\$2,005.50
66	24.0895	Conduit, 2" B	28.0000	LF	\$12.50	\$350.00
67	24.0896	Conduit, 3" B	79.0000	LF	\$13.50	\$1,066.50
68	24.0897	Conduit, 4" B	1,516.0000	LF	\$14.50	\$21,982.00
69	24.0903	Conduit, 1 1/2" T	294.0000	LF	\$4.20	\$1,234.80
70	24.0904	Conduit, 2" T	65.0000	LF	\$5.25	\$341.25
71	24.0905	Conduit, 3" T	80.0000	LF	\$7.25	\$580.00
72	24.0906	Conduit, 4" T	44.0000	LF	\$10.50	\$462.00
73	24.1002	Cable, 3/C TS	1,843.0000	LF	\$3.20	\$5,897.60
74	24.1004	Cable, 5/C TS	442.0000	LF	\$4.20	\$1,856.40
75	24.1010	Cable, 12/C TS	711.0000	LF	\$5.25	\$3,732.75
76	24.1035	Cable, Fiber, 12 SM	517.0000	LF	\$2.10	\$1,085.70
77	24.1050	Cable, Tracer Wire	3,583.0000	LF	\$0.50	\$1,791.50
78	24.1064	Cable, No 6 CG	624.0000	LF	\$2.60	\$1,622.40
79	24.1065	Cable, No 8 CG	951.0000	LF	\$2.10	\$1,997.10
80	24.1077	Cable, No 4 SL DB	624.0000	LF	\$3.70	\$2,308.80
81	24.1078	Cable, No 6 SL DB	815.0000	LF	\$3.20	\$2,608.00

32	24.1422	Pole, SL-A-C-35-6-3	5.0000	EA	\$3,050.00	\$15,250.00
33	50.0001	Install MA1-55	1.0000	EA	\$3,470.00	\$3,470.00
34	50.0001	Install MA2-40-35-6-3	1.0000	EA	\$3,990.00	\$3,990.00
35	50.0001	Install MA2-60-35-6-3	1.0000	EA	\$4,200.00	\$4,200.00
36	50.0001	Install MA2-75-35-6-3	2.0000	EA	\$4,410.00	\$8,820.00
37	24.5261	Pole, Inst Pedestal, 1	9.0000	EA	\$536.00	\$4,824.00
38	24.5801	Head, Inst TS-1, T31	5.0000	EA	\$242.00	\$1,210.00
39	24.5803	Head, Inst TS-1, T36	24.0000	EA	\$242.00	\$5,808.00
40	24.5821	Head, Inst PS-1, T13	18.0000	EA	\$189.00	\$3,402.00
41	24.6004	Cabinet, Inst, C	1.0000	EA	\$1,300.00	\$1,300.00
42	24.6198	Sign, Inst LED	1.0000	EA	\$347.00	\$347.00
43	50.0001	Install Metro Sign	5.0000	EA	\$215.00	\$1,075.00
44	50.0001	Install Traffic Sign, Medium (On Traffic Signal Pole)	7.0000	EA	\$378.00	\$2,646.00
45	50.0005	Relocate Fiber	527.0000	LF	\$3.20	\$1,686.40
46	02.0050	Stump Rem (12" to 23")	7.0000	EA	\$257.00	\$1,799.00
47	02.0060	Stump Rem (24" to 35")	4.0000	EA	\$257.00	\$1,028.00
48	32.0100	Silt Fence Culvert Inlet Protection	80.0000	LF	\$5.00	\$400.00
49	32.0110	Silt Fence Culvert Inlet Protection Maint	80.0000	LF	\$1.10	\$88.00
50	32.0120	Silt Fence Culvert Inlet Protection Rem	80.0000	LF	\$1.10	\$88.00
51	50.0040	Temporary Access Road Surfacing	4,015.0000	SY	\$27.50	\$110,412.50
						\$674,989.00

WEST HAYMARKET JOINT PUBLIC AGENCY(JPA)

M & N STREET, PKG 1
PROJECT 870302
BID NO. 11-152

CONTRACT AGREEMENT

THIS CONTRACT, made and entered into this 21 day of JULY, 2011 by and

between TCW CONSTRUCTION

hereinafter called the Contractor and the WEST HAYMARKET JOINT PUBLIC AGENCY, a **municipal corporation**, hereinafter called JPA.

WITNESS, that:

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

HAYMARKET M & N STREET, PKG 1 PROJECT 870302 ; and

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

WHEREAS, JPA, in the manner prescribed by law, has publicly advertised, opened, examined, and canvassed the Proposals submitted in response to such advertisement, and as a result of such canvass has determined and declared the Contractor to be the lowest and best bidder for the said Work for the sum or sums named in the Contractor's Proposal, a copy thereof being attached to and made a part of this Contract.

NOW, THEREFORE, in consideration of the sums to be paid to the Contractor and the agreements herein contained, the Contractor and JPA have agreed and hereby agree as follows:

CONTRACT AGREEMENT

The Contractor agrees to (a) furnish all tools, equipment, supplies, superintendence, transportation, and other construction accessories, services, and facilities; (b) furnish all materials, supplies, and equipment specified to be incorporated into and form a permanent part of the complete Work; (c) provide and perform all necessary labor in a substantial and workmanlike manner and in accordance with the provisions of the Contract Documents; and (d) execute, construct, and complete all Work included in and covered by JPA's official award of this Contract to the Contractor, such award being based on the acceptance by JPA of the Contractor's Proposal, or part thereto, as follows:

ALL OF THE PROPOSAL SUBMITTED BY TCW CONSTRUCTION IN CONNECTION WITH THE JPA HAYMARKET M & N STREET, PKG 1 PROJECT 870302 DATED JULY 19, 2011

JPA agrees to pay to the Contractor for the performance of the work embraced in this Contract, and the Contractor agrees to accept as full compensation therefore, the sums and prices for all Work covered by and included in the Contract award and designated above, payment thereof to be made in the manner provided in the General Provisions and Requirements.

COMPLETION DATE – The Contractor agrees that the Work in this Contract shall begin as soon after the Notice to Proceed as is necessary for the Contractor to complete the Work within the number of calendar days allowed and prior to the stated completion date. The completion date shall be no later than MARCH 15, 2012.

GUARANTEE – The guarantee periods as stated in Section IX, Paragraph A of the City of Lincoln Standard Specifications for Municipal Construction shall not be applicable to this project.

CONTRACT DOCUMENTS – The Contract Documents comprise the Contract, and consist of the following:

1. City of Lincoln Standard Specifications for Municipal Construction (2006 Edition)
2. Proposal Forms
3. Contract Agreement Forms
4. Commentary to Accompany Construction Bonds
5. Construction Performance Bond
6. Construction Payment Bond
7. Special Provisions
8. Lincoln Standard Plans 2010
9. Standard Specifications for Highway Construction Nebraska Department of Roads (2007 Edition)
10. Plan and Profile Detail Sheets
11. Any executed Addenda or Change Orders
12. Any portion of this project used for **providing water service**, such as pipe for water mains, **are not tax exempt and are subject to sales and use tax**.
13. The **remainder** of this project, including items exclusively used for providing fire protection, such as fire hydrants, **are exempt from sales and use taxes**.
14. Sales tax exempt forms will be provided upon award of bid.

CONTRACT AGREEMENT

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

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

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

EXECUTION BY JPA

ATTEST:

JPA (Seal)

BY: _____
JPA CHAIR

Dated: _____

JOINT PUBLIC AGENCY

EXECUTION BY CONTRACTOR

IF A CORPORATION

(Name of Corporation)

ATTEST:

(Address)

(Seal)

By: _____
(Duly Authorized Official)

(Legal Title of Official)

IF OTHER TYPE ORGANIZATION

(Name and Type of Organization)

(Address)

(Member)

(Member)

(Member)

IF AN INDIVIDUAL

By: _____
(Name)

**SPECIAL PROVISIONS
M & N STREET JPA PROJECT #870302
BID PACKAGE 1**

**10th Street From L Street to N Street
N Street From 9th Street to 10th Street
Amtrak Site Grading
Temporary Access Road From New Amtrak Station to N Street**

The work as detailed on the plans shall be completed in accordance with the requirements of the 2006 City of Lincoln Standard Plans and the 2006 City of Lincoln Standard Specifications for Municipal Construction, including all amendments, Supplemental Specifications and additions thereto effective at the date of the contract, the Special Provisions, Environmental Contingency Plan West Haymarket Redevelopment, Plans, and all supplementary documents are essential parts of the contract. A requirement occurring in one is as binding as though occurring in all. They are intended to be complementary and to describe and provide for a complete project

In case of a discrepancy:

1. Special Provisions shall govern over the City of Lincoln Standard Specification for Municipal Construction.
2. The Special Provisions shall govern over the Plans.

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

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

Figured dimensions on the plans shall be taken as correct but shall be checked by the Contractor before starting construction. Any errors, omissions, or discrepancies shall be

brought to the attention of the Engineer and the Engineer's decision thereon shall be final. Correction of errors or omissions on the drawings or specifications may be made by the Engineer when such correction is necessary for the proper execution of the work

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

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

The bid amount for Mobilization cannot exceed ten percent of the total bid amount for the individual contract in which it is bid.

PROJECT TIES

This project is NOT tied to other projects.

BONDING PERIOD

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

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

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

SALES TAX

This language modifies and clarifies Section VI, Paragraph S of the General Conditions and Requirements of the City of Lincoln's 2006 Standard Specification for Municipal Construction.

Sales and Uses Tax

Any portion of this project used for providing water service, such as pipe and fittings for water mains, is subject to sales and use taxes.

The remainder of this project, including items exclusively used for providing fire protection, such as fire hydrants, are exempt from sales and use taxes.

No one shall issue the Purchasing Agent Appointment (PAA) certificate forms except the Purchasing Agent. When the contractor requests these forms they need to inform the Purchasing Agent what materials they are buying and for which project (identify with project description and number).

SUBSTANTIAL AND FINAL COMPLETION

Work on this project includes:

- Pavement widening on 10th Street from approximately 180' South of L Street to N Street.
- Pavement reconstruction of N Street between 9th & 10th Streets
- Temporary access road and parking area from just south of the future Amtrak building to approximately station 162+40 where it connects to the existing N Street.
- Amtrak building pad site grading
- Traffic signals at:
 - 10th & L Streets
 - 10th & M Streets
 - 10th & N Streets

Substantial completion for the work mean the completion of all work associated with construction of the work identified above including all removal, paving, storm sewers and utilities. The work must be completed by March 15, 2012

STATUS OF RIGHT-OF-WAY

All work to be completed shall be performed in existing public right-of-way, new right-of-way or private properties where a right-of-entry or temporary or permanent construction easements will be obtained. The JPA is currently negotiating with the adjacent property owners to acquire the additional right-of-way and easements to construct the project. The status of the unacquired right-of-way tracts is estimated as follows.

TRACT NO.	CONTRACT APPROVAL DATE	HEARING DATE	ANTICIPATED ACQUISITION DATE
T-11	Negotiating		Negotiating

STATUS OF UTILITIES

The following information is current as of June 1, 2011. The Contractor should request a utility status update at the project pre-construction conference, and/or prior to starting work. The Contractor shall coordinate all construction activities with affected utilities that have identified relocations which are to be completed concurrent with the utility/roadway construction.

Utilities known to have facilities in the project area:

City of Lincoln

The City of Lincoln has existing water mains and sanitary sewers within the limits of the project. All necessary adjustments, relocations and extension of water mains or sanitary sewers shall be completed by the Contractor as part of the project as shown on the plans.

All work within this area which may impact public water or sewer facilities will require coordination with the City of Lincoln Water System, City of Lincoln Wastewater System, and the Engineer to minimize impact to daily activities.

City of Lincoln Water System

Contact: Steve Owen

Phone: (402) 441-5925

City of Lincoln Wastewater System

Contact: Brian Kramer

Phone: (402) 441-7987

Private Utilities

The following utilities are known to exist within the Project limits, and may be relocated as a result of the project. The Contractor shall take into consideration the associated durations of utility relocations, and these associated durations should be considered in the baseline schedule, and prosecution of the work. The Contractor shall conduct ongoing coordination meetings with all utility owners to facilitate these relocations.

Black Hills Energy – Black Hills Energy has a 4" line along the North side of N Street that will be abandoned and a new 2" gas line will be constructed on the South side of N Street, possibly before the M & N Street project begins. The Contractor shall coordinate with Black Hills Energy during the project.

Contact: Randy Kreifels
Phone: (402) 437-1715

Lincoln Electric System - Lincoln Electric System (LES) will relocate some electrical overhead power at various locations along the project. LES plans to begin relocation work on the electrical facilities in ...?; they will likely be concurrent with street construction. Good coordination will be needed.

Contact:
Lighting – Larry Kathol
Phone: (402) 467-7642
Distribution - Al Cameron
Phone: (402) 467-7603

Windstream

Contact: Ken Adams
Phone: (402) 467-7680

Time Warner Cable

Contact: Lou Kipper
Phone: (402) 421-0393

Galaxy Cablevision

Contact: Randy Vanderheiden
Phone: (402) 362-3334

Unite

Contact: Joe Melvin
Phone: (402) 617-4787

BNSF Railway

The BNSF Railway has existing buried and overhead fiber, electric, signal and other communication lines within the project area that are being relocated as part of the railroad track relocation project. The BNSF relocation work for their communication lines and signal lines will be on-going with this project and the Contractor shall be required to coordinate all work within the existing BNSF right-of-way with the BNSF Railway representatives throughout the course of the work. Failure of the Contractor to coordinate with the BNSF and adjust their work activities as necessary to avoid impacting existing railroad facilities that are being relocated shall not be grounds for an extension in contract time unless otherwise approved by the Engineer.

The Contractor shall not perform any excavation work on existing BNSF property without having contacted the appropriate BNSF staff to locate and flag all underground utilities that may still be in service at the time the work begins.

The primary point of contact for the BNSF Railway is:

Contact: Gerald Maczuga – BNSF Project Engineer
Phone: (402) 458- 7537 (office)
(206) 265-2427 (cell)

Additional contact for BNSF communication work is:

Contact: Byron Mitchell
Phone: (402) 458- 7600

UTILITIES

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

The CONTRACTOR shall notify the Digger's Hotline of Nebraska (HOTLINE), Phone Number 1-800-331-5666, at least 48 hours in advance of the commencement of work at any site to allow the member utilities to examine the construction site and mark the location of the utilities' respective facilities. The CONTRACTOR shall also notify the BNSF Railway as stipulated in the Contractor Requirements for work on the BNSF property that is included with these Special Provisions.

The CONTRACTOR acknowledges that some (or all) of the utility companies, with facilities shown on the drawings may not be members of the Hotline and, therefore, not automatically contacted by the above-referenced telephone number. The CONTRACTOR shall be responsible for making itself aware of utility company facilities not reported by the Hotline, and shall be liable for any and all damages stemming from

repair or delay costs or any other expenses resulting from the unanticipated discovery of underground utilities. The CONTRACTOR shall also be responsible for verifying that each utility has responded to such notification

PERMITS AND LICENSES

Add the following to Article VI, Section M. (PERMITS AND LICENSES):

The OWNER will provide the following permits:

- 1) NPDES Construction Storm Water Permit
- 2) NPDES Dewatering Permit
- 3) Floodplain Permit

The CONTRACTOR shall be responsible for complying with the requirements of all permits acquired by the JPA.

The CONTRACTOR shall acquire all permits required by Laws or Regulations, including, without limitation, the following specific permits (if applicable):

- 1) Certificates and permits are required for uses such as, but not limited to:
 - a) Fuel burning equipment
 - b) Gasoline and petroleum distillate storage containers
 - c) Land disturbing activities
 - d) Odors
- 2) All associated building demolition permits
- 3) City, State, and County Transportation Encroachment permits
- 4) Permit-Required Confined Space
The workplace in which the WORK is to be performed may contain permit-required confined spaces (permit spaces) as defined 29 CFR 1910.146 and, if so, permit space entry is allowed only through compliance with a confined space entry program meeting the requirements of 29 CFR 1910.146. Contractor shall submit a confined space entry program or submit in writing that compliance with the City's program will be made.
- 5) Dewatering Permits or notifications as required by the Lower Platte South Natural Resources District.
- 6) Fugitive Dust Control Permit

STORMWATER POLLUTION PREVENTION PLAN

The Contractor shall understand the terms and conditions of the general National Pollutant Discharge Elimination System (NPDES) permit that authorizes the storm water discharges associated with the industrial activity from the construction site. For reference the general permit is posted on the City's web site, www.lincoln.ne.gov; keyword: NPDES.

Additionally, the Contractor, as evidenced by their signature on this proposal, agrees and understands that, if awarded the contract on this project, he/she:

1. becomes a co-permittee, along with the owner(s), to the Nebraska Department of Environmental Quality NPDES General Permit for Stormwater Discharge from construction sites on this project; and
2. is legally bound to comply with the Clean Water Act to ensure compliance with the terms and conditions of the stormwater pollution prevention plan as developed under the NPDES permit and the terms of the NPDES permit; and
3. will hold owners harmless for damages and fines arising as a result of noncompliance with the terms of the stormwater permits and authorizations associated with the work on this project; and
4. shall be responsible for the maintenance of the sediment control measures until permanent stabilization and cover crop is established; and
5. shall complete permanent or temporary stabilization within seven (7) calendar days of soil disturbance to the surface of all perimeter controls, topsoil stockpiles, and any other disturbed or graded areas on the project site which are not being used for material storage, or on which actual earth moving activities are not being performed; and
6. shall complete the approved inspection forms and inspect/maintain all sediment or erosion control practices required under this contract at least once every seven (7) calendar days and after any storm event of greater than 0.5 inches of precipitation, on the site, during any 24-hour period; any necessary repairs or cleanup to maintain the effectiveness of the best management practices shall be made by contractor immediately; and
7. shall update the approved SWPPP plan immediately following any changes or additions to the plan, keep all inspection forms with the SWPPP plan, preferably on site in a mailbox, and provide copies of all inspection forms and modifications to the SWPPP plan to the City's Construction Project Manager, within 48 hours of inspection.

SPECIAL PROSECUTION AND PROGRESS

The following prosecution and progress of work shall be used in developing the baseline schedule for the project. The Contractor will be required to generally proceed with sequencing the construction work as shown on the phasing plans unless otherwise approved by the Engineer.

All work on BNSF owned property shall be coordinated with the BNSF's designated project representative as shown on the plans. Continuous vehicular and pedestrian access shall be maintained to the US Post Office parking lots at all times during the construction of the project and access to the parking areas at other adjacent properties at all times unless otherwise approved in advance by the Engineer.

The Contractor shall be responsible for providing the traffic control plan, stamped and signed by a registered professional engineer, licensed in Nebraska, and submitting to the owner for approval for each phase of the work. The Contractor shall also be responsible for supplying all temporary construction signs and traffic control devices for the project as outlined in the City of Lincoln Standard Specifications for Municipal Construction.

The Contractor shall not close any portion of the public roads or begin any work which may impact drive access to adjacent properties without the permission of the Engineer. The Contractor shall at all times, to the extent practical, provide facilities of ingress and egress to and from the public street to maintain access to adjacent properties throughout the duration of the project as noted on the plans or as directed by the Engineer.

This may require the Contractor to construct new drives or pavement in phases to allow access from the public street during construction, use high early strength concrete for drive construction, or to provide temporary drives as shown on the plans or as directed by the Engineer. All temporary drives and approaches to provide ingress and egress at adjacent properties shall be provided and maintained by the Contractor. All temporary drives which have active sidewalks (permanent or temporary sidewalks) crossing the drive shall be constructed using temporary hard surfacing and shall be ADA compliant. Crushed rock surfacing shall not be used at temporary drives that have permanent or temporary pedestrian access routed across the drives.

As directed by the Engineer, the Contractor shall furnish and install eight foot high temporary chain link fence as shown on the plans to prevent pedestrians from entering the construction area or entering into the BNSF property. The eight foot high temporary chain link construction fence may be required at other locations as directed by the Engineer. Temporary chain link fence, eight foot in height shall be a contract pay item. The temporary chain link fence along the BNSF tracks shall be constructed prior to the start of other construction work on the project.

All temporary construction fencing that is to be installed adjacent to pedestrian areas and sidewalks shall be ADA compliant. When temporary fencing is used to delineate a pedestrian pathway, a continuous detectable edging should be provided throughout the entire length of the facility such that pedestrians using a cane can follow it. These

detectable edgings should adhere to the provisions outlined in the current MUTCD for "Detectable Edging for Pedestrians".

Sidewalk closures and detours shall be clearly posted and maintained throughout the course of the project to direct pedestrians around the construction site. The Contractor will be required to maintain pedestrian access to the adjacent properties as directed by the Engineer throughout the duration of the project. All temporary pedestrian pathways shall be a continuous hard surface throughout the entire length of the temporary facility and shall be ADA compliant. Temporary sidewalks shall be 4" concrete or 4" asphalt and shall be paid in accordance with the appropriate pay item shown in the proposal. Removal of temporary sidewalk shall be paid for as Pavement and Sidewalk Removal. Temporary sidewalks shall be constructed as directed by the Engineer to facilitate pedestrian access.

WORKER VISIBILITY

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

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

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

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

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

COORDINATION WITH OTHERS

The Contractor shall coordinate their work on this project with the BNSF Railway who will be completing relocation work associated with the railroad tracks as well as communication and signal systems adjacent to project area as part of the track relocation project that is being completed to accommodate construction of the new arena. The BNSF also has existing utilities within the project area that may not be abandoned at the

time this project starts. The Contractor shall exercise extreme care so as not to damage any of these facilities during construction of this project until the utilities have been abandoned by the BNSF.

The BNSF Railway Project Engineer is:

Gerald Maczuga – BNSF Project Engineer
BNSF Railway
Office: (402) 458-7537
Cell: (206) 265-2427

TECHNICAL PROVISIONS

The following Special Provisions amend or supplement the 2006 City of Lincoln Standard Specifications for Municipal Construction and the State of Nebraska Standard Specifications for Highway Construction, 2007 Edition. All provisions which are not so amended or supplemented remain in full force and effect.

MODIFICATIONS TO CHAPTER 2 - EARTHWORK

SECTION 2.03 EXCAVATION shall be modified to provide the following:

Add the following after the third paragraph:

Over-excavation will be required as shown on the plans. Over-excavated material is not intended to be unsuitable. The over-excavation is to create a uniform subgrade. Over-excavation will be required to a minimum depth of 1.5 feet below the bottom of the existing pavement and shall extend to 2 feet outside of the existing pavement.

MODIFICATIONS TO CHAPTER 15 –TRAFFIC CONTROL

Add the following:

The Contractor shall not close any portion of the public roads or begin any work which may impact drive access to adjacent properties without the permission of the Engineer. The Contractor shall at all times, to the extent practical, provide facilities of ingress and egress to and from the public street to maintain access to adjacent properties throughout the duration of the project as noted on the plans or as directed by the Engineer.

- Temporary surfacing shall be paid for at the contract unit price per ton for the appropriate material used and shall include all costs for grading and shaping, installation and removal of temporary materials.

- Where temporary roadways need to be constructed to maintain access to specific locations, the temporary roadway surface shall be surfaced with temporary surface course or asphalt millings as directed by the Engineer.

MODIFICATIONS TO CHAPTER 20 – CONSTRUCTION FOR UTILITIES AND STRUCTURES

SECTION 20.02 MATERIALS Add the following:

The approved foundation material shall be wrapped in filter fabric to prevent migration of fines through the system. The Engineer shall approve the filter fabric used by the Contractor. If filter fabric is necessary, then the price for filter fabric will be negotiated during construction.

CONSTRUCTION STAKING

The Contractor shall use the horizontal and vertical control points as shown on the plans for use in establishing the exact location and elevations for the project. The Contractor shall be responsible for preserving (or reestablishing) these control points if necessary. The Contractor shall use this control to provide all construction staking that is required for the project. This shall include staking for utility construction and all other survey work to complete the project in accordance with the details shown on the plans.

The Contractor shall be responsible for the placement and preservation of adequate ties and references necessary to complete his work. Any additional stakes, templates and other materials necessary for marking and maintaining all reference points and lines shall be the responsibility of the Contractor. The Contractor shall be solely and completely responsible for the accuracy of the line and grade for all features of the work. All work shall be completed to the lines, grades, and elevations indicated on the drawings. The Contractor shall remove and reconstruct work that is improperly located at his expense.

The Contractor shall be required to coordinate with the private and public utilities and shall stake all needed reference points or lines needed for the private utilities to adequately construct or relocate their utilities to avoid conflicts with the proposed construction. This shall include all needed finished elevations, tie-in points, line and grades for proposed utilities to be installed by the Contractor or any other points approved by the Engineer. Construction staking for utilities that are not to be relocated as part of this contract shall be approved by the Engineer prior to performing the work.

The Contractor's staking records shall be recorded in a bound notebook, in a format approved by the Engineer. Record notebooks will be submitted to the City of Lincoln at the completion of the project.

Basis of Payment

Construction staking shall not be measured, but shall be paid for at the Contract Lump Sum amount bid for the pay item "Construction Staking". The amount of the lump sum to be included in each partial payment shall be in proportion to the value of the work completed with respect to the total amount of the original bid.

Construction staking to facilitate relocation of public or private utilities not included as part of the project shall be measured by the survey crew hour required to stake the work. The time shall be based upon the amount of time the survey crew is on site to complete the work including an allowance for reasonable travel time to the site (travel time allowance to the site shall not exceed one half hour per trip). The final measured time for the work shall be as measured by the construction site manager and shall be subject to the approval of the Engineer. Payment for the utility staking shall be paid for in accordance with the amount bid per hour for the item "Construction Staking for Utilities". Said payment shall include all costs associated with office preparation, reasonable travel time to the site and completion of the staking work by a survey field crew including all labor, equipment, materials and incidentals.

DIVERSION AND CARE OF WATER

Methods and details for care and diversion of water are not detailed on the plans. Full responsibility for the diversion and care of water from whatever source, including, but not limited to, direct rainfall, groundwater, surface runoff and sources outside of the construction area shall be borne by the Contractor until completion of work under this contract. The Contractor shall provide all materials, labor, and equipment, and perform all work necessary to facilitate construction and to protect the work in progress from damage by water. The Contractor shall make his own investigation and determination of existing and anticipated conditions concerning care of water. Plans for diversion and care of water during construction shall be submitted to the Engineer, for information only, within 10 calendar days after receipt of Notice to Proceed, and shall show location, material, and method for dewatering the work area and disposal of the water. Discharge of water shall comply with all provisions outlined in the NPDES Permits that have been issued for the project. Direct payment will not be made for diversion and care of water. Work associated with diversion and care of water shall be considered incidental to the work.

ENVIRONMENTAL CONTINGENCY PLAN

During the execution of the work on this project it is anticipated that the Contractor may encounter contaminated soils, debris or groundwater (media). If contaminated media is encountered and it is determined by the West Haymarket Environmental Team that it cannot be used on site (e.g. as backfill for the utility trenches), the Contractor shall be required to dispose of any contaminated media in accordance with all federal, state and local laws.

The Contractor shall also strictly adhere to the requirements and procedures set forth in the Environmental Contingency Plan. The Environmental Contingency Plan is attached and incorporated as if fully set forth herein.

In the event the Contractor or on-site construction management personnel suspect that contaminated media is encountered or will be during the performance of the work, they shall immediately notify the West Haymarket Environmental Team and follow the procedures outlined in the Environmental Contingency Plan for resolution on how to manage the contaminated media. Typical indications of potentially contaminated media include discoloration, odors associated with the media removed as part of boring, trenching or other excavation work. In addition, Figures 3A, 3B and 4A, 4B of the Environmental Contingency Plan illustrates where environmental testing has been taken on site. The Contractor shall familiarize themselves with these Figures to determine whether the project is located in the area of these environmental impacts.

Management of Soil or Debris to be Removed from the Work Site

During the course of the project the Contractor shall not haul any excavated material off site without the prior approval of the West Haymarket Environmental Team. As such, the Contractor shall provide locations on site to temporarily stockpile all excavated material. All temporary stockpiles shall comply with the requirements set forth in the Construction Storm Water Pollution Prevention Plan (SWPPP). The West Haymarket Environmental Team will determine the appropriate method for disposal of the excavated material and make a recommendation to the Contractor.

The Contractor shall base their bid on the basis that any excavated material to be disposed off site can be disposed of at a location selected by the Contractor in accordance with all federal, state and local regulations with no other special handling or restrictions. If the excavated material requires special handling due to contamination (petroleum or other chemicals) and the contamination is not the result of the Contractor's activities, then additional compensation for disposal of the contaminated material will be considered on an "Extra Work" basis.

GENERAL CLEARING AND GRUBBING

General clearing and grubbing on this project shall include removal and grubbing of all site trees and stumps regardless of size. Direct payment will not be made for removal of trees and stumps twelve inches in diameter and larger and all costs associated with completing this work shall be included in the contract amount bid for General Clearing and Grubbing. In addition, this pay item shall also include the general clearing of all other site items within the project grading limits and that are not specifically shown on the plans or called out in the proposal for direct payment. These items may include abandoned wood poles, signs, sign poles, abandoned cables, abandoned lights, fences, miscellaneous foundations, guard rails, railings and other miscellaneous small structures.

General clearing and grubbing of the site in accordance with the requirements outlined in the Standard Specification for Municipal Construction as amended by these Special Provisions shall be measured and paid for as one lump sum. Such payment shall be full compensation for furnishing all labor, equipment, tools and materials to complete the work including clearing and grubbing of all site trees and stumps within the limits of the work regardless of tree or stump size.

TRAFFIC SIGNAL AND STREET LIGHTING, CHAPTER 24

24.00 GENERAL

B. FURNISHED MATERIALS

The Contractor shall be responsible for all material or equipment furnished by the City from the time that it is picked up to the completion of work. In the event the cabinet is damaged, including, but not limited to, any concrete splatters, dents, scratches or any other damage as noted by the Engineer, the contractor shall re-wire a new cabinet supplied by the City. The cost of damaged materials shall be deducted from the final payment.

E. DOWNTIME FOR TRAFFIC SIGNALS OR STREET LIGHTING

The Contractor shall be responsible for consulting Lincoln Electric System, Mark Heimann, 467-7541 (cel 432-2531) or Marty Weber 467-7557 (cel 430-5878) to have LES energize or de-energize any Street Light Cable or energize Service Cable for Traffic Signal Equipment. Under no circumstance will the contractor open any LES locked facilities, such as a Transformer or Pedestal.

F. ANTI-SEIZE COMPOUND

The Contractor shall use Permatex 80208, Anti-Seize Compound or approved equivalent everywhere metal screws into or onto metal, except anchor bolts.

M. SIGNAL INSPECTION COMPLETION

Upon completion of a fully operational traffic signal (including communication to the signal), a Signal Inspection shall be completed by the City. The Contractor is allowed a defined number of calendar days to complete the following: correct any items as listed on Signal Inspection Form, return Signal Inspection Form back to City, and correct any subsequent deficiencies identified by inspections until City accepts all work. The number of days is as follows:

For a Single Signalized Intersection: 45 calendar days are allowed for the entire Signal Inspection and Correction process. The City is allowed 14 calendar days for the initial inspection and 7 calendar days for each additional inspection needed thereafter.

For more than one signalized intersection: 45 calendar days + 14 calendar days are allowed for each additional intersection for the entire Signal Inspection and Correction process. The City is allowed 14 calendar days + 4 calendar days for each additional intersection for the initial inspection. The City is allowed 7 calendar days + 2 calendar days per additional signal for each additional inspection needed thereafter.

Initial and subsequent City inspections shall be included as part of the calendar days allowed.

If the Contractor has not corrected all items on the Signal Inspection form to the satisfaction of the City and has not received final acceptance from the City within the allotted time, the Contractor shall be assessed liquidated damages of \$500 per calendar day until all work is completed and deemed acceptable.

24.07 TRACER WIRE SYSTEM

A. GENERAL

The Contractor shall supply an approved locate stick. It shall be a 5' x 3" triangular flexible orange plastic marker with 5 separate access terminals and set screw to hold terminal concealment cap on. Approved decals shall be placed on all 3 sides with "Warning, Fiber Optic Cable, City of Lincoln, Before digging in this area call Diggers Hotline 800-331-5666", as shown on LSP 81.

The Contractor shall also provide the ground wire, No 14 THHN, green in color in 1/2" conduit from the locate stick to the fiber pull box ground rod and the 5/8" x 15' ground rod.

A jumper shall be attached to appropriate locate stick lugs to complete a continuous tracer wire run.

B. INSTALLATION

Bend out all 3 barbs towards the bottom of the stick until the tips touch the post to ensure proper alignment. Place the locate stick in the hole and backfill making sure the barbs stay out and dirt falls on top of them. Properly tamp the soil as the hole is backfilled. See LSP 81.

C. BASIS OF PAYMENT

Each Locate Stick, installed, connected and accepted by the Contract Administrator, shall be measured as a single unit and shall be paid for at the contract unit price bid per each for the item. This price and payment shall be full compensation for installing the Locate Stick, 1/2" Conduit and Tracer Wire from the Locate Stick to the pull box, 5/8" x 15' Ground Rod in the pull box, all connections, jumper and for all labor, equipment, tools, materials, excavation, and incidentals required to complete the Work.

24.08 FOUNDATIONS AND BASES

Foundations and bases shall be constructed and/or installed in accordance with Lincoln Standard Plans (LSPs) LSP 82 and 92, to the elevation supplied by the Engineer.

If the foundation or base cannot be constructed as shown on the plans the Contractor shall contact the Engineer for further instructions and elevations.

All foundations shall be poured within 48 hours of excavation.

B. INSTALLATION

1. Reinforced Concrete

Forms shall be firmly braced and secured in place. Forms shall not be removed until the concrete has set, and at no time shall they be removed within 12 hours after the concrete has been placed.

Prior to pole and cabinet installation, anchor bolts and foundation holes shall be barricaded or suitably enclosed to protect the public from possible injury.

All reinforcement bars for concrete reinforcement shall be Grade 40 or Grade 60 steel and shall conform to the requirements of "Standard Specifications for Deformed and Plain Billet-Steel Bars for Concrete Reinforcement", ASTM Designation A 615, or "Standard Specifications for Raw Steel and Axle-Steel Deformed Bars for Concrete Reinforcement", ASTM Designation A 996. Bars shall be free from excess rust, scale or other substances which prevent the bonding of concrete to the reinforcement.

There shall, in all cases, be at least 3" of concrete between anchor bolts and steel reinforcing members at any edge of foundation or base.

No foundation or base shall be poured until they are free of water or debris including trash. The bottom of the foundations and bases shall rest securely on firm undisturbed ground. Both forms and excavations shall be thoroughly wet before placing concrete. An Observer shall be present for the pouring of all traffic signal foundations and bases. The Project Manager shall be contacted 24 hours in advance of the pour. Any foundations poured without the Observer present shall be subject to removal and replacement at the Contractor's expense.

The foundations and bases shall be L3500 concrete, poured monolithically and vibrated with a high-frequency vibrator as it is placed, from the bottom to the top, in the form to eliminate all voids. No floating of steel allowed. The top and any exposed portion of the foundation or base shall be troweled smooth, true and level.

Anchor bolts shall protrude within the range shown on LSP 82 with the nuts and threads covered to protect them during pouring.

Grinding concrete to form a chamfer shall not be permitted.

After the foundation or base has been poured, no modification shall be made. If the anchor bolts, conduit, or any part of the foundation or base are installed in an incorrect manner, as determined by the Engineer, the entire foundation or base shall be removed and a new foundation or base installed. The Contractor shall bear all costs of replacing work, including cost of anchor bolts, deemed unsatisfactory by the Contract Administrator.

24.09 PULL BOXES

A. GENERAL

Pull boxes, type PB-T6, PB-9, PB-T9 and FOR27 and their cover are required to conform to all test provisions of ANSI/SCTE 77 "Specifications For Underground Enclosure Integrity" Tier 15 and labeled as such inside the pull box and on the top of the cover. All covers are required to have a minimum coefficient of friction of 0.05 in accordance with ASTM C1028. Independent third party verification or test reports stamped by a registered Professional Engineer certifying that all test provisions of this specification have been met are required with each submittal.

Pull box shapes and nominal dimensions shall conform to LSP 81.

Pull box lids shall also be labeled "ELECTRIC", "TRAFFIC", or "FIBER" on top as indicated on the Plans.

B. INSTALLATION

Pull boxes shall be installed at the locations shown on the plans.

Pull boxes, type PB-T6, PB-9, PB-T9 and FOR27 shall rest firmly on a bed of 3/4" washed crushed limestone rock with a minimum depth of 12" below the bottom, extending at least 3" beyond the outside edges of the pull box. Avoid placing these pull boxes in concrete. Do not install Lid Bolts.

Pull box edges, lid and lifting eye shall be kept clear of concrete and foreign material.

Pull Boxes PB-9 or PB-9 deep shall only be used with the Magnetic Vehicle Detector.

C. METHOD OF MEASUREMENT AND BASIS OF PAYMENT

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

24.10 CONDUIT

B. INSTALLATION

Conduit shall be installed at a minimum depth of 30", except that conduit designated for "Fiber Optic Cable" shall be installed not less than 42" below finished grade.

F. METHOD OF MEASUREMENT AND BASIS OF PAYMENT

The quantity of conduit or conduit sock to be paid for shall be the number of feet of such material of the size and type required, installed and accepted by the Engineer as measured from center to center of foundations or pull boxes, or from pole to pole if there is no foundation.

Conduit or conduit sock shall be paid for at the contract unit price bid per linear foot for the conduit or conduit sock items. These prices shall be full compensation for all excavation required; for all concrete, backfilling and compacting; and for all labor, equipment, tools, materials, and incidentals required to complete the work.

24.11 CABLE

A. TYPES AND CLASSES OF CABLE

5. Service, Street Lighting, Circuit Grounding Cable and Pole Grounding Wire

The cable for underground circuits and pole grounding shall be single conductor, the size specified on the plans, type XLP USE-2, RHH/RHW-2 600 Volt, Copper Cable. UL 44 and UL 854, ICEA S-95-658/NEMA WC-70, C (UL) US Federal spec. A-A-59544. Pole ground wire shall be bare No. 6 AWG solid copper.

11. Camera Control Cable

Camera Control Cable shall be Commscope Ultra II Cable, part number 5NF4 or approved equivalent.

13. Dynamic Message Sign Cable

Dynamic Message Sign Cable shall be SJOW, No. 10 AWG, 4/c & No. 18 AWG, 3/c. This cable is to be between the dynamic message sign junction box and the dynamic message cabinet.

B. INSTALLATION

Splices are only allowed in the 7/c Left Turn Cable at the pole hand hole. Street Lighting Cable and Circuit Grounding Cable shall be spliced only when a change in size or split of cables is shown on the plan. Tracer wire may be heat shrink spliced in a pull box, to save on wire waste.

2. Overhead Cable

Drip loops shall be provided at all signal hangers, wire inlets, and service entrance heads in conformance with good outdoor wiring methods. They shall be 3" vertically by 6" horizontally, hidden behind signal heads wherever possible.

3. Fiber Optic Cable

a. Fiber Optic Cable Terminations

ST style connectors shall fit a panel with a double-D cut out diameter of 0.38".

SC style connectors shall fit a panel cut out of 1.024" by 0.375".

Multi-mode boot color shall be ivory tan or black.

Single-mode boot color shall be white or black.

b. OTDR Testing

All Fiber Optic Cable new or relocated shall be tested by the contractor with an Optical Time Domain Reflectometer (OTDR). This test shall be after the terminations are complete if the Contractor is expected to perform the terminations. If the Contractor is not expected to perform the terminations, the test shall be completed after the fiber is pulled in. If the Fiber Optic Cable is provided by the City, an OTDR test shall also be performed prior to installation to insure satisfactory cable. A hard copy of this test shall be provided to the City prior to installing the Fiber Optic Cable.

For Multi-mode Fiber Optic Cable, the maximum attenuation with or without terminations shall be 5.63 db per mile, tested at a wave length of 850 nm and 1300 nm. For Single-mode Fiber Optic Cable the maximum attenuation with or without terminations shall be 5.63 db per mile, test at a wave length of 1310 nm and 1550 nm.

The OTDR test shall be performed in both directions along the link. The direction of the test shall also be recorded in the documentation. A hard copy of the Fiber Optic Test shall be provided to the City.

24.12 CABLE SPLICES AND CONNECTIONS

A. GENERAL

No splices or joints will be permitted to be drawn inside the conduit, nor shall any splices or joints be made in any cable outside of pull boxes, pole bases or traffic signal heads.

Splices are not allowed in 2/C for Magnetic Vehicle Detectors, Lead In Cable, Service Cable, Camera Detector Cable, Fiber Optic Cable, Emergency Detector Cable, Coaxial Cable, Camera Control Cable, Camera Power Cable or Dynamic Message Sign Cable. The only splice allowed in Traffic Signal Cable to heads or push buttons is at the pole hand hole. Street Lighting Cable and Circuit Grounding Cable shall be spliced only when a change in size or split of cables is shown on the plans. Tracer wire may be heat shrink spliced in a pull box.

Any cable end unused in a pull box shall be weather proofed with shrink tube or approved sealant, not tape.

All Traffic Signal splices and Street light splices below grade shall be made for continuous immersion in water.

Cable connections in signal heads or controller cabinets shall be made at the terminal boards provided for this purpose. All stranded wires inserted under a binder head screw shall be equipped with a solderless pressure-type spade connector with a pre-insulated shank. A crimping tool for insulated connectors shall be used. No bare wire shall be exposed.

E. Method of Measurement and Basis of Payment

No measurement or direct payment shall be made for cable connections (except fiber connectors), splices, attachments, materials and incidentals necessary to complete the work in accordance with the plans and Specifications. The work shall be considered subsidiary to and included in the bid price for cable installation.

Fiber Optic Cable terminations shall be paid for complete, tested and accepted by the Engineer, measured for payment as single units. Payment shall be made at the contract unit price bid for the items.

24.13 TRAFFIC SIGNAL, LIGHTING OR TRAFFIC MONITORING POLE

B. INSTALLATION

Poles shafts must be erected so that they are plumb with their entire load in place. The mast arms shall be correctly oriented, as shown on the plans. Plumbing of pole shafts shall be accomplished by adjusting the leveling nuts on the foundation anchor bolts. Shims or similar devices for plumbing or racking will not be permitted except for leveling of the transformer base as per the manufacturer.

After the mast arms orientation and height are verified by the Engineer, the Contractor shall pin the mast arms as soon as possible.

At the Engineers discretion the mast arms shall be oriented parallel to the traveled roadway and later swung into their final orientation. The Contractor shall only rotate the mast arms to the correct orientation upon the direction of the Engineer. When the Contractor is rotating the mast arms to the final plan orientation, they must loosen bolts so that the mast arm clamp does not bind on the shaft or cause damage to the galvanizing.

If the Engineer calls for the final plan, mast arm, orientation only, then the Contractor shall not be paid for rotating the mast arms.

24.15 GROUND RODS AND GROUND WIRE

A. GENERAL

Ground rods shall be high strength steel rods with chemically-bonded copper coverings to provide high-conductivity and to prevent electrolytic action. The copperweld ground rods shall be placed as shown on the plans, 2' from the pole base, and oriented on the same side as the hand hole or in a pull box, if called for on the plans or LSPs; they shall have a nominal diameter of 5/8" and 15' long, except to a Street Light Pole shall be 10' long. For worker safety 5' lengths of ground rod screwed together are allowed. Ground

wires shall be connected to ground rods with one-piece non-ferrous clamps which employ set screws as tightening devices. Connections to ground rods shall not be taped.

24.18 VEHICLE DETECTOR INSTALLATION

B. LOOP DETECTORS

3. Loop Acceptance

Each loop shall be tested at the cabinet by the City prior to termination and acceptance. All tests shall have the following result prior to acceptance.

New Loop = infinity

New Loop and New Feeder Cable = infinity

C. MAGNETIC DETECTORS

The magnetic detector installation shall include the furnishing and installing of a Pull Box, type PB-9, stacked to achieve the needed depth or ordered to the needed depth and the installation of a City furnished magnetic probe complete with the wire leads spliced to the 2/c traffic signal cable that connects to the signal cabinet. The conduits into the bottom of the pull box shall not conflict with the 3" Conduit through the end of the pull box, so that the probe can be inserted into the 3" Conduit. The hole for the 3" Conduit through the side of the pull box shall be just large enough to except the 3" Conduit, no larger. The 3" Conduit through the side of the pull box shall be level the entire length to where the plans show.

The Contractor shall install the magnetic probe for multi-lane approaches under the lane line between two adjacent lanes. Magnetic detectors installed under one approach lane shall be installed under the center of the lane.

E. METHOD OF MEASUREMENT AND BASIS OF PAYMENT

Vehicle detectors, complete, in place, tested, and accepted by the Engineer, shall be measured for payment as single units. Payment shall be made at the contract unit price bid per each for the vehicle detector item. In addition, vehicle detector loops sawed in place or under cover loops placed shall be tested and approved prior to final payment for the traffic signal cabinet.

In the event an UC Loop does not meet requirements or was not placed as per plan, the Contractor shall remove the roadway, place a new UC Loop as per plan and replace roadway, all at Contractors expense.

Any surface to be overlaid shall have loops sawed into the base prior to placement of asphalt. Loops not placed prior to surfacing, shall be sawed into the surfacing without payment to the Contractor.

24.20 RISER

B. INSTALLATION

LES is to build the Riser above the 10' of GRS and provide the cable to the meter when a meter is required. If there is no meter, then the contractor is to build the riser to its needed height and provide the cables, including enough cable for LES to energize.

C. METHOD OF MEASUREMENT AND BASIS OF PAYMENT

Riser, complete, in place and accepted by the Engineer, will be measured for payment as single units and shall be paid for at the contract unit price bid per each for the item. This price shall be full compensation for all excavation required; for furnishing and installing the riser; for standoff installation, ground wire, ground rod, concrete encasement, steel riser guards, meter socket, and incidentals are considered part of the riser assembly.

24.21 CABINETS

B. INSTALLATION

The Cabinet pad shall be level in both directions.

All other cables shall be identified with easy to read, good quality outdoor cable labeler.

Lead-In Cables shall be identified with phase and amplifier designation, both in the cabinet and the pull box where the vehicle detector is spliced. Traffic signal cables, push button cables, coaxial cables, camera control cables, camera detector cables, camera power cables, emergency detector cables shall be identified in the cabinet with the corresponding pole number using just the last digit (i.e. "POLE 1"). Communication cable shall be identified in the cabinet with the direction of cable from the cabinet (i.e. "FIBER EAST").

Since Tracer Wire is so thin, the SWD-Write-On Tape shall be placed on wire perpendicular to the wire like a flag. Tracer Wire to furthest pull box shall be identified in the cabinet with travel direction (i.e. "NB" "CURBLANE" or "MEDIAN"). Tracer Wire to pole shall be identified in the cabinet with pole number, using just the last digit (i.e. "POLE 1").

24.24 TEMPORARY TRAFFIC SIGNAL

A. GENERAL

Temporary traffic signal systems shall be installed as called for on the plans. The City will furnish the Contractor with traffic signal and pedestrian signal heads, traffic signal

cabinet, emergency receivers, video detector cameras, magnetic probes, and pedestrian push button assemblies, complete with the correct hardware for the application, such as, hanger assembly and tether for span wire installation. All other materials shall be furnished and installed by the Contractor, unless otherwise noted.

24.26 DYNAMIC MESSAGE SIGNS

A. GENERAL

Dynamic Message Signs shall be installed as shown on plans. The City will furnish the dynamic message sign, splice box and cable of sufficient length from the sign to the splice box to the cabinet. All other materials, such as, but not limited to, mounting hardware needed for the sign shall be furnished by the Contractor, unless otherwise noted.

B. INSTALLATION

The Contractor is responsible for mounting the sign and splice box; for installing the cable from the sign to the splice box and cable from the splice box to the cabinet. The Contractor shall splice the cables in the splice box.

C. METHOD OF MEASUREMENT AND BASIS OF PAYMENT

Installation of the dynamic message sign shall be measured as a single unit and shall be paid for at the contract unit price each for the item. This price shall be full compensation for furnishing all materials not furnished by the City, installing all materials, for all labor associated with the installation of the sign, splice box, cable from the sign to the splice box and cable from the splice box to the cabinet, equipment, tools, materials, excavation, and incidentals required to complete the work.

D. BASIS OF PAYMENT

Luminaires of the various types complete, in place and accepted by the Contract Administrator, shall be measured as single units and shall be paid for as LUMINAIRE, _____ at the contract unit price bid per each for the item. This price and payment shall be full compensation for furnishing and/or installing the Luminaires and for furnishing bulbs, labor, equipment, tools, materials, and incidentals necessary to complete the Work.

24.27 TRAFFIC MONITORING CAMERAS (HARDWARE)

A. GENERAL

Traffic Monitoring Camera Hardware shall be installed as shown on plans. The Contractor shall supply the Clamp Kit as specified in Section 24.19.A.

B. INSTALLATION

The clamp kit shall be attached at the top of the designated pole, pointing to the opposite corner of the intersection unless otherwise instructed, as shown on plans. The Camera Control Cable, Camera Power Cable and Coaxial Cable shall be run to the clamp kit location and coiled with a 20' coil.

The Traffic Monitoring Camera installation shall be completed by the City.

C. BASIS OF PAYMENT

Traffic Monitoring Camera Hardware, complete, in place and accepted by the Contract Administrator, shall be measured as single units and shall be paid for at the contract unit price bid per each for the item. This price and payment shall be full compensation for installing the Traffic Monitoring Camera Hardware, for furnishing all materials, installing all materials, and for all labor, equipment, tools, materials, and incidentals required to complete the Work.

24.28 RADIO ANTENNA HARDWARE

A. GENERAL

Radio Antenna Hardware shall be installed as shown on plans. The Contractor shall supply 2 Clamp Kits (as specified in Section 24.19) and 1 - 10' rigid 1 ½" Aluminum Conduit. All other materials shall be furnished and installed by the Contractor, unless otherwise noted.

B. INSTALLATION

The clamp kits shall attach the Aluminum Conduit to the designated pole, as shown on plans. The Aluminum Conduit shall be attached at the top of the pole. The clamp kits shall be spaced to best support the Aluminum Conduit and clear obstacles on the pole. The Camera Control Cable shall be run to the top of the Aluminum Conduit with a 20' coil at the top.

The radio installation shall be completed by the City.

C. METHOD OF MEASUREMENT AND BASIS OF PAYMENT

Radio Antenna Hardware shall be measured as a single unit and shall be paid for at the contract unit price per each for the item. This price shall be full compensation for furnishing all materials, installing all materials, and for all labor, equipment, tools, materials, and incidentals required to complete the work.

BNSF RAILWAY SPECIAL PROVISIONS

The following Exhibit "C" provides the Contractor Requirements for work that will be completed on existing BNSF Railway property as part of this project. The Contractor shall be required to strictly adhere to all requirements as outlined and shall coordinate their work with the BNSF's Project Engineer, Gerald Maczuga or other designated representative at all times during completion of work on railroad property.

All Contractor employees that will be involved with work on this project will need to be certified through the BNSF E-Rail Safe program and shall have the required BNSF Contractor Safety Orientation as outlined in the attached BNSF Contractor Requirements. Refer to Exhibit C, Contractor Requirements Section 1.02 for requirements on the Contractor Safety Orientation. Refer to <https://www.e-railsafe.com/ev/servlet/hr.utilities.HRInfo> for requirements on the BNSF E-Rail Safe certification.

In addition the Contractor will be required to execute the attached agreement Exhibit C-1A and provide certification of the required insurance coverages outlined in the agreement to the BNSF Railway prior to start of any work on railroad property.

Flagging will be required when work is required on BNSF property within 25 feet of the existing tracks and when the Contractor is using any of the temporary construction accesses across the BNSF tracks. Flagging services shall be performed by BNSF employees as outlined in the following Contractor's Requirements for work on BNSF Railway property. The cost of the flagging up to a maximum amount of \$38,500.00 shall be borne by the JPA. The \$38,500.00 amount of flagging is based upon 35 flagging days using a standard 10-hour work day and the BNSF requiring a single flagger for this work. If the BNSF requires additional flaggers than the maximum amount is subject to change as determined by the Engineer. All flagging costs in excess of the \$38,500.00 amount shall be deducted from the retainage held on the project prior to final payment.

EXHIBIT C
Contractor Requirements

1.01 General

- **1.01.01** The Contractor must cooperate with **BNSF RAILWAY COMPANY**, hereinafter referred to as "Railway" during the performance of the C&M Work (as defined in Exhibit C-1) and any other work over, under, on or adjacent to Railway Property.
- **1.01.02** The Contractor must execute and deliver to the Railway duplicate copies of the Exhibit C-1 Contractor Right of Entry for C&M Work, in the form attached hereto, obligating the Contractor to provide and maintain in full force and effect the insurance called for under Section 3 of said Exhibit C-1. Questions regarding procurement of the Railroad Protective Liability Insurance should be directed to Rosa Martinez at Marsh, USA, 214-303-8519.
- **1.01.03** The Contractor must plan, schedule and conduct all C&M Work activities so as not to interfere with the movement of any trains on Railway Property.
- **1.01.04** The Contractor's right to enter Railway Property is subject to the absolute right of Railway to cause the Contractor's work on Railway Property to cease if, in the opinion of Railway, Contractor's activities create a hazard to Railway Property, employees, and/or operations. Railway will have the right to stop construction work on the C&M Work if any of the following events take place: (i) Contractor (or any of its subcontractors) performs the C&M Work in a manner contrary to the plans and specifications approved by Railway; (ii) Contractor (or any of its subcontractors), in Railway's opinion, prosecutes the C&M Work in a manner which is hazardous to Railway Property, facilities or the safe and expeditious movement of railroad traffic; or (iii) the insurance described in the attached Exhibit C-1 is canceled during the course of the C&M Work. The work stoppage will continue until all necessary actions are taken by Contractor or its subcontractor to rectify the situation to the satisfaction of Railway's Division Engineer or until additional insurance has been delivered to and accepted by Railway. Any such work stoppage under this provision will not give rise to any liability on the part of Railway. Railway's right to stop the C&M Work is in addition to any other rights Railway may have including, but not limited to, actions or suits for damages or lost profits. In the event that Railway desires to stop the C&M Work, Railway agrees to immediately notify the following individual in writing:

Roger Figard, City Engineer
Department of Public Works and Utilities
City of Lincoln, Nebraska
555 South 10th Street
Lincoln, NE 68508
- **1.01.05** Contractor shall, and shall cause all Contractor parties to, strictly comply with all federal, state and local environmental laws and regulations in its use of Railway's Property, including, but not limited to, the Resource Conservation and Recovery Act, as amended (RCRA), the Clean Water Act, the Oil Pollution Act, the Hazardous Materials Transportation Act, CERCLA (collectively, the "**Environmental Laws**") with respect to Railway's Property. Contractor shall not maintain a "treatment," "storage," "transfer" or "disposal" facility, or "underground storage tank," as those terms are defined by Environmental Laws, on Railway's Property. Contractor shall not handle, transport, release or suffer the release of "hazardous waste" or "hazardous substances", as "hazardous waste" and "hazardous substances" may now or in the future be defined by any Environmental Laws, except as may

be pre-existing in Railway Property and as encountered in the C&M Work and then only in compliance with Environmental Laws, and shall not use any soils or other materials containing hazardous waste or hazardous substances in connection with the C&M Work, or otherwise bring any hazardous waste or hazardous substances onto any Railway Property.

Contractor shall give Railway immediate notice to Railway's Resource Operations Center at (800) 832-5452 in the event of any release of hazardous substances on or from Railway Property, violation of Environmental Laws, or inspection or inquiry by governmental authorities charged with enforcing Environmental Laws with respect to Contractor's use of Railway Property. Contractor shall use best efforts to promptly respond to any release arising from or related to its activities contemplated in the C&M Work. Contractor shall also give Railway notice of all measures undertaken on Contractor's behalf to investigate, remediate, respond to or otherwise cure such release or violation.

In the event Contractor has notice of a release or violation of Environmental Laws which occurred or may occur as a result of Contractor's activities contemplated in the C&M Work, Contractor shall take timely measures to investigate, remediate, respond to or otherwise cure as required by applicable law such release or violation affecting Railway Property or improvements. If during the C&M Work, soils or other materials considered to be environmentally contaminated are exposed, Contractor will remove and safely dispose of said contaminated soils. Determination of soils contamination and applicable disposal procedures thereof will be made only by an agency having the capacity and authority to make such a determination.

Contractor agrees to periodically to furnish Railway upon written request with reasonable proof that it is in compliance with this **Section 1.01.05**.

- **1.01.06** All C&M Work must performed (i) in a good and workmanlike manner, (ii) in accordance with plans and specifications approved in advance by Railway (the "**Approved Plans**"), (iii) in conformance with applicable building codes and all applicable engineering, safety and any and all laws, statutes, regulations, ordinances, orders, covenants, restrictions, or decisions of any court of competent jurisdiction ("**Legal Requirements**"), (iv) in accordance with the accepted industry standards of care, skill and diligence, and (v) in such a manner as shall not adversely affect the structural integrity or maintenance of any Railway improvements or other improvements on or near Railway Property, or any lateral support of any structures adjacent to or in the proximity of any Railway improvements or Railway Property. In addition, the C&M Work must be promptly commenced by the Contractor and thereafter diligently prosecuted to conclusion in its logical order and sequence. Furthermore, any changes or modifications of the C&M Work which affect Railway will be subject to Railway's written approval prior to the commencement of any such changes or modifications from the Railway's Project Engineer.
- **1.01.07** Contractor shall be responsible for all job site cleanup and restoration, including removal of all construction materials, concrete debris, surplus soil, refuse, contaminated soils, asphalt debris, litter and other waste materials resulting from the C&M Work to the reasonable satisfaction of Railway's Division Engineer.
- **1.01.08** The Contractor must notify the City at City's City Engineer, telephone number (402) 441-7567 and Railway's Project Engineer, telephone number (402) 458-7537 at least ten (10) calendar days before commencing any C&M Work on Railway Property.
- **1.01.09** For any bridge demolition and/or falsework above any tracks or any excavations located with any part of the excavations located within, whichever is greater, twenty-five (25)

feet of the nearest track or intersecting a slope from the plane of the top of rail on a 2 horizontal to 1 vertical slope beginning at eleven (11) feet from centerline of the nearest track, both measured perpendicular to center line of track, the Contractor must furnish the Railway five sets of working drawings showing details of construction affecting Railway Property and tracks. The working drawing must include the proposed method of installation and removal of falsework, shoring or cribbing, not included in the contract plans and two sets of structural calculations of any falsework, shoring or cribbing. For all excavation and shoring submittal plans, the current "BNSF-UPRR Guidelines for Temporary Shoring" must be used for determining the design loading conditions to be used in shoring design, and all calculations and submittals must be in accordance with the current "BNSF-UPRR Guidelines for Temporary Shoring". All submittal drawings and calculations must be stamped by a registered professional engineer licensed to practice in the state the project is located. All calculations must take into consideration railway surcharge loading and must be designed to meet American Railway Engineering and Maintenance-of-Way Association (previously known as American Railway Engineering Association) Coopers E-80 live loading standard. All drawings and calculations must be stamped by a registered professional engineer licensed to practice in the state the project is located. The Contractor must not begin C&M Work until notified by the Railway that plans have been approved, which approved plans shall become part of the Approved Plans. The Contractor will be required to use lifting devices such as, cranes and/or winches to place or to remove any falsework over Railway's tracks. In no case will the Contractor be relieved of responsibility for results obtained by the implementation of the Approved Plans.

- **1.01.10** Subject to the movement of Railway's trains, Railway will cooperate with the Contractor such that the C&M Work may be handled and performed in an efficient manner. The Contractor will have no claim whatsoever for any type of damages or for extra or additional compensation in the event his work is delayed by the Railway.

1.02 Contractor Safety Orientation

- **1.02.01** No employee of the Contractor, its subcontractors, agents or invitees may enter Railway Property without first having completed Railway's Engineering Contractor Safety Orientation, found on the web site www.contractororientation.com. The Contractor must ensure that each of its employees, subcontractors, agents or invitees completes Railway's Engineering Contractor Safety Orientation through internet sessions before any C&M Work is performed. Additionally, the Contractor must ensure that each and every one of its employees, subcontractors, agents or invitees possesses a card certifying completion of the Railway's Engineering Contractor Safety Orientation before entering Railway Property. The Contractor is responsible for the cost of the Railway's Engineering Contractor Safety Orientation. The Contractor must renew the Railway's Engineering Contractor Safety Orientation annually. Further clarification can be found on the web site or from the Railway's Project Engineer.

1.03 Railway Requirements

- **1.03.01** The Contractor must take protective measures as are necessary to keep railway facilities, including track ballast, free of sand, debris, and other foreign objects and materials resulting from his operations. Any damage to railway facilities resulting from Contractor's operations will be repaired or replaced by Railway and the cost of such repairs or replacement must be paid for by the Contractor.

- **1.03.02** The Contractor must notify Railway's Project Engineer, telephone number (402) 458-7537, and provide blasting plans to the Railway for review seven (7) calendar days prior to conducting any blasting operations adjacent to or on Railway Property.
- **1.03.03** The Contractor must abide by the following temporary clearances during construction:
 - 15' Horizontally from centerline of nearest track
 - 21'-6" Vertically above top of rail
 - 27'-0" Vertically above top of rail for electric wires carrying less than 750 volts
 - 28'-0" Vertically above top of rail for electric wires carrying 750 volts to 15,000 volts
 - 30'-0" Vertically above top of rail for electric wires carrying 15,000 volts to 20,000 volts
 - 34'-0" Vertically above top of rail for electric wires carrying more than 20,000 volts
- **1.03.04** Upon completion of construction, the following clearances shall be maintained:
 - 25' Horizontally from centerline of nearest existing or future track to the face of the pier or abutment structure
 - 31' Vertically above top of rail to the bottom of the Pedestrian Bridge
- **1.03.05** Any infringement within State statutory clearances due to the Contractor's operations must be submitted to the Railway and to the City and must not be undertaken until approved in writing by the Railway, and until the City has obtained any necessary authorization from the State Regulatory Authority for the infringement. No extra compensation will be allowed in the event the Contractor's C&M Work is delayed pending Railway approval, and/or the State Regulatory Authority's approval.
- **1.03.06** In the case of impaired vertical clearance above top of rail, Railway will have the option of installing tell-tales or other protective devices Railway deems necessary for protection of Railway operations. The cost of tell-tales or protective devices will be borne by the Contractor.
- **1.03.07** The details of construction affecting the Railway Property and tracks not included in the City Work Final Design or Approved Plans for the C&M Work must be submitted to the Railway by the City for approval before work is undertaken and this work must not be undertaken until approved by the Railway.
- **1.03.08** At other than public road crossings, the Contractor must not move any equipment or materials across Railway's tracks until permission has been obtained from the Railway. The Contractor must obtain a "Temporary Construction Crossing Agreement" from the Railway prior to moving his equipment or materials across Railway's tracks. The temporary crossing must be gated and locked at all times when not required for use by the Contractor. The temporary crossing for use of the Contractor will be constructed and, at the completion of the project, removed at the expense of the Contractor.
- **1.03.09** Discharge, release or spill on the Railway Property of any hazardous substances, oil, petroleum, constituents, pollutants, contaminants, or any hazardous waste is prohibited and Contractor must immediately notify the Railway's Resource Operations Center at 1(800) 832-5452, of any discharge, release or spills in excess of a reportable quantity. Contractor

must not allow Railway Property to become a treatment, storage or transfer facility as those terms are defined in the Resource Conservation and Recovery Act or any state analogue.

- **1.03.10** The Contractor, upon completion of the C&M Work, must promptly remove from the Railway Property all of Contractor's tools, equipment, implements and other materials, whether brought upon said Railway Property by Contractor or any subcontractor, employee or agent of Contractor or of any subcontractor, and must cause Railway Property to be left in a condition acceptable to Railway's Project Engineer.

1.04 Contractor Roadway Worker on Track Safety Program and Safety Action Plan

- **1.04.01** Each Contractor that will perform C&M Work within 25 feet of the centerline of a track must develop and implement a Roadway Worker Protection/On Track Safety Program and work with Railway's Project Engineer to develop an on track safety strategy as described in the guidelines listed in the on track safety portion of the Safety Orientation. This Program must provide Roadway Worker protection/on track training for all employees of the Contractor, its subcontractors, agents or invitees. This training is reinforced at the job site through job safety briefings. Additionally, each Contractor must develop and implement the Safety Action Plan, as provided for on the web site www.contractororientation.com, which will be made available to Railway prior to commencement of any work on Railway Property. During the performance of C&M Work, the Contractor must audit its C&M Work activities. The Contractor must designate an on-site Project Supervisor who will serve as the contact person for the Railway and who will maintain a copy of the Safety Action Plan, safety audits, and Material Safety Datasheets (MSDS), at the job site.

Contractors shall ensure its employees, subcontractors and agents are United States citizens or legally working in this country under a work VISA.

1.05 Railway Flagger Services:

- **1.05.01** The Contractor must give Railway's Project Engineer, telephone number (402) 458-7537, a minimum of thirty (30) calendar days advance notice when flagging services will be required so that the Roadmaster can make appropriate arrangements (i.e., bulletin the flagger's position). If flagging services are scheduled in advance by the Contractor and it is subsequently determined by the parties hereto that such services are no longer necessary, the Contractor must give the Roadmaster five (5) working days advance notice so that appropriate arrangements can be made to abolish the position pursuant to union requirements.
- **1.05.02** Unless determined otherwise by Railway's Project Engineer, Railway flagger will be required and furnished when Contractor's C&M Work activities are located over, under and/or within twenty-five (25) feet measured horizontally from centerline of the nearest track and when cranes or similar equipment positioned beyond 25-feet from the track centerline could foul the track in the event of tip over or other catastrophic occurrence, but not limited thereto for the following conditions:
 - **1.05.02a** When, upon inspection by Railway's Project Engineer, other conditions warrant.
 - **1.05.02b** When any excavation is performed below the bottom of tie elevation, if, in the opinion of Railway's Project Engineer, track or other Railway facilities may be subject to movement or settlement.

- **1.05.02c** When C&M Work in any way interferes with the safe operation of trains at timetable speeds.
- **1.05.02d** When any hazard is presented to Railway track, communications, signal, electrical, or other facilities either due to persons, material, equipment or blasting in the vicinity.
- **1.05.02e** Special permission must be obtained from the Railway before moving heavy or cumbersome objects or equipment which might result in making the track impassable.
- **1.05.03** Flagging services will be performed by qualified Railway flaggers.
- **1.05.03a** Flagging crew generally consists of one employee. However, additional personnel may be required to protect Railway Property and operations, if deemed necessary by Railway's Project Engineer.
- **1.05.03b** Each time a flagger is called, the minimum period for billing will be the eight (8) hour basic day.
- **1.05.03c** The cost of flagger services provided by the Railway will be borne by City. The estimated cost for one (1) flagger is approximately between \$800.00-\$1,600.00 for an eight (8) hour basic day with time and one-half or double time for overtime, rest days and holidays. The estimated cost for each flagger includes vacation allowance, paid holidays, Railway and unemployment insurance, public liability and property damage insurance, health and welfare benefits, vehicle, transportation, meals, lodging, radio, equipment, supervision and other costs incidental to performing flagging services. Negotiations for Railway labor or collective bargaining agreements and rate changes authorized by appropriate Federal authorities may increase actual or estimated flagging rates. **THE GOVERNMENTAL FLAGGING RATE IN EFFECT AT THE TIME OF PERFORMANCE BY THE CONTRACTOR HEREUNDER WILL BE USED TO CALCULATE THE ACTUAL COSTS OF FLAGGING PURSUANT TO THIS PARAGRAPH.**
- **1.05.03d** The average train traffic on this route is 65 freight trains per 24-hour period at a timetable speed of 40 MPH and 2 passenger trains at a timetable speed of 15 MPH.

1.06 Contractor General Safety Requirements

- **1.06.01** C&M Work in the proximity of railway track(s) is potentially hazardous where movement of trains and equipment can occur at any time and in any direction. All work performed by contractors within 25 feet of any track must be in compliance with FRA Roadway Worker Protection Regulations. No Contractor shall conduct any tests, investigations or any other activity using mechanized equipment and/or machinery, or place or store any mechanized equipment, tools or other materials, within twenty-five (25) feet of the centerline of any railroad track on Railway Property, except after Contractor has obtained written approval from Railway Director Engineering Services, and then only in strict accordance with the terms and any conditions of such approval.
- **1.06.02** Before beginning any task on Railway Property, a thorough job safety briefing must be conducted with all personnel involved with the task and repeated when the personnel or task changes. If the task is within 25 feet of any track, the job briefing must include the Railway's flagger, as applicable, and include the procedures

the Contractor will use to protect its employees, subcontractors, agents or invitees from moving any equipment adjacent to or across any Railway track(s).

- **1.06.03** Workers must not work within 25 feet of the centerline of any track without an on track safety strategy approved by Railway's Project Engineer. When authority is provided, every contractor employee must know: (1) who the Railway flagger is, and how to contact the flagger, (2) limits of the authority, (3) the method of communication to stop and resume work, and (4) location of the designated places of safety. Persons or equipment entering flag/work limits that were not previously job briefed, must notify the flagger immediately, and be given a job briefing when working within 25 feet of the center line of track.
- **1.06.04** When Contractor employees are required to work on Railway Property after normal working hours or on weekends, Railway's Project Engineer must be notified. A minimum of two employees must be present at all times.
- **1.06.05** Any employees, agents or invitees of Contractor or its subcontractors under suspicion of being under the influence of drugs or alcohol, or in the possession of same, will be removed from the Railway Property and subsequently released to the custody of a representative of Contractor management. Future access to the Railway Property by that employee will be denied.
- **1.06.06** Any damage to Railway Property, or any hazard noticed on passing trains must be reported immediately to the Railway's Project Engineer. Any vehicle or machine which may come in contact with track, signal equipment, or structure (bridge) and could result in a train derailment must be reported immediately to the Railway's Project Engineer and to the Railway's Resource Operations Center at 1 (800) 832-5452. Local emergency numbers are to be obtained from Railway's Project Engineer prior to the start of any C&M Work and must be posted at the job site.
- **1.06.07** For safety reasons, all persons are prohibited from having pocket knives, firearms or other deadly weapons in their possession while working on Railway Property.
- **1.06.08** All personnel protective equipment (PPE) used on Railway Property must meet applicable OSHA and ANSI specifications. Current Railway personnel protective equipment requirements are listed on the web site, www.contractororientation.com, however, a partial list of the requirements include: a) safety glasses with permanently affixed side shields (no yellow lenses); b) hard hats c) safety shoe with: hardened toes, above-the-ankle lace-up and a defined heel; and d) high visibility retro-reflective work wear. The Railway's Project Engineer is to be contacted regarding local specifications for meeting requirements relating to hi-visibility work wear. Hearing protection, fall protection, gloves, and respirators must be worn as required by State and Federal regulations. **(NOTE – Should there be a discrepancy between the information contained on the web site and the information in this paragraph, the web site will govern.)**
- **1.06.09** THE CONTRACTOR MUST NOT PILE OR STORE ANY MATERIALS, MACHINERY OR EQUIPMENT CLOSER THAN 25'-0" TO THE CENTER LINE OF THE NEAREST RAILWAY TRACK. MATERIALS, MACHINERY OR EQUIPMENT MUST NOT BE STORED OR LEFT WITHIN 250 FEET OF ANY HIGHWAY/RAIL AT-GRADE CROSSINGS OR TEMPORARY CONSTRUCTION CROSSING, WHERE STORAGE OF THE SAME WILL OBSTRUCT THE VIEW OF A TRAIN APPROACHING THE CROSSING.

PRIOR TO BEGINNING WORK, THE CONTRACTOR MUST ESTABLISH A STORAGE AREA WITH CONCURRENCE OF THE RAILWAY'S PROJECT ENGINEER.

- **1.06.10** Machines or vehicles must not be left unattended with the engine running. Parked machines or equipment must be in gear with brakes set and if equipped with blade, pan or bucket, they must be lowered to the ground. All machinery and equipment left unattended on Railway Property must be left inoperable and secured against movement. (See internet Engineering Contractor Safety Orientation program for more detailed specifications)
- **1.06.11** Workers must not create and leave any conditions at the work site that would interfere with water drainage. Any C&M Work performed over water must meet all Federal, State and Local regulations.
- **1.06.12** All power line wires must be considered dangerous and of high voltage unless informed to the contrary by proper authority. For all power lines the minimum clearance between the lines and any part of the equipment or load must be; 200 KV or below - 15 feet; 200 to 350 KV - 20 feet; 350 to 500 KV - 25 feet; 500 to 750 KV - 35 feet; and 750 to 1000 KV - 45 feet. If capacity of the line is not known, a minimum clearance of 45 feet must be maintained. A person must be designated to observe clearance of the equipment and give a timely warning for all operations where it is difficult for an operator to maintain the desired clearance by visual means.

1.07 Excavation

- **1.07.01** Before excavating, the Contractor must determine whether any underground pipe lines, electric wires, or cables, including fiber optic cable systems are present and located within the C&M Work area. The Contractor must determine whether excavation on Railway Property could cause damage to buried cables resulting in delay to Railway traffic and disruption of service to users. Delays and disruptions to service may cause business interruptions involving loss of revenue and profits. Before commencing excavation, the Contractor must contact Railway's Project Engineer, telephone number (402) 458-7537. All underground and overhead wires will be considered HIGH VOLTAGE and dangerous until verified with the company having ownership of the line. **It is the Contractor's responsibility to notify any other companies that have underground utilities in the area and arrange for the location of all underground utilities before excavating.**
- **1.07.02** The Contractor must cease all work and notify Railway immediately before continuing excavation in the area if obstructions are encountered which do not appear on drawings. If the obstruction is a utility and the owner of the utility can be identified, then the Contractor must also notify the owner immediately. If there is any doubt about the location of underground cables or lines of any kind, no work must be performed until the exact location has been determined. There will be no exceptions to these instructions.
- **1.07.03** All excavations must be conducted in compliance with applicable OSHA regulations and, regardless of depth, must be shored where there is any danger to tracks, structures or personnel.
- **1.07.04** Any excavations, holes or trenches on Railway Property must be covered, guarded and/or protected when not being worked on. When leaving work site areas at night and over weekends, the areas must be secured and left in a condition that will ensure that Railway employees and other personnel who may be working or passing through the area are protected from all hazards. All excavations must be back filled as soon as possible.

- **1.07.05** Contractor will be responsible at no cost to Railway to locate and make any adjustments necessary to any wire lines, pipe lines, or other utilities, fences, buildings, improvements or other facilities located within Railway Property (collectively, "**Other Improvements**"). Contractor must contact the owner(s) of the Other Improvements notifying them of any work that may damage these Other Improvements and/or interfere with their service and, if required, obtain the owner's written approval prior to so affecting the Other Improvements. Contractor must mark all Railway improvements and Other Improvements on the applicable Approved Plans or other plans and specifications approved in advance by Railway, and mark all Railway improvements and Other Improvements in the field in order to verify their locations. Contractor must also use all reasonable methods when working on or near Railway Property to determine if any Railway improvements or Other Improvements (fiber optic, cable, communication or otherwise) may exist. Failure to mark or identify any Railway improvements or Other Improvements will be sufficient cause for Railway to stop construction at no cost to Railway until such items are completed. Contractor must make all adjustments and other work described in this Section 1.07.05, including without limitation adjustments to Other Improvements and work on and affecting Railway Property, in a manner that does not adversely impact utility service to Railway.

1.08 Hazardous Waste, Substances and Material Reporting

- **1.08.01** If Contractor discovers any hazardous waste, hazardous substance, petroleum or other deleterious material, including but not limited to any non-containerized commodity or material, on or adjacent to Railway Property, in or near any surface water, swamp, wetlands or waterways, while performing any work under this Agreement, Contractor must immediately: (a) notify the Railway's Resource Operations Center at 1 (800) 832-5452, of such discovery; (b) take safeguards necessary to protect its employees, subcontractors, agents and/or third parties; and (c) exercise due care with respect to the release, including the taking of any appropriate measure to minimize the impact of such release.

1.09 Personal Injury Reporting

- **1.09.01** The Railway is required to report certain injuries as a part of compliance with Federal Railroad Administration (FRA) reporting requirements. Any personal injury sustained by an employee of the Contractor, subcontractor or Contractor's invitees while on the Railway Property must be reported immediately (by phone mail if unable to contact in person) to the Railway's Project Engineer. The Non-Employee Personal Injury Data Collection Form contained herein is to be completed and sent by Fax to the Railway at 1 (817) 352-7595 and to the Railway's Project Engineer no later than the close of shift on the date of the injury.

NON-EMPLOYEE PERSONAL INJURY DATA COLLECTION

INFORMATION REQUIRED TO BE COLLECTED PURSUANT TO FEDERAL REGULATION. IT SHOULD BE USED FOR COMPLIANCE WITH FEDERAL REGULATIONS ONLY AND IS NOT INTENDED TO PRESUME ACCEPTANCE OF RESPONSIBILITY OR LIABILITY.

1. Accident City/St
2. Date: _____ Time: _____ County:
3. Temperature:
4. Weather
(if non-Railway location)
5. Social Security #
6. Name (last, first, mi)
7. Address: Street: _____ City:
St. _____ Zip: _____
8. Date of Birth: _____ and/or Age _____ Gender:
(if available)
9. (a) Injury: _____ (b) Body Part:
(i.e. (a) Laceration (b) Hand)
11. Description of Accident (To include location, action, result, etc.):
12. Treatment:
 First Aid Only
 Required Medical Treatment
 Other Medical Treatment
13. Dr. Name _____ 30. Date:

14. Dr. Address:
Street: _____ City:
St: _____ Zip: _____
15. Hospital Name:
16. Hospital Address:
Street: _____ City: _____ St:
_____ Zip: _____
17. Diagnosis:

**FAX TO RAILWAY AT (817) 352-7595
AND COPY TO RAILWAY ROADMASTER FAX**

EXHIBIT C-1(A)

**CONTRACTOR'S RIGHT OF ENTRY
For C&M Work**

**BNSF RAILWAY COMPANY
Attention: Project Engineer**

Gentlemen:

The undersigned (hereinafter, the "Contractor"), has entered into a contract (the "Contract") dated _____, 20__ with the City of Lincoln, Nebraska ("City") for the performance of certain work ("C&M Work") in connection with the construction of entertainment, recreation, lodging, offices, retail and/or other complementary and/or supporting facilities in Lincoln, Nebraska (collectively, the "West Haymarket Project"). The work to be performed under this Agreement is deemed to be "City C&M Work" (as defined in that certain Construction and Maintenance Agreement ["C&M Agreement"] dated _____, 2010, between BNSF Railway Company and the City). Performance of such C&M Work will necessarily require Contractor to enter BNSF RAILWAY COMPANY ("Railway") right of way and property ("Railway Property"). The Contract provides that no C&M Work will be commenced within Railway Property until the Contractor employed in connection with said C&M Work for the **City of Lincoln, Nebraska** (i) executes and delivers to Railway an Agreement in the form hereof, and (ii) provides insurance of the coverage and limits specified in such Agreement and Section 3 herein. If this Agreement is executed by a party who is not the Owner, General Partner, President or Vice President of Contractor, Contractor must furnish evidence to Railway certifying that the signatory is empowered to execute this Agreement on behalf of Contractor.

Accordingly, in consideration of Railway granting permission to Contractor to enter upon Railway Property and as an inducement for such entry, Contractor, effective on the date of the Contract, has agreed and does hereby agree with Railway as follows:

Section 1. RELEASE OF LIABILITY AND INDEMNITY

TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR SHALL RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS RAILWAY AND RAILWAY'S AFFILIATED COMPANIES, PARTNERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, DIRECTORS, SHAREHOLDERS, EMPLOYEES AND AGENTS FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS AND ATTORNEYS' FEES) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON (INCLUDING, WITHOUT LIMITATION, THE EMPLOYEES OF THE PARTIES HERETO) OR ENTITY DIRECTLY OR INDIRECTLY (COLLECTIVELY, "LIABILITIES") ARISING OUT OF, RESULTING FROM OR CAUSALLY RELATED TO (IN WHOLE OR IN PART):

(i) ANY RIGHTS OR INTERESTS GRANTED TO CONTRACTOR PURSUANT TO THIS AGREEMENT;

(ii) THE USE, OCCUPANCY OR PRESENCE OF CONTRACTOR AND CONTRACTOR PARTIES (DEFINED BELOW) AND/OR ANY WORK PERFORMED BY CONTRACTOR AND CONTRACTOR PARTIES IN, ON, OR ABOUT RAILWAY'S PROPERTY OR RIGHT-OF-WAY AND/OR THE WEST HAYMARKET PROJECT, INCLUDING, WITHOUT LIMITATION, OPERATION OF THE PEDESTRIAN BRIDGE, SECURITY FENCING, OR STORM WATER MITIGATION BY ANY CONTRACTOR PARTY (DEFINED BELOW);

(iii) ANY ENVIRONMENTAL MATTERS ARISING FROM CONTRACTOR AND/OR CONTRACTOR PARTIES' USE AND OCCUPANCY OF RAILWAY'S RIGHT-OF-WAY OR OTHER RAILWAY PROPERTY, INCLUDING WITHOUT LIMITATION USE AND OCCUPANCY OF RAILWAY'S RIGHT-OF-WAY OR OTHER RAILWAY PROPERTY IN CONNECTION WITH PERFORMANCE OF THE C&M WORK;

(iv) ANY DAMAGE TO OR DESTRUCTION OF ANY TELECOMMUNICATION LINES IN CONNECTION WITH THE WEST HAYMARKET PROJECT BY CONTRACTOR AND/OR CONTRACTOR PARTIES, INCLUDING BUT NOT LIMITED TO (A) ANY INJURY TO OR DEATH OF ANY PERSON EMPLOYED BY OR ON BEHALF OF ANY TELECOMMUNICATIONS COMPANY, AND/OR ITS CONTRACTORS, AGENTS AND/OR EMPLOYEES AS A RESULT OF SUCH DAMAGE OR DESTRUCTION, AND/OR (B) ANY CLAIM OR CAUSE OF ACTION FOR ALLEGED LOSS OF PROFITS OR REVENUE BY, OR LOSS OF SERVICE BY A CUSTOMER OR USER OF SUCH TELECOMMUNICATION COMPANY(IES) AS A RESULT OF SUCH DAMAGE OR DESTRUCTION;

(v) CONTRACTOR'S BREACH OF THE TERMS AND CONDITIONS OF THIS AGREEMENT; OR

(vi) ANY ACT OR OMISSION OF CONTRACTOR OR ITS OFFICERS, AGENTS, INVITEES, EMPLOYEES OR SUBCONTRACTORS (SUCH OFFICERS, AGENTS, INVITEES, EMPLOYEES AND SUBCONTRACTORS BEING REFERRED TO HEREIN INDIVIDUALLY AS A "CONTRACTOR PARTY" AND COLLECTIVELY, "CONTRACTOR PARTIES"), OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM, OR ANYONE THEY CONTROL OR EXERCISE CONTROL OVER.

THE LIABILITY ASSUMED BY CONTRACTOR WILL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT ANY DAMAGE, DESTRUCTION, INJURY OR DEATH WAS OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF RAILWAY, ITS AGENTS, SERVANTS, EMPLOYEES OR OTHERWISE, BUT EXCLUDING CLAIMS WHOLLY CAUSED BY RAILWAY'S SOLE NEGLIGENCE AND EXCLUDING CLAIMS TO THE EXTENT THAT SUCH CLAIMS ARE CAUSED BY THE WILLFUL MISCONDUCT OR GROSS NEGLIGENCE OF RAILWAY.

FURTHER, TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR AGREES, REGARDLESS OF ANY NEGLIGENCE OR ALLEGED NEGLIGENCE OF RAILWAY, TO INDEMNIFY, DEFEND AND HOLD HARMLESS RAILWAY AGAINST AND ASSUME THE DEFENSE OF ANY LIABILITIES ASSERTED AGAINST OR SUFFERED BY RAILWAY UNDER OR RELATED TO THE FEDERAL EMPLOYERS' LIABILITY ACT ("FELA") WHENEVER EMPLOYEES OF CONTRACTOR OR ANY CONTRACTOR PARTY CLAIM OR ALLEGE THAT THEY ARE EMPLOYEES OF RAILWAY OR OTHERWISE. THIS INDEMNITY SHALL ALSO EXTEND, ON THE SAME BASIS, TO FELA CLAIMS BASED ON ACTUAL OR ALLEGED VIOLATIONS OF ANY FEDERAL, STATE OR LOCAL LAWS OR REGULATIONS, INCLUDING BUT NOT LIMITED TO THE SAFETY APPLIANCE ACT, THE LOCOMOTIVE INSPECTION ACT, THE OCCUPATIONAL SAFETY AND HEALTH ACT, THE RESOURCE CONSERVATION AND RECOVERY ACT, AND ANY SIMILAR STATE OR

FEDERAL STATUTE.

Contractor further agrees, at its expense, in the name and on behalf of Railway, that it will adjust and settle all Liabilities against Railway, and will, at Railway's discretion, appear and defend any suits or actions of law or in equity brought against Railway on any claim or cause of action arising out of any liability assumed by Contractor under this Agreement for which Railway is liable or is alleged to be liable. Railway will give notice to Contractor, in writing, of the receipt or dependency of such claims and thereupon Contractor must proceed to adjust and handle to a conclusion such claims, and in the event of a suit being brought against Railway, Railway may forward summons and complaint or other process in connection therewith to Contractor, and Contractor, at Railway's discretion, must defend, adjust, or settle such suits and protect, indemnify, and save harmless Railway from and against all Liabilities arising out of any such claims or suits, provided that the foregoing indemnification obligations do not include Liabilities arising wholly out of the sole negligence of Railway or to the extent caused by the gross negligence or willful misconduct of Railway.

In addition to any other provision of this Agreement, in the event that all or any portion of this Article shall be deemed to be inapplicable for any reason, including without limitation as a result of a decision of an applicable court, legislative enactment or regulatory order, the parties agree that this Article shall be interpreted as requiring Contractor to indemnify Railway to the fullest extent permitted by applicable law. **THROUGH THIS AGREEMENT THE PARTIES EXPRESSLY INTEND FOR CONTRACTOR TO INDEMNIFY RAILWAY FOR RAILWAY'S ACTS OF NEGLIGENCE, BUT EXCLUDING CLAIMS WHOLLY CAUSED BY RAILWAY'S SOLE NEGLIGENCE AND EXCLUDING CLAIMS TO THE EXTENT THAT SUCH CLAIMS ARE CAUSED BY THE WILLFUL MISCONDUCT OR GROSS NEGLIGENCE OF RAILWAY.**

It is mutually understood and agreed that the assumption of liabilities and indemnification provided for in this Agreement survive any termination of this Agreement.

Section 2. TERM

This Agreement is effective from the date of the Contract until (i) the completion of the project set forth herein, and (ii) full and complete payment to Railway of any and all sums or other amounts owing and due hereunder.

Section 3. INSURANCE

Contractor must, at its sole cost and expense, procure and maintain during the life of this Agreement the following insurance coverage:

- A. Commercial General Liability Insurance. This insurance shall contain broad form contractual liability with a combined single limit of a minimum of \$5,000,000.00 per occurrence, and \$10,000,000.00 in the aggregate, but in no event less than the amount otherwise carried by the Contractor. Coverage must be purchased on a post 1998 ISO occurrence form or equivalent and include coverage for, but not limited to, the following:
- Bodily Injury and Property Damage
 - Personal Injury and Advertising Injury
 - Fire legal liability
 - Products and completed operations

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

- The definition of insured contract shall be amended to remove any exclusion or other limitation for any work being done within 50 feet of railroad property.
- Waiver of subrogation in favor of and acceptable to Railroad.
- Additional insured endorsement in favor of and acceptable to Railroad.
- Separation of insureds.
- The policy shall be primary and non-contributing with respect to any insurance carried by Railroad.

It is agreed that the workers' compensation and employers' liability related exclusions in the Commercial General Liability insurance policy(s) required herein are intended to apply to employees of the policy holder and shall not apply to Railroad employees.

No other endorsements limiting coverage as respects obligations under this Agreement may be included on the policy with regard to the work being performed under this Agreement.

- B. **Business Automobile Insurance.** This insurance shall contain a combined single limit of at least \$1,000,000 per occurrence, and include coverage for, but not limited to the following:

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

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

- Waiver of subrogation in favor of and acceptable to Railroad.
- Additional insured endorsement in favor or and acceptable to Railroad.
- Separation of insureds.
- The policy shall be primary and non-contributing with respect to any insurance carried by Railroad.

- C. **Workers Compensation and Employers Liability Insurance.** This insurance shall include coverage for, but not limited to:

- Contractor's statutory liability under the worker's compensation laws of the state(s) in which the work is to be performed. If optional under State law, the insurance must cover all employees anyway.
- Employers' Liability (Part B) with limits of at least \$500,000 each accident, \$500,000 by disease policy limit, \$500,000 by disease each employee.

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

- Waiver of subrogation in favor of and acceptable to Railroad.

- D. **Railroad Protective Liability Insurance.** This insurance shall name only the Railroad as the Insured with coverage of at least \$5,000,000 per occurrence and \$10,000,000 in the aggregate. The policy shall be issued on a standard ISO form CG 00 35 10 93 and include the following:

- Endorsed to include the Pollution Exclusion Amendment (ISO form CG 28 31 10 93)
- Endorsed to include the Limited Seepage and Pollution Endorsement.
- Endorsed to remove any exclusion for punitive damages.
- No other endorsements restricting coverage may be added.

- The original policy must be provided to Railroad prior to performing any work or services under this Agreement

In lieu of providing a Railroad Protective Liability Policy, Contractor may participate in BNSF's Blanket Railroad Protective Liability Insurance Policy available to Contractor.

Other Requirements:

All policies (applying to coverage listed above) must not contain an exclusion for punitive damages and certificates of insurance must reflect that no exclusion exists.

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

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

Prior to commencing the C&M Work, Contractor must furnish to Railroad acceptable certificate(s) of insurance including an original signature of the authorized representative evidencing the required coverage, endorsements, and amendments. The policy(ies) must contain a provision that obligates the insurance company(ies) issuing such policy(ies) to notify Railroad in writing at least 30 days prior to any cancellation, non-renewal, substitution or material alteration. This cancellation provision must be indicated on the certificate of insurance. Upon request from Railroad, a certified duplicate original of any required policy must be furnished. Certificate(s) should be sent to the following address:

Ebix BPO
PO Box 12010-BN
Hemet, CA 92546-8010
Fax number: 951-652-2882
Email: bnsf@ebix.com

Any insurance policy must be written by a reputable insurance company reasonably acceptable to Railroad or with a current Best's Guide Rating of A- and Class VII or better, and authorized to do business in the state(s) in which the service is to be provided.

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

Not more frequently than once every five years, Railroad may reasonably modify the required insurance coverage to reflect then-current risk management practices in the railroad industry and underwriting practices in the insurance industry.

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

Failure to provide evidence as required by this section will entitle, but not require, Railroad to immediately suspend work under this Agreement until such evidence is provided. Acceptance of a certificate that does not comply with this section will not operate as a waiver of Contractor's obligations hereunder.

The fact that insurance (including, without limitation, self-insurance) is obtained by Contractor will not be deemed to release or diminish the liability of Contractor including, without limitation, liability under the indemnity provisions of this Agreement. Damages recoverable by Railroad will not be limited by the amount of the required insurance coverage.

For purposes of this section, Railroad means "Burlington Northern Santa Fe, LLC", "BNSF Railway Company" and the subsidiaries, successors, assigns and affiliates of each.

Section 4. EXHIBIT C CONTRACTOR REQUIREMENTS

The Contractor must observe and comply with all provisions, obligations, requirements and limitations contained in the Contract, and the Contractor Requirements set forth on Exhibit C attached to this Agreement and the Contract, including, but not be limited to, payment of all costs incurred for any damages to Railway roadbed, tracks, and/or appurtenances thereto, resulting from use, occupancy, or presence of its employees, representatives, or agents or subcontractors on or about the construction site.

Section 5. TRAIN DELAY

Contractor is responsible for and hereby indemnifies and holds harmless Railway (including its affiliated railway companies, and its tenants) for, from and against all damages arising from any unscheduled delay to a freight or passenger train which affects Railway's ability to fully utilize its equipment and to meet customer service and contract obligations. Contractor will be billed, as further provided below, for the economic losses arising from loss of use of equipment, contractual loss of incentive pay and bonuses and contractual penalties resulting from train delays, whether caused by Contractor, or subcontractors, or by the Railway performing work under this Agreement. Railway agrees that it will not perform any act to unnecessarily cause train delay.

For loss of use of equipment, Contractor will be billed the current freight train hour rate per train as determined from Railway's records. Any disruption to train traffic may cause delays to multiple trains at the same time for the same period.

Additionally, the parties acknowledge that passenger, U.S. mail trains and certain other grain, intermodal, coal and freight trains operate under incentive/penalty contracts between Railway and its customer(s). Under these arrangements, if Railway does not meet its contract service commitments, Railway may suffer loss of performance or incentive pay and/or be

subject to penalty payments. Contractor is responsible for any train performance and incentive penalties or other contractual economic losses actually incurred by Railway which are attributable to a train delay caused by Contractor or its subcontractors.

The contractual relationship between Railway and its customers is proprietary and confidential. In the event of a train delay covered by this Agreement, Railway will share information relevant to any train delay to the extent consistent with Railway confidentiality obligations. Damages for train delay are currently \$382.20 per hour per incident. **THE RATE THEN IN EFFECT AT THE TIME OF PERFORMANCE BY THE CONTRACTOR HEREUNDER WILL BE USED TO CALCULATE THE ACTUAL COSTS OF TRAIN DELAY PURSUANT TO THIS AGREEMENT.**

Contractor and its subcontractors must give Railway's Project Engineer (402) 458-7537 thirty (30) days' minimum advance notice of the times and dates for proposed work windows. Railway and Contractor will establish mutually agreeable work windows for the project. Railway has the right at any time to revise or change the work windows due to train operations or service obligations. Railway will not be responsible for any additional costs or expenses resulting from a change in work windows. Additional costs or expenses resulting from a change in work windows shall be accounted for in Contractor's expenses for the project.

Contractor and subcontractors must plan, schedule, coordinate and conduct all Contractor's work so as to not cause any delays to any trains.

[Signature page follows]

Kindly acknowledge receipt of this letter by signing and returning to the Railway two original copies of this letter, which, upon execution by Railway, will constitute an Agreement between us.

(Contractor)

BNSF Railway Company

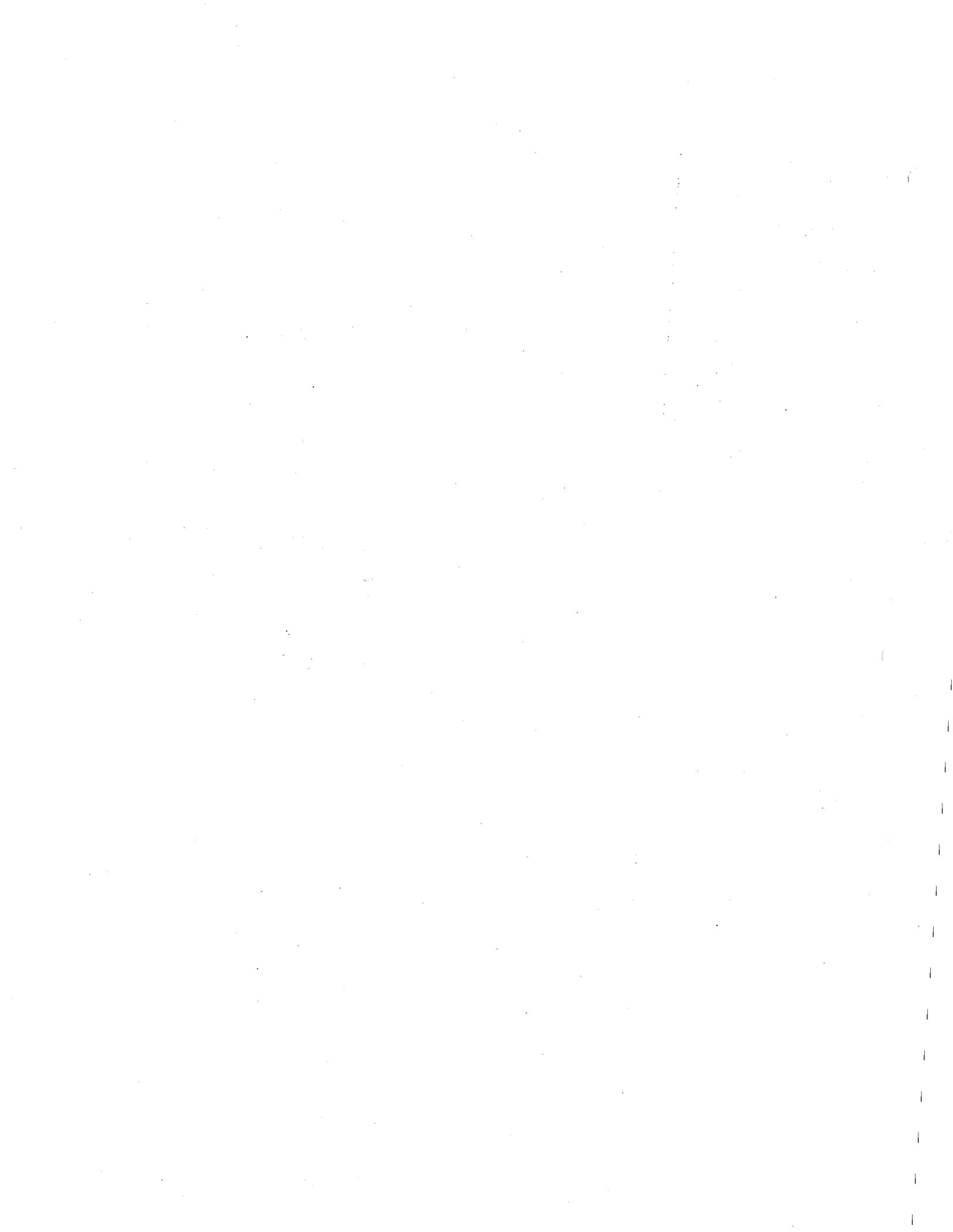
By: _____
Printed Name: _____
Title: _____

By: _____
Name: _____
Project Engineer

Contact Person: _____
Address: _____

Accepted and effective this _____ day of 20__.

City: _____ State: _____ Zip: _____
Fax: _____
Phone: _____
E-mail: _____



ADDENDUM NO. 8

WEST HAYMARKET JOINT PUBLIC AGENCY
M & N STREET, PKG 1
PROJECT 870302
SPEC. NO. 11-152

TO ALL PROSPECTIVE BIDDERS:

1. The bid date shall remain Tuesday, July 19, 2011 at 12:00 noon
2. Attached is a Special Provision for the Portland Cement Concrete, the entire Chapter 12

ASPHALTIC CONCRETE CONSTRUCTION

ARTICLE	TITLE	
6.00	GENERAL	602
6.01	MATERIALS	603
	A. ASPHALT BINDER	603
	B. TACK COATS	604
	C. MINERAL AGGREGATES	604
	D. RECLAIMED ASPHALT PAVEMENT (RAP)	606
	E. NON-WOVEN PAVEMENT OVERLAY FABRIC	606
6.02	ASPHALTIC CONCRETE MIXTURES	607
	A. GENERAL	607
	B. SUPERPAVE VOLUMETRIC MIX DESIGN	608
	C. PRODUCTION SAMPLING AND TESTING	613
6.03	EQUIPMENT	614
	A. GENERAL	614
	B. MIXING PLANT	615
	C. TRUCK SCALES	617
	D. DISTRIBUTORS	617
	E. ASPHALT SPREADER AND FINISHER	618
	F. ROLLERS	618
	G. SURFACE MILLING MACHINE	619
	H. TRUCKS	619
6.04	CONSTRUCTION METHODS	620
	A. SUBGRADE	620
	B. CLEANING	620
	C. SURFACE MILLING	620
	1. BASIS OF PAYMENT	620
	D. CORRECTION OF PAVEMENT FAILURES	620
	E. TACKING	621
	F. NON-WOVEN PAVEMENT OVERLAY FABRIC PLACEMENT	621
	1. BASIS OF PAYMENT	622
	G. HAULING	622
	H. JOINTING	622
	I. SPREADING	623
	J. COMPACTION	623
	K. ASPHALTIC CONCRETE CURB	624
	1. BASIS OF PAYMENT	624
	L. COLD WEATHER PLACEMENT	624
6.05	DENSITY CORE SAMPLES	625
	A. GENERAL	625
	B. COMPACTION REQUIREMENTS	625
	C. OVERLAYS	625
6.06	BASIS OF PAYMENT	626

ASPHALTIC CONCRETE CONSTRUCTION

TABLE	TITLE	
6.01 A	MINERAL FILLER REQUIREMENTS	606
6.02 A	ASPHALTIC CONCRETE MIX REQUIREMENTS SUMMARY	607
6.02 B	MINIMUM BINDER REQUIREMENTS	610
6.02 C	GYRATORY COMPACTION EFFORT	610
6.02 D	COMPACTION CRITERIA	610
6.02 E	VOIDS IN MINERAL AGGREGATE *	610
6.02 F	VOIDS FILLED WITH ASPHALT *	610
6.02 G	COARSE AGGREGATE ANGULARITY (ASTM D 5821)	610
6.02 H	FINE AGGREGATE ANGULARITY (AASHTO T 304 METHOD A)	611
6.02 I	FLAT AND ELONGATED PARTICLES* (ASTM D 4791)	611
6.02 J	CLAY CONTENT (AASHTO T 176)	612
6.02 K	GRADATION CONTROL POINTS FOR 0.500 (½) INCH NOMINAL SIZE	612
6.02 L	GRADATION CONTROL POINTS FOR SPR	612
6.02 M	ASPHALTIC CONCRETE PRODUCTION TOLERANCES	613
6.02 N	AGGREGATE ADJUSTMENT TOLERANCE	614
6.04 A	COLD WEATHER PLACEMENT	624
6.06 A	DENSITY PAYMENT	626
6.06 B	AIR VOID PAYMENT	626

ASPHALTIC CONCRETE CONSTRUCTION

6.00 GENERAL

Asphaltic Concrete shall consist of an intimate mixture of naturally occurring mineral aggregates of required gradations and asphalt binder content as hereinafter specified. Unless otherwise specified or approved by the City Engineer, neither industrial nor manufacturing byproducts will be allowed in the mixture. Reclaimed Asphalt Pavement (RAP) shall be allowed as described later in these Standard Specifications.

Asphaltic Concrete mixtures shall be classified as:

- Type 1 (for use as surface course on arterial streets)
- Type 2 (for use as surface course on non-arterial streets)
- Type 3 (for use in base lifts, parking lots and temporary pavement)
- Type 4 (for use in pavement patching)

This Work shall be defined as the construction of a completely new pavement structure or reconstruction of an existing pavement including earthwork, appurtenances, and all related construction required to connect to existing pavement around the limits of construction.

Patching shall be defined as pavement replacement of areas requiring small quantities of asphaltic concrete per placement such as utility crossing repair or larger quantity placements such as longitudinal cuts for utility work not requiring curb to curb asphalt replacement, and for other similar situations as directed by the Engineer.

Asphaltic Concrete Pavement shall consist of an asphaltic concrete wearing surface placed on an asphaltic concrete or Portland Cement Concrete (PCC) base designed in accordance with The City of Lincoln Standard Plans. The wearing surface and asphaltic concrete base shall be of a type or types of asphaltic concrete as shown on the plans and which meet the Mix Design and Aggregate Criteria requirements describe below unless otherwise specified.

The thickness of the wearing surface or overlay shall be as shown on the plans or approved by the Engineer. The base shall be of a thickness as shown on the plans. Lift thickness of the first asphaltic concrete base lift shall be between 3 inches and 5 inches after compaction to required density. All subsequent asphaltic concrete base lifts shall be between 1 1/2 and 3 inches in thickness after compaction to required density. PCC base shall meet the requirements of the City of Lincoln Standard Specifications.

The factor of 141 pounds per cubic foot shall be used to compute asphaltic concrete quantities for design purposes.

6.01 MATERIALS

A. ASPHALT BINDER

The suppliers for asphalt binder used in City of Lincoln projects shall be certified by the Nebraska Department of Roads (NDOR) to supply Performance Graded Binder in Nebraska.

The asphalt binder for all mixes shall conform to the requirements of AASHTO M 320 for Performance Graded Asphalt Binder and must meet all requirements for use on NDOR projects. The PG Binder shall meet or exceed both the upper and lower temperature targets of the PG Binder grades as shown in Table 6.02 A of these Standard Specifications unless directed otherwise by the City Engineer.

In addition, unless otherwise specified or directed by the City Engineer, the PG Binder shall be a binder which incorporates a blend of base asphalt and elastomer modifiers of styrene-butadiene (SB), styrene-butadiene-styrene (SBS) or styrene-butadiene-ruber (SBR).

The composite material shall be thoroughly blended at the asphalt refinery or terminal prior to being loaded into the transport vehicle. The polymer modified binder shall be heat and storage stable and shall not separate when handled and stored per the suppliers storage and handling recommendations.

A Material Certification from the PG Binder Supplier shall be submitted prior to construction. The Material Certification must state that acid has not been used. The Material Certification must also state that the material has not been air blown or oxidized.

When moisture susceptibility testing indicates the need for an anti-stripping additive, it shall be added by the PG Binder Supplier. The Contractor shall be compensated for the cost of the anti-stripping additive at the invoice price of the additive. The bill of lading or delivery ticket shall state the binder grade, specific gravity, and the percentage of anti-strip additive.

6.01 MATERIALS (Continued)

B. TACK COATS

1. Rapid-Curing Cut-Back Asphalts

The rapid-curing cut-back asphalts to be used as tack coats shall conform to the requirements of AASHTO M 81, Cut-Back Asphalt (Rapid-Curing Type).

This Specification covers liquid petroleum products, produced by fluxing an asphaltic base with suitable petroleum distillates.

2. Emulsified Asphalts

Emulsified asphalts shall conform to the following Specifications:

- ASTM Designation D 977 - Standard Spec. for Emulsified Asphalts
- ASTM Designation D 2397 - Standard Spec. for Cationic Emulsified Asphalts
- ASTM Designation D 140 - Standard Practice for Sampling Bituminous Materials
- ASTM Designation D 244 - Standard Testing Emulsified Asphalts

Emulsified asphalts covered by these Standard Specifications shall be diluted in the distributor with sufficient potable water to reduce the asphalt residue in the mixture to approximately thirty percent (30%). Emulsified asphalt shall be homogeneous within the thirty (30) days after delivery. If separation of the emulsified asphalt has not been caused by freezing, thorough mixing shall be used to achieve a homogeneous mixture.

C. MINERAL AGGREGATES

1. General

Mineral aggregates for asphaltic concrete shall conform to the following requirements except where modified herein:

- ASTM Designation D 692 - Standard Specification for Coarse Aggregate for Bituminous Paving Mixture
- ASTM Designation D 1073 - Standard Specification for Fine Aggregate for Bituminous Paving Mixture
- ASTM Designation D 242 - Standard Specification for Mineral Filler for Bituminous Paving Mixture

6.01 MATERIALS (Continued)

C. MINERAL AGGREGATES (Continued)

1. General (Continued)

Mineral aggregates shall be crushed rock, broken stone, crushed gravel, sand-gravel, coarse sand, fine sand or a mixture of these materials composed of clean, hard, durable, and non-coated particles, free from injurious quantities of clay, dust, soft or flaky particles, loams, shale, alkali, organic matter, or other deleterious material. Crushed rock shall be crushed limestone, granite, quartzite, or other ledge rock approved for the intended purpose by the City Engineer and shall not contain deleterious substances in a quantity exceeding three and one-half percent (3.5%) of any combination of shale, clay lumps, coal, or soft particles with shale and clay lumps not to exceed one and one-half percent (1.5%).

The absorption of water by crushed rock for use in asphaltic concrete shall not exceed three and two-tenths percent (3.2%) by weight.

The mineral aggregate from different sources of supply shall not be mixed or stored in the same pile, nor used alternately in the same class of construction or mixed without permission from the City's Project Manager. All fractions of a crushed rock gradation shall be produced from the same type of material.

The chemical and physical characteristics of the fraction passing the # 4 sieve shall be substantially the same as those of the material which may be produced in the laboratory from the fraction which is retained on the # 4 sieve.

Mineral aggregates shall have a soundness loss of not more than 12 percent by weight at the end of 5 cycles using sodium sulfate solution.

Mineral aggregates shall be tested prior to use and shall conform to the above requirements based on the following test designations.

ASTM C 127	-	Specific Gravity & Absorption of Coarse Aggregates
ASTM D 75	-	Standard Practice for Sampling Aggregates
ASTM C 136	-	Standard Test Method for Sieve Analysis of Fine & Coarse Aggregates
ASTM D 546	-	Standard Test Method for Sieve Analysis of Mineral Filler for Bituminous Paving Mixtures
ASTM C 128	-	Specific Gravity & Absorption of Fine Aggregates
ASTM C 131	-	Standard Test Method for Resistance to Degradation of Small Size Coarse Aggregate by Abrasion Impact in the Los Angeles Machine
ASTM C 88	-	Standard Test Method for Soundness of Aggregate
ASTM D 693	-	Standard Spec. for Crushed Aggregate for Macadam Pavements

6.01 MATERIALS (Continued)

C. MINERAL AGGREGATES (Continued)

2. Mineral Fillers

Mineral filler shall consist of pulverized soil, pulverized crushed rock, broken stone, gravel, sand-gravel, sand, or a mixture of these materials that conforms to the following requirements:

TABLE 6.01 A - MINERAL FILLER REQUIREMENTS

Criteria	Minimum	Maximum
Total Percent Passing the #50 (300 μm) Sieve	95	100
Total Percent Passing the #200 (75 μm) Sieve	80	100
Plasticity Index non-soil material passing #200 (75 μm)	0	3
Plasticity Index for Soil	0	6

D. RECLAIMED ASPHALT PAVEMENT (RAP)

Reclaimed Asphalt Pavement (RAP) may come from the job site or the Contractor's stockpile. In either case, the Contractor will be responsible for testing the RAP prior to use. Tests shall include at a minimum, AC content and gradation. Test results shall be reported to the City Testing Lab for approval prior to use.

E. NON-WOVEN PAVEMENT OVERLAY FABRIC

Non-woven overlay fabric shall be furnished by an ISO approved manufacturer of polypropylene or polyester geosynthetic fabric and shall be needle punched and heat treated on one side and shall conform to the following requirements:

PROPERTY	MINIMUM	ASTM
Mass, oz./sq.yd.	4.1	D 3776
Tensile Strength, lb.	102	D 4642
Elongation at Break, %	50	D 1682
Mullen Burst Strength, lb.	200	D 3786
Asphalt Retention, gal./sq.yd.	0.21	D 6140

Acceptance shall be based upon manufacturer's certification of conformity.

6.02 ASPHALTIC CONCRETE MIXTURES

A. GENERAL

Asphaltic concrete mixtures shall be designed by the Contractor to meet the Mix Design Criteria for the appropriate mix types as shown in these Standard Specifications.

Unless otherwise specified or approved by the City Engineer, Asphaltic Concrete for Type 1 Mix shall meet or exceed all of the requirements for "Superpave-SP4 Special" as described in these Standard Specifications.

Unless otherwise specified or approved by the City Engineer, Asphaltic Concrete for Mix Types 2 and 3 shall meet or exceed all of the requirements for "Superpave-SPR" as described in these Standard Specifications.

Unless otherwise specified or approved by the City Engineer, Asphaltic Concrete for Type 4 Mix shall meet or exceed all of the requirements of the Asphaltic Concrete Mix Requirements Summary table shown below and all other applicable requirements of this specification.

TABLE 6.02 A - ASPHALTIC CONCRETE MIX REQUIREMENTS SUMMARY

Type (Use)	Mix Requirements	AC Grade	Aggregate Blend		
			% RAP (Max.)	Virgin Agg.	Gradation Requirements
1 Surface Course Arterial Streets	SP4 Special (Superpave) 5.2% Min. AC by weight of mix	* PG 64-34	25%	Limestone 80% Max.	½" Band (Superpave)
2 Surface Course Non-Arterial Streets	SPR (Superpave) 5.0% Min. AC by weight of mix	PG 64-34	35%	Limestone 80% Max.	SPR Band (Superpave)
** 3 Base Lifts, Parking Lots and Temporary Pavement	SPR (Superpave) 5.0% Min. AC by weight of mix	PG 64-34	50%	Limestone 80% Max.	SPR Band (Superpave)
*** 4 Patching	5.0% Min. AC by weight of mix	PG 58-28	50%	Limestone 80% Max. **** Crushed 80% Min.	% Passing ¾" - 100% Min. #200 - 10% Max.

* Type 1 mix shall use PG 70-28 if mix design contains less than 15% RAP.

** Type 3 mixtures will not require mix design verification but must be approved by the Engineer prior to use.

*** Type 4 mix for patching must be approved by the Engineer prior to use.

**** Indicates aggregates crushing by mechanical means.

6.02 ASPHALTIC CONCRETE MIXTURES (Continued)

B. SUPERPAVE VOLUMETRIC MIX DESIGN

The Contractor will be required to define properties using a gyratory compactor that has met the Superpave evaluation test procedures, according to the gyration levels indicated for the mix type specified.

The mix formula shall be determined by the Contractor from a mix design for each mixture. A volumetric mixture design in accordance with the latest edition of the Asphalt Institute Publication, SP-2 will be required. However, the mixture for the Superpave specimens and maximum specific gravity mixture shall be short-term aged for two hours. Mixing and compaction temperatures shall be in accordance with the latest NDOR specifications.

The following test procedures shall apply:

- AASHTO R 30 - Practice for Short and Long-Term aging of Hot Mix Asphalt
- AASHTO T 84 - Specific Gravity and Absorption of Fine Aggregate
- AASHTO T 85 - Specific Gravity and Absorption of Coarse Aggregate
- AASHTO PP 19 - Practice for Volumetric Analysis of Compacted Hot Mix Asphalt
- AASHTO T 312 - Method for Preparing and Determining the Density of Hot Mix Asphalt Specimens by Means of the Superpave Gyratory Compactor
- AASHTO T 209 - Theoretical Maximum Specific Gravity and Density of Bituminous Paving Mixtures
- AASHTO T 283 - Resistance of Compacted Bituminous Mixture to Moisture induced Damage

The optimum binder content shall be the binder content that produces required air voids, at Ndes, in the plant produced mix. The design shall have at least four points, including a minimum of two points above and one point below the optimum. The amount of un-compacted mixture shall be determined in accordance with AASHTO T 209.

Each Superpave mixture shall be tested by the Contractor for moisture susceptibility in accordance with AASHTO T 283. The loose mixture shall be short-term aged for two hours in accordance with AASHTO R30. The 6-inch specimens shall be compacted in accordance with AASHTO T 312 to 7 percent air voids at 95-mm in height and evaluated to determine if the minimum Tensile Strength Ratio (TSR) of 80 percent has been met. If the mixture has not met the minimum TSR value, the Contractor shall have the option of modifying the mixture, as approved by the City Engineer, and retesting to verify that the minimum TSR of 80 percent has been achieved or by having an approved liquid anti-stripping additive added to the PG Binder, by the PG Binder Supplier, at a dosage rate, such that the mix will meet the minimum TSR of 80 percent.

All data shall be submitted with the mix design for approval. During production, the Contractor may be required by the City's Project Manager, to provide and test additional specimens of the plant produced asphaltic concrete for moisture susceptibility. A TSR test result of less than 80 percent will require mixture modification(s) and a sample from subsequent lots will be tested by the Contractor until a TSR value of at least 80 percent is achieved.

Changes in the types or sources of aggregates or binder may require a new job mix formula, mix design, and moisture susceptibility test. If required, the new proposed job mix formula shall be in accordance with the requirements as stated above and submitted 5 working days prior to use for approval.

6.02 ASPHALTIC CONCRETE MIXTURES (Continued)

B. SUPERPAVE VOLUMETRIC MIX DESIGN (Continued)

1. MATERIALS SAMPLING AND TESTING

At the beginning of each year and at least 14 days before production of asphaltic concrete, the Contractor shall submit, in writing, a tentative job mix formula and material samples as described below, for approval, to the City of Lincoln Materials Testing Laboratory. The job mix formula shall identify the mineral aggregates and mineral filler, if needed, with the value of the percent passing each specified sieve for the individual and blended materials.

A 65 pound bag of each of the individual mineral aggregates and RAP, if used, shall also be submitted to the City of Lincoln Materials Testing Laboratory at this time. Each sample shall be marked to clearly indicate the type of material, name of the producer, and the pit location.

The Contractor shall submit, to the City of Lincoln Materials Testing Laboratory, three proportioned 10,000-gram samples of the blended aggregates and a 1 gallon sample of the asphalt binder to be used in the mixture. Whenever RAP is used, it shall be processed through an ignition oven and then combined proportionally with the virgin aggregate in one of the 10,000-gram samples. The remaining two 10,000-gram samples shall be made up of the unprocessed RAP combined proportionally with the virgin aggregate. Submitted with these samples shall be a copy of the mix design values obtained from tests performed by the Contractor. This mix design shall include at a minimum, the following information:

- The bulk specific gravity (Gsb) of the blended aggregate (The specific gravity shall be determined for the combined blend from the unwashed portion of the - #4 and the + #4 material in accordance with AASHTO T 84 & T 85 respectively)
- The target asphalt binder content by total mix
- The supplier, grade, and specific gravity of the PG Binder
- The maximum specific gravity of the combined mixture (Rice)
- The average bulk specific gravity and air voids at N initial (Nini), N design (Ndes), and N maximum (Nmax) of the compacted gyratory specimens
- Voids in the Mineral Aggregate (VMA) and Voids filled with Asphalt (VFA) at Ndes
- Fine Aggregate Angularity (FAA), Coarse Aggregate Angularity (CAA), Flat and Elongated Particles and Clay Content of the aggregate blend

2. MIX DESIGN CRITERIA

The design criteria for each mixture shall be determined from the following Tables.

The optimum binder content shall be the binder content that produces 4.0% air voids at Ndes for SP4 Special mixes and 3.0% at Ndes for SPR mixes in the plant produced mix.

6.02 ASPHALTIC CONCRETE MIXTURES (Continued)

B. SUPERPAVE VOLUMETRIC MIX DESIGN (Continued)

2. MIX DESIGN CRITERIA (Continued)

TABLE 6.02 B - MINIMUM BINDER REQUIREMENTS

Mix Type	Minimum Binder Content (% by wt. of mix)
1	5.2%
2 & 3	5.0%

TABLE 6.02 C - GYRATORY COMPACTION EFFORT

Asphaltic Concrete Type	Nini	Ndes	Nmax
SPR	7	65	100
SP4 Special	7	76	117

Average Design High Air Temperature = < 39 degrees C (102° F)

TABLE 6.02 D - COMPACTION CRITERIA

Mix Criteria	SPR	SP4
%Gmm at Nini		89.0 *
%Gmm at Ndes	96.0 - 98.0	
%Gmm at Nmax		98.0 *

* For Design purposes only.

TABLE 6.02 E - VOIDS IN MINERAL AGGREGATE *

Nominal Maximum Aggregate Size	Minimum VMA, Percent (Criteria at Ndes)
SPR	12.0
½ (0.500) inch	14.0

* For Design purposes only.

TABLE 6.02 F - VOIDS FILLED WITH ASPHALT *

Asphaltic Concrete Type	Design VFA, Percent
SPR	70 - 80
SP4 Special	65 - 75

* For Design purposes only.

3. AGGREGATE BLEND CRITERIA

a. Coarse Aggregate Angularity (CAA)

The coarse aggregate angularity value of the blended aggregate material shall meet or exceed the minimum values for the appropriate asphaltic concrete type shown in Table 6.02 G.

TABLE 6.02 G - COARSE AGGREGATE ANGULARITY (ASTM D 5821)

Asphaltic Concrete Type	CAA (minimum)
SPR	83
SP4 Special	85/80*

* Denotes two faced crushed requirements

6.02 ASPHALTIC CONCRETE MIXTURES (Continued)

B. SUPERPAVE VOLUMETRIC MIX DESIGN (Continued)

3. AGGREGATE BLEND CRITERIA (Continued)

a. Coarse Aggregate Angularity (CAA) (Continued)

Aggregate obtained from the residue of the ignition process shall not be used for the determination of CAA for mix design approval except when RAP material is specified and must be combined with the proportioned amount of virgin aggregate as defined by the mix design.

b. Fine Aggregate Angularity (FAA)

The fine aggregate angularity value of the blended aggregate material shall meet or exceed the minimum values for the appropriate asphaltic concrete type shown in Table 6.02 H.

The specific gravity for calculation of the FAA shall be based on a combined aggregate sample of material passing the No. 8 sieve and retained on the No. 100 sieve.

**TABLE 6.02 H - FINE AGGREGATE ANGULARITY
(AASHTO T 304 METHOD A)**

Asphaltic Concrete Type	FAA (minimum)
SPR	43.0
SP4 Special	45.0

Aggregate obtained from the residue of the ignition process shall not be used for the determination of FAA for mix design approval except when RAP material is specified and must be combined with the proportioned amount of virgin aggregate as defined by the mix design.

c. Flat and elongated particles

The coarse aggregate shall not contain flat and elongated particles exceeding the maximum value for the appropriate asphaltic concrete type shown in Table 6.02 I.

TABLE 6.02 I - FLAT AND ELONGATED PARTICLES* (ASTM D 4791)

Asphaltic Concrete Type	Percent, Maximum
SPR	10
SP4 Special	10

* Criterion based on a 5:1 maximum to minimum ratio

d. Clay Content

The Clay Content of the blended aggregate material shall be such that the Sand Equivalent Minimum value for the appropriate asphaltic concrete type as shown in Table 6.02 J shall be met or exceeded.

6.02 ASPHALTIC CONCRETE MIXTURES (Continued)

B. SUPERPAVE VOLUMETRIC MIX DESIGN (Continued)

3. AGGREGATE BLEND CRITERIA (Continued)

d. Clay Content (Continued)

TABLE 6.02 J - CLAY CONTENT (AASHTO T 176)

Asphaltic Concrete Type	Sand Equivalent, Minimum
SPR	45
SP4 Special	45

e. Gradation

The blended aggregate shall conform to the gradation requirements specified below for the appropriate nominal size.

The dust to binder ratio is the ratio of the percentage by weight of aggregate finer than the No. 200 sieve to the asphalt content expressed as a percent by weight of total mix. The dust to binder ratio shall be between 0.7 and 1.7. This shall be verified during mix design approval and production sample testing.

**TABLE 6.02 K - GRADATION CONTROL POINTS
FOR 0.500 (½) INCH NOMINAL SIZE**

Sieve	Control Points (percent passing)		Restricted Zone Boundary (percent passing)	
	Minimum	Maximum	Minimum	Maximum
3/4 inch	100.0			
½ inch	90.0	100.0		
3/8 inch		90.0		
No. 8	28.0	58.0	39.1	39.1
No. 16			25.6	31.6
No. 30			19.1	23.1
No. 50			15.5	15.5
No. 200	2.0	10.0		

TABLE 6.02 L - GRADATION CONTROL POINTS FOR SPR

Sieve	Control Points (percent passing)	
	Minimum	Maximum
3/4 inch	100.0	
3/8 inch	81.0	96.0
No. 8	50.0	60.0
No. 50	12.0	21.0
No. 200	4.0	9.0

6.02 ASPHALTIC CONCRETE MIXTURES (Continued)

C. PRODUCTION SAMPLING AND TESTING

During production, asphaltic concrete shall be sampled and tested for acceptance by the City on a lot basis. A minimum of one sample shall be required for each lot of asphaltic concrete. A lot is defined as each 500 tons or fraction thereof of each day's production. The location of the required samples shall be determined by the Engineer.

Tests shall include the following:

- AASHTO T 209 - Maximum specific gravity of the mix (Rice)
- ASTM C 136 - Standard Test Method for Sieve analysis of Fine and Coarse Aggregate
- AASHTO T312 - Method for Preparing and Determining the Density of Hot Mix Asphalt (HMA) Specimens by Means of the Superpave Gyrotory Compactor
- AASHTO T 166 - Bulk Specific Gravity of compacted Bituminous Mixtures using saturated surface-dry specimens
- AASHTO T 138 - Determining the Asphalt Binder Content of Hot Mix Asphalt (HMA) by the ignition method

TABLE 6.02 M - ASPHALTIC CONCRETE PRODUCTION TOLERANCES

Test	Mix Type	
	1 (SP4 Special)	2 & 3 (SPR)
AC	5.2% Min. (None)	5.0% Min. (None)
Air Voids	4% (+/- 1%)	3% (+/- 1%)
FAA (cold feed)	45 Min. (-0.50)	43 Min. (-0.25)
FAA (ignition oven)	45 Min (-1.00)	43 Min. (-0.50)

If at the end of the day's production, the tolerances in Table 6.02 M are exceeded, the Contractor will not be allowed to resume production until corrective adjustments are made to the mix design.

Mix adjustments at the plant are authorized within the limits shown in Table 6.02 N without redesigning the initially approved mix.

The adjustment must produce a mix with the percent air voids and all other properties as stated in these Standard Specifications.

All adjustments must be reported to the City Testing Lab.

The adjustment values in Table 6.02 N will be the tolerances allowed for changes indicated by production or mix design test results, but cannot deviate from Superpave gradation criteria.

6.02 ASPHALTIC CONCRETE MIXTURES (Continued)

C. PRODUCTION SAMPLING AND TESTING (Continued)

TABLE 6.02 N - AGGREGATE ADJUSTMENT TOLERANCE

Aggregate Adjustments	
Sieve Size	Adjustment Range
1 inch, 3/4 inch, 1/2 inch, 3/8 inch	± 6%
No. 8, No. 16, No. 30, No. 50	± 4%
No. 200	± 2%

6.03 EQUIPMENT

A. GENERAL

All equipment, tools and machinery shall be adequate for the purpose for which it is to be used, and shall be maintained in satisfactory working condition at all times. The equipment shall be at the Work site sufficiently in advance of construction operations to be thoroughly examined and approved by the Engineer. The Contractor shall furnish the necessary accessories, equipment data, and assistance required by the Engineer for making tests and calibrations on equipment.

The Contractor shall furnish the necessary accessories and personnel and shall perform calibrations on the equipment. Copies of the calibration data shall be provided to the City's Project Manager before production of Asphaltic Concrete. In the event problems are encountered during the calibrations, the Contractor shall arrange for a trained technician or company representative of the company from which the equipment was obtained to make the necessary repairs and/or adjustments to the equipment. Calibrations shall be made as often as is deemed necessary by the City's Project Manager to ensure accuracy of the equipment.

In the event that a Contractor elects to obtain asphaltic concrete from a commercial plant not under his direct control, he shall reach agreement with the commercial producer to perform the above functions in the same manner as though the plant was under his direct control. The Contractor shall also reach agreement with the producer to furnish or shall arrange to have furnished an approved building for the use of by the City if deemed necessary by the City's Project Manager.

6.03 EQUIPMENT (Continued)

B. MIXING PLANT

1. General

The equipment that is used for heating, proportioning, and mixing the aggregates and asphalt cement shall be able to produce a uniform mixture.

The dryers shall be able to dry and heat all aggregates to the required temperatures with positive control. Aggregates shall be agitated continuously during the process of heating. Damage to the asphalt cement in dryer-drum type mixing plants shall be avoided.

Salvaged bituminous material shall not be exposed to open flame.

Continuous temperature and time readings of the asphaltic materials shall be electronically recorded whenever the plant is operated. A copy of the temperature reading shall be made available to the City's Project Manager. Temperature and time displays shall be easily accessible. Temperature and time sensors will be provided at the following locations:

- a. Inside the asphaltic concrete mixture discharge chute.
- b. Inside the surge bin.
- c. Inside the asphalt cement storage tank.

During storage, the asphalt cement temperature shall be maintained between 250F and 350F or at the storage temperature range recommended by the binder supplier. All plants shall be equipped with a circulating system for asphalt cement which is designed to assure proper and continuous circulation during the operating period. Storage tanks shall have sufficient capacity to provide for continuous operation. The tanks shall be situated and constructed to allow the volume of the asphalt cement to be safely and accurately determined at any time.

If the plant is equipped with a surge bin for the temporary storage of asphaltic concrete, the asphaltic concrete taken from the surge bin will not differ significantly from the material taken directly from the plant. The first material entering the bin will be the first material removed. The surge bin shall be completely emptied at the end of each operating day unless insulated or heated.

All plants shall be equipped with a continuously operated dust collector. The collected material may be wasted or returned to the mix.

Mineral filler bins shall be protected from moisture.

2. Pugmill Plants

a. General

Pugmill plants shall include cold aggregate feeders, oversize screens, storage bins for dried aggregate, ingredient proportioning devices, and all other equipment necessary to produce the specified mixture. The pugmill blades shall have a minimum clearance of 3/4 inch from all fixed and moving parts. The mixer shall be equipped with a discharge hopper holding approximately 1 ton of hot mixture and capable of intermittent discharge.

6.03 EQUIPMENT (Continued)

B. MIXING PLANT (Continued)

2. Pugmill Plants (Continued)

b. Batch Plants

Batch plants shall have an accurate time lock to control the operations during a complete mixing cycle. They shall lock the scale box gate after the charging of the mixer until the closing of the mixer gate at the completion of the cycle. They shall lock the bituminous material bucket throughout the dry mixing period and shall lock the mixer gate throughout the dry and wet mixing periods.

The dry mixing period is defined as the time between the opening of the scale box gate and the addition of bituminous material. The wet mixing period is the interval of time between the addition of bituminous material and the opening of the mixer gate.

The control of the timing shall be flexible and capable of being set at 5-second intervals or less throughout a total cycle of not less than 3 minutes. A mechanical batch counter shall be installed as a part of the timing device and shall be designed and constructed to register only upon the release of the bituminous material. It shall not register any dry batches or any material wasted through the bins. The timing device shall have a suitable case with a locking door that shall always be kept closed and locked except when adjustments or repairs are required.

All batch plants shall be equipped with an asphalt cement volume meter or a heated or insulated asphalt bucket with scales.

Scale hoppers and scales for proportioning aggregates and asphalt to the batch plant's mixer shall be accurate within 0.5 percent; and they shall be sensitive within 0.2 percent or 2 pounds, whichever is greater, throughout the range of use.

c. Continuous Type

Plants shall be equipped with a pump synchronized to the feeding mechanism so that the required percentage of asphalt cement is applied continuously and uniformly. The feeding system shall be synchronized to the rest of the plant.

3. Dryer-Drum Plants

These plants shall include cold aggregate feeders, vibratory screening units for removing oversize material from both virgin and reclaimed material, proportioning devices for controlling the quantity of each ingredient in the mixture, and any other equipment necessary to produce the mixture as specified.

Plants shall be equipped with a pump synchronized to the feeding mechanism so that the required percentage of asphalt cement is applied continuously and uniformly. The feeding system shall be synchronized to the rest of the plant.

6.03 EQUIPMENT (Continued)

C. TRUCK SCALES

Truck scales shall be furnished by the Contractor for weighing loaded trucks at the plant site, and shall be installed on adequate foundations and in accordance with the manufacturer's recommendations. The scales shall have sufficient capacity to weigh the maximum axle, combination of axles or gross load used and shall be accurate to one-half percent (0.5%) of the total axle load or total load.

Scales shall be properly calibrated by the Contractor in the presence of the City's Project Manager unless the scales have current Nebraska Department of Agriculture inspection approval or unless calibration and adjustment by a recognized scale company service crew has been performed during the current season, and attested to by a City of Lincoln representative. The scales shall be periodically cross-checked for accuracy during the course of the Work by checking the net weight of loads of the material being produced on commercial scales in the vicinity of the project which have current agriculture inspection approval. The Contractor shall furnish at least ten (10) 50 pound weights for checking the accuracy of the scales. If the scale is not capable of weighing all axles at one time, the approaches shall be extended so the entire hauling unit will be level during weighing. Chuck holes, ruts or high spots in the approaches which develop during hauling operations shall be immediately repaired as directed by the City's Project Manager.

All weighing shall be done with the hauling unit stationary, level, and out of gear. Suitable protection shall be provided against wind currents that may affect the accuracy of the scales. The platform of the scale shall be kept clean and free from accumulations of materials, as directed by the City's Project Manager.

Serially numbered duplicated scale tickets shall be furnished to accompany each truck load of material to the unloading point. Scale tickets shall reflect the date, time, load number, total weight, tare weight, project number, mix type, destination, and net weight.

D. DISTRIBUTORS

Whenever the use of a distributor is required, that piece of equipment shall be manufactured expressly for the purpose of applying heated asphaltic materials by pressure spray applications. Improvised equipment, such as converted road oilers, will not be acceptable. The distributor shall be so designed as to permit the application of heated asphaltic material in a uniform spray without atomization at the rate, temperature, and pressure required. The distributor shall be equipped with a tachometer registering revolutions per minute and so located as to be visible to the driver in order that the driver may maintain the constant speed required for the specified rate of application. The distributor shall be mounted on a motor truck or trailer, equipped with pneumatic tires. The pump shall be equipped with a meter registering the number of gallons (liters) per minute passing through the nozzle and this meter must be visible to the operator. The distributor shall be equipped with an accurate thermometer which indicates the temperature of the asphaltic materials at all times. The distributor shall be equipped with a full-circulating spray bar and shall be provided with hand-nozzles to permit application to areas not accessible to the spray bar. The distributor shall be equipped with a drip tray or other suitable means of preventing the dripping of material after the flow has been shut off.

6.03 EQUIPMENT (Continued)

E. ASPHALT SPREADER AND FINISHER

The mechanical asphalt spreader and finisher shall be self-propelled and shall be designed and equipped to spread upon the prepared surface without segregation of the mixture, a tamped and finished wearing surface of asphaltic concrete free from hollows and humps.

The machine shall be equipped with a hopper to receive the asphaltic concrete as it is dumped from the trucks and shall be designed so as to prevent the mixture from being deposited directly on the base or previously laid courses. The hopper shall have a suitable device to distribute the mix evenly across the full width of the screed. The machine shall be equipped with means of adjusting the thickness of the mat, and the transverse and longitudinal grade. It shall be equipped with a tamping or vibrating screed which shall be operated during the lay-down process to compact the applied material to a uniform density. No part of the machine shall travel on the freshly laid material. There shall be auxiliary attachments for the machine so that it may be adjusted to lay widths as approved by the Engineer.

F. ROLLERS

The number and type of rollers furnished shall be adequate to produce the specified density and a satisfactory surface.

Wheels of all rollers shall be smooth and free from openings or projections which would mar the surface of the Work. They shall be equipped with suitable devices necessary to prevent adhesion of bituminous material to the tires and wheels. The rollers shall be equipped with water tanks for wheel sprinkling devices that extend the full width of each roller, and drip pans designed so as to prevent oil, grease, gas or diesel oil from spilling or dripping onto the asphaltic concrete surface.

6.03 EQUIPMENT (Continued)

G. SURFACE MILLING MACHINE

The milling shall be done with a commercially manufactured machine able to perform this work to the Engineer's satisfaction. The milling machine shall be self-propelled and shall have sufficient power, traction, and stability to maintain an accurate depth of cut. Pavement removal by scarifying, blading or heating will not be allowed as milling.

The milling machine shall be equipped with automatic controls for establishing profile grades at each edge of the machine. The reference shall be the existing pavement or taut reference lines erected and maintained by the Contractor true to line and grade. A single reference may be used if the machine can maintain the designated transverse slope.

When referenced from existing pavement, the cold milling machine shall be controlled by a self-contained grade reference system provided by the machine's manufacturer for that purpose. The sensing point shall react to compensate for 25 percent of the actual change in elevation due to a hump or dip that is 3 feet (900 mm) or less in length. The self-contained grade reference system shall be used at or near the centerline of the roadway. On the adjacent pass with the milling machine, a joint matching shoe may be used.

Broken, missing, or worn teeth shall be replaced if the machine is unable to maintain the surface texture requirements.

The machine shall be equipped with a loading elevator to remove the milled material from the roadway surface.

The machine shall be equipped with means to effectively control dust generated by the cutting operation.

H. TRUCKS

Numbered trucks having tight, clean, smooth beds shall be used for transporting the freshly prepared asphaltic concrete to the site of the Work. The beds shall be sprayed, when necessary, to prevent the asphaltic concrete mixture from adhering to the bed, with a minimum quantity of approved lubricant. The equipment used and the frequency of spraying shall be determined by the Engineer.

All trucks shall be equipped with a suitable waterproof canvas cover to protect the material as required by the Engineer. Any truck that causes excessive segregation of materials by the action of its spring suspension or other contributing factors, or that causes undue delays, shall not be used for transporting the asphaltic concrete mixtures. All truck beds shall be so constructed that they may be insulated, when necessary. All truck boxes shall be equipped with box vibrators.

6.04 CONSTRUCTION METHODS

A. SUBGRADE

Subgrade shall be prepared as described in the City of Lincoln Standard Specifications.

B. CLEANING

Prior to the application of asphaltic materials on existing base, the surface on which the asphalt is to be placed shall be thoroughly cleaned by means of mechanical sweepers, street flushers, shovels, scrapers, and hand brooms as is necessary to remove all mud, matted earth, dust and other foreign materials. Power brooming shall be conducted in such a manner as to keep dust and debris under control and cause a minimum of disturbance to surrounding areas. Material cleaned from the surface shall be removed and disposed of by the Contractor.

The cost of cleaning the existing surfaces to which asphalt is to be applied shall be considered subsidiary to other items for which payment is made.

C. SURFACE MILLING

Surface milling, where required, shall consist of removing and salvaging existing surfacing material to a depth and width as shown in the plans or as directed by the Engineer. The Contractor shall remove all pavement millings which result from the performance of this work and dispose or transport them to locations as provided in the Contract or as approved by the Engineer.

The interface between the surface milled area and the concrete gutter pan shall be cleaned of all old asphalt and maintained to provide a smooth, straight, and vertical surface.

The Contractor shall be responsible for location and protection of all manholes, valve boxes, and all other appurtenances, some of which may be below the surface of the street, and to protect equipment from the danger of striking same. Claims for any and all damages arising from hitting these appurtenances shall be the Contractor's responsibility. The Contractor shall have access to applicable records; however, the Contractor shall not rely upon these records to reveal all such hidden appurtenances.

The Contractor shall be held responsible for all appurtenances in the pavement surface which have been damaged or disturbed by the Contractor. The cost of repairing or replacing these damaged appurtenances shall be made at the Contractor's expense.

1. BASIS OF PAYMENT

SURFACE MILLING, completed in conformance with the plans and Standard Specifications and accepted by the Engineer, shall be measured and paid for at the contract unit price bid per square yard. Such payment shall be full compensation for all surface preparation, milling, removal of materials, labor, tools, equipment, clean up and incidentals necessary to complete the Work.

D. CORRECTION OF PAVEMENT FAILURES

After the surface milling and cleaning have been accomplished, the Engineer shall examine the pavement structure to which the asphaltic concrete is to be applied. Any pavement failures shall be repaired as designated by the Engineer.

The cost of repairing pavement failures shall be measured and paid for at the appropriate unit prices or shall be accomplished as an Extra Work Item.

6.04 CONSTRUCTION METHODS (Continued)

E. TACKING

This Work shall consist of the application of asphaltic materials to previously prepared bases or existing surfaces.

After the surface is completely cleaned and dry it shall have a tack coat of rapid curing cut-back asphalt or emulsified asphalt applied sufficiently in advance of the laying operation to break or cure prior to the application of the surface coat.

Traffic shall not be permitted on the tack coat without the permission of the Engineer, and the asphalt surface course shall be applied as soon as the tack breaks and the water has evaporated. The rate of application generally should be from 0.05 to 0.2 gallons per square yard, with the rate of application to be approved by the Engineer. Tack or asphaltic cement shall be applied by hand to all vertical edges.

The cost of supplying and applying tack coat will not be measured for payment. It shall be considered subsidiary for other items to which direct payment is made.

F. NON-WOVEN PAVEMENT OVERLAY FABRIC PLACEMENT

Non-woven pavement overlay fabric and asphaltic cement sealant shall be placed at locations called for on the plans. This Work shall consist of the application of an asphalt sealant and the placement of a non-woven pavement overlay fabric over the entire prepared surface of the pavement to be surfaced or resurfaced with asphalt. Sealants are applied both to seal the existing surface and to provide a cement to adhere to the fabric. Emulsified asphalts are not acceptable for sealant.

Sealant and fabric shall be placed only when the ambient air temperature is 50°F or above. The pavement surface on which the sealant fabric is to be placed shall be dry and free of dirt, debris and other foreign matter. Joint and crack openings of 1/8 inch and larger shall be filled with a suitable material as directed by the Engineer. The asphalt sealant shall be applied with distributor equipment at a rate of 0.25 to 0.30 gallons per square yard. The width of the asphalt sealant application shall be the fabric width plus 2 to 6 inches or the entire width of the pavement to be surfaced. Temperature of the sealant shall be not less than 280°F at the time of application to ensure a uniform spray pattern.

No drilling or skipping shall be permitted. Asphalt drools or spills shall be cleaned from the pavement surface to avoid flushing and possible fabric movement at these asphalt rich areas. Fabric lay-down equipment shall be used for placement of the fabric. Overlap of fabric joints shall be 1 to 3 inches.

Immediately after the placement, the fabric shall be embedded into the asphalt cement sealant with a pneumatic roller, unless otherwise directed by the Engineer. The construction of the asphaltic concrete overlay shall follow closely the placement of the fabric. In the event the sealant bleeds through the fabric before the overlay is placed, the Contractor shall be required to spread a thin layer of sand or asphaltic concrete over the affected areas in order to prevent the fabric from being picked up by the construction equipment. The application of tack coat will not be required on the fabric prior to the placement of the asphaltic concrete unless a delay in the placement of the overlay results in the fabric becoming dry or dirty.

6.04 CONSTRUCTION METHODS (Continued)

F. NON-WOVEN PAVEMENT OVERLAY FABRIC PLACEMENT (Continued)

1. BASIS OF PAYMENT

Placement of the non-woven pavement overlay fabric shall be measured and paid for at the contract unit price bid per square yard for the item NON-WOVEN PAVEMENT OVERLAY FABRIC. Such payment shall be full compensation for cleaning and preparing the pavement surface, filling joint and crack openings; for furnishing, heating, and applying the asphalt sealant; for placement and rolling of the fabric; for furnishing and applying material for blotting the surface of the fabric as required; and for all equipment, labor, tools, and incidentals required to complete the Work.

G. HAULING

Clean trucks fully fueled shall be weighed in the morning when starting up and then again in the early afternoon to obtain accurate tare weights. The Engineer may also require re-weighing at any time to obtain new tare weights.

H. JOINTING

Longitudinal and transverse joints shall be made in such a manner that well bonded and sealed joints are achieved. Joints between old and new pavement shall be made in such a manner as to insure a thorough and continuous bond between the old and new surface.

Cold joints shall be painted with a light application of asphalt cement before the adjacent material is placed. When placing surface course, a hot joint between lane placement shall be maintained as directed by the Engineer.

Joints in the surface course shall be formed by any approved method that will produce a dense vertical joint; otherwise the previously laid surface course shall be cut back to its full depth so as to expose a fresh surface, after which the hot mixture shall be placed in contact with it and raked to proper depth and grade.

6.04 CONSTRUCTION METHODS (Continued)

I. SPREADING

Asphaltic concrete used in the construction of sections having a uniform width as shown in the typical cross section of the plans, shall be spread and finished with an approved mechanical spreading and finishing machine. The operation of placing mixtures shall be continuous, as nearly as possible.

The asphaltic concrete mixture shall be dumped in the center of the hopper of the spreading machine. Care shall be exercised to avoid overloading and slopping over of the mixture on the base, pavement, or previously laid asphaltic concrete. The operating speed and depth of strike-off of the spreading and finishing machine shall be regulated so as to produce a well knit, uniform layer of the required compacted thickness.

The asphaltic concrete mixture shall be laid only upon a surface which is dry and free from frost.

When the asphaltic concrete mixture is placed in irregular or narrow sections, intersections, or other areas where it is impractical to spread and finish the mixture by methods previously specified, the Contractor may use other equipment or acceptable hand methods for spreading the mixtures, as approved by the Engineer.

The cost of hauling, jointing and spreading the asphaltic concrete mixture shall be considered subsidiary to other items for which payment is made.

J. COMPACTION

Immediately after spreading, the mixture shall be compacted thoroughly by rolling. The number, weight, types of rollers, sequence of rolling operations and compaction procedures shall be such that the required density and a satisfactory surface are attained consistently while the mixture is in a workable condition.

The initial rolling shall begin as soon as the material will bear the weight of the roller without displacing the material. The final compaction and finishing shall be performed by rollers while the material is still hot and responds to the action of the roller. Rolling shall not be carried on in such a manner or at such a time as will cause shoving or cracking. No additional rolling or compaction will be allowed after final compaction.

The asphaltic concrete shall be compacted to required density such that the completed surface is slightly above the surface of the concrete at the gutter pan joint. This compaction shall be attained without the roller coming into contact with the concrete gutter pan and shall be smooth, true and conform to the grade, cross section and contour required without any irregularities that exceed 1/8 inch when tested with a 10 foot straightedge.

All areas not accessible to the equipment specified shall be compacted and finished by other equipment and methods that will provide a satisfactory surface and the specified density. Any areas determined by the Engineer to be defective, shall be immediately reworked to the satisfaction of the Engineer.

No measurement or direct payment shall be made for the operation of rolling asphaltic concrete pavement. The cost thereof shall be considered subsidiary to other items for which direct payment is made.

6.04 CONSTRUCTION METHODS (Continued)

K. ASPHALTIC CONCRETE CURB

Asphaltic concrete curb shall be constructed of a mix as shown on the plans or approved by the Engineer. The curb shall conform to the shape and dimensions that are shown on the plans.

Whenever possible the asphaltic concrete curb shall be shaped and compacted with a curb machine capable of constructing the curb true to line, grade, and cross section and to a density and with a surface texture which is satisfactory to the Engineer.

Special precautions shall be taken to provide a proper bond between the surface course and the curb. The surface shall be thoroughly cleaned and tacked with hot asphalt cement. If performed during cool weather, the surface course shall be heated so that it is sufficiently plastic to form a bond with the hot asphaltic concrete curb.

1. BASIS OF PAYMENT

ASPHALTIC CONCRETE CURB shall be paid for at the contract unit price bid per linear foot.

L. COLD WEATHER PLACEMENT

Asphaltic concrete shall not be placed on frozen or frost covered subgrade or base. The Cold Weather Placement table shown below shall be used by the Engineer to restrict the routine placement of asphaltic concrete as a result of cold temperatures. Wind velocity, cloud cover, and other project specific conditions will be considered by the Engineer if deviating from this Table.

TABLE 6.04 A – COLD WEATHER PLACEMENT

Lift Thickness	Minimum Surface Temperature
Less than 2 inches	45°F
2 to 3 inches	37°F
Greater than 3 inches	35°F

6.05 DENSITY CORE SAMPLES

A. GENERAL

During the construction of asphaltic concrete pavement, the Contractor shall obtain core samples from each pavement lift for the determination of density. A minimum of one sample shall be required for each lot of asphaltic concrete. These samples shall be taken not later than two working days after the date of placement of the asphaltic concrete at locations designated by the Engineer. Cores shall be a minimum of 4 inches in diameter and shall be taken under direct supervision of the Engineer's representative and given to him/her immediately after removal from the pavement. The surfaces from which the samples have been taken shall be cleaned, dried, filled and compacted by the Contractor with hot asphaltic concrete mixture immediately after core removal. Density samples shall be tested in accordance with the Nebraska Standard Method of Tests for specific gravity of compressed bituminous mixtures, NDR T 166.

B. COMPACTION REQUIREMENTS

Asphaltic concrete shall be compacted to a density of not less than ninety-two and one half percent (92.5%) of the void-less density for that mixture. The void-less density for each lot sample shall be tested in accordance with the Nebraska Standard method of test for Maximum Specific Gravity of Bituminous Paving Mixtures, NDR T 209. If any density test result indicates a compaction value of less than ninety-two and one half percent (92.5%) of the void-less density, two additional cores will be obtained from that lot by the Contractor at points designated by the Engineer. These samples shall be taken and the surface restored as described above not later than seven days after the date of placement of the asphaltic concrete. The average density of the three samples shall be considered the density of the lot.

C. OVERLAYS

Overlays shall be sampled and tested for density when the average thickness of the overlay is greater than 1 inch. The average overlay thickness shall be determined from the core samples located by the Engineer as described above. The thickness of the samples shall be the average of four measurements made at four equally spaced locations on the perimeter of the sample. When the average thickness is 1 inch or less the testing of density for this layer shall be waived.

6.06 BASIS OF PAYMENT

Asphaltic concrete shall be paid for on a lot basis, as described above, at the contract unit price bid per ton for ASPHALTIC CONCRETE, TYPE ___ and subject to the payment tables for production density and air voids as described below. The amount of asphaltic concrete to be paid for shall be the net weight of the material actually incorporated into the work. Such payment shall be full compensation for all mixing, hauling, tack coats, spreading, compacting to required density, materials, equipment, tools, labor, and incidentals necessary to construct the asphaltic concrete surface course to the required thickness or as directed by the Engineer.

TABLE 6.06 A – DENSITY PAYMENT

Average Density	Min. # Samples	% of Payment
92.5 and above	1	100
92.0 to 92.4	3	95
91.5 to 91.9	3	90
91.0 to 91.4	3	85
90.5 to 90.9	3	80
90.0 to 90.4	3	70
89.9 or less	3	40 or reject

TABLE 6.06 B – AIR VOID PAYMENT *

Air Voids Type 1 (SP4 Special)	Air Voids Type 2 (SPR)	% of Payment
Less than 1.5	Less than 0.5	40 or reject
1.5 to 1.9	0.5 to 0.9	50
2.0 to 2.4	1.0 to 1.4	95
2.5 to 2.9	1.5 to 1.9	98
3.0 to 5.0	2.0 to 4.0	100
5.1 to 5.5	4.1 to 4.5	98
5.6 to 6.0	4.6 to 5.0	95
6.1 to 6.5	5.1 to 5.5	90
6.6 to 7.0	5.6 to 6.0	50
More than 7.0	More than 6.0	40 or reject

* Air Void Payment Table does not apply to mixes for base lifts, parking lot, temporary pavement or patching.

ADDENDUM NO. 7

WEST HAYMARKET JOINT PUBLIC AGENCY
M & N STREET, PKG 1
PROJECT 870302
SPEC. NO. 11-152

TO ALL PROSPECTIVE BIDDERS:

1. The Bid has been extended to Tuesday, July 19, 2011 at 12:00 noon
2. Attached is a Special Provision for the Portland Cement Concrete

CHAPTER 11

PORTLAND CEMENT CONCRETE

11.00 GENERAL

Portland Cement Concrete (PCC) shall consist of an intimate mixture of Portland Cement, aggregate, water and an air-entraining admixture. Portland Cement used in all concrete mixtures except L-5500 and PR shall be modified with Class F Fly Ash as described below and as indicated in Table 11.02. Depending on the application, other constituents or admixtures may be used with permission from the Engineer. Materials not on the latest edition of the Nebraska Department of Roads (NDOR) "Approved Products List" shall not be used without permission from the Engineer. The constituents of Portland Cement Concrete and their mixing, handling, and proportioning shall conform to ASTM Designation C 94 except as modified herein.

11.01 MATERIALS

A. CEMENT

Portland Cement shall be a recognized standard hydraulic cement composed primarily of hydraulic calcium silicates conforming to the requirements of ASTM Designation C 150 for Type I, II, or III cement and shall contain no more than 0.60 percent equivalent alkali. Equivalent alkali is defined as the sum of the sodium oxide (Na_2O) and the potassium oxide (K_2O) calculated as sodium oxide (equivalent alkali as $\text{Na}_2\text{O} = \text{Na}_2\text{O} + 0.658(\text{K}_2\text{O})$). Certified mill tests shall be furnished to the Engineer. Different brands of cement, or the same brand from different mills, shall not be mixed during storage. Neither shall they be used alternately in any one concrete placement without permission from the Engineer. Contractors or Subcontractors supplying concrete shall notify the Engineer when changing to different cement.

The cement shall be protected from damage due to moisture. Cement so damaged will be rejected. Cement shall not be in storage at the concrete plant longer than ninety (90) days without retesting. The temperature of the cement when used shall be less than 180°F.

B. FLY ASH MODIFIED PORTLAND CEMENT CONCRETE (PCC)

Portland Cement Concrete (PCC) mixes for pavement, driveways, curb, median, and sidewalk shall be modified by the use of Type IPF cement, as specified below. Type IPF cement shall be Portland cement which is pre-blended or inter-ground by the cement manufacturer with 25 +/- 2 percent Class F fly ash and shall conform to the requirements of ASTM C 595. No additional fly ash may be added at the concrete plant.

11.01 MATERIALS (Continued)

B. FLY ASH MODIFIED PORTLAND CEMENT CONCRETE (PCC) (Continued)

An NDOR approved water-reducing admixture shall be used in all fly ash modified concrete mixes at the dosage rate recommended by the manufacturer. The water-cement ratio of all fly ash modified concrete shall not exceed the maximum limit for the various classes of concrete as shown in Table 11.02.

Fly ash shall conform to the requirements of Class F pozzolan of ASTM Designation C 618, except that the maximum loss on ignition for Class F pozzolan shall be six percent (6.0%). Additionally, Class F pozzolans shall have a maximum allowable free carbon content not to exceed three percent (3.0%). Class F fly ash shall not contain more than one and five-tenths percent (1.50%) of available alkalis as Na_2O . Fly ash such as is produced in furnace operations utilizing liming materials or soda ash (sodium carbonate) as an additive will not be acceptable. Certified mill tests shall be provided to the Engineer.

Only brands of Type IPF Cement which are on the latest edition of the Nebraska Department of Roads Approved Products List shall be approved for use in concrete in City of Lincoln projects.

Type IPF cement shall not be used in mix designations LB-2750, LB-3500, L-5500 and PR without permission from the Engineer.

TABLE 11.02 - PORTLAND CEMENT CONCRETE MIXTURES (CUBIC YARD BATCH)

CLASS OF CONCRETE (1)	GENERAL USE	CEMENT (lb/cy)	CEMENT TYPE (2)	WATER CEMENT RATIO (MAX.)	SLUMP (MAX.) (inches) (3)	AGGREGATES (% BY WEIGHT)		AIR CONTENT RANGE (% BY VOLUME)	28 DAY STRENGTH MIN. PSI
						FINE	COARSE		
SG-3000	Where Specified	564	1PF	0.50	4.0	100	0	6.0 - 8.5	3000
L-3500	Pavement, Sidewalk, Structures	564	1PF	0.50	4.0	70 +/- 3	30 +/- 3	6.0 - 8.5	3500
L-3500S	Slip-form Pavement	564	1PF	0.48	2.5	70 +/- 3	30 +/- 3	7.0 - 10.0	3500
LC-3500	Machine Curb	564	1PF	0.48	2.5	70 +/- 3	30 +/- 3	6.0 - 8.5	3500
L-4500	Structures	658	1PF	0.42	4.0	70 +/- 3	30 +/- 3	6.0 - 8.5	4000
LB-2750	Pavement Base (New Construction Residential)	423	I/II	0.60	4.0	60 +/- 2	40 +/- 2	5.5 - 7.5	2750
LB-3500	Pavement Base (Reconstruction)	564	I/II	0.50	4.0	70 +/- 3	30 +/- 3	5.5 - 7.5	3500
L-5500	Pavement (High/Early Strength)	752	I/II	0.40	4.0	70 +/- 3	30 +/- 3	6.0 - 8.5	4000
PR (4)	Pavement Repair (High/Early Strength)	799	III	0.45	4.0	70 +/- 3	30 +/- 3	6.0 - 8.5	4000

NOTES:
 (1) All mixtures shall contain a NDOR approved water reducer at the manufacturer's recommended dosage rate.
 (2) For Temporary Pavement, Type I/II cement is allowed.
 (3) The maximum slump may be exceeded by use of water reducer, high range water reducer, or both.
 (4) Calcium Chloride may be added as per NDOR Standard Specifications for Highway Construction.
 This table is for proportion ranges only. Actual mix design weights for specific applications will be provided by the City of Lincoln Materials Testing Laboratory.

**ADDENDUM NO. 6
TO
CITY OF LINCOLN, NE (2011)
M & N STREET JPA PROJECT #870302
BID PACKAGE 1
10TH STREET, K TO N STREET
N STREET, 9TH TO 10TH STREET
TEMPORARY ACCESS ROAD TO AMTRAK BLDG.
HAYMARKET INFRASTRUCTURE IMPROVEMENTS**

JULY 13, 2011

To Prospective Bidders:

The contract documents, specifications and plans for the project are hereby amended as follows:

Entry 1 - Temporary Access Road Asphalt Alternate

The *Entry 2 - Temporary Access Road Surfacing* from Addendum No. 4 states:

Asphalt Alternate: The Asphaltic Concrete shall be 7" of Asphaltic Concrete, Type SPL as defined by the Nebraska Department of Roads (NDOR).

This shall be changed to read:

Asphalt Alternate: The Asphaltic Concrete shall be 7" of Asphaltic Concrete, Type 3 as defined by the City of Lincoln Standard Specifications, 2011 Edition.

Entry 2 - Traffic Control

Contractor may close the lane adjacent to the west curb in 10th Street generally between K Street and N Street on a 24 hours a day seven days a week basis for the duration of the project with the exception of University of Nebraska home football games. All City of Lincoln Standard Specifications regarding University of Nebraska home football games shall apply to this project. Any safety measures required to protect the adjacent vehicular traffic from the construction areas are the responsibility of the contractor. Any additional lane closures during non peak hours may be requested by the contractor and will be subject to the approval of the Public Works Department.

The west sidewalk along 10th Street may be closed for the duration of the project, however, ADA compatible pedestrian access to the building located at 901 South 10th Street must be maintained at all times.

At least one east/west pedestrian crossing must be maintained at the intersection of 9th Street and N Street as well as the intersections of 10th Street with L Street, M Street, and N Street throughout the duration of the project. All ADA requirements will need to be followed.

ADDENDUM NO. 5

WEST HAYMARKET JOINT PUBLIC AGENCY
M & N STREET, PKG 1
PROJECT 870302
SPEC. NO. 11-152

TO ALL PROSPECTIVE BIDDERS:

1. The Bid date has been extended to Friday, July 15, 2011 at 12:00 noon

**ADDENDUM NO. 4
TO
CITY OF LINCOLN, NE (2011)
M & N STREET JPA PROJECT #870302
BID PACKAGE 1
10TH STREET, K TO N STREET
N STREET, 9TH TO 10TH STREET
TEMPORARY ACCESS ROAD TO AMTRAK BLDG.
HAYMARKET INFRASTRUCTURE IMPROVEMENTS**

JULY 6, 2011

To Prospective Bidders:

The contract documents, specifications and plans for the project are hereby amended as follows:

Entry 1 - Bid Proposal

On line number 3 change the bid item number from 01.0010 to 50.0040 change the bid item name from *Asphaltic Concrete Pavement, Class 1 (7" Base)* to *Temporary Access Road Surfacing*.

Entry 2 - Temporary Access Road Surfacing

Asphaltic Concrete or Portland Cement Concrete (P.C.C.) Paving will be allowed as alternates for the paving of the temporary access road to the new Amtrak Station. The surfacing will be paid for at the contract unit price per square yard of *Temporary Access Road Surfacing*. The Contractor shall state in the Bid Proposal what type of surfacing is being bid.

The following specifications for the surfacing shall be used:

Asphalt Alternate: The Asphaltic Concrete shall be 7" of Asphaltic Concrete, Type SPL as defined by the Nebraska Department of Roads (NDOR).

Concrete Alternate: The P.C.C. paving shall be 7" thick of high early concrete as defined in the City of Lincoln Standard Specifications.

References to the temporary access road surfacing type, thickness, quantity, and unit found in the Plan Set on sheets 3, 4, 27, 28 and 29 shall be modified to the appropriate type, thickness, quantity, and unit as per the Contractor's bid and this addendum.

Entry 3 - N Street Phasing At Storm Drainage Crossing

The construction of the storm drainage structure across N Street shall be phased to allow at least one lane of through traffic on N Street at all times.

ADDENDUM NO. 3

WEST HAYMARKET JOINT PUBLIC AGENCY
M & N STREET, PKG 1
PROJECT 870302
SPEC. NO. 11-152

TO ALL PROSPECTIVE BIDDERS:

1. The Bid date has been extended to Friday, July 8, 2011 at 12:00 noon

**ADDENDUM NO. 2
TO
CITY OF LINCOLN, NE (2011) M &
N STREET JPA PROJECT #870302
BID PACKAGE 1
10TH STREET, K TO N STREET
N STREET, 9TH TO 10TH STREET
TEMPORARY ACCESS ROAD TO AMTRAK BLDG.
HAYMARKET INFRASTRUCTURE IMPROVEMENTS**

JULY 1, 2011

To Prospective Bidders:

The contract documents, specifications and plans for the project are hereby amended as follows:

Entry 1 - Substantial and Final Completion

The following paragraph from the Substantial and Final Completion section of the special provisions shall be omitted:

Substantial completion for the work mean the completion of all work associated with construction of the work identified above including all removal, paving, storm sewers and utilities. The work must be completed by March 15, 2012.

The following shall replace the omitted paragraph:

Substantial completion for the work shall mean the completion of all work associated with construction of the work identified above including all removal, paving, storm sewers and utilities. The work for the temporary access road and parking area just south of the future Amtrak building to approximately station 162+40 must be completed by October 1, 2011. The remainder of the work must be completed by March 1, 2012.

Notice to Proceed with the work on this project is anticipated to be given to the Contractor on or before July 20, 2011. It is imperative that the Contractor is ready to begin work upon receipt of the notice to proceed.

Entry 2 - Special Bidding Conditions (Disincentives)

The following shall be added to the special provisions after the Substantial and Final Completion section:

SPECIAL BIDDING CONDITIONS

(Disincentives)

This project has two substantial completion dates one for the access road and parking lot to the future Amtrak Building and one substantial completion date for the remainder of the work in 10th & N Street.

Access Road and Parking Lot To Future AMTRAK Building

If the Contractor fails to complete all work associated with the substantial completion of the access road and parking lot of the project by October 1, 2011, considering approved extensions, disincentives will be charged for each calendar day that the items of work required for the substantial completion remain unfinished. Disincentives shall be \$1,000 per day for each day that the work specified in the plans and special provisions is not completed.

Work Included in 10th Street and N Street

If the Contractor fails to complete all work associated with the substantial completion of the paving and traffic signal work in 10th Street and N Street of the project by March 1, 2012, considering approved extensions, disincentives will be charged for each calendar day that the items of work required for the substantial completion remain unfinished. Disincentives shall be \$1,000 per day for each day that the work specified in the plans and special provisions is not completed.

Entry 3 - High Early Strength Concrete for Entrances

All 7" P.C.C. Pavement (Driveway & Alleys) shall be high early strength concrete.

Entry 4 - Traffic Control

There shall be no lane closures in 10th Street or N street during peak hours, 7:00-8:30 A.M. and 3:30-

6:00 P.M. Monday through Friday or when the Contractor is not at work. There will be no lane closures on days when there is a home University of Nebraska football game. Those dates are September 3, 2011, September 10, 2011, September 17, 2011, October 8, 2011, October 29, 2011, November 5, 2011, and Friday, November 25, 2011.

Entry 7 - Stump Removal

The bid items "*Tree Removal (12" TO 23")*" and "*Tree Removal (24" TO 35")*" shall be replaced with the bid items "*Stump Removal (12" TO 23")*" and "*Stump Removal (24" TO 35")*", respectively.

Entry 8 - Coordination With Water Main Construction

A new 16" water main will be placed in N Street as part of a different project. No work shall be done on N Street between 9th and 10th Street until October 1, 2011, or until the water main project has been declared substantially complete.

Entry 9 - Temporary Access Road Asphalt Thickness

On the Temporary Road Typical Sections shown on plan sheet page number 4 change the temporary access road asphalt thickness from 9 inches to 7 inches.

Entry 10 - Bid Proposal

On line number 3 change the quantity from 2102 to 4015, square yards.

On line number 55 change pay item number from 32.0070 to 32.0100 and change unit from Each to Linear Foot.

On line number 56 change pay item number from 32.0080 to 32.0110 and change unit from Each to Linear Foot.

On line number 57 change pay item number from 32.0090 to 32.0120 and change unit from Each to Linear Foot.

Entry 11 - Pre-Bid Meeting Questions & Answers

Q: Can the temporary asphalt access road have an alternate of concrete?

A: No, because of timing and access restraints to the future Amtrak Station Site, concrete will not be allowed as an alternate.

Q: In the plan notes, page 15 still refers to the project as being tied to the water main project. Is this project tied to the water main project?

A: No, this project is no longer tied to any water main project. The Special Provisions state that this project is not tied to any other projects. This Special Provisions supersede the plans.

**PRE-BID MINUTES
WEST HAYMARKET
PKG 1 M & N STREET
JOINT PUBLIC AGENCY
BID NO. 11-152**

June 29, 2011

INTRODUCTIONS:

Design Manager - Benesch, Nate Hanquist
Contract Administrator - Chad Blahak
SAIC - Randy Swanson
Project Manager: Mark Miller
Project Observer: Zach Becker

Contract Time:

Bid Letting Date: March 30, 2011
Substantial Complete Date: October 1, 2011
Final Complete Date: March 15, 2012

Project Overview:

10th Street from L to N Street
N Street from 9th to 10th Street
Amtrak Site Grading
Temporary access Road from New Amtrak Station to N Street
Signals at 10th & L
 10th & M
 10th & N

The work will require coordination efforts with the sanitary sewer contractor that was approved by the JPA on June 24, 2011.

Permits: Flood Plain - Done
 NPDES - In Process

Right-of-Way: There is 1 outstanding track along N Street

Windstream: Reviewing Their options to get temporary service to Amtrak

Lincoln Electric System: Their temporary service line will be coming from the west

Black Hills Energy: Still considering options, either from R Street or from the west.

BNSF: Required, Contractor Orientation and E-Rail Safe

Questions:

Insurance requirements are different than earlier let JPA Projects, are these correct? Will need further discussion.

Traffic Control on 10th Street will that need to come down every day and what about football weekends? Need further discussion with Traffic Operations

Are there any time restrictions (peak hours)? - Need further discussion with Traffic Operations

Can the temporary concrete road have an alternate of asphalt? Will need further discussion

The driveways that are being built ½ at a time in order to maintain access, will High Early be considered? Will need further discussion

In the plan notes, page 15 still refers to this project being tied to the water main project? This project is no longer tied, they are now separate projects.

Tree Removal - is being done under a separate contract, the clearing & grubbing item is for stump removal

Attached List of Attendees

MEETING ATTENDANCE

Type and/or Topic: *PRE-BID, MAIN ST.*

Date & Time of Meeting: *6/29/11, 1-3 PM*

Chair (Staff Representative): *CHAS BLANK*

Location: *ENG SERVICES*

Secretary:



Name (Please Print)	Organization	Phone No.	E-Mail
MARK MILLER	CITY - ENG SERVICES	402-416-5348	mmiller@lincoln.ne.gov
Dan Hassler	City Lab	402-441-7714	dhassler@lincoln.ne.gov
John Whitmer	ABC Electric	402-435-3514	johpw@abcelectric.net
Bill Fish	Lincoln Water Sys	402-441-5921	bfish@lincoln.ne.gov
Bob Weyhrich	Forestry	402-441-8269	Rweyhrich@lincoln.ne.gov
Mike Tidball	Pavers Inc	402-786-5900	mtidball@paversinc.com
Joe Glaser	TRASCOW	402-434-1776	jog@trascowinc.com
Larry Jochnum	Public Works	402-441-7711	ljochnum@lincoln.ne.gov
Emm Sokolik	Public Works	402-441-7711	esokolik@lincoln.ne.gov
HARRY KIROOS	Public Works	402-441-7541	hkroos@lincoln.ne.gov
Greg Topil	Public Works	402-441-8237	gtopil@lincoln.ne.gov
Ken Adams	Wintecam	402-436-5794	charles.adams@wintecam.com
Jeff Weber	K2 Construction	402-467-2355	jweber@k2construction.biz
Tyson Schlenker	Black Hills Energy	402-437-1809	tyson.schlenker@blackhillsenergy.com
Jane Samuelson	Constructors		
Nick McElvain	LWS	441-5931	nmcelvain@lincoln.ne.gov
NATE HANQUIST	BENESCH	479-2250	nhanquista@benesch.com
GARY LACY	WSM	(402) 470-9716	glacy@lincoln.ne.gov
Mary Lou	ES	441-7510	mlou@lincoln.ne.gov
Clint Thomas	City R.E.	441-7569	CThomas@lincoln.ne.gov
Michelle Backemeyer	CITY R.E.	441-8017	mbackemeyer@lincoln.ne.gov

ADDENDUM NO. 1

WEST HAYMARKET JOINT PUBLIC AGENCY
M & N STREET, PKG 1
PROJECT 870302
SPEC. NO. 11-152

TO ALL PROSPECTIVE BIDDERS:

1. A Pre-Bid Meeting has been scheduled for Wednesday, June 29, 2011 at City of Lincoln, Engineering Services, located at 901 W. Bond, Suite 100, in the Training Room from 1:00 to 3:00 pm.
2. The Notice to Bidders has been replaced with the correct Notice for Bid No. 11-152

RESOLUTION NO. WH-_____

WHEREAS, the Agency has been duly organized by The City of Lincoln, Nebraska (the “**City**”) and The Board of Regents of the University of Nebraska (the “**Regents**”) pursuant to the provisions of (a) the Joint Public Agency Act (Chapter 13, Article 25, Reissue Revised Statutes of Nebraska, as amended, herein referred to as the “**Act**”) and (b) Joint Public Agency Agreement Creating the West Haymarket Joint Public Agency, dated as of April 1, 2010, between The City of Lincoln, Nebraska (the “**City**”) and The Board of Regents of the University of Nebraska (the “**Regents**”), as amended and restated by the Amended and Restated Joint Public Agency Agreement of the West Haymarket Joint Public Agency, dated January 20, 2011 (collectively, the “**JPA Agreement**”), between the City and the Regents, and is validly existing as a joint public agency of the State of Nebraska (the “**State**”); and

WHEREAS, the Agency is organized (a) for purposes of constructing, equipping, furnishing and financing public facilities in the West Haymarket Redevelopment Area of the City including but not limited to (1) a sports/entertainment arena (the “**Arena**”), (2) roads, streets and sidewalks, (3) a pedestrian overpass, (4) public plaza space, (5) sanitary sewer mains, (6) water mains, (7) electric transmission lines, (8) drainage systems, (9) flood control, (10) parking garages and (11) surface parking lots (collectively, the “**Facilities**”), and (b) to (1) acquire land and to relocate existing businesses, and (2) undertake environmental remediation and site preparation as necessary and appropriate for the construction, equipping, furnishing and financing of the Facilities (collectively, as itemized on **Exhibit A** to the Facilities Agreement, dated September 8, 2010, between the City and the Agency, as the same may be amended from time to time, the “**Projects**,” and, individually, a “**Project**”); and

WHEREAS, the Agency has previously issued (a) \$100,000,000 of its General Obligation Facility Bonds, Taxable Series 2010A (Build America Bonds – Direct Pay), (b) \$67,965,000 of its General Obligation Facility Bonds, Taxable Series 2010B (Build America Bonds – Direct Pay), and (c) \$32,035,000 of its General Obligation Recovery Zone Facility Bonds, Taxable Series 2010C for the purpose of paying a portion of the costs of the Projects; and

WHEREAS, it is necessary, desirable, advisable and in the best interests of the City and the Agency that the Agency approve the issuance of additional bonds at this time to provide additional funds to pay costs of the Project; and

WHEREAS, there has been presented to the Agency a draft of a Bond Resolution (the “**Bond Resolution**”) authorizing the issuance of not to exceed \$100,000,000 principal amount of General Obligation Facility Bonds, Series 2011 (the “**Bonds**”) of the Agency to pay additional costs of the Project; and

WHEREAS, it is necessary, desirable and advisable that the Finance Director of the City and City staff, Agency bond counsel, and all other officers, employees, and agents of the Agency proceed as expeditiously as possible with the issuance of the Bonds for the purposes set forth herein.

NOW, THEREFORE, BE IT RESOLVED by the governing body of the West Haymarket Joint Public Agency that the members and officers of the Agency and the officers and agents of the City or any of them, be, and hereby are, authorized and directed to take any and all action, including the execution of all papers, certificates, receipts and documents they or any of them may deem necessary or desirable to issue and deliver the Bonds, in an amount not to exceed \$100,000,000; and

BE IT FURTHER RESOLVED by the governing body of the West Haymarket Joint Public Agency that the Bond Resolution in substantially the form presented to the governing body is hereby approved, adopted, ratified and affirmed, together with such changes or modifications as the Chair, the Finance Director and bond counsel shall approve as being in the best interests of the Agency; and

BE IT FURTHER RESOLVED by the governing body of the West Haymarket Joint Public Agency that the Finance Director is hereby authorized and directed to offer and sell the Bonds in one or more series at a public sale or a negotiated sale at one time or from time to time at a price not less than 98.00% of the principal amount thereof, which shall include an underwriting discount of not more than 1.50% of the principal amount thereof and to fix, with respect to each series of Bonds, (a) the dated date, which shall not be later than December 31, 2011, (b) the principal amount of such series of Bonds including the principal amounts of the respective serial bonds and term bonds of such series of the Bonds and the denominations thereof; provided, however that the aggregate amount of the bonds to be issued pursuant to the Bond Resolution shall not exceed \$100,000,000; (c) the rate or rates of interest to be borne by each maturity of each series of the Bonds such that the true interest cost on the Bonds shall not exceed 5.25% per annum, calculated on the basis of a 360-day year consisting of twelve 30-day months; (d) the principal amount of each series of the Bonds maturing in each year; (e) the mandatory sinking fund redemption dates and the principal amount of each series of Bonds which shall be subject to mandatory sinking fund redemption; (f) the dates upon which each series of Bonds will be subject to redemption at the option of the Agency and the Redemption Price of each series of Bonds (which may include “make-whole” provisions), which shall not exceed 104% of the principal amount being redeemed, and the period(s) during which each Redemption Price is applicable; (g) the final maturity date of each series of Bonds, which shall be not later than December 31, 2045; any additional accounts or subaccounts to be established within the funds created by the Facilities Agreement or the Bond Resolution, (h) the form and contents of any agreement or agreements under which the Registrar and the Paying Agent would service in such respective capacities with respect to such series of the Bonds, (i) the form, content, terms, and provisions of any closing and other documentation executed and delivered by the Agency in connection with authorization, issuance, sale and delivery of each series of Bonds, and (j) all of the other terms and provisions of the Bonds not otherwise specified or fixed by the provisions of the Bond Resolution or this Resolution; and

BE IT FURTHER RESOLVED by the governing body of the West Haymarket Joint Public Agency that all actions heretofore taken for or on behalf of, or in the name of the Agency, by any of the members, officers or agents thereof or by any officers or agents of Agency with respect to the authorization or negotiation of the Bonds are hereby validated, ratified and confirmed.

[The remainder of this page intentionally left blank]

Introduced by:

West Haymarket Joint Public Agency
Board of Representatives

Approved as to Form & Legality:

Legal Counsel for
West Haymarket Joint Public Agency

Jayne Snyder, Chair

Tim Clare

Chris Beutler

GILMORE & BELL, P.C.
DRAFT #3
JULY 15, 2011

BOND RESOLUTION

OF

**WEST HAYMARKET JOINT PUBLIC AGENCY
IN THE STATE OF NEBRASKA**

PASSED

JULY __, 2011

**NOT TO EXCEED
\$100,000,000**

**GENERAL OBLIGATION FACILITY BONDS
SERIES 2011**

Resolution

TABLE OF CONTENTS

	Page
Title	1
Findings and Determinations	1

ARTICLE I

DEFINITIONS

Section 101. Definitions of Words and Terms.....	2
---	---

ARTICLE II

AUTHORIZATION OF BONDS

Section 201. Authorization of Bonds.....	7
Section 202. Description of Bonds	7
Section 203. Designation of Paying Agent	8
Section 204. Method and Place of Payment of Bonds.....	8
Section 205. Registration, Transfer and Exchange of Bonds	9
Section 206. Execution, Registration, Authentication and Delivery of Bonds.....	10
Section 207. Mutilated, Destroyed, Lost and Stolen Bonds	10
Section 208. Cancellation and Destruction of Bonds Upon Payment.....	11
Section 209. Book-Entry Bonds; Securities Depository	11
Section 210. Preliminary and Final Official Statement	12
Section 211. Sale of Bonds	12
Section 212. Determination of Terms and Provisions of Bonds.....	13
Section 213. Purchase of City Bonds.....	13

ARTICLE III

REDEMPTION OF BONDS

Section 301. Optional and Mandatory Redemption of Bonds	13
Section 302. Selection of Bonds to be Redeemed	14
Section 303. Notice and Effect of Call for Redemption	14

ARTICLE IV

SECURITY FOR AND PAYMENT OF BONDS

Section 401. Security for the Bonds	15
Section 402. Levy and Collection of Property Tax.....	16

ARTICLE V

**ESTABLISHMENT OF FUNDS;
DEPOSIT AND APPLICATION OF MONEY**

Section 501. Establishment of Funds..... 16
Section 502. Deposit of Bond Proceeds..... 16
Section 503. Revenue Fund 17
Section 504. Application of Money in the 2011 Construction Account..... 17
Section 505. Application of Money in the Debt Service Fund 17
Section 506. Application of Money in the Rebate Fund..... 18
Section 507. Deposits and Investment of Money 18
Section 508. Payments Due on Saturdays, Sundays and Holidays..... 18
Section 509. Nonpresentment of Bonds 18

ARTICLE VI

REMEDIES

Section 601. Remedies..... 19
Section 602. Limitation on Rights of Registered Owners 19
Section 603. Remedies Cumulative 19

ARTICLE VII

DEFEASANCE

Section 701. Defeasance..... 20

ARTICLE VIII

MISCELLANEOUS PROVISIONS

Section 801. Tax Covenants 20
Section 802. Continuing Disclosure 20
Section 803. Amendments 21
Section 804. Notices, Consents and Other Instruments by Registered Owners..... 22
Section 805. Further Authority 22
Section 806. Severability 22
Section 807. Facilities Agreement; Inconsistencies..... 22
Section 808. Governing Law 22
Section 809. Effective Date 22

Signatures.....S-1

Exhibit A - Form of Bond
Exhibit B – Description of Projects
Exhibit C – Form of Bond Registrar and Paying Agent Agreement
Exhibit D – Form of Preliminary Official Statement
Exhibit E-1 – Form of Notice of Sale
Exhibit E-2 – Form of Bond Purchase Agreement
Exhibit F – Form of City Bond Purchase Agreement

DRAFT

WEST HAYMARKET JOINT PUBLIC AGENCY

BOND RESOLUTION

A RESOLUTION AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$100,000,000 AGGREGATE PRINCIPAL AMOUNT OF GENERAL OBLIGATION FACILITY BONDS, SERIES 2011; PRESCRIBING THE FORM AND DETAILS OF SUCH BONDS; PROVIDING FOR THE APPLICATION OF REVENUES RECEIVED FROM THE CITY OF LINCOLN, NEBRASKA AND THE LEVY AND COLLECTION OF AN ANNUAL TAX FOR THE PURPOSE OF PAYING THE PRINCIPAL OF AND INTEREST ON SUCH BONDS AS THEY BECOME DUE; AND AUTHORIZING CERTAIN OTHER DOCUMENTS AND ACTIONS IN CONNECTION THEREWITH

BE IT RESOLVED BY THE BOARD OF THE WEST HAYMARKET JOINT PUBLIC AGENCY IN THE STATE OF NEBRASKA, AS FOLLOWS:

FINDINGS AND DETERMINATIONS

The Board (the **“Board”**) of the West Haymarket Joint Public Agency in the State of Nebraska (the **“Agency”**) hereby finds and determines as follows:

1. The Agency has been duly organized by The City of Lincoln, Nebraska (the **“City”**) and The Board of Regents of the University of Nebraska (the **“Regents”**) pursuant to the provisions of (a) the Joint Public Agency Act (Chapter 13, Article 25, Reissue Revised Statutes of Nebraska, as amended, herein referred to as the **“Act”**) and (b) Joint Public Agency Agreement Creating the West Haymarket Joint Public Agency, dated as of April 1, 2010, between The City of Lincoln, Nebraska (the **“City”**) and The Board of Regents of the University of Nebraska (the **“Regents”**), as amended and restated by the Amended and Restated Joint Public Agency Agreement of the West Haymarket Joint Public Agency, dated January 20, 2011 (collectively, the **“JPA Agreement”**), between the City and the Regents, and is validly existing as a joint public agency of the State of Nebraska (the **“State”**). The Nebraska Secretary of State has issued a Certificate of Creation and notice of the creation thereof has been published as required by the Act.

2. The Agency is organized (a) for purposes of constructing, equipping, furnishing and financing public facilities in the West Haymarket Redevelopment Area (herein defined) of the City including but not limited to (1) a sports/entertainment arena (the **“Arena”**), (2) roads, streets and sidewalks, (3) a pedestrian overpass, (4) public plaza space, (5) sanitary sewer mains, (6) water mains, (7) electric transmission lines, (8) drainage systems, (9) flood control, (10) parking garages and (11) surface parking lots (collectively, the **“Facilities”**), and (b) to (1) acquire land and to relocate existing businesses, and (2) undertake environmental remediation and site preparation as necessary and appropriate for the construction, equipping, furnishing and financing of the Facilities (collectively, as itemized on **Exhibit B** hereto, as the same may be amended from time to time, the **“Projects,”** and, individually, a **“Project”**).

3. It is necessary, desirable, advisable and in the best interests of the Agency and the Participants, that the Agency (a) undertake the Projects, (b) issue general obligation facility bonds (the **“Bonds”**) for the purposes of paying (1) a portion of the costs of one or more Projects, including, without

limitation, the purchase of general obligation bonds of the City issued to pay certain costs of one or more of such Projects, and (2) the costs of issuing the Bonds, and (c) levy taxes in an amount sufficient to pay the principal or redemption price of and interest on the Bonds.

4. Pursuant to the JPA Agreement, (a) the City has irrevocably allocated and assigned to the Agency, for the period beginning June 1, 2010 and ending on the date upon which all of the Bonds are no longer deemed to be outstanding and unpaid hereunder, its authority to cause the levy of taxes within the taxing district of the City (the “**Agency Bond Levy**”), beginning in the year 2010 for collection in 2011, for the purpose of paying all or a portion of the costs of one or more Projects pursuant to Section 15-202, Reissue Revised Statutes of Nebraska, as amended, solely for the purpose of paying the principal or redemption price of and interest on the Bonds and (b) the Agency Bond Levy shall be certified to the County as provided by law for levy and collection in such amounts, if any, as may be required to pay the principal or redemption price of and interest on the Bonds as the same become due.

5. The City and the Agency have entered into a Facilities Agreement, dated September 8, 2010 (as amended from time to time, the “**Facilities Agreement**”), pursuant to which the City has agreed to maintain, operate and manage the Projects as provided therein, and which provides for the collection, deposit and application of the Revenues (as defined in the Facilities Agreement).

6. All conditions, acts, and things required by law to exist or to be done precedent to the issuance of the Bonds do exist and have been done in due form and time as required by law.

ARTICLE I

DEFINITIONS

Section 101. Definitions of Words and Terms. Unless the context shall clearly indicate some other meaning, for all purposes of this Resolution, all words and terms used in this Resolution which are defined in the Facilities Agreement shall have the respective meanings given to them in the Facilities Agreement. In addition to words and terms defined elsewhere herein, the following words and terms used in this Resolution have the following meanings:

“**Act**” means the Joint Public Agency Act, Chapter 13, Article 25, Reissue Revised Statutes of Nebraska, as amended.

“**Agency**” means the West Haymarket Joint Public Agency, a joint public agency duly organized and validly existing under the laws of the State, and its successors and assigns.

“**Agency Bond Levy**” means the authority of the City which is irrevocably allocated and assigned to the Agency, for the period beginning June 1, 2010 and ending on the date upon which all of the Bonds are no longer deemed to be outstanding and unpaid pursuant to the resolution or resolutions pursuant to which they are issued, to cause the levy of taxes within the taxing jurisdiction of the City, beginning in the year 2010 for collection in 2011, for the purpose of paying the costs of the Projects pursuant to Section 15-202, Reissue Revised Statutes of Nebraska, as amended, in an amount which will be sufficient to pay the principal or redemption price of and interest on the Bonds when and as the same become due.

“**Arena**” has the meaning assigned in the Findings and Determinations hereof.

“Authorized Officer” means the Chair and the Secretary, or in the event that either the Chair or the Secretary is unavailable for any reason, any other member of the Board or the Treasurer or any other officer of the Agency authorized by the Board to execute documents for and on behalf of the Agency.

“Beneficial Owner” means any Person that (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bonds for federal income tax purposes.

“Board” means the board of representatives of the Agency.

“Bond Counsel” means Gilmore & Bell, P.C., or other attorney or firm of attorneys with a nationally recognized standing in the field of municipal bond financing selected by the Agency.

“Bond Register” means the books for the registration, transfer and exchange of Bonds kept at the office of the Paying Agent.

“Bond” or **“Bonds”** means the bonds authorized by **Section 201** of this Resolution.

“Budget Act” means Sections 13-501 to 13-513, inclusive, Reissue Revised Statutes of Nebraska, as amended.

“Business Day” means a day other than a Saturday, Sunday or holiday on which the Registrar is scheduled in the normal course of its operations to be open to the public for conduct of its banking operations.

“Cede & Co.” means Cede & Co., as nominee of The Depository Trust Company, New York, New York.

“City” means The City of Lincoln, Nebraska.

“City Bonds” means the not to exceed \$25,000,000 principal amount of The City of Lincoln, Nebraska general obligation bonds authorized by the electors of the City at a special election in conjunction with the statewide primary election on May 11, 2010, to pay a portion of the costs of acquiring, constructing, equipping and furnishing a sports/entertainment arena and related facilities.

“City Payment” means a payment made by the City to the Agency pursuant to the Facilities Agreement for the purpose of paying the principal of and interest due on the Bonds on the next Interest Payment Date.

“Code” means the Internal Revenue Code of 1986, as amended, and the applicable regulations of the Treasury Department proposed or promulgated thereunder.

“Completion Date” means the date established pursuant to **Section 504(b)** on which construction of the Projects is complete.

“Construction Fund” means the fund by that name created by **Section 501**, in which there shall be established such accounts as shall be determined by the Finance Director in accordance with the provisions of **Section 212**.

“Continuing Disclosure Undertaking” means the Continuing Disclosure Undertaking executed by the Agency and the City, dated the date of delivery of the Bonds, as originally executed and as amended from time to time in accordance with its terms.

“2011 Debt Service Account” means the account by that name created by **Section 501** in the Debt Service Fund, in which there shall be established such subaccounts as shall be determined by the Finance Director in accordance with the provisions of **Section 212**.

“Debt Service Fund” means the fund by that name established by the Facilities Agreement.

“Defaulted Interest” means interest on any Bond which is payable but not paid on any Interest Payment Date.

“Defeasance Obligations” means any of the following obligations:

(a) Government Obligations that are not subject to redemption in advance of their maturity dates; or

(b) obligations of any state or political subdivision of any state, the interest on which is excluded from gross income for federal income tax purposes and which meet the following conditions:

(1) the obligations are (A) not subject to redemption prior to maturity or (B) the trustee for such obligations has been given irrevocable instructions concerning their calling and redemption and the issuer of such obligations has covenanted not to redeem such obligations other than as set forth in such instructions;

(2) the obligations are secured by cash or Government Obligations that may be applied only to the principal or Redemption Price of and interest payments on such obligations;

(3) such cash and the principal of and interest on such Government Obligations (plus any cash in the escrow fund) are sufficient to meet the liabilities of the obligations;

(4) such cash and Government Obligations serving as security for the obligations are held in an escrow fund by an escrow agent or a trustee irrevocably in trust;

(5) such cash and Government Obligations are not available to satisfy any other claims, including those against the trustee or escrow agent; and

(6) the obligations are rated in the highest rating category by Moody’s Investors Service, Inc. (presently “Aaa”) or Standard & Poor’s Ratings Group (presently “AAA”).

“Designated Office” means the corporate trust administration office maintained by the Paying Agent at which the Paying Agent discharges its obligations under this Resolution and which may be changed by the Paying Agent upon written notice to the Agency and to each Registered Owner.

“Facilities Agreement” means the Facilities Agreement, dated September 8, 2010, as amended from time to time in accordance with its terms, between the City and the Agency, governing the acquisition, construction, equipping, furnishing, operation and management of the Projects, and the collection, deposit and application of the Revenues.

“**Finance Director**” means the Finance Director of the City, as the chief financial officer and treasurer of the Agency.

“**Government Obligations**” means bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of, or obligations the principal of and interest on which are fully and unconditionally guaranteed as to full and timely payment by, the United States, including evidences of a direct ownership interest in future interest or principal payments on obligations issued or guaranteed by the United States (including the interest component of obligations of the Resolution Funding Corporation), or securities which represent an undivided interest in such obligations, which obligations are rated in the highest rating category by a nationally recognized rating service and such obligations are held in a custodial account for the benefit of the Agency.

“**Interest Payment Date**” means June 15 and December 15 of each year beginning December 15, 2011.

“**JPA Agreement**” means the Joint Public Agency Agreement Creating the West Haymarket Joint Public Agency, dated as of April 1, 2010, between the City and the Regents, as amended from time to time in accordance with its terms, including, without limitation, the Amended and Restated Joint Public Agency Agreement of the West Haymarket Joint Public Agency, dated January 20, 2011, between the City and the Regents.

“**Maturity**” when used with respect to any Bond means the date on which the principal of such Bond becomes due and payable as therein and herein provided, whether at the Stated Maturity thereof or call for optional or mandatory redemption or otherwise.

“**Outstanding**” means, when used with reference to the Bonds, as of any particular date of determination, all Bonds theretofore authenticated and delivered hereunder, except the following Bonds:

- (a) Bonds theretofore cancelled by the Paying Agent or delivered to the Paying Agent for cancellation;
- (b) Bonds deemed to be paid in accordance with the provisions of **Section 701** hereof; and
- (c) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered hereunder.

“**Participants**” means those financial institutions for whom the Securities Depository effects book-entry transfers and pledges of securities deposited with the Securities Depository, as such listing of Participants exists at the time of such reference.

“**Paying Agent**” means the paying agent designated in **Section 203** hereof.

“**Permitted Investments**” means any of the following securities, if and to the extent the same are at the time legal for investment of the Agency’s funds:

- (a) Government Obligations;
- (b) bonds, notes or other obligations of the State, or any political subdivision of the State, that at the time of their purchase are rated in either of the two highest rating categories by a nationally recognized rating service;

(c) obligations of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Financing Bank, the Federal Intermediate Credit Corporation, Federal Banks for Cooperatives, Federal Land Banks, Federal Home Loan Banks, Farmers Home Administration and Federal Home Loan Mortgage Corporation;

(d) repurchase agreements with any bank, bank holding company, trust company, or other financial institution organized under the laws of the United States or any state, that are continuously and fully secured by any one or more of the securities described in clause (a), (b) or (c) above and that have a market value, exclusive of accrued interest, at all times at least equal to the principal amount of such repurchase agreement and are held in a custodial or trust account for the benefit of the Agency; and

(e) certificates of deposit or time deposits, whether negotiable or nonnegotiable, issued by any bank or trust company organized under the laws of the United States or any state, provided that such certificates of deposit or time deposits shall be either (1) continuously and fully insured by the Federal Deposit Insurance Corporation, or (2) continuously and fully secured by such securities as are described above in clauses (a) through (c), inclusive, which shall have a market value, exclusive of accrued interest, at all times at least equal to the principal amount of such certificates of deposit or time deposits.

“Person” means any natural person, corporation, partnership, joint venture, association, firm, joint-stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof or other public body.

“Project” and **“Projects”** have the meaning assigned in the Findings and Determinations as specified and identified in **Exhibit B**, attached hereto and made a part thereof by this reference, as the same may be amended and supplemented from time to time.

“Purchaser” means (a) if the Bonds are sold in a public sale, the responsible bidder(s) offering to purchase the Bonds at the lowest true interest costs to the Agency at the public sale for the Bonds and (b) if the Bonds are sold in a negotiated sale, the senior managing underwriter.

“Record Date” for the interest payable on any Interest Payment Date means the fifteenth day (whether or not a Business Day) next preceding an Interest Payment Date.

“Redemption Date” when used with respect to any Bond to be redeemed means the date fixed for the redemption of such Bond pursuant to the terms of this Resolution.

“Redemption Price” when used with respect to any Bond to be redeemed means the price at which such Bond is to be redeemed pursuant to the terms of this Resolution.

“Regents” means The Board of Regents of the University of Nebraska.

“Registered Owner” when used with respect to any Bond means the Person in whose name such Bond is registered on the Bond Register.

“Registrar” means Union Bank and Trust Company, Lincoln, Nebraska, and any successors or assigns.

“Replacement Bonds” means Bonds issued to Beneficial Owners in accordance with **Section 207**.

“Resolution” means this Resolution adopted by the governing body of the Agency, authorizing the issuance of the Bonds, as amended from time to time.

“Securities Depository” means, initially, The Depository Trust Company, New York, New York, and its successors and assigns.

“Special Record Date” means the date fixed by the Paying Agent pursuant to **Section 204** hereof for the payment of Defaulted Interest.

“State” means the State of Nebraska.

“Stated Maturity” means, when used with respect to any Bond, the date specified in such Bond and this Resolution as the fixed date on which the principal of such Bond is due and payable.

“Tax Agreement” means the Tax Compliance Agreement dated the date of its execution and delivery by the Agency and the City concerning the requirements of the Code with respect to the Bonds, as the same may be amended or supplemented in accordance with the provisions thereof.

“Treasurer” means the Treasurer of the Agency.

“United States” means the United States of America.

“West Haymarket Facilities” has the meaning assigned in the Findings and Determinations hereof.

“West Haymarket Redevelopment Area” means the area in the City described in Exhibit A to the JPA Agreement, as the same may be amended from time to time by the City.

ARTICLE II

AUTHORIZATION OF BONDS

Section 201. Authorization of Bonds. The Agency is hereby authorized and directed to issue General Obligation Facility Bonds, Series 2011 in an aggregate principal amount not to exceed \$100,000,000 for the purpose of paying (a) all or a portion of the costs of one or more Projects, including, without limitation, the purchase of the City Bonds, and (b) the costs of issuing the Bonds.

Section 202. Description of Bonds. The Bonds shall be entitled and designated as “Lincoln, Nebraska West Haymarket Joint Public Agency General Obligation Facility Bonds, Series 2011” and any additional designation as determined by the Finance Director pursuant to **Section 212** hereof. The Bonds shall consist of fully registered bonds, numbered from R-1 upward within each series in order of issuance, in denominations of \$5,000 or any integral multiple thereof. The Bonds shall be in substantially the form set forth in **Exhibit A** attached hereto and shall be subject to registration, transfer and exchange as provided in **Section 205** hereof. All of the Bonds shall be dated the date of delivery thereof, shall become due and payable serially in the amounts on the Stated Maturities, subject to redemption and payment prior to their Stated Maturities as provided in **Article III** hereof, and shall bear interest at the rates per annum determined by the Finance Director in accordance with the provisions of **Section 212** hereof.

The Bonds shall bear interest (computed on the basis of a 360-day year of twelve 30-day months) from the date thereof or from the most recent Interest Payment Date to which interest has been paid or duly provided for.

Each of the Bonds, as originally issued or issued upon transfer, exchange or substitution, shall be in substantially the form set forth in **Exhibit A** attached hereto.

Section 203. Designation of Paying Agent. The Agency hereby designates the Registrar as its paying agent for the payment of principal of and interest on the Bonds and bond registrar with respect to the registration, transfer and exchange of Bonds. The Paying Agent shall serve in such capacities under the terms of an agreement entitled “Bond Registrar and Paying Agent Agreement” between the Agency and the Paying Agent (the “**Registrar Agreement**”), in the form attached hereto as **Exhibit C**, which is hereby ratified and approved. One or more Authorized Officers are hereby authorized to execute the Registrar Agreement in substantially the form presented but with such changes as such Authorized Officer shall deem appropriate or necessary.

The Agency will at all times maintain a Paying Agent meeting the qualifications herein described for the performance of the duties hereunder. The Agency reserves the right to appoint a successor Paying Agent by (a) filing with the Paying Agent then performing such function a certified copy of the proceedings giving notice of the termination of such Paying Agent and appointing a successor, and (b) causing notice of the appointment of the successor Paying Agent to be given by first-class mail to each Registered Owner. No resignation or removal of the Paying Agent shall become effective until a successor has been appointed and has accepted the duties of Paying Agent.

Every Paying Agent appointed hereunder shall at all times be a commercial banking association or corporation or trust company organized and doing business under the laws of the United States or of a state of the United States, authorized under such laws to exercise trust powers and subject to supervision or examination by federal or state regulatory authority.

Section 204. Method and Place of Payment of Bonds. The principal or Redemption Price of and interest on the Bonds shall be payable in any coin or currency of the United States that on the respective dates of payment thereof is legal tender for the payment of public and private debts.

The principal or Redemption Price of each Bond shall be paid at Maturity by check or draft to the Person in whose name such Bond is registered on the Bond Register at the Maturity thereof, upon presentation and surrender of such Bond at the Designated Office of the Paying Agent.

The interest payable on each Bond on any Interest Payment Date shall be paid to the Registered Owner of such Bond as shown on the Bond Register at the close of business on the Record Date for such interest by check or draft mailed by the Paying Agent to the address of such Registered Owner shown on the Bond Register.

Notwithstanding the foregoing provisions of this **Section 204**, any Defaulted Interest with respect to any Bond shall cease to be payable to the Registered Owner of such Bond on the relevant Record Date and shall be payable to the Registered Owner in whose name such Bond is registered at the close of business on the Special Record Date for the payment of such Defaulted Interest, which Special Record Date shall be fixed as specified in this paragraph. The Agency shall notify the Paying Agent in writing of the amount of Defaulted Interest proposed to be paid on each Bond and the date of the proposed payment (which date shall be at least 30 days after receipt of such notice by the Paying Agent) and shall deposit with the Paying Agent at the time of such notice an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the

Paying Agent for such deposit prior to the date of the proposed payment. Following receipt of such funds the Paying Agent shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 nor less than 10 days prior to the date of the proposed payment. The Paying Agent shall promptly notify the Agency of such Special Record Date and, in the name and at the expense of the Agency, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, by first-class mail, postage prepaid, to each Registered Owner of a Bond entitled to such notice at the address of such Registered Owner as it appears on the Bond Register not less than 10 days prior to such Special Record Date.

The Paying Agent shall keep a record of the payment of principal or Redemption Price of and interest on all Bonds and at least annually shall forward a copy or summary of such records to the Agency.

Section 205. Registration, Transfer and Exchange of Bonds. The Agency covenants that, as long as any of the Bonds remain Outstanding, it will cause the Bond Register to be kept at the Designated Office. Each Bond when issued shall be registered in the name of the Registered Owner thereof on the Bond Register.

Bonds may be transferred and exchanged only on the Bond Register as provided in this **Section 205**. Upon surrender of any Bond at the Designated Office, the Paying Agent shall transfer or exchange such Bond for a new Bond or Bonds in any authorized denomination of the same Stated Maturity and in the same aggregate principal amount as the Bond that was presented for transfer or exchange. Bonds presented for transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in a form and with guarantee of signature satisfactory to the Paying Agent, duly executed by the Registered Owner thereof or by the Registered Owner's duly authorized agent.

In all cases in which the privilege of transferring or exchanging Bonds is exercised, the Paying Agent shall authenticate and deliver Bonds in accordance with the provisions of this Resolution. The Agency shall pay the fees and expenses of the Paying Agent for the registration, transfer and exchange of Bonds provided for by this Resolution and the cost of printing a reasonable supply of registered bond blanks. Any additional costs or fees that might be incurred in the secondary market, other than fees of the Paying Agent, are the responsibility of the Registered Owners of the Bonds. In the event any Registered Owner fails to provide a correct taxpayer identification number to the Paying Agent, the Paying Agent may make a charge against such Registered Owner sufficient to pay any governmental charge required to be paid as a result of such failure. In compliance with Section 3406 of the Code, such amount may be deducted by the Paying Agent from amounts otherwise payable to such Registered Owner hereunder or under the Bonds.

The Agency and the Paying Agent shall not be required (a) to register the transfer or exchange of any Bond that has been called for redemption after notice of such redemption has been mailed by the Paying Agent pursuant to **Section 303** hereof and during the period of 15 days next preceding the date of mailing of such notice of redemption, or (b) to register the transfer or exchange of any Bond during a period beginning at the opening of business on the day after receiving written notice from the Agency of its intent to pay Defaulted Interest and ending at the close of business on the date fixed for the payment of Defaulted Interest pursuant to **Section 204** hereof.

The Agency and the Paying Agent may deem and treat the Person in whose name any Bond is registered on the Bond Register as the absolute owner of such Bond, whether such Bond is overdue or not, for the purpose of receiving payment of, or on account of, the principal or Redemption Price of and interest on such Bond and for all other purposes. All payments so made to any such Registered Owner or upon the Registered Owner's order shall be valid and effective to satisfy and discharge the liability upon

such Bond to the extent of the sum or sums so paid, and neither the Agency nor the Paying Agent shall be affected by any notice to the contrary.

At reasonable times and under reasonable regulations established by the Paying Agent, the Bond Register may be inspected and copied by the Registered Owners of 10% or more in aggregate principal amount of the Bonds then Outstanding or any designated representative of such Registered Owners whose authority is evidenced to the satisfaction of the Paying Agent.

Section 206. Execution, Registration, Authentication and Delivery of Bonds. Each of the Bonds, including any Bonds issued in exchange or as substitutions for the Bonds initially delivered, shall be signed by the manual or facsimile signature of the Chair and attested by the manual or facsimile signature of the Secretary. In case any officer whose signature appears on any Bond ceases to be such officer before the delivery of such Bond, such signature shall nevertheless be valid and sufficient for all purposes, as if such person had remained in office until delivery. Any Bond may be signed by such persons who at the actual time of the execution of such Bond are the proper officers to sign such Bond although at the date of such Bond such persons may not have been such officers.

The Chair and Secretary are hereby authorized and directed to prepare and execute the Bonds in the manner herein specified, and, when duly executed and registered, to deliver the Bonds to the Paying Agent for authentication.

The Bonds shall have endorsed thereon a certificate of authentication substantially in the form set forth in **Exhibit A** attached hereto, which shall be manually executed by an authorized officer or employee of the Paying Agent, but it shall not be necessary that the same officer or employee sign the certificate of authentication on all of the Bonds that may be issued hereunder at any one time. No Bond shall be entitled to any security or benefit under this Resolution or be valid or obligatory for any purpose unless and until such certificate of authentication has been duly executed by the Paying Agent. Such executed certificate of authentication upon any Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Resolution. Upon authentication, the Paying Agent shall deliver the Bonds to the Purchaser upon payment of the purchase price of the Bonds plus accrued interest thereon to the date of their delivery.

Section 207. Mutilated, Destroyed, Lost and Stolen Bonds. If (a) any mutilated Bond is surrendered to the Paying Agent or the Paying Agent receives evidence to its satisfaction of the destruction, loss or theft of any Bond, and (b) there is delivered to the Paying Agent such security or indemnity as may be required by the Paying Agent, then, in the absence of notice to the Paying Agent that such Bond has been acquired by a bona fide purchaser, the Agency shall execute and, upon the Agency's request, the Paying Agent shall authenticate and deliver, in exchange for or in lieu of any such mutilated, destroyed, lost or stolen Bond, a new Bond of the same Stated Maturity and of like tenor and principal amount.

If any such mutilated, destroyed, lost or stolen Bond has become or is about to become due and payable, the Agency, in its discretion, may pay such Bond instead of issuing a new Bond.

Upon the issuance of any new Bond under this **Section 207**, the Agency may require the payment by the Registered Owner of an amount sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Paying Agent) connected therewith.

Every new Bond issued pursuant to this **Section 207** shall constitute a replacement of the prior obligation of the Agency, and shall be entitled to all the benefits of this Resolution equally and ratably with all other Outstanding Bonds.

Section 208. Cancellation and Destruction of Bonds Upon Payment. All Bonds that have been paid or redeemed or that otherwise have been surrendered to the Paying Agent, either at or before Maturity, shall be cancelled by the Paying Agent immediately upon the payment, redemption and surrender thereof to the Paying Agent and subsequently destroyed in accordance with the customary practices of the Paying Agent. The Paying Agent shall execute a certificate in duplicate describing the Bonds so cancelled and destroyed and shall file an executed counterpart of such certificate with the Agency.

Section 209. Book-Entry Bonds; Securities Depository.

(a) The Bonds shall initially be registered to Cede & Co., as nominee for the Securities Depository, and no Beneficial Owner will receive any certificate representing its respective interest(s) in the Bonds, except in the event the Paying Agent issues Replacement Bonds as provided in **Section 209(b)** hereof. It is anticipated that during the term of the Bonds, the Securities Depository will make book-entry transfers among its Participants and receive and transmit payment of the principal or Redemption Price of and interest on the Bonds to the Participants until and unless the Paying Agent authenticates and delivers Replacement Bonds to the Beneficial Owners as described in **Section 209(b)** hereof.

(b) (1) If the Agency determines (A) that the Securities Depository is unable to properly discharge its responsibilities, or (B) that the Securities Depository is no longer qualified to act as a securities depository and registered clearing agency under the Securities and Exchange Act of 1934, as amended, or (C) that the continuation of a book-entry system to the exclusion of any Bonds being issued to any Registered Owner other than Cede & Co. is no longer in the best interests of the Beneficial Owners of the Bonds, or (2) if the Paying Agent receives written notice from Participants having interests in not less than 50% in aggregate principal amount of the Bonds Outstanding, as shown on the records of the Securities Depository (and certified to such effect by the Securities Depository), that the continuation of a book-entry system to the exclusion of any Bonds being issued to any Registered Owner other than Cede & Co. is no longer in the best interests of the Beneficial Owners of the Bonds, then the Paying Agent shall notify the Registered Owners of such determination or such notice and of the availability of certificates to Registered Owners requesting the same, and the Paying Agent shall register in the name of and authenticate and deliver Replacement Bonds to the Beneficial Owners or their nominees in principal amounts representing the interest of each, making such adjustments as it may find necessary or appropriate as to accrued interest and previous calls for redemption; provided, that in the case of a determination under **Section 209(b)(1)(A)** or **(1)(B)** hereof, the Agency, with the consent of the Paying Agent, may select a successor securities depository in accordance with **Section 209(c)** hereof to effect book-entry transfers. In such event, all references to the Securities Depository herein shall relate to the period of time when the Securities Depository has possession of at least one Bond. Upon the issuance of Replacement Bonds, all references herein to obligations imposed upon or to be performed by the Securities Depository shall be deemed to be imposed upon and performed by the Paying Agent, to the extent applicable with respect to such Replacement Bonds. If the Securities Depository resigns and the Agency, the Paying Agent or Registered Owners are unable to locate a qualified successor of the Securities Depository in accordance with **Section 209(c)** hereof, then the Paying Agent shall authenticate and cause delivery of Replacement Bonds to Registered Owners as provided herein. The Paying Agent may rely on information from the Securities Depository and its Participants as to the names of the Beneficial Owners of the Bonds. The cost of printing Replacement Bonds shall be paid for by the Agency.

(c) In the event the Securities Depository resigns, is unable to properly discharge its responsibilities, or is no longer qualified to act as a securities depository and registered clearing agency under the Securities Exchange Act of 1934, as amended, the Agency may appoint a successor Securities Depository provided the Paying Agent receives written evidence satisfactory to the Paying Agent with respect to the ability of the successor Securities Depository to discharge its responsibilities. Any such successor Securities Depository shall be a securities depository which is a registered clearing agency under the Securities Exchange Act of 1934, as amended, or other applicable statute or regulation that operates a securities depository upon reasonable and customary terms. The Paying Agent upon its receipt of a Bond or Bonds for cancellation shall cause the delivery of Bonds to the successor Securities Depository in appropriate denominations and form as provided herein.

Section 210. Preliminary and Final Official Statement. The Preliminary Official Statement, in substantially the form attached hereto as **Exhibit D**, is hereby ratified and approved, and the final Official Statement is hereby authorized and approved by supplementing, amending and completing the Preliminary Official Statement with such changes and additions thereto as are necessary to conform to and describe the transaction. The use and public distribution of the final Official Statement by the Purchaser in connection with the reoffering of the Bonds is hereby authorized. The Authorized Officers are hereby authorized to execute and deliver a certificate pertaining to such Official Statement as prescribed therein, dated as of the date of payment for and delivery of the Bonds.

The Agency agrees to provide to the Purchaser within seven Business Days of the date of the sale of Bonds sufficient copies of the final Official Statement to enable the Purchaser to comply with the requirements of Rule 15c2-12(b)(4) of the Securities and Exchange Commission and with the requirements of Rule G-32 of the Municipal Securities Rulemaking Board.

Section 211. Sale of Bonds. The Bonds shall be sold in a public or negotiated sale, as determined by the Finance Director pursuant to **Section 212** hereof.

(a) If sold at a public sale, the Bonds shall be sold to the responsible Purchaser offering to purchase the Bonds at the lowest true interest cost to the Agency pursuant to a Notice of Sale in substantially the form attached hereto as **Exhibit E-1**, under which the Agency offers to sell the Bonds, upon the terms and conditions set forth therein and with such changes therein as shall be approved by the Finance Director. The purchase price for the Bonds shall be not less than 98.00% nor more than 105.00% of the principal amount thereof and the underwriting discount shall not exceed 1.50%. The true interest cost on the Bonds shall not exceed 5.25% per annum, calculated on the basis of a 360-day year consisting of twelve 30-day months. The Finance Director is authorized to accept the bid of the Purchaser and to execute all other documents necessary to effectuate the sale of the Bonds to the Purchaser.

(b) If sold in a negotiated sale, the Bonds shall be sold upon the terms and conditions set forth in the Purchase Agreement, in substantially the form attached hereto as **Exhibit E-2**. The purchase price for the Bonds shall be not less than 98.00% nor more than 105.00% of the principal amount thereof and the underwriting discount shall not exceed 1.50%. The true interest cost on the Bonds shall not exceed 5.25% per annum, calculated on the basis of a 360-day year consisting of twelve 30-day months. The Finance Director is hereby authorized to execute and deliver the Purchase Agreement with such changes therein as such official deems appropriate, for and on behalf of the Agency, such officer's signature thereon being conclusive evidence of such official's and the Agency's approval thereof. If the Purchaser of the Bonds in a negotiated sale is the financial advisor to the City or the Agency, the Chair or the Vice Chair is hereby authorized to execute and deliver to the Purchaser a temporary termination of the financial advisory relationship, if deemed necessary by the Purchaser. Execution of a temporary termination document shall constitute conclusive evidence of the Agency's approval of such temporary termination document.

Section 212. Determination of Terms and Provisions of Bonds. The Finance Director shall determine whether the Bonds shall be sold in a public sale or a negotiated sale and shall determine and fix (a) the dated date, which shall not be later than December 31, 2011; (b) the aggregate principal amount of the Bonds, which shall not exceed \$100,000,000, whether the Bonds shall be issued as serial bonds or term bonds or a combination of serial bonds and term bonds, (c) the rate or rates of interest to be borne by each maturity of Bonds within each series; (d) the principal amount of Bonds maturing in each year; (e) the mandatory sinking fund redemption dates and amount with respect to the Bonds in each year for which the Finance Director determines that a mandatory sinking fund redemption shall be made; (f) the date upon which the Bonds will be subject to redemption at the option of the Agency and the Redemption Price of the Bonds, which shall not exceed 104% of the principal amount being redeemed and the period(s) during which each Redemption Price is applicable; (g) the final maturity date of the Bonds, which shall be not later than December 31, 2045; (h) any additional accounts or subaccounts to be established within the funds created by **Section 501** hereof; and (i) any other provisions related to the Bonds not set forth in this Resolution.

Section 213. Purchase of City Bonds. The Agency is hereby authorized to use proceeds of the Bonds to purchase the City Bonds in an aggregate principal amount not to exceed \$25,000,000 (the “**City Bonds**”). The City Bonds shall be purchased by the Agency pursuant to a Bond Purchase Agreement upon the terms and conditions set forth therein, in substantially the form attached hereto as **Exhibit F** at such time as the Finance Director shall determine. The purchase price of the City Bonds shall be paid from money on deposit in the 2011 Construction Account upon written direction from the Finance Director.

ARTICLE III

REDEMPTION OF BONDS

Section 301. Optional and Mandatory Redemption of Bonds.

(a) **Optional Redemption by Agency.** At the option of the Agency, Bonds or portions thereof may be called for redemption and payment prior to their Stated Maturity at any time on or after the date determined by the Finance Director in accordance with the provisions of **Section 212** hereof, as a whole or in part at Redemption Prices determined by the Finance Director in accordance with the provisions of **Section 212** hereof, plus accrued interest thereon to the Redemption Date.

(b) **Mandatory Redemption.** The Bonds issued as term bonds shall be subject to mandatory redemption and payment prior to their Stated Maturity pursuant to the mandatory redemption requirements of this **Section 301(b)** at a Redemption Price equal to 100% of the principal amount thereof plus accrued interest to the Redemption Date. The City Payments which are to be deposited into the 2011 Debt Service Account in the Debt Service Fund shall be sufficient to redeem, and the Agency shall redeem on December 15 in each year, the principal amounts of such term bonds as determined by the Finance Director in accordance with the provisions of **Section 212** hereof.

At its option, to be exercised on or before the 45th day next preceding any mandatory Redemption Date, the Agency may: (1) deliver to the Paying Agent for cancellation Term Bonds subject to mandatory redemption on such mandatory Redemption Date, in any aggregate principal amount desired; or (2) furnish the Paying Agent funds, together with appropriate instructions, for the purpose of purchasing any Term Bonds subject to mandatory redemption on such mandatory Redemption Date from any Registered Owner thereof whereupon the Paying Agent shall expend such funds for such purpose to

such extent as may be practical; or (3) receive a credit with respect to the mandatory redemption obligation of the Agency under this Section for any Term Bonds subject to mandatory redemption on such mandatory Redemption Date which, prior to such date, have been redeemed (other than through the operation of the mandatory redemption requirements of this subsection (b)) and cancelled by the Paying Agent and not theretofore applied as a credit against any redemption obligation under this subsection (b). Each Term Bond so delivered or previously purchased or redeemed shall be credited at 100% of the principal amount thereof on the obligation of the Agency to redeem Term Bonds of the same Stated Maturity on such mandatory Redemption Date, and any excess of such amount shall be credited on future mandatory redemption obligations for Term Bonds of the same Stated Maturity in chronological order, and the principal amount of Term Bonds of the same Stated Maturity to be redeemed by operation of the requirements of this Section shall be accordingly reduced. If the Agency intends to exercise any option granted by the provisions of clauses (1), (2) or (3) above, the Agency will, on or before the 45th day next preceding each mandatory Redemption Date, furnish the Paying Agent a written certificate indicating to what extent the provisions of clauses (1), (2) and (3) are to be complied with respect to such mandatory redemption payment.

Section 302. Selection of Bonds to Be Redeemed.

(a) The Paying Agent shall call Bonds for redemption and payment and shall give notice of such redemption as herein provided upon receipt by the Paying Agent at least 45 days prior to the Redemption Date of written instructions of the Agency specifying the principal amount, Stated Maturities, Redemption Date and Redemption Prices of the Bonds to be called for redemption. The Paying Agent may in its discretion waive such notice period so long as the notice requirements set forth in **Section 303** hereof are met.

(b) Bonds shall be redeemed only in the principal amount of \$5,000 or any integral multiple thereof. When fewer than all of the Outstanding Bonds are to be redeemed, such Bonds shall be redeemed in such principal amounts and from such Stated Maturities as the Agency, in its sole and absolute discretion, may determine, and Bonds of less than a full Stated Maturity shall be selected by the Paying Agent in \$5,000 units of principal amount in such equitable manner as the Paying Agent may determine.

(c) In the case of a partial redemption of Bonds by lot when Bonds of denominations greater than \$5,000 are then Outstanding, then for all purposes in connection with such redemption, each \$5,000 of face value shall be treated as though it were a separate Bond of the denomination of \$5,000. If it is determined that one or more, but not all, of the \$5,000 units of face value represented by any Bond are selected for redemption, then upon notice of intention to redeem such \$5,000 unit or units, the Registered Owner of such Bond or the Registered Owner's duly authorized agent shall present and surrender such Bond to the Paying Agent (1) for payment of the Redemption Price and interest to the Redemption Date of such \$5,000 unit or units of face value called for redemption, and (2) for exchange, without charge to the Registered Owner thereof, for a new Bond or Bonds of the aggregate principal amount of the unredeemed portion of the principal amount of such Bond. If the Registered Owner of any such Bond fails to present such Bond to the Paying Agent for payment and exchange as provided, such Bond shall, nevertheless, become due and payable on the Redemption Date to the extent of the \$5,000 unit or units of face value called for redemption (and to that extent only).

Section 303. Notice and Effect of Call for Redemption. Unless waived by any Registered Owner of Bonds to be redeemed, official notice of any redemption shall be given by the Paying Agent on behalf of the Agency by mailing a copy of an official redemption notice by first-class mail at least 30 days prior to the Redemption Date to the Purchaser and each Registered Owner of the Bonds to be redeemed at the address shown on the Bond Register.

All official notices of redemption shall be dated and shall contain the following information:

- (a) the Redemption Date;
- (b) the Redemption Price;
- (c) if less than all Outstanding Bonds are to be redeemed, the identification (and, in the case of partial redemption of any Bonds, the respective principal amounts) of the Bonds to be redeemed;
- (d) a statement that on the Redemption Date the Redemption Price will become due and payable upon each such Bond or portion thereof called for redemption and that interest thereon shall cease to accrue from and after the Redemption Date; and
- (e) the place where such Bonds are to be surrendered for payment of the Redemption Price, which shall be the Designated Office.

The failure of any Registered Owner to receive notice given as heretofore provided or an immaterial defect therein shall not invalidate any redemption.

Prior to any Redemption Date, the Agency shall deposit with the Paying Agent an amount of money sufficient to pay the Redemption Price of all the Bonds or portions of Bonds that are to be redeemed on that date.

Official notice of redemption having been given as provided, the Bonds or portions of Bonds to be redeemed shall become due and payable on the Redemption Date, at the Redemption Price therein specified, and from and after the Redemption Date (unless the Agency defaults in the payment of the Redemption Price) such Bonds or portion of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with such notice, the Redemption Price of such Bonds shall be paid by the Paying Agent. Installments of interest due on or prior to the Redemption Date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the Registered Owner a new Bond or Bonds of the same Stated Maturity in the amount of the unpaid principal as provided herein. All Bonds that have been surrendered for redemption shall be cancelled and destroyed by the Paying Agent as provided herein and shall not be reissued.

The Paying Agent is also directed to comply with any mandatory or voluntary standards then in effect for processing redemptions of municipal securities established by the Securities and Exchange Commission. Failure to comply with such standards shall not affect or invalidate the redemption of any Bond.

ARTICLE IV

SECURITY FOR AND PAYMENT OF BONDS

Section 401. Security for the Bonds. The Bonds shall be general obligations of the Agency payable as to both principal and interest from the General Account in the Revenue Fund, and to the extent such revenues are insufficient, from ad valorem taxes which may be levied upon all the taxable property in the City as provided in **Section 402** hereof. The full faith, credit and resources of the Agency are

hereby irrevocably pledged for the prompt payment of the principal of and interest on the Bonds as the same become due.

Section 402. Levy and Collection of Property Tax. Pursuant to the JPA Agreement, the City has assigned and allocated to the Agency its authority to levy ad valorem property taxes for the purposes of paying the principal or redemption price of and interest on the Bonds. Pursuant to the Facilities Agreement, the Agency shall (a) collect all Revenues and (b) if an Agency Bond Levy is to be made for the following tax year, include in its next “proposed budget statement” (as defined in Section 13-504 of the Budget Act) the amount required by **Section 15** of the Facilities Agreement to be raised from the Agency Bond Levy for the following tax year and shall levy upon all of the taxable property within the City the Agency Bond Levy, in addition to all other taxes, sufficient in rate and amount to reimburse the City all amounts advanced by the City pursuant to the Facilities Agreement, the Agency hereby pledging such levy of taxes for such purpose.

The taxes referred to above shall be budgeted by the Agency in each of the several years, respectively, and shall be levied and collected at the same time and in the same manner as ad valorem taxes of the City are levied and collected. The proceeds derived from such taxes shall be used to reimburse the City for any loan to the Agency by the City under the Facilities Agreement.

ARTICLE V

ESTABLISHMENT OF FUNDS; DEPOSIT AND APPLICATION OF MONEY

Section 501. Establishment of Funds. There have been or shall be established in the treasury of the Agency the separate funds set forth in the Facilities Agreement to be held and administered by the Agency. There is hereby established in the treasury of the Agency the following accounts and subaccounts:

- (a) 2011 Construction Account in the Construction Fund in which there shall be established such subaccounts as shall be determined by the Finance Director in accordance with the provisions of **Section 212** hereof.
- (b) 2011 Debt Service Account, in which there shall be established the 2011 Capitalized Interest Account.
- (c) Rebate Fund.

The Finance Director may establish one or more accounts in the funds set forth above, pursuant to the authority granted in **Section 212** hereof.

Section 502. Deposit of Bond Proceeds. The net proceeds received from the sale of the Bonds shall be deposited simultaneously with the delivery of the Bonds as follows:

- (a) All accrued interest received from the sale of the Bonds shall be deposited in the 2011 Debt Service Account and applied in accordance with **Section 504**.
- (b) Proceeds of the Bonds shall be deposited into such accounts or subaccounts as may be established by the Finance Director pursuant to the provisions of **Section 212** hereof in the amounts determined by the Finance Director.

(c) The proceeds of the Bonds which remain after the deposits required by **Sections 502(a)** and **(b)** hereof have been made shall be deposited in the 2011 Construction Account. All amounts on deposit in the 2011 Construction Account shall be applied in accordance with **Section 504(a)** hereof.

Section 503. Revenue Fund. The JPA shall deposit the Revenues, when received from the City in accordance with the Facilities Agreement, to be held and applied as provided in the Facilities Agreement.

Section 504. Application of Money in the 2011 Construction Account.

(a) Money in the 2011 Construction Account shall be used by the Agency solely for the purpose of (1) paying all or a portion of the costs of one or more Projects in accordance with the plans and specifications therefor prepared by the Agency's architects approved by the City and the Agency and on file in the office of the Secretary, including any alterations in or amendments to such plans and specifications deemed advisable by the Agency's architects and approved by the City and the Agency, (2) purchasing the City Bonds, and (3) paying the costs and expenses of issuing the Bonds.

Except for money disbursed in accordance with the provisions of **Section 213** to pay the purchase price of the City Bonds, the Treasurer shall make a withdrawal from the 2011 Construction Account only upon a duly authorized and executed order of the Agency accompanied by a certificate executed by the Agency's architects stating that such payment is being made for a purpose within the scope of this Resolution and that the amount of such payment represents only the contract price of the property, equipment, labor, materials or service being paid for or, if such payment is not being made pursuant to an express contract, that such payment is not in excess of the reasonable value thereof. Nothing hereinbefore contained shall prevent the payment out of the 2011 Construction Account or another subaccount in the 2011 Construction Account of all costs and expenses incident to the issuance of the Bonds without a certificate from the Agency's architects.

(b) On the date on which the construction of all of the Projects all or a portion of the costs of which have been paid from the proceeds of the Bonds has been completed (the "**Completion Date**") as certified by the Agency's architects, any surplus remaining in any fund or account in the 2011 Construction Account shall be transferred to and deposited in the 2011 Debt Service Account in the Debt Service Fund.

Section 505. Application of Money in the Debt Service Fund. The Agency shall make deposits into the 2011 Debt Service Account in the Debt Service Fund as provided in the Facilities Agreement.

Any money or investments remaining in the Debt Service Fund after the retirement of the indebtedness for which the Bonds were issued and all other indebtedness of the Agency shall be transferred and paid to the City.

Section 506. Application of Money in the Rebate Fund.

(a) There shall be deposited in the Rebate Fund such amounts as are required to be deposited therein pursuant to the Tax Agreement. All money at any time deposited in the Rebate Fund shall be held in trust, to the extent required to satisfy the requirements of the Code, for payment to the United States of America, and neither the Agency nor the Registered Owner of any Bonds shall have any rights in or claim to such money. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this **Section 506** and the Tax Agreement.

(b) The Agency shall periodically determine the arbitrage rebate under Section 148(f) of the Code in accordance with the Tax Agreement, and the Agency shall make payments to the United States of America at the times and in the amounts determined under the Tax Agreement. Any money remaining in the Rebate Fund after redemption and payment of all of the Bonds and payment and satisfaction of any Rebate Amount, or provision made therefor, shall be released to the Agency.

(c) Notwithstanding any other provision of this Resolution, including in particular **Article VIII** hereof, the obligation to pay arbitrage rebate to the United States and to comply with all other requirements of this Section and the Tax Agreement shall survive the defeasance or payment in full of the Bonds.

Section 507. Deposits and Investment of Money. Money in each of the funds or accounts created by and referred to in this Resolution shall be deposited in a bank or banks or other legally permitted financial institutions that are members of the Federal Deposit Insurance Corporation. All such deposits shall be continuously and adequately secured by the financial institutions holding such deposits as provided by the laws of the State. All money held in the funds created by this Resolution shall be kept separate and apart from all other funds of the Agency so that there shall be no commingling of such funds with any other funds of the Agency.

Money held in any fund referred to in this Resolution may be invested by the Treasurer at the direction of the Board, in accordance with this Resolution and the Tax Agreement, in Permitted Investments; provided, however, that no such investment shall be made for a period extending longer than the date when the money invested may be needed for the purpose for which such fund was created. All earnings on any investments held in any fund shall be transferred to the appropriate account in the Construction Fund until the Completion Date, and thereafter shall accrue to and become a part of the fund which generated the earnings.

Section 508. Payments Due on Saturdays, Sundays and Holidays. If any payment on a Bond is due on a date which is not a Business Day, then such payment need not be made on such date but may be made on the next succeeding Business Day with the same force and effect as if made on such payment date, and no interest shall accrue for the period after such payment date.

Section 509. Nonpresentment of Bonds. If any Bond is not presented for payment when the principal thereof becomes due at Maturity, if funds sufficient to pay such Bond have been made available to the Paying Agent all liability of the Agency to the Registered Owner thereof for the payment of such Bond shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Paying Agent to hold such funds, without liability for interest thereon, for the benefit of the Registered Owner of such Bond, who shall thereafter be restricted exclusively to such funds for any claim of whatever nature on his part under this Resolution or on, or with respect to, such Bond. If any Bond is not presented for payment within four years following the date when such Bond becomes due at Maturity, the Paying Agent shall repay to the Agency the funds theretofore held by it for payment of such Bond, and such Bond shall, subject to the defense of any applicable statute of limitation, thereafter be an

unsecured obligation of the Agency, and the Registered Owner thereof shall be entitled to look only to the Agency for payment, and then only to the extent of the amount so repaid to it by the Paying Agent, and the Agency shall not be liable for any interest thereon and shall not be regarded as a trustee of such money.

ARTICLE VI

REMEDIES

Section 601. Remedies. The provisions of this Resolution, including the covenants and agreements herein contained, shall constitute a contract between the Agency and the Registered Owners of the Bonds, and the Registered Owner or Owners of not less than 10% in aggregate principal amount of the Bonds at the time Outstanding shall have the right for the equal benefit and protection of all Registered Owners of Bonds similarly situated:

- (a) by mandamus or other suit, action or proceedings at law or in equity to enforce the rights of such Registered Owner or Owners against the Agency and its officers, agents and employees, and to require and compel duties and obligations required by the provisions of this Resolution or by the constitution and laws of the State;
- (b) by suit, action or other proceedings in equity or at law to require the Agency, its officers, agents and employees to account as if they were the trustees of an express trust; and
- (c) by suit, action or other proceedings in equity or at law to enjoin any acts or things which may be unlawful or in violation of the rights of the Registered Owners of the Bonds.

Section 602. Limitation on Rights of Registered Owners. The covenants and agreements of the Agency contained herein and in the Bonds shall be for the equal benefit, protection and security of the Registered Owners of any or all of the Bonds. All of the Bonds shall be of equal rank and without preference or priority of one Bond over any other Bond in the application of the funds herein pledged to the payment of the principal of and the interest on the Bonds, or otherwise, except as to rate of interest, or date of Maturity or right of prior redemption as provided in this Resolution. No one or more Registered Owners secured hereby shall have any right in any manner whatever by his or their action to affect, disturb or prejudice the security granted and provided for herein, or to enforce any right hereunder, except in the manner herein provided, and all proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all Registered Owners of such Outstanding Bonds.

Section 603. Remedies Cumulative. No remedy conferred herein upon the Registered Owners is intended to be exclusive of any other remedy, but each such remedy shall be cumulative and in addition to every other remedy and may be exercised without exhausting and without regard to any other remedy conferred herein. No waiver of any default or breach of duty or contract by the Registered Owner of any Bond shall extend to or affect any subsequent default or breach of duty or contract or shall impair any rights or remedies consequent thereon. No delay or omission of any Registered Owner to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or acquiescence therein. Every substantive right and every remedy conferred upon the Registered Owners of the Bonds by this Resolution may be enforced and exercised from time to time and as often as may be deemed expedient. If any suit, action or proceedings taken by any Registered Owner on account of any default or to enforce any right or exercise any remedy has been discontinued or abandoned for any reason, or has been determined adversely to such Registered Owner, then, and in every such case, the Agency and the Registered Owners of the Bonds shall be restored to their former positions

and rights hereunder, respectively, and all rights, remedies, powers and duties of the Registered Owners shall continue as if no such suit, action or other proceedings had been brought or taken.

ARTICLE VII

DEFEASANCE

Section 701. Defeasance. When the principal or Redemption Price of and interest on any or all of the Bonds have been paid and discharged, then the requirements contained in this Resolution and the pledge of the Agency's faith and credit hereunder and all other rights granted hereby shall terminate with respect to such Bonds so paid and discharged. Bonds or the interest payments thereon shall be deemed to have been paid and discharged within the meaning of this Resolution if there has been deposited with the Paying Agent, or other commercial bank or trust company having full trust powers, at or prior to the Stated Maturity or Redemption Date of such Bonds, in trust for and irrevocably appropriated thereto, money and/or Defeasance Obligations which, together with the interest to be earned on any such Defeasance Obligations, will be sufficient for the payment of the principal of such Bonds and/or interest accrued to the Stated Maturity or Redemption Date, or if default in such payment has occurred on such date, then to the date of the tender of such payments, provided, however, that if any such Bonds are to be redeemed prior to their Stated Maturity, (a) the Agency has elected to redeem such Bonds, and (b) either notice of such redemption has been given, or the Agency has given irrevocable instructions, or shall have provided for an escrow agent to give irrevocable instructions, to the Paying Agent to give such notice of redemption in compliance with **Section 302(a)** hereof. Any money and Defeasance Obligations that at any time shall be deposited with the Paying Agent or other commercial bank or trust company by or on behalf of the Agency, for the purpose of paying and discharging any of the Bonds, shall be and are hereby assigned, transferred and set over to the Paying Agent or other bank or trust company in trust for the respective Registered Owners of the Bonds, and such money shall be and is hereby irrevocably appropriated to the payment and discharge thereof. All money and Defeasance Obligations deposited with the Paying Agent or other bank or trust company shall be deemed to be deposited in accordance with and subject to all of the provisions of this Resolution.

ARTICLE VIII

MISCELLANEOUS PROVISIONS

Section 801. Tax Covenants.

- (a) The Agency covenants and agrees that it will comply with the Tax Agreement.
- (b) The foregoing covenant shall remain in full force and effect notwithstanding the defeasance of the Bonds pursuant to **Article VII** hereof or any other provision of this Resolution, until the final maturity date of all Bonds Outstanding.

Section 802. Continuing Disclosure. The Agency hereby (a) authorizes and directs that an Authorized Officer execute and deliver, on the date of issue of the Bonds, the Continuing Disclosure Undertaking in such form as shall be satisfactory to Bond Counsel, and (b) covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Undertaking. Notwithstanding any other provision of this Resolution, failure of the Agency to comply with the Continuing Disclosure Undertaking shall not be considered an event of default hereunder; however, any Participating Underwriter (as such term is defined in the Continuing Disclosure Undertaking) or any

Beneficial Owner or any Registered Owner of a Bond may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the Agency to comply with its obligations under this **Section 802**.

Section 803. Amendments. The rights and duties of the Agency and the Registered Owners, and the terms and provisions of the Bonds or of this Resolution, may be amended or modified at any time in any respect by resolution of the Agency with the written consent of the Registered Owners of not less than a majority in aggregate principal amount of the Bonds then Outstanding, such consent to be evidenced by an instrument or instruments executed by such Registered Owners and duly acknowledged or proved in the manner of a deed to be recorded, and such instrument or instruments shall be filed with the Secretary, but no such modification or alteration shall:

- (a) extend the maturity of any payment of principal or interest due upon any Bond;
- (b) effect a reduction in the amount which the Agency is required to pay as principal or interest on any Bond;
- (c) permit preference or priority of any Bond over any other Bond; or
- (d) reduce the percentage in principal amount of Bonds required for the written consent to any modification or alteration of the provisions of this Resolution.

Any provision of the Bonds or of this Resolution may, however, be amended or modified by resolution duly adopted by the governing body of the Agency at any time in any legal respect with the written consent of the Registered Owners of all of the Bonds at the time Outstanding.

Without notice to or the consent of any Registered Owners, the Agency may amend or supplement this Resolution for the purpose of curing any formal defect, omission, inconsistency or ambiguity therein or in connection with any other change therein which is not materially adverse to the interests of the Registered Owners.

Every amendment or modification of the provisions of the Bonds or of this Resolution, to which the written consent of the Registered Owners is given, as above provided, shall be expressed in a resolution adopted by the Board amending or supplementing the provisions of this Resolution and shall be deemed to be a part of this Resolution. A certified copy of every such amendatory or supplemental resolution, if any, and a certified copy of this Resolution shall always be kept on file in the office of the Secretary, and shall be made available for inspection by the Registered Owner of any Bond or a prospective purchaser or owner of any Bond authorized by this Resolution, and upon payment of the reasonable cost of preparing the same, a certified copy of any such amendatory or supplemental resolution or of this Resolution will be sent by the Secretary to any such Registered Owner or prospective purchaser.

Any and all modifications made in the manner hereinabove provided shall not become effective until there has been filed with the Secretary a copy of such amendatory or supplemental resolution of the Agency, duly certified, as well as proof of any required consent to such modification by the Registered Owners of the Bonds then Outstanding. It shall not be necessary to note on any of the Outstanding Bonds any reference to such amendment or modification.

The Agency shall furnish to the Paying Agent a copy of any amendment to the Bonds or this Resolution which affects the duties or obligations of the Paying Agent under this Resolution.

Section 804. Notices, Consents and Other Instruments by Registered Owners. Any notice, consent, request, direction, approval or other instrument to be signed and executed by any Registered Owner may be in any number of concurrent writings of similar tenor and may be signed or executed by such Registered Owner in person or by an agent with written authorization. Proof of the execution of any such instrument or writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Resolution, and shall be conclusive in favor of the Agency and the Paying Agent with regard to any action taken, suffered or omitted under any such instrument, namely:

(a) The fact and date of the execution by any person of any such instrument may be proved by a certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such instrument acknowledged before such officer the execution thereof, or by affidavit of any witness to such execution.

(b) The fact of ownership of Bonds, the amount or amounts, numbers and other identification of Bonds, and the date of holding the same shall be proved by the Bond Register.

In determining whether the Registered Owners of the requisite aggregate principal amount of Bonds Outstanding have given any request, demand, authorization, direction, notice, consent or waiver under this Resolution, Bonds owned by the Agency shall be disregarded and deemed not to be Outstanding under this Resolution, except that, in determining whether the Registered Owners shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Bonds which the Registered Owners know to be so owned shall be so disregarded. Notwithstanding the foregoing, Bonds so owned which have been pledged in good faith shall not be disregarded as provided if the pledgee establishes to the satisfaction of the Registered Owners the pledgee's right so to act with respect to such Bonds and that the pledgee is not the Agency.

Section 805. Further Authority. The officers of the Agency, including the Chair and Secretary, are hereby authorized and directed to execute all documents and take such actions as they may deem necessary or advisable in order to carry out and perform the purposes of this Resolution and to make ministerial alterations, changes or additions in the foregoing agreements, statements, instruments and other documents herein approved, authorized and confirmed which they may approve, and the execution or taking of such action shall be conclusive evidence of such necessity or advisability.

Section 806. Severability. If any section or other part of this Resolution, whether large or small, is for any reason held invalid, the invalidity thereof shall not affect the validity of the other provisions of this Resolution.

Section 807. Facilities Agreement; Inconsistencies. In the event that any provisions of this Resolution are inconsistent with the Facilities Agreement, the provisions of the Facilities Agreement shall govern.

Section 808. Governing Law. This Resolution shall be governed exclusively by and construed in accordance with the applicable laws of the State.

Section 809. Effective Date. This Resolution shall take effect and be in full force from and after its passage by the Board as provided by law.

[The remainder of this page intentionally left blank.]

DRAFT

PASSED: July __, 2011.

**WEST HAYMARKET JOINT PUBLIC
AGENCY IN THE STATE OF NEBRASKA**

ATTEST:

By: _____
Chair

By: _____
Secretary

DRAFT

EXHIBIT A

(FORM OF BOND)

EXCEPT AS OTHERWISE PROVIDED IN THE RESOLUTION (REFERRED TO HEREIN), THIS GLOBAL BOND MAY BE TRANSFERRED, IN WHOLE BUT NOT IN PART, ONLY TO ANOTHER NOMINEE OF THE SECURITIES DEPOSITORY (AS DEFINED HEREIN) OR TO A SUCCESSOR SECURITIES DEPOSITORY OR TO A NOMINEE OF A SUCCESSOR SECURITIES DEPOSITORY.

**Registered
No. R-__**

**Registered
\$ _____**

**UNITED STATES OF AMERICA
STATE OF NEBRASKA
LINCOLN, NEBRASKA WEST HAYMARKET JOINT PUBLIC AGENCY**

**GENERAL OBLIGATION FACILITY BOND
SERIES 2011**

Interest Rate Maturity Date Dated Date CUSIP Number
December 15, 20__ _____, 2011

REGISTERED OWNER: CEDE & CO.

PRINCIPAL AMOUNT: _____ DOLLARS

WEST HAYMARKET JOINT PUBLIC AGENCY (the “**Agency**”), a joint public agency duly organized and validly existing under and pursuant to (a) the Joint Public Agency Act (Chapter 13, Article 25, Reissue Revised Statutes of Nebraska, the “**Act**”) and (b) the West Haymarket Joint Public Agency Agreement, dated as of April 1, 2010, duly authorized, executed and delivered by The City of Lincoln, Nebraska (the “**City**”) and The Board of Regents of the University of Nebraska (the “**Regents**”), as amended and restated from time to time, including, without limitation, the Amended and Restated West Haymarket Joint Public Agency Agreement, dated January 10, 2011, between the City and the Regents (collectively, the “**JPA Agreement**”), for value received, hereby acknowledges itself to be indebted and promises to pay to the Registered Owner specified above, or registered assigns, the Principal Amount stated above on the Maturity Date shown above unless called for redemption prior to such Maturity Date, and to pay interest thereon at the Interest Rate per annum shown above (computed on the basis of a 360-day year of twelve 30-day months) from the Dated Date shown above or from the most recent interest payment date to which interest has been paid or duly provided for, payable semiannually on June 15 and December 15 in each year, beginning December 15, 2011, until the Principal Amount has been paid.

The principal or redemption price of this Bond shall be paid at maturity or upon earlier redemption by check or draft mailed to the person in whose name this Bond is registered at the maturity

(FORM OF REVERSE SIDE OF BOND)

ADDITIONAL PROVISIONS

This Bond is one of an authorized series of bonds of the Agency designated “General Obligation Facility Bonds, Series 2011,” aggregating the principal amount of \$100,000,000 (the “**Bonds**”), issued by the Agency for the purpose of (a) constructing, equipping, furnishing and financing public facilities in the West Haymarket Redevelopment Area (herein defined) 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 (collectively, the “**West Haymarket Facilities**”), and acquiring land and relocating existing businesses, to undertake environmental remediation and site preparation as necessary and appropriate for the construction, equipping, furnishing and financing of the West Haymarket Facilities, including, without limitation, the purchase of general obligation bonds issued by the City issued to pay certain costs of one or more of such purposes, and (b) paying the costs of issuing the Bonds, under the authority of and in full compliance with the constitution and laws of the State of Nebraska, and pursuant to the Act, the JPA Agreement and the Bond Resolution duly passed (the “**Resolution**”) and proceedings duly and legally had by the Board of the Agency. Reference is hereby made to the Act, the JPA Agreement, the Resolution and the Facilities Agreement, dated September 8, 2010 (the “**Facilities Agreement**”), between the City and the Agency, to all of the provisions of each of which any Registered Owner hereof by the acceptance hereof thereby assents, for a description of the nature and extent of the security for the Bonds, the terms and conditions upon which the Agency may issue obligations thereunder, definitions of terms, the funds, taxes and revenues pledged to the payment of the principal or redemption price of and interest on the Bonds, the nature and extent and manner of enforcement of the pledge, the rights and remedies of the Registered Owner hereof with respect thereto; the terms and conditions upon which this Bond is issued; and the rights, duties and obligations of the Agency. Certified copies of the Resolution and the JPA Agreement are on file at the office of the agency and at the Designated Office (defined in the Resolution) of the Paying Agent.

At the option of the Agency, Bonds or portions thereof maturing on or after December 15, 2022 may be redeemed and paid prior to maturity at any time on or after December 15, 2021, as a whole or in part in such principal amounts and from such maturity or maturities as the Agency may determine (Bonds of less than a full maturity to be selected in multiples of \$5,000 principal amount in such equitable manner as the Paying Agent shall designate) at a redemption price equal to 100% of the principal amount being redeemed, plus accrued interest on such principal amount to the redemption date.

The Bonds maturing on June 15 in the years 203__, 203__, 204__ and 204__ are subject to redemption prior to maturity in part by lot by operation of a mandatory sinking fund on June 15 in each of the years and in the principal amounts set forth in the Resolution, upon payment of such principal amount thereof plus accrued interest thereon to such date of redemption, but without premium. Selection of any Bonds maturing June 15 in the years 203__, 203__, 204__ and 204__ or portions thereof, to be redeemed shall be in the sole discretion of the Registrar.

Notice of redemption, unless waived, is to be given by the Paying Agent by mailing an official redemption notice by first-class mail at least 30 days prior to the redemption date to the original purchaser of the Bonds and each registered owner of the Bond or Bonds to be redeemed at the address shown on the Bond Register maintained by the Paying Agent. Notice of redemption having been given as provided, the Bonds or portions of Bonds to be redeemed shall, on the redemption date, become due and payable at the

redemption price therein specified, and from and after such date (unless the Agency defaults in the payment of the redemption price) such Bonds or portions of Bonds shall cease to bear interest.

The Bonds constitute general obligations of the Agency payable as to both principal and interest from (a) the Revenues (as defined in the Facilities Agreement) and (b) ad valorem taxes which may be levied in accordance with the provisions of the Act and the JPA Agreement upon all the taxable property within the City sufficient in rate and amount to pay the principal or redemption price of and interest on this Bond when and as the same become due.

The Bonds are issuable in the form of fully registered Bonds in the denominations of \$5,000 or any integral multiple thereof.

This Bond may be transferred or exchanged, as provided in the Resolution, only on the Bond Register kept for that purpose at the Designated Office of the Paying Agent, upon surrender of this Bond together with a written instrument of transfer or authorization for exchange satisfactory to the Paying Agent duly executed by the Registered Owner or the Registered Owner's duly authorized agent, and thereupon a new Bond or Bonds in any authorized denomination of the same maturity and in the same aggregate principal amount shall be issued to the transferee in exchange therefor as provided in the Resolution and upon payment of the charges therein prescribed. The Agency and the Paying Agent may deem and treat the person in whose name this Bond is registered on the Bond Register as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes.

The Bonds are being issued by means of a book-entry system with no physical distribution of bond certificates to be made except as provided in the Resolution. One Bond certificate with respect to each date on which the Bonds are stated to mature or with respect to each form of Bonds, registered in the nominee name of The Depository Trust Company (the "**Securities Depository**"), is being issued and required to be deposited with the Securities Depository and immobilized in its custody. The book-entry system will evidence positions held in the Bonds by the Securities Depository's participants, beneficial ownership of the Bonds in authorized denominations being evidenced in the records of such participants. Transfers of ownership shall be effected on the records of the Securities Depository and its participants pursuant to rules and procedures established by the Securities Depository and its participants. The Agency and the Paying Agent will recognize the Securities Depository nominee, while the registered owner of this Bond, as the owner of this Bond for all purposes, including (a) payments of principal or redemption price of and interest on this Bond, (b) notices and (c) voting. Transfer of principal or redemption price and interest payments to participants of the Securities Depository, and transfer of principal or redemption price and interest payments to beneficial owners of the Bonds by participants of the Securities Depository will be the responsibility of such participants and other nominees of such beneficial owners. The Agency and the Paying Agent will not be responsible or liable for such transfers of payments or for maintaining, supervising or reviewing the records maintained by the Securities Depository, the Securities Depository nominee, its participants or persons acting through such participants. While the Securities Depository nominee is the owner of this Bond, notwithstanding the provision hereinabove contained, payments of principal or redemption price of and interest on this Bond shall be made in accordance with existing arrangements among the Agency, the Paying Agent and the Securities Depository.

EXCEPT AS OTHERWISE PROVIDED IN THE RESOLUTION, THIS GLOBAL BOND MAY BE TRANSFERRED, IN WHOLE BUT NOT IN PART, ONLY TO ANOTHER NOMINEE OF THE SECURITIES DEPOSITORY OR TO A SUCCESSOR SECURITIES DEPOSITORY OR TO A NOMINEE OF A SUCCESSOR SECURITIES DEPOSITORY.

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns and transfers unto

Print or Type Name, Address and Social Security Number
or other Taxpayer Identification Number of Transferee

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ agent to transfer the within Bond on the books kept by the Paying Agent for the registration thereof, with full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name of the Registered Owner as it appears upon the face of the within Bond in every particular.

Signature Guaranteed By:

(Name of Eligible Guarantor Institution as defined by SEC Rule 17 Ad-15 (17 CFR 240.17 Ad-15))

By: _____
Title: _____

EXHIBIT B

DESCRIPTION OF PROJECTS

West Haymarket Facilities (consisting of the following Projects)

- (1) a sports/entertainment arena (the “**Arena**”)
- (2) roads, streets and sidewalks
- (3) a pedestrian overpass
- (4) public plaza space
- (5) sanitary sewer mains
- (6) water mains
- (7) electric transmission lines
- (8) drainage systems
- (9) flood control
- (10) parking garages
- (11) surface parking lots

Related Projects (consisting of the following Projects)

- (1) acquisition of land and relocation of existing businesses
- (2) environmental remediation and site preparation as necessary and appropriate for the construction, equipping, furnishing and financing of the West Haymarket Facilities

EXHIBIT C
FORM OF
BOND REGISTRAR AND PAYING AGENT AGREEMENT

DRAFT

EXHIBIT D
FORM OF
PRELIMINARY OFFICIAL STATEMENT

DRAFT

EXHIBIT E-1

**FORM OF
NOTICE OF SALE**

DRAFT

EXHIBIT E-2

**FORM OF
BOND PURCHASE AGREEMENT**

DRAFT

EXHIBIT F
FORM OF
CITY BOND PURCHASE AGREEMENT

DRAFT

GILMORE & BELL, PC.
DRAFT #2
JULY 7, 20117

\$100,000,000
WEST HAYMARKET JOINT PUBLIC AGENCY
GENERAL OBLIGATION FACILITY BONDS
SERIES 2011

[Sale Date], 2011

BOND PURCHASE AGREEMENT

Board of Representatives
West Haymarket Joint Public Agency
Lincoln, Nebraska

Ladies and Gentlemen:

On the basis of the representations, warranties and covenants and upon the terms and conditions contained in this Bond Purchase Agreement, the undersigned, [Underwriter Name] (the **“Purchaser”**), hereby offers to purchase \$100,000,000 aggregate principal amount of General Obligation Facility Bonds, Series 2011 (the **“Bonds”**), to be issued by the West Haymarket Joint Public Agency in the State of Nebraska (the **“Agency”**) under and pursuant to a resolution adopted by the Board of Representatives of the Agency (the **“Board”**) on July 29, 2011 (the **“Resolution”**). Capitalized terms used herein shall have the meanings set forth in the Resolution unless some other meaning is plainly indicated.

This offer is made subject to acceptance of this Bond Purchase Agreement by the Agency on or before 11:59 p.m., Central time, on [Sale Date], 2011.

SECTION 1. AGENCY’S REPRESENTATIONS AND WARRANTIES

By acceptance hereof, the Agency hereby represents and warrants to the Purchaser as follows:

(a) The Agency is a political subdivision and a public body corporate and politic duly organized and existing under the laws of the State of Nebraska (the **“State”**) and is authorized and empowered pursuant to (1) the Constitution and statutes of the State, including, without limitation, the Joint Public Agency Act (Chapter 13, Article 25, Reissue Revised Statutes of Nebraska, as amended, the **“JPA Act”**) and (2) the Joint Public Agency Agreement Creating the West Haymarket Joint Public Agency, dated as of April 1, 2010, between The City of Lincoln, Nebraska (the **“City”**) and The Board of Regents of the University of Nebraska (the **“Regents”**), as amended and restated by the Amended and Restated Joint Public Agency Agreement of the West Haymarket Joint Public Agency, dated January 20, 2011 (collectively, the **“JPA Agreement”**), between the City and the Regents, to issue and sell the Bonds pursuant to the Resolution for the purposes specified therein.

(b) The Agency has complied with all provisions of (1) the Constitution and the laws of the State, including, without limitation, the JPA Act, and (2) the JPA Agreement and has full power and authority to consummate all transactions contemplated by this Agreement, the Resolution, the JPA Agreement and the Facilities Agreement, dated September 8, 2010 (the “**Facilities Agreement**”) between the City and the Agency, and all authorizations, approvals, consents and orders of any governmental authority (including, without limitation, the City), legislative body, board, agency or official having jurisdiction over the subject matter have been duly obtained timely as required (except for any approvals, consents and orders as may be required under the Blue Sky or securities laws of any state in connection with the offering and sale of the Bonds).

(c) The Agency has duly authorized by all necessary action to be taken by the Agency (1) the adoption and performance of the Resolution; (2) the execution, delivery and performance of the Bonds, this Bond Purchase Agreement, the Facilities Agreement, the Tax Agreement, the Registrar Agreement, and the Continuing Disclosure Undertaking; (3) the approval of the Official Statement (hereinafter defined); (4) the execution and performance of any and all such other agreements and documents as may be required to be executed, delivered and performed by the Agency in order to carry out, give effect to and consummate the transactions contemplated by the Resolution, the JPA Agreement, the Facilities Agreement, the Tax Agreement, the Registrar Agreement, the Continuing Disclosure Undertaking, this Bond Purchase Agreement and the Official Statement (collectively, the “**Bond Documents**”); and (5) the carrying out, giving effect to and consummation of the transactions contemplated by the Bond Documents. Executed counterparts of the Resolution and all such other agreements and documents specified herein will be delivered to the Purchaser by the Agency at the Closing Time (hereinafter defined).

(d) The Bond Documents, when adopted or executed and delivered by the Agency, as appropriate, will be the legal, valid and binding obligations of the Agency enforceable in accordance with their terms, except to the extent that enforcement thereof may be limited by any applicable bankruptcy, reorganization, insolvency, moratorium or other law or laws affecting the enforcement of creditors’ rights generally or against entities such as the Agency and further subject to the availability of equitable remedies.

(e) The Bonds have been duly authorized by the Agency, and when issued, delivered and paid for as provided for herein and in the Resolution, will have been duly executed, authenticated, issued and delivered and will constitute valid and binding general obligations of the Agency. issued pursuant to the JPA Act, the JPA Agreement, the Facilities Agreement and the Resolution, enforceable in accordance with their terms and entitled to the benefits and security of the Resolution and the Facilities Agreement (subject to any applicable bankruptcy, reorganization, insolvency, moratorium or other law or laws affecting the enforcement of creditors’ rights generally or against entities such as the Agency and further subject to the availability of equitable remedies). Pursuant to the JPA Agreement, the City has assigned and allocated to the Agency its authority to levy ad valorem property taxes for the purposes of paying the principal or redemption price of and interest on the Bonds (the “**Agency Bond Levy**”). The Bonds shall be payable as to both principal and interest from General Account of the Revenue Fund, and to the extent such revenues are insufficient, from the Agency Bond Levy as provided in the Facilities Agreement.

(f) The adoption or execution and delivery, as appropriate, of the Bond Documents and the Bonds and compliance with the provisions thereof, will not conflict with or constitute on the part of the Agency a violation or breach of, or a default under, any existing law, regulation, court or administrative decree or order, or any agreement, resolution, mortgage, lease or other instrument to which it is subject or by which it is or may be bound.

(g) The adoption of the Resolution and the execution and delivery of the Bonds and the Bond Documents and the other agreements contemplated hereby and by the Official Statement, and compliance with the provisions thereof, will not conflict with or constitute on the part of the Agency a breach of or a default under any existing law, court or administrative regulation, decree or order or any resolution, agreement, indenture or other instrument to which the Agency is subject or by which it is or may be bound nor will such execution and delivery or performance and compliance with the terms thereof result in the creation or imposition of any lien, charge or other encumbrance of any nature whatsoever upon any of its property or assets except as provided in the Bonds, the JPA Agreement, the Resolution and the Facilities Agreement. The Agency is not, or with the giving of notice or lapse of time or both would not be, in violation of or in default under any indenture, mortgage, deed of trust, loan agreement, bonds or other agreement or instrument to which the Agency is a party or by which it is or may be bound, except for violations and defaults which individually and in the aggregate are not material to the Agency and will not be material to the holders of the Bonds. As of the Closing Time, no event will have occurred and be continuing which with the lapse of time or the giving of notice, or both, would constitute an event of default under the Resolution or the Bonds.

(h) The information contained in the Preliminary Official Statement, dated August __, 2011 (the “**Preliminary Official Statement**”), as amended and supplemented by the Official Statement, dated [Sale Date], 2011 (the “**Final Official Statement**”), and in any amendment or supplement thereto that may be authorized for use by the Agency with respect to the Bonds (collectively, the “**Official Statement**”), relating to (1) the organization, operations, and financial and other affairs of the Agency, (2) the financial statements referred to in **Section 1(j)** hereof, (3) application by the Agency of the proceeds to be received by it from the sale of the Bonds, and (4) the Agency’s participation in the transactions contemplated by the Bond Documents is, and as of the Closing Time will be, true, correct and complete in all material respects and does not omit and will not omit to state a material fact necessary in order to make the statements made therein, in light of the circumstances under which they were made, not misleading.

(i) For the purpose of enabling the Purchaser to comply with the requirements of Rule 15c2-12(b)(1) of the Securities and Exchange Commission, promulgated under the Securities Exchange Act of 1934, as amended (the “**1934 Act**”), the Agency hereby deems the information contained in the Preliminary Official Statement to be “final” as of its date, except for the omission of such information as is permitted by Rule 15c2-12(b)(1), such as offering prices, interest rates, selling compensation, aggregate principal amount, principal amount per maturity, delivery dates, ratings, identity of the underwriters and other terms of the Bonds depending on such matters.

(j) The financial statements (1) of the Agency for the fiscal year ended August 31, 2010, audited by BKD, LLP, contained in Appendix C of the Official Statement, and (2) of the City for the fiscal year ended August 31, 2010, audited by BKD LLP, contained in Appendix B of the Official Statement, except as noted therein, present fairly and accurately the financial condition of the City as of the date indicated and the results of its operations for the period specified, and such financial statements are prepared in conformity with generally accepted accounting principles consistently applied in all material respects for the periods involved.

(k) The Agency has not, since its inception, incurred any material liabilities and there has been no material adverse change in the condition of the Agency, financial or otherwise, other than as set forth in the Official Statement.

(l) The Agency is authorized under Section 13-2531, Reissue Revised Statutes of Nebraska, as amended, to incur indebtedness and issue and sell bonds of the Agency to evidence such indebtedness for lawful purposes.

(m) There is no action, suit, proceeding, inquiry or investigation at law or in equity or before or by any court, public board or body pending or, to the knowledge of the Agency, threatened against or affecting the Agency (or, to its knowledge, any basis therefor) wherein an unfavorable decision, ruling or finding would adversely affect the transactions contemplated by the Bond Documents or the validity of the Bonds, the Bond Documents or any other agreement or instrument to which the Agency is a party and which is used or contemplated for use in the consummation of the transactions contemplated hereby or by the Bond Documents.

(n) The Agency has not been notified of any listing or proposed listing by the Internal Revenue Service to the effect that the Agency is a bond issuer whose arbitrage certifications may not be relied upon.

Any certificate signed by any of the authorized officials of the Agency and delivered to the Purchaser in connection with the Closing shall be deemed a representation and warranty by the Agency to the Purchaser as to the statements made therein.

SECTION 2. COVENANTS AND AGREEMENTS OF THE AGENCY

The Agency covenants and agrees with the Purchaser for the time period specified, and if no period is specified, for so long as any of the Bonds remain outstanding, as follows:

(a) To cooperate with the Purchaser and its counsel in any reasonable endeavor to qualify the Bonds for offering and sale under the securities or “Blue Sky” laws of such jurisdictions of the United States of America (the “**United States**”) as the Purchaser may reasonably request; provided that nothing contained herein shall require the Agency to file written consents to suit or written consents to service of process in any jurisdiction in which such consent may be required by law or regulation so that the Bonds may be offered or sold. The Agency consents to the use of drafts of the Preliminary Official Statement, the Preliminary Official Statement and drafts of the Final Official Statement prior to the availability of the Final Official Statement by the Purchaser in obtaining such qualification. The Purchaser shall pay all expenses and costs (including legal, registration and filing fees) incurred in connection therewith.

(b) If, prior to the earlier of (1) 90 days after the “end of the underwriting period” (as defined in Rule 15c2-12 under the 1934 Act) or (2) the time when the Official Statement is available to any person from a nationally recognized municipal securities information repository, but in no case earlier than 25 days after the end of the underwriting period, any event shall occur as a result of which it is necessary to amend or supplement the Official Statement in order to make the statements therein, in the light of the circumstances existing when the Official Statement is delivered to a purchaser, not materially misleading, or the Official Statement is required to be amended or supplemented to comply with law, the Agency shall promptly prepare and furnish, at the expense of the Agency, to the Purchaser and to the dealers (whose names and addresses the Purchaser will furnish to the Agency) to which Bonds may have been sold by the Purchaser and to any other dealers upon request, such amendments or supplements to the Official Statement as may be necessary so that the statements in the Official Statement as so amended or supplemented will not, in the light of the circumstances existing when the Official Statement is delivered to a purchaser of the Bonds, be misleading or so that the Official Statement will comply with law.

(c) Within seven business days after the date of this Bond Purchase Agreement or within sufficient time to accompany any confirmation that requests payment from any customer of the Purchaser, whichever is earlier, the Agency shall provide to the Purchaser sufficient copies of the Official Statement to enable the Purchaser to comply with the requirements of Rule 15c2-12(b)(4) under the 1934 Act, and with the requirements of Rule G-32 of the Municipal Securities Rulemaking Board.

(d) From the date hereof until the Closing Time (hereinafter defined), the Agency shall furnish the Purchaser with a copy of any proposed amendment or supplement to the Official Statement for review and shall not to use any such proposed amendment or supplement to which the Purchaser reasonably objects.

(e) The proceeds of the Bonds will be used as provided in the Resolution for the purpose of paying (1) all or a portion of the costs of one or more Projects (as defined in the Resolution), including, without limitation, the purchase of general obligation bonds of the City issued to pay certain costs of one or more of such Projects, and (2) certain costs of issuing the Bonds.

SECTION 3. COVENANTS AND AGREEMENTS OF THE PURCHASER

The Purchaser intends to make an initial bona fide public offering of all of the Bonds at the prices set forth in **Schedule I** attached hereto; provided, however, that the Purchaser may subsequently change such offering price or prices. The Purchaser agrees to notify the Agency of such changes, if such changes occur prior to Closing, but failure to so notify shall not invalidate such changes. The Purchaser may offer and sell the Bonds to certain dealers (including dealers depositing Bonds into investment trusts) at prices lower than the principal amount thereof.

SECTION 4. PURCHASE, SALE AND DELIVERY OF THE BONDS

On the basis of the representations, warranties, covenants and agreements contained herein and in the other agreements and documents referred to herein, and subject to the terms and conditions herein set forth, at the Closing Time the Purchaser agrees to purchase from the Agency and the Agency agrees to sell to the Purchaser the Bonds at a purchase price of \$_____, representing the par amount of the Bonds (\$100,000,000), [plus/less an original issue premium/discount in the amount of \$_____, and] less an underwriting discount of \$_____. The Bonds shall be issued under and secured as provided in the Resolution and the Facilities Agreement, and the Bonds shall have the maturities and interest rates and be subject to redemption as set forth in **Schedule 1** attached hereto and the Official Statement.

Payment for the Bonds shall be made by federal wire transfer or certified in immediately available federal funds payable to the order of the Agency for the account of the Agency, at the offices of Gilmore & Bell, P.C., Wells Fargo Center, Suite 710, 1248 "O" Street, Lincoln, Nebraska, at 10:00 a.m., local time, on [Closing Date], 2011, or such other place, time or date as shall be mutually agreed upon by the Agency and the Purchaser. Upon such payment, the Bonds shall be delivered and released upon the instructions of the Purchaser to The Depository Trust Company, New York, New York. The date of such delivery and payment is herein called the "**Closing Date**," and the hour and date of such delivery and payment is herein called the "**Closing Time**."

The delivery of the Bonds shall be made in definitive form, as fully registered bonds (in such denominations as the Purchaser shall specify in writing at least 48 hours prior to the Closing Time) duly executed and authenticated and bearing CUSIP numbers (provided neither the printing of a wrong number on any Bond nor the failure to print a number thereon shall constitute cause to refuse delivery of any Bond); provided, however, that the Bonds may be delivered in temporary form. If delivered in definitive form, the Bonds shall be available for examination and packaging by the Purchaser at least 24 hours prior to the Closing Time.

SECTION 5. USE OF OFFICIAL STATEMENT

The Agency hereby ratifies and confirms the Purchaser's use of the Preliminary Official Statement; and the Agency authorizes, and will make available, the Official Statement for the use by the Purchaser in connection with the sale of the Bonds.

SECTION 6. CONDITIONS TO THE PURCHASER'S OBLIGATIONS

The Purchaser's obligations hereunder shall be subject to the due performance by the Agency of its obligations and agreements to be performed hereunder at or prior to the Closing Time and to the accuracy and completeness of the Agency's representations and warranties contained herein, as of the date hereof and as of the Closing Time, and are also subject to the following conditions:

(a) The Bonds and the Bond Documents shall have been duly authorized, executed and delivered in the form heretofore approved by the Purchaser with only such changes therein as shall be mutually agreed upon by the Purchaser and the Agency.

(b) At the Closing Time, the Purchaser shall receive:

(1) The opinion, in form and substance satisfactory to the Purchaser, dated as of the Closing Date, of Gilmore & Bell, P.C., Bond Counsel, relating to the valid authorization and issuance of the Bonds, the due adoption of the Resolution by the Board, the exclusion of interest on the Bonds from gross income for federal income tax purposes and certain other matters;

(2) Certified copies of the Resolution and such other resolutions or ordinances, as may be appropriate, of the Agency authorizing or approving the execution and delivery of Bond Documents and the Bonds, together with certificates dated the Closing Date to the effect that such resolutions have not been modified, amended or repealed;

(3) Certified copies of an ordinance of the City approving the issuance of the Bonds and authorizing the execution and delivery of the Facilities Agreement, together with a certificate dated the Closing Date to the effect that such ordinance has not been modified, amended or repealed.

(4) A certificate of the Agency, satisfactory in form and substance to the Purchaser, dated as of the Closing Date, to the effect that (A) since the date of the Preliminary Official Statement there has not been any material adverse change in the business, properties, financial condition or results of operations of the Agency, whether or not arising from transactions in the ordinary course of business, from that set forth in the Preliminary Official Statement, and except in the ordinary course of business or as set forth in the Preliminary Official Statement, the Agency has not incurred any material liability; (B) there is no action, suit, proceeding or, to the knowledge of the Agency, any inquiry or investigation at law or in equity or before or by any public board or body pending or, to the knowledge of the Agency, threatened against or affecting the Agency, its officers or its property or, to the best of the knowledge of the Agency, any basis therefor, wherein an unfavorable decision, ruling or finding would adversely affect the Agency, the transactions contemplated by the Bond Documents or the validity or enforceability of the Bonds or the Bond Documents, which are not disclosed in the Official Statement; (C) to the knowledge of the Agency, the information contained in the Official Statement (except for the material under the headings "TAX MATTERS" and "UNDERWRITING" and in Appendices E and F) is true in all material respects and does not contain any untrue statement of a material fact and does not omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; (D) the Agency has authorized, by all necessary action, the execution, delivery, receipt and due performance of the

terms and provisions of the Bonds, the Bond Resolution, the Bond Documents, and any and all such other agreements and documents as may be required to be executed, delivered and received by the Agency to carry out, give effect to and consummate the transactions contemplated hereby and by the Official Statement; and (E) the representations and warranties of the Agency set forth herein were accurate and complete as of the date hereof and are accurate and complete as of the Closing Time;

(5) Evidence satisfactory to the Purchaser that an IRS Form 8038-G (Information Return for Tax-Exempt Governmental Bond Issuers) will be completed and timely filed with the IRS;

(6) A letter from Standard & Poor's Ratings Group and from Moody's Investors Service to the effect that the Bonds have been assigned a rating of no lower than "___" and "___," respectively, which ratings shall be in effect as of the date of Closing.

(7) Such additional certificates, legal and other documents, listed on a closing agenda to be approved by Bond Counsel and counsel to the Purchaser, as the Purchaser may reasonably request to evidence performance or compliance with the provisions hereof and the transactions contemplated hereby and by the Resolution, or as Bond Counsel shall require in order to render its opinion, all such certificates and other documents to be satisfactory in form and substance to the Purchaser.

SECTION 7. CONDITIONS TO THE AGENCY'S OBLIGATIONS

The obligations of the Agency hereunder are subject to the Purchaser's performance of its obligations hereunder. If the Agency is unable to satisfy the conditions to the obligations of the Underwriter contained in this Agreement, or if the obligations of the Purchaser are terminated for any reason permitted by this Agreement, this Agreement shall terminate and neither the Purchaser nor the Agency shall be under further obligation hereunder except their respective obligations with respect to payment of expenses as provided in **Section 9** hereof.

SECTION 8. THE PURCHASER'S RIGHT TO CANCEL

The Purchaser shall have the right to cancel its obligations hereunder to purchase the Bonds (which cancellation shall not constitute a default for purposes of **Section 3** hereof) by notifying the Agency in writing or by facsimile of its election to make such cancellation prior to the Closing Time, if at any time prior to the Closing Time:

(a) The Preliminary Official Statement deemed by the Agency to be "final" pursuant to **Section 1(i)** hereof is thereafter amended or supplemented in a manner that may, in the reasonable judgment of the Purchaser, have a material adverse effect on the marketability of the Bonds;

(b) A committee of the House of Representatives or the Senate of the Congress of the United States shall have pending before it legislation which, if enacted in its form as introduced or as amended, would have the purpose or effect of imposing federal income taxation upon interest received on obligations of the general character of the Bonds, or the Bonds, which, in the Purchaser's opinion, materially adversely affects the market price of the Bonds;

(c) A tentative decision with respect to legislation shall be reached by a committee of the House of Representatives or the Senate of the Congress of the United States, or legislation shall be favorably reported by such a committee or be introduced, by amendment or otherwise, in or be passed by

the House of Representatives or the Senate, or be recommended to the Congress of the United States for passage by the President of the United States, or be enacted by the Congress of the United States, or a decision by a court established under Article III of the Constitution of the United States or the Tax Court of the United States shall be rendered, or a ruling, regulation or order of the Treasury Department of the United States or the Internal Revenue Service shall be made or proposed having the purpose or effect of imposing federal income taxation, or any other event shall have occurred which results in the imposition of federal income taxation, upon interest received on obligations of the general character of the Bonds, or the Bonds, which, in the Purchaser's opinion, materially and adversely affects the market price of the Bonds;

(d) Any legislation, ordinance, rule or regulation shall be introduced in or be enacted by the legislature of the State or by any other governmental body, department or agency of the State, or a decision by any court of competent jurisdiction within the State shall be rendered which, in the Purchaser's opinion, materially and adversely affects the market price of the Bonds, or litigation challenging the law under which the Bonds are to be issued shall be filed in any court in the State;

(e) A stop order, ruling, regulation or official statement by, or on behalf of, the Securities and Exchange Commission or any other governmental agency having jurisdiction of the subject matter shall be issued or made to the effect that the issuance, offering or sale of obligations of the general character of the Bonds, or the issuance, offering or sale of the Bonds, including all underlying obligations, as contemplated hereby or by the Official Statement, is in violation or would be in violation of any provision of the Securities Act of 1933, as amended (the "**1933 Act**"), the 1934 Act or the Trust Indenture Act of 1939, as amended;

(f) Legislation shall be enacted by the Congress of the United States, or a decision by a court of the United States shall be rendered, to the effect that obligations of the general character of the Bonds, or the Bonds, including all the underlying obligations, are not exempt from registration under or from other requirements of the 1933 Act or the 1934 Act;

(g) Any event shall have occurred, or information become known, which, in the Purchaser's opinion, makes untrue in any material respect any statement or information contained in the Preliminary Official Statement as originally circulated, or has the effect that the Preliminary Official Statement as originally circulated contains an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading;

(h) Additional material restrictions not in force as of the date hereof shall have been imposed upon trading in securities generally by any governmental authority or by any national securities exchange;

(i) The New York Stock Exchange or any other national securities exchange, or any governmental authority, shall impose, as to the Bonds or obligations of the general character of the Bonds, any material restrictions not now in force, or increase materially those now in force, with respect to the extension of credit by, or the charge to the net capital requirements of, the Purchaser;

(j) Any general banking moratorium shall have been established by federal, New York or State authorities;

(k) A material default has occurred with respect to the obligations of, or proceedings have been instituted under the Federal bankruptcy laws or any similar state laws by or against, any state of the United States or any city located in the United States having a population in excess of one million persons

or any entity issuing obligations on behalf of such a city or state which, in the Purchaser's opinion, materially adversely affects the market price of the Bonds;

(l) Any proceeding shall be pending or threatened by the Securities and Exchange Commission against the Agency; or

(m) A war involving the United States shall have been declared, or any conflict involving the armed forces of the United States shall have escalated, or any other national emergency relating to the effective operation of government or the financial community shall have occurred, which, in the Purchaser's opinion, materially adversely affects the market price of the Bonds.

SECTION 9. INDEMNIFICATION

The Agency agrees, to the extent legally permitted, to indemnify and hold harmless the Purchaser, any director, officer, employee or controlling person of the Purchaser within the meaning of Section 15 of the 1933 Act (collectively, the "**Indemnified Parties**"), against any and all losses, claims, damages, liabilities or expenses whatsoever caused by any untrue statements or misleading statement or allegedly misleading statement of a material fact contained in the Official Statement or caused by any omission or alleged omission from the Official Statement of any material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading; provided that the Agency shall have no indemnification obligation with respect to any statement or omission in the information contained in the Official Statement under the heading "**UNDERWRITING.**"

In case any action shall be brought against one or more of the Indemnified Parties based upon the Official Statement and in respect of which indemnity may be sought against the Agency, the Indemnified Parties shall promptly notify the Agency in writing and the Agency shall promptly assume the defense thereof, including the employment of counsel, the payment of all expenses and the right to negotiate and consent to settlement. Any one or more of the Indemnified Parties shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party or Indemnified Parties unless employment of such counsel has been specifically authorized by the Agency. The Agency shall not be liable for any settlement of any such action effected without its consent by any of the Indemnified Parties, but if settled with the consent of the Agency or if there be a final judgment for the plaintiff in any such action against the Agency or any of the Indemnified Parties, with or without the consent of the Agency, the Agency agrees to indemnify and hold harmless the Indemnified Parties to the extent provided herein.

SECTION 10. PAYMENT OF EXPENSES

Whether or not the Bonds are sold by the Agency to the Purchaser (unless such sale be prevented at the Closing Time by the Agency's default), the Agency shall be under no obligation to pay any expenses incident to the performance of the obligations of the Purchaser hereunder. All expenses and costs to effect the authorization, preparation, issuance, delivery and sale of the Bonds (including, without limitation, the fees and disbursements of Gilmore & Bell, P.C., Bond Counsel, rating agency fees and Registrar's fees) shall be paid by the Agency from the proceeds of the Bonds unless such sale be prevented at the Closing Time by the Purchaser's default. The Purchaser shall pay from its underwriting fee all expenses and costs for the printing, photocopying, execution and delivery of the Official Statement, closing and registration fees (e.g. DTC), and all of the Purchaser's out-of-pocket expenses.

SECTION 11. NOTICE

Any notice or other communication to be given under this Bond Purchase Agreement may be given by mailing or delivering the same in writing to the applicable person, as follows:

(a) If to the Agency: 555 South 10th Street, Lincoln, Nebraska 68508, Attention: Don Herz, Finance Director

(b) If to the Purchaser: [Underwriter Name], [Underwriter Address], Attention: _____.

SECTION 12. APPLICABLE LAW: NONASSIGNABILITY

This Bond Purchase Agreement shall be governed by the laws of the State. This Bond Purchase Agreement shall not be assigned.

SECTION 13. EXECUTION OF COUNTERPARTS

This Bond Purchase Agreement may be executed in several counterparts, each of which shall be regarded as an original and all of which shall constitute one and the same document.

SECTION 14. RIGHTS HEREUNDER

This Bond Purchase Agreement is made for the benefit of the Agency and the Purchaser and no other person including any purchaser of the Bonds shall acquire or have any rights hereunder or by virtue hereof.

SECTION 15. EFFECTIVE DATE

This Bond Purchase Agreement shall become effective upon acceptance hereof by the Agency.

[The remainder of this page intentionally left blank.]

Upon your acceptance of the offer, the foregoing agreement will be binding upon you and the Purchaser. Please acknowledge your agreement with the foregoing by executing the enclosed copy of this Bond Purchase Agreement prior to the date and time specified on page 1 hereof and returning it to the undersigned.

Very truly yours,

[UNDERWRITER NAME]

By: _____
[Title]

Accepted and agreed to as of
the date first above written.

WEST HAYMARKET JOINT PUBLIC AGENCY

By: _____
Treasurer

SCHEDULE 1

MATURITIES, INTEREST RATES, SALES PRICES AND REDEMPTION PROVISIONS OF THE BONDS

<u>Maturity Date</u>	<u>Principal Amount</u>	<u>Interest Rate</u>	<u>Price</u>
December 15, 2020	,000		
December 15, 2021	,000		
December 15, 2022	,000		
December 15, 2023	,000		
December 15, 2024	,000		
December 15, 2025	,000		
December 15, 2026	,000		
December 15, 2027	,000		
December 15, 2028	,000		
December 15, 2029	,000		
December 15, 2030	,000		
December 15, 2031	,000		
December 15, 2032	,000		
December 15, 2033	,000		
December 15, 2034	,000		
December 15, 2035	,000		
December 15, 2036	,000		
December 15, 2037	,000		
December 15, 2038	,000		
December 15, 2039	,000		
December 15, 2040	,000		
December 15, 2041	,000		
December 15, 2042	,000		
December 15, 2043	,000		
December 15, 2044	,000		
December 15, 2045	,000		

Optional Redemption. Bonds are subject to redemption prior to maturity in whole or in part, on or after December 15, 2021 in the principal amounts and from the maturity or maturities selected by the Agency, and by lot in integral multiples of \$5,000 within a maturity, at a redemption price equal to [100]% of the principal amount being redeemed, together with accrued interest thereon to the redemption date.

Sinking Fund Redemption of Bonds. The Bonds maturing December 15 in the years 2030, 2035, 2040 and 2045 are subject to mandatory redemption and payment prior to maturity pursuant to the mandatory redemption requirements set forth below at a redemption price equal to 100% of the principal amount thereof plus accrued interest to the redemption date. Selection of any Bonds maturing December 15, 2030, December 15, 2035, December 15, 2040 or December 15, 2045 or portions thereof to be redeemed shall be in the sole discretion of the Registrar.

<u>Year</u> <u>(December 15)</u>	<u>Principal</u> <u>Amount</u>
2027	,000
2028	,000
2029	,000
2030	,000
2031‡	,000

<u>Year</u> <u>(December 15)</u>	<u>Principal</u> <u>Amount</u>
2032	,000
2033	,000
2034	,000
2035	,000
2036‡	,000

<u>Year</u> <u>(December 15)</u>	<u>Principal</u> <u>Amount</u>
2037	,000
2038	,000
2039	,000
2040	,000
2041‡	,000

<u>Year</u> <u>(December 15)</u>	<u>Principal</u> <u>Amount</u>
2042	,000
2043	,000
2044	,000
2045	,000
2046‡	,000

‡ Maturity

DRAFT

GILMORE & BELL, P.C.
DRAFT #3
JULY 8, 2011

\$100,000,000*

LINCOLN, NEBRASKA WEST HAYMARKET JOINT PUBLIC AGENCY
(The City of Lincoln, Nebraska and The Board of Regents of the University of Nebraska)
GENERAL OBLIGATION FACILITY BONDS
SERIES 2011

OFFICIAL NOTICE OF SALE

The Lincoln, Nebraska West Haymarket Joint Public Agency General Obligation Facility Bonds, Series 2011 (the “**Bonds**”), are being offered for sale in accordance with this Official Notice of Sale. Bids for the purchase of the Bonds will be received on behalf of the West Haymarket Joint Public Agency (the “**Agency**”) on the AICaution website (“**AICaution**”) at website address “www.aicauction.com” on **August __, 2011** between [11:15] a.m. and [11:30] a.m., Eastern Time or such other date and time as may be established by the Chair or her designee and communicated by Thomson Municipal Market Monitor (TM3) or on AICaution not less than 20 hours prior to the time bids are to be received. To bid, bidders must have (a) completed the registration form on the AICaution website, and (b) requested and received admission to the Agency’s auction as described herein. The use of the AICaution shall be at the bidder’s risk and expense, and the Agency shall have no liability with respect thereto.

August __, 2011

* Estimated, subject to change. Amounts may be increased or decreased after submission of bids as described under “**ADJUSTMENT OF PRINCIPAL AMOUNTS.**”

**BOOK-ENTRY
OFFICIAL NOTICE OF SALE**

\$100,000,000*

**LINCOLN, NEBRASKA WEST HAYMARKET JOINT PUBLIC AGENCY
(The City of Lincoln, Nebraska and The Board of Regents of the University of Nebraska)
GENERAL OBLIGATION FACILITY BONDS
SERIES 2011**

Notice is hereby given that all-or-none bids will be received by the West Haymarket Joint Public Agency (the “**Agency**”) for the purchase of \$100,000,000* aggregate principal amount of Lincoln, Nebraska West Haymarket Joint Public Agency General Obligation Facility Bonds, Series 2011 (the “**Bonds**”), only on the AICaution website (“**AICaution**”) at website address “www.aicauction.com” between [11:15] a.m. and [11:30] a.m. Eastern Time on _____, **August** __, **2011**, or on such other date and time as may be established by the Chair or her designee. The principal maturities of the Bonds, or any other provisions of this Official Notice of Sale may be amended by the Agency and communicated by Thomson Municipal Market Monitor (TM3) or through AICaution not less than 20 hours prior to the time the bids are to be received. To bid, bidders must have (a) completed the registration form on the AICaution website, and (b) requested and received admission to the Agency’s auction as described under the heading “**REGISTRATION AND ADMISSION TO BID**” below. Use of the AICaution shall be at the bidder’s risk and expense, and the Agency shall have no liability with respect thereto. All capitalized terms used herein which are not otherwise defined shall have the respective meanings set forth in the Preliminary Official Statement hereinafter identified.

FORM, MATURITY AND PAYMENT OF BONDS

The Bonds shall be issued in fully registered form in the denominations of \$5,000 each or integral multiples thereof; shall be dated the date of delivery thereof (the “**Dated Date**,” currently anticipated to be August __, 2011); will bear interest from their Dated Date, payable on June 15 and December 15 of each year, commencing December 15, 2011, and shall mature on December 15 in the years as set forth below in the approximate principal amounts set forth below:

<u>Year</u>	<u>Principal Amount*</u>	<u>Year</u>	<u>Principal Amount*</u>
2020	\$,000	2033	\$,000
2021	,000	2034	,000
2022	,000	2035	,000
2023	,000	2036	,000
2024	,000	2037	,000
2025	,000	2038	,000
2026	,000	2039	,000
2027	,000	2040	,000
2028	,000	2041	,000
2029	,000	2042	,000
2030	,000	2043	,000
2031	,000	2044	,000
2032	,000	2045	,000

* Estimated, subject to change. Amounts may be increased or decreased after submission of bids as described under “**ADJUSTMENT OF PRINCIPAL AMOUNTS.**”

Bonds of any maturities may be designated as term bonds; provided, however that no more than five term bond maturities may be specified in any bid.

BOOK-ENTRY SYSTEM

The Bonds will be initially registered in the name of Cede & Co., as registered owner and nominee for The Depository Trust Company, New York, New York (“**DTC**”) under DTC’s Book-Entry system of registration. Purchasers of interests in the Bonds (the “**Beneficial Owners**”) will not receive physical delivery of bond certificates and ownership by the Beneficial Owners of the Bonds will be evidenced by book-entry notations only. See “**APPENDIX G – BOOK-ENTRY SYSTEM**” to the Preliminary Official Statement with respect to the Bonds posted on AICaution (the “**Preliminary Official Statement**”). As long as Cede & Co. is the registered owner of the Bonds as nominee of DTC, payments of principal and interest will be made directly to DTC which will in turn remit such payments to the DTC participants for subsequent disbursement to the Beneficial Owners.

ADJUSTMENT OF PRINCIPAL AMOUNTS

The amount of Bonds maturing in each year may be increased or decreased by no more than 10% so long as the aggregate principal amount of the Bonds does not exceed \$100,000,000.

In the event of such adjustment, no rebidding or recalculation of the bids for the Bonds will be permitted or required. The purchase price of the Bonds will be computed by taking the adjusted par amount of the Bonds and either subtracting the aggregate original issue discount or adding the aggregate original issue premium, as applicable, computed on the adjusted par amounts of each maturity of the Bonds and the prices provided by the underwriters. The Bonds of each maturity, as adjusted, will bear interest at the same rate and must have the same initial reoffering yields as specified for that maturity immediately after award of the Bonds by the successful bidder for the Bonds. However, the award will be made to the bidder whose bid produces the lowest true interest cost, calculated as specified below, solely on the basis of the Bonds offered, without taking into account any adjustment in the amount of Bonds pursuant to this paragraph.

TERM BOND OPTIONS

Any bidder may, at its option, specify that the stated maturities of the Bonds will consist of not to exceed five (5) term bonds which are subject to mandatory sinking fund redemption in consecutive years immediately preceding the maturity thereof (a “**Term Bond**”) as designated in the bid of such bidder. In the event that the bid of the successful bidder specifies that any maturity of the Bonds will be a Term Bond, such Term Bond will be subject to mandatory sinking fund redemption on December 15, in each applicable year, in the principal amount for such year as set forth under the heading “**FORM, MATURITY AND PAYMENT OF BONDS,**” or as adjusted as provided herein, at a redemption price equal to 100% of the principal amount thereof to be redeemed together with accrued interest thereon to the redemption date, without premium.

OPTIONAL REDEMPTION

The Bonds are subject to optional redemption at the option of the Agency in whole or in part at any time on or after December 15, 2021 in the principal amounts and from the maturity or maturities selected by the Agency and by lot integral multiples of \$5,000 within a maturity at a redemption price equal to 100% of the principal amount being redeemed, plus accrued interest on such principal amount to the date of redemption.

AUTHORITY AND PURPOSE

The Bonds are being issued under the authority of, and in full compliance with, the Constitution and statutes of the State of Nebraska, including, without limitation, (a) the Joint Public Agency Act (Chapter 13, Article 25, Reissue Revised Statutes of Nebraska, as amended, the “**Act**”) and (b) Joint Public Agency Agreement Creating the West Haymarket Joint Public Agency, dated as of April 1, 2010, between The City of Lincoln, Nebraska (the “**City**”) and The Board of Regents of the University of Nebraska (the “**Regents**”), as amended and restated by the Amended and Restated Joint Public Agency Agreement of the West Haymarket Joint Public Agency, dated January 20, 2011 (collectively, the “**JPA Agreement**”), between the City and the Regents. The Bonds were authorized by the Bond Resolution adopted by the Board on July 29, 2011 (the “**Bond Resolution**”), for the purpose of paying (1) all or a portion of the costs of one or more Projects (hereinafter defined), including, without limitation, the purchase of general obligation bonds of the City issued to pay certain costs of one or more of such Projects, and (2) the costs of issuing the Bonds. The Agency has been formed for the purpose of (a) constructing, equipping, furnishing and financing public facilities in the West Haymarket area of the City including but not limited to (1) a sports/entertainment arena, (2) roads, streets and sidewalks, (3) a pedestrian overpass, (4) public plaza space, (5) sanitary sewer mains, (6) water mains, (7) electric transmission lines, (8) drainage systems, (9) flood control, (10) parking garages and (11) surface parking lots (collectively, the “**West Haymarket Facilities**”), and (b) to (1) acquire land and to relocate existing businesses, and (2) undertake environmental remediation and site preparation as necessary and appropriate for the constructing, equipping, furnishing and financing of the West Haymarket Facilities (collectively, as itemized in the Bond Resolution, as the same may be amended from time to time, the “**Projects**,” and, individually, a “**Project**”).

SECURITY AND SOURCE OF PAYMENT

General

The principal or redemption price of and interest on the Bonds are general obligations of the Agency payable, unless paid from other sources, from taxes levied by the Agency on all taxable property in the City without limitation as to rate or amount pursuant to the provisions of the JPA Act and the JPA Agreement. See “**NEBRASKA LAWS RELATED TO BUDGETS AND TAXATION**” in the Official Statement.

JPA Agreement

Under the JPA Agreement, the City has irrevocably allocated and assigned to the Agency, for the period beginning June 1, 2010 and ending on the date upon which all of the Bonds are no longer deemed to be outstanding and unpaid under the Bond Resolution, its authority pursuant to Section 15-202, Reissue Revised Statutes of Nebraska, as amended, to cause the levy of taxes within the City (the “**Agency Bond Levy**”), beginning in the year 2010 for collection in 2011, for the purpose of paying the costs of the

Project in an amount to be levied solely for the purpose of paying the principal or redemption price of and interest on the Bonds. The Agency Bond Levy is unlimited as to both rate and amount and, if levied, (a) would be levied on all the taxable property within the corporate limits of the City and (b) would not affect the ability of the City to levy property taxes.

The JPA Agreement obligates the Agency to certify the Agency Bond Levy to The County of Lancaster, Nebraska in its budget statement as provided in the Nebraska Budget Act, Sections 13-501 to 13-513, Reissue Revised Statutes of Nebraska, as amended, for levy and collection in such amounts, if any, as may be required to pay the principal or redemption price of and interest on the Bonds as the same become due. No further action is required to implement the Agency Bond Levy. All taxes collected under the Agency Bond Levy shall be credited to the Agency as soon as practicable.

Facilities Agreement

The Facilities Agreement provides that in the event that 45 days prior to the payment date of any principal or interest on the Bonds, amounts in the Debt Service Fund are insufficient to fully pay the principal of or interest on all outstanding Bonds, the City shall loan to the Agency the full amount of any such deficiency not later than such date of payment. Such loan shall bear interest at a rate equal to the current interest rate received by the City Investment Pool (computed on the basis of a 360-day year consisting of twelve 30-day months) from the date such amounts are loaned to the Agency until all such amounts are repaid by the Agency. Any such loan, together with interest accrued thereon, shall be repaid to the City (a) first, from the first receipts of Revenues, and (b) second, from taxes levied and collected by the Agency pursuant to the provisions of the Facilities Agreement. If the projected actual Available Revenues (defined to be all cash receipts of the Agency, plus unrestricted amounts in the Surplus Fund, less all cash payments of the Agency, including, without limitation, debt service on Bonds, operation and maintenance expenses and deposits to the Depreciation and Replacement Fund) for the fiscal year are less than the budgeted Available Revenues for such fiscal year by \$1,000,000 or more, the Agency is obligated to implement the Agency Bond Levy. See **“THE AGENCY,” “SECURITY,” “NEBRASKA LAWS RELATED TO BUDGETS AND TAXATION,” “APPENDIX D - SUMMARY OF PRINCIPAL DOCUMENTS - JPA Agreement” and “- Bond Resolution,” and “APPENDIX E – PROJECTED CASH FLOWS.”** in the Official Statement.

Operating Agreement

Pursuant to a Memorandum of Understanding, dated as of March 31, 2010 (the **“MOU”**), between the City and The Board of Regents of the University of Nebraska (the **“Regents”**), the Regents have agreed to lease the Arena to play the University of Nebraska-Lincoln men’s and women’s varsity basketball home games for a term of 30 years which is anticipated to begin on September 1, 2013. The terms of the MOU will be formalized through an Operating Agreement between the City and the Regents, which is expected to be executed and delivered by the parties by _____. Other than the payment of rent for its use of the Arena pursuant to the Operating Agreement, the Regents have no obligation for any payments to the Agency, including, without limitation, payment of the principal or redemption price of and interest on the Bonds. See **“APPENDIX D - SUMMARY OF PRINCIPAL DOCUMENTS”** in the Official Statement.

INTEREST RATES

Bidders shall specify rates of interest on the basis of a 360-day year consisting of twelve (12) thirty (30) day months, expressed in multiples of 1/8 or 1/20 of 1% per annum, with the same single interest rate for any one maturity. The use of split or supplemental interest coupons will not be

considered and a zero rate or blank rate will not be permitted. All Bonds maturing on the same date shall bear the same rate of interest.

GOOD FAITH DEPOSIT

The successful bidder will be required to wire \$1,000,000 to the Agency as bid security (the “Deposit”) by 1:00 p.m., Eastern Time, on August __, 2011. The Agency will contact the successful bidder to provide wire instructions for the bid security. The Deposit will be retained by the Agency and: (a) will be applied, without allowance for interest, against the purchase price when the Bonds are actually delivered to and paid for by such successful bidder; or (b) will be retained by the Agency as liquidated damages if the bidder defaults with respect to the bid; or (c) will be returned to the bidder with interest at the rate of 1% per annum if the Bonds are not issued by the Agency for any reason which does not constitute a default by the bidder. The balance of the purchase price shall be paid in Federal Funds.

REGISTRATION AND ADMISSION TO BID

To bid, bidders must first visit the AICaution website to register, if necessary, and request admission to bid on the Bonds. Bidders will be notified prior to the scheduled bidding time of their eligibility to bid. Only NASD-registered broker-dealers and dealer banks with DTC clearing arrangements will be eligible to bid. The Agency will determine whether any request for admission is granted. Bidders who have previously registered with MuniAuction may call MuniAuction at (412) 391-5555, extension 370 (auction support) for their ID Number or password.

BIDDING PROCEDURES

All bids must be submitted on the AICaution at www.aicauction.com. No telephone, facsimile, telegraph or personal delivery bids will be accepted. Bidders may change and submit bids as many times as they like during the auction; provided, however, each submitted bid, other than a bidder’s initial bid, must result in a lower true interest cost (“TIC”), when compared to the immediately preceding bid of such bidder. The last bid submitted by a bidder before the end of the auction will be compared to all other final bids submitted by others to determine the winning bidder. During the bidding, no bidder will see any other bidder’s bid, but each bidder will see their rank order (i.e., leader, cover, third, etc.). During the bidding, bidders will be able to see whether any bid has been submitted for the Bonds.

Bidders should verify the accuracy of their final bids and compare them to the winning bids reported on the AICaution Observation Page immediately after the auction.

RULES OF AICAUTION

The Rules of AICaution can be viewed on AICaution and are incorporated herein by reference. If the Rules of AICaution conflict with this Official Notice of Sale, this Official Notice of Sale shall govern. In addition to the requirements of this Official Notice of Sale, bidders must comply with the Rules of AICaution set forth below:

(a) A bidder submitting a winning bid is irrevocably obligated to purchase the Bonds at the rates and prices of the winning bid, if acceptable to the Agency. The Bonds are not officially awarded to the winning bidder until its bid is formally accepted by the Agency. The Agency anticipates awarding the Bonds within an hour after the close of bidding.

(b) Neither Ameritas Investment Corp. (“AIC”) nor MuniAuction (the “**Auction Administrator**”) is responsible for technical difficulties that result in loss of a bidder’s internet connection with AICauction, a delay in the transmission of a bid, or any other technical problems.

(c) If for any reason a bidder is disconnected from the Auction Page during the auction after having submitted a winning bid, such bid is valid and binding upon the bidder unless the Agency exercises its right to reject bids as set forth herein.

(d) Bids generating error messages are not accepted until the error is corrected and the bid is received prior to the deadline.

(e) Bidders accept and agree to abide by all terms and conditions specified in this Official Notice of Sale including any amendment hereto (the “**Amendments**”).

(f) Neither AIC nor the Auction Administrator is responsible to any bidder for any defect or inaccuracy in this Official Notice of Sale, the Amendments, or the Preliminary Official Statement as each appears on AICauction.

(g) Only bidders who request and receive admission to an auction may submit bids. AIC and the Auction Administrator reserve the right to deny access to AICauction to any bidder, whether registered or not, at any time and for any reason whatsoever, in their sole and absolute discretion.

(h) Neither AIC nor the Auction Administrator is responsible for protecting the confidentiality of a bidder’s AICauction password.

(i) If a new leading bid is submitted with two minutes or less remaining for the auction, the auction will be automatically extended by two minutes from the time such new leading bid was received by AICauction. The auction end time will be extended indefinitely until a single leading bid remains the leading bid for at least two minutes.

(j) If two bids submitted in the same auction by the same or different bidders result in the same TIC, the first bid received by AICauction prevails. Any change to a submitted bid constitutes a new bid regardless of whether there is a corresponding change in the TIC or yield to maturity.

(k) Bidders must compare their final bids to those shown on the Observation Page immediately after the bidding period ends, and any disagreement with the final results shown on the Observation Page must be reported to AICauction within 15 minutes after the bidding period ends. Regardless of the final results reported by AICauction, Bonds are definitively awarded to winning bidders only upon official award by the Agency. If, for any reason, the Agency fails to (1) award the Bonds to the winner reported by AICauction or (2) deliver Bonds to winning bidder(s) at settlement, none of AIC, the Auction Administrator, or the Agency will be liable for damages.

TERMS OF BID AND BASIS OF AWARD

Proposals must be unconditional for the purchase of all of the Bonds. The aggregate purchase price, inclusive of net original issue discount (“OID”) and underwriter’s discount, may not be less than 98.00% of the principal amount of the Bonds, and the underwriting discount shall not exceed 1.50%. No bid offering to purchase the Bonds with true interest cost on the Bonds exceeding 5.25% per annum, calculated on the basis of a 360-day year consisting of twelve 30-day months, will be considered.

Subject to the timely receipt of the good faith deposit set forth above, the Bonds will be awarded to the bidder offering to purchase all of the Bonds at the lowest TIC. The TIC is the discount rate (expressed as a per annum percentage rate) which, when used in computing the present value of all payments of principal and interest to be paid on the Bonds, as of the Dated Date, produces an amount equal to the aggregate price bid, including adjustments for premium or discount, if any. Present value will be computed on the basis of semiannual compounding and a 360-day year of twelve 30-day months. For purposes hereof, sinking fund installments for any Term Bonds shall be considered as serial maturities. The TIC must be calculated to six (6) decimal places. Bidders are requested to supply an estimate of the TIC for the Bonds on the Official Bid Form or the AICaution website, computed as specified herein on the basis of their respective bids, which shall be considered as informative only and not binding on either the bidder or the Agency. The Agency will compute TIC for each bid, based on the bid price and the interest rates specified, and the Agency's computation will be conclusive. If there is any discrepancy between the TIC specified by a bidder and the actual TIC computed by the Agency, the TIC computed by the Agency will govern, and the bidder will be bound by its specified bid price and interest rates. If two or more proper bids produce equal values for the lowest TIC, the Treasurer of the Agency will determine in his discretion which bid, if any, will be accepted, and such determination will be final.

THE AGENCY RESERVES THE RIGHT TO REJECT ALL BIDS OR ANY BID NOT CONFORMING TO THIS OFFICIAL NOTICE OF SALE OR NOT SUBMITTED IN THE FORM OF THE OFFICIAL BID FORM. THE AGENCY ALSO RESERVES THE RIGHT TO WAIVE, IF PERMITTED BY LAW, ANY IRREGULARITY OR INFORMALITY IN ANY PROPOSAL. THE AGENCY SHALL NOT REJECT ANY CONFORMING BID, UNLESS ALL CONFORMING BIDS ARE REJECTED.

VERIFICATION; RIGHT OF REJECTION

Bidders should verify the accuracy of their final bids and compare them to the winning bids reported on the AICaution Observation Page immediately after the auction.

The Agency reserves the right to reject any and all bids, to waive any irregularity or informality in any bid, to take any action adjourning or postponing the sale of the Bonds or to take any other action the Agency may deem to be in its best interest.

OPTIONAL BOND INSURANCE

The Agency has **not** applied for any policy of municipal bond insurance with respect to the Bonds. If the Bonds qualify for municipal bond insurance, and any bidder desires to purchase such policy, such indication and the name of the desired insurer must be set forth on the bidder’s Official Bid Form. The

Agency specifically reserves the right to reject any bid specifying municipal bond insurance, even though such bid may result in the lowest TIC to the Agency. All costs associated with the issuance of such policy and associated ratings and expenses (other than the independent rating requested by the Agency) shall be paid by the successful bidder. Failure of the municipal bond insurer to issue the policy after the award of the Bonds shall not constitute cause for failure or refusal by the successful bidder to accept delivery of the Bonds.

STANDARD FILINGS AND CHARGES

The winning bidder will be required to make the standard filings and maintain the appropriate records routinely required pursuant to MSRB Rules G-8, G-11 and G-36. The winning bidder will be required to pay the standard MSRB charge for Bonds purchased. In addition, those who are members of the Bond Market Association (“**BMA**”) will be required to pay BMA’s standard charge per bond.

CUSIP NUMBERS AND DTC ELIGIBILITY

It is anticipated that CUSIP identification numbers will be printed on the Bonds, but neither the failure to print such number on any Bonds nor any error with respect thereto shall constitute cause for failure or refusal by the successful bidder to accept delivery of and pay for the Bonds in accordance with their agreement to purchase the Bonds. **All expenses in relation to the printing of CUSIP numbers on the Bonds shall be paid for by the Agency; provided, however, that it shall be the responsibility of the successful bidder to timely obtain and pay for the assignment of such CUSIP numbers.**

It is anticipated that the Bonds will be issued in book-entry only form and eligible for custodial deposit with DTC; however, it will be the responsibility of the successful bidder to obtain such eligibility. Failure of the successful bidder to obtain DTC eligibility shall not constitute cause for failure or refusal by the successful bidder to accept delivery of and pay for the Bonds in accordance with its agreement to purchase the Bonds.

DELIVERY OF BONDS

The Agency will pay the cost of preparing the Bonds. Delivery of and payment for the Bonds will be made on or about August ___, 2011 (the “**Date of Delivery**”) in New York, New York, or such other time and place mutually acceptable to the successful bidder and the Agency. Payment of the full purchase price, less the Deposit, shall be made to the Agency at the closing, in Federal Reserve Funds of the United States of America, without cost to the Agency.

The legal opinion of Gilmore & Bell, P.C., Lincoln, Nebraska (“**Bond Counsel**”) will be furnished without charge to the successful bidder at the time of delivery of the Bonds. A supplemental legal opinion of Bond Counsel concerning certain matters concerning the Official Statement will also be provided to the successful bidder without charge.

There will also be furnished at the time of delivery of the Bonds, a certificate or certificates (which may be included in a consolidated closing certificate) relating to the accuracy and completeness of the Official Statement; and stating, among other things, that there is no litigation or administrative action or proceeding pending or, to the knowledge of the Agency, threatened, at the time of delivery of the Bonds, (a) to restrain or enjoin or seeking to restrain or enjoin the issuance and delivery of the Bonds or (b) affecting the validity of the Bonds, and that the Preliminary Official

Statement has been deemed by the Agency to be a “final official statement” for purposes of SEC Rule 15c2-12(b)(3) and (4).

The successful bidder will be responsible for the clearance or exemption with respect to the status of the Bonds for sale under the securities or “Blue Sky” laws of the several states and the preparation of any surveys or memoranda in connection with such sale.

DISCLOSURE; AMENDMENTS TO NOTICE OF SALE; NOTIFICATION OBLIGATIONS OF PURCHASER

This Official Notice of Sale is not intended as a disclosure document and bidders are required to obtain and carefully review the Preliminary Official Statement before submitting a bid.

This Official Notice of Sale may be amended from time to time after its initial publication by publication of Amendments on the Amendment Page or by Thomson (TM3) Municipal Market Monitor not less than 20 hours prior to the time bids are to be received. Each bidder will be charged with the responsibility of obtaining any Amendments and complying with the terms thereof.

The successful bidder shall verify in writing to the Agency its bid by executing **Exhibit A** hereto and attaching a printed copy of its winning bid as reported on the Observation Page.

OFFICIAL STATEMENT

The Agency shall furnish at its expense within seven Business Days after the Bonds have been awarded to the successful bidder, or at least five Business Days before closing, whichever is earlier, up to _____ copies of the final Official Statement, which, in the judgment of the financial advisor to the Agency will permit the successful bidder to comply with applicable SEC and MSRB rules. The Agency will at its expense ship the final Official Statements to no more than five separate addresses. The successful bidder may arrange for additional copies of the final Official Statement or shipment to additional addresses at its expense.

CONTINUING DISCLOSURE

In order to assist bidders in complying with SEC Rule 15c2-12, the Agency and the City will undertake to provide, or cause to be provided, certain financial information and operating data and to provide notices of certain material events. The Agency and the City have covenanted to provide certain financial information and operating data relating to the Agency by not later than May 1 of each year (the “**Annual Report**”), commencing May 1, 2012, and to provide notices of the occurrence of certain enumerated events, if material. The Annual Report and notices of material events will be filed by the Agency and the City or the dissemination agent with the Electronic Municipal Market Access established by the Municipal Securities Rulemaking Board or any successor thereto, or any other conduit entity recognized, authorized or approved by the Securities and Exchange Commission for the submission of Annual Reports and Material Events notices. The proposed form of such undertaking is contained in the Preliminary Official Statement. A copy of the undertaking will be made available to the successful bidder by facsimile transmission prior to the delivery of the Bonds and will be included in the transcript of proceedings relating to the issuance of the Bonds.

EXHIBIT A

OFFICIAL BID FORM

\$100,000,000*

**LINCOLN, NEBRASKA WEST HAYMARKET JOINT PUBLIC AGENCY
(The City of Lincoln, Nebraska and The Board of Regents of the University of Nebraska)
GENERAL OBLIGATION FACILITY BONDS,
SERIES 2011**

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

August __, 2011

Ladies and Gentlemen:

On behalf of the undersigned and any underwriting syndicate which we have formed and lead, and in accordance with the terms and conditions of the attached Official Notice of Sale, dated August __, 2011, which is hereby made a part of this proposal, we offer to purchase all of the \$100,000,000* Lincoln, Nebraska West Haymarket Joint Public Agency General Obligation Facility Bonds, Series 2011 (the “**Bonds**”). We will pay as the purchase price thereof, the aggregate sum of _____

Dollars (\$ _____)⁽¹⁾,

in immediately available Federal Funds. The Bonds will be dated the date of delivery thereof, and shall bear interest from such date and shall be payable semiannually commencing on June 15 and December 15 of each year, beginning December 15, 2011, until maturity or prior redemption. The Bonds shall mature on December 15 in the years and be subject to mandatory sinking fund redemption (if Term Bonds are specified by the bidder) in the amounts, and bear interest at the respective interest rates per annum, all as stated in the following schedule:

Year	Principal Amount ^{*(1)}	Annual Rate of Interest	Price ⁽²⁾	Year	Principal Amount ^{*(1)}	Annual Rate of Interest	Price ⁽²⁾
2020				2033			
2021				2034			
2022				2035			
2023				2036			
2024				2037			
2025				2038			
2026				2039			
2027				2040			
2028				2041			
2029				2042			
2030				2043			
2031				2044			
2032				2045			

* Preliminary, subject to change.

(1) Subject to adjustment as provided in the Official Notice of Sale.

(2) Subject to restrictions as provided in the Official Notice of Sale.

Bonds of any maturities may be designated as Term Bonds; provided, however, that no more than five Term Bond maturities may be specified in any bid.

The principal installments for the Bonds indicated above, shall be applied for the mandatory retirement of up to five Term Bonds maturing in the years and amounts and bearing interest as follows:

\$ _____ Term Bonds maturing on June 15, 20__ at ____% per annum to yield _____% per annum

\$ _____ Term Bonds maturing on June 15, 20__ at ____% per annum to yield _____% per annum

\$ _____ Term Bonds maturing on June 15, 20__ at ____% per annum to yield _____% per annum

\$ _____ Term Bonds maturing on June 15, 20__ at ____% per annum to yield _____% per annum

\$ _____ Term Bonds maturing on June 15, 20__ at ____% per annum to yield _____% per annum

Subject to your acceptance of our Official Bid, we agree to make a bona fide public offering of all the Bonds at yields not lower than those set forth in the above maturity schedule. Our calculation, made as provided in the Official Notice of Sale, of the true interest cost to the Agency is _____%. This estimate is for information purposes only and is not binding on the Agency or the undersigned.

In accordance with the Official Notice of Sale, \$ _____ will be wired to the Agency by 1:00 p.m., Eastern Time, on August ____, 2011 (the “**Deposit**”). The Deposit will be applied or returned in accordance with the provisions of the Official Notice of Sale.

It shall be a condition of our obligation as the successful bidder to accept delivery of, and pay for, the Bonds that, contemporaneously with, or before accepting, the Bonds and paying for them, we shall receive the Closing Documents specified in the Official Notice of Sale.

We hereby acknowledge receipt of the Preliminary Official Statement for the Bonds “deemed final” (except for permitted omissions) by the Agency.

We hereby request that _____ copies of the Official Statement (and any supplement thereto) be furnished to us in accordance with the Official Notice of Sale.

We agree to provide a list of all syndicate members by facsimile transmission upon notification of our successful bid. Receipt of such list shall be a condition precedent to the award of the Bonds.

If we elect to obtain a policy of bond insurance for the Bonds, the policy will be issued by _____.

It is understood and agreed that an award will be made for all or none of the Bonds and that the principal amount of the Bonds and our purchase price as bid may be adjusted as provided in the Official Notice of Sale, the terms of which are incorporated herein by reference.

If the foregoing is acceptable to you, please signify by signing and returning a copy of this Official Bid Form to the undersigned bidder whereupon it will become a binding agreement between us.

Respectfully submitted,

Bidder

By: _____

Accepted and agreed to August ____, 2011

WEST HAYMARKET JOINT PUBLIC AGENCY

By: _____

Treasurer

(No addition or alteration, except as provided above, is to be made to this Official Bid Form and it must not be detached from the attached Official Notice of Sale.)

EXHIBIT B

**CLOSING CERTIFICATE
[UNDERWRITER]**

**LINCOLN, NEBRASKA WEST HAYMARKET JOINT PUBLIC AGENCY
(The City of Lincoln, Nebraska and The Board of Regents of the University of Nebraska)
GENERAL OBLIGATION FACILITY BONDS
SERIES 2011**

Dated: Date of Delivery ([Closing Date], 2011)

_____, acting on behalf of itself and the syndicate selling group, if any, created by it as purchaser (the **“Purchaser”**) of the above-described bonds (the **“Bonds”**) being issued on the date of this Closing Certificate pursuant to the Bond Resolution of the Agency (as amended and supplemented from time to time, the **“Resolution”**), certifies and represents as follows:

1. Receipt for Bonds. The Purchaser acknowledges receipt on the date of this Closing Certificate of the Bonds consisting of fully registered bonds in authorized denominations in a form acceptable to the Purchaser.

2. Public Offering. The initial offering price and interest rate for each maturity of the Bonds is attached to this Closing Certificate as **Schedule I**. All of the Bonds of each maturity were offered to the public in a bona fide public offering at the initial offering prices on the date our bid was accepted (the **“Sale Date”**). On the Sale Date, the Purchaser reasonably expected that at least 10% of each maturity of the Bonds would be sold to the public at prices not higher than the initial offering prices. For purposes of this paragraph, “public” means persons other than bond houses, brokers, or similar persons or organizations acting in the capacity of underwriters or wholesalers. The aggregate offering price of the Bonds is \$_____, plus accrued interest, if any.

3. Book-Entry Form. The Purchaser has taken all actions necessary to qualify the Bonds as book-entry bonds with The Depository Trust Company (**“DTC”**), New York, New York, and has received verbal confirmation from DTC that the Bonds have been issued in book-entry form.

This Closing Certificate may be relied upon by the Agency in executing and delivering the Federal Tax Certificate, and by Gilmore & Bell, P.C., Bond Counsel, in rendering its opinion relating to the exclusion of the interest on the Bonds from gross income for Nebraska tax purposes and in rendering its supplemental opinion to the Issuer of the Bonds.

Dated: [Closing Date], 2011.

[PURCHASER NAME]

By: _____
Title: _____

DRAFT

This Preliminary Official Statement and the information contained herein are subject to completion and amendment. These securities may not be sold nor may offers to buy be accepted prior to the time the Official Statement is delivered in final form. Under no circumstances may this Preliminary Official Statement constitute an offer to sell or the solicitation of an offer to buy, nor may there be any sale of these securities in any jurisdictions in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such jurisdiction.

THIS COVER PAGE CONTAINS CERTAIN INFORMATION FOR QUICK REFERENCE ONLY. IT IS NOT A SUMMARY OF THIS ISSUE. INVESTORS MUST READ THE ENTIRE OFFICIAL STATEMENT TO OBTAIN INFORMATION ESSENTIAL TO THE MAKING OF AN INFORMED INVESTMENT DECISION.

PRELIMINARY OFFICIAL STATEMENT DATED _____, 2011

NEW ISSUE
BOOK-ENTRY

RATINGS: S&P: “____”
Moody’s: “____”
See “Ratings”

In the opinion of Gilmore & Bell, P.C., Bond Counsel, under existing law and assuming continued compliance with certain requirements of the Internal Revenue Code of 1986, as amended (the “Code”), (1) the interest on the Bonds (including any original issue discount properly allocable to an owner thereof) is excludable from gross income for federal income tax purposes and is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations, (2) the interest on the Bonds is exempt from Nebraska income taxation by the State of Nebraska and (3) the Bonds have not been designated as “qualified tax-exempt obligations” within the meaning of Section 265(b)(3) of the Code. See “TAX MATTERS” in this Official Statement.

OFFICIAL STATEMENT

\$100,000,000*

**LINCOLN, NEBRASKA WEST HAYMARKET JOINT PUBLIC AGENCY
(The City of Lincoln, Nebraska and The Board of Regents of the University of Nebraska)
GENERAL OBLIGATION FACILITY BONDS
SERIES 2011**

Dated: date of delivery

Due: December 15, as set forth on the inside cover

The Bonds will be issued as fully registered bonds and, when issued, will be registered in the name of Cede & Co., as registered owner and nominee for The Depository Trust Company (“DTC”), New York, New York. DTC will act as securities depository for the Bonds. Purchases of the Bonds will be made in book-entry form, in the denomination of \$5,000 or any integral multiple thereof. Purchasers will not receive certificates representing their interests in Bonds purchased. So long as Cede & Co. is the registered owner of the Bonds, as nominee of DTC, references to the Registered Owners shall mean Cede & Co., and shall not mean the Beneficial Owners (herein defined) of the Bonds. So long as DTC or its nominee, Cede & Co., is the registered owner of the Bonds, payments of principal or redemption price of and interest on the Bonds will be made directly to DTC. Disbursement of such payments to DTC Participants (herein defined) is the responsibility of DTC and disbursements of such payments to the Beneficial Owners is the responsibility of DTC Participants. See “**THE BONDS – Book-Entry System.**” Semiannual interest will be payable on June 15 and December 15 of each year beginning on December 15, 2011, by **Union Bank and Trust Company**, as bond registrar and paying agent (the “**Registrar**”).

The Bonds are subject to optional, mandatory and extraordinary redemption as set forth under “**THE BONDS – Redemption.**”

The West Haymarket Joint Public Agency (the “**Agency**”) will use the proceeds of the Bonds to pay the costs of (a) 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 (collectively, the “**West Haymarket Facilities**”), acquiring land and relocating existing businesses, undertaking environmental remediation and site preparation as necessary and appropriate for the construction, equipping, furnishing and financing of the West Haymarket Facilities (collectively, the “**Projects**,” and, individually, a “**Project**”) pursuant to the Joint Public Agency Act (Chapter 13, Article 25, Reissue Revised Statutes of Nebraska, as amended, the “**JPA Act**”), and certain agreements described herein, and (b) issuing the Bonds. The Agency may also use proceeds of the Bonds to purchase general obligation bonds of The City of Lincoln, Nebraska (the “**City**”) issued to pay all or a portion of the costs of one or more Projects. See “**PLAN OF FINANCING.**”

The Bonds are issued pursuant to the terms of a resolution duly passed by the Board of the Agency on July ____, 2011 (the “**Resolution**”). The Bonds are general obligations of the Agency payable, unless paid from other sources, from taxes levied by valuation on all taxable property without limitation as to rate or amount in the City, pursuant to the provisions of the JPA Act and the Joint Public Agency Agreement Creating the West Haymarket Joint Public Agency, dated as of April 1, 2010, between the City and The Board of Regents of the University of Nebraska (the “**Regents**”), as amended and supplemented from time to time, including, without limitation, the Amended and Restated Joint Public Agency Agreement of the West Haymarket Joint Public Agency, dated January 10, 2011 (collectively, the “**JPA Agreement**”), between the City and the Regents. Pursuant to the Facilities Agreement, dated September 8, 2010 (as amended from time to time, the “**Facilities Agreement**”) between the City and the Agency, (a) the City is obligated to collect all revenues, receipts and income received by the Agency from any source (the “**Revenues**”) and (b) in the event that 45 days prior to the payment date of any principal or interest on Bonds, amounts in the Debt Service Fund are insufficient to fully pay the principal of or interest on all outstanding Bonds, the City is obligated to loan to the Agency the full amount of any such deficiency not later than such date of payment. Any such loan, together with interest accrued thereon, shall be repaid to the City (a) first, from the first receipts of Revenues, and (b) second, from taxes levied and collected by the Agency pursuant to the provisions of the Facilities Agreement. If the projected actual Available Revenues (defined to be all cash receipts of the Agency, plus unrestricted amounts in the Surplus Fund, less all cash payments of the Agency, including, without limitation, debt service on Bonds, operation and maintenance expenses and deposits to the Depreciation and Replacement Fund) for the fiscal year are less than the budgeted Available Revenues for such fiscal year by \$1,000,000 or more, the Agency is obligated to implement the Agency Bond Levy. See “**THE AGENCY,**” “**SECURITY,**” “**NEBRASKA LAWS RELATED TO BUDGETS AND TAXATION**” and “**APPENDIX D – SUMMARY OF PRINCIPAL DOCUMENTS – JPA Agreement**” and “**- Facilities Agreement.**”

MATURITY SCHEDULE – SEE INSIDE COVER

[UNDERWRITER NAME]

AMERITAS INVESTMENT CORP.
has acted as Financial Advisor

The Bonds are offered in book entry form only when, as and if issued by the Agency and accepted by the Underwriter, subject to the approval of legality by Gilmore & Bell, P.C., Lincoln, Nebraska, Bond Counsel. Certain legal matters will be passed upon for the City and the Agency by Rodney M. Confer, City Attorney and general counsel to the JPA. It is expected that the Bonds in definitive form will be available for delivery through DTC on or about [Closing Date], 2011.

The Date of this Official Statement is _____, 2011.

*Preliminary, subject to change.

MATURITY SCHEDULE

\$100,000,000*

LINCOLN, NEBRASKA WEST HAYMARKET JOINT PUBLIC AGENCY
(The City of Lincoln, Nebraska and The Board of Regents of the University of Nebraska)
GENERAL OBLIGATION FACILITY BONDS
SERIES 2011

<u>Maturity</u> <u>(December 15)</u>	<u>Principal</u> <u>Amount*</u>	<u>Rate of</u> <u>Interest</u>	<u>Yield</u>	<u>Price</u>	<u>CUSIP</u> <u>Number</u> <u>()</u>
2020	\$,000				
2021	,000				
2022	,000				
2023	,000				
2024	,000				
2025	,000				
2026	,000				
2027	,000				
2028	,000				
2029	,000				
2030	,000				
2031	,000				
2032	,000				
2033	,000				
2034	,000				
2035	,000				
2036	,000				
2037	,000				
2038	,000				
2039	,000				
2040	,000				
2041	,000				
2042	,000				
2043	,000				
2044	,000				
2045	,000				

*Preliminary, subject to change.

LINCOLN, NEBRASKA WEST HAYMARKET JOINT PUBLIC AGENCY

Jayne Snyder (City Council)
Tim Clare (Regent)
Chris Beutler (Mayor)

Chair and Representative
Vice Chair and Representative
Representative

Dan Marvin
Don Herz
Rodney Confer

Secretary
Treasurer
General Counsel

THE CITY OF LINCOLN, NEBRASKA

Mayor

Chris Beutler

City Council

Doug Emery (Chair)

Jon Camp
Jonathan Cook
Adam Hornung

Eugene Carroll
Carl Eskridge
Jayne Snyder

City Administration

Don Herz.....	Finance Director
Rodney Confer.....	City Attorney
Marvin Krout.....	Planning Director
Lynn Johnson.....	Parks and Recreation Director
Kevin Wailes.....	LES Administrator and CEO
David Landis.....	Urban Development Director
Pat Leach.....	Library Director
Greg MacLean.....	Public Works and Utilities Director
Judith Halstead.....	Health Director
Mark Koller.....	Personnel Director
Thomas Casady.....	Public Safety Director
Chuck Zimmerman.....	Interim Director, Building and Safety

Peggy Tharnish, City Controller

UNDERWRITER

[Underwriter Name]

REGISTRAR AND PAYING AGENT

Union Bank and Trust Company

FINANCIAL ADVISOR

Ameritas Investment Corp.

BOND COUNSEL

Gilmore & Bell, P.C.

THE BOARD OF REGENTS OF THE UNIVERSITY OF NEBRASKA

Bob Whitehouse, Chair, Papillion, Nebraska
Jim McClurg, Vice Chair, Lincoln, Nebraska
Tim Clare, Lincoln, Nebraska
Randolph M. Ferlic, Omaha, Nebraska
Chuck Hassebrook, Lyons, Nebraska
Howard L. Hawks, Omaha, Nebraska
Bob Phares, North Platte, Nebraska
Kent A. Schroeder, Kearney, Nebraska
Lane Carr, Student Regent, UNL
Jordan Gonzales, Student Regent, UNK
Elizabeth O'Connor, Student Regent, UNO
Jeremy Peterson, Student Regent, UNMC

UNIVERSITY OF NEBRASKA OFFICERS

James B. Milliken, President
Linda Pratt, Executive Vice President and Provost
David E. Lechner, Vice President for Business and Finance
Joel D. Pedersen, Vice President and General Counsel
Carmen K. Mauer, Interim Corporation Secretary
John Christensen, Chancellor, UNO
Doug Kristensen, Chancellor, UNK
Harold M. Maurer, Chancellor, UNMC
Harvey S. Perlman, Chancellor, UNL

REGARDING USE OF THIS OFFICIAL STATEMENT

AUTHORIZED INFORMATION AND REPRESENTATIONS

No dealer, broker, sales representative or other person has been authorized by the Agency, the City, the Regents or [Underwriter Name] (the “**Underwriter**”) to give any information or to make any representations, other than those contained in this Official Statement; and, if given or made, such other information or representations must not be relied upon as having been authorized by any of the foregoing. This Official Statement does not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of the Bonds by any person in any jurisdiction in which it is unlawful for such person to make such offer, solicitation or sale. The information set forth herein has been obtained from the Agency, the City, the Regents and other sources that are believed to be reliable, but is not guaranteed as to accuracy or completeness by, and is not to be construed as a representation by, the Underwriter. The Underwriter has provided the following sentence for inclusion in this Official Statement: “The Underwriter has reviewed the information in this Official Statement in accordance with, and as part of, its responsibilities to investors under the federal securities laws as applied to the facts and circumstances of this transaction, but the Underwriter does not guarantee the accuracy or completeness of such information.” The information and expressions of opinion herein are subject to change without notice, and neither the delivery of this Official Statement nor any sale made hereunder shall, under any circumstance, create any implication that there has been no change in the affairs of the Agency, the City or the Regents since the date hereof.

REGISTRATION EXEMPTION

The Bonds have not been registered with the United States Securities and Exchange Commission under the Securities Act of 1933, as amended (the “**Securities Act**”), in reliance upon an exemption contained in the Securities Act. In making an investment decision, investors must rely upon their own examination of the Agency and the City and the terms of the offering, including the merits and risks involved. No federal or state securities commission or regulatory authority has recommended the Bonds. Moreover, none of the foregoing authorities has confirmed the accuracy or determined the adequacy of this Official Statement. Any representation to the contrary is a criminal offense.

FORWARD-LOOKING STATEMENTS

Certain statements included or incorporated by reference in this Official Statement constitute “forward-looking statements” within the meaning of the United States Private Securities Litigation Reform Act of 1995, Section 21E of the United States Securities Exchange Act of 1934, as amended, and Section 27A of the United States Securities Act of 1933, as amended. Such statements are generally identifiable by the terminology used such as “plan,” “expect,” “estimate,” “anticipate,” “budget,” “intend” or other similar words. The achievement of certain results or other expectations contained in such forward-looking statements involve known and unknown risks, uncertainties and other factors which may cause actual results, performance or achievements described to be materially different from any future results, performance or achievements expressed or implied by such forward-looking statements. None of the Agency, the City or any other party plans to issue any updates or revisions to those forward-looking statements if or when the expectations, or events, conditions or circumstances upon which such statements are based occur.

TABLE OF CONTENTS

	Page
INTRODUCTION	1
THE AGENCY	3
THE CITY	4
PLAN OF FINANCING	4
THE BONDS	5
SECURITY	9
NEBRASKA LAWS RELATED TO BUDGETS AND TAXATION.....	10
LEGAL MATTERS	11
TAX MATTERS.....	12
CONTINUING DISCLOSURE.....	14
MISCELLANEOUS	15
THE CITY OF LINCOLN, NEBRASKA – GENERAL, ECONOMIC AND FINANCIAL INFORMATION	APPENDIX A
THE CITY OF LINCOLN, NEBRASKA - ACCOUNTANT’S REPORT AND AUDITED FINANCIAL STATEMENTS.....	APPENDIX B
WEST HAYMARKET JOINT PUBLIC AGENCY - ACCOUNTANT’S REPORT AND AUDITED FINANCIAL STATEMENTS.....	APPENDIX C
SUMMARY OF PRINCIPAL DOCUMENTS	APPENDIX D
PROJECTED CASH FLOWS	APPENDIX E
FORM OF OPINION OF BOND COUNSEL.....	APPENDIX F
BOOK-ENTRY SYSTEM.....	APPENDIX G

THE UNDERWRITER INTENDS TO OFFER THE BONDS INITIALLY AT THE OFFERING PRICES SET FORTH ON THE INSIDE COVER PAGE OF THIS OFFICIAL STATEMENT, WHICH MAY SUBSEQUENTLY CHANGE WITHOUT ANY REQUIREMENT OF PRIOR NOTICE. IN CONNECTION WITH THIS OFFERING, THE UNDERWRITER MAY OVERALLOT OR EFFECT TRANSACTIONS THAT STABILIZE OR MAINTAIN THE MARKET PRICE OF THE BONDS AT A LEVEL ABOVE THAT WHICH MIGHT OTHERWISE PREVAIL IN THE OPEN MARKET. SUCH STABILIZING, IF COMMENCED, MAY BE DISCONTINUED AT ANY TIME.

THIS OFFICIAL STATEMENT IS NOT, AND MAY NOT BE CONSTRUED AS, A CONTRACT WITH THE PURCHASERS OF THE BONDS. STATEMENTS CONTAINED IN THE OFFICIAL STATEMENT WHICH INVOLVE ESTIMATES, FORECASTS, OR MATTERS OF OPINION, WHETHER OR NOT EXPRESSLY SO DESCRIBED HEREIN, ARE INTENDED SOLELY AS SUCH AND ARE NOT TO BE CONSTRUED AS A REPRESENTATION OF FACTS.

(THIS PAGE LEFT BLANK INTENTIONALLY)

OFFICIAL STATEMENT

\$100,000,000*

LINCOLN, NEBRASKA WEST HAYMARKET JOINT PUBLIC AGENCY
(The City of Lincoln, Nebraska and The Board of Regents of the University of Nebraska)
GENERAL OBLIGATION FACILITY BONDS
SERIES 2011

INTRODUCTION

This introduction is only a brief description and summary of certain information contained in this Official Statement and is qualified in its entirety by reference to more complete and detailed information contained in the entire Official Statement, including the cover page and appendices hereto, and the documents summarized or described herein. A full review should be made of the entire Official Statement. Definitions of capitalized terms not otherwise defined herein may be found in “APPENDIX D: SUMMARY OF PRINCIPAL DOCUMENTS – Definitions.”

Purpose of the Official Statement

The purpose of this Official Statement is to furnish information relating to (a) the West Haymarket Joint Public Agency (the “**Agency**”), (b) The City of Lincoln, Nebraska (the “**City**”), and (c) the Agency’s \$100,000,000* principal amount General Obligation Facility Bonds, Series 2011, dated the date of delivery thereof (the “**Bonds**”).

The Agency

The Agency was created pursuant to (a) the Joint Public Agency Act (Chapter 13, Article 23, Reissue Revised Statutes of Nebraska, as amended, the “**JPA Act**”) and (b) the Joint Public Agency Agreement Creating the West Haymarket Joint Public Agency, dated as of April 1, 2010, between the City and The Board of Regents of the University of Nebraska (the “**Regents**”), as amended and supplemented from time to time, including, without limitation, the Amended and Restated Joint Public Agency Agreement of the West Haymarket Joint Public Agency, dated January 10, 2011 (collectively, the “**JPA Agreement**”), between the City and the Regents. The Agency was created (a) for purposes of constructing, equipping, furnishing and financing public facilities in the West Haymarket Redevelopment Area (herein defined) 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 (collectively, the “**West Haymarket Facilities**”), and (b) to acquire land and to relocate existing businesses, to undertake environmental remediation and site preparation as necessary and appropriate for the construction, equipping, furnishing and financing of the West Haymarket Facilities (collectively, as described in the Bond Resolution (hereinafter defined), as the same may be amended from time to time, the “**Projects**,” and, individually, a “**Project**”).

The Projects

The Projects consist of constructing, equipping, furnishing and financing various public facilities in the West Haymarket Redevelopment Area of the City including, but not limited to, 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, and acquiring land and relocating existing businesses, undertaking environmental remediation and site preparation as necessary and appropriate for the construction, equipping, furnishing and financing of the West Haymarket Facilities. The Agency as acquired the property on which the Projects will be constructed, equipped and furnished from the Burlington Northern Santa Fe (“**BNSF**”) and Union Pacific Railroads. The Arena Projects (consisting of the Arena and related parking improvements consisting of the

*Preliminary, subject to change.

surface parking lot northwest of the BNSF tracks, the parking garage adjacent to the Arena and the surface parking lot on the Arena site) will be owned by the Agency until the Bonds are no longer outstanding, at which time the Agency will transfer ownership of the Arena Projects to the City. The remaining Projects will be transferred to the City upon the completion of construction of such Projects. The City will operate and maintain all of the Projects pursuant to a Facilities Agreement dated September 8, 2010 (the “**Facilities Agreement**”) between the City and the Agency. See “**PLAN OF FINANCING**,” “_____” and **APPENDIX D - SUMMARY OF PRINCIPAL DOCUMENTS – Facilities Agreement.**”

The City

The City is a city of the primary class duly organized and validly existing under the laws of the State, including, without limitation, Chapter 15, Reissue Revised Statutes of Nebraska, as amended.” The City’s outstanding general obligation bonds are rated “Aaa” by Moody’s Investors Service, Inc. and “AAA” by Standard & Poor’s Ratings Group. See “**THE CITY.**”

The Regents

The Regents are a public body corporate duly created and existing under the laws of the State of Nebraska. Pursuant to a Memorandum of Understanding dated as of March 31, 2010 (the “**MOU**”) between the City and the Regents, the Regents have agreed to lease the Arena for a term of 30 years which is anticipated to begin on September 1, 2013 to play the University of Nebraska-Lincoln men’s and women’s varsity basketball home games. The terms of the MOU will be formalized through an Operating Agreement between the City and the Regents, which is expected to be executed and delivered by the parties by _____. Other than the payment of rent for its use of the Arena pursuant to the Operating Agreement, the Regents have no obligation to pay the principal or redemption price of and interest on the Bonds. The Regents’ outstanding bonds are rated “Aa1” by Moody’s Investors Service, Inc. and “AA” by Standard & Poor’s Ratings Group. See “**APPENDIX D - SUMMARY OF PRINCIPAL DOCUMENTS – Memorandum of Understanding.**”

The Bonds

The Bonds will be issued pursuant to a Bond Resolution passed July ___, 2011 (the “**Bond Resolution**”) by the Agency for the purpose of paying (a) all or a portion of the costs of one or more Projects, including, without limitation, the purchase of general obligation bonds of the City issued to pay certain costs of one or more of such Projects, and (b) the costs of issuing the Bonds. See “**PLAN OF FINANCING**” and “**THE BONDS.**”

Security and Source of Payment

The principal or redemption price of and interest on the Bonds are general obligations of the Agency payable, unless paid from other sources, from taxes levied by the Agency on all taxable property in the City without limitation as to rate or amount pursuant to the provisions of the JPA Act and the JPA Agreement. Pursuant to the JPA Act, under the JPA Agreement, the City has allocated to the Agency its authority to cause a levy of taxes within the City pursuant to Section 15-202, Reissue Revised Statutes of Nebraska, as amended, in an amount which will be sufficient to pay the principal or redemption price of and interest on the Bonds when and as the same become due (the “**Agency Bond Levy**”). The Facilities Agreement requires that (a) the City collect all revenues, receipts and income received by the Agency from any source (the “**Revenues**”) and (b) in the event that 45 days prior to the payment date of any principal or interest on Bonds, amounts in the Debt Service Fund are insufficient to fully pay the principal of or interest on all outstanding Bonds, the City shall loan to the Agency the full amount of any such deficiency not later than such date of payment. Such loan shall bear interest as provided in the Facilities Agreement from the date such amounts are loaned to the Agency until all such amounts are repaid by the Agency. Any such loan, together with interest accrued thereon, shall be repaid to the City (i) first, from the first receipts of Revenues, and (ii) second, from taxes levied and collected by the Agency pursuant to the provisions of the Facilities Agreement. If the projected actual Available Revenues

(defined to be all cash receipts of the Agency, plus unrestricted amounts in the Surplus Fund, less all cash payments of the Agency, including, without limitation, debt service on Bonds, operation and maintenance expenses and deposits to the Depreciation and Replacement Fund) for the fiscal year are less than the budgeted Available Revenues for such fiscal year by \$1,000,000 or more, the Agency is obligated to implement the Agency Bond Levy. See **“THE AGENCY,” “SECURITY,” “NEBRASKA LAWS RELATED TO BUDGETS AND TAXATION,” “APPENDIX D – SUMMARY OF PRINCIPAL DOCUMENTS – JPA Agreement,” and “- Facilities Agreement,” and “- Bond Resolution” and “APPENDIX E – PROJECTED CASH FLOWS.”**

Financial Statements

The audited financial statements of the Agency, as of and for the year ended August 31, 2010, are included in **“APPENDIX C – WEST HAYMARKET JOINT PUBLIC AGENCY - ACCOUNTANT’S REPORT AND AUDITED FINANCIAL STATEMENTS.”** These financial statements have been audited by BKD, LLP, independent auditors, to the extent and for the periods indicated in their report, which is also included in **“APPENDIX C – WEST HAYMARKET JOINT PUBLIC AGENCY - ACCOUNTANT’S REPORT AND AUDITED FINANCIAL STATEMENTS.”**

The audited financial statements of the City, as of and for the year ended August 31, 2010, are included in **“APPENDIX B – THE CITY OF LINCOLN, NEBRASKA - ACCOUNTANT’S REPORT AND AUDITED FINANCIAL STATEMENTS.”** These financial statements have been audited by BKD, LLP, independent auditors, to the extent and for the periods indicated in their report, which is also included in **“APPENDIX B – THE CITY OF LINCOLN, NEBRASKA - ACCOUNTANT’S REPORT AND AUDITED FINANCIAL STATEMENTS.”**

Ratings

The Agency has applied to Moody’s Investors Service, Inc. and Standard & Poor’s Ratings Group for ratings on this issue. See **“MISCELLANEOUS – Ratings.”**

THE AGENCY

The Agency was created on April 2, 2010 pursuant to the JPA Act and the JPA Agreement for the purpose of exercising any power, privilege or authority to facilitate land acquisition, relocation of existing businesses, environmental remediation, site preparation and the construction, equipping, furnishing and financing of public facilities, including, but not limited to, the Arena and the other West Haymarket Facilities and any other capital improvements or other projects pertaining to the redevelopment of an area in the City generally bounded by BNSF and Union Pacific railroad lines and First Street on the west, approximately Ninth Street and I-180 on the east, Cornhusker Highway on the north and “M” Street on the south (the **“West Haymarket Redevelopment Area”**), as determined by the Agency to be necessary, desirable, advisable or in the best interests of the City and the Regents.

Under the JPA Agreement, the governing body of the Agency (the **“Board”**) consists of the Mayor of the City, the member of The Board of Regents of the University of Nebraska from District No. 1, and a member of the Council of the City appointed by the Mayor. All actions may be taken by the affirmative vote of a majority of the Board, except that the actions of the Agency related to the Arena (as opposed to the West Haymarket Facilities as a whole) require a unanimous vote of the Board. Issuance of indebtedness of the Agency must also be approved by the Mayor and Council of the City.

The members of the Board are as follows: Chris Beutler (Mayor of the City), Tim Clare (Regent from District No. 1), and Jayne Snyder (member of the Council). The officers of the board are as follows:

<u>Name</u>	<u>Office</u>
Jayne Snyder	Chair
Tim Clare	Vice Chair
Dan Marvin	Secretary
Don Herz	Treasurer

Mr. Beutler and Mr. Clare serve on the Board for so long as they hold the office of Mayor and Regent, respectively. Council Member Snyder's term on the Board expires when a successor is appointed by the Mayor.

THE CITY

The City is a city of the primary class and political subdivision created and existing under the laws of the State, including, without limitation, Chapter 15, Reissue Revised Statutes of Nebraska, as amended. The City encompasses approximately 90 square miles and includes most of the urban area of Lancaster County. Located in southeastern Nebraska approximately midway between Chicago and Denver, the City has an estimated population of over 251,000. See **“APPENDIX A – THE CITY OF LINCOLN, NEBRASKA – GENERAL, ECONOMIC AND FINANCIAL INFORMATION”** and **“APPENDIX B – THE CITY OF LINCOLN, NEBRASKA - ACCOUNTANT’S REPORT AND AUDITED FINANCIAL STATEMENTS.”**

PLAN OF FINANCING

Authorization and Purpose of Bonds

The Bonds are authorized pursuant to and in full compliance with the Constitution and statutes of the State including, particularly, the JPA Act. The Bonds are being issued pursuant to the Bond Resolution for the purpose of paying (a) all or a portion of the costs of one or more Projects, including, without limitation, the purchase of general obligation bonds of the City issued to pay certain costs of one or more of such Projects, and (b) the costs of issuing the Bonds.

On May 11, 2010, the City submitted to the electors of the City a proposition for the issuance of general obligation bonds in an amount not to exceed \$25,000,000 (the **“City Bonds”**) to pay the costs of acquiring, constructing, equipping and furnishing the Arena and related facilities, which was approved by a vote of 37,541 in favor and 28,792 against. The City anticipates issuing the City Bonds around March, 2012, and the Agency expects to purchase such the City Bonds with proceeds of the Bonds pursuant to a Bond Purchase Agreement between the City and the Agency.

The City Bonds will be dated the date of delivery thereof, and the purchase price of the City Bonds will be 100% of the principal amount thereof. The Bond Purchase Agreement provides that the City will make the proceeds of the City Bonds available to the Agency to pay all or a portion of the costs of one or more Projects. The City expects to use funds received from the State of Nebraska pursuant to Convention Center Facility Financing Assistance Act (Chapter 13, Article 26, Reissue Revised Statutes of Nebraska, as amended) to pay the principal of and interest on the City Bonds as and when the same become due. The City's general obligation debt is rated **“Aaa”** by Moody's and **“AAA”** by Standard & Poor's, and the City Bonds will bear interest commensurate with comparable JPA bonds.

The Projects

The Projects consist of constructing, equipping, furnishing and financing various public facilities in the West Haymarket Redevelopment Area of the City including, but not limited, to 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, and acquiring land and relocating existing businesses, undertaking environmental remediation and site preparation as necessary and appropriate for the construction, equipping, furnishing and financing of the West Haymarket Facilities. Upon acquisition of certain property currently

owned by the BNSF and Union Pacific Railroads, the Agency will initially own the property on which the Projects will be constructed, equipped and furnished. The Arena Projects (consisting of the Arena and the related parking improvements consisting of the surface parking lot northwest of the BNSF tracks, the parking garage adjacent to the Arena and the surface parking lot on the Arena site) will be owned by the Agency until the Bonds are no longer outstanding, at which time the Agency will transfer ownership of the Arena Projects to the City. The remaining Projects will be transferred to the City upon the completion of construction of such Projects. The City will operate and maintain all of the Projects pursuant to the Facilities Agreement.

The Agency will deposit approximately \$98,000,000 of the proceeds of the Bonds in the Construction Fund as provided in the Bond Resolution. The total estimated cost of the Projects is approximately \$340,000,000, \$190,000,000 of which was funded from the net proceeds of the Agency's (a) \$100,000,000 General Obligations Facility Bonds, Taxable Series 2010A (Build America Bonds – Direct Pay), dated September 8, 2010, (b) \$67,965,000 General Obligations Facility Bonds, Taxable Series 2010B (Build America Bonds – Direct Pay), dated December 1, 2010, and (c) \$32,035,000 General Obligation Recovery Zone Economic Development Bonds, Taxable Series 2010C, dated December 1, 2010 (collectively, the **“Outstanding Bonds”**), and the remainder of which will be funded with future debt of the Agency, if necessary, and available cash funds, including private contributions and other receipts of the Agency. The Agency currently estimates issuing additional bonds in a total amount not in excess of \$25,000,000 (excluding the \$100,000,000 principal amount of Bonds described in this Official Statement) to finance the Projects. Construction is scheduled to commence in August, 2011 and is estimated to be completed not later than September, 2013.

While the Agency recognizes that any project has risks related to cost overruns, the City has taken many steps to eliminate the likelihood and impact of any such overruns. Through the engagement of a nationally recognized program management firm, the Agency will have experts overseeing every step of the project design, planning and construction. The program management firm will (a) provide technical expertise for programming, budgeting, and criteria development of both the overall program and individual projects, (b) optimize and control schedule, budgets, quality, functionality, and efficiency of building design, construction and code compliance, (c) review expenditures and manage design and construction claims, (d) provide assistance in selection of architects and engineers, (e) manage construction to mitigate disruptions, delays, cost overruns, and change orders, (f) coordinate all capital expenditures to optimize cash flow, (g) prepare status reports and presentations, and (h) facilitate communication and data access between all project team members as well as a web site accessible by the public. In addition to retaining a program management firm, the Agency will construct the Arena using a “construction manager at risk” that will ensure certainty as to the total cost of the Arena itself. The City has also prioritized the construction of the infrastructure Projects such that any delay in such projects will not delay the opening of the Arena. Such measures will minimize any risk of cost overruns related to the Projects, as well as the risk of any delay in the timely opening of the Arena.

Sources and Uses of Funds

The following table summarizes the estimated sources of funds, including the proceeds from the sale of the Bonds, and the expected uses of such funds, in connection with the plan of financing:

[The remainder of this page intentionally left blank]

Sources of Funds:

Proceeds from Sale of Bonds	\$
Less/Plus: net original issue discount/premium	
Total sources of funds	\$

Uses of Funds:

Project Costs	\$
Underwriting Discount (____%)	
Costs of Issuance	
Total uses of funds	\$

THE BONDS

The following is a summary of certain terms and provisions of the Bonds. Reference is hereby made to the Bonds and the provisions of the Bond Resolution for the detailed terms and provisions thereof.

Principal Maturities and Interest Rates

The Bonds will be dated the date of delivery thereof, numbered from R-1 upward in order of their issuance, mature on December 15 in the years and in the principal amounts set forth on the inside cover page of this Official Statement and bear interest calculated on the basis of a 360-day year consisting of twelve 30-day months at the rates per annum set forth on the cover page hereof. Interest is payable on June 15 and December 15 of each year, commencing December 15, 2011. The **“Record Date”** for each installment of interest shall be the fifteenth day (whether or not a business day) next preceding such interest payment date.

Form and Denomination

The Bonds are issuable as fully registered bonds and when issued will initially be available in book-entry form only in denominations of \$5,000 and any integral multiple thereof. See **“THE BONDS – Book-Entry System.”**

Place of Payment

Unless the Bonds are being held in book-entry form only, the principal or redemption price thereof due at maturity or upon redemption prior to maturity is payable upon presentation and surrender of the Bonds to Union Bank and Trust Company, as bond registrar and paying agent (the **“Registrar”**), at its designated corporate trust administration office in Lincoln, Nebraska. Interest on the Bonds is payable by check or draft mailed on the date such interest is payable by the Registrar to the registered owner of such Bonds at such registered owner’s address as shown on the Record Date on the books of registry kept by the Registrar. During such time as the Bonds are being held in book-entry form only, the principal or redemption price of and interest on the Bonds are payable as described under **“THE BONDS – Book-Entry System.”**

Redemption

Optional Redemption. The Bonds are subject to optional redemption at the option of the Agency in whole or in part at any time on or after December 15, 2021, in the principal amounts and from the maturity or maturities selected by the Agency and by lot integral multiples of \$5,000 within a maturity at a redemption price equal to 100% of the principal amount being redeemed, plus accrued interest on such principal amount to the date of redemption.

Sinking Fund Redemption of Bonds. The Bonds maturing December 15 in the years ____, ____, ____, and ____ are subject to mandatory redemption and payment prior to maturity pursuant to the mandatory redemption requirements set forth below at a redemption price equal to 100% of the principal amount thereof plus accrued interest to the redemption date. The payments specified in the Bond Resolution which are to be deposited into the Debt Service Fund shall be sufficient to redeem, and the Agency shall redeem on each December 15 the following principal amounts of Bonds:

Year <u>(December 15)</u>	Principal <u>Amount</u>	Year <u>(December 15)</u>	Principal <u>Amount</u>
------------------------------	----------------------------	------------------------------	----------------------------

Year <u>(December 15)</u>	Principal <u>Amount</u>	Year <u>(December 15)</u>	Principal <u>Amount</u>
------------------------------	----------------------------	------------------------------	----------------------------

‡ Maturity

Partial Redemption. The Bonds shall be redeemed in whole multiples of \$5,000 and if any Bond be in a denomination in excess of \$5,000, portions of the principal amount thereof in installments of \$5,000 or any integral multiple thereof may be redeemed, and if less than all of the principal amount thereof is to be redeemed, in such case upon the surrender of such Bond, there shall be issued to the registered owner thereof without charge therefor, for the then unredeemed balance of the principal amount thereof, registered bonds of like series, maturity and interest rate in any of the authorized denominations provided by the Bond Resolution.

Notice of Redemption. Notice of redemption of any Bond shall be sent by first class mail, postage prepaid, at least 30 days prior to the date fixed for redemption to the registered owner thereof at the address maintained by the Registrar. No further interest shall accrue after the redemption date on any Bonds duly called for redemption if payment thereof has been duly provided for with the Registrar.

Book-Entry System

General. The Bonds will be made available initially in book-entry form only in denominations of \$5,000 each or integral multiples thereof. The Depository Trust Company (“DTC”), New York, New York, will act as securities depository for the Bonds. The ownership of one fully registered Bond for each maturity, as set forth on the cover of this Official Statement, each in the aggregate principal amount of such maturity, will be registered in the name of Cede & Co., as the nominee for DTC. Ownership interests in the Bonds will be available to purchasers only through the book-entry system maintained by DTC (the “**Book-Entry System**”). A description of DTC, the Book-Entry System and definitions of initially capitalized terms used under this heading are found in “**APPENDIX G – BOOK-ENTRY SYSTEM.**”

Risk Factors. Beneficial Owners of the Bonds may experience some delay in their receipt of distributions of the principal or redemption price of and interest on the Bonds because such distributions will be forwarded by the

Registrar to DTC, credited by DTC to the accounts of its Direct Participants, which will thereafter credit them to the accounts of the Beneficial Owners either directly or indirectly through Indirect Participants.

Because transactions in the Bonds can be effected only through DTC, DTC Participants and certain banks, the ability of a Beneficial Owner to pledge a Bond to persons or entities that do not participate in the Book-Entry System or otherwise to take actions in respect of such Bonds may be limited due to the lack of physical certificates. Beneficial Owners will not be recognized by the Registrar as registered owners for purposes of the Bond Resolution, and Beneficial Owners will be permitted to exercise the rights of registered owners only indirectly through DTC and DTC Participants.

CUSIP Numbers

It is anticipated that CUSIP identification numbers will be printed on the Bonds, but neither the failure to print such numbers on any Bonds, nor any error in the printing of such numbers shall constitute cause for a failure or refusal by the purchaser thereof to accept delivery of and payment for any Bonds.

SECURITY

General

The principal or redemption price of and interest on the Bonds are general obligations of the Agency payable, unless paid from other sources, from taxes levied by the Agency on all taxable property in the City without limitation as to rate or amount pursuant to the provisions of the JPA Act and the JPA Agreement. See **“NEBRASKA LAWS RELATED TO BUDGETS AND TAXATION.”**

JPA Agreement

Under the JPA Agreement, the City has irrevocably allocated and assigned to the Agency, for the period beginning June 1, 2010 and ending on the date upon which all of the Bonds are no longer deemed to be outstanding and unpaid under the Bond Resolution, its authority pursuant to Section 15-202, Reissue Revised Statutes of Nebraska, as amended, to cause the levy of taxes within the City (the **“Agency Bond Levy”**), beginning in the year 2010 for collection in 2011, for the purpose of paying the costs of the Projects in an amount to be levied solely for the purpose of paying the principal or redemption price of and interest on the Bonds. The Agency Bond Levy is unlimited as to both rate and amount and, if levied, (a) would be levied on all the taxable property within the corporate limits of the City and (b) would not affect the ability of the City to levy property taxes.

The JPA Agreement obligates the Agency to certify the Agency Bond Levy to The County of Lancaster, Nebraska in its budget statement as provided in the Nebraska Budget Act, Sections 13-501 to 13-513, Reissue Revised Statutes of Nebraska, as amended, for levy and collection in such amounts, if any, as may be required to pay the principal or redemption price of and interest on the Bonds as the same become due. No further action is required to implement the Agency Bond Levy. All taxes collected under the Agency Bond Levy shall be credited to the Agency as soon as practicable.

Facilities Agreement

The Facilities Agreement provides that in the event that 45 days prior to the payment date of any principal or interest on the Bonds, amounts in the Debt Service Fund are insufficient to fully pay the principal of or interest on all outstanding Bonds, the City shall loan to the Agency the full amount of any such deficiency not later than such date of payment. Such loan shall bear interest at a rate equal to the current interest rate received by the City Investment Pool (computed on the basis of a 360-day year consisting of twelve 30-day months) from the date such amounts are loaned

to the Agency until all such amounts are repaid by the Agency. Any such loan, together with interest accrued thereon, shall be repaid to the City (a) first, from the first receipts of Revenues, and (b) second, from taxes levied and collected by the Agency pursuant to the provisions of the Facilities Agreement. If the projected actual Available Revenues (defined to be all cash receipts of the Agency, plus unrestricted amounts in the Surplus Fund, less all cash payments of the Agency, including, without limitation, debt service on Bonds, operation and maintenance expenses and deposits to the Depreciation and Replacement Fund) for the fiscal year are less than the budgeted Available Revenues for such fiscal year by \$1,000,000 or more, the Agency is obligated to implement the Agency Bond Levy. See **“THE AGENCY,” “SECURITY,” “NEBRASKA LAWS RELATED TO BUDGETS AND TAXATION,” “APPENDIX D - SUMMARY OF PRINCIPAL DOCUMENTS - JPA Agreement” and “- Bond Resolution,”** and **“APPENDIX E – PROJECTED CASH FLOWS.”**

Operating Agreement

Pursuant to the MOU, the Regents have agreed to lease the Arena to play the University of Nebraska-Lincoln men’s and women’s varsity basketball home games for a term of 30 years which is anticipated to begin on September 1, 2013. The terms of the MOU will be formalized through an Operating Agreement between the City and the Regents, which is expected to be executed and delivered by the parties by _____. Other than the payment of rent for its use of the Arena pursuant to the Operating Agreement, the Regents have no obligation for any payments to the Agency, including, without limitation, payment of the principal or redemption price of and interest on the Bonds. See **“APPENDIX D - SUMMARY OF PRINCIPAL DOCUMENTS.”**

NEBRASKA LAWS RELATED TO BUDGETS AND TAXATION

The Nebraska Legislature (the **“Legislature”**) has in recent years enacted and amended legislation intended to reduce the level of property taxation and political subdivision expenditures in the State of Nebraska (the **“State”**). The statutory sections having the most significant impact on the Agency are Section 13-519, Reissue Revised Statutes of Nebraska (as enacted in 1996 and amended from time to time, **“Section 13-519”**), which provides for an overall limitation on the use of “restricted funds” revenue sources for cities, counties and certain other political subdivisions, and Section 77-3442, Reissue Revised Statutes of Nebraska (as enacted in 1996 and amended from time to time, **“Section 77-3442”**) which reduces the rate of taxation for general property taxes authorized for cities and counties. Among other provisions, Section 13-519 provides that for all fiscal years beginning on or after July 1, 1998, no governmental unit (including the City) may adopt a budget containing a total of budgeted restricted funds more than the prior year’s total of budgeted restricted funds plus allowable growth, plus a basic allowable growth percentage (initially 2½% until adjusted by the Legislature). Restricted funds generally include (a) property taxes, excluding any amounts refunded to taxpayers, (b) payments in lieu of property taxes, (c) local option sales taxes, (d) motor vehicle taxes, (e) state aid, (f) transfers of surpluses from any user fee, permit fee, or regulatory fee if the fee surplus is transferred to fund a service or function not directly related to the fee and the costs of the activity funded from the fee, and (g) any funds excluded from restricted funds for the prior year because they were budgeted for capital improvements but which were not spent and are not expected to be spent for capital improvements. Allowable growth includes the percentage increase in taxable valuation in excess of the base limitation established under Section 77-3446, Reissue Revised Statutes of Nebraska, as amended, if any, due to improvements to real property as a result of new construction, additions to existing buildings, any improvements to real property that increase the value of such property and any increase in valuation due to annexation and any personal property valuation over the prior year. Such budget limitations may be exceeded by up to an additional 1% upon the affirmative vote of at least 75% of the governing body, and larger increases are permitted with the approval of a majority of legal voters voting on the issue of such increase at a special election held for such purposes.

Under Section 77-3442, the rates for levying property taxes are limited for each type of governmental unit in the State. The rate for cities such as the City is no more than 50¢ per \$100 of taxable valuation, except that 5¢ per \$100 of taxable valuation of property subject to the levy may only be levied to provide financing for a city’s share of revenue

required under an agreement executed pursuant to the Interlocal Cooperation Act, Chapter 13, Article 8, Reissue Revised Statutes of Nebraska, as amended, or the Joint Public Agency Act, Chapter 13, Article 25, Reissue Revised Statutes of Nebraska, as amended. A political subdivision may exceed the levy limitations provided in Section 77-3442 or a final levy allocation determination as provided in Section 77-3443, Reissue Revised Statutes of Nebraska, as amended, by an amount not to exceed a maximum levy approved by a majority of registered voters. ***The limitations of Section 13-519 do not apply to restricted funds pledged to retire bonded indebtedness, and the limitations of Section 77-3442 do not apply to property taxes levied for bonded indebtedness approved according to law and secured by a levy on property.*** The Agency made no levy in 2010, will not be required to make any levy in 2011 for collection in 2012 and is not authorized to make any levy for operating expenses in the future.

Ad valorem taxes levied to pay debt service on the Bonds are not subject to either the Budget Limitations or the Levy Limitations.

Future legislation, decisions of the Nebraska Supreme Court, or initiative petitions proposed and passed by qualified voters in the State may alter the limitations set forth in Section 13-519 and Section 77-3442, or may otherwise modify the sources of and limitations on the revenues used by governmental units in the State to finance their activities.

LEGAL MATTERS

Legal Proceedings

As of the date hereof, there is no controversy, suit or other proceeding of any kind pending or threatened raising, or which may raise, any question or dispute or affecting in any way the legal organization of the Agency, the City or the Regents or the right or title of any officer to his or her respective offices, or the legality of any official act in connection with the authorization, issuance and sale of the Bonds, or the constitutionality or validity of the Bonds or any of the proceedings had in relation to the authorization, issuance or sale thereof, or the levy and collection of a tax to pay the principal and interest thereof, or which might affect the Agency's ability to meet its obligations to pay the Bonds.

Approval of Legality

All legal matters incident to the authorization and issuance of the Bonds are subject to the approval of Gilmore & Bell, P.C., Lincoln, Nebraska, Bond Counsel. Certain legal matters will be passed upon for the City and the Agency by Rodney M. Confer, City Attorney and general counsel to the JPA. Bond Counsel has participated in the preparation of this Official Statement, but the factual and financial information appearing herein has been supplied or reviewed by certain officials of the City and independent auditors, as referred to herein, and Bond Counsel expresses no opinion as to the accuracy or sufficiency thereof except for the matters appearing in the sections of this Official Statement captioned "**THE BONDS,**" "**LEGAL MATTERS - Approval of Legality**" and "**TAX MATTERS.**"

TAX MATTERS

The following is a summary of the material federal and State of Nebraska income tax consequences of holding and disposing of the Bonds. This summary is based upon laws, regulations, rulings and judicial decisions now in effect, all of which are subject to change (possibly on a retroactive basis). This summary does not discuss all aspects of federal income taxation that may be relevant to investors in light of their personal investment circumstances or describe the tax consequences to certain types of owners subject to special treatment under the federal income tax laws (for example, dealers in securities or other persons who do not hold the Bonds as a capital asset, tax-exempt organizations, individual retirement accounts and other tax deferred accounts, and foreign taxpayers), and, except for the income tax laws of the State of Nebraska, does not discuss the consequences to an owner under any state, local or

foreign tax laws. The summary does not deal with the tax treatment of persons who purchase the Bonds in the secondary market. Prospective investors are advised to consult their own tax advisors regarding federal, state, local and other tax considerations of holding and disposing of the Bonds.

Opinion of Bond Counsel

In the opinion of Gilmore & Bell, P.C., Bond Counsel, under the law existing as of the issue date of the Bonds:

Federal and Nebraska Tax Exemption. The interest on the Bonds (including any original issue discount properly allocable to an owner thereof) is excludable from gross income for federal income tax purposes and is exempt from income taxation by the State of Nebraska.

Alternative Minimum Tax. Interest on the Bonds is not an item of tax preference for purposes of computing the federal alternative minimum tax imposed on individuals and corporations, but is taken into account in determining adjusted current earnings for the purpose of computing the alternative minimum tax imposed on certain corporations.

Bank Qualification. The Bonds have not been designated as “qualified tax-exempt obligations” for purposes of Section 265(b) of the Code.

Bond counsel’s opinions are provided as of the date of the original issue of the Bonds, subject to the condition that the Agency and the City comply with all requirements of the Code that must be satisfied subsequent to the issuance of the Bonds in order that interest thereon be, or continue to be, excludable from gross income for federal income tax purposes. The Agency and the City have covenanted to comply with all such requirements. Failure to comply with certain of such requirements may cause the inclusion of interest on the Bonds in gross income for federal and Nebraska income tax purposes retroactive to the date of issuance of the Bonds. Bond Counsel is expressing no opinion regarding other federal, state or local tax consequences arising with respect to the Bonds but has reviewed the discussion under the heading “**TAX MATTERS.**”

Other Tax Consequences

Original Issue Discount. For federal income tax purposes, original issue discount (“**OID**”) is the excess of the stated redemption price at maturity of a Bond over its issue price. The issue price of a Bond is the first price at which a substantial amount of the Bonds of that maturity have been sold (ignoring sales to bond houses, brokers, or similar persons or organizations acting in the capacity of underwriters, placement agents, or wholesalers). Under Section 1288 of the Code, OID on tax-exempt bonds accrues on a compound basis. The amount of OID that accrues to an owner of a Bond during any accrual period generally equals (1) the issue price of that Bond, plus the amount of OID accrued in all prior accrual periods, multiplied by (2) the yield to maturity on that Bond (determined on the basis of compounding at the close of each accrual period and properly adjusted for the length of the accrual period), minus (3) any interest payable on that Bond during that accrual period. The amount of OID accrued in a particular accrual period will be considered to be received ratably on each day of the accrual period, will be excludable from gross income for federal income tax purposes, and will increase the owner’s tax basis in that Bond. Prospective investors should consult their own tax advisors concerning the calculation and accrual of OID.

Original Issue Premium. If a Bond is issued at a price that exceeds the stated redemption price at maturity of the Bond, the excess of the purchase price over the stated redemption price at maturity constitutes “premium” on that Bond. Under Section 171 of the Code, the purchaser of that Bond must amortize the premium over the term of the Bond using constant yield principles, based on the purchaser’s yield to maturity. As premium is amortized, the owner’s basis in the Bond and the amount of tax-exempt interest received will be reduced by the amount of amortizable premium properly allocable to the owner. This will result in an increase in the gain (or decrease in the loss) to be recognized for federal income tax purposes on sale or disposition of the Bond prior to its maturity. Even

though the owner's basis is reduced, no federal income tax deduction is allowed. Prospective investors should consult their own tax advisors concerning the calculation and accrual of bond premium.

Sale, Exchange or Retirement of Bonds. Upon the sale, exchange or retirement (including redemption) of a Bond, an owner of the Bond generally will recognize gain or loss in an amount equal to the difference between the amount of cash and the fair market value of any property received on the sale, exchange or retirement of the Bond (other than in respect of accrued and unpaid interest) and such owner's adjusted tax basis in the Bond. To the extent a Bond is held as a capital asset, such gain or loss will be capital gain or loss and will be long-term capital gain or loss if the Bond has been held for more than 12 months at the time of sale, exchange or retirement.

Reporting Requirements. In general, information reporting requirements will apply to certain payments of principal, interest and premium paid on the Bonds, and to the proceeds paid on the sale of the Bonds, other than certain exempt recipients (such as corporations and foreign entities). A backup withholding tax will apply to such payments if the owner fails to provide a taxpayer identification number or certification of foreign or other exempt status or fails to report in full dividend and interest income. The amount of any backup withholding from a payment to an owner will be allowed as a credit against the owner's federal income tax liability.

Collateral Federal Income Tax Consequences. Prospective purchasers of the Bonds should be aware that ownership of the Bonds may result in collateral federal income tax consequences to certain taxpayers, including, without limitation, financial institutions, property and casualty insurance companies, individual recipients of Social Security or Railroad Retirement benefits, certain S corporations with "excess net passive income," foreign corporations subject to the branch profits tax, life insurance companies, and taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry or have paid or incurred certain expenses allocable to the Bonds. Bond Counsel expresses no opinion regarding these tax consequences. Purchasers of Bonds should consult their tax advisors as to the applicability of these tax consequences and other federal income tax consequences of the purchase, ownership and disposition of the Bonds, including the possible application of state, local, foreign and other tax laws.

CONTINUING DISCLOSURE

The Agency and the City are executing the Continuing Disclosure Undertaking for the benefit of the owners and Beneficial Owners of the Bonds and in order to assist the Underwriter in complying with Rule 15c2-12 of the Securities and Exchange Commission (the "**Rule**"). The Agency and the City are the only "obligated persons" with responsibility for continuing disclosure.

Annual Reports

Pursuant to the Continuing Disclosure Undertaking, the Agency and the City shall, not later than **May 1** of each year, commencing May 1, 2012, provide to the Municipal Securities Rulemaking Board ("**MSRB**") the following financial information and operating data (the "**Annual Report**"):

(a) The audited financial statements of the Agency for the prior fiscal year, prepared in accordance with generally accepted accounting principles. If audited financial statements are not available by the time the Annual Report is required to be filed, the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the final Official Statement relating to the Bonds, and the audited financial statements shall be filed in the same manner as the Annual Report promptly after they become available.

(b) The audited financial statements of the City for the prior fiscal year, prepared in accordance with generally accepted accounting principles. If audited financial statements are not available by the time

the Annual Report is required to be filed, the Annual Report shall contain unaudited financial statements in a format similar to the financial statements contained in the final Official Statement relating to the Bonds, and the audited financial statements shall be filed in the same manner as the Annual Report promptly after they become available.

(c) Updates as of the end of the fiscal year of the financial information and operating data relating to the City contained in **APPENDIX A** of this Official Statement in substantially the same format contained in this Official Statement.

Material Event Notices

No later than 10 business days after the occurrence of any of the following events, the City or the Agency shall give, or cause to be given to the MSRB, through EMMA, notice of the occurrence of any of the following events with respect to the Bonds (“**Material Events**”):

- (1) principal and interest payment delinquencies;
- (2) non-payment related defaults, if material;
- (3) unscheduled draws on debt service reserves reflecting financial difficulties;
- (4) unscheduled draws on credit enhancements reflecting financial difficulties;
- (5) substitution of credit or liquidity providers, or their failure to perform;
- (6) adverse tax opinions; the issuance by the Internal Revenue Service of proposed or final determinations of taxability, Notices of Proposed Issue (IRS Form 5701-TEB) or other material notices or determinations with respect to the tax status of the Bond, or other material events affecting the tax status of the Bonds;
- (7) modifications to rights of bondholders, if material;
- (8) bond calls, if material, and tender offers;
- (9) defeasances;
- (10) release, substitution or sale of property securing repayment of the Bonds, if material;
- (11) rating changes;
- (12) bankruptcy, insolvency, receivership or similar event of the Agency or the City;
- (13) the consummation of a merger, consolidation, or acquisition involving the Agency or the City or the sale of all or substantially all of the assets of the Agency or the City, other than in the ordinary course of business, the entry into a definitive agreement to undertake such an action or the termination of a definitive agreement relating to any such actions, other than pursuant to its terms, if material; and
- (14) appointment of a successor or additional trustee or the change of name of the trustee, if material.

The Agency may, from time to time, appoint or engage a dissemination agent to assist it in carrying out its obligations under the Continuing Disclosure Undertaking, and may discharge any such dissemination agent, with or without appointing a successor dissemination agent. The dissemination agent shall not be responsible in any manner for the content of any notice or report prepared by the Agency or the City pursuant to the Continuing Disclosure Undertaking.

Notwithstanding any other provision of the Continuing Disclosure Undertaking, the Agency, the City and any dissemination agent may amend the Continuing Disclosure Undertaking (and such dissemination agent shall agree to any amendment so requested by the Agency or the City) and any provision of the Continuing Disclosure Undertaking may be waived, provided Bond Counsel or other counsel experienced in federal securities law matters provides the Agency, the City and any dissemination agent with its opinion that the undertaking of the Agency and the City, as so amended or after giving effect to such waiver, is in compliance with the Rule and all current amendments thereto and interpretations thereof that are applicable to the Continuing Disclosure Undertaking.

In the event of a failure of the Agency, the City or any dissemination agent to comply with any provision of the Continuing Disclosure Undertaking, any owner or Beneficial Owner of the Bonds may take such actions as may be necessary and appropriate, including seeking mandate or specific performance by court order, to cause the Agency, the City or any dissemination agent, as the case may be, to comply with its obligations under the Continuing Disclosure Undertaking. A default under the Continuing Disclosure Undertaking shall not be deemed an event of default under the Bond Resolution, and the sole remedy under the Continuing Disclosure Undertaking in the event of any failure of the Agency, the City or any dissemination agent to comply with the Continuing Disclosure Undertaking shall be an action to compel performance.

Electronic Municipal Market Access System (EMMA)

All Annual Reports and notices of Material Events required to be filed by the Agency, the City or the dissemination agent pursuant to the Continuing Disclosure Undertaking must be submitted to the MSRB through the MSRB's Electronic Municipal Market Access system ("EMMA"). EMMA is an internet-based, online portal for free investor access to municipal bond information, including offering documents, material event notices, real-time municipal securities trade prices and MSRB education resources, available at www.emma.msrb.org. Nothing contained on EMMA relating to the Agency, the City, the Regents or the Bonds is incorporated by reference in this Official Statement.

MISCELLANEOUS

Ratings

Moody's Investors Service, Inc. has assigned the Bonds a rating of "____" and Standard & Poor's, a division of The McGraw-Hill Companies, has assigned the Bonds the rating of "____." Such ratings reflect only the views of such organizations, and an explanation of the significance of such ratings may be obtained from Moody's Investors Service, 7 World Trade Center, 350 Greenwich Street, 23rd Floor, New York, New York 10007, telephone (212) 553-0300, and Standard & Poor's Ratings Services, 55 Water Street, New York, New York, 10041, telephone (212) 438-2124.

Generally, a rating agency bases its rating on such information and materials and investigations, studies and assumptions furnished to and obtained and made by the rating agency. The rating is not a recommendation to purchase, sell or hold a security, inasmuch as it does not comment as to market price or suitability for a particular investor. There is no assurance that the above rating will remain for any given period of time or that it may not be lowered, suspended or withdrawn entirely by such rating agency if it deems circumstances are appropriate. Any downward change in, suspension or withdrawal of such rating may have an adverse effect on the market price of the Bonds.

Independent Auditors

The audited financial statements of the Agency, as of and for the year ended August 31, 2010, are included in "**APPENDIX C – WEST HAYMARKET JOINT PUBLIC AGENCY - ACCOUNTANT'S REPORT AND AUDITED FINANCIAL STATEMENTS.**" These financial statements have been audited by BKD, LLP, independent auditors, as stated in their report appearing herein.

The audited financial statements of the City, as of and for the year ended August 31, 2010, are included in "**APPENDIX B – THE CITY OF LINCOLN, NEBRASKA - ACCOUNTANT'S REPORT AND AUDITED FINANCIAL STATEMENTS**" of this Official Statement have been audited by BKD, LLP, independent auditors, as stated in their report appearing herein.

Certification and Other Matters Regarding Official Statement

Information set forth in this Official Statement has been furnished or reviewed by certain officials of the Agency, the City, the Regents, certified public accountants, and other sources, as referred to herein, which are believed to be reliable. Any statements made in this Official Statement involving matters of opinion, estimates or projections, whether or not so expressly stated, are set forth as such and not as representations of fact, and no representation is made that any of the estimates or projections will be realized.

Simultaneously with the delivery of the Bonds, each of the Agency and the City will furnish to the Underwriter a certificate which shall state, among other things, that to the best knowledge and belief of such officer, this Official Statement (and any amendment or supplement hereto) as of the date of sale and as of the date of delivery of the Bonds does not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements herein, in light of the circumstances under which they were made, not misleading in any material respect.

The form of this Official Statement, and its distribution and use by the Underwriter, has been approved by the Agency. Neither the Agency nor any of its officers, directors or employees, in either their official or personal capacities, has made any warranties, representations or guarantees regarding the financial condition of the Agency or the Agency's ability to make payments required of it; and further, neither the Agency nor its officers, directors or employees assumes any duties, responsibilities or obligations in relation to the issuance of the Bonds other than those either expressly or by fair implication imposed on the Agency by the Bond Resolution.

WEST HAYMARKET JOINT PUBLIC AGENCY

By: _____
Chair

THE CITY OF LINCOLN, NEBRASKA

By: _____
Finance Director

APPENDIX A

**THE CITY OF LINCOLN, NEBRASKA
GENERAL, ECONOMIC AND FINANCIAL INFORMATION**

DRAFT

APPENDIX B

**THE CITY OF LINCOLN, NEBRASKA
ACCOUNTANT'S REPORT AND AUDITED FINANCIAL STATEMENTS**

DRAFT

APPENDIX C

**WEST HAYMARKET JOINT PUBLIC AGENCY
ACCOUNTANT'S REPORT AND AUDITED FINANCIAL STATEMENTS**

DRAFT

APPENDIX D

SUMMARY OF PRINCIPAL DOCUMENTS

DRAFT

SUMMARY OF PRINCIPAL DOCUMENTS

The following is a summary of certain provisions and defined terms of the JPA Agreement, Facilities Agreement, Bond Resolution and MOU. This summary does not purport to be comprehensive or definitive and is subject to all of the terms and provisions of the JPA Agreement, Facilities Agreement, Bond Resolution, and MOU to each of which reference is hereby made, and copies of which are on file in the office of the Clerk of the City.

DEFINITIONS

The terms defined below are among those used in the summaries of the Facilities Agreement and the Bond Resolution. Except where otherwise indicated or provided, words in the singular include the plural and vice versa.

“Act” means the Joint Public Agency Act, Chapter 13, Article 25, Reissue Revised Statutes of Nebraska, as amended.

“Agency” means the West Haymarket Joint Public Agency, a joint public agency duly organized and validly existing under the laws of the State, and its successors and assigns.

“Agency Bond Levy” means the authority of the City which is irrevocably allocated and assigned to the Agency, for the period beginning June 1, 2010 and ending on the date upon which all of the Bonds are no longer deemed to be outstanding and unpaid pursuant to the resolution or resolutions pursuant to which they are issued, to cause the levy of taxes within the taxing jurisdiction of the City, beginning in the year 2010 for collection in 2011, for the purpose of paying the costs of the Projects pursuant to Section 15-202, Reissue Revised Statutes of Nebraska, as amended, in an amount which will be sufficient to pay the principal or redemption price of and interest on the Bonds when and as the same become due.

“Arena” means the sports/entertainment arena to be constructed, equipped, furnished and financed by the Agency.

“Arena Improvements” means any improvements to the Arena Project as may be made from time to time as determined by the City to be necessary, desirable, or advisable.

“Arena Manager” means any entity with which the City contracts to manage the Arena.

“Arena Project” means, collectively, those Projects described on **Exhibit A** of the Facilities Agreement, as it may be amended from time to time, which collectively constitute the Arena and the related parking improvements consisting of the surface parking lot northwest of the BNSF tracks, the parking garage adjacent to the Arena and the surface parking lot on the Arena site.

“Arena Sources of Funds” means state aid, developer contributions, occupation taxes, the turnback tax, Arena rent, concessions, premium seating, naming rights, signage, tickets, interest, tax increment revenues, parking revenues, state and federal environmental funds and private donations.

“Authorized Officer” means the Chair and the Secretary, or in the event that either the Chair or the Secretary is unavailable for any reason, any other member of the Board or the Treasurer or any other officer of the Agency authorized by the Board to execute documents for and on behalf of the Agency.

“Available Revenues” means all cash receipts of the Agency, plus unrestricted amounts in the Surplus Fund, less all cash payments of the Agency, including, without limitation, debt service on Bonds, operation and maintenance expenses and deposits to the Depreciation and Replacement Fund.

“Beneficial Owner” means any Person that (a) has the power, directly or indirectly, to vote or consent with respect to, or to dispose of ownership of, any Bonds (including persons holding Bonds through nominees, depositories or other intermediaries), or (b) is treated as the owner of any Bonds for federal income tax purposes.

“Board” means the board of representatives of the Agency.

“Bond Counsel” means Gilmore & Bell, P.C., or other attorney or firm of attorneys with a nationally recognized standing in the field of municipal bond financing selected by the Agency.

“Bond Register” means the books for the registration, transfer and exchange of Bonds kept at the office of the Paying Agent.

“Bond Resolution” means the resolution adopted by the Agency on July ____, 2011 authorizing the issuance of the Series 2011 Bonds.

“Bonds” means, with respect to the Facilities Agreement, any indebtedness issued by the Agency the proceeds of which are used to pay any of the costs of acquiring, constructing, equipping or furnishing any of the Projects, authorized to be issued by a Resolution of the Agency and any indebtedness of the Agency issued to refund, directly or indirectly, any Bonds; and means, with respect to the Resolution, the Series 2011 Bonds.

“Budget Act” means Sections 13-501 to 13-513, inclusive, Reissue Revised Statutes of Nebraska, as amended.

“Business Day” means a day other than a Saturday, Sunday or holiday on which the Registrar is scheduled in the normal course of its operations to be open to the public for conduct of its banking operations.

“Cede & Co.” means Cede & Co., as nominee of The Depository Trust Company, New York, New York.

“City” means The City of Lincoln, Nebraska.

“Clerk” means the Clerk of the City.

“Code” means the Internal Revenue Code of 1986, as amended, and the applicable regulations of the Treasury Department proposed or promulgated thereunder.

“Completion Date” means the date established pursuant to the Resolution on which construction of the Projects is complete.

“Compliance Procedure” means the Compliance Plan and Procedure for West Haymarket Joint Public Agency Tax Advantaged Bonds attached to the Facilities Agreement as **Exhibit B**, as it may be amended from time to time.

“Construction Fund” means any of the funds designated as such by a Resolution of the Agency and any accounts or subaccounts created therein into which the net proceeds from the sale of a series of Bonds issued by the Agency shall be deposited.

“Consultant’s Report” means a written report of an individual consultant or accountant or firm of consultants or accountants, selected by the Agency and acceptable to the City and the Agency, having the skill and experience necessary to render the particular report, certification or service required by the Facilities Agreement and having a favorable reputation for such skill and experience, which individual or firm shall have no interest in the Agency or the City, and, in the case of an individual, shall not be a member, officer or employee of the Agency or any Participant, and, in the case of a firm, shall not have a partner, member, director, officer or employee who is a member, officer or employee of the Agency or any Participant.

“Continuing Disclosure Undertaking” means the Continuing Disclosure Undertaking executed by the Agency and the City, dated the date of delivery of the Bonds, as originally executed and as amended from time to time in accordance with its terms.

“Costs of Construction” means, with respect to each Project:

- (a) Obligations incurred for labor and material and to contractors, builders and materialmen in connection with such Project or any part thereof;
- (b) The cost of acquiring rights, rights-of-way, easements or other interests in land as may be deemed necessary or convenient for the construction and operation of such Project;
- (c) Taxes or other municipal or governmental charges lawfully levied or assessed against such Project or against any property acquired therefor, or payments required in lieu thereof, in each case during the period of construction, and premiums on insurance;
- (d) Costs of installing utility services or connections thereto or relocation thereof;
- (e) Costs of fidelity and indemnity bonds;
- (f) Costs of fixed and moveable equipment;
- (g) Expenses incurred in enforcing any remedy against a contractor or subcontractor in respect of default;
- (h) Costs of site acquisition, preparation and landscaping;
- (i) Fees and expenses of architects, engineers, consultants, surveyors, and inspectors and costs of issuance of the Bonds; and
- (j) Any other costs directly incurred in the acquisition, purchase, construction, equipping, furnishing and completion of such Project.

“2011 Debt Service Account” means the account by that name in the Debt Service Fund, in which there shall be established such subaccounts as shall be determined by the Finance Director.

“Debt Service Fund” means any of the funds and any accounts or subaccounts created pursuant to a Resolution authorizing the issuance of Bonds into which money for the payment of such Bonds shall be deposited as provided by such Resolution and the Facilities Agreement.

“Defaulted Interest” means interest on any Bond which is payable but not paid on any Interest Payment Date.

“Defeasance Obligations” means any of the following obligations:

(a) Government Obligations that are not subject to redemption in advance of their maturity dates;
or

(b) obligations of any state or political subdivision of any state, the interest on which is excluded from gross income for federal income tax purposes and which meet the following conditions:

(1) the obligations are (A) not subject to redemption prior to maturity or (B) the trustee for such obligations has been given irrevocable instructions concerning their calling and redemption and the issuer of such obligations has covenanted not to redeem such obligations other than as set forth in such instructions;

(2) the obligations are secured by cash or Government Obligations that may be applied only to the principal or Redemption Price of and interest payments on such obligations;

(3) such cash and the principal of and interest on such Government Obligations (plus any cash in the escrow fund) are sufficient to meet the liabilities of the obligations;

(4) such cash and Government Obligations serving as security for the obligations are held in an escrow fund by an escrow agent or a trustee irrevocably in trust;

(5) such cash and Government Obligations are not available to satisfy any other claims, including those against the trustee or escrow agent; and

(6) the obligations are rated in the highest rating category by Moody’s Investors Service, Inc. (presently “Aaa”) or Standard & Poor’s Ratings Group (presently “AAA”).

“Depreciation Fund Requirement” means an amount equal to 2% of the original construction cost of the Arena Project, as determined by the Finance Director of the City.

“Facilities” means the West Haymarket Facilities identified in **Exhibit A** to the Facilities Agreement, as it may be amended and supplemented from time to time, and at the date of the Official Statement includes the following: (a) the Arena, (b) roads, streets and sidewalks, (c) a pedestrian overpass, (d) public plaza space, (e) sanitary sewer mains, (f) water mains, (g) electric transmission lines, (h) drainage systems, (i) flood control, (j) parking garages and (k) surface parking lots.

“Facilities Agreement” means the Facilities Agreement, dated September 8, 2010, and as amended from time to time in accordance with its terms, between the City and the Agency, governing the acquisition, construction, equipping, furnishing, operation and management of the Projects, and the collection, deposit and application of the Revenues.

“Finance Director” means the Finance Director of the City, as the chief financial officer of the Agency.

“Government Obligations” means bonds, notes, certificates of indebtedness, treasury bills or other securities constituting direct obligations of, or obligations the principal of and interest on which are fully and unconditionally guaranteed as to full and timely payment by, the United States, including evidences of a direct ownership interest in future interest or principal payments on obligations issued or guaranteed by the United States (including the interest component of obligations of the Resolution Funding Corporation), or

securities which represent an undivided interest in such obligations, which obligations are rated in the highest rating category by a nationally recognized rating service and such obligations are held in a custodial account for the benefit of the Agency.

“Infrastructure Improvement” means any improvements to the Infrastructure Project as may be made from time to time as determined by the City to be necessary, desirable, or advisable.

“Infrastructure Project” means all of the Projects excluding the Arena Project.

“Interest Payment Date” means June 15 and December 15 of each year beginning December 15, 2011.

“JPA Agreement” means the Joint Public Agency Agreement Creating the West Haymarket Joint Public Agency, dated as of April 1, 2010, between the City and the Regents.

“Maturity” when used with respect to any Bond means the date on which the principal of such Bond becomes due and payable as therein and herein provided, whether at the Stated Maturity thereof or call for optional or mandatory redemption or otherwise.

“Non-Qualified User” means any person or entity other than a Qualified User.

“Operation and Maintenance Fund” means the fund by that name created by the Facilities Agreement.

“Operational Increment” means, for any fiscal year, the amount negotiated between the City and the Arena Manager and budgeted to pay operation and maintenance expenses of the Arena to the extent revenues received by the Arena Manager are insufficient for such purposes.

“Outstanding” means, when used with reference to the Bonds, as of any particular date of determination, all Bonds theretofore authenticated and delivered under the Resolution, except the following Bonds:

- (a) Bonds theretofore cancelled by the Paying Agent or delivered to the Paying Agent for cancellation;
- (b) Bonds deemed to be paid in accordance with the defeasance provisions of the Resolution; and
- (c) Bonds in exchange for or in lieu of which other Bonds have been authenticated and delivered under the Resolution.

“Participants” means, for purposes of the JPA Agreement and Facilities Agreement, the City and the Regents.

“Person” means any natural person, corporation, partnership, joint venture, association, firm, joint-stock company, trust, unincorporated organization, or government or any agency or political subdivision thereof or other public body.

“Project” means any one of the Projects.

“Projects” means the projects identified in **Exhibit A** to the Facilities Agreement, as it may be amended and supplemented from time to time, and at the date of the Official Statement includes the following: the constructing, equipping, furnishing and financing of certain public facilities in the West Haymarket Redevelopment Area of the City identified in **Exhibit A** to the Facilities Agreement, as it may be amended and supplemented from time to time, and at the date of the Official Statement includes the following: (a) the Arena, (b) roads, streets and sidewalks, (c) a pedestrian overpass, (d) public plaza space, (e) sanitary sewer mains, (f) water mains, (g) electric transmission lines, (h) drainage systems, (i) flood control, (j) parking garages and (k) surface parking lots, and (l) (1) the acquisition of land and relocation of existing businesses, and (2) such environmental remediation and site preparation as necessary and appropriate for the construction, equipping, furnishing and financing of the West Haymarket Facilities.

“Regents” means The Board of Regents of the University of Nebraska.

“Resolution” means, for purposes of the Facilities Agreement, any resolution or other authorizing document of the Agency pursuant to which a series of Bonds is issued to finance or refinance any portion of the costs of any Project; and means, for purposes of the Bond Resolution, the Bond Resolution.

“Revenue Fund” means the fund by that name created by the Facilities Agreement, and in which there is established a General Account and a Private Account.

“Revenues” means any revenues, receipts and income received by the Agency from any source, including, without limitation, amounts received from the following sources: interest subsidy payments received pursuant to the Code, state aid, developer contributions, occupation taxes, the turnback tax, Arena rent, concessions, premium seating, naming rights, signage and advertising, tickets, interest, tax increment revenues, parking revenues, state and federal environmental funds and private donations.

“Site” means the real estate indicated on **Exhibit A** of the Facilities Agreement, as amended and supplemented from time to time, to be acquired by the Agency.

“Surplus Fund” means the fund by that name created by the Facilities Agreement, and in which there is established an Arena Account and an Infrastructure Account.

“Tax Agreement” means the Tax Compliance Agreement dated the date of its execution and delivery by the Agency and the City concerning the requirements of the Code with respect to the Bonds, as the same may be amended or supplemented in accordance with the provisions thereof.

“Tax Compliance Plan” means the Compliance Plan and Procedure for West Haymarket Joint Public Agency Tax Advantaged Bonds attached as **Exhibit B** to the Facilities Agreement, as it may be amended from time to time.

“West Haymarket Facilities” means the Projects defined to include the West Haymarket Facilities in **Exhibit A** to the Facilities Agreement as it may be amended and supplemented from time to time, and at the date of the Official Statement includes the following: (a) the Arena, (b) roads, streets and sidewalks, (c) a pedestrian overpass, (d) public plaza space, (e) sanitary sewer mains, (f) water mains, (g) electric transmission lines, (h) drainage systems, (i) flood control, (j) parking garages and (k) surface parking lots.

“West Haymarket Redevelopment Area” means the area in the City generally bounded by BNSF and Union Pacific railroad lines on the west, approximately North 7th Street on the east, the south interior roadway of Haymarket Park and Bereuter Pedestrian Bridge on the north and “M” Street on the south, as the same may be amended from time to time by the City.

JPA AGREEMENT

Creation

Pursuant to the Act and the JPA Agreement, the Participants created a joint public agency named the West Haymarket Joint Public Agency (the “**Agency**”) which constitutes a separate political subdivision and a public body corporate and politic of the State of Nebraska under the provisions of the Act.

Purpose

The purposes of the Agency are as follows:

(a) To make the most efficient use of the taxing authority and other powers of the Participants and to cooperate with each other and other governmental units on a basis of mutual advantage and to thereby provide services and facilities in a manner and pursuant to a form of governmental organization that will best account with the geographic, economic, population, and other factors influencing the needs and development of the Participants.

(b) To exercise any power, privilege or authority to facilitate land acquisition, relocation of existing businesses, environmental remediation, site preparation and the construction, equipping, furnishing and financing public facilities, including but not limited to a sports/entertainment 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 and any other capital improvements or other projects pertaining to the redevelopment of the West Haymarket Redevelopment Area as shall be determined by the Board to be necessary, desirable, advisable or in the best interests of the Participants in the manner and as provided for by the Act. The West Haymarket Redevelopment Area is an area generally bounded by BNSF and Union Pacific railroad lines on the west, approximately North 7th Street on the east, the south interior roadway of Haymarket Park and Bereuter Pedestrian Bridge on the north and “M” Street on the south.

(c) To issue bonds to finance the Projects, and to levy a tax as provided by the Act and the JPA Agreement to pay the principal or redemption price of and interest on such bonds, when and as the same shall become due, to own the Arena and parking garages for so long as any Agency Bonds (hereinafter defined) are outstanding, to enter into a lease with the City to operate the Arena and parking garages for so long as any Agency Bonds are outstanding and to convey the Arena and parking garages to the City at such time as no Agency Bonds are outstanding.

(d) To sell, lease or otherwise dispose of excess land not needed for the Projects to the City, Regents or private entities for redevelopment of the City’s West Haymarket Redevelopment Area and, in particular, a proposed mixed use redevelopment project consisting of a multi-story, 200-250 room hotel, including some first floor rental space and one or more buildings containing approximately 100,000 square feet of residential space, 100,000 square feet of office space, and 100,000 square feet of retail space.

Organization

Governing Body. The Board of the Agency consists of the following representatives: (a) Mayor of the City, (b) the member of the Board of Regents of the University of Nebraska from District No. 1, and (c) a member of the City Council of the City appointed by the Mayor.

Term of Office. Unless otherwise disqualified by the provisions of the Act, and except as provided in the JPA Agreement or any amendment thereto, each representative shall serve for so long as such representative holds the position set forth in the preceding paragraph, or, in the case of the member of the City Council, until a successor is appointed by the Mayor.

Voting. Unless the Board unanimously adopts different rules relating to voting by representatives, each representative shall have one vote on matters before the Board. Except as may otherwise be provided in the JPA Agreement, or in any agreement to which the Agency is a party, all actions of the Agency may be taken with the concurrence of a majority of the representatives entitled to vote. All actions of the Agency related to the Arena (as opposed to the West Haymarket Facilities as a whole) may only be taken by a unanimous vote of all the representatives entitled to vote.

The Board shall adopt rules of governance that will include at a minimum, the following:

(a) *Quorum.* A majority of the representatives shall constitute a quorum for the transaction of any Agency business.

(b) *Officers.* The Board shall elect a chair and vice-chair from among the representatives. The Board shall elect a secretary as provided for in Section 13-2516 of the Act and appoint a treasurer who each shall serve at the pleasure of the Board and until their respective successors shall be appointed or elected as the case may be.

Duration

The duration of the Agency shall be perpetual, commencing with the date of issuance of the Certificate of Creation, and shall continue in effect until terminated as provided in the JPA Agreement.

Powers

The Agency shall have such powers as are allowed by the Act, and any amendments thereto including, but not limited to, the powers:

(a) to incur debts, liability, or obligations, including the borrowing of money and the issuance of bonds, secured or unsecured, pursuant to the Act;

(b) to borrow money or accept contributions, grants, or other financial assistance from a public agency and to comply with such conditions and enter into such contracts, covenants, mortgages, trust indenture, leases, or agreements as may be necessary, convenient, or desirable;

(c) subject to any agreements with holders of outstanding bonds, to invest any funds held in reserve or sinking funds, or any funds not required for immediate disbursement, including the proceeds from the sale of any bonds, in such obligations, securities, and other investments as the Board shall deem proper;

(d) to contract with and compensate consultants for professional services including, but not limited to, architects, engineers, planners, lawyers, accountants, financial advisors and others found necessary or useful and convenient to the stated purposes of the Agency;

(e) to levy taxes upon the taxable property in the City pursuant to Sections 13-2507 and 77-3443, Reissue Revised Statutes of Nebraska, as amended, to the extent that the authority to levy

taxes is expressly and specifically assigned and allocated to the Agency by a Participant in the JPA Agreement; and

(f) to exercise any other powers which are deemed necessary and convenient to carry out the Act.

Issuance of Bonds

The Agency, by resolution of the Board, may from time to time issue bonds or other evidences of indebtedness (the “**Agency Bonds**”) payable exclusively from all or a portion of the revenue from one or more projects, from one or more revenue-producing contracts, including securities acquired from any person, or leases made by the Agency with any person, including any Participant, or from its revenue generally which may be additionally secured by a pledge of any grant, subsidy, or contribution from any person or a pledge of any income or revenue, funds, or money of the Agency from any source whatsoever or a mortgage or security interest in any real or personal property, commodity, product, or service or interest therein.

The Agency may from time to time also issue bonds in such principal amounts as the Board shall determine to be necessary to provide sufficient funds to carry out any of the Agency’s purposes and powers, including the establishment or increase of reserves, the payment of interest accrued during construction of a project and for such period thereafter as the Board may determine, and the payment of all other costs or expenses of the Agency incident to and necessary or convenient to carry out its purposes and powers.

Notwithstanding any other terms of the JPA Agreement to the contrary, the Agency shall not issue any bonds or other form of indebtedness without the question of said bonds or indebtedness being first presented to, and approved by, the Mayor and Council of the City.

Levy Authority

Pursuant to the provisions of Section 13-2507, Reissue Revised Statutes of Nebraska, as amended, pursuant to the JPA Agreement:

The City irrevocably allocates and assigns to the Agency, for the period beginning June 1, 2010 and ending on the date upon which all of the Agency Bonds are no longer deemed to be outstanding and unpaid pursuant to the resolution or resolutions pursuant to which they are issued, its authority to cause the levy of taxes within the taxing district of the City, beginning in the year 2010 for collection in 2011, for the purpose of paying the costs of the Projects pursuant to Section 15-502, Reissue Revised Statutes of Nebraska, as amended, in any amount which will be sufficient to pay the principal or redemption price of and interest on the Agency Bonds when and as the same become due (the “**Agency Bond Levy**”), solely for the purpose of paying the principal or redemption price of and interest on the Agency Bonds.

The Agency Bond Levy shall be certified to The County of Lancaster, Nebraska as provided by law for levy and collection in such amounts, if any, as may be required to pay the principal or redemption price of and interest on the Agency Bonds as the same become due.

All taxes collected under the Agency Bond Levy shall be collected as provided by law and shall be credited to the Agency as soon as practicable.

Acquiring and Holding Property

The Board may lease, purchase or acquire by any means, from a Participant or from any other source, such real and personal property as is required for the operation of the Agency and for carrying out the

purposes hereof. The title to all such property, personal or real, needed for the West Haymarket Facilities shall be held in the name of the Agency for so long as any Agency Bonds shall remain outstanding. The Agency shall convey all of its interest in the Projects to the City at such time as no Agency Bonds remain outstanding. The Agency shall comply with the applicable bidding procedures of the County Purchasing Act, Section 23-3111, Reissue Revised Statutes of Nebraska, as amended. The City shall perform the functions of the purchasing agent designated therein.

All conveyances of real property owned or held in the name of the Agency shall be authorized by resolution of the Board and executed by the Chair.

Budget

The Board shall prepare a budget based on a fiscal year coinciding with the fiscal year of the City, for the operation of the Agency. The budget of the Agency shall be established as provided in the Nebraska Budget Act (Chapter 13, Article 5, Reissue Revised Statutes of Nebraska, as amended) and presented to the City Council prior to the Agency's levy certification. The Agency shall cause to be conducted annually an audit conducted by a private qualified auditing business. The resulting audit report shall be delivered to the Agency and the governing body of each Participant.

Withdrawal

If the governing body of a Participant adopts a resolution setting forth the determination that the need for the Agency no longer exists, the Participant shall be permitted to withdraw from participation in the Agency, but withdrawal shall not affect the obligations of the withdrawing Participant pursuant to the JPA Agreement or any other agreements with the Agency. Withdrawal shall not impair or adversely affect the levy of taxes by the Agency or receipt of revenues for, or the payment of, any outstanding bonds or indebtedness or the interest thereon.

Dissolution

The Agency shall not be dissolved so long as any Agency Bonds are outstanding under the instrument pursuant to which they were issued. Upon dissolution of the Agency, provided the City continues to have the responsibility for the Projects, all interest in the land, capital improvements, personal property and all other assets of the Agency used in the operation of the Projects financed by the Agency Bonds remaining in the Agency shall be transferred to the City.

Amendment

The JPA Agreement may be amended in writing signed by all the Participants, provided however, that no amendment may be made limiting the duty of the Agency or the Participants created herein to levy and collect taxes for the payment of any Agency Bonds. Any amendment to the JPA Agreement must first be approved by resolution of the governing body of each Participant. The amended and restated Agreement shall be filed with the Nebraska Secretary of State.

FACILITIES AGREEMENT

Provision of Facilities

The Agency agrees that it will acquire title to the Site and acquire, construct, equip and furnish all of the Projects for the City on the Site and in accordance with final plans and specifications to be approved by the City.

The Agency appoints the City as its agent for purposes of acquiring, constructing, equipping and furnishing each Project. The City shall, upon completion of the final plans and specifications, proceed to take bids and award contracts in compliance with the bidding procedures of the County Purchasing Act to the extent required to complete each Project. Contracts for the acquisition, construction, equipping and furnishing of each Project shall be entered into in the name of the Agency.

The City acknowledges that the costs of constructing, equipping and furnishing the Projects may exceed the amount of money to be deposited in the Construction Fund, which fund contains and will contain money only from the proceeds of sale of the Bonds issued by the Agency. The City currently anticipates that it will have on hand funds sufficient to make up any difference between the cost for completing the acquisition, construction, equipping and furnishing of the Projects and the money in the Construction Fund. The City agrees that it shall pay from its own funds any amounts necessary to make up any difference between the total amount of such estimated cost and the money in the Construction Fund.

The City agrees that any contractor which provides work on any Project shall provide performance and payment bonds and builders' risk insurance, all as specified in the Facilities Agreement.

The City, acting as the Agency's agent, is hereby granted the right to make change orders in the work contemplated by any construction contract, but the Agency shall not be obligated to pay for any work, whether by change order or otherwise, in excess of the amount of funds in the Construction Fund.

The ownership of, in and to the tangible portions of the Arena Project acquired pursuant to the Facilities Agreement, including any and all improvements and other property, shall vest in the Agency for so long as any Bonds remain outstanding. The Agency shall not transfer, encumber or sell the Arena Project or any portion thereof without the approval of the City. At such time as no Bonds remain outstanding, the Agency shall convey the Arena Project to the City for the sum of \$1.00 and other good and valuable consideration.

Upon completion of the acquisition, construction, equipping and furnishing of each Project, the City shall furnish to the Agency a complete description of all property, both real and personal, covered by the Facilities Agreement.

Payment of Costs of Construction

The City and the Agency agree that all Costs of Construction shall be paid out of the Construction Fund or other available funds of the City. Disbursement requisitions to any contractor or vendor to be paid from the appropriate accounts and/or subaccounts in the Construction Fund for Costs of Construction of each Project or to any provider of equipment and furnishings, including the final requisition, shall be approved by the City and the Agency. Requisition approvals by the Agency shall be evidenced by the Chair of the Agency and the Agency Treasurer pursuant to Section 13-2527(1), Reissue Revised Statutes of Nebraska, as amended.

Certificate of Acceptance

Upon completion of any Project and acceptance thereof by the City, the fact of such completion and acceptance shall be evidenced by a Certificate of Completion signed by the Mayor of the City. Upon completion and acceptance of such Project together with all other Projects, the costs of which are to be paid from such account in the Construction Fund, any amount remaining in such account in the Construction Fund after payment of all costs of completion of such Project and all other Projects the costs of which are to be paid from such account in the Construction Fund, shall be transferred to the Debt Service Fund and applied to the payment of debt service on the applicable Bonds.

Dispute Resolution

Any dispute with any contractor concerning the construction of a Project or interpretation of any contract shall be adjusted and settled by the City, and the City shall be liable and make payment to such contractor and all other persons for any judgment, claim or liability in connection with a Project in excess of the money in the Construction Fund.

Issuance of Bonds; Debt Service

To pay the Costs of Construction of one or more Projects and the costs of issuance thereof, the Agency agrees to issue Bonds pursuant to one or more Resolutions and to deposit the proceeds thereof as provided in the Resolution authorizing such series of Bonds.

The City and the Agency covenant and agree that all payments of the principal or redemption price of and interest on the Bonds shall be made from the Revenues and the proceeds of the tax levied by the Agency by authority granted to the Agency pursuant to the JPA Agreement.

Dedication of Infrastructure Project to the City; Improvements

The Agency will transfer or dedicate each tangible portion of each Infrastructure Project to the City as and when completed to be maintained, operated and managed as City facilities and the Agency shall execute and delivery to the City any and all documents as may be requested by the City for such purpose. Prior to the completion of construction of any portion of any Infrastructure Project, the City shall provide all necessary personnel to design, engineer, construct and complete such Infrastructure Project in the same manner as comparable City facilities. The Director of Public Works of the City is hereby designated as the chief official responsible for the design, engineering, construction and completion of the Infrastructure Project. All City personnel assisting with the designing, engineering, construction or completion of the Infrastructure Project shall be and will remain employees of the City for purposes of all state and federal laws governing the conditions of their employment, including payment of wages, employment benefits, insurance, liability and taxation of income.

Any improvements to the Infrastructure Project may be made from time to time as determined by the City to be necessary, desirable or advisable (the **"Infrastructure Improvements"**) and which are included as a part of the capital improvement program included in the City's capital improvement budget and approved by the City. The City shall contract for work on such Infrastructure Improvements with contracts to be awarded and entered into pursuant to City bidding procedures. All costs of such Infrastructure Improvements may be paid by the City or, with the agreement of the Agency, may be paid by the Agency from Agency funds available for such purposes, including, without limitation, the Infrastructure Account in the Surplus Fund established under the Facilities Agreement.

City to Maintain, Operate and Manage the Arena Project

The City undertakes to maintain, operate and manage the Arena Project. In such connection the following terms shall apply:

(a) The City shall provide or contract for all necessary personnel, materials and supplies to maintain, operate and manage the Arena Project as an entertainment/sports arena and related facilities. Except for Qualified Use Agreements (as defined in the Compliance Procedure), the City will not enter into any lease or contract with respect to the use, operation or management of the Arena without first obtaining a Special Tax Opinion (as defined in the Compliance Procedure). All City personnel assisting with the operation of the Arena Project shall be and will remain employees of the City for purposes of all state and federal laws governing the conditions of their employment, including payment of wages, employment benefits, insurance, liability and taxation of income.

(b) Any improvements to the Arena Project may be made from time to time as determined by the City to be necessary, desirable or advisable (the “**Arena Improvements**”). The Agency shall contract for work on such Arena Improvements with contracts to be awarded and entered into pursuant to the County Purchasing Act, Section 23-3111, Reissue Revised Statutes of Nebraska, as amended. All costs of such Arena Improvements shall be paid by the Agency from Agency funds available for such purposes, including, without limitation, the Arena Account in the Surplus Fund.

(c) The City shall establish rates, fees and charges which are to apply to the use of the Arena Project and shall adjust such rates, fees and charges from time to time as it deems appropriate, just and equitable. The City shall annually, or at such other intervals as the City deems appropriate, submit a report to the Agency detailing the proposed rates, projected revenues based on the same and the proposed expenses.

(d) The Agency shall pay to the City the fees and charges, based upon actual costs and budgeted annually, as the same shall be amended from time to time.

(e) In exercising its authority and carrying out its duties and functions the City shall not discriminate against any employee, applicant for employment, contractor, potential contractor, or any individual or entity on the basis of race, religion, color, sex, national origin, disability, age, marital status, or any other basis prohibited by law.

Insurance

The City, on behalf of the Agency, shall maintain, or cause to be maintained, insurance upon the Facilities and the operation thereof as follows:

(a) insurance against fire, theft and extended coverage risks (including vandalism and malicious mischief) in an amount not less than the full insurable value of the Arena Project.

(b) general public liability insurance against claims for bodily injury, death or property damage occurring on, in or about the Facilities with limits of not less than \$1,000,000 for any person for any number of claims arising out of a single occurrence, \$5,000,000 for all claims arising from a single occurrence, and any greater limits of liability which may be established by Section 13-926, Reissue Revised Statutes of Nebraska, as amended, or any other applicable provision of the Nebraska Political Subdivision Tort Claims Act (the “**Tort Claims Act**”), and excess insurance with limits of not less than \$2,000,000 dollars for any liability which may not be limited by the Act. Such general public liability insurance may be subject to a deductible amount not in excess of \$500,000.

- (c) workers' compensation insurance coverage as required by the laws of the State of Nebraska.
- (d) performance bond coverage and labor and materials payment bond coverage for the construction of the Improvements in the full amount of the contract or contracts for construction of the Improvements.

All such insurance shall show the City and the Agency as insureds as their respective interests may appear. Insurance required in (a) and (d) above shall be payable to the Agency. The cost of any and all such insurance shall be treated as a cost of operation and maintenance of the Projects and shall be paid out of the Operation and Maintenance Fund established hereunder.

Utilities and Other Impositions

The City shall provide for the payment of all utility charges, taxes (if any) and other impositions with respect to the Arena Project or the operation thereof and all such charges or impositions shall be treated as a cost of operation and maintenance of the Arena Project and be paid from the Operation and Maintenance Fund, or if the balance thereof is insufficient for such purposes, by the City. Because the Projects will be used for governmental purposes and not for financial gain or profit, under present law the Projects will not be subject to real estate or personal property taxes. It is understood and agreed, however, that the City agrees to pay any taxes and assessments, general and special, and all other impositions, ordinary and extraordinary, of every kind and nature which might be levied or assessed on the Projects and any improvements hereafter constructed.

Use of Projects

As long as any Bonds remain outstanding, the proceeds of which were used to acquire, construct, equip, or furnish any of the Projects, the City shall not use any of the Projects, or allow the use thereof, in any manner inconsistent with use for the general municipal purposes of the Agency or the City.

Issuance of Bonds; Debt Service

To pay the Costs of Construction of one or more Projects and the costs of issuance thereof, the Agency agrees to issue Bonds pursuant to one or more Resolutions and to deposit the proceeds thereof as provided in the Resolution authorizing such series of Bonds.

The City and the Agency covenant and agree that all payments of the principal or redemption price of and interest on the Bonds shall be made from Revenues, together with the proceeds of the tax levied by the Agency by authority granted to the Agency pursuant to the JPA Agreement and any other available funds of the Agency.

Establishment of Funds

The Facilities Agreement establishes the following separate funds to be held by the City Treasurer as agent for the Agency:

- (a) the West Haymarket Joint Public Agency Revenue Fund (the **“Revenue Fund”**) in which there is established (1) a General Account and (2) a Private Account.
- (b) the West Haymarket Joint Public Agency Operation and Maintenance Fund (the **“Operation and Maintenance Fund”**).

(c) the West Haymarket Joint Public Agency Depreciation and Replacement Fund (the “**Depreciation and Replacement Fund**”).

(d) the West Haymarket Joint Public Agency Surplus Fund (the “**Surplus Fund**”) in which there is established (1) an Arena Account and (2) an Infrastructure Account.

The funds referred to in paragraphs (a) through (d) above shall be maintained and administered by the Agency and the City solely for the purposes and in the manner as provided in the Facilities Agreement so long as any Bonds remain outstanding within the meaning of the Resolution pursuant to which such Bonds were issued.

In addition, each Resolution shall establish a Debt Service Fund and any necessary or desirable accounts and subaccounts therein, and to the extent that proceeds of the Bonds authorized by such Resolution will be used to pay the Costs of Construction of any portion of any Project, shall establish a Construction Fund and any necessary or desirable accounts and subaccount therein in accordance with the provisions of the Facilities Agreement.

Collection and Application of Revenues

The City and the Agency covenant and agree that from and after the delivery of any Bonds, and continuing as long as any Bonds remain outstanding under the Resolution pursuant to which they were issued, all of the Revenues shall as and when received be paid and deposited into the Revenue Fund. The City and the Agency shall deposit Revenues into the General Account and the Private Account in accordance with the Compliance Plan. The Revenues shall be segregated and kept separate and apart from all other moneys, revenues, funds and accounts of the Agency and the City and shall not be commingled with any other moneys, revenues, funds and accounts of the Agency or the City. The Revenue Fund shall be administered and applied solely for the purposes and in the manner provided in the Facilities Agreement.

Application of Money in Funds

(a) The City and the Agency covenant and agree that from and after the delivery of any Bonds and continuing so long as any Bonds shall remain outstanding under the Resolution pursuant to which such Bonds were issued, it will on the first day of each month administer and allocate all of the money then held in the General Account in the Revenue Fund as follows:

(1) ***Debt Service Fund.*** There shall first be paid and credited monthly to each Debt Service Fund established pursuant to a Resolution, all Revenues collected in the preceding month until the balance in such fund is equal to all principal and interest payments becoming due through the following December 15 on all Bonds then outstanding under the Resolution pursuant to which they were issued.

(2) ***Operation and Maintenance Fund.*** There shall next be paid and credited to the Operation and Maintenance Fund an amount equal to the Operational Increment for the current fiscal year of the Agency. All amounts paid and credited to the Operation and Maintenance Fund shall be expended and used by the City, as agent for the Agency, solely for the purpose of paying the operating expenses of the Arena Project to the extent revenues received by the Arena Manager are insufficient for such purposes.

(3) ***Depreciation and Replacement Fund.*** After all payments and credits required at the time to be made under the provisions of paragraphs (1) and (2) above have been made, there shall next be paid and credited to the Depreciation and Replacement Fund all amounts remaining in the

General Account in the Revenue Fund until such Fund aggregates the Depreciation Fund Requirement so long as any of the Bonds remain Outstanding.

Money in the Depreciation and Replacement Fund shall be expended and used by the Agency and the City, if no other funds are available therefor, (A) for the purpose of making emergency replacements and repairs in and to the Arena Project as may be necessary to keep the Arena Project in good repair and working order and to assure the continued effective and efficient operation thereof and (B) to pay the Operational Increment, to the extent that Revenues are insufficient for such purpose. After the Depreciation and Replacement Fund aggregates the Depreciation Fund Requirement, no further payments into said Fund shall be required, but if the Agency or the City is ever required to expend a part of the money in the Depreciation and Replacement Fund for its authorized purposes and such expenditure reduces the amount of such Fund below the Depreciation Fund Requirement, then monthly payments into the Depreciation and Replacement Funds shall resume and continue until said Fund again aggregates the Depreciation Fund Requirement.

(4) **Surplus Fund.** After all payments and credits required at the time to be made under the provisions of the foregoing paragraphs (a)(1), (2) and (3) have been made, all moneys remaining in the General Account in the Revenue Fund shall be paid and credited to either the Arena Account or the Infrastructure Account in the Surplus Fund, as determined by the City and the Agency. Money in the Arena Account of the Surplus Fund may be expended and used for the following purposes as determined by the City and the Agency:

(A) Paying all or a portion of the costs of one or more Projects in accordance with the plans and specifications therefor prepared by the Agency's architects approved by the City and the Agency and on file in the office of the Secretary, including any alterations in or amendments to such plans and specifications deemed advisable by the Agency's architects and approved by the City and the Agency.

The Treasurer shall make a withdrawal from the Infrastructure Account in the Surplus Fund for such purpose only upon a duly authorized and executed order of the Agency accompanied by a certificate executed by the Agency's architects stating that such payment is being made for a purpose within the scope of the Facilities Agreement and that the amount of such payment represents only the contract price of the property, equipment, labor, materials or service being paid for or, if such payment is not being made pursuant to an express contract, that such payment is not in excess of the reasonable value thereof.

(B) Paying the cost of the operation, maintenance and repair of any of the Projects to the extent that may be necessary after the application of the moneys held in the Operation and Maintenance Fund;

(C) Paying the cost of extending, enlarging or improving any of the Projects;

(D) Paying the principal of and interest on the Bonds or calling, redeeming and paying prior to the maturity thereof, or, at the option of the Agency, purchasing in the open market at the best price obtainable not exceeding the redemption price (if any bonds are callable) any outstanding Bonds including principal, interest and redemption premium, if any; and

(E) Any other lawful purpose in connection with the operation of any of the Projects and benefiting any of the Projects.

(b) In the event that 45 days prior to the payment date of any principal or interest on Bonds, amounts in the Debt Service Fund are insufficient to fully pay the principal of or interest on all outstanding Bonds, the City shall loan to the Agency the full amount of any such deficiency not later than such date of payment. Such loan shall bear interest at a rate equal to the rate received by the City on its investment pool (computed on the basis of a 360-day year consisting of twelve 30-day months) from the date such amounts are loaned to the Agency until all such amounts are repaid by the Agency. Any such loan, together with interest accrued thereon as provided herein, shall be repaid to the City (i) first, from the first receipts of Revenues, and (ii) second, from taxes levied and collected by the Agency.

Transfer of Funds to Paying Agent

The Treasurer of the Agency is hereby authorized and directed to withdraw from the Debt Service Fund sums sufficient to pay the principal of and interest on the Bonds as and when the same become due on any principal or interest payment date, and to forward such sums to the respective paying agents for each series of Bonds in a manner which ensures such paying agent will have available funds in such amounts on or before the business day immediately preceding each such payment date. All money deposited with any paying agent shall be deemed to be deposited in accordance with and subject to all of the provisions contained in the Facilities Agreement and the applicable Resolution.

Annual Budget; Levy of Taxes

Prior to the commencement of each fiscal year, the Agency will cause to be prepared and filed with its Secretary and the Clerk a budget setting forth the estimated receipts and expenditures for each month in the next succeeding fiscal year. Such annual budget shall be prepared in accordance with the requirements of the laws of Nebraska and shall contain all information that is required by such laws.

The Treasurer shall, not later than the last day of each month, prepare, file with the Secretary and the City Clerk, and forward to each member of the governing body, a financial report which includes the financial statements for the preceding month and the results for the fiscal year through the end of the preceding month. If, at the end of any fiscal quarter, such financial statements show that the budgeted Available Revenues would exceed the projected actual Available Revenues at the end of the fiscal year by more than \$500,000, the Agency covenants and agrees that within 60 days of such determination it will deliver a Consultant's Report to the Participants setting forth recommendations for increasing the Available Revenues to the budgeted levels; provided, however, that in the event that such Consultant's Report shall state that federal, state or other applicable governmental laws or regulations (or interpretations thereof) placing restrictions and limitations on the rates, fees and charges to be fixed, charged and collected for the use of or the services furnished by the Arena Project do not permit or by their application make it impracticable for the Agency to produce the required Available Revenues, then the budgeted Available Revenues shall be reduced to the highest practicable level permitted, as set forth in such Consultant's Report, by such laws and regulations then in effect. The Agency agrees that it will, to the extent feasible, follow the recommendations of the Consultant's Report.

The Agency covenants and agrees that for so long as any Bonds are outstanding under the Resolution pursuant to which such Bonds were issued, it will deliver to the Participants a Consultant's Report regarding the operation, maintenance and financial performance of the Arena Project for the fiscal years ending August 31, 2017, and every fifth fiscal year thereafter.

In the event that the budgeted Available Revenues for the fiscal year exceeds the projected actual Available Revenues for such fiscal year by \$1,000,000 or more, the Agency covenants and agrees that it shall in its next annual budget prepared pursuant to the Facilities Agreement, include an amount to be levied upon all of the taxable property within the City sufficient in rate and amount to produce the amounts necessary to

make up such deficiency in the actual net income, together with any anticipated additional deficiency in the actual net income through the end of the next fiscal year.

The taxes referred to above shall be extended upon the tax rolls in each of the several years, respectively, and shall be levied and collected at the same time and in the same manner as the other ad valorem taxes of the Agency or the City are levied and collected. The proceeds derived from such taxes shall be used to repay any and all amounts advanced by the City pursuant to its obligation under the Facilities Agreement to loan to the Agency the full amount of any deficiency in the Debt Service Fund, shall be kept separate and apart from all other funds of the Agency and shall be used solely for the payment of amounts advanced by the City.

Annual Financial Audit

Annually, promptly after the end of the fiscal year, the Agency will cause a financial audit to be made of the Arena Project for the preceding fiscal year by a nationally recognized independent certified public accountant or firm of nationally recognized independent certified public accountants to be employed for that purpose and paid from the Revenues.

Within 30 days after the completion of each such audit, a copy thereof shall be filed in the office of the Secretary, and a duplicate copy of the audit shall be mailed to the City Clerk. Such audits shall at all times during the usual business hours be open to the examination and inspection by any taxpayer, the registered owner of any of the Bonds, or by anyone acting for or on behalf of such taxpayer or registered owner.

As soon as possible after the completion of the annual audit, the governing body of the Agency shall review such audit, and if the audit discloses that proper provision has not been made for all of the requirements of the Facilities Agreement or any Resolution, the Agency will promptly cure such deficiency and the City and the Agency will promptly proceed to take such action as may be necessary to adequately provide for such requirements.

Term of Agreement

The Facilities Agreement shall not terminate so long as Bonds remain outstanding under the terms of the Resolution authorizing their issuance. Either the City or the Agency may terminate the Facilities Agreement at any time after all of Bonds are no longer outstanding under the terms of the Resolution authorizing their issuance.

Amendment

The Facilities Agreement may be amended in writing upon the approval of both parties.

BOND RESOLUTION

Security for and Payment of Bonds

The Bonds shall be general obligations of the Agency payable as to both principal and interest from the General Account in the Revenue Fund, and to the extent such revenues are insufficient, from ad valorem taxes which may be levied upon all the taxable property in the City as provided in the following paragraph. The full faith, credit and resources of the Agency are hereby irrevocably pledged for the prompt payment of the principal of and interest on the Bonds as the same become due.

Pursuant to the JPA Agreement, the City has assigned and allocated to the Agency its authority to levy ad valorem property taxes for the purposes of paying the principal or redemption price of and interest on the Bonds. Pursuant to the Facilities Agreement, the Agency shall (a) collect all Revenues and (b) if an Agency Bond Levy is to be made for the following tax year, include in its next “proposed budget statement” (as defined in Section 13-504 of the Budget Act) the amount required by the Facilities Agreement to be raised from the Agency Bond Levy for the following tax year and shall levy upon all of the taxable property within the City the Agency Bond Levy, in addition to all other taxes, sufficient in rate and amount to reimburse the City all amounts advanced by the City pursuant to the Facilities Agreement, the Agency hereby pledging such levy of taxes for such purpose.

The taxes referred to above shall be budgeted by the Agency in each of the several years, respectively, and shall be levied and collected at the same time and in the same manner as ad valorem taxes of the City are levied and collected. The proceeds derived from such taxes shall be used to reimburse the City for any loan to the Agency by the City under the Facilities Agreement.

Establishment of Funds; Deposit and Application of Money

The Resolution establishes a 2011 Construction Account in the Construction Fund created in the Facilities Agreement; a 2011 Debt Service Account, and the 2011 Capitalized Interest Account therein; and the Rebate Fund.

The net proceeds received from the sale of the Bonds shall be deposited simultaneously with the delivery of the Bonds as follows:

- (a) All accrued interest received from the sale of the Bonds shall be deposited in the 2011 Debt Service Account.
- (b) Proceeds of the Bonds shall be deposited into such accounts or subaccounts as may be established by the Finance Director under the Resolution in the amounts determined by the Finance Director.
- (c) The proceeds of the Bonds which remain after the deposits required by the paragraphs described above have been made shall be deposited in the 2011 Construction Account.

The Revenues shall be deposited, held and applied as provided in the Facilities Agreement.

Money in the 2011 Construction Account shall be used by the Agency solely for the purpose of (1) paying all or a portion of the costs of one or more Projects in accordance with the plans and specifications therefor prepared by the Agency’s architects approved by the City and the Agency and on file in the office of the Secretary, including any alterations in or amendments to such plans and specifications deemed advisable by the Agency’s architects and approved by the City and the Agency, and (2) if appropriate, paying the costs and expenses of issuing the Bonds.

The Treasurer shall make a withdrawal from the 2011 Construction Account only upon a duly authorized and executed order of the Agency accompanied by a certificate executed by the Agency’s architects stating that such payment is being made for a purpose within the scope of the Resolution and that the amount of such payment represents only the contract price of the property, equipment, labor, materials or service being paid for or, if such payment is not being made pursuant to an express contract, that such payment is not in excess of the reasonable value thereof. Nothing in the Resolution shall prevent the payment out of the 2011 Construction Account or another subaccount in the 2011 Construction Account of all costs

and expenses incident to the issuance of the Bonds without a certificate from the Agency's architects.

On the date on which the construction of all of the Projects all or a portion of the costs of which have been paid from the proceeds of the Bonds has been completed (the "**Completion Date**") as certified by the Agency's architects, any surplus remaining in any fund or account in the 2011 Construction Account shall be transferred to and deposited in the 2011 Debt Service Account in the Debt Service Fund.

The Agency shall make deposits into the 2011 Debt Service Account in the Debt Service Fund as provided in the Facilities Agreement.

Any money or investments remaining in the Debt Service Fund after the retirement of the indebtedness for which the Bonds were issued and all other indebtedness of the Agency shall be transferred and paid to the City.

All money at any time deposited in the Rebate Fund shall be held in trust, to the extent required to satisfy the requirements of the Code, for payment to the United States of America, and neither the Agency nor the Registered Owner of any Bonds shall have any rights in or claim to such money. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this and the Tax Agreement. Any money remaining in the Rebate Fund after redemption and payment of all of the Bonds and payment and satisfaction of any Rebate Amount, or provision made therefor, shall be released to the Agency.

Miscellaneous Provisions

The Agency's obligations under the Resolution as to any Bond shall be discharged if such Bond has been paid or if there has been deposited with the Paying Agent, or other commercial bank or trust company having full trust powers, at or prior to the Stated Maturity or Redemption Date of such Bonds, in trust for and irrevocably appropriated thereto, money and/or Defeasance Obligations which, together with the interest to be earned on any such Defeasance Obligations, will be sufficient for the payment of the principal of such Bonds and/or interest accrued to the Stated Maturity or Redemption Date, or if default in such payment has occurred on such date, then to the date of the tender of such payments, provided, however, that if any such Bonds are to be redeemed prior to their Stated Maturity, (a) the Agency has elected to redeem such Bonds, and (b) either notice of such redemption has been given, or the Agency has given irrevocable instructions, or shall have provided for an escrow agent to give irrevocable instructions, to the Paying Agent to give such notice of redemption.

The Resolution provides that it may be amended by the Agency without the consent of any Registered Owners for the purpose of curing any formal defect, omission, inconsistency or ambiguity therein or in connection with any other change therein which is not materially adverse to the interests of the Registered Owners. It may also be amended in any respect by the Registered Owners of a majority in aggregate principal amount of the Bonds then Outstanding, except that amendments as to extension of maturity of principal or interest, reductions in the amount of principal or interest which the Agency is required to pay, permitting preference or priority of any Bond over any other Bond, or reducing the percentage in principal amount of Bonds required to consent to modification of the Resolution must be approved by the Registered Owners of all Bonds then Outstanding.

In the event that any provisions of the Resolution are inconsistent with the Facilities Agreement, the provisions of the Facilities Agreement shall govern.

MEMORANDUM OF UNDERSTANDING

General

The City and University executed the MOU to set forth the understandings of the City and University with respect to construction of the Arena on the Arena Site utilizing the JPA for financing and other financial agreements related to premium seating, and the subsequent lease of the Leased Improvements to Athletics for the use of its Basketball Teams. For purposes of the MOU, the following terms have the meanings set forth below.

“**Athletics**” means the University of Nebraska- Lincoln Department of Intercollegiate Athletics.

“**Basketball Space**” means the basketball court, training rooms, locker rooms, fiber optic connection to the Husker Vision control room in Memorial Stadium, seating, Arena signage, center-hung and other scoreboards, concessions facilities, and operations facilities customarily associated with an NCAA Division I basketball program.

“**Basketball Teams**” means the UNL men’s and women’s varsity basketball teams.

“**Home Games**” means the home games of the Basketball Teams.

“**Leased Improvements**” shall mean the Basketball Space and the basketball related parking spaces provided in the Arena parking improvements.

“**Lease/Operating Agreement**” or, alternately, “**Operating Agreement**” means the lease and operating agreement governing Athletics’ use of the Arena.

“**NCAA**” means the National Collegiate Athletic Association.

“**University**” means the Regents.

Arena Site Acquisition, Design, and Construction

The City will proceed with due diligence after the May 2011 election to acquire the Arena site and to perform site preparation work. The Arena will be constructed by the City or JPA and financed through the JPA.

Athletics and the City intend to work together in all aspects of the design, development and construction of the Arena and in particular, the Basketball Space. Athletics will be given an opportunity to have representatives present at meetings and briefings with the City’s design and construction professionals with the intent being that Athletics is entitled to full disclosure of and participation in the process for the design and construction of the Arena. At a minimum, the Basketball Space shall consist of the following:

Basketball Court. The basketball court shall consist of a portable basketball playing surface with all customary related items including, without limitation, state-of-the-art basketball goals, back-up basketball goals, nets, lines and striping, timekeeper’s tables, scorekeeper’s tables, adequate signs and markers, home and visiting team benches, tables and chairs, adequate lighting, communications systems, telephone hook-up from each team’s bench on floor level to coaches and assistant coaches, radio and television booths;

Training room, provided that Athletics will outfit the room with needed equipment at Athletics’ own cost and expense;

Locker rooms. Two locker rooms for the exclusive use of the Men's and Women's Basketball Teams shall be provided. Two additional locker rooms for Visitor Teams, one locker room for officials, and one locker room for cheer squads shall be provided. Fit out in excess of that provided in the locker rooms for visitor teams will be paid for by Athletics at its own cost and expense;

Fiber Optic Connection to Husker Vision. The City will install or cause to be installed a 48-strand fiber optic cable from the new Arena to Memorial Stadium's Husker Vision control room; and

Seating. The seating shall include suites, loge seating, club seating and floor seating.

The City agrees to work together with Athletics to locate, design and build the Arena seating, including the number of suites, loge seating, club seating, and floor seating; media work area; the press box area; the studio and production area; interview room; hospitality rooms, and any other area reasonably necessary to carry out the Home Games. The plans and specifications for the Arena will be prepared at the direction of the City subject to approval of Athletics; such approval not to be unreasonably withheld or delayed and to be limited in scope to confirming that the Arena will fulfill Athletics' needs and that it can be constructed within the approved time schedule.

Parking

The Arena Parking Improvements will be constructed in accordance with the approved drawings and specifications and construction documents. The Arena parking improvements are envisioned to contain approximately 550 parking spaces in the Arena parking garage, approximately 60 parking spaces in the Arena surface parking, and approximately 1,500 parking spaces in the northwest Arena parking lot. The City will provide or cause to be provided to Athletics a reasonable number of up to 100 parking spaces in the Arena parking improvements, approximately 40 of which will be in the Arena surface parking for student-athletes, coaching staff, support staff, and officials for all Home Games, practice and other Athletics sponsored intercollegiate athletic events at no cost in accordance with the applicable NCAA requirements.

Completion Date

It is the intent of the City and University that the Arena and the Arena Parking Improvements be completed and available for use by September 1, 2013. The parties agree that timely completion of the Leased Improvements in the Arena is critically important and that any anticipated delays or other circumstances jeopardizing the intended completion date shall be timely provided to the other party as soon as practical so that any preventive or remedial measures can be reasonably deployed.

Lease/Operating Agreement

Athletics agrees to lease from the City the Leased Improvements for Home Games and other incidental uses by the Basketball Teams on the terms set forth below:

Term. Athletics' Lease of the Leased Improvements will have an initial term of thirty (30) years which is anticipated to begin on September 1, 2013, with the actual usage dates of the Leased Improvements to be determined on an annual basis. At the end of the initial term and each successive extension, the University will have the right to extend the term for three (3) additional five-year periods. The initial term together with any extensions is referred to in the MOU as the "**Lease Term.**" The parties agree that the Lease/Operating Agreement shall include provisions for a funded

capital replacement/enhancement program.

Use by Athletics. During the Lease Term, the Basketball Teams shall be considered the Arena's primary tenant and as such Athletics shall be accorded the privilege of securing the dates it needs for all pre-season and regular season Home Games of the Basketball Teams between October 1 and March 15 ("**Basketball Season**") of each year of the Lease Term before any dates within the Basketball Season are offered to any other entity. Athletics shall also be accorded the privilege of securing the date before each Home Game for practice by the Basketball Teams and visiting teams. Athletics will use its best efforts to play a minimum of 30 Home Games (15 men's and 15 women's) in the Arena during each Basketball Season. During the Basketball Season, Athletics shall have the right to use the Arena for practice on any other dates the Arena is not scheduled or being prepared for another event subject to City approval which shall not unreasonably be withheld. Athletics shall quit and surrender the Basketball Space to the City at the end of each practice and/or Home Game in the same condition as at the date and time of the commencement of the practice and/or Home Games, ordinary wear and tear excepted. The City will have the right to lease the Arena to other entities on the dates when the Basketball Teams are not scheduled to practice or play Home Games in the Arena provided that at the end of such other event the Arena is again set up for use by the Basketball Teams for practice or Home Games. Notwithstanding the above, the City will use commercially reasonable efforts to work with Athletics to hold use of the Arena open during the last two weeks of March for basketball post-season play at a mutually agreed upon rental rate.

Rent. Athletics agrees to pay the City an annual rental ("**Rent**") of Seven Hundred Fifty Thousand and 00/100 Dollars (\$750,000.00). The Rent shall be increased for inflation on an annual basis beginning in September of 2014 and in each succeeding year utilizing the Consumer Price Index for All Urban Consumers ("**CPI-U**") over the last 12 months before seasonal adjustment as reported for the month the adjustment is made by the U.S. Bureau of Labor Statistics (or its successor). The Rent shall be payable in one installment following the Basketball Season but not later than May 1 of each year of the Lease Term. The Rent includes all costs of utilities, janitorial services and routine maintenance incurred and attributable to Athletics' exclusive use of the Leased Improvements but excludes home game expenses as agreed in the Lease/Operating Agreement. Upon reasonable notice to the City, the University may schedule use of the Arena for other University events up to fifteen days per year without paying additional rent. Such use shall be restricted to dates the Arena is not scheduled or being prepared for another event and shall be subject to the University paying the City an amount intended to approximate all actual and direct costs and expenses incurred or paid by or on behalf of the City to provide incremental costs not included in rent related to the event for customary utilities, janitorial, police, traffic control, fire prevention, directional signage, and other similar services for the event not to exceed the lowest rates customarily charged for other Arena users for similar events. University, at its own cost and expense, shall employ all other support staff needed by the University in order to hold the event.

Credit Against Rent. An annual amount equal to: all turnback sales tax receipts the City receives from the sale of basketball tickets for Home Games (includes 70% of the state sales tax), pursuant to the Convention Center Facility Financing Assistance Act (Neb. Rev. Stat. §§13-2601 to 13-2612); the first dollar of all City imposed ticket surcharges on basketball tickets sold for Home Games during each Basketball Season; and a make-whole provision for lost concessions revenues in an amount of \$300,000 shall first be applied as a credit toward Athletics Rent and then to other Athletics Home Game expenses. The City agrees to renegotiate the make-whole provision for concessions in the event University eliminates or modifies its restrictions on the sale of alcohol at Home Games and other University events held in the Arena. The concessions make whole annual

amount shall be increased for inflation on an annual basis beginning in September of 2014 and in each succeeding year utilizing the CPI-U over the last 12 months before seasonal adjustment as reported for the month the adjustment is made by the U.S. Bureau of Labor Statistics (or its successor).

Home Games

City Home Game Staffing. The City will be responsible for providing customary utilities, janitorial, police, traffic control, fire prevention, directional signage and other similar services for events at the Arena. Athletics will retain operational control of the Home Games for purposes of NCAA compliance and otherwise. Home Game related services for concessions and otherwise will be provided and staffed according to the Operating Agreement.

Athletics Home Game Staffing. Athletics, at its cost and expense, shall employ the officials and all event support staff, including but not limited to statisticians, timekeepers, scorekeepers, public address announcers, runners and other event and operations related staffing.

Basketball Space. The City shall provide or cause to be provided for each Home Game the leased Basketball Space in a first class condition.

Seating

There will be suites, loge, club and floor seating. Suites and loge seating constitutes “**Premium Seating.**”

Suites Seating. It is anticipated the Arena will initially have 36 out of a possible 48 suites of which four (4) will be designated as UNL Suites, two (2) will be designated as City Suites, and the remaining 30 suites will be designated as Private Suites all as approved in the construction documents. No license fee will be charged for the UNL Suites or City Suites. The City will market and sell all of the Private Suites, retaining the related Suite revenues, provided that Athletics will be provided and retain sole control of the 4 UNL Suites from the initial phase of construction to market, sell or use as determined by Athletics. In the event the City decides to increase the number of suites in excess of 36, the City shall offer the University the option to build up to one-half of the increased number of suites and to market, sell or use such suites as determined by Athletics. If the University does not exercise its option within 180 days from receipt of the same, unless otherwise agreed by the Parties, the City may proceed to construct the suites and market, sell or use such suites as determined by the City. Subject to certain terms and conditions, University grants City the exclusive right to market, license and assign the Private Suites to individuals and entities in connection therewith.

Loge Seating. The City will market and sell all of the Loge Seating, retaining the related Loge Seating revenues provided that Athletics will be provided an amount in return equal to 50% of the total net revenues for the Loge Seating. Subject to certain limitations, University grants City the exclusive right to market, license and assign the Loge Seating to individuals and entities in connection therewith.

Club and Floor Seating. The Arena will have Club Seating and Floor Seating (front row or courtside) as approved in the Construction Documents consisting of approximately 1,500 seats. The parties understand and agree that the number of Club Seats and Floor Seats will be determined by mutual agreement as provided in the Lease/Operating Agreement between the Parties. Athletics will market and sell all of the Club and Floor Seating for Home Games, retaining the related Club and Floor Seating revenues, provided that the City will market and sell all of the Club and Floor Seating for non-university events and retain the related Club and Floor Seating revenue. Combined sales for both Home Games and non-University events shall be split pro-

rata unless otherwise agreed in the Lease/Operating Agreement. Subject to certain terms and conditions, University and City grant to each other a reciprocal right to market, license and assign Club and Floor seats to individuals and entities for non-University events in combination with Home Games.

Seating Assignments. Notwithstanding the City's exclusive right to market, license and assign Suites Seating and Loge Seating, the City agrees to consult with Athletics on assignment of all seats to Home Games. Athletics has exclusive rights to assign seating for the Club Seating, Floor Seating and non-premium seats available to its students and fans for Home Games. Both parties shall cooperate with one another in bundling packages for combined seating at all Arena events. Athletics agrees to allow City to sell suites and loges at a market rate to be determined by City and its consultants.

University Ticket Sales

Sales. Athletics shall have the right to set ticket prices for all Home Games and other Athletics-sponsored intercollegiate events held in the Arena. Athletics shall, at its own cost and expense, perform all duties for the sale of tickets, including operation of a box office at the Arena for the sale of single game tickets. City will provide Athletics with access to the City's box office and equipment. Athletics shall be entitled to receive and retain all revenues from all season and single game ticket sales. City reserves the right to fix the prices for non-University ticket sales and sell such tickets for all other uses of the Arena. City shall be entitled to receive and retain all revenues from the other uses of the Arena. Athletics and City agree to work together to resolve any problems which may arise regarding the joint use of the City's box office and equipment.

Surcharge. City will initially assess the \$1.00 surcharge per ticket sold on all events in the Arena including Home Games. In the case of season tickets, the \$1.00 surcharge will be assessed separately on each Home Game during the season. If the City determines that the finances of the Arena make it necessary to increase the ticket surcharge to all events in the Arena, Athletics agrees to permit a temporary additional surcharge to apply to tickets for Home Games with limitations set forth in the MOU. The Lease/Operating Agreement shall provide the process for determining financial need and the basis for allocating, beginning and ending any temporary additional surcharge. All amounts collected from any City surcharge will be remitted to the City, and except for the first doll of City-imposed surcharges on Home Games, shall be applied toward payment of the principal, redemption price and interest due in connection with the Debt Service Fund. Athletics will collect such surcharge and any other ticket surcharge or user fee imposed by another governmental agency from the Home Game ticket purchaser and pay the entire amount of such surcharge to the City or other assessing governmental agency as required by applicable law. Except as it relates to the Surcharge, Athletics shall be responsible for all sales tax, use tax, or other tax associated with the sale of tickets or use of the Arena for all Home Games or other Athletics use of the Arena.

Naming Rights

The City reserves and shall have the exclusive right to sell, license, or grant the right to name the Arena and identify such name on the Arena concourses, the entrances to the Arena, the exterior Arena roof, the exterior of the Arena or any other areas on, in, upon or immediately around the Arena except for the basketball court floor and specific areas leased for the exclusive use of Athletics (e.g., Husker Vision space and locker rooms for the Basketball Teams). The University is hereby granted the exclusive right to sell, license or grant the right to name the basketball court floor and the locker rooms for the Basketball Teams. The City and University will retain all revenue arising from the sale, lease, or licensing of their respective naming rights. The parties agree to support and cooperate with each other in the sale and promotion of naming rights, and both parties grant a reciprocal right of reasonable consent and approval to the exercise and

modification of naming rights taking into consideration the co-existing naming and related terms and conditions in existing and proposed naming agreements.

Arena Signage

Consistent with the Multi-Media Agreement, the City reserves and shall have the exclusive right to seek, negotiate and obtain agreements regarding the right to temporary and/or permanent signage inside or outside the Arena for non-University events and to retain the revenue therefrom. The City further reserves the right to advertise and promote future City events during Home Games and other University events consistent with the Multi-Media Agreement. Athletics will provide reasonable exposure via electronic means and PA announcements for non-University events before Home Games and once during half-time of Home Games. Athletics will prohibit its MM-Agency from selling sponsorships that include food or drink give-aways at Home Games except as coordinated and agreed with the City and their concessionaire.

Concessions

The City itself, or through its concessionaires, shall operate all food and beverage sales at the Arena including Home Games and shall be entitled to retain all net revenues received therefrom. City agrees that no alcohol sales shall be allowed during UNL Basketball Games and other UNL events. City agrees to include as part of its concessions during Home Games, an assortment of affordable foods. The City agrees to provide, at cost, concession basic food and beverage service to the locker rooms of the Basketball Teams and visiting teams at Home Games.

University Broadcast Rights

University will have the exclusive right to sell or license the television, radio, motion picture, internet or other rights to the broadcasting, filming or other recording ("**Broadcast Rights**") of all Home Games held in the Arena and to retain all revenue from such sale or license of Broadcast Rights.

Branding

The Arena will provide appropriate locations for the University to identify the Basketball Teams ("**Branding**"). City will not take any action that is inconsistent with the Branding of the Arena for the Basketball Teams. City will permit University to display historical banners in the Arena that recognize the historical accomplishments of the Basketball Teams, individuals and conference affiliation.

Sale of University Merchandise

The University, at its expense, shall have the exclusive rights to sell or at its option, contract with a third party to sell University merchandise in and around the Arena during Home Games in a manner similar to the halo policy for University football games at Memorial Stadium. The cost of all merchandise inventory and merchandise sold shall be at the University's expense.

Operation

The City, or its designee, will operate and maintain the Arena, Basketball Space and Arena Parking Improvements in a manner consistent with arenas and parking improvements of similar age, size and design, ordinary wear and tear excepted. The City will be entitled to establish reasonable parking fees for the parking garage and parking lot provided that such parking fees established for Arena events will be commercially reasonable.

Maintenance

In consideration of the Rent, the City will operate and maintain the Arena and Leased Improvements so as to cause it to remain in a condition comparable to that of other multipurpose sports and entertainment facilities of similar size, design and age, ordinary wear and tear excepted. The City will be responsible for all operating, maintenance, and capital repair expenses related to the Arena and it will be operated in a manner substantially similar to and consistent with other similarly situated multipurpose sports and entertainment arenas suitable for Division I basketball programs.

Contingencies

The performance of the MOU is contingent upon the following:

- a. Execution of a Joint Facilities Agreement between Union Pacific Railroad Company (UP) and BNSF Railway Company (BNSF) with terms and conditions acceptable to the City;
- b. Execution of a definitive agreement between UP and the City for the West Haymarket Project;
- c. Execution of a definitive agreement between BNSF and the City for the West Haymarket Project; and
- d. Execution of a definitive Lease/Operating Agreement between University and City for lease of the Leased Improvements.

Definitive Final Agreement

The parties acknowledge that the terms of the MOU have been agreed to as the principal terms for the design, development and construction of the Arena and lease of the Basketball Space to University. Based upon the MOU, the parties shall in good faith proceed with expedience to negotiate and enter into a definitive final agreement after the affirmative vote of the voters of the City on the May, 2011 ballot proposition relating to the Arena, which shall conform to the provisions set forth in the MOU and provide such other matters as are consistent with and customary for a transaction of this type.

Mutual Cooperation

The successful design, development and construction of the Arena and related activities are dependent upon the continued cooperation and good faith of the University and City. Every covenant, agreement, or restriction in the MOU stated shall be construed in recognition of this interdependence and need for continued mutual cooperation. Athletics retains general responsibility for event management related to Athletics use of the Leased Improvements in recognition of applicable NCAA requirements and that Home Games are part of the Branding and larger mission of the University related to intercollegiate athletics. Athletics and the City or the City's contractor specifically agree to mutual cooperation in Branding, and other marketing including cooperative efforts to sell sponsorships, naming rights, ticketing, premium seating and advertising to optimize revenues and avoid unintended consequences for all parties.

Termination of MOU

In addition, either party may terminate the MOU prior to the City's entering into a definitive agreement with BNSF for acquisition of the Arena Site.

* * * * *

DRAFT

APPENDIX E

PROJECTED CASH FLOWS

DRAFT

WEST HAYMARKET JOINT PUBLIC AGENCY-BASIS OF PROJECTIONS

The Agency does not as a matter of course make public projections as to future revenues and expenses, operating income, or other results. However, the City's management has prepared the projected financial information set in this APPENDIX E to present the projected revenues and expenses related to the Projects. The accompanying projected financial information was not prepared with a view toward public disclosure or with a view toward complying with the guidelines established by the American Institute of Certified Public Accountants with respect to projected financial information, but, in the view of the City's management, was prepared on a reasonable basis, reflects the best currently available estimates and judgments and presents, to the best of management's knowledge and belief, the expected course of action and the expected future financial performance of the Projects. However, this information is not fact and should not be relied upon as necessarily indicative of future results, and readers of this Official Statement are cautioned not to place undue reliance on the projected financial information.

Neither the City's independent auditors, nor any other independent accountants, have compiled, examined, or performed any procedures with respect to the projected financial information contained herein, nor have they expressed any opinion or any other form of assurance on such information or its achievability, and assume no responsibility for, and disclaim any association with, the projected financial information.

The assumptions and estimates underlying the projected financial information are inherently uncertain and, while considered reasonable by the management of the City as of the date hereof, are subject to a wide variety of significant business, economic, and competitive risks and uncertainties that could cause actual results to differ materially from those contained in the prospective financial information. Accordingly, there can be no assurance that the projected results are indicative of the future performance of the operations of the Projects or that actual results will not differ materially from those presented in the projected financial information. The inclusion of projected financial information in this Official Statement should not be regarded as a representation by any person that the results contained in the projected financial information will be achieved.

The City does not generally publish its business plans and strategies or make external disclosures of its anticipated financial position or results of operations. Accordingly, the projections include only projects approved by both the City and the Agency. Neither the City nor the Agency intends to update or otherwise revise the projected financial information to reflect circumstances existing since their preparation or to reflect the occurrence of unanticipated events, even in the event that any or all of the underlying assumptions are shown to be in error. Furthermore, neither the City nor the Agency intends to update or revise the projected financial information to reflect changes in general economic or industry conditions.

APPENDIX F

FORM OF OPINION OF BOND COUNSEL

DRAFT

_____, 2011

West Haymarket Joint Public Agency
Lincoln, Nebraska

[Underwriter]
[Underwriter address]

Re: \$100,000,000 Lincoln, Nebraska West Haymarket Joint Public Agency General Obligation
Facility Bonds, Series 2011

Ladies and Gentlemen:

We have acted as bond counsel to the West Haymarket Joint Public Agency (the “Agency”) in connection with the issuance of the above-captioned bonds (the “Bonds”). In this capacity, we have examined the law and the certified proceedings, certifications and other documents as we deem necessary to render this opinion.

The Bonds are issued pursuant to the provisions of: (a) the Nebraska Joint Public Agency Act (Chapter 13, Article 25, Reissue Revised Statutes of Nebraska, as amended, the “Act”) (b) the Joint Public Agency Agreement Creating the West Haymarket Joint Public Agency dated as of April 1, 2010 (the “JPA Agreement”) between The City of Lincoln, Nebraska (the “City”) and The Board of Regents of the University of Nebraska (the “Regents”), (c) the Bond Resolution adopted July __, 2011 (the “Resolution”) by the Agency and (d) the Facilities Agreement dated September 8, 2010 (the “Facilities Agreement”) between the City and the Agency. Capitalized terms used and not otherwise defined in this opinion have the meanings assigned in the Resolution and the Facilities Agreement.

As to questions of fact material to our opinion, we have relied upon the certified proceedings and other certifications of public officials furnished to us without undertaking to verify the same by independent investigation.

Based on and subject to the foregoing, we are of the opinion, under existing law, as follows:

1. The Agency is duly created and validly existing under the Act as a joint public agency and a political subdivision of the State of Nebraska (the “State”) with the corporate power to adopt the Resolution and execute and deliver the Facilities Agreement, perform the agreements on its part contained therein, and issue the Bonds.

2. The Resolution has been duly adopted by the Agency and the Facilities Agreement has been duly authorized, executed and delivered by the Agency and each constitutes a valid and legally binding obligation of the Agency enforceable upon the Agency to the extent permitted by law.

3. The Bonds have been duly authorized, executed, and delivered by the Agency and are valid and binding obligations of the Agency payable from the sources provided therefor in the Resolution and the Facilities Agreement, including, but not limited to, the proceeds of taxes levied by the Agency pursuant to the provisions of the Act and the JPA Agreement.

4. The interest on the Bonds (including any original issue discount properly allocable to an owner thereof) (a) is excludable from gross income for federal income tax purposes, and (ii) is not an item of tax preference for purposes of computing the federal alternative minimum tax imposed on individuals and corporations, but is taken into account in determining adjusted current earnings for the purpose of computing the alternative minimum tax imposed on certain corporations. The opinions set forth in this paragraph are subject to the condition that the Agency and the City comply with all requirements of the Code that must be satisfied subsequent to the issuance of the Bonds in order that interest thereon be, or continue to be, excludable from gross income for federal income tax purposes. The Agency and the City have covenanted to comply with all of these requirements. Failure to comply with certain of these requirements may cause the interest on the Bonds to be included in gross income for federal income tax purposes retroactive to the date of issuance of the Bonds. The Bonds have not been designated as “qualified tax-exempt obligations” for purposes of Section 265(b) of the Code.

5. The interest on the Bonds is exempt from Nebraska income taxation.

We express no opinion regarding (a) the accuracy, completeness or sufficiency of the Official Statement or other offering material relating to the Bonds (except to the extent, if any, stated in the Official Statement), or (b) federal or state tax consequences arising with respect to the Bonds, other than as expressly set forth in this opinion.

The rights of the owners of the Bonds and the enforceability of the Bonds, the Resolution and the Facilities Agreement may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting creditors’ rights generally and by equitable principles, whether considered at law or in equity.

This opinion is given as of its date, and we assume no obligation to revise or supplement this opinion to reflect any facts or circumstances that may come to our attention or any changes in law that may occur after the date of this opinion.

Very truly yours,

APPENDIX G

BOOK-ENTRY SYSTEM

DRAFT

BOOK ENTRY SYSTEM

General. The Bonds are available in book-entry only form. Purchasers of the Bonds will not receive certificates representing their interests in the Bonds. Ownership interests in the Bonds will be available to purchasers only through a book-entry system (the “**Book-Entry System**”) maintained by The Depository Trust Company (“**DTC**”), New York, New York.

The following information concerning DTC and DTC’s book-entry system has been obtained from DTC. The Agency takes no responsibility as to the accuracy or completeness thereof and neither the Indirect Participants nor the Beneficial Owners should rely on the following information with respect to such matters, but should instead confirm the same with DTC or the Direct Participants, as the case may be. There can be no assurance that DTC will abide by its procedures or that such procedures will not be changed from time to time.

DTC will act as securities depository for the Bonds. The Bonds will be issued as fully-registered securities registered in the name of Cede & Co. (DTC’s partnership nominee) or such other name as may be requested by an authorized representative of DTC. One fully-registered Bond certificate will be issued for each maturity of the Bonds, each in the aggregate principal amount of that maturity, and will be deposited with DTC.

DTC and its Participants. DTC, the world’s largest securities depository, is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934. DTC holds and provides asset servicing for over 3.5 million issues of U.S. and non-U.S. equity issues, corporate and municipal debt issues, and money market instruments (from over 100 countries) that DTC’s participants (“**Direct Participants**”) deposit with DTC. DTC also facilitates the post-trade settlement among Direct Participants of sales and other securities transactions in deposited securities, through electronic computerized book-entry transfers and pledges between Direct Participants’ accounts. This eliminates the need for physical movement of securities certificates. Direct Participants include both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, clearing corporations, and certain other organizations. DTC is a wholly-owned subsidiary of The Depository Trust & Clearing Corporation (“**DTCC**”). DTCC is the holding company for DTC, National Securities Clearing Corporation and Fixed Income Clearing Corporation, all of which are registered clearing agencies. DTCC is owned by the users of its regulated subsidiaries. Access to the DTC system is also available to others such as both U.S. and non-U.S. securities brokers and dealers, banks, trust companies, and clearing corporations that clear through or maintain a custodial relationship with a Direct Participant, either directly or indirectly (“**Indirect Participants**”). DTC has Standard & Poor’s highest rating: AAA. The DTC Rules applicable to its Participants are on file with the Securities and Exchange Commission. More information about DTC can be found at www.dtcc.com and www.dtc.org.

Purchases of Ownership Interests. Purchases of Bonds under the DTC system must be made by or through Direct Participants, which will receive a credit for the Bonds on DTC’s records. The ownership interest of each actual purchaser of each Bond (“**Beneficial Owner**”) is in turn to be recorded on the Direct and Indirect Participants’ records. Beneficial Owners will not receive written confirmation from DTC of their purchase. Beneficial Owners are, however, expected to receive written confirmations providing details of the transaction, as well as periodic statements of their holdings, from the Direct or Indirect Participant through which the Beneficial Owner entered into the transaction. Transfers of ownership interests in the Bonds are to be accomplished by entries made on the books of Direct and Indirect Participants acting on behalf of Beneficial Owners. Beneficial Owners will not receive certificates representing their ownership interests in Securities, except in the event that use of the book-entry system for the Bonds is discontinued.

Transfers. To facilitate subsequent transfers, all Bonds deposited by Direct Participants with DTC are registered in the name of DTC's partnership nominee, Cede & Co., or such other name as may be requested by an authorized representative of DTC. The deposit of Bonds with DTC and their registration in the name of Cede & Co. or such other DTC nominee do not effect any change in beneficial ownership. DTC has no knowledge of the actual Beneficial Owners of the Bonds; DTC's records reflect only the identity of the Direct Participants to whose accounts such Bonds are credited, which may or may not be the Beneficial Owners. The Direct and Indirect Participants will remain responsible for keeping account of their holdings on behalf of their customers.

Notices. Conveyance of notices and other communications by DTC to Direct Participants, by Direct Participants to Indirect Participants, and by Direct Participants and Indirect Participants to Beneficial Owners will be governed by arrangements among them, subject to any statutory or regulatory requirements as may be in effect from time to time. Beneficial Owners of Bonds may wish to take certain steps to augment the transmission to them of notices of significant events with respect to the Bonds, such as redemptions, tenders, defaults, and proposed amendments to the Bond documents. For example, Beneficial Owners of Bonds may wish to ascertain that the nominee holding the Bonds for their benefit has agreed to obtain and transmit notices to Beneficial Owners. In the alternative, Beneficial Owners may wish to provide their names and addresses to the registrar and request that copies of notices be provided directly to them.

Redemption notices will be sent to DTC. If less than all of the Bonds within an issue are being redeemed, DTC's practice is to determine by lot the amount of the interest of each Direct Participant in such issue to be redeemed.

Voting. Neither DTC nor Cede & Co. (nor any other DTC nominee) will consent or vote with respect to Bonds unless authorized by a Direct Participant in accordance with DTC's MMI Procedures. Under its usual procedures, DTC mails an Omnibus Proxy to the Agency as soon as possible after the record date. The Omnibus Proxy assigns Cede & Co.'s consenting or voting rights to those Direct Participants to whose accounts Bonds are credited on the record date (identified in a listing attached to the Omnibus Proxy).

Payments of Principal, Redemption Price and Interest. Redemption proceeds, distributions, and dividend payments on the Bonds will be made to Cede & Co., or such other nominee as may be requested by an authorized representative of DTC. DTC's practice is to credit Direct Participants' accounts upon DTC's receipt of funds and corresponding detail information from the Agency or the Registrar, on the payable date in accordance with their respective holdings shown on DTC's records. Payments by Participants to Beneficial Owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name," and will be the responsibility of such Participant and not of DTC, the Registrar or the Agency, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of redemption proceeds, distributions, and dividend payments to Cede & Co. (or such other nominee as may be requested by an authorized representative of DTC) is the responsibility of the Registrar, disbursement of such payments to Direct Participants will be the responsibility of DTC, and disbursement of such payments to the Beneficial Owners will be the responsibility of Direct and Indirect Participants.

Discontinuation of Book-Entry System. DTC may discontinue providing its services as depository with respect to the Bonds at any time by giving reasonable notice to the Agency or the Registrar. Under such circumstances, in the event that a successor depository is not obtained, Bond certificates are required to be printed and delivered.

The Agency may decide to discontinue use of the system of book-entry-only transfers through DTC (or a successor securities depository). In that event, Bond certificates will be printed, registered in the name of

DTC's partnership nominee, Cede & Co. (or such other name as may be requested by an authorized representative of DTC), and delivered to DTC (or a successor securities depository), to be held by it as securities depository for Direct Participants. If, however, the system of book-entry-only transfers has been discontinued and a Direct Participant has elected to withdraw its Bonds from DTC (or such successor securities depository), Bond certificates may be delivered to Beneficial Owners in the manner described in the Resolution.

DRAFT

GILMORE & BELL, P.C.
DRAFT #1
JULY 15, 2011

BOND REGISTRAR AND PAYING AGENT AGREEMENT
(the “**Agreement**”)

dated December 1, 2011

WEST HAYMARKET JOINT PUBLIC AGENCY
(the “**Agency**”)

and

UNION BANK AND TRUST COMPANY,
Registrar and Paying Agent (the “**Registrar**”)

RECITALS

A. The Agency, a joint public agency duly organized and validly existing under the laws of the State of Nebraska, including, without limitation, (1) the Joint Public Agency Act (Chapter 13, Article 25, Reissue Revised Statutes of Nebraska, as amended, the “**Act**”) and (2) the Joint Public Agency Agreement Creating the West Haymarket Joint Public Agency, dated as of April 1, 2010, between The City of Lincoln, Nebraska and The Board of Regents of the University of Nebraska, as amended and restated from time to time, has duly authorized the issuance of \$100,000,000 principal amount of its General Obligation Facility Bonds, Series 2011, dated the date of delivery (_____, 2011) thereof (the “**Bonds**”) pursuant to a Resolution (the “**Resolution**”) passed by its Board of Representatives (the “**Board**”) and requires the services of a bond registrar and paying agent for the Bonds.

B. The Registrar is a state banking corporation having trust powers duly organized and validly existing under the laws of the State of Nebraska and is willing to provide services as bond registrar and paying agent pursuant to the terms of this Agreement and the Resolution in consideration for the compensation described herein.

NOW, THEREFORE, the Agency and the Registrar do hereby covenant and agree as follows:

Section 1. The Registrar agrees that it shall maintain on behalf of the Agency books of record in which the registered owners of the Bonds and their registered addresses shall be duly recorded.

Section 2. The Registrar agrees that it shall serve as paying agent for the Agency for the payment of principal and interest falling due on the Bonds. The Agency shall, not later than the business day prior to each principal and/or interest payment date on the Bonds, deposit with the Registrar an amount sufficient to make such payment and the Registrar shall apply such deposit by mailing a check or draft to each of the registered owners of the Bonds as shown on the books of record maintained pursuant to **Section 1** hereof for the appropriate amount of interest due on each respective Bond and pay principal and interest upon presentation of each respective Bond in accordance with the terms of the Resolution. The provisions of this **Section 2** are subject to the provisions of **Section 15** hereof with respect to the Bonds while they are held in book-entry form.

Section 3. The Registrar hereby accepts and agrees to perform all duties directed by the Resolution to be performed by the “Registrar” as defined in the Resolution and the terms of the Resolution are hereby incorporated by reference. The Registrar acknowledges receipt of a copy of the Resolution. The Registrar acknowledges that the Agency may make deposits of money or securities as provided in **Section 701** of the Resolution. In the event of any such deposit, the compensation provided for under this Agreement shall not be altered or abated.

Section 4. The Agency shall furnish to the Registrar a sufficient supply of forms in blank of the Bonds to be issued upon transfer or partial redemption, signed by the facsimile signatures of the Chair and the Secretary and shall renew such supply pursuant to **Section 205** of the Resolution upon request of the Registrar.

Section 5. The Registrar shall make the initial registration of the Bonds upon written directions from the original purchaser thereof designated in the Resolution.

Section 6. Transfer of the Bonds shall be registered and new Bonds issued in replacement thereof pursuant to the limitations prescribed in the Resolution, upon surrender to the Registrar of any outstanding Bond in form deemed by the Registrar properly endorsed for transfer with all necessary signatures guaranteed in such manner and form as the Registrar may require by a signature guarantor reasonably believed by the Registrar to be responsible, accompanied by such assurances as the Registrar shall deem necessary or appropriate to evidence the genuineness and effectiveness of each necessary signature and, if deemed appropriate by the Registrar, satisfactory evidence of compliance with all applicable laws relating to the collection of taxes. In registering transfer of the Bonds, the Registrar may rely upon the Uniform Commercial Code or any other statutes which in the opinion of counsel protect the Registrar and the Agency in not requiring complete documentation, in registering bonds without inquiry into adverse claims, in delaying registration for purposes of such inquiry or in refusing registration where in Registrar’s judgment an adverse claim requires such refusal.

Section 7. Replacement Bonds for any of the Bonds damaged, lost or stolen shall be issued by the Registrar upon receipt of documentation complying with the requirements of Sections 10-127 to 10-130, inclusive, Reissue Revised Statutes of Nebraska, as amended, acceptable to the Registrar.

Section 8. As provided by law, the books of registration maintained by the Registrar shall not be deemed public records and shall be available for inspection solely pursuant to a court order or a subpoena of any governmental agency having jurisdiction to issue such subpoena.

Section 9. At least annually the Registrar shall give a report to the Agency accounting for all funds received and disbursements made. The Registrar shall maintain customary records in connection with its exercise of its duties under this Agreement and the Resolution.

Section 10. At any time the Registrar may apply to the Agency for instructions and may consult with the Agency’s attorney or the Registrar’s own counsel in respect to any matter arising in connection with its duties under this Agreement and the Resolution and the Registrar shall not be liable or accountable for any action taken or omitted by it in good faith in accordance with such instructions or with the opinion of such counsel. The Registrar may rely on any paper or document reasonably believed by it to be genuine and to have been signed by the proper person or persons.

Section 11. The Agency hereby agrees to pay any expenses reasonably incurred by the Registrar in connection with the performance of its duties under this Agreement and the Resolution, including counsel fees, and in addition shall pay to the Registrar the compensation for its services as set forth on **Exhibit A** attached hereto.

Section 12. Any corporation or association into which the Registrar may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer its trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which it is a party, shall, ipso facto, be and become successor Registrar hereunder and vested with all of the trusts, powers, discretions, immunities, privileges and all other matters as was its predecessor, without the execution or filing of any instruments or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding.

Section 13. The Agency shall have the right to remove the Registrar only in the event of a material breach of the Registrar's duties under this Agreement and the Resolution. In such event the Board shall have the right to designate a successor and the Registrar hereby agrees that it shall turn over all of its records with respect to the Bonds to any such successor upon request by the Agency.

Section 14. This Agreement shall terminate when the Bonds have been paid in full. The Registrar shall have no duties with respect to the investment of money paid to it under this Agreement and the Resolution. Any deposit of such money shall be either fully insured by insurance of the Federal Deposit Insurance Corporation or fully secured in the manner required by law for deposit of funds of the Agency. Any such deposit may be in an account maintained with the Registrar or an affiliate of the Registrar.

Section 15. Under the terms of the Resolution, the Bonds are to be issued initially in book-entry form using the services of The Depository Trust Company (the "**Depository**"). All of the Bonds shall be registered in the name of Cede & Co., as nominee for the Depository, with one typewritten bond for each separately stated maturity. The Registrar shall pay semiannual interest for any Bond registered as of each Record Date in the name of Cede & Co. by wire transfer to the Depository in accordance with its procedures as in effect from time to time. The Registrar agrees that it will execute and observe the terms and conditions of the Letter of Representations (the "**Letter of Representations**") as authorized by the Resolution. The Letter of Representations may be in the form of separate undertakings executed by the Registrar and the Agency in connection with services provided by the Depository.

The Registrar and the Agency may treat the Depository (or its nominee) as the sole and exclusive owner of the Bonds registered in its name for the purposes of payment of the principal of or interest on the Bonds, selecting the Bonds or portions thereof to be redeemed, giving any notice permitted or required to be given to registered owners under the Resolution, registering the transfer of Bonds, obtaining any consent or other action to be taken by registered owners and for all other purposes whatsoever, and neither the Registrar nor the Agency shall be affected by any notice to the contrary. Neither the Registrar nor the Agency shall have any responsibility or obligation to any participant of the Depository ("**Participant**"), any person claiming a beneficial ownership interest in the Bonds under or through the Depository or any Participant, or any other person which is not shown on the registration books of the Registrar as being a registered owner, with respect to the accuracy of any records maintained by the Depository or any Participant; the payment by the Depository or any Participant of any amount in respect of the principal or redemption price of or interest on the Bonds; any notice which is permitted or required to be given to registered owners under the Resolution; the selection by the Depository or any Participant of any person to receive payment in the event of a partial redemption of the Bonds; or any consent given or other action taken by the Depository as registered owner. The Registrar shall make all payments of the principal or redemption price of and interest on the Bonds only to the Depository, and all such payments shall be valid and effective to fully satisfy and discharge the Agency's obligations with respect to the principal or redemption price of and interest on the Bonds to the extent of the sum or sums so paid. Except under the conditions directed below, no person other than the Depository shall receive an

authenticated Bond for each separate stated maturity evidencing the obligation of the Agency to make payments of principal or redemption price of and interest on the Bonds pursuant to the Resolution. Upon delivery by the Depository to the Registrar of written notice to the effect that the Depository has determined to substitute a new nominee in the place of Cede & Co., and subject to the provisions in the Resolution with respect to Record Dates, the term “Cede & Co.” in this Agreement shall refer to such new nominee of the Depository. If the Depository gives notice to the Agency or the Registrar pursuant to the Letter of Representations that it will discontinue providing its services as securities depository with respect to the Bonds, the Agency shall either appoint a successor securities depository or terminate the book-entry system for the Bonds under the following conditions:

(a) Any successor securities depository must be a clearing agency registered with the Securities and Exchange Commission pursuant to Section 17A of the Securities Exchange Act of 1934 and must enter into an agreement with the Agency and the Registrar agreeing to act as the depository and clearing agency for all the Bonds. After such agreement has become effective, the Depository shall present the Bonds for registration of transfer in accordance with **Section 7** of the Resolution and the Registrar shall register them in the name of the successor securities depository or its nominee. If a successor securities depository has not accepted such position prior to the effective date of the Depository’s termination of its services, the book-entry system shall automatically terminate, except as provided below in this **Section 15**.

(b) If the Agency elects to terminate the book-entry system for the Bonds, it shall so notify the Registrar in writing. Thereafter, upon presentation of the Bonds, or any of them, by the Depository or its nominee to the Registrar for registration of transfer in accordance with **Section 7** of the Resolution, the Registrar shall register the transfer in accordance with such **Section 7** of the Resolution and all provisions of this **Section 15** shall immediately cease to be in effect, except as provided below.

The Agency may elect to terminate the book-entry system for the Bonds at any time by giving written notice to the Depository and the Registrar. On the effective date of such termination, the provisions of this **Section 15** shall cease to be in effect, except that the Registrar shall continue to comply with applicable provisions of the Letter of Representations with respect to Bonds as to which the Depository remains the registered owner. After such termination, the Registrar shall, upon presentation of Bonds by the Depository or its nominee for registration of transfer or exchange in accordance with **Section 7** of the Resolution make such transfer or exchange in accordance with such **Section 7**. Upon the appointment of a successor securities depository or termination of the book-entry system, the Registrar shall give notice of such event to the registered owners of Bonds (through the Depository) which notice shall state either (1) the name and address of the successor securities depository or (2) that Bonds may now be obtained by the beneficial owners of the Bonds, or their nominees, upon proper instructions being given to the Depository by the relevant Participant and compliance by the Depository with the provisions of the Resolution regarding registration of transfers. Notwithstanding any other provision of this Agreement to the contrary, so long as any Bond is registered in the name of Cede & Co., as nominee of the Depository (or any successor nominee), all payments with respect to the principal or redemption price of and interest on such Bond and all notices with respect to such Bond shall be made and given, respectively, to the Depository as provided in the Letter of Representations. In connection with any notice or other communication to be provided to registered owners to the Resolution by the Agency or the Registrar with respect to any consent or other action to be taken by registered owners, the Agency or the Registrar, as the case may be, shall establish a record date for such consent or other action and give the Depository notice of such record date not less than 15 calendar days in advance of such record date to the extent possible.

Section 16. If any one or more of the covenants or agreements to be performed by either the Agency or the Registrar shall be determined by a court of competent jurisdiction to be unenforceable, such covenant or agreement shall be deemed and construed to be severable from the remaining covenants and agreements contained herein and shall in no way affect the validity of the remaining provisions of this Agreement.

Section 17. This Agreement may be executed in several counterparts, all or any of which shall be regarded for all purposes as one original and shall constitute and be but one and the same instrument.

Section 18. This Agreement shall be governed by and construed in accordance with the laws of the State of Nebraska.

[The remainder of this page intentionally left blank.]

IN WITNESS WHEREOF, the Agency and the Registrar have each caused this Agreement to be executed by their duly authorized officers.

**WEST HAYMARKET JOINT PUBLIC
AGENCY**

ATTEST:

By: _____
Chair

By: _____
Secretary

DRAFT

UNION BANK AND TRUST COMPANY

By: _____
Title: _____

DRAFT