

AGENDA FOR THE WEST HAYMARKET
JOINT PUBLIC AGENCY (JPA)
TO BE HELD THURSDAY DECEMBER 8, 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 Beutler)
2. Public Comment and Time Limit Notification Announcement (Chair Beutler)

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

3. Approval of the minutes from the JPA meeting held November 16, 2011 (Chair Beutler)
 - (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 11-89 Resolution approving Amendment No. 9 to the Agreement for Engineering Services between Olsson Associates dba Lincoln Haymarket Infrastructure Team and the West Haymarket Joint Public Agency, Haymarket Infrastructure Design Project No. 870302 to revise the design and bidding for the M & N Street Roadway Improvement project to include Bid Package 3 for an additional fee of \$98,825.00. (Paula Yancey)
 - Public Comment
 - (Staff recommendation is for the JPA Board to approve the resolution)
6. Bill No. WH 11-90 Resolution approving Amendment No. 10 to the Agreement for Engineering Services between Olsson Associates dba Lincoln Haymarket Infrastructure Team and the West Haymarket Joint Public Agency, Haymarket Infrastructure Design Project No. 870305 to amend the existing Agreement to include geotechnical engineering, existing fill assessments, assignments for (1) multi-story pad sites in the X-yard area; and (2) Arena Drive and N Street, for an additional fee of \$20,522.00. (Paula Yancey)
 - Public Comment
 - (Staff recommendation is for the JPA Board to approve the resolution)
7. Bill No. WH 11-91 Resolution approving a Site Lease between the West Haymarket Joint Public Agency and District Energy Corporation to provide thermal services to the Arena and other buildings and facilities in the vicinity of the Arena. (Chris Connolly)
 - Public Comment
 - (Staff recommendation is for the JPA Board to approve the resolution)

8. Bill No. WH 11-92 Resolution authorizing the Chair of the West Haymarket Joint Public Agency Board of Representatives to enter into a special purchase for construction of the Amtrak platform to construct a 1200' x 15' x 8" concrete passenger platform without building or canopy, subject to the submission of informal quotes by contractors by December 6, 2011. Work shall begin on December 9, 2011 and shall be completed by April 30, 2011. (Dan Marvin/Chris Connolly)
 - Public Comment
 - (Staff recommendation is for the JPA Board to approve the resolution)

9. Bill No. WH 11-93 Resolution to approve the Contract Agreement between Terracon Consultants Inc. and the West Haymarket Joint Public Agency for construction testing and special inspection services for the Amtrak platform and Amtrak station. (Paula Yancey)
 - Public Comment
 - (Staff recommendation is for the JPA Board to approve the resolution)

10. Bill No. WH 11-94 Resolution authorizing the Chair of the West Haymarket Joint Public Agency Board of Representatives to enter into a Contract with the lowest responsible bidder for construction of the Amtrak station and canopy over the platform. (Dan Marvin/Chris Connolly)
 - Public Comment
 - (Staff recommendation is for the JPA Board to approve the resolution)

11. Set Next Meeting Date: Friday January 6, 2012 at 3:00 in City Council Chambers Room 112

12. Motion to Adjourn

WEST HAYMARKET JOINT PUBLIC AGENCY (JPA)
Board Meeting
November 16, 2011

Meeting Began At: 3:27 P.M.

Meeting Ended At: 4:15 P.M.

Members Present: Eugene Carroll, Tim Clare, Chris Beutler

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

Chair Beutler opened the meeting with introductions the Board members. Beutler 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

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

Item 3 – Approval of the minutes from the JPA meeting held October 26, 2011

Beutler asked for corrections or changes to the minutes from October 26, 2011. Hearing none, Carroll motioned for approval of the minutes. Clare seconded the motion. Motion carried 3-0.

Item 4 – West Haymarket Progress Report

Paula Yancey, PC Sports, came forward to provide a status update on the arena and infrastructure projects. Yancey reported that work is progressing rapidly on the arena construction site. Mortenson is working on the foundation for the project and construction is starting to go vertical. Cast in place columns are being constructed and there will soon be a lot of progress above ground. Burlington Northern has removed tracks to the west of the arena site which will allow Mortenson to move forward when they reach Phase 2 construction. The temporary power distribution is in place with the switch gear and lines to the site installed. Ground water monitoring wells have been placed in the initial site prep area and will be tested as needed. Sediment bases have also been installed to catch runoff water from the site and will remain in place until all of the site utilities are installed. The target date for completion of the site prep work is December 9, 2011.

Work continues in front of the Post Office with water and sanitary lines in R Street being installed. The turn lane in 10th Street is now complete and a second traffic signal has been installed. To date, 360 piles have been installed and that phase is on schedule. The Amtrak station construction is out for bid and closes on November 22, 2011. Garage Deck No. 1 is currently on the ebid site for Letters of Interest for a Construction Manager at Risk which is due on December 9, 2011. An EPA Brownfield Grant application will be submitted on November 28th for environmental remediation on properties that were acquired from Union Pacific, Watson Brickson and Alter Scrap. The City of

Lincoln Urban Development Department has a draft of the application available for public review and will accept comments until November 27th. If anyone would like a copy of the application they can contact Ernie Castillo at 402-441-7855 or by email at ecastillo@lincoln.ne.gov .

Clare asked if the project is on schedule. Yancey answered yes, that they are on track. The pile contractor has been doing a lot of work on the arena site and concrete is also progressing. The railroad work is the most critical component, so some of the work plans on the M and N construction had to be revised to accommodate it but they will pick that back up and get back on schedule. Clare then asked if all of the necessary signatures and documentation have been acquired from a performance audit standpoint. Yancey stated that her office has every invoice and every contract.

Beutler asked Yancey to explain how important the completion of the Amtrak platform is to the schedule. Yancey indicated that it is extremely critical. They are currently building in between two active railroad lines. Mortenson is expecting removal of the lines in September 2012 in order to continue Phase 2 construction, which is the exterior portions on the east and west sides of the building. In order to move to the next phase the platform has to be installed so that the new lines can be put into action and the old lines can be decommissioned in September.

Beutler asked for comments from the public. Terry Pope-Gonzalez came forward and distributed a packet to the Board. She read a statement asking if the green space four to five blocks to the west would also be cleaned up. She was also concerned with the short timeframe in which to respond to the Brownfield Cleanup Grant application. She asked to receive a written response to her question and concerns. Beutler indicated that someone would be in contact with her.

Jane Kinsey came forward and asked for more information regarding the Brownfield Grant. Miki Esposito explained that the Brownfield Grant application is due on November 28th and essentially covers three properties south of O Street: Union Pacific, Alter Scrap Yard and Watson Brickson. It will provide \$200,000 per site to be used for cleanup. Ernie Castillo in Urban Development wrote the application and it is available for public review and comment. Public comments will be incorporated into the grant application.

Item 5 – Approval of Payment Registers

Steve Hubka, City Finance, reported to the Board that there was roughly \$7.1 million expended in October. A lot of the items on the register have been there in the past and there are others that the Board has acted on, such as the Alter site purchase.

Clare asked about the payments made to MCI Telecommunications, Nebraska Title, Union Pacific and the DEC. Hubka explained that the MCI bill for their relocation had been expected for a long time and finally arrived. The Nebraska Title payment was for the Alter site purchase and the Union Pacific payment was for their relocation. The DEC payment of \$90,000 is an advance that the JPA will receive back once they issue their bonds.

Clare expressed his concern over the final payment to SAIC for \$540,000. It has been brought to his attention that SAIC still has documents that belong to the JPA such as billing documents, drawings and contracts. With their final payment being issued, the JPA has little leverage to get the documents back. Yancey noted that her office has all of the contracts and SAIC has documents from the time they were in Lincoln that are in their files. Clare urged Yancey and Rod Confer to get the documents for any upcoming audits.

Buetler asked for public comments. Hearing none, Carroll made a motion to approve the October payment registers. Clare seconded the motion. Motion carried 3-0.

Item 6 – Review of the October 2011 Expenditure Reports

Steve Hubka stated that this is a cost report which reflects expenditures that were just approved and how those post against the budget. Hubka reminded the Board that he will be coming back to the Board within the next couple months with an amended project budget. The changes will be within the current budget it is just some shifting in some categories.

Clare asked if the project is still on budget and if everything is up to standards in regards to an audit. Hubka stated that the project is on budget and staff are meeting regularly to review that. He also advised that things are in line for an audit and the auditor will come forward on the next agenda item.

Beutler asked for comments from the public. No one came forward.

Item 7 – Report on the beginning of the West Haymarket Joint Public Agency financial audit for the year ending August 31, 2011

Steve Hubka introduced Roger Watton, partner in the firm BKD, to give a brief explanation as to the nature of their audit examinations for the year ending August 31, 2011.

Roger Watton informed the board that the letter before them is a communication from the auditors to the governing body that is required by current auditing standards. Its primary intent is to give the Board some idea of the scope of the audit, timing of reports and some of the key accounting matters. BKD will perform the audit under generally accepted auditing standards. The scope and critical areas are the investments, unspent bond proceeds and construction project costs. The auditors will be looking at contracts, progress payments, invoices and also verifying that those are the same things that are coming before the Board for approval. Debt is another critical matter that will be looked at for any issues of noncompliance. They will also review the practices and controls that have been put into place in addition to the occupation tax revenue.

The last page of the letter states what BKD's responsibilities are for detection of errors and fraud. There is nothing to indicate at this point that there are any, but the letter lists some of the things the auditors do from year to year standpoint to look for those items. BKD is currently in the middle of the audit and hopes to have a draft of the financial statements next week. Watton will provide that to the Board as soon as possible for review before it goes public. The projected deliver date for the final report is the end of the month.

Clare pointed out that this is the second audit although the first only covered two or three months. Watton agreed and noted that this is the first audit to cover a full year. Beutler noted that BKD has chosen the primary areas of risk and indicated they would welcome the identification of any other significant risk areas. He then asked if there are any that BKD did not include. Watton stated that they included all of the critical risk areas that they have seen. The financial areas and internal controls are looked at very strongly. The starting basis of any audit is to assess the controls and then design tests based upon those controls. Watton felt that the controls and practices the JPA has formed are very good.

Beutler asked for comments from the public. Jane Kinsey came forward and asked where the audit can be found or if hard copies are available for public viewing. Hubka answered that it will be posted on the Haymarketnow website as soon as it is available.

Item 8 – Bill No. WH 11-87 Resolution accepting and approving the Lease and Operating Agreement between the City of Lincoln and the Board of Regents of the University of Nebraska for the lease of the basketball space and improvements within the Arena Project for a 30 year term.

Rod Confer, Council for the JPA, informed the Board that the facilities agreement which was approved by the JPA in September of 2010, appointed the City as its agent for the purposes of negotiating the lease with the University of Nebraska. That lease has now been negotiated and approved by the University and City Council. It is now before the Board for acceptance and approval. The lease and operating agreement covers a period of 30 years with the option for three renewals of five years each. Under the terms of the agreement the City and University will cooperate to set forth the rules and agreements under which the arena will be designed and operated. The University will pay rent of \$750,000 per year and will receive credits for the turn back tax and the City surcharge on the sale of basketball tickets. This is revenue the City wouldn't have if the University wasn't playing basketball games at the arena and therefore those credits are taken against the rent. The University is also allowed a \$300,000 credit for concession sales that they are giving up by coming to the arena. They are expected to play up to 30 men's and women's basketball games and are also allowed practice time before the games. The University is also permitted to use the arena for and 15 additional days that it isn't being used by the City for other events such as graduation ceremonies.

Clare commented that this project began as, and has become, a partnership. The University is going to receive access to a state of the art facility providing a great venue for basketball events. It is also a great opportunity for the City. Without either's involvement none of this would have happened. There have been comments that the University is getting a really great deal and not paying a lot of rent. Clare pointed out that the University is getting a \$300,000 credit for concession revenue when they are currently estimating revenue at Devaney to be somewhere in between \$400,000 and \$500,000. The University will not get any of the revenue for the naming rights of the facility, for parking or for the suite sales. These items were negotiated between the parties; both are giving for the betterment of the entire community.

Carroll stated that during discussions other arenas around the United States were looked at in regard to rent being paid by universities. This agreement is comparable to those and is an equal opportunity for the City and University of Nebraska. Instead of building a new arena just for them, the University is investing back into the community by renting from the City. It was toughly negotiated equally on both sides and the City Council and University were happy with the way it came out. Beutler concurred.

Beutler asked for comments from the public. Jane Kinsey came forward and stated that not everyone in Lincoln thinks so.

Hearing no further comments, Carroll made a motion to approve the resolution. Clare seconded the motion. Motion carried 3-0.

Item 9 – Bill No. WH 11-88 Resolution approving Amendment No. 8 to the Agreement for Engineering Services between Olsson Associates dba Lincoln Haymarket Infrastructure Team and the West Haymarket Joint Public Agency, Haymarket Infrastructure Design Project No. 870000 to amend the existing Agreement.

Paula Yancey advised that this amendment is a cleanup in language to implement the change order process that was previously approved by the JPA and include it as part of the contract documents with LHIT. It will also add PC Sports as the representative for the contract within the LHIT agreement. Now that construction is moving vertical it will allow PC Sports to effectively manage and work directly with LHIT as they go into different phases of the work.

Beutler asked for comments from the public. JoAnn Murphy came forward and asked if the split between WRK and Woodbury will have any impact on the Haymarket project and what that impact might be. She also wanted to thank Steve Hubka for quickly replying to her emails. Beutler stated that right now there is no reason to believe the private development cannot proceed as rapidly as originally intended. The financial viability of WRK's new partner is still being vetted but as of today they appear to be a viable financial partner. Clare added that the parties involved know that this project is for the benefit of the community and won't have any problems moving this project forward.

Hearing no further comments, Carroll made a motion to approve the resolution. Clare seconded the motion. Motion carried 3-0.

Item 10 -- Set Next Meeting Date

The next meeting will be held on Thursday December 8th at 3:30 in City Council Chambers Room 112.

Item 11 – Motion to Adjourn

Carroll made a motion to adjourn the meeting. Clare seconded the motion. Motion carried 3-0. Meeting adjourned at 4:15 P.M.

Prepared by: Melissa Ramos-Lamml, Public Works and Utilities

West Haymarket Arena

& Associated Infrastructure Projects

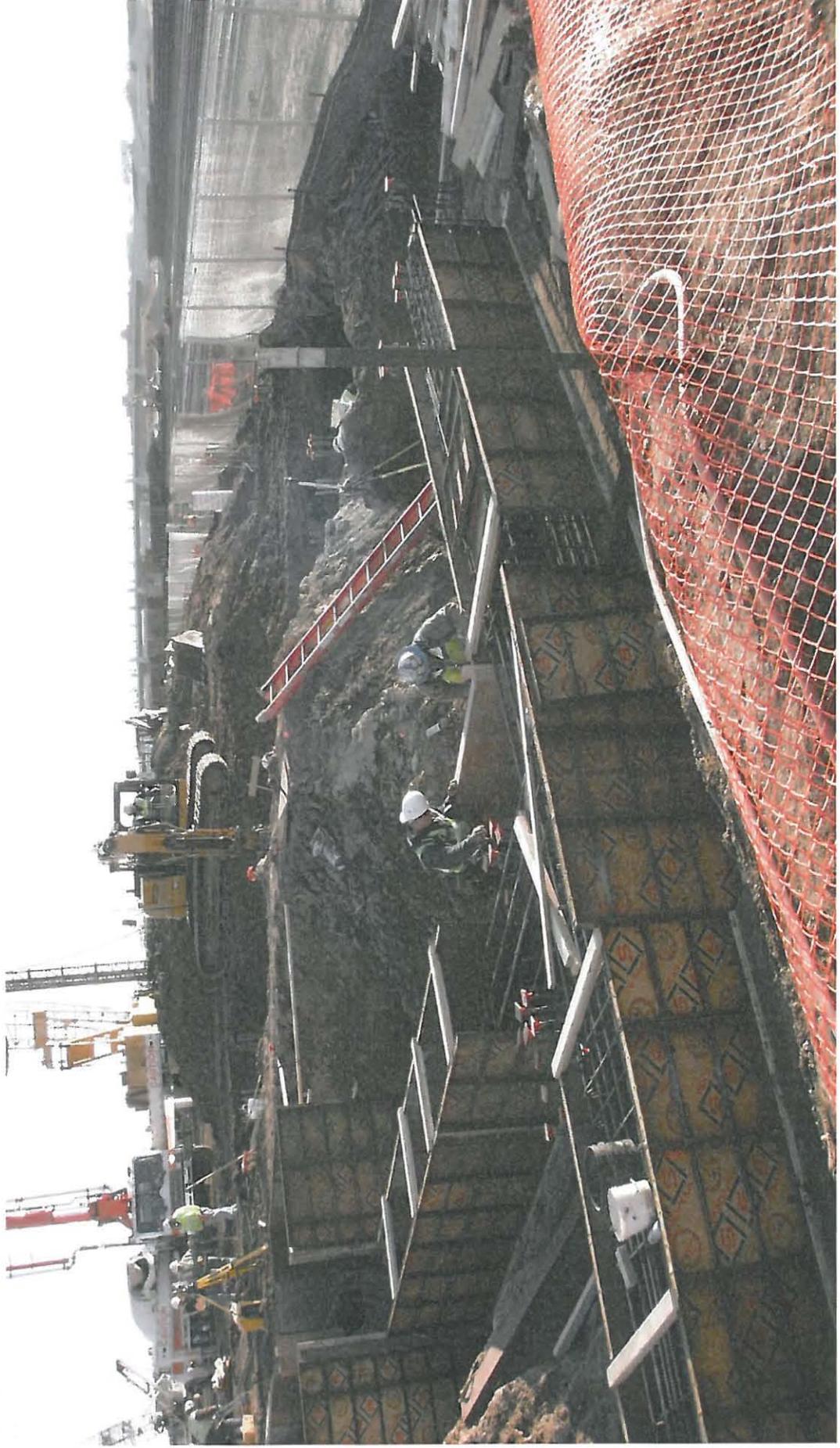
WEST HAYMARKET ARENA

Project Status Update
November 16th, 2011

CONTINUATION OF CAST AUGER PILES BEYOND AT SOUTHWEST CORNER OF SITE



FORMED GRADE BEAMS AND DOCK WALLS AT THE NORTH END OF THE ARENA



**CAST IN PLACE COLUMNS ON 17 LINE AT
NORTH END OF ARENA**



TYPICAL PILE CAP AND ADJACENT GRADE BEAM REINFORCING



ABANDONED RAIL SECTIONS ALONG WEST PROPERTY LINE



TEMPORARY POWER DISTRIBUTION



INITIAL SITE PREP MONITORING WELLS



INITIAL SITE PREP SEDIMENT BASINS



USPS PROJECT (LOOKING NORTH)



USPS UTILITY PLACEMENT



USPS PROJECT

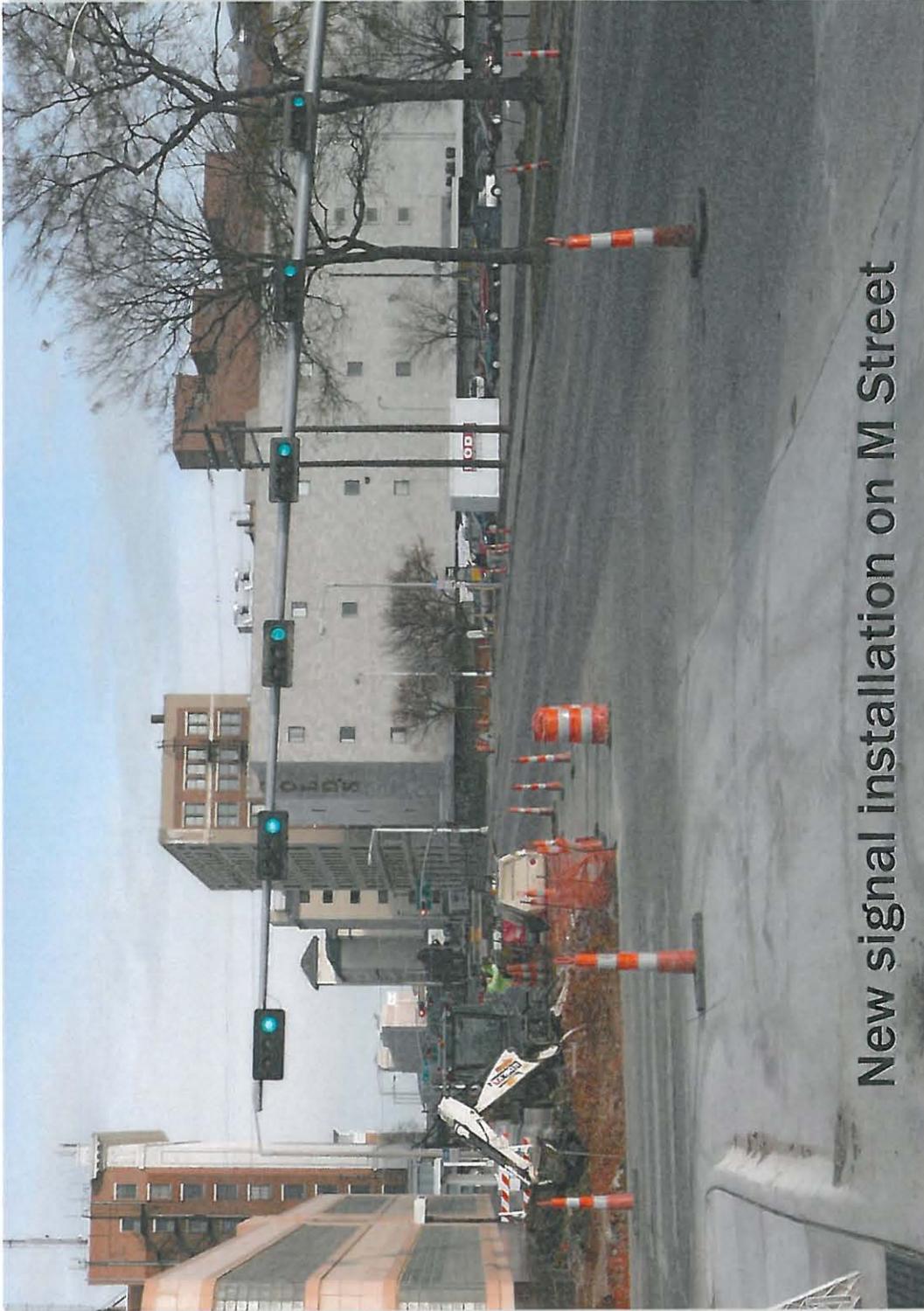


**Water line
installation**

**Sanitary line
installation**

M&N STREET

(LOOKING NORTH)



New signal installation on M Street

M&N STREET COMPLETED M STREET TURN LANE



Completed M Street turn lane

OTHER PROJECT MILESTONES / PROGRESS

- Half-way through Phase I of pile installation. On schedule with 360 piles completed as of today!
- Amtrak station out for bid. Bids due Nov. 22
- Garage No. 1 CM-at-Risk Notice for Letters of Interest posted on e-bid. Responses due Dec. 9th.

In memory of
Joe & Scout Gonzalez

Sadly missed by Teri Pope Gonzalez and Marly & Sir Al Capone Gonzalez
402-499-5716

For: The JPA | Public
Comments

Wed. Nov. 16, 2011

My question is: The green Space part of the map is about 4th or 5th street and L streets. My home is located at 1st & L streets with a children's park - 50 feet to the right of my property. You can stand in my driveway looking to the East and Alter Site (as the crow flies) is 4 or 5 blocks (maybe).

This children's park is named Schwartzkopf Park (a green space). In 2002 the City of Lincoln Let a Concrete Company and a Heavy Equipment Construction Company come into the neighborhood, 50 feet - one side of Schwartzkopf Park and 50 feet on the other side. The Children's Park (A green Space) is surrounded By these companies.

My neighborhood has been turned into a Heavy Equipment and Concrete construction area. With homes zoned Residential and these conditions have stolen our quality of life.

Is that what is going to happen here?

Thank you.

Teri Pope-Gonzalez
349 South 1st street (1st & L streets)
Lincoln, Neb. 68508 402-499-5716



CLERK OF THE NEBRASKA SUPREME COURT
AND NEBRASKA COURT OF APPEALS

2413 State Capitol Building, P.O. Box 98910
Lincoln, Nebraska 68509-8910
(402) 471-3731
FAX (402) 471-3480

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Clerk
Janice J. Culver
Deputy Clerk
Pamela J. Kraus
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Appellate Clerks
Lori D. Oliveros
Shelley Holmberg
Bailiffs

August 23, 2011

Teri Gonzalez
349 S 1st Street
Lincoln NE 68508

*Web site -
Supremecourt.Ne.gov
A-10-1144
Dates: Sept. 14, 2011
Decision: Oct. 11, 2011*

Re: A-10-001144, Gonzalez v. Husker Concrete, LLC

Enclosed is your copy of the Call. The above case is scheduled for argument on Wednesday, September 14, 2011, subject to call at 9:00 a.m. in the Court of Appeals Courtroom.

CLERK'S OFFICE

**Nebraska Supreme Court Policy for Audio Files
Available over the internet.**

Notice to Attorneys:

Beginning September 1, 2008, the Nebraska Supreme Court and Court of Appeals will make digital audio files of appellate court proceedings available to the public over the Internet through the Judicial Branch Web site, www.supremecourt.ne.gov. Audio files of all appellate court proceedings held in the Supreme Court and Court of Appeals court rooms will be uploaded to the Web site, unless otherwise specified by the Court.

Limiting Personal Information:

If otherwise confidential information is stated on the record in open court, it will become publicly available through the audio files of the Court. Since counsel and the parties are solely responsible for guaranteeing that confidential information be protected, the better practice is to avoid stating confidential or sensitive information during the audio recording of oral argument. Also, counsel and the parties are advised that audio files cannot be edited before they are uploaded to the Web site.

If confidential information is divulged during oral argument, counsel or the parties may move the Court to seal, restrict, or otherwise prohibit placement of the audio file on the Web site.

Privacy Rules:

Nebraska court rules protect certain personal and financial information from public disclosure at the trial court level. See Neb. Ct. R. § 6-1521 and Neb. Ct. R. § 6-1464. Both rules are available in the "Chapter 6 Trial Courts" section of www.supremecourt.ne.gov under Uniform District Court Rules of Practice and Procedure and County Court Rules of Practice and Procedure. If such protected information is divulged during oral argument before the Supreme Court or Court of Appeals, it will become available to the public through the placing of audio files on the Internet.

CALL

The Nebraska Court of Appeals

<http://supremecourt.ne.gov/appeals-court/call-coa.shtml?sub2>

WHEN PLACED UPON THE FINAL CALL, CASES WILL NOT BE CONTINUED EXCEPT ON MOTION AND FOR URGENT NECESSITY SHOWN. All cases placed on the Call of the Court of Appeals are subject to review for possible submission without oral argument pursuant to Neb. Ct. R. App. P. § 2-111(B)(1). Unless a case is removed from the Call by order of the court on or before September 6, 2011, the case will proceed to oral argument as set out below.

Unless otherwise indicated, the time allotted for the presentation of arguments is limited to 10 minutes per side. This is a maximum allowance and counsel are not required to use the full time allotted.

DURING ORAL ARGUMENT, WHEN THE TIMING LIGHT CHANGES FROM GREEN TO AMBER, THIS MEANS YOU ARE INTO YOUR REBUTTAL TIME, WHICH IS 2 MINUTES, UNLESS YOU HAVE RESERVED A GREATER OR LESSER TIME. HOWEVER, WHATEVER REBUTTAL TIME YOU HAVE ASKED TO BE RESERVED, YOUR ONLY NOTIFICATION WILL BE THE AMBER LIGHT. IF YOU CHOOSE TO CONTINUE ARGUING AFTER THE AMBER LIGHT, AND THE RED LIGHT APPEARS, YOU ARE COMPLETELY OUT OF TIME AND HAVE WAIVED REBUTTAL.

Below will be found a list of cases which will be called for hearing in the Court of Appeals Courtroom, State Capitol Building, Lincoln, Nebraska, commencing September 13, 2011.

Panel I Judges: Irwin, Cassel, and Pirtle, Judges.

TUESDAY, SEPTEMBER 13, 2011, subject to call at 9:00 a.m.

A-10-1043	State v. Vela-Montes.....	Douglas
A-11-0203	In re Interest of Ethan M.	Lancaster
A-10-1200	State v. McBride	Lancaster
A-10-1104	Whitney v. Doak	Hitchcock
A-10-0968	In re Interest of David M.	Madison

WEDNESDAY, SEPTEMBER 14, 2011, subject to call at 9:00 a.m.

A-10-0472	State v. Novascone.....	Douglas
A-10-0982	State v. King.....	Douglas
A-10-0883	Schneider v. Lambert.....	Lancaster
A-10-1144	Gonzalez v. Husker Concrete, LLC.....	Lancaster

IN THE NEBRASKA COURT OF APPEALS

MEMORANDUM OPINION AND JUDGMENT ON APPEAL

GONZALEZ V. HUSKER CONCRETE

NOTICE: THIS OPINION IS NOT DESIGNATED FOR PERMANENT PUBLICATION AND MAY NOT BE CITED EXCEPT AS PROVIDED BY NEB. CT. R. APP. P. § 2-102(E).

TERI GONZALEZ, APPELLANT AND CROSS-APPELLEE,
v.
HUSKER CONCRETE, LLC, AND TCW CONSTRUCTION, INC.,
APPELLEES AND CROSS-APPELLANTS.

FILED

OCT 11 2011

CLERK
NEBRASKA SUPREME COURT
COURT OF APPEALS

Filed October 11, 2011. No. A-10-1144.

Appeal from the District Court for Lancaster County: ROBERT R. OTTE, Judge. Affirmed in part, and in part reversed and remanded for further proceedings.

✕ Teri Gonzalez, pro se.

Brian S. Kruse, of Rembolt Ludtke, L.L.P., for appellees.

IRWIN, CASSEL, and PIRTLE, Judges.

PIRTLE, Judge.

INTRODUCTION

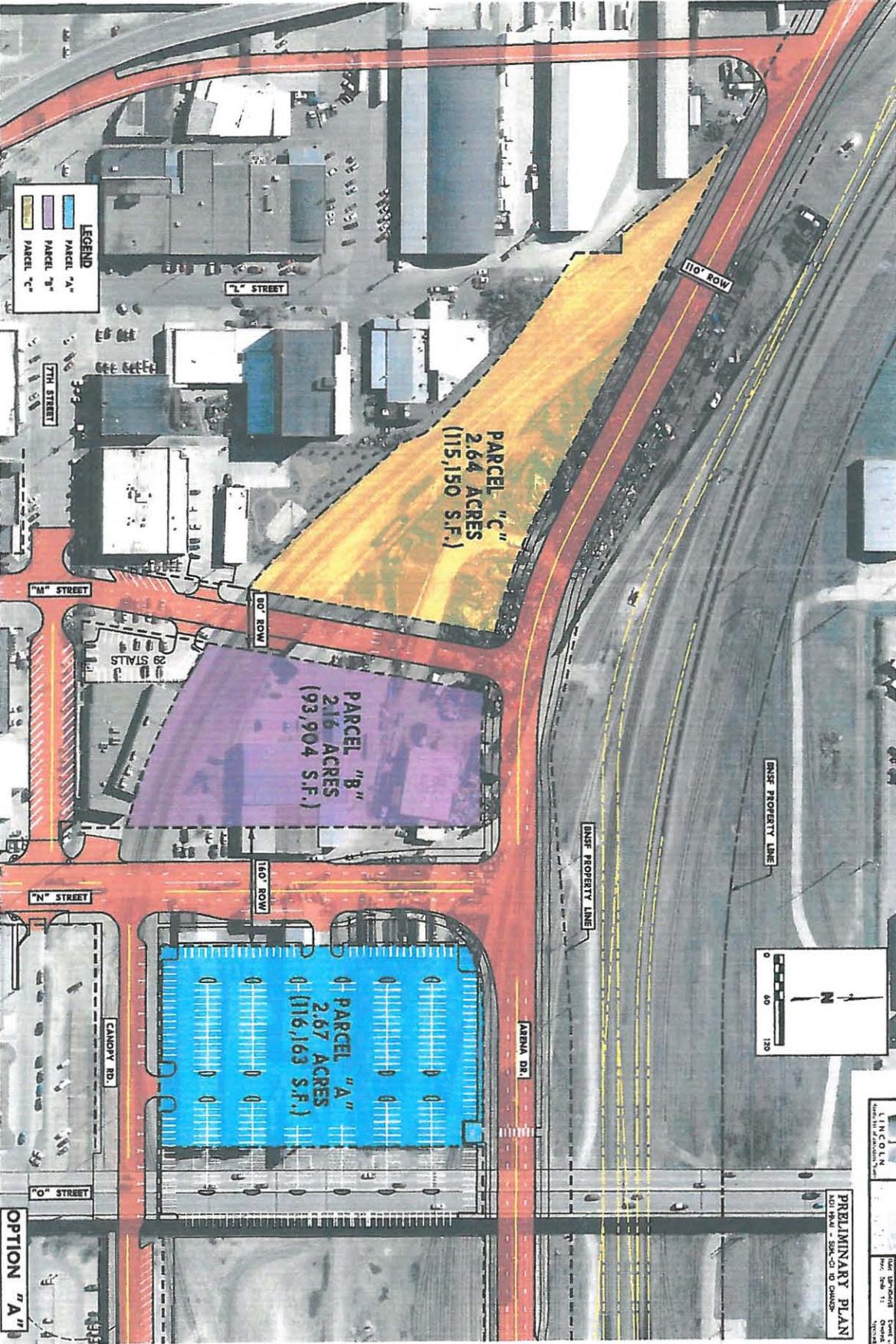
In this private nuisance action, Teri Gonzalez appeals from an order of the district court for Lancaster County, granting summary judgment in favor of the defendants, Husker Concrete, LLC, and TCW Construction, Inc. Gonzalez assigns that the district court erred in granting summary judgment in favor of the defendants. The defendants cross-appeal and argue that the district court erred in receiving certain exhibits into evidence. For the reasons set forth below, we affirm in part, and in part reverse and remand for further proceedings.

BACKGROUND

On November 24, 2008, Gonzalez filed a nuisance action against the defendants, stating that in 2002, the defendants built a concrete plant adjacent to her residence. Gonzalez alleged that the operation of heavy equipment at the concrete plant is loud, destroys the peaceful and quiet enjoyment of her home, and causes her headaches and mental distress. Gonzalez alleged

TITLE: PRELIMINARY PLAN
 DATE: 11-11-11
 DRAWN BY: J. J. [unreadable]
 CHECKED BY: [unreadable]
 SCALE: AS SHOWN

SS - PU NUMBER - SS



LEGEND

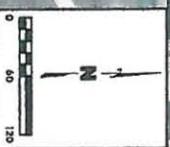
[Blue Box]	PARCEL "A"
[Purple Box]	PARCEL "B"
[Yellow Box]	PARCEL "C"

PARCEL "C"
 2.64 ACRES
 (115,150 S.F.)

PARCEL "B"
 2.16 ACRES
 (93,904 S.F.)

PARCEL "A"
 2.67 ACRES
 (116,163 S.F.)

OPTION "A"



PRELIMINARY PLAN
 LOT 104 - 104-CO TO CHANGE
 PROJECT NO. SHEET NO.
 SS - PU PROJECT - SS
 LINCOLN
 11/11/11

SS - PU NUMBER - SS

SS - PU NUMBER - SS

In memory of
Joe & Scout Gonzalez
Duchess St

Self financed by Teri Pope Gonzalez and Marty & Sir JJ Capano Gonzalez
402-499-5716

For: JPA/
Public Comments

Wed. 11-16-2011

With this "Cleanup Grant" - The Draft states: August 2007 HWS Consulting Group did a soil assessment. I ask Ernie Castillo/Urban Development - "How were they paid"? He could not tell me. The reason I ask - the neighborhood - 4 to 5 blocks to the west of Alter site has problems due to the Commercial Business in the area. August 2007 - The City promised to do soil samples in the neighborhood. Oct. 2007 when Rick Thorson/Health Dept came out and did take a soil sample. When it came down to doing the soil sample - Rick Thorson/Health Dept told me - and I quote "his Quinzer/Ombuds. of the City of Lincoln told him - "We would need to pay \$500.00 ourselves before the soil samples could be sent to a lab to find out what is making Everyone sick (as in breathing problems and other problems.)"

Will this grant also Cleanup - 405 Blocks to the west? Or Do we - the Neighborhood still have to come up with the funds ourselves!

Thank you! Teri Pope-Gonzalez
402-499-5716 379 South 1st street (1st & L streets)
Lincoln, N.B. 68508

EPA BROWNFIELD CLEANUP GRANT APPLICATION

for

Alter Trading Corporation

JayLynn LLC.

Union Pacific Railroad.

2011-2012

CITIZEN COMMENT SHEET

South Salt Creek Neighborhood Association

November 8, 7pm

Name: Teri Gonzalez / also known as Teri Pope - Gonzalez

Date: Tue. Nov. 15, 2011

402-499-5716

349 South 1st Street (1st & L streets) ←
Lincoln, Neb. 68508

Comment/Question:

my issue with this is - there was No time given to South Salt Creek Community Org. (SSCCO) The Nov. monthly board meeting was Tue. Nov. 8, 2011. Lincoln City Urban Development wants a letter by Nov. 21, 2011. (SSCCO) next meeting is in December.

I think if (SSCCO) was expected to get a letter - (SSCCO) should have been given more time to discuss and check into the Draft Ernie Castillo has.

This time around if the City of Lincoln Plans to put in a Concrete Company and/or Heavy Equipment Construction Company - Please be upfront and honest about it! Thank you for your time! Teri Pope - Gonzalez

Please contact Ernie Castillo, City Urban Development Department, 402-441-7855 or ecastillo@lincoln.ne.gov, if you have any questions or comments.

402-499-5716



SOUTH SALT CREEK SCOUT

...continuing to make our neighborhood a great place to Live & Work!

LINCOLN, NE.

SUMMER 2011

Come
Celebrate Our

35th

Anniversary!

Saturday, August 6th
from 11 am - 5pm
Cooper Park (8th & E st)

- You don't want to miss this:
- * \$1 Gas Card Raffles & more
 - * SSSCO Membership Drive
 - * Emergency Response Info.
 - * Music by DJ Jenny
 - * Runza Rex
 - & much more family fun!

Cost of this Newsletter Donated by Marty Gonzalez & Teri Pope Gonzalez
IN MEMORY OF JOE & SCOUT GONZALEZ

Letter from the President of SSSCO

Good Day Everyone,
For the last 35 years South Salt Creek Community Organization has had a purpose: To achieve better facilities and services to meet the needs of the residents of the area has been, in the center of our focus: We are trying to reenergize SSSCO and be able to achieve this goal. At the present time we have 13 board members to service a area of about 1300 families. That's 1 board member for every 100 families.

We are asking the families in the community to joins us to celebrate our 35th Anniversary and our 8th Annual Back to School Bash on August 6th, 2011 from 11am to 5pm at Cooper Park 8th & E St. Come and meet the 2011 board and have a good time. We will be having raffles, giving back packs filled with school supplies, membership drive (become a helping hand of SSSCO) and a picnic.

We are accepting any donations from our community businesses and individuals. Example Gift Certificates (for any basic necessity). For anyone wishing to donate to our 35th year Celebration, you may go to or send donations to any Wells Fargo Bank and tell them its for SSSCO 35th Anniversary/Back to School Bash (please put this in the memo area of check). Any donations would be greatly appreciated by all who attend. Donations are tax deductible. We are a 501(C) & Non-Profit Organization.

You can also contact us by email at:
southsaltcreekcommunityorg@windstream.net or you can call Lori at 402-474-1302 with any questions.

I look forward to our Celebration and hope you can attend. Thank you for any help we may receive in advance and hoping all a blessed day.

Lori L. Houde

HAPPY BIRTHDAY SSCCO

by Omadene Talley

Thirty-five years is along time, the South Salt Creek Community organization turned 35 years old on the 19th of July. That is when the Articles of Incorporation were signed by Stanley G. Talley and Peter Messires.

That is the "official birthday" but the first meeting of concerned citizens took place in November of 1975. The group adopted the title "South Bottom Neighborhood Association", then at the second meeting, on January 7, 1976 the name was voted on and changed to "South Salt Creek Community Organization."

The process of incorporation is involved and time consuming, so why would residents bother? The reasons for organizing

at the time concerned the increasing railroad traffic and other issues. Soon after the name change of the organization it was learned that the neighborhood was the target of a major consolidation by the Lancaster County Railroad Transportation Safety District. That I believe is what really lit the fire in the belly of the organization and was only the first of several more issues that would motivate the group. The neighborhood is still in flux, and the issues that affect it are no less important, that is why we are asking more people to join our organization and contribute time and ideas to better this place we call home, as the late Reva Reed, longtime resident and treasurer once said, "It's very important that each one get involved because it's everyone's neighborhood and everyone benefits". Someone once said that the more things change the more they remain the same. This is true.



ARTICLES OF INCORPORATION

OF

SOUTH SALT CREEK COMMUNITY ORGANIZATION, INC.

The undersigned, acting as incorporators of a corporation under the Nebraska Non-Profit Corporation Act, adopt the following Articles of Incorporation for such corporation:

FIRST: The name of the corporation is South Salt Creek Community Organization, Inc.

SECOND: It shall have perpetual duration.

THIRD: The purposes for which the corporation is organized are: to preserve the historic and residential character of the neighborhood through compatible land usage and housing rehabilitation; to achieve better facilities and services to meet the needs of the residents of the area; to develop a pleasing aesthetic character for the neighborhood; to develop local leadership and resources to effectively deal with neighborhood issues; through increased awareness to analyze the benefits and problems of living in the neighborhood; to participate in the determination of city and neighborhood needs and priorities in regard to Community Development Act funded activities; and to review and recommend action on projects and proposals affecting the physical and social development of the neighborhood based on the desires and wishes of the residents, including low-income and minorities.

FOURTH: The board of directors shall have the power to conduct all affairs of the organization. The number of directors shall be fixed by the By-Laws but shall not be less than five. The manner of elections or appointment and the term of office of members of the board of directors shall be that stated in the By-Laws. Provisions for the regulation of the internal affairs of the corporation, including provisions for the distribution of assets on dissolution or final liquidation shall be stated in the By-Laws.

FIFTH: The address of the initial registered agent of the corporation is 240 "D" Street and the name of its initial registered agent at such address is Gwan K. Peterson.

SIXTH: The number of directors constituting the initial Board of Directors of the corporation is fourteen, and the names and addresses of the persons who are to serve as the initial directors are:

NAME	ADDRESS
Lydia Schneider	509 "A" Street
John Worster	101 "D" Street
Bernice Polivka	321 "G" Street
Peter Messires	446 "E" Street
Gwen Peterson	240 "D" Street
Larry Wolczyk	240 "D" Street
Omadene Talley	310 "A" Street
Stan Talley	310 "A" Street
Katherine Weber	510 "C" Street
Paul Stoehr	727 "C" Street
Carol Ertl	724 "A" Street
Alex Lekai	1225 So. 1st Street
Anna Simmons	304 "E" Street
Harold Bauer	429 "E" Street

All of the above addresses are located in Lincoln, Lancaster County, Nebraska.

Join Us On August 6th
from 11 am- 5pm
@ Cooper Park
as we Celebrate our
35th Anniversary!

Neighborhood Fire Dept
& Fire Engine

Back to School
BASH!

Come Say Hi to
RUNZA REX!

Music by
DJ
Jenny!

\$1 Raffles!
Your chance to win
cool prizes!

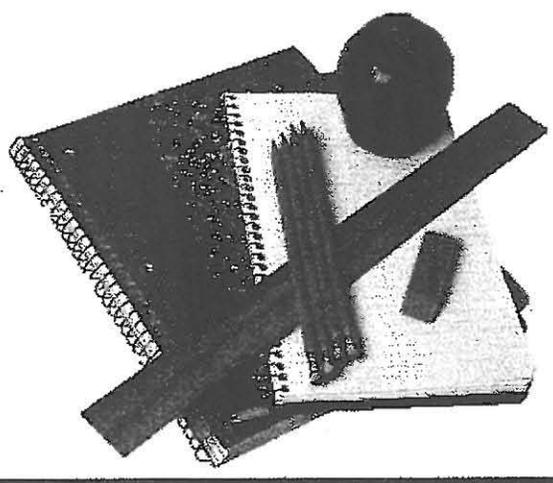
General SSCCO Meeting!
Meet the the 2011 Board

Don't Miss It!

THE BASH IS BACK

That's right the annual Back to School Bash is back, once more to take a little of the sting out of going back to school.

The Bash will take place along side our 35th Anniversary Celebration on August 6th. Again back packs with supplies will be available to students, while supplies last. Come on out to the Cooper Park shelter at 8th and E St. and meet up with friends from last year and meet some new friends. Hot dogs and refreshments will be provided.



CELEBRATING 25 YEARS IN 2011!



QUALITY + CONSCIOUS + PRINTING

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402-477-0815 | www.atozprint.com

Printing SSCCO Newsletter for 25 years



In Loving Memory of
Ascension "Joe" Gonzalez
5/25/1922 - 8/22/2009
"Gone but not forgotten"

Sadly missed by:
Son & Daughter-in-law
Marty Gonzalez &
Teri-Pope Gonzalez



2011 Board Members

- Linda Gropp • Lori Houle • Gary Irvin
- Steve Larrick • Cathy Maestas Graham
- Elisha Mackling • P.C. Meza
- Teri Pope Gonzalez • Ray Ridgeway
- Susan Schmidt • Steve Sim • Omadene Talley
- Dan Walker • Jennifer Wendelin

Contact SSCCO at southsaltcreekcommunityorg@windstream.net

 Don't miss a thing! Follow:
SOUTH SALT CREEK COMMUNITY ORGANIZATION

Want to help keep the community clean?
Check out this free app in the Android Market,
search "Lincoln Action Center"

RESOLUTION NO. WH- _____

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

3 That the attached Amendment No. 9 to the Agreement for Engineering Services between
4 Olsson Associates dba Lincoln Haymarket Infrastructure Team and the West Haymarket Joint
5 Public Agency, Haymarket Infrastructure Design Project No. 870302 to amend the existing
6 Agreement to revise the design and bidding for the M & N Street Roadway Improvement project,
7 as amended by Amendment No. 7 approved by Resolution No. WH 00208, to include Bid Package
8 3 for an additional fee of \$98,825.00 is hereby approved and the Chairperson of the West
9 Haymarket Joint Public Agency Board of Representatives is hereby authorized to execute said
10 Amendment No. 9 on behalf of the JPA.

11 The City Clerk is directed to return a fully executed original of the Agreement to Olsson
12 Associates, 1111 Lincoln Mall, Lincoln, NE 68508.

13 Adopted this _____ day of December, 2011.

Introduced by:

Approved as to Form & Legality:

West Haymarket Joint Public Agency
Board of Representatives

Legal Counsel for
West Haymarket Joint Public Agency

Tim Clare

Chris Beutler

Eugene Carroll

AMENDMENT NO. 9
to AGREEMENT for ENGINEERING SERVICES
between OLSSON ASSOCIATES
dba LINCOLN HAYMARKET INFRASTRUCTURE TEAM and the
WEST HAYMARKET JOINT PUBLIC AGENCY
HAYMARKET INFRASTRUCTURE DESIGN PROJECT

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 8th day of December, 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 00055, hereinafter called the existing Agreement. The general description of work to be added to the existing Agreement under this Amendment revises the design and bidding for the M & N Street Roadway Improvement project to add Bid Package 3 as modified by Amendment No. 7 (Resolution WH 00208). A detailed breakdown of the amended scope of services for this project is included in the attached letter dated November 30, 2011 (includes Appendix A).

The fee for amended M & N Street Design is \$98,825.00 and increases the total contract amount from \$8,689,557.00 to \$8,788,382.00.

NOW, THEREFORE, it is hereby agreed that the existing Agreement be amended to include the services as described herein.

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 (as previously amended) 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: _____



Olsson Associates | Schemmer | Benesch | Clark Eriksen
Farris Engineering | Sinclair Hill | Davis Design

November 30, 2011

Mr. Chad Blahak
City of Lincoln Developmental Services
555 S. 10th Street
Lincoln, NE, 68065

RE: Amendment for M & N Street – Bid Package 3

Dear Mr. Blahak:

Recently some independent planners took a fresh look at the M & N street lane configurations and produced some recommendations for reconfiguration of driving lanes, bike lanes and parking. Benesch understands that the City desires to change the configuration of N Street in conformance with the planners recommendations. The City also has directed that M Street will remain a 2-way street with modest modifications. As we establish these parameters, Benesch has now been able to identify a scope and fee to produce the design plans and construction document packages. We see the scope of our amended services to be as follows:

M Street

The new typical section for M Street between 8th and 9th Streets will include one westbound lane and two eastbound lanes. At the intersection of M and 9th Streets, the southerly eastbound lane will be designated as a right turn only lane. The second eastbound lane will be designated as a through lane movement.

The current pavement width is 61'. This existing pavement section can accommodate 8' wide parallel parking stalls in the eastbound direction and 17' wide diagonal parking stalls as they exist today in the westbound direction. Under this scenario, no new traffic signal construction will be required. Some parking meters will be called out to be removed. A new pavement marking plan for this block of M Street will be included in the plans.

8th Street

The 8th Street pavement section will remain as existing. No new sidewalks paving geometrics will be required except where 8th Street ties into the new N Street intersection. Existing tracks in 8th Street, 7th Street and along the north west side of L Street that are within the City Right-of-Way (ROW) will be removed with the project and the pavement replaced as a result of the removal of the tracks will be included in the plan set.

N Street

The N Street Typical Section from 7th to 8th Street as shown on the recently developed planners sections AA and BB will revise the geometrics of the roadway considerably. We will develop a typical section

in general conformance with this concept. We will have constraints associated with this typical and working with the City come to consensus on how to fit the desired amenities within these constraints.

Some additional analysis will be performed by Benesch and our Subconsultant FEHR & PEERS in regards to the bike lane design. The analysis will focus on signing signalization and safety elements of bike lane design.

One constraint to the design to note is that LES plans to construct a 7.5' diameter free standing transmission pole structure at the SE corner of the 7th & N Street Intersection. The face of that pole is only 6' from the currently designed back of curb (BOC) of N Street. This constraint will be address in the design.

The typical section of N Street between 8th & 9th Street is currently designed at 60.0' BOC to BOC. The recent planning study request this section be widened to 68.0' This will require considerable design changes including revisions to the traffic signal design at the intersection of 9th and N Streets.

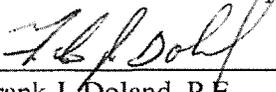
Plan elements that need to be revised as a result will include:

- Typical Sections
- Project Overview
- Summary of Quantities
- Geometrics
- Construction Phasing
- Joints & Grades
- Intersection Curb Ramps
- Construction Sheets
- Storm Drainage
- Pavement Marking & Signing
- N Street Cross Sections
- Traffic Signal at N & 9th Streets Intersection

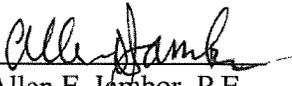
Benesch can proceed with the design immediately upon being give approval of this Amendment. If given Notice-to-Proceed by December 9, 2011 we can have the plans and special provisions completed by February 17, 2012 and ready for a March, 2012 bid letting. Our proposed fee estimate is \$98,825.00. The fee breakdown is attached.

Sincerely,

Alfred Benesch & Company



Frank J. Doland, P.E.
Sr. Project Manager



Allen F. Jambor, P.E.
Vice President

**Appendix A
Total Project Fee**

(Project Description)
City Project Number

Task No.	Task Description		Fee Estimate
1	Project Management		\$3,864.00
2	General Project Meetings		\$3,220.00
3	Survey		\$0.00
4	Utility Coordination		\$966.00
5	Public Involvement		\$0.00
6	Drainage Analysis		\$4,986.00
7	Traffic		\$8,348.00
8	First Submittal		\$27,088.00
9	Geotechnical Evaluation		\$0.00
10	Environmental / Historical Review		\$0.00
11	Exist Water - Sanitary Relocates		\$0.00
12	Structural / Bridge Design		\$0.00
13	Water Main Design		\$5,954.00
14	Wastewater Design		\$0.00
15	Right-of-Way		\$0.00
16	Landscape Design		\$0.00
17	Second Submittal		\$13,603.00
18	QA/QC		\$1,130.00
19	Permit Applications		\$0.00
20	PS&E Submittals		\$2,736.00
21	Bidding Phase		\$1,914.00
22	Construction Phase		\$0.00
23	Expenses		\$25,016.00
		Total Project Cost	\$98,825.00

TOTAL EXPENSES

Expenses	Amount		\$ Ea.		Cost
Design					
Travel, mile (car)	50	MILES	0.56		\$16.00
Travel, mile (survey vehicle)	0	MILES	0.50		\$0.00
FEHR & PEERS Subconsultant	1	Ea.	25000		\$25,000.00
Half Size Plots (each)	0	EA.	1		\$0.00
Mylars, Half Size Plots (each)	0	EA.	1		\$0.00
Aerial Mapping (DTM)		L.S.			\$0.00
Miscellaneous Expenses(Plots, Copies, Reports, etc.)	0	L.S.	65		\$0.00
Geotechnical Borings and Report		L.S.			\$0.00
				Sub Total	\$25,016.00
Survey Expenses					
Public Involvement Expenses					
				Total	\$25,016.00

PAY RATES (BASED ON HOURLY RATE SCHEDULE PER CLASSIFICATION)

Overhead Rate : 0%

Profit : 0%

Personnel		Total Hr.	Hourly Rate (2010)	Cost	Total Cost
Principal	Principal	0	\$183.00	\$0	\$0.00
Senior Project Manager	PM	10	\$161.00	\$1,610	\$1,610.00
Senior Engineer	Sr Eng	145	\$161.00	\$23,345	\$23,345.00
Project Manager	Traffic	16	\$140.00	\$2,240	\$2,240.00
Structural Engineer	STR Eng	0	\$0.00	\$0	\$0.00
Project Engineer I	PE	6	\$97.00	\$582	\$582.00
Project Engineer II	PE	88	\$105.00	\$9,240	\$9,240.00
Senior Technologist	ST	168	\$105.00	\$17,640	\$17,640.00
Designer II	D2	252	\$76.00	\$19,152	\$19,152.00
Office Assistant	CLER	0	\$45.00	\$0	\$0.00
Field Lab Technician III	FLT III	0	\$67.00	\$0	\$0.00
Olsson Associates - Coordination	OAR	0	\$155.00	\$0	\$0.00
Public Involvement Coordinator	PI Coord	0	\$0.00	\$0	\$0.00
Graphic Designer	GR. DES.	0	\$0.00	\$0	\$0.00
Illustrator	ILL	0	\$0.00	\$0	\$0.00
Webmaster / Database Developer	WM / DD	0	\$0.00	\$0	\$0.00
Survey Project Manager	RLS	0	\$0.00	\$0	\$0.00
Surveyor	RLS	0	\$77.00	\$0	\$0.00
Instrument Operator	IO	0	\$51.00	\$0	\$0.00
Survey Crew Member (CM)	SCM	0	\$0.00	\$0	\$0.00
Survey Technician	Srvy Tech	0	\$0.00	\$0	\$0.00
Expenses					\$25,016.00
		685		\$73,809	\$98,825.00

MAN-HOUR ESTIMATE - PROJECT NAME/PROJECT NUMBER

Description of Work Items / Tasks	Principal	P.E.	S. Eng.	Traffic	STR Eng.	P.E.	P.E.	ST	DZ	CLER	FLTR	DAR	PI Coord	GR DES	ELL	VIM/DD	RLES	RLES	FLS	D	SQM	SQM Exs	Total Manpower	Total Labor Hrs	Overhead 0.00%	Total (A+B)	Profit 0.00%	Total Fee (A+B+C)
Environmental/Historical Review																												
REPA Environmental Review	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Traffic Noise Study	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Wetland and Habitat Investigation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Wildlife and Habitat Investigation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Historical / Archeological Investigation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Impacts to Historic Environmental Resources	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Prepare Draft Environmental Review	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Engage Special Review	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Public Land Impacts (AL & RL)	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Water Main/Wastewater Relocation																												
Water Main/Wastewater Relocation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Structural/Bridge Design																												
Structural Design and Permit Preparation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Submittal Design and Permit Preparation	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Reinforcing Wall	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Drainage System	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Water Main Design																												
Water Main Design	0	0	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$2,092.00	
Vertical Alignment	0	0	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$2,092.00	
Clearance	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Utility Conflict Investigation and Resolution	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$1,776.00	
Wastewater Design																												
Wastewater Design	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Vertical Alignment	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Clearance	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Utility Conflict Investigation and Resolution	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Right-of-Way																												
Right-of-Way Plan	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Legal Descriptions	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
State Right of Way	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Landscape Design																												
Landscape Design	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Second Submittal																												
Second Submittal Design	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Review of Contract Sheets	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Typical Section Sheets	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
General Note Sheet	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$1,048.00	
Detail Sheets	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Horizontal/vertical Control Sheets	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Construction Planning	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$1,048.00	
Utility Control Sheets	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Joint and Grout Sheets	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$4,416.00	
Joint and Grout Sheets	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$2,092.00	
Construction Sheets	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Removal Sheets	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$2,376.00	
Relining Water Plan and Profile Sheets	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Relining Water Details	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Construction Planning	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Construction Planning	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Construction Planning	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Construction Planning	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Construction Planning	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Construction Planning	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Construction Planning	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Construction Planning	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Construction Planning	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Construction Planning	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0.00	
Construction Planning	0																											

MAN-HOUR ESTIMATE - PROJECT NAME/PROJECT NUMBER																													
Task No.	Description of Work Items / Tasks	Primal	PM	Sr Eng	Trk/Eng	Gr Eng	PE	PE	ST	IT2	CLER	PLTR	ORR	PI Coord	GR DES	ILL	WM/DD	RLS	IC	SCM	Shy Tech	Total Members	Total Labor Fee	Overhead 0.00%	Total (A+B)	Profit 0.00%	Total Fee (A+B+C)		
18	QA/QC	0	2	0	0	0	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$1,120	\$0	\$1,120	\$0	\$1,120.00	
	Site Permit	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0.00	
	SWPPP	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0.00	
	NPDES Permit	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0.00	
	Railroad Permit	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0.00	
	Railroad Agreement	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0.00	
	Railroad Insurance	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0.00	
	HOOR Use of Right of Way Permit	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0.00	
	HOOR Agreement	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0.00	
	Laboratory County Utility Permit	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0.00	
	Laboratory County Utility Agreement	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0.00	
	Water Pollution Control Permit	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0.00	
	Water Pollution Control Agreement	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0.00	
	City/County Health Dept. License Permit	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0.00	
	City/County Health Dept. License Agreement	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0.00	
20	PS&E Submittals	0	0	1	0	0	0	0	1	4	0	0	0	0	0	0	0	0	0	0	0	0	0	\$1,488	\$0	\$1,488	\$0	\$1,488.00	
	Final PS&E Submittal	0	0	1	0	0	0	0	1	4	0	0	0	0	0	0	0	0	0	0	0	0	0	\$1,488	\$0	\$1,488	\$0	\$1,488.00	
	Final PS&E Submittal	0	0	1	0	0	0	0	1	4	0	0	0	0	0	0	0	0	0	0	0	0	0	\$1,488	\$0	\$1,488	\$0	\$1,488.00	
21	Bidding Phase	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0.00	
	Attend Pre-Bid Meeting	0	0	2	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0.00	
	Answer Design Questions	0	0	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0.00	
	Prepare Addenda	0	0	4	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0.00	
22	Construction Phase	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0.00	
	Obtain Construction Agreement	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0.00	
	Review Shop Drawings	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0.00	
	Prepare Change Orders	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0.00	
	Prepare Project Sheets	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0.00	
	Attend Design Meetings	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0.00	
	Attend Weekly Progress Meetings	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0.00	
	Obtain Impediment Control Site Visits	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0.00	
	Review and Clarify Pay Requests	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0.00	
	Total Manhours	0	10	148	18	254	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	685	\$73,809	\$0	\$73,809	\$0	\$73,809.00
	Total	0	\$0	\$1,610	\$23,345	\$2,240	\$0	\$582	\$9,240	\$17,640	\$19,152	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$73,809	\$0	\$73,809	\$0	\$73,809.00	
	Total Labor, OH & Profit	0	\$0	\$1,610	\$23,345	\$2,240	\$0	\$582	\$9,240	\$17,640	\$19,152	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$73,809	\$0	\$73,809	\$0	\$73,809.00	

RESOLUTION NO. WH- _____

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

3 That the attached Amendment No. 10 to the Agreement for Engineering Services between
4 Olsson Associates dba Lincoln Haymarket Infrastructure Team and the West Haymarket Joint
5 Public Agency, Haymarket Infrastructure Design Project No. 870305 to amend the existing
6 Agreement to include geotechnical engineering, existing fill assessments, assignments for (1)
7 multi-story pad sites in the X-Yard Area; and (2) Arena Drive and N Street, for an additional fee
8 of \$20,522.00, is hereby approved and the Chairperson of the West Haymarket Joint Public
9 Agency Board of Representatives is hereby authorized to execute said Amendment No. 10 on
10 behalf of the JPA.

11 The City Clerk is directed to return a fully executed original of the Agreement to Olsson
12 Associates, 1111 Lincoln Mall, Lincoln, NE 68508.

13 Adopted this _____ day of December, 2011.

Introduced by:

Approved as to Form & Legality:

West Haymarket Joint Public Agency
Board of Representatives

Legal Counsel for
West Haymarket Joint Public Agency

Tim Clare

Chris Beutler

Eugene Carroll

AMENDMENT NO. 10
to AGREEMENT for ENGINEERING SERVICES
between OLSSON ASSOCIATES
dba LINCOLN HAYMARKET INFRASTRUCTURE TEAM and the
WEST HAYMARKET JOINT PUBLIC AGENCY
HAYMARKET INFRASTRUCTURE DESIGN PROJECT

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 8th day of December, 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 00055, hereinafter called the existing Agreement. The general description of work to be added to the existing Agreement under this Amendment generally shall include geotechnical engineering, existing fill assessments, assignments for (1) multi-story pad sites in the X-Yard Area; and (2) Arena Drive and N Street. A detailed breakdown of the amended scope of services for this project is included in the attached letter dated November 7, 2011 (including Appendix A-1).

The fee for the existing fill assessments is \$20,522.00. The total fee for the work associated with this Amendment increases the total contract amount from \$8,788,382.00 (including Amendment No. 9) to \$8,808,904.00.

NOW, THEREFORE, it is hereby agreed that the existing Agreement be amended to include the services as described herein.

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 (as previously amended) 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: _____

November 7, 2011

Mr. John S. Olsson
Olsson & Associates
1111 Lincoln Mall
Lincoln, NE 68508

REFERENCE: Geotechnical Engineering Fill Assessment Assignments:
1. Multi-Story Pad Sites In X-Yard Area - Existing Fill Assessment
2. Arena Drive and "N" Street Existing Fill Assessment
3. Altar and Watson Brickson Sites Existing Fill Assessment
City of Lincoln West Haymarket Project

Dear John:

On September 16th, 2011 Alfred Benesch and Company (Benesch) responded to the City of Lincoln's request for the providing of services associated with the completing of 3 different geotechnical engineering assignments designed to assess the integrity of existing fill materials within the three referenced areas within the West Haymarket project. During the later part of October, 2011 the City of Lincoln requested that Benesch modify the cost estimate to cover the providing of only the first two referenced fill assessment assignments. This cost estimate is similar to the September 16th, 2011 submittal with the exception that the estimated fee for service provided equals only the sum of the estimated fees associated with these first two assignments.

Specifically, the three geotechnical engineering assignments that Benesch intended to address under the September 16th, 2011 submittal included the following:

Fill Assessment Area 1: Perform a subsurface exploration and laboratory soils testing to assess the extent and suitability of existing fill materials located within the that portion of the multi-story pad sites located within the current X-yard track area between the Harris Street Overpass and approximately "S" street extended west.

Fill Assessment Area 2: Perform a subsurface exploration and laboratory soils testing to assess the extent and suitability of existing fill materials located along Arena Drive between "N" Street and "O" Street, along Arena Drive from "S" Street extended to the west to the existing pedestrian walkway, and along "N" street between approximately 6th Street and Arena Drive.

Fill Assessment Area 3: (This assignment not proposed for performance at this time.) Perform a subsurface exploration and laboratory soils testing to assess the extent and suitability of existing fill materials located within those portions of the Altar and Watson Brickson sites bounded by "M" Street, "N" Street, 6th Street, and Arena Drive.

Specific discussion concerning the three proposed fill assessments, services proposed to be performed, and finding and recommendations to be provided are presented immediately below.

TWO GEOTECHNICAL ENGINEERING FILL ASSESSMENTS:

Existent Fill Materials Assessment within 2 West Haymarket Areas:

It is Benesch's understanding that the City of Lincoln desires that the first two assignment areas discussed above have geotechnical engineering site explorations, laboratory soils testing, and analysis in an attempt to delineate the extent and quality of existent fill materials. Additionally, it is desired that the fill materials be delineated to assess their suitability (i.e., beneficial fill) or non-suitability (i.e., over excavation for disposal) for reuse when constructing backfill or fill within the West Haymarket Development building sites.

Benesch is proposing to perform a total of 28 shallow (10-foot-deep) borings spaced approximately 150 feet on center over the proposed building pad sites, and approximately 150 feet on center along the proposed streets discussed above. Of these 28 borings (1) 12 borings are proposed within the Multi-Story building pads sites located within the current X-yard trackage area, and (2) 16 borings are proposed along the proposed Arena Drive and "N" Street alignments. This boring spacing was selected given the erratic nature and variability of subsurface fill conditions encountered to date between the Arena site and the Harris Street Overpass.

The geotechnical engineering report prepared as part of performing these services will address topics that include but are not limited to fill locations, the variability of fill compaction across the site, the need for removal and either reworking or replacement of existing fill with compacted materials, the existing fill materials suitability for reuse as compacted backfill or fill, and the need for manipulation of the beneficial fill materials moisture content to achieve a required degree of compaction.

DRILLING, IN-SITU TESTING, AND SAMPLING METHODS

BENESCH field exploration program is discussed above. Dutch friction-cone soundings would be performed at each of the proposed 28 boring locations.

The Dutch friction-cone soundings will be performed in accordance with ASTM D 3441, Standard Test Method for Deep, Quasi-Static, Cone and Friction-Cone Penetration Tests of Soil. The mechanical penetrometer operates in 8-inch increments, using a set of inner rods to operate a telescoping tip and to transmit the components of penetration resistance (cone bearing and friction sleeve resistance) to the surface for measurement. The plot of the test data provides data on soil types, layering, uniformity, and strength of various soils encountered. These data will be used to determine the locations of critical soils that might require sampling.

The soil borings will be made in accordance with ASTM D 1452, Standard Practice for Soil Investigation and Sampling by Auger Borings. Those Dutch friction-cone soundings and borings performed within the heart of the X-yard tracks will be performed using our CME-550 ATV drill rig due to access issues that would arise for drilling amidst the tracks using a truck mounted drill rig. The majority of the remainder of the borings and Dutch friction-cone soundings will be performed with our CME-75 truck mounted drill rigs. Machine driven straight-auger having an outside diameter of six inches will be used to advance the holes for thin-walled tube sampling and split-spoon sampling. Hollow-stem auger, having an inside diameter of 3-1/4 inches, will be utilized if required due to caving soils that will not sustain an open boring during the performance of the drilling operations. Relatively undisturbed samples of cohesive soils will be obtained at selected locations (based upon Dutch cone test results) in accordance with ASTM D 1587, Standard Method for Thin-Walled Tube Sampling of Soils, using an open-tube sampler having an outside diameter of 3.0 inches.

Penetration tests (if performed) will be performed in accordance with ASTM D 1586, Standard Method for Penetration Test and Split-Barrel Sampling of Soils. Representative samples of the soil will be obtained for identification purposes. The resistance of the soil to penetration of the sampler, measured in blows per foot (N), is an indication of the relative density of cohesionless soil and of the consistency of cohesive soil.

Any subsurface contamination, as defined by the laws and regulations of the State of Nebraska, that is detected by odor or visual examination will be reported to the Owner with a written recommendation to consult an environmental specialist to evaluate any compliance and/or property development issues. A

review of the Fee Estimate associated with each of these three geotechnical engineering fill soil assessments shows that we have not assumed performing environmental sampling or testing for either hydro-carbon or heavy metals. This sampling and testing could be performed if deemed important to the City and Private Environmental Staff involved with the West Haymarket Development project.

The subsurface materials will be identified and described in accordance with ASTM D 2488, Standard Practice for Description and Identification of Soils (Visual-Manual Procedure).

LABORATORY TESTING PROGRAM

The laboratory tests and procedures considered necessary to evaluate the pertinent engineering properties of the foundation soils include, but may not be limited to, the following:

1. Visual inspection of the thin-walled tube samples and disturbed soil samples by a member of BENESCH' professional engineering staff.
2. Classification of typical soil types in accordance with ASTM D 2487, Standard Test Method for Classification of Soils for Engineering Purposes.
3. Moisture content and dry density of selected undisturbed samples of cohesive soil. These data correlate with the strength and compressibility of the soils. High moisture content and low density usually indicate low strength and high compressibility.
4. Unconfined compression tests and triaxial compression tests, if performed, on representative samples of clayey foundation soils. The unconfined compression tests will be performed in accordance with ASTM D 2166, Standard Test Method for Unconfined Compressive Strength of Cohesive Soil. Triaxial tests that might be recommended to be performed would be performed in accordance with ASTM D 4767, Standard Test Method for Consolidated-Undrained Triaxial Compression Test on Cohesive Soils. Unconfined and triaxial test data are used to determine the bearing capacities of foundation soils.

GEOTECHNICAL ENGINEERING EVALUATION AND RECOMMENDATIONS

The field and laboratory data and recommendations that would be included in the geotechnical engineering report are as follows:

1. Penetration diagrams of Dutch friction-cone penetrometer.
2. Boring logs.
3. Density and moisture content of undisturbed soil samples.
4. Moisture content of fill encountered within the three assessment areas.
5. Extent (depth) of suitable fill (beneficial fill) for reuse during the performance of grading operations within these portions of the West Haymarket Development project site.
6. Extent (depth) of unsuitable fill (over excavation for disposal fill) for reuse during the performance of grading operations within this portion of the West Haymarket Development project site.
7. Geology:
 - a) Depth to groundwater (if encountered to the depth drilled).
 - b) Summary of surface and subsurface conditions at the site.
8. Soil classification chart and tables listing the criteria used to describe various soil properties.
9. The moisture-density relations of potential borrow materials that may differ from those encountered and tested to date to compliment previous and current on-going operations on the West Haymarket Development project.
10. Soil classification test data.

Benesch is proposing to prepare one geotechnical engineering report that will present the findings obtained from the field exploration and soil testing programs performed for the two assessment areas along with specific geotechnical engineering recommendations associated with each specific assessment area.

FEE ESTIMATE

Benesch's estimate of the amount of work involved in the investigation, laboratory soils testing, analysis, and reporting of the findings associated with assessing the existing fill materials within each of the three assessment areas discussed above is provided in Attachments A-1. The estimated total fees presented in Attachment A-1 for work associated with (1) Exploration within the west portion of the pad sites located within the current X-yard area, and (2) Exploration along Arena Drive and "N" Street \$9,764.50 and \$10,758.00, respectively, for a total combined estimated total fee of \$20,522.50. The total fee will not exceed \$20,525.00 without the City of Lincoln's express authorization. As stated earlier, no fee has been computed for either sampling or testing soils encountered for hydro-carbon or heavy metals; or for drumming up and disposal of any contaminated soils or auger wash waters. A fee for the testing for hydro-carbons or heavy metals could be provided (if it is determined that they are required when performing the geotechnical engineering services discussed herein.

TIME SCHEDULE

The approximate time required to complete the combined two assessments is three to four weeks. Drill rigs could be made available to commence work on more than one assignment at a time within several weeks. Verbal discussion and recommendations could be provided within one week after the drilling associated with each assessment area has been completed. The above discussed time frame assumes that the BNSF Railway Company, Altar Scrap and Watson-Brickson will be amiable for the performance of drilling operations proposed on their respective properties.

AUTHORIZATION TO PROCEED

If this fee estimate is acceptable to the City of Lincoln and approval is given for the performance of the geotechnical engineering services discussed herein, please provide Benesch through the Lincoln Haymarket Infrastructure Team authorization to proceed. Services proposed herein will form the scope of services to be provided the West Haymarket project.

BENESCH appreciates having the opportunity to present this proposal. Please do not hesitate to contact us at your convenience if any clarification or additional information is required.

Respectfully submitted,

ALFRED BENESCH & COMPANY

Gary E. Proskovec, P.E.
Geotechnical Engineering Services Director

GEP/gep
Enclosure

V-2015FillAssess_X-Yard_ArenaDr&NST_Alta&WatsonBricksonGeotCostEstPropLtrC.doc

Orig. & 1 pc.: Mr. John S. Olsson – Olsson Associates
1 pc.: Mr. Jim Linderholm – Alfred Benesch & Company

Attachment A-1
Scope of Services and Fee Estimate
West of Multi-Story Structures, Arena Drive, "N" St., Non Watson-Brickson
Fill Assessment

Item No.	Description	Estimated Quantity
A. EXPLORATION W. OF MULTI-STORY PAD SITES - X-YARD AREA		
(12 Borings):		
I.	Mobilization, One-Call Coordination, And Equipment Preparation:	
	1. Drill Rig and Crew	
	a1. CME 75 Drill Rig	- hr.
	a2. CME-550 ATV Drill Rig, Truck and Trailer	4 hr.
	a3. Tracked Bobcat Drill Rig & Trailer	- hr.
	b. Field/Lab Technician III	6 hr.
	c. Field/Lab Technician II	5 hr.
	d. Field/Lab Technician I	- hr.
	2. Support Vehicle.	
	a. Vehicle Usage	3 day
	b. Vehicle Mileage	30 mi.
II.	Site Layout (for 12 Borings), Water Readings, Cleanup	
	1. Field/Lab Technician III	5 hr.
	2. Field/Lab Technician I	5 hr.
	3. Field/Lab Technician I	- hr.
	4. Survey Crew	Est'd Amt.
III.	Drilling and Sampling	
	1. Dutch Friction-Cone Soundings	120 ft.
	(Twenty Four 10-foot-deep soundings)	
	2. Auger Borings (6-inch-dia. Straight Auger)	120 ft.
	(Twenty Four 10-foot-deep borings)	
	3. Standard Penetration Tests	
	(0-50 ft. depth)	-
	4. Obtaining Disturbed soil Samples	48
	5. Obtaining Disturbed Proctor Samples	2
	6. Obtaining Undisturbed Soil Samples	6
	7. Backsaver Soil Probe	-
	8. Hand Auger Borings	
	a. Field/Technician III	- hr.
	b. Field/Lab Technician I	- hr.
	c. Electric Core Machine Rental	- hr.
	d. Coring (bit wear)	- in.
	e. Use of 3" Shelby Tubes	-
	f. Hand Auger	- day
IV.	Materials Laboratory Testing:	
	1. Soil Density and Moisture Content Determination	9
	2. Soil Moisture Content Determination	48
	3. Liquid & Plastic Limits, and Plasticity index (dry prep.)	2
	4. Unconfined Compressive Strength of Soil	
	a. Uncarved shelby tube sample	-
	b. Carved sample	-
Item		Estimated

Attachment A-1
Scope of Services and Fee Estimate
West of Multi-Story Structures, Arena Drive, "N" St., Non Watson-Brickson
Fill Assessment

No.	Description	Quantity
IV. Materials Laboratory Testing (cont'd.):		
5.	Sand Content (+#200 only)	-
6.	Mechanical Analysis w/ + #10 Material (Hydrometer)	2
7.	Moisture-Density Relations of Soil(ASTM D698 Method A)	2
8.	Soil Corrosivity Test for Concrete (redox, pH, chlorides, sulfates)	- set
9.	Soil Corrosivity Test for Steel (redox, pH, resistivity, sulfides)	- set
10.	Soil Resistivity (App. A of ANSI/AWWA C105/A21.5)	-
V. Project Coordination, Analysis, Report Preparation, & Project Consultation:		
1.	Senior Project Manager	8.0 hr.
2.	Senior Project Engineer	2.0 hr.
3.	Project Engineer II	14.0 hr.
4.	Designer II	- hr.
5.	Project Scientist II	10.0 hr.
6.	Project Assistant II	- hr.
VI. Reimbursable Expenses and Equipment		
	Photocopies, Postage, Telephone Rate Charges,	
	Est'd. "A" Total: \$9,764.50	
B. EXPLORATION ALONG ARENA DRIVE AND "N" STREET		
(16 Borings):		
I. Mobilization, One-Call Coordination, And Equipment Preparation:		
1.	Drill Rig and Crew	
a1.	CME 75 Drill Rig	2.0 hr.
a2.	CME-550 ATV Drill Rig, Truck and Trailer	2.0 hr.
a3.	Tracked Bobcat Drill Rig & Trailer	- hr.
b.	Field/Lab Technician III	6.5 hr.
c.	Field/Lab Technician II	5.0 hr.
d.	Field/Lab Technician I	- hr.
2.	Support Vehicle.	
a.	Vehicle Usage	3 day
b.	Vehicle Mileage	30 mi.
II. Site Layout (for 16 Borings), Water Readings, Cleanup		
1.	Field/Lab Technician III	4.5 hr.
2.	Field/Lab Technician I	4.5 hr.
3.	Field/Lab Technician I	- hr.
4.	Survey Crew	Est'd. Amt.
Item No.	Description	Estimated Quantity

Attachment A-1
Scope of Services and Fee Estimate
West of Multi-Story Structures, Arena Drive, "N" St., Non Watson-Brickson
Fill Assessment

VI.	Reimbursable Expenses and Equipment	
	Photocopies, Postage, Telephone Rate Charges, Facsimiles, etc.	
	Est'd. "B" Total: \$10,758.00	
C. EXPLORATION @ ALTAR AND WATSON-BRICKSON		
(12 Borings):		
I.	Mobilization, One-Call Coordination, And Equipment Preparation:	
	1. Drill Rig and Crew	
	a1. CME 75 Drill Rig	- hr.
	a2. CME-550 ATV Drill Rig, Truck and Trailer	- hr.
	a3. Tracked Bobcat Drill Rig & Trailer	- hr.
	b. Field/Lab Technician III	- hr.
	c. Field/Lab Technician II	- hr.
	d. Field/Lab Technician I	- hr.
	2. Support Vehicle.	
	a. Vehicle Usage	- day
	b. Vehicle Mileage	- mi.
II.	Site Layout (for 12 Borings), Water Readings, Cleanup	
	1. Field/Lab Technician III	- hr.
	2. Field/Lab Technician I	- hr.
	3. Field/Lab Technician I	- hr.
	4. Survey Crew	Est'd. Amt.
III.	Drilling and Sampling	
	1. Dutch Friction-Cone Soundings	- ft.
	(Sixteen 10-foot-deep soundings)	-
	2. Auger Borings (6-inch-dia. Straight Auger)	- ft.
	(Sixteen 10-foot-deep borings)	
	3. Standard Penetration Tests	
	(0-50 ft. depth)	-
	4. Obtaining Disturbed soil Samples	-
	5. Obtaining Disturbed Proctor Samples	-
	6. Obtaining Undisturbed Soil Samples	-
	7. Backsaver Soil Probe	-
	8. Hand Auger Borings	
	a. Field/Technician III	- hr.
	b. Field/Lab Technician I	- hr.
	c. Electric Core Machine Rental	- hr.
	d. Coring (bit wear)	- in.
	e. Use of 3" Shelby Tubes	-
	f. Hand Auger	- day
Item No.	Description	Estimated Quantity

Attachment A-1
Scope of Services and Fee Estimate
West of Multi-Story Structures, Arena Drive, "N" St., Non Watson-Brickson
Fill Assessment

IV.	Materials Laboratory Testing:	
	1. Soil Density and Moisture Content Determination	-
	2. Soil Moisture Content Determination	-
	3. Liquid & Plastic Limits, and Plasticity index (dry prep.)	-
	4. Unconfined Compressive Strength of Soil	
	a. Uncarved shelby tube sample	-
	b. Carved sample	-
	5. Sand Content (+#200 only)	-
	6. Mechanical Analysis w/ + #10 Material (Hydrometer)	-
	7. Moisture-Density Relations of Soil (ASTM D698 Method A)	-
	8. Soil Corrosivity Test for Concrete (redox, pH, chlorides, sulfates)	-
		- set
	9. Soil Corrosivity Test for Steel (redox, pH, resistivity, sulfides)	
		- set
	10. Soil Resistivity (App. A of ANSI/AWWA C105/A21.5)	-
V.	Project Coordination, Analysis, Report Preparation, & Project Consultation:	
	1. Senior Project Manager	- hr.
	2. Senior Project Engineer	- hr.
	3. Project Engineer II	- hr.
	4. Designer II	- hr.
	5. Project Scientist II	- hr.
	6. Project Assistant II	- hr.
VI.	Reimbursable Expenses and Equipment	
	Photocopies, Postage, Telephone Rate Charges, Facsimiles, etc.	
	Est'd. "C" Total: (Not proposed @ this time)	
D.	<u>ENVIRONMENTALLY CONTAMINATED SOILS HANDLING</u>	
	<u>(None assumed @ this time):</u>	
I.	Removing Contaminated Soils, Disposal, Heavy Metals Testing, and Preliminary Recommendations: (None Assumed @ this time):	
	1. PID Meter Rental	- day
	2. Drumming Contaminated Auger-Cuttings & Decontamination Wash Water	
	a. Field/Lab Technician III	hr.
	b. Field/Lab Technician II	hr.
	c. Field/Lab Technician I	hr.
	3. Drums (four for soil and water)	
	4. Hotsy Power Washer	- day
	5. Soil Cutting Disposal (Assumes Non-Haz and Transport to Milford Landfill)	-
	6. Auger Wash Water Disposal (Assumed Non-Haz and Transport to Local WWTP)	-
	7. Heavy Metals Testing	-
	8. Heavy Metal Samples Preparation for Shipping	
Item No.	Description	Estimated Quantity

Attachment A-1
Scope of Services and Fee Estimate
West of Multi-Story Structures, Arena Drive, "N" St., Non Watson-Brickson
Fill Assessment

	a. Field/Lab Technician:ll	hr.
	9. Project Engineer	- hr.
	10. Environmental Engineer	- hr.
	Estimated Total Fee: \$20,522.50	

RESOLUTION NO. WH- _____

1 WHEREAS, the West Haymarket Joint Public Agency previously approved a Site Lease
2 with the District Energy Corporation for thermal services to the Arena and other facilities in the
3 Arena area as Resolution No. WH-00225; and

4 WHEREAS, the Site Lease was found to be deficient and was not signed by the District
5 Energy Corporation; and

6 WHEREAS, the parties have now come to agreement and desire to enter into a revised
7 Site Lease Agreement attached hereto.

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

10 1. That the attached Site Lease between the West Haymarket Joint Public Agency
11 and District Energy Corporation to provide thermal services to the Arena and other buildings and
12 facilities in the vicinity of the Arena is hereby approved and the Chairperson of the West
13 Haymarket Joint Public Agency Board of Representatives is hereby authorized to execute said
14 Consultant Agreement on behalf of the JPA.

15 2. That Resolution No. WH-00225 adopted by the West Haymarket Joint Public
16 Agency on October 6, 2011, approving the Site Lease Agreement attached thereto is hereby
17 rescinded.

18 The City Clerk is directed to return a fully executed copy of the Site Lease to Project
19 Manager, District Energy Corporation, c/o Lincoln Electric System, 1040 O Street, Lincoln, NE
20 68508.

1 Adopted this _____ day of December, 2011.

Introduced by:

Approved as to Form & Legality:

West Haymarket Joint Public Agency
Board of Representatives

Legal Counsel for
West Haymarket Joint Public Agency

Tim Clare

Chris Beutler

Eugene Carroll

SITE LEASE

This **SITE LEASE**, dated _____, 201__ (the "**Site Lease**"), is between West Haymarket Joint Public Agency (the "**Lessor**"), and District Energy Corporation (the "**Lessee**").

WITNESSETH:

WHEREAS, the Lessor is the owner of the property described in Exhibit A attached hereto (the "**Site**"), and generally located at P Street and Arena Drive, Lincoln, Nebraska; and

WHEREAS, the Lessee is a nonprofit Nebraska corporation organized pursuant to the Nebraska Interlocal Cooperation Act (Chapter 13, Article 8, Reissue Revised Statutes of Nebraska, as amended, the "**Interlocal Act**") and the Nebraska Nonprofit Corporation Act (Chapter 21, Article 19, Reissue Revised Statutes of Nebraska, as amended, the "**Nonprofit Act**") for the purpose of providing for purchasing, leasing, constructing and financing facilities and acquiring services in order to furnish energy requirements and related services to The County of Lancaster, Nebraska (the "**County**") and The City of Lincoln, Nebraska (the "**City**") and to such other persons and entities as the County and the City may be authorized by law to serve; and

WHEREAS, the City and the Board of Regents of the University of Nebraska (the "**Regents**") have entered into the Joint Public Agency Agreement Creating the West Haymarket Joint Public Agency, dated as of April 1, 2010, as amended and restated by the Amended and Restated Joint Public Agency Agreement of the West Haymarket Joint Public Agency, dated January 10, 2011 (collectively, the "**JPA Agreement**") for the purpose of creating the West Haymarket Joint Public Agency (the "**Agency**") to (a) construct, equip, furnish and finance public facilities in the West Haymarket area of the City including but not limited to a sports/entertainment arena (the "**Arena**"), roads, streets, sidewalks, pedestrian overpass, public plaza space, sanitary sewer mains, water mains, electric transmission lines, drainage systems, flood control, parking garages and surface parking lots (the "**West Haymarket Facilities**"), and (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 (together, the "**Project**"); and

WHEREAS, the Lessor and the Lessee have agreed that the Lessee will provide thermal services to the Arena and other buildings and facilities in the vicinity of the Arena (collectively, the "**A&R Facilities**") and for such purpose it is necessary, desirable, advisable and in the best interests of the Lessor and the Lessee that the Lessor lease to Lessee that portion of the Site described on **Exhibit A** attached hereto and made a part hereof by reference (the "**DEC Site**");

NOW THEREFORE, in consideration of the premises and covenants contained herein, the Lessor and the Lessee agree as follows:

1. Property and Facilities Leased. The Lessor hereby leases to the Lessee the DEC Site described on **Exhibit A** hereto for the purpose of constructing, equipping and furnishing facilities (the "**DEC Facilities**") to provide thermal services (the "**Services**") to the A&R Facilities and such other buildings or facilities as the Lessor may determine to serve.

2. Additional Leased Property and Facilities. The Lessor and the Lessee agree that in order to provide the Services as contemplated, it may be necessary in the future for the Lessor to lease to the Lessee property or facilities in addition to the DEC Site and it is agreed that such property and facilities may be added to and be subject to the provisions of this Site Lease by addendum to be signed by the parties hereto.

3. Lease Consideration. As consideration for this Site Lease, the Lessee agrees to pay to the Lessor the sum of One Dollar (\$1.00) during the term hereof and to construct, equip and furnish facilities necessary to provide the Services to the A&R Facilities upon the terms specified in one or more service contracts between Lessor and Lessee as may be mutually agreed (collectively, the “Service Contract”).

4. Maintenance of Leased Property and Facilities. The Lessee agrees to maintain and keep the DEC Site in good condition and to make such improvements thereof from time to time as may be required to provide Service with the costs thereof to be paid as determined by the Lessee and the Lessor from time to time.

5. Operation of System. It is agreed and understood that the Lessee will enter into a management agreement with Lincoln Electric System to manage the DEC Facilities.

6. Right of Access. In order to operate and maintain the DEC Facilities, the Lessor hereby grants right of access to the DEC Site over and into such property of the Lessor as may be necessary for such operation and maintenance, as more particularly identified in either the Service Contract or the Lease Agreement.

7. System Financing. It is understood that the Lessee will finance the costs of constructing, equipping and furnishing the DEC Facilities (a) by the issuance of obligations (the “Obligations”) of the Lessee and (b) entering into an Energy Service Agreement with the Lessor (the “Energy Agreement”) under which (i) the Lessor will be unconditionally obligated to pay the rates and charges specified therein and (ii) title to the DEC Facilities will be transferred to the Lessor upon satisfaction of all payments and other obligations of the Lessor under the Energy Agreement.

8. Insurance. The Lessor will carry and maintain, throughout the duration of this Site Lease, insurance against personal injury, property damage and such other liability in such amounts, subject to availability of such insurance, as the Lessor shall determine; provided, however, such insurance shall include general liability insurance, including coverage for bodily injury, wrongful death, personal injury and property damage. The minimum limits of liability to be provided by such insurance shall be as follows:

Bodily Injury/Property Damage	\$1,000,000 Each Occurrence \$2,000,000 Aggregate
Personal Injury Damage	\$1,000,000 Each Occurrence

The Lessor shall provide the Lessee with a Certificate of Insurance (a) showing the specific limits of insurance required by this section and showing the Lessee as an additional insured and (b) stating that such insurance policies require the insurer to provide the Lessee thirty (30) days notice of cancellation, non-renewal, or any material reduction of insurance coverage.

The costs of any insurance provided hereunder shall be payable as provided in the Lease Agreement.

9. Term and Possession. The term of this Site Lease will commence on December 15, 2011, and continue until all Obligations, as defined in paragraph 7 above, have been paid in full by the Lessee. Lessee shall acquire possession of the DEC Site on the 15th day of December, 2011.

10. Taxes and Assessments. If the DEC Site, the DEC Facilities or any portion thereof is determined to be taxable or subject to assessment for any reason, the Lessor shall be obligated to pay such

taxes prior to delinquency and provide the Lessee documentation that such payment has been timely made. Any and all taxes, assessments, interest, or penalty assessed against the DEC Site or the DEC Facilities shall be the sole responsibility of the Lessor.

11. Quiet Enjoyment. At all times during the term of this Site Lease, the Lessor will peaceably and quietly have, hold and enjoy all of the DEC Site, and the Lessor will provide to the Lessee the ability to quietly have, hold and enjoy all of the DEC Site.

12. Warranties, Covenants and Indemnities Regarding Environmental Matters.

(a) As used in this Section, the following terms have the following meanings:

“Environmental Laws” means any now existing or hereafter enacted or promulgated federal, state, local, or other law, statute, ordinance, rule, regulation or court order pertaining to (i) environmental protection, regulation, contamination or clean up, (ii) toxic waste, (iii) underground storage tanks, (iv) asbestos or asbestos containing materials, or (v) the handling, treatment, storage, use or disposal of Hazardous Substances, including without limitation the Comprehensive Environmental Response, Compensation and Liability Act and The Resource Conservation and Recovery Act, all as exist from time to time.

“Hazardous Substances” means all (i) “hazardous substances” (as defined in 42 U.S.C. §9601(14)), (ii) “chemicals” subject to regulation under Title III of the Superfund Amendments and Reauthorization Act of 1986, as amended from time to time (iii) natural gas liquids, liquefied natural gas or synthetic gas, (iv) any petroleum, petroleum based products or crude oil or any fraction, or (v) any other hazardous or toxic substances, wastes or materials, pollutants, contaminants or any other substances or materials that are included under or regulated by any Environmental Law.

(b) The Lessor agrees to indemnify and hold Lessee harmless in respect of any claim relating to, arising out of, resulting from or in any way connected with environmental contamination present on site prior to this Site Lease, including, without limitation, contaminated site clean-up required by the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), or any other environmental laws rules, regulations, ordinances, standards, by-laws, orders, certificates, permits, approvals, consent decrees or directions connected therewith for environmental site conditions present at the time of signing this Site Lease. By indemnifying the Lessee, the Lessor includes, without limitation, the costs and expense of cleanup and restoration of the property or any loss, expense, liability, payment and/or damage which the Lessee may suffer as a result of business disruption or damage to the site as a result of any such clean-up.

(c) The Lessor will provide the Lessee with copies of any notifications of releases of Hazardous Substances or of any environmental hazards or potential hazards that are given by or on behalf of the Lessor to any federal, state or local or other agencies or authorities or that are received by the Lessor from any federal, state or local or other agencies or authorities with respect to the DEC Site. Such copies will be sent to the Lessee concurrently with their being mailed or delivered to the governmental agencies or authorities or within ten days after they are received by the Lessor.

(d) The Lessor warrants and represents that the Lessor has provided the Lessee with copies of all emergency and hazardous chemical inventory forms (hereinafter **“Environmental Notices”**) that relate to the DEC Site previously given, as of the date hereof, by the Lessor to any federal, state or local governmental authority or agency as required pursuant to the Emergency Planning and Community Right to Know Act of 1986, 42 U.S.C.A. §11001 et seq., or any other Environmental Laws. The Lessor will provide the Lessee with copies of all Environmental Notices, including but not limited to the No Further

Action letter from the Nebraska Department of Environmental Quality for the Haymarket Redevelopment Area, which relate to the DEC Site subsequently sent to any such governmental authority or agency as required pursuant to the Emergency Planning and Community Right to Know Act of 1986 or any other Environmental Laws. Such copies of subsequent Environmental Notices will be sent to the Lessee concurrently with their being mailed to any such governmental authority or agency.

(e) After taking possession of the "DEC Site", the Lessee will provide the Lessor with copies of any notifications of releases of Hazardous Substances or of any environmental hazards or potential hazards that are given by or on behalf of the Lessee to any federal, state or local or other agencies or authorities or that are received by the Lessee from any federal, state or local or other agencies or authorities with respect to the DEC Site. Such copies will be sent to the Lessor concurrently with their being mailed or delivered to the governmental agencies or authorities or within ten days after they are received by the Lessee.

(f) The Lessee will comply with and operate and at all times use, keep and maintain the DEC Facilities and every part thereof (whether or not such property constitutes a facility, as defined in 42 U.S.C. § 9601 et. seq.) in conformance with all Environmental Laws. Without limiting the generality of the foregoing, the Lessee will not use, generate, treat, store, dispose of or otherwise introduce any Hazardous Substance into or on the DEC Site or any part thereof nor cause, suffer, allow or permit anyone else to do so except in the ordinary course of the operation of the Lessee's business and in compliance with all Environmental Laws.

(g) From and after the commencement of this Site Lease, the Lessee agrees to indemnify, protect and hold harmless the Lessor from and against any and all claims, demands, costs, liabilities, damages or expenses, including, without limitation, attorneys' fees and expenses, arising from (i) any release (as defined above) or threat of a release, of any Hazardous Substances, upon or about the DEC Site or respecting any products or materials previously, now or thereafter located upon, delivered to or in transit to or from the DEC Site, (ii) (A) any violation now existing of, or any other liability under or in connection with, any Environmental Laws relating to or affecting the DEC Site, or (B) any hereafter arising violation, or any other liability, under or in connection with, any Environmental Laws relating to any products or materials, now or hereafter located upon, delivered to or in transit to or from the DEC Site, (iii) any assertion by any third party of any claims or demands for any loss or injury arising out of, relating to or in connection with any Hazardous Substances on or about the DEC Site, or (iv) any breach, falsity or failure of any of the representations, warranties, covenants and agreements contained in this Section.

13. Indemnity. Each party agrees to indemnify and hold harmless, to the fullest extent allowed by law, the other party and its officers, employees and agents from and against all claims, demands, suits, actions, payments, liabilities, judgments and expenses (including court-ordered attorneys' fees) arising out of or resulting from its acts or omissions of their officers, employees or agents in the performance of this Site Lease. Further, each party shall maintain a policy or policies of insurance (or a self-insurance program), sufficient in coverage and amount to pay any judgments or related expenses from or in conjunction with any such claims. Nothing in this Agreement shall require either party to indemnify or hold harmless the other party from liability for the negligent or wrongful acts or omissions of such other party or its principals, officers, or employees.

14. Eminent Domain.

(a) In the event the whole or any part of the DEC Site is taken by eminent domain proceedings, the interests of the Lessor and the Lessee will be recognized. The proceeds of such condemnation will be applied as the respective interest of the Lessor and the Lessee are set forth herein. The Lessor further acknowledges that condemnation of the DEC Site would adversely affect the Lessee

and that without the Lessee's interest in the DEC Site, the Lessee would not construct, equip and furnish the DEC Facilities to provide Thermal Services to the A&R Facilities pursuant to the Service Contract.

(b) In the event that title to all or a portion of the DEC Site is challenged or threatened by means of competent legal or equitable action, the Lessor covenants that it will cooperate with the Lessee and will take all reasonable actions, including where appropriate the lawful exercise of the Lessor's power of eminent domain, in order to quiet title to the DEC Site in the Lessor and the Lessee, as their respective interests are set forth herein.

15. Default. Time is agreed to be of the essence. In the event either party fails to comply with any of the material terms hereof, then the other party may declare a default fifteen (15) days after the defaulting party receives written notice specifying the nature thereof; provided, however, in the case of a default which cannot, in the exercise of reasonable diligence, reasonably be cured within such fifteen (15) day period, the continuation thereof beyond such period shall continue with the required exercise of reasonable diligence. If any default under this Site Lease shall occur and the defaulting party fails to cure the same within the express curative time period herein provided, the other party may seek any remedy at law or in equity without notice or demand, including specific performance. No delay or omission of any party in exercising any remedies or power accruing upon any event of default shall impair any remedies or power or shall be construed to be a waiver of any event of default or any acquiescence therein.

16. Surrender. In the event that either party terminates this Site Lease pursuant to **Paragraph 9**, the Lessee agrees to surrender to the Lessor the peaceable possession of the DEC Site. It shall be further agreed that upon surrender or termination of the Lessee's occupancy of the premises, whether by the Lessee or the Lessor giving proper notice under the terms of this Agreement, the Lessee shall have no claim or right to receive compensation by virtue of the Eminent Domain Statutes of the State of Nebraska (Chapter 76, Article 7, Reissue Revised Statutes of Nebraska, as amended).

17. Assignment. The Lessee shall not assign this Site Lease or underlet, sublet, or relinquish the DEC Site without first obtaining written approval from the Lessor.

18. Partial Invalidity. If any one or more of the terms, provisions, covenants or conditions of this Site Lease will to any extent be declared invalid, unenforceable, void or voidable for any reason whatsoever by a court of competent jurisdiction, the finding or order or decree of which becomes final, none of the remaining terms, provisions, covenants and conditions of this Lease will be affected thereby, and each provision of this Site Lease will be valid and enforceable to the fullest extent permitted by law.

19. Notices. All written notices to be given under this Site Lease will be given by mail to the party entitled thereto at the addresses set forth below:

To the **Lessor**:

The City Law Department
555 South 10th Street
Suite 300
Lincoln, Nebraska 68508
Attention: Chris J. Connolly
Telephone: (402) 441-7281
Facsimile: (402) 441-8812

To the **Lessee:** District Energy Corporation
c/o Lincoln Electric System
1040 “O” Street
Lincoln, Nebraska 68508
Attention: Project Manager
Telephone: (402) 473-3396
Facsimile: (402) 473-1716

20. Section Headings. All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Site Lease.

21. Amendments, Changes and Modifications. This Site Lease may not be effectively amended, changed, modified, altered or supplemented except with the written consent of the Lessor and the Lessee.

22. Applicable Law. This Site Lease will be governed by and construed in accordance with the laws of the State of Nebraska.

23. Execution. This Site Lease may be executed in any number of counterparts, each of which will be deemed to be an original but all together will constitute but one and the same Site Lease. It is also agreed that separate counterparts of this Site Lease may be executed by the Lessor and the Lessee all with the same force and effect as though the same counterpart had been executed by both the Lessor and the Lessee.

24. Successors. This Site Lease will be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

25. Complete Agreement. This written agreement is a final expression of the agreement between the parties hereto and such agreement may not be contradicted by evidence of any prior oral agreement or of a contemporaneous oral agreement between the parties hereto. No unwritten oral agreement between the parties exists.

26. Electronic Transactions. The parties agree that the transaction described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents will be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

[The remainder of this page intentionally left blank.]

STATE OF NEBRASKA)
) **ss.**
COUNTY OF LANCASTER)

I, the undersigned, Notary Public in and for said County in said State, do hereby certify that _____ and _____, whose names as President and Secretary, respectively, of District Energy Corporation are signed to the foregoing Lease and who are known to me to be such officers, acknowledged before me on this day that the execution of said Lease was their voluntary act and deed as such officers.

WITNESS my hand and seal this _____ day of _____, 201__.

Notary Public

(SEAL)

RESOLUTION NO. WH- _____

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

3 That Chris Beutler, Chair of the West Haymarket Joint Public Agency Board of
4 Representatives, is hereby authorized to enter into, on behalf of the West Haymarket Joint Public
5 Agency, a special purchase for construction of the Amtrak platform to construct a 1200' x 15' x 8"
6 concrete passenger platform without building or canopy, subject to the submission of informal
7 quotes by contractors by December 6, 2011. Said work shall begin on December 9, 2011 and is to
8 be completed by April 30, 2011.

9 Adopted this _____ day of December, 2011.

Introduced by:

Approved as to Form & Legality:

West Haymarket Joint Public Agency
Board of Representatives

Legal Counsel for
West Haymarket Joint Public Agency

Tim Clare

Chris Beutler

Eugene Carroll

RESOLUTION NO. WH- _____

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

3 That the attached Contract Agreement between Terracon Consultants Inc. and the West
4 Haymarket Joint Public Agency for construction testing and special inspection services for the
5 Amtrak platform and Amtrak station is hereby approved and the Chairperson of the West
6 Haymarket Joint Public Agency Board of Representatives is hereby authorized to execute said
7 Contract Agreement on behalf of the JPA.

8 The City Clerk is directed to return a fully executed copy of the Contract Agreement to
9 Brad Levich, Terracon Consultants Inc., 3220 North 20th Street, Suite 3, Lincoln, NE 68521.

10 Adopted this _____ day of December, 2011.

Introduced by:

Approved as to Form & Legality:

West Haymarket Joint Public Agency
Board of Representatives

Legal Counsel for
West Haymarket Joint Public Agency

Tim Clare

Chris Beutler

Eugene Carroll

WEST HAYMARKET JOINT PUBLIC AGENCY (JPA)
REQUEST FOR BID QUOTE NO. 3740
AMTRAK STATION AND PLATFORM SPECIAL INSPECTIONS

CONTRACT AGREEMENT

THIS CONTRACT AGREEMENT is made and entered into this ____ day of _____, 2011, by and between TERRACON CONSULTANTS, INC., hereinafter called the Contractor and the WEST HAYMARKET JOINT PUBLIC AGENCY, 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 a Notice to Bidders requesting proposals for and in connection with said Work, to wit: quality assurance material testing and IBC Special Inspection Services for the Amtrak Station and Platform; and

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

WHEREAS, JPA, in the manner prescribed by law, has publicly advertised, opened, examined, and canvassed the Quote Responses submitted in response to such Notice to Bidders, and as a result of such canvass has determined and declared the Contractor to be the lowest responsible, responsive bidder for the said Work for the sum or sums named in the Contractor's Quote (Terracon Proposal No. PA 3110240), a copy thereof being attached hereto as Exhibit A.

WHEREAS, a portion of the Project will be carried out on BNSF Railway Company ("BNSF") property pursuant to a Temporary Access License for Amtrak Work between BNSF Railway Company (BNSF) and the JPA, and a Sublease Agreement between the National Railroad Passenger Corporation ("Amtrak") and the JPA, copies of which are attached hereto as Exhibit B and Exhibit C, respectively. The Project work performed under the License is subject to the terms and conditions of the Construction and Maintenance Agreement ("C&M Agreement") between BNSF and the City of Lincoln as assigned to the JPA, a copy of which has been previously provided to Contractor.

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

WHEREAS, Contractor is willing and able to perform the Work in accordance with this Agreement. Contractor hereby understands and acknowledges that Contractor will be required to comply with restrictions on the Work imposed on the JPA as Licensee in the License, subject to the provisions of this Agreement. Contractor hereby further understands and acknowledges that

Contractor is deemed to be the JPA's Contractor under the C&M Agreement and in such capacity is required to comply with the Contractor Requirements in the C&M Agreement, subject to the terms of this Agreement

WHEREAS, the use of the term "City of Lincoln" in the License and the C&M Agreement shall be deemed to refer to the JPA.

NOW, THEREFORE, in consideration of the above Recitals which are made a part of this Contract, sums to be paid to the Contractor, and the agreements herein contained, the Contractor and JPA have agreed and hereby agree as follows:

COMPENSATION – The JPA agrees to pay Contractor for performance of the Work embraced in this Contract and Contractor agrees to accept as full compensation therefor a total fee for the services provided at the Unit Rate Schedule set forth in Contractor's November 30, 2011 Submittal Letter. The estimated fee is \$17,642.00.

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:

- Terracon Proposal No. PA3110240.

Contractor understands and agrees that the License and the C&M Agreement, including, but not limited to, Exhibits C and C-1(A) attached to the C&M Agreement by reference are part of this Agreement. As part of said Work, Contractor agrees to enter into the Contractor's Right of Entry with BNSF (Exhibit C-1(A) to the C&M Agreement) and to abide by the terms and conditions of the Contractor's Right of Entry. Contractor further agrees to abide by the terms and conditions imposed upon the JPA as Licensee in the License and as Subtenant in the Sublease Agreement and to abide by the terms and conditions imposed upon the Contractor in the Contractor Requirements attached to the C&M Agreement.

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.

INDEMNIFICATION – The following Indemnification provisions supersede and replace the Assumption of Liability and Indemnification provisions in the City of Lincoln Standard Specifications for Municipal Construction (2011 Edition).

A. INDEMNIFICATION OF JPA.

TO THE FULLEST EXTENT PERMITTED BY LAW, CONTRACTOR SHALL RELEASE, INDEMNIFY, DEFEND AND HOLD HARMLESS JPA AND JPA'S MEMBERS, SUCCESSORS, ASSIGNS, LEGAL REPRESENTATIVES, OFFICERS, EMPLOYEES AND AGENTS FOR, FROM AND AGAINST ANY AND ALL CLAIMS, LIABILITIES, FINES, PENALTIES, COSTS, DAMAGES, LOSSES, LIENS, CAUSES OF ACTION, SUITS, DEMANDS, JUDGMENTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, COURT COSTS AND ATTORNEYS' FEES) OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON (INCLUDING, WITHOUT LIMITATION, THE EMPLOYEES OF THE PARTIES HERETO) 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'S CONTRACTOR PARTIES IN, ON, OR ABOUT BNSF'S PROPERTY OR RIGHT-OF-WAY AND/OR THE WORK AREA;

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

(iv) ANY DAMAGE TO OR DESTRUCTION OF ANY TELECOMMUNICATION LINES IN CONNECTION WITH THE WORK 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 JPA, ITS AGENTS, SERVANTS, EMPLOYEES OR OTHERWISE, BUT EXCLUDING CLAIMS WHOLLY CAUSED BY JPA'S SOLE NEGLIGENCE AND EXCLUDING CLAIMS TO THE EXTENT THAT SUCH CLAIMS ARE CAUSED BY THE WILLFUL MISCONDUCT OR GROSS NEGLIGENCE OF JPA.

B. INDEMNIFICATION OF BNSF. Contractor understands and acknowledges that the Indemnification requirements of BNSF found in the C&M Agreement and the Contractor's Right of Entry and of Amtrak found in the Sublease Agreement are in addition to, and not in lieu of, the above obligations of Contractor to indemnify and hold harmless the JPA.

INSURANCE – The following Insurance provisions supersede and replace the “Insurance Requirements for all West Haymarket Joint Public Agency Contracts” and “Contractor's Insurance” in the City of Lincoln Standard Specifications for Municipal Corporations (2011 Edition).

Insurance Coverage. Contractor shall at all times during the term of this Agreement maintain insurance coverage as follows:

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

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

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 \$1,000,000 each accident, \$1,000,000 by disease policy limit, \$1,000,000 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 JPA.

Memorandum of Insurance. Memoranda of Insurance shall be filed with the JPA showing the specific limits of insurance coverage required by the preceding sections, and showing the JPA, BNSF, Amtrak, the City of Lincoln, and University of Nebraska as additional insureds for General Liability Insurance and Excess or Umbrella Insurance if used to supplement the General Liability Insurance. Such memorandum shall specifically state that insurance policies have been endorsed to require the Contractor to provide the JPA thirty (30) days notice of reduction in amount, increase in deductibles, or non-renewal of insurance coverage and ten (10) days notice for cancellation for non-payment of premium.

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

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

Prior to commencing the Work, Contractor must furnish to JPA 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 JPA in writing at least 30 days prior to any cancellation, non-renewal, except that only ten (10) days prior notice is required for cancellation due to nonpayment of premium. This cancellation provision must be indicated on the certificate of insurance. Upon request from JPA, a certified duplicate original of any required policy must be furnished. Certificate(s) should be sent to the following address:

City of Lincoln
c/o Bill Kostner, Risk Manager
555 South 10th Street
Lincoln, NE 68508

Any insurance policy must be written by a reputable insurance company reasonably acceptable to JPA 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.

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

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

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

BNSF Requirements:

Contractor understands and acknowledges that the Insurance requirements of BNSF found in the C&M Agreement and the Contractor's Right of Entry are in addition to the above obligations of Contractor. Contractor agrees to provide all types of insurance required by either the JPA or BNSF. Contractor will furnish coverages against any and all perils required by either the JPA or BNSF. In the event Contractor discovers a discrepancy in coverage limits, Contractor will provide the larger amount satisfying both JPA and BNSF requirements.

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

1. City of Lincoln Standard Specifications for Municipal Construction (2011 Edition). References to City in the Standard Specifications shall mean JPA, references to City Project Manager shall mean PC Sports. Notwithstanding any provisions to the contrary in the Standard Specifications, Change Orders shall be approved in accordance with the JPA's Change Order Process adopted by Resolution No. WH00195.
2. Exhibit A.
3. Invitation Document.
4. Addendums #1, #2, #3, and #4.
5. Amtrak Specs – Addendum 2.
6. Contract Document.
7. Terracon Proposal No. PA 311024 (November 30, 2011).
8. Commentary to Accompany Construction Bonds.
9. Construction Performance Bond.
10. Construction Payment Bond.
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, **is exempt from sales and use taxes.**
14. Sales tax exempt forms will be provided upon award of bid.
15. The License (Exhibit B), the C&M Agreement including, but not limited to, Exhibits C and C-1(A) attached to the C&M Agreement
16. The Sublease Agreement (Exhibit C).

This Contract Agreement, together with the other Contract Documents herein above mentioned (whether or not attached), 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 Agreement.

CONTRACTOR:

TERRACON CONSULTANTS, INC.

By: _____
Title: _____

JPA:

WEST HAYMARKET JOINT PUBLIC AGENCY

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



November 30, 2011

West Haymarket Joint Public Agency (JPA)
K Street Complex
440 South 8th Street, Suite 200
Lincoln, NE 68508

Attn: Mr. Vince Mejer, Purchasing Agent
P: 402.441.8314
F: 402.441.6513
E: vmejer@lincoln.ne.gov

Re: Proposal for Construction Testing and Special Inspection Services
West Haymarket JPA Amtrak Station and Canopy
Lincoln Nebraska
Request for Proposal Bid No. 3740
Terracon Proposal No. PA3110240

Dear Mr. Mejer:

As requested in Request for Proposal (RFP) dated November 18, 2011, and subsequently issued Addendums 1, 2, 3 and 4, Terracon Consultants, Inc. (Terracon) is pleased to submit this proposal for completion of quality control testing and Special Inspection services for the referenced project. This proposal presents our understanding of the project, proposed services, and an estimated cost for our services.

As you know, Terracon is providing these same services for the adjacent West Haymarket Arena and Garage project. As such, we believe we are in a unique position to provide the testing and Special Inspection services for the project. We believe our experience, work on the project site, and commitment to responsive quality service will continue to make Terracon a valuable asset to the project.

INTRODUCTION

Terracon is a national firm and our success can only be measured by the clients who hire us. Currently we rank **38th** on the 2011 Engineering News-Record (ENR) Top 500 Engineering Firms annual ranking, rising from 391st in 1986.



Terracon Consultants, Inc. 3220 North 20th Street Lincoln, NE 68521
P [402] 466-3911 F [402] 466-0811 www.terracon.com

Geotechnical



Environmental



Construction Materials



Facilities

Proposal for Quality Control Testing and Special Inspection Services
West Haymarket JPA Amtrak Station & Canopy ■ Lincoln, Nebraska
November 30, 2011 ■ Terracon Proposal No. PA3110240



Terracon recognizes the importance of communication with our clients. Our ability to communicate with our clients and their design teams allows us to develop practical, cost-effective solutions creating an added value to our clients.

Terracon provides the highest level of service possible to our clients by utilizing our personnel, our technology, and technical know-how. Terracon is a staff of more than 2,700 professional and technical personnel located in nearly 130 offices throughout the United States. Our size provides Terracon with the opportunity to maintain both diverse, yet highly specialized, staff available at strategic and local offices when needed. The growth and strength of Terracon rests on our mission to provide high-quality service based on individual efforts to maintain high professional standards.

We maintain a commitment to client satisfaction in the technical, schedule and budget aspects of engineering consulting services. We believe you will find Terracon's experience and qualifications are unsurpassed on large-scale construction projects completed in the Lincoln and Omaha metropolitan areas.

We are committed at all levels of our organization to provide the necessary resources for total quality service for the Amtrak Station and Canopy project. We believe our knowledge of the project coupled with our current presence on-site would provide an economic benefit to the project.

PROJECT DESCRIPTION

The project will consist of the construction of a single-story, slab-on-grade Amtrak Station with a total plan area of 2,832 square feet, a 1,200-foot long Amtrak passenger platform with an 800-foot long overhead canopy, and a BNSF business car platform. The Amtrak Station will be of steel-frame construction and be supported by a shallow foundation system consisting of spread and trenched footings. Several masonry columns will be constructed for the building, the largest of which will have a total height of about 26 feet. Site development will include the construction of a 5-inch thick concrete sidewalk around the building and the installation of below-grade utilities.

The steel-frame Amtrak passenger canopy will be supported on spread footings with concrete piers. The passenger platform will be about 4.5 feet above the rail elevation which will require the construction of a trenched footing and retaining wall along the track-side of the platform. We understand the final design of the BNSF business platform has not been completed. However, this platform is anticipated to be about 5 feet wide and about 50 feet long, raised about 4.5 feet above adjacent grade. This platform will consist of shallow trenched footings and concrete sidewalls, with the interior backfilled with structural fill.

Proposal for Quality Control Testing and Special Inspection Services
West Haymarket JPA Amtrak Station & Canopy ■ Lincoln, Nebraska
November 30, 2011 ■ Terracon Proposal No. PA3110240



PROJECT APPROACH

Staffing Coverage

Our Team will provide experienced employees appropriately equipped to respond to the testing and Special Inspection needs of this project on an on-call basis. We propose to provide most of the project coverage from our full-time technicians working on the Arena project. However, depending on scheduling, we will also utilize other off-site technicians.

Clear Definition of Unit Rates

Often firms in the materials testing industry will provide lower hourly and/or equipment rates and add-on per test field charges or other hidden costs. Terracon believes in taking an up-front approach with our clients. The hourly and equipment rates utilized for the project are inclusive of the related field testing services. The only per-test charges which apply are for laboratory testing. **The unit rates presented in this proposal will apply for the duration of the project.**

Reports and Invoices

Our on-site representatives will complete daily Work Order reports summarizing the specific services provided and the associated time charges for each Work Order. They will also complete standard forms of field test results for each type of testing performed that day. These reports will be completed daily and submitted to the contractor's field office upon completion of our field testing and inspection services.

The results of all testing and site inspections will be reviewed by Terracon's project manager and e-mailed in a pdf format on a daily basis (separate monthly summary reports will also be issued). The reports will be distributed to PC Sports, Sinclair Hille Architects, Davis Design, the general contractor, and any other parties as directed by PC Sports.

SCOPE OF SERVICES

Terracon will provide employees who are appropriately trained and equipped to respond to the testing and Special Inspection needs of this project as scheduled by the Client or your designated representative.

Based on our review of the RFP and the project plans and specifications dated November 2, 2011, we understand the scope of the on-call services to be as follows:

Proposal for Quality Control Testing and Special Inspection Services
 West Haymarket JPA Amtrak Station & Canopy ■ Lincoln, Nebraska
 November 30, 2011 ■ Terracon Proposal No. PA3110240



Earthwork observation and testing

- Utility trench backfill
- Foundation wall backfill
- Floor slab and subgrade preparation

Laboratory soil testing

- Standard Proctors
- Atterberg Limits

Portland cement concrete testing

- Casting of five 4"x8" cylinders and performing slump & air content testing every 100cy
- Laboratory compressive strength testing of cylinders (ASTM C-39)

Concrete reinforcing steel Special Inspection

- Reinforcing steel will be checked immediately before each concrete pour
- Reinforcement will be checked for:
 - Bar size, placement, lap length, cleanliness, and cover
- Anchor bolt installation

Structural steel Special Inspection (at project site)

- Review jobsite welder certifications
- Visual inspection of all welds
- Bolted connection observation (joints in "intimate" contact following bolting)
- Visual observation of decking welds and deck lap

Structural masonry Special Inspection

- Inspection of structural masonry construction per IBC Level I

Project Management

- Reporting and supervision of laboratory and field services
- Preparation and review of project summary reports and invoices

If we have misunderstood any aspect of the proposed project, please advise us at once so we can evaluate the scope of services and make any necessary adjustments. If modifications are required during the project, we can issue a short Supplement form that states the additional services, making them part of the original agreement.

Scheduling

Terracon's services will be performed on an as-requested basis with scheduling by the Client or the client's designated representative. Terracon will not be responsible for scheduling our services and will not be responsible for tests or observations that are not performed due to failure to schedule our services on the project. Since our personnel will not be at the site on a resident basis, it will be imperative that we be advised when work is in progress. Services should be scheduled a minimum of 24 hours in advance. Scheduling personnel will be on an as-available basis which may require changes in personnel assigned to the project.

Proposal for Quality Control Testing and Special Inspection Services
 West Haymarket JPA Amtrak Station & Canopy ■ Lincoln, Nebraska
 November 30, 2011 ■ Terracon Proposal No. PA3110240



All requests for services should be submitted to Mr. Russ Wilson in our Lincoln, NE office at the following phone number: (402) 466-3911.

We recommend the scope of work described in this proposal be provided to the person(s) who will be responsible for scheduling our services so that they are aware of the services that are proposed.

COMPENSATION

Based on our review of the referenced documents, our estimated cost to perform the proposed scope of services is \$17,642. **Since it is difficult to estimate the amount of coverage that will be able to be provided from our full-time technicians working on the Arena site, this cost is based on coverage from off-site technicians. However, we would anticipate a cost savings would occur by combining services with the Arena project.** A breakdown of our cost is provided in the attached Cost Estimate.

It should be noted the Client would be billed only for the amount of service provided, i.e. Terracon will not bill for the total budget if the total booked is less than the budget. Please note this is only a budget estimate and not a not-to-exceed price. Many factors, including those out of our control, such as weather and the contractor’s schedule, and how often we are called to the site to test, will dictate the final fee for our services. Furthermore, all re-testing and re-inspections of failing items, and on-site standby time, are not included in our estimated cost.

Fees for services provided will be based on the following Unit Rate Schedule:

Personnel

- Project Engineer\$100.00 / hour
- Project Manager\$ 88.00 / hour
- Project Coordinator.....\$ 42.00 / hour
- Structural Steel Technician.....\$ 69.00 / hour*
- Special Inspection Technician\$ 45.00 / hour*
- Field Technician (soils, concrete)\$ 45.00 / hour*
- Masonry Technician\$ 48.00 / hour*

Laboratory Testing

- Standard Proctor, soil.....\$115.00 each
- Atterberg Limits\$ 65.00 each
- Compressive Strength of Concrete.....\$ 9.50 each

Trip Charge (includes vehicle, travel time, and mileage)

- Technician\$ 20.00 / trip

Proposal for Quality Control Testing and Special Inspection Services
 West Haymarket JPA Amtrak Station & Canopy ■ Lincoln, Nebraska
 November 30, 2011 ■ Terracon Proposal No. PA3110240

Terracon

* Overtime is defined as all hours in excess of eight (8) per day, outside of the normal hours of 7:00 AM to 5:00 PM Monday through Friday, and all hours worked on Saturdays, Sundays, and holidays. Overtime rates will be 1.5 times the hourly rate quoted (2.0 times the hourly rate for Sundays and Holidays).

A one-hour minimum charge per service item is applicable to all trips made for the performance of testing or consulting services. You will be billed for our representative's time on site only; the representative's travel time, vehicle, and mileage are combined into a Trip Charge. You will be invoiced on a monthly basis for services actually performed and/or as authorized or requested by you or your designated representative.

CLOSURE

Terracon has an existing Agreement with the JPA for the West Haymarket Arena and Garage project. We request a Change Order be issued to this existing Agreement. This proposal is valid only if authorized within sixty days from the listed proposal date.

We appreciate the opportunity to provide this proposal and look forward to being of service to you on this project. Please call the undersigned if you have any questions or need additional information.

Sincerely,

Terracon Consultants, Inc.



Scott G. Miller, P.E.
 Senior Principal



Bradley A. Levich, P.E.
 Principal

SGM/BAL:sgm

Copies to: Addressee (1 via e-mail)

Enclosure: Cost Estimate

**COST ESTIMATE
CONSTRUCTION TESTING & IBC-SPECIAL INSPECTION SERVICES
AMTRACK STATION AND PLATFORM
LINCOLN, NEBRASKA
TERRACON PROPOSAL NO. PA3110240**

01) EARTHWORK OBSERVATION AND TESTING

Foundation wall backfill placement			(Soils Technician)
25 Site Visits x 2.00 hrs/visit x	\$ 45.00 /hr =		\$ 2,250.00
Trip Charge			
25 Site Visits x	\$ 20.00 /visit =		\$ 500.00
Utility trench backfill placement			(Soils Technician)
4 Site Visits x 1.00 hrs/visit x	\$ 45.00 /hr =		\$ 180.00
Trip Charge			
4 Site Visits x	\$ 20.00 /visit =		\$ 80.00
Pavement and floor slab subgrade preparation			(Soils Technician)
4 Site Visits x 1.00 hrs/visit x	\$ 45.00 /hr =		\$ 180.00
Trip Charge			
4 Site Visits x	\$ 20.00 /visit =		\$ 80.00
		Subtotal:	\$ 3,270.00

02) LABORATORY SOIL TESTING

Standard Proctor, soil (ASTM D-698)			
2 Test(s) x	\$ 115.00 /test =		\$ 230.00
Atterberg Limits (ASTM D-4318)			
2 Test(s) x	\$ 65.00 /test =		\$ 130.00
		Subtotal:	\$ 360.00

04) FOUNDATION EXCAVATION OBSERVATION AND TESTING

Observation & testing of footing excavations (bearing soil, cleanliness, geometry)			
20 Site Visits x 1.00 hrs/visit x	\$ 45.00 /hr =		\$ 900.00
Trip Charge (typically combined with concrete testing)			
		Subtotal:	\$ 900.00

07) CONCRETE REINFORCING STEEL SPECIAL INSPECTION

Checked for size, placement, lap length, and cleanliness			(Reinforcing Steel Technician)
37 Site Visits x 1.00 hrs/visit x	\$ 45.00 /hr =		\$ 1,665.00
Trip Charge (combined with concrete testing)			
		Subtotal:	\$ 1,665.00

Terracon

**COST ESTIMATE
CONSTRUCTION TESTING & IBC-SPECIAL INSPECTION SERVICES
AMTRACK STATION AND PLATFORM
LINCOLN, NEBRASKA
TERRACON PROPOSAL NO. PA3110240**

09) PORTLAND CEMENT CONCRETE TESTING

Standard testing			(Concrete Technician)
(Measure temp., slump, and air content; casting of 1 set of 5 cylinders)			
51 Site Visits x	1.25 hrs/visit x	\$ 45.00 /hr =	\$ 2,868.75
Trip Charge			
51 Site Visits x		\$ 20.00 /visit =	\$ 1,020.00
Laboratory testing			
Concrete compressive strength			
255 Tests	x	\$ 9.50 /test =	\$ 2,422.50
Subtotal:			\$ 6,311.25

13) STRUCTURAL STEEL SPECIAL INSPECTION

Visual Observation of Welded and Bolted Connections			(Structural Steel Technician)
7 Site Visits x	4.00 hrs/visit x	\$ 69.00 /hr =	\$ 1,932.00
Trip Charge			
7 Site Visits x		\$ 20.00 /visit =	\$ 140.00
Subtotal:			\$ 2,072.00

14) STRUCTURAL MASONRY SPECIAL INSPECTION

Reinforcing Steel and Masonry Cell Observation			(Masonry Technician)
6 Site Visits x	1.50 hrs/visit x	\$ 48.00 /hr =	\$ 432.00
Trip Charge			
6 Site Visits x		\$ 20.00 /visit =	\$ 120.00
Subtotal:			\$ 552.00

22) PROJECT MANAGEMENT

Field Supervision, Report Review			(Project Manager)
20 hours x		\$ 88.00 /hour =	\$ 1,760.00
Project Scheduling, Report Preparation			(Project Coordinator)
16 hours x		\$ 47.00 /hour =	\$ 752.00
Subtotal:			\$ 2,512.00

GRAND TOTAL: \$ 17,642.00

It should be noted the client is billed only for the amount of service provided, i.e. Terracon will not bill for the total Cost Estimate if the total booked is less than the estimate.



Geotechnical ■ Environmental ■ Construction Materials ■ Facilities

Team Resumes

MATTHEW B. VICKINOVAC**SENIOR ENGINEERING TECHNICIAN****PROFESSIONAL EXPERIENCE**

Mr. Vickinovac is a senior engineering technician in Terracon's Omaha, Nebraska office. His responsibilities include earthwork observation, soil compaction testing, foundation bearing soil evaluation, deep foundation installation observation, Portland cement and hot-mix asphalt field testing, reinforcing steel, and structural masonry and special inspection.

PROJECT EXPERIENCE**Block 38 Mixed Use Facility, Lincoln, NE**

Provided full-time on-site testing and Special Inspection services for the eight-story building parking garage and mixed-use building. The structure consisted of eight levels of parking with two levels of residential living space above. The parking garage is a cast-in-place, post-tensioned structure, while the residential levels are a combination of cold-formed steel and wood-frame construction. Mr. Vickinovac provided a variety of construction testing services including reinforcing steel Special Inspection, concrete testing, and post-tensioned concrete Special Inspection.

JLofts Condominiums, Omaha, NE

Provided on-site testing and Special Inspection services for the six-story, post-tensioned concrete building. The building consisted of two levels of enclosed parking with four levels of residential living space above. Mr. Vickinovac also provided a variety of construction testing services including earthwork observation, soil compaction testing, reinforced steel inspection, concrete testing, and post-tensioning Special Inspection.

Embassy Suites and Courtyard Marriott Hotel, Omaha, NE

Engineering technician for the seven-story hotel and adjacent 80,000sf convention center. The hotel is a cast-in-place, post-tensioned construction structure supported on a deep foundation system consisting of about 650 auger-cast piles. In addition to providing installation observation for the piles, Mr. Vickinovac also provided a variety of construction testing services including earthwork observation, soil compaction testing, reinforced steel inspection, concrete testing, and post-tensioning Special Inspection.

Mid-America Energy Unit #4, Council Bluffs, IA

Engineering technician for the \$1.4 billion coal-fired power plant expansion project. Terracon's services consisted of full-time material testing services for all deep foundation, soils and concrete-related construction. In addition, Terracon provided IBC Special Inspections for all structural steel, masonry, and fireproofing. Our services were streamlined by utilizing an on-site office and concrete-testing laboratory. Project quantities included over 4,000 displacement piles, 90,000 cy of concrete, and 25,000 tons of steel.

EDUCATION

*Nebraska Law Enforcement
Training Center, Grand Island,
NE, 1994*

*US Army Military Police Academy,
Ft. McClellan, AL, 1988*

CERTIFICATIONS

ICC Reinforced Concrete

ICC Fireproofing

ICC Structural Masonry

*Unbonded Post-Tension Level I and
Level II*

ACI Field Grade I

Nuke Safety

IDOT PCC I, PCC II

IDOT Agg I, Agg II

WORK HISTORY

*Terracon Consultants, Inc., Omaha,
Nebraska, Senior Engineering
Technician, 2005-Present*

*Lincoln Airport Authority, Lincoln,
Nebraska, Patrol Officer, 2004-
2007*

*Aerotek E&E, Omaha, Nebraska
Hazardous Materials/
Environmental Remediation
Technician, 2005-2006*

*Millenium Information Services,
Itasca, Illinois, Inspector, 2004-
2005*

SHAWN E. MILLER

SENIOR ENGINEERING TECHNICIAN

PROFESSIONAL EXPERIENCE

Mr. Miller is a Senior Engineering Technician in Omaha, Nebraska. He has more than ten years of experience working as a field technician and Special Inspector. His responsibilities include earthwork observation, soil compaction testing, foundation bearing soil evaluation, and Portland and hot-mix asphalt concrete field testing. In addition, Mr. Miller provides IBC Special Inspection services for cast-in-place concrete reinforcing steel, structural masonry, spray-applied fireproofing, and post-tensioned concrete. Mr. Miller has worked as lead technician on numerous construction projects such as commercial developments and high-rise commercial buildings.

Prior to joining Terracon, Mr. Miller was employed by a pre-cast concrete manufacturer where he functioned as an in-house quality control inspector. His duties included reinforcing steel inspection, pre-tensioning operations, concrete and aggregate sampling, admixture dosage monitoring and concrete curing.

PROJECT EXPERIENCE

TD Ameritrade Headquarters, Omaha, Nebraska

Performed full-time materials testing and Special Inspection services for a 450,000 square-foot, steel-frame building consisting of a 2-story and 12-story tower. Special Inspections included: soil compaction testing, foundation bearing soils, reinforcing steel, Portland cement concrete, and spray-applied fireproofing.

Aliante Station Casino, Las Vegas, Nevada, (10 months)

Performed full-time Special Inspection services for a 10-story post-tensioned tower and a 5-story post tensioned parking garage. Coordinated with contractor and City of North Las Vegas building department for inspections, and directed one other inspector and two concrete testing technicians. Special Inspections included: foundation bearing soils, reinforcing steel, structural masonry, concrete, and post-tensioned decks.

Cosmopolitan Resort and Casino, Grand Hyatt Las Vegas, Nevada (7 months)

Performed full-time Special Inspection services for a 53-story and a 50-story tower, with a connected low-rise structure totaling 9 stories. Coordinated with contractor and Clark County Building Department for inspections, and directed two other inspectors and two concrete testing technicians. Special Inspections included: foundation bearing soils, reinforcing steel, structural masonry, concrete, and post-tensioned decks.

Certifications

ACI Concrete Field Testing, Grade I
NDOR Concrete Field Technician
Level I
ICC, Reinforced Concrete Special
Inspector
ICC Prestressed Concrete Special
Inspector
ICC Structural Masonry Special
Inspector
ICC Spray Applied Fireproofing
Special Inspector
Nuclear Density Gauge Safety
Training
ICC Soils Special Inspector
ICC Structural Welding Special
Inspector
ICC Structural Steel and Bolting
Special Inspector
ICC Master of Special Inspection

Work History

Terracon Consultants, Inc., Omaha,
Nebraska, Senior Engineering
Technician, 2010-Present
Terracon Consultants, Inc., Las
Vegas, Nevada, Engineering
Technician, 2006-2010
Terracon Consultants, Inc., Omaha,
Nebraska, Engineering
Technician, 2002-2006
Wilson Concrete, Bellevue,
Nebraska, 1999-2002



Qwest Convention Center/Arena, Omaha, Nebraska (4 months)

Performed full-time on-site observation and testing services for the \$200 million 17,000 seat arena and attached convention center. Field services included soil compaction testing, concrete testing, and Special Inspections for reinforcing steel and fireproofing.

MidAmerican Energy CBEC Unit 4, Council Bluffs, Iowa (12 months)

Provided the special inspection and quality assurance for the cast-in-place and post tension concrete, reinforcing steel, PT cable placement and stressing, structural masonry, and non-shrink grout placement. The Unit 4 project consists of a \$1.4 billion coal-fired power plant with approximately 90,000 cubic yards of concrete and over 25,000 tons of structural steel. Mr. Miller's full-time duration on the project site was approximately 12 months.

National Park Service Midwest Region Headquarters, Omaha, Nebraska (12 months)

Provided field testing of concrete, reinforcing steel special inspection, and post-tensioning special inspection for the building. The structure consisted of a 3-story, cast-in-place concrete frame building with a plan area of about 60,000 square feet.

Research Center of Excellence, University of Nebraska Medical Center, Omaha, Nebraska (14 months)

Performed full-time on-site testing of concrete and reinforcing steel inspection for the \$75 million, 10-story, cast-in-place concrete frame building. His duties included field and laboratory concrete testing, reinforcing steel special inspection, and soil observation and testing.

Emile Street Parking Structure, Omaha, Nebraska (14 months)

Performed full-time materials testing and Special Inspection services for a 4-story reinforced concrete-frame parking structure. Services included: reinforcing steel inspection, Portland cement concrete testing, soil compaction testing, on-site compressive strength testing, concrete maturity testing, and post-tensioned concrete deck inspection.

Wal-Mart (168th & Maple), Omaha, Nebraska (4 months)

Performed full-time, on-site testing and special inspection for construction of the 220,000 square foot building. Mr. Miller's duties included full-time structural masonry and concrete reinforcing steel inspection, and concrete and asphalt field testing.

Westroads Mall Parking Garage, Omaha, Nebraska (5 months)

Mr. Miller performed auger-cast pile installation observation for approximately 250 piles. The length of each pile was determined on-site at the time of the drilling based on the geologic conditions at each pile cap location.

Millard West High School, Omaha, Nebraska (5 months)

Reinforcing steel, concrete testing, masonry, and soils density testing.

Harrah's Hotel and Casino, Council Bluffs, Iowa (2 months)

Geopier Installation, Reinforcing Steel and Concrete Testing.

Dodge & 168th St. Bridge, Omaha, Nebraska (9 months)

Reinforcing steel, concrete testing, cylinder breaking, and pre-tensioning operations.

Misc. Union Pacific and Burlington Northern Bridge Decks, Midwestern Region (12 months)

Reinforcing steel inspection, pre-tensioning, concrete testing, and cylinder breaking.

STEVEN J. O'DONIEL

SENIOR ENGINEERING TECHNICIAN

PROFESSIONAL EXPERIENCE

Mr. O'Doniel is a senior engineering technician in Terracon's Lincoln, Nebraska office. He provides full-phase field observation, testing, and inspection services for construction projects. Typical projects he works on range from multi-story office buildings, large commercial warehouses and infrastructures, developments, roadway, and various other types of projects.

Mr. O'Doniel's duties range from testing of soil and granular subgrades, both shallow and deep foundations installation inspections, and UBC-special inspections for structural masonry, reinforcing steel, and fireproofing.

PROJECT EXPERIENCE

St. Elizabeth Hospital Addition, Lincoln, Nebraska

Performed full and part-time construction testing and UBC inspection services for the 5-story parking garage, 7-story bed tower addition, and 5-story medical office building. Mr. O'Doniel completed testing and inspection of auger cast piles, drilled shafts, reinforcing steel, compacted fill soils and Portland cement concrete.

960-Bed Correction Center, Tecumseh, Nebraska

Performed full and part-time construction testing and UBC Inspection services for the 906 bed multi-custody correctional facility. This facility consists of 13 buildings, several of which are 2 stories tall. The building area consisted of approximately 360,000 square feet of finished floor space. Mr. O'Doniel worked directly for the owner but coordinated his activities with the general contractor and subcontractors. The testing included earthwork, reinforcing steel inspection, reinforced concrete and masonry inspection.

Lancaster County Juvenile Detention Center, Lincoln, Nebraska

Performed construction testing services for the construction of a single-story, slab-on-grade steel frame and masonry unit building. The building was generally 240 feet by 240 feet in plan dimension. Mr. O'Doniel completed testing and inspections of shallow footings, reinforcing steel, cohesive and granular soils and Portland cement concrete.

Haymarket Baseball Stadium, Lincoln, Nebraska

Performed construction testing services for the construction of a new baseball and softball complex. Mr. O'Doniel completed testing and inspection of shallow footings, slurry drilled shafts, reinforcing steel, cohesive and granular soils, Portland cement concrete and asphaltic cement concrete.

Chemical Engineering Building, Lincoln, Nebraska

Performed construction testing services for on-site testing of soils, concrete, and inspection of reinforcing steel and masonry inspection for the five-story building on the UNL campus. The structure is supported on auger cast piles extending into sandstone.

EDUCATION

*Associates of Science
Degree/Nondestructive Testing
1993, Southeast Community
College, Milford, NE*

CERTIFICATIONS

*ICC Masonry Certified
ICC Reinforced Concrete
NDOR Batch Plant Certified
ACI Certified Technician, level I
Nuclear Density Gauge Safety
Training
NDOR Certified Technician
(Concrete, asphalt)
NDOR Concrete Plant Testing
Technician – Level II
NICET – Concrete Level II and
Soils Level I*

AFFILIATIONS

American Concrete Institute

WORK HISTORY

*Terracon, Senior Engineering
Technician, 2000 – present
Geotechnical Services, Inc.,
Engineering Technician, 1994-
2000*

Butler County Jail/Courthouse Addition, David City, Nebraska

Performed construction testing services for the construction of a single-story, slab-on-grade steel frame and masonry unit building addition. Mr. O'Doniel completed testing and inspections of shallow footings, reinforcing steel, cohesive soils and Portland cement concrete.

Kawasaki Warehouse Expansion, Lincoln, Nebraska

Performed construction testing services for a warehouse expansion. Mr. O'Doniel completed testing and inspection of auger cast piles, reinforcing steel, compacted fill soils, and Portland cement concrete.

Gallup Building Expansion, Lincoln, Nebraska

Performed construction testing services for a multi-story expansion to the Gallup facility. Mr. O'Doniel completed testing and inspection of auger cast piles, reinforcing steel, compacted fill soils and Portland cement concrete.

Ross Film Theatre, Lincoln, Nebraska

Performed on-site construction testing and UBC Inspection services for the 30,000 square foot two and three-story new film theater and visitor center. The structure was of steel frame construction with masonry and poured exterior walls with brick fascia. Mr. O'Doniel performed testing and inspection of earthwork, shallow footings, reinforcing steel, Portland cement concrete testing, and masonry inspection.

DOUG STUTZMAN

NDT FIELD TECHNICIAN, DBI, INC.

PROFESSIONAL EXPERIENCE

Mr. Stutzman currently holds the position of NDEQ Field Technician for DBI, Incorporated's Lincoln, Nebraska office. He is responsible for performing inspections on weldments and base materials including; structural steel, pressure vessels, piping, power piping, machined and cast components.

Mr. Stutzman has extensive experience in the utilization and interpretation of AWS, ASME, MIL-SPECS, and API codes for fabrication and manufacturing applications.

Prior to joining DBI, Mr. Stutzman was an NDT Field Technician for Professional Services, Inc. While there, he inspected the fabrication of a variety of structural steel projects, both in fabrication shops and at the erection sites.

PROJECT EXPERIENCE

Non-Destructive Inspection Services:

Denver International Airport, Denver, Colorado
GM Truck Facility, Shreveport, Louisiana
Union Pacific Headquarters in Omaha, Nebraska

Inspection Services:

Qwest Center, Omaha, Nebraska
First National Bank Tower in Omaha, Nebraska
Chemical Plants

Power Plant Outages:

Nebraska Public Power District
Omaha Public Power District

Department of Transportation Bridges:

Union Pacific Railroad
State of Kansas
State of Missouri
State of Nebraska

Pipeline Projects:

Kinder Morgan Magellan
Northern Natural Gas

Education

AAS Degree, Non-Destructive
Testing, Southeast Community
College, Milford, Nebraska, 1990.

Certifications

ASNT SNT-TC-1A Level II RT
ASNT SNT-TC-1A Level II RT
ASNT SNT-TC-1A Level II MT
ASNT SNT-TC-1A Level II PT
AWS CWI #91120103

Affiliations

American Welding Society, Member

Work History

DBI, Inc., NDT Field Technician,
2005-Present
Professional Services, Inc., NDT
Field Technician, 1996-2005.
PKM Steel Services, Quality Control
Manager, 1991-1995
Ultrasonic Specialists, Inc., NDT
Field Technician

DALLAS WYMAN

ASSISTANT RSO / NDT FIELD TECHNICIAN, DBI, INC.

PROFESSIONAL EXPERIENCE

Mr. Wyman currently holds the position of Assistant RSO for DBI, Incorporated's Lincoln, Nebraska office. He is responsible for performing Field Audits of Radiographic personnel, amongst multiple other duties in the Corporate RSO's absence. As an NDT Technician, he also is responsible for performing inspections on weldments and base materials including: structural steel, pressure vessels, piping, power piping, machined and cast components.

Mr. Wyman has extensive experience in the utilization and interpretation of AWS, ASME, MIL-SPECS, and API codes for fabrication and manufacturing applications.

Prior to joining DBI, Mr. Wyman was an NDT Field Technician for Inland Engineering and Consulting, Inc. in Phoenix, Arizona. While there, he inspected the fabrication of a variety of structural steel projects, both in fabrication shops and at the erection sites.

PROJECT EXPERIENCE

Non-Destructive Inspection Services:

Del E. Webb Memorial Hospital, Sun City West, Arizona
Cosmopolitan Hotel and Casino, Las Vegas, Nevada
Casino Arizona at Talking Stick, Scottsdale, Arizona

Inspection Services:

Ontario Airport Towers expansion project, Ontario, Canada

Power Plant Outages:

Nebraska Public Power District

Hanger Pin Inspections:

Brownville Missouri River Bridge

Renovation Inspections:

Kona Sushi Grill, Scottsdale, Arizona

Ultra Sonic Inspections:

Phoenix Valley Interstate System for the State of Arizona

Education

AAS Degree, Non-Destructive
Testing, Southeast Community
College, Milford, Nebraska, 2007.

Certifications

ASNT SNT-TC-1A Level II UT
ASNT SNT-TC-1A Level II RT
ASNT SNT-TC-1A Level II MT
ASNT SNT-TC-1A Level II PT
AWS CWI #09030531
Iowa Industrial Radiographer
Cardholder
Illinois Industrial Radiographer
Trainee
50-Hour Radiation Safety Training
Certified
OSHA 40-Hour Safety Training
Certified
ISNET ID #01587391
Veriforce MT Certified
Veriforce RT Certified
LAMCO and Associates RSO 24-
Hour Training Course

Affiliations

American Welding Society, Member

Work History

DBI, Inc., NDT Field Technician,
2008-Present
Inland Engineering and Consulting,
Inc., NDT Field Technician, 2007-
2008.
Big "C" Construction, Field
Supervisor, 2005-2007.

TEMPORARY ACCESS AND CONSTRUCTION LICENSE FOR AMTRAK WORK

THIS TEMPORARY ACCESS AND CONSTRUCTION LICENSE FOR AMTRAK WORK ("License") is made to be effective as of the 12th day of May, 2011 ("Effective Date") by and between **BNSF RAILWAY COMPANY**, a Delaware corporation ("Licensor") and the **WEST HAYMARKET JOINT PUBLIC AGENCY**, a political subdivision of the State of Nebraska created by the Nebraska Joint Public Agency Act, Neb. Rev. Stat. § 13-2501 *et seq.* ("Licensee").

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties agree to the following:

1. GENERAL.

1.1 Licensor hereby grants Licensee a temporary non-exclusive license, subject to all rights, interests, and estates of third parties, including, without limitation, any leases, licenses, easements, liens or other encumbrances, and upon the terms and conditions set forth below, to use (i) the area of Licensor's property labeled "Temporary Access Road" on **Exhibit M-2**, attached hereto and incorporated herein by reference, and shown as light blue thereon, and (ii) the area of Licensor's property labeled "Temporary Easement" on **Exhibit M-2** and shown as red thereon (excluding the red circle labeled "Temporary At-Grade Crossing"), situated at or near Lincoln, County of Lancaster, State of Nebraska, Line Segment 2, Mile Post 59.17 to 60.0 (collectively, the "Premises") for the purposes specified in **Section 1.3** below (the "Permitted Uses").

1.2 In the event the Permitted Uses will affect any improvements or facilities of Licensor or Licensor's existing lessees, licensees, easement beneficiaries, or lien holders (collectively "Other Improvements"), if any, or interfere with the use of the Other Improvements, Licensee will be responsible at Licensee's sole risk to locate and make any adjustments necessary to such Other Improvements. Licensee must contact the owner(s) of the Other Improvements notifying them of any work that may damage and/or interfere with the Other Improvements and obtain the owner's written approval prior to initiating any of the Permitted Uses.

1.3 Licensee shall use the Premises exclusively as a site for construction, and ingress and egress to and from the construction site for the Amtrak Work (as defined in that certain Master Development Agreement between Licensor and Licensee dated October 19, 2010 [the "**Master Agreement**"]). Licensee shall not use the Premises for any other purpose whatsoever. Licensee shall not use or store hazardous substances, as defined by the Comprehensive Environmental Response, Compensation, and Liability Act, as amended ("**CERCLA**") or petroleum or oil as defined by applicable Environmental Laws on the Premises.

1.4 Licensor and Licensee mutually agree that no construction activities for the Permitted Uses, nor future maintenance of any improvements which have a reasonable likelihood to delay train traffic on Licensor's main lines, will be permitted during the fourth quarter of each calendar year. Emergency work will be permitted only upon prior notification to Licensor's Network Operations Center (telephone number: 800 832-5452). Licensor and Licensee mutually understand and agree that trains cannot be subjected to delay during this time period.

1.5 In case of the eviction of Licensee by anyone owning or claiming title to or any interest in the Premises, Licensor shall not be liable to refund Licensee any compensation paid hereunder or for any damage Licensee sustains in connection therewith.

1.6 Any contractors or subcontractors performing work on the Premises, or entering the Premises on behalf of Licensee shall be deemed servants and agents of Licensee for purposes of this License.

1.7 Upon completion of the Platform and Canopy, Licensee shall deliver to Licensor a bill of sale (the "**Bill of Sale**") in form and substance reasonably acceptable to Licensor, conveying to Licensor all of Licensee's right, title, and interest in and to the Platform and Canopy. Licensee acknowledges and agrees that Licensee has already received good and valuable consideration for the Platform and Canopy pursuant to the provisions of a separate agreement between Licensor and Licensee.

2. **TERM.** This License shall commence on the Effective Date and, subject to prior termination as hereinafter described, shall continue until completion of the Permitted Uses, but in no event later than the date that is the earliest to occur of: (i) the end of the Development Period (as defined in the Master Agreement), or (ii) December 31, 2014.

3. **COMPENSATION.**

3.1 Licensee shall pay Licensor, prior to the Effective Date, the sum of No Dollars (\$0) as compensation for the use of the Premises.

3.2 Subject to the provisions of the C&M Agreement (as defined below) concerning Licensee's reimbursement of costs and expenses, including without limitation flagging costs, incurred by Licensor in connection with Licensee's use of the Premises, Licensee agrees to reimburse Licensor (within thirty (30) days after receipt of bills therefor) for all other costs and expenses incurred by Licensor in connection with Licensee's use of the Premises. All invoices are due thirty (30) days after the date of invoice. In the event that Licensee shall fail to pay any monies due to Licensor within thirty (30) days after the invoice date, then Licensee shall pay interest on such unpaid sum from thirty (30) days after its invoice date to the date of payment by Licensee at an annual rate equal to (i) the greater of (a) for the period January 1 through June 30, the prime rate last published in *The Wall Street Journal* in the preceding December plus two and one-half percent (2 1/2%), and for the period July 1 through December 31, the prime rate last published in *The Wall Street Journal* in the preceding June plus two and one-half percent (2 1/2%), or (b) twelve percent (12%), or (ii) the maximum rate permitted by law, whichever is less.

4. **COMPLIANCE WITH LEGAL REQUIREMENTS AND LICENSOR REQUIREMENTS.**

4.1 Licensee shall observe and comply with any and all laws, statutes, regulations, ordinances, orders, covenants, restrictions, or decisions of any court of competent jurisdiction ("**Legal Requirements**") relating to the use of the Premises.

4.2 Prior to entering the Premises, Licensee shall and shall cause its contractor to comply with all of Licensor's applicable safety rules and regulations. Prior to commencing any work on the Premises, Licensee shall complete and shall require its contractor to complete the safety training program at the Website "<http://contractororientation.com>". This program must be completed no more than one year in advance of Licensee's entry on the Premises.

4.3 Licensee shall, at all times, comply with all provisions contained in that certain Construction and Maintenance Agreement between Licensor and Licensee dated October 19, 2010 (the "**C&M Agreement**"). In the event of conflicts between the terms of this License and the C&M Agreement, the most restrictive provisions shall apply to Licensee.

5. **DEFINITION OF COST AND EXPENSE.** For the purpose of this License, "cost" or "costs" "expense" or "expenses" includes, but is not limited to, actual labor and material costs including all assignable additives, and material and supply costs at current value where used.

6. **RIGHT OF LICENSOR TO USE.** Licensor excepts and reserves the right, to be exercised by Licensor and any other parties who may obtain written permission or authority from Licensor:

6.1 to maintain, renew, use, operate, change, modify and relocate any existing pipe, power, communication lines and appurtenances and other facilities or structures of like character upon, over, under or across the Premises;

6.2 to construct, maintain, renew, use, operate, change, modify and relocate any tracks or additional facilities or structures upon, over, under or across the Premises; or

6.3 to use the Premises in any manner as Licensor in its sole discretion deems appropriate, provided Licensor uses all commercially reasonable efforts to avoid material interference with the use of the Premises by Licensee for the Permitted Uses.

7. **LICENSEE'S OPERATIONS.**

7.1 Licensee shall notify Licensor's Project Engineer, Gerald Maczuga, at 201 N. 7th Street, Lincoln, NE 68508, telephone (402) 458-7537, at least ten (10) business days prior to initially entering the Premises and prior to entering the Premises for any subsequent maintenance thereon (if applicable). After completion of use of the Premises for the Permitted Uses, Licensee shall notify Licensor in writing that such use has been completed.

7.2 In performing the Permitted Uses, Licensee shall use only public roadways to cross from one side of Licensor's tracks to the other. In the event Licensee must cross from one side of Licensor's tracks to the other at a location or locations other than a public roadway, and such location or locations are approved by Licensor in advance, then Licensee shall enter into Licensor's Agreement for Private Crossing for each such private crossing location, each such Agreement for Private Crossing to be in the form attached to the Master Agreement as Exhibit UU.

7.3 Under no conditions shall Licensee be permitted to 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 the Premises unless Licensee has obtained prior written approval from Licensor. Licensee shall, at its sole cost and expense, perform all activities on and about the Premises in such a manner as not at any time to be a source of danger to or interference with the existence or use of present or future tracks, roadbed or property of Licensor, or the safe operation and activities of Licensor. If ordered to stop using the Premises at any time by Licensor's personnel due to any hazardous condition, Licensee shall immediately do so. Notwithstanding the foregoing right of Licensor, the parties agree that Licensor has no duty or obligation to monitor Licensee's use of the Premises to determine the safe nature thereof, it being solely Licensee's responsibility to ensure that Licensee's use of the Premises is safe. Neither the exercise nor the failure by Licensor to exercise any rights granted in this Section will alter the liability allocation provided by this License.

7.4 Licensee shall, at its sole cost and expense and subject to the supervision of Licensor's Roadmaster, locate and construct the Platform and Canopy in such a manner and of such material that it will not at any time be a source of danger to or interference with the present or future tracks, roadbed and property of Licensor, or the safe operation of Licensor's railroad. If at any time Licensee shall, in the judgment of Licensor, fail to perform properly its obligations under this Section 7.4, Licensor may, at its option, itself perform such work as it deems necessary for

the safe operation of its railroad, and in such event Licensee agrees to pay, within fifteen (15) days after bill shall have been rendered therefor, the cost so incurred by Licensor, but failure on the part of Licensor to perform the obligations of Licensee shall not release Licensee from liability hereunder for loss or damage occasioned thereby.

7.5 During the construction of the Platform and Canopy, Licensee shall perform such work in a manner to preclude damage to the property of Licensor, and preclude interference with the operation of its railroad. The construction of the Platform and Canopy shall be completed within one (1) year of the Effective Date. Upon completion of the construction of the Platform and Canopy, Licensee shall, at Licensee's own cost and expense, restore the Premises to their former state as of the Effective Date.

7.6 Prior to Licensee conducting any excavating or boring work on or about any portion of the Premises, Licensee shall explore the proposed location for such work with hand tools to a depth of at least three (3) feet below the surface of the ground to determine whether pipelines or other structures exist below the surface, provided, however, that in lieu of the foregoing, Licensee shall have the right to use suitable detection equipment or other generally accepted industry practice (e.g., consulting with the Underground Services Association) to determine the existence or location of pipelines and other subsurface structures prior to drilling or excavating with mechanized equipment. Upon Licensee's written request, which shall be made thirty (30) business days in advance of Licensee's requested entry on the Premises, Licensor will provide Licensee any information that Licensor's Engineering Department has in its possession concerning the existence and approximate location of Licensor's underground utilities and pipelines on the Premises. Prior to conducting any such boring work, Licensee will review all such material. Licensor does not warrant the accuracy or completeness of information relating to subsurface conditions and Licensee's operations will be subject at all times to the liability provisions herein.

7.7 For all bores greater than 26-inch diameter and at a depth less than 10.0 feet below bottom of rail, a soil investigation will need to be performed by Licensee and reviewed by Licensor prior to construction. This study is to determine if granular material is present, and to prevent subsidence during the installation process. If the investigation determines in Licensor's reasonable opinion that granular material is present, Licensor may select a new location for Licensee's use, or may require Licensee to furnish for Licensor's review and approval, in its sole discretion a remedial plan to deal with the granular material. Once Licensor has approved any such remedial plan in writing, Licensee shall, at its sole cost and expense, carry out the approved plan in accordance with all terms thereof and hereof.

7.8 Any open hole, boring or well constructed upon Premises by Licensee shall be safely covered and secured at all times when Licensee is not working in the actual vicinity thereof. Following completion of that portion of the work, all holes or borings constructed on the Premises by Licensee shall be:

7.8.1 filled in to surrounding ground level with compacted bentonite grout; or

7.8.2 otherwise secured or retired in accordance with any applicable Legal Requirement. No excavated materials may remain on the Premises for more than ten (10) days, but must be properly disposed of by Licensee in accordance with applicable Legal Requirements.

7.9 Upon completion of Licensee's work on the Premises or upon termination of this License, whichever shall occur first, Licensee shall, at its sole cost and expense:

7.9.1 remove all of its equipment from the Premises;

7.9.2 report and restore any damage to the Premises arising from, growing out of, or connected with Licensee's use of the Premises;

7.9.3 remedy any unsafe conditions on the Premises created or aggravated by Licensee; and

7.9.4 leave the Premises in the condition which existed as of the Effective Date.

7.10 Licensee's on-site supervisors shall retain/maintain a fully-executed copy of this License at all times while on the Premises.

8. **LIABILITY.** During the term of this License, Licensee shall comply with all provisions contained in Sections 3.6 and 3.7 of the C&M Agreement, and all such provisions contained in Sections 3.6 and 3.7 of the C&M Agreement are hereby incorporated herein by reference.

9. **PERSONAL PROPERTY WAIVER.** ALL PERSONAL PROPERTY, INCLUDING, BUT NOT LIMITED TO, FIXTURES, EQUIPMENT, OR RELATED MATERIALS UPON THE PREMISES WILL BE AT THE RISK OF LICENSEE ONLY, AND LICENSOR WILL NOT BE LIABLE FOR ANY DAMAGE THERETO OR THEFT THEREOF, WHETHER OR NOT DUE IN WHOLE OR IN PART TO THE NEGLIGENCE OF LICENSOR.

10. **INSURANCE.** During the term of this License, Licensee shall comply with all provisions contained in Section 3.8 of the C&M Agreement, and all such provisions contained in Section 3.8 of the C&M Agreement are hereby incorporated herein by reference; provided, however, if any portion of the operation is to be subcontracted by Licensee, Licensee must require that Licensee's contractors provide and maintain the insurance coverages set forth in the C&M Agreement, naming Licensor as an additional insured; provided further, however, that policy limits for Commercial General Liability Insurance may be reduced to \$2,000,000 per occurrence and an aggregate limit of \$4,000,000, but in no event less than the amount otherwise carried by Licensee's contractors. In addition, Licensee must require that Licensee's contractors release, defend and indemnify Licensor to the same extent and under the same terms and conditions as Licensee is required to release, defend and indemnify Licensor in the C&M Agreement.

11. **ENVIRONMENTAL.**

11.1 Licensee shall strictly comply with all federal, state and local environmental laws and regulations in its use of the Premises, 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**"). Licensee shall not maintain a treatment, storage, transfer or disposal facility, or underground storage tank, as defined by Environmental Laws on the Premises. Licensee shall not release or suffer the release of oil or hazardous substances, as defined by Environmental Laws on or about the Premises.

11.2 Licensee shall give Licensor immediate notice to Licensor's Resource Operations Center at (800) 832-5452 of any release of hazardous substances on or from the Premises, violation of Environmental Laws, or inspection or inquiry by governmental authorities charged with enforcing Environmental Laws with respect to Licensee's use of the Premises. Licensee shall use the best efforts to promptly respond to any release on or from the Premises. Licensee also shall give Licensor immediate notice of all measures undertaken on behalf of Licensee to investigate, remediate, respond to or otherwise cure such release or violation.

11.3 In the event that Licensor has notice from Licensee or otherwise of a release or violation of Environmental Laws arising in any way with respect to the Platform and Canopy which occurred or may occur during the term of this License, Licensor may require Licensee, at Licensee's sole risk and expense, to take timely measures to investigate, remediate, respond to or otherwise cure such release or violation affecting the Premises or Licensor's right-of-way.

11.4 Licensee shall promptly report to Licensor in writing any conditions or activities upon the Premises known to Licensee which create a risk of harm to persons, property or the environment and shall take whatever action is necessary to prevent injury to persons or property arising out of such conditions or activities; provided, however, that Licensee's reporting to Licensor shall not relieve Licensee of any obligation whatsoever imposed on it by this License. Licensee shall promptly respond to Licensor's request for information regarding said conditions or activities.

12. **ALTERATIONS.** Licensee may not make any alterations of the Premises or permanently affix anything to the Premises or any buildings or other structures adjacent to the Premises without Licensor's prior written consent.

13. **NO WARRANTIES.** LICENSOR'S DUTIES AND WARRANTIES ARE LIMITED TO THOSE EXPRESSLY STATED IN THIS LICENSE AND SHALL NOT INCLUDE ANY IMPLIED DUTIES OR IMPLIED WARRANTIES, NOW OR IN THE FUTURE. NO REPRESENTATIONS OR WARRANTIES HAVE BEEN MADE BY LICENSOR OTHER THAN THOSE CONTAINED IN THIS LICENSE. LICENSEE HEREBY WAIVES ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE PREMISES OR WHICH MAY EXIST BY OPERATION OF LAW OR IN EQUITY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, HABITABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

14. **QUIET ENJOYMENT.** LICENSOR DOES NOT WARRANT ITS TITLE TO THE PROPERTY NOR UNDERTAKE TO DEFEND LICENSEE IN THE PEACEABLE POSSESSION OR USE THEREOF. NO COVENANT OF QUIET ENJOYMENT IS MADE.

15. **DEFAULT.** If default shall be made in any of the covenants or agreements of Licensee contained in this License, Licensor may pursue any and all remedies set forth in Section 24 of the Master Agreement. The remedy set forth in this Section 15 shall be in addition to, and not in limitation of, any other remedies that Licensor may have at law or in equity.

16. **LIENS.** Licensee shall promptly pay and discharge any and all liens arising out of any construction, alterations or repairs done, suffered or permitted to be done by Licensee on the Premises. Licensor is hereby authorized to post any notices or take any other action upon or with respect to the Premises that is or may be permitted by law to prevent the attachment of any such liens to the Premises; provided, however, that failure of Licensor to take any such action shall not relieve Licensee of any obligation or liability under this Section 16 or any other Section of this License.

17. **TERMINATION.** If Licensee fails to surrender to Licensor the Premises, upon any termination of this License, all liabilities and obligations of Licensee hereunder shall continue in effect until the Premises are surrendered. Termination shall not release Licensee from any liability or obligation, whether of indemnity or otherwise, resulting from any events happening prior to the date of termination.

18. **ASSIGNMENT.** Neither Licensee, nor the heirs, legal representatives, successors or assigns of Licensee, nor any subsequent assignee, shall assign, transfer, sell, or hypothecate this

License or any interest herein (either voluntarily or by operation of law), without the prior written consent and approval of Licensor, which may be withheld in Licensor's sole discretion.

19. NOTICES. Any notice required or permitted to be given hereunder by one party to the other shall be in writing and the same shall be given and shall be deemed to have been served and given if (i) placed in the United States mail, certified, return receipt requested, or (ii) deposited into the custody of a nationally recognized overnight delivery service, addressed to the party to be notified at the address for such party specified below, or to such other address as the party to be notified may designate by giving the other party no less than thirty (30) days' advance written notice of such change in address.

If to Licensor: Jones Lang LaSalle Global Services - RR, Inc.
3017 Lou Menk Drive, Suite 100
Fort Worth, TX 76131
Attn: Licenses/Permits

with a copy to: BNSF Railway Company
2500 Lou Menk Dr. - AOB3
Fort Worth, TX 76131
Attn: Senior Manager Real Estate

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

20. SURVIVAL. Neither termination nor expiration will release either party from any liability or obligation under this License, whether of indemnity or otherwise, resulting from any acts, omissions or events happening prior to the date of termination or expiration, or, if later, the date when the Premises are restored to its condition as of the Effective Date.

21. RECORDATION. It is understood and agreed that this License shall not be filed of record with the Lancaster County, Nebraska Register of Deeds Office or otherwise recorded in the official records of Lancaster County, Nebraska.

22. APPLICABLE LAW. All questions concerning the interpretation or application of provisions of this License shall be decided according to the substantive laws of the State of Nebraska without regard to conflicts of law provisions.

23. VENUE. To the fullest extent permitted by law any dispute arising under or in connection with this License or related to any subject matter which is the subject of this License shall be subject to the sole and exclusive jurisdiction of the United States District Court for the District of Nebraska. The aforementioned choice of venue is intended by Licensor and Licensee to be mandatory and not permissive. Licensor and Licensee each hereby irrevocably consents to the jurisdiction of the United States District Court for the District of Nebraska in any such dispute and irrevocably waives, to the fullest extent permitted by law, any objection that it may now have or hereafter have to the laying of venue in such court and that any such dispute which is brought in such court has been brought in an inconvenient forum.

24. SEVERABILITY. To the maximum extent possible, each provision of this License shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of

this License shall be prohibited by, or held to be invalid under, applicable law, such provision shall be ineffective solely to the extent of such prohibition or invalidity, and this shall not invalidate the remainder of such provision or any other provision of this License.

25. INTEGRATION. This License is the full and complete agreement between Licensor and Licensee with respect to all matters relating to Licensee's use of the Premises, and supersedes any and all other agreements between the parties hereto relating to Licensee's use of the Premises as described herein. However, nothing herein is intended to terminate any surviving obligation of Licensee or Licensee's obligation to defend and hold Licensor harmless in any prior written agreement between the parties.

26. MISCELLANEOUS.

26.1 In the event that Licensee consists of two or more parties, all the covenants and agreements of Licensee herein contained shall be the joint and several covenants and agreements of such parties.

26.2 The waiver by Licensor of the breach of any provision herein by Licensee shall in no way impair the right of Licensor to enforce that provision for any subsequent breach thereof.

26.3 All provisions contained in this License shall be binding upon, inure to the benefit of, and be enforceable by the respective successors and assigns of Licensor and Licensee to the same extent as if each such successor and assign was named a party to this License.

26.4 Jones Lang LaSalle Global Services – RR, Inc. is acting as representative for BNSF Railway Company.

[Signature page follows]

IN WITNESS WHEREOF, this License has been duly executed by the parties as of the date below each party's signature; to be effective, however, as of the Effective Date above.

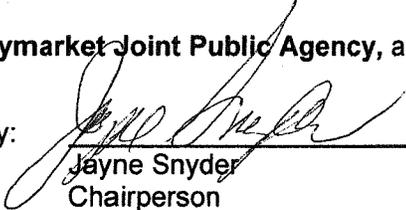
LICENSOR:

BNSF Railway Company

By: _____
Name: _____
Title: _____
Date: _____

LICENSEE:

West Haymarket Joint Public Agency, a political subdivision of the State of Nebraska

By:  _____
Jayne Snyder
Chairperson
Date: 5-10-2011

IN WITNESS WHEREOF, this License has been duly executed by the parties as of the date below each party's signature; to be effective, however, as of the Effective Date above.

LICENSOR:

BNSF Railway Company

By: 

Name: David P. Schneider

Title: General Director – Land Revenue Management

Date: _____

LICENSEE:

West Haymarket Joint Public Agency, a political subdivision of the State of Nebraska

By: _____
Jayne Snyder
Chairperson

Date: _____

**SUBLEASE AGREEMENT
BETWEEN AMTRAK AND
WEST HAYMARKET JOINT PUBLIC AGENCY
LINCOLN, NE**

THIS SUBLEASE AGREEMENT (this "Sublease") is made and entered into as of this 28th day of January, 2011, by and between **National Railroad Passenger Corporation**, a corporation organized under the Rail Passenger Service Act now codified at Title 49 U.S. Code Section 24101 et seq. (the "Act") and the laws of the District of Columbia, having offices at 60 Massachusetts Avenue, N.E., Washington, DC 20002 ("Amtrak"), **West Haymarket Joint Public Agency**, a political subdivision and corporate body politic of the State of Nebraska, having its principal office and place of business at 555 South 10th Street, Lincoln, Nebraska (the "Subtenant").

RECITALS:

WHEREAS, BNSF Railway Company (the "Prime Landlord") and Amtrak entered into that certain lease agreement dated as of January __, 2011 (the "Prime Lease"), for certain real property and facilities owned by the Prime Landlord and located at an address in Lincoln, Nebraska to be established in connection with the West Haymarket Project (defined below) and amended into this Sublease and shown as shaded on **Exhibit A** attached to this Sublease and by this reference made a part hereof (the "Subleased Premises"); and

WHEREAS, in an effort to strengthen the long-term economic and physical viability of the West Haymarket District and Downtown Lincoln, Subtenant has proposed the introduction of additional entertainment, recreational, lodging, office and retail activities; expanding the amount and quality of parking services and upgrade of surface transportation access to the area, in part through the construction of an approximately 16,000-seat arena, a privately owned and operated hotel of approximately 200 rooms, surface and garage parking, space for intercity passenger rail service in the vicinity of the Subleased Premises, retail, office and service businesses, recreational facilities and other complimentary uses (collectively "West Haymarket Project") in the West Haymarket Redevelopment Area ("Project Area"); and

WHEREAS, the West Haymarket Project includes a new train station, including a new depot to be constructed by Subtenant on property owned by Subtenant, and a new intercity rail passenger platform and canopy (together the "New Platform") to be constructed and maintained by Subtenant, at no cost or expense to Amtrak, on the Subleased Premises (the new depot, passenger platform and canopy are collectively referred to as the "New Depot"); and

WHEREAS, as part of the West Haymarket Project the parties anticipate that certain of Prime Landlord's tracks will be realigned and once construction of the New Depot has been completed in accordance with plans and specifications approved by Amtrak, Amtrak operations will be relocated, at Subtenant's expense, to the New Depot, and the existing platform and depot

will be closed. The track relocation will require Prime Landlord to terminate the use and cause the removal of its Passenger Main Line Track No. 2 (including platform and canopy) currently utilized by Amtrak's intercity passenger trains after it has constructed a new passenger main line track (Passenger Main Line Track No. 4) to be utilized by Amtrak intercity passenger trains as shown on Exhibit B (i.e., Exhibits M-2 and N from the Master Agreement between the Subtenant and Prime Landlord) attached hereto and incorporated herein by this reference; and

WHEREAS, the Subtenant has been created and established by and between the University of Nebraska and the City of Lincoln pursuant to the Joint Public Agency Act, (Chapter 13, Article 25, Reissue Revised Statutes of Nebraska, as amended, the "Act"), by entering into the Joint Public Agency Agreement creating the West Haymarket Joint Public Agency for the purpose of assuming the responsibilities of the City of Lincoln for constructing the West Haymarket Project; and

WHEREAS, a Certificate of Creation of the West Haymarket Joint Public Agency has been issued by the Secretary of State of the State of Nebraska in accordance with the Act; and

WHEREAS, Subtenant and Amtrak desire to enter into this Sublease in connection with the construction and maintenance of the Subleased Premises by Subtenant.

NOW, THEREFORE, Amtrak and Subtenant agree that the foregoing recitals are incorporated into this Sublease by this reference and further agree as follows:

AGREEMENT:

1. **Sublease.** Amtrak hereby subleases the Subleased Premises unto the Subtenant, and the Subtenant hereby subleases the Subleased Premises from the Amtrak, upon the terms and conditions hereinafter set forth. The trackside boundaries of the Subleased Premises shall commence at the edges of the ballasted right of way, and shall be measured by the trackside edge of platforms where they exist, or are built. JPA shall have no right to use the Subleased Premises for providing rail service without the express written consent of BNSF. This Sublease is subject to Amtrak's statutory rights of use the facilities as outlined in 49 U.S.C. § 24101 *et seq.*; and

2. **Commencement Date and Termination.** This Sublease shall become effective upon written notice from Amtrak to Subtenant that the Prime Lease has commenced (the "Commencement Date") and shall continue in effect until it is terminated by Amtrak giving Subtenant at least sixty (60) days' prior written notice.

If for any reason the term of the Prime Lease is terminated during the term of this Sublease, this Sublease shall thereupon terminate, and Amtrak shall not be liable to Subtenant, for damages or otherwise, by reason thereof. Rent paid in advance by Subtenant, if any, will be prorated as of the date of such termination.

3. **Surrender of the Subleased Premises.** Upon the termination of this Sublease by Amtrak, Subtenant shall quit and surrender the Subleased Premises to Amtrak in the same condition as at the Commencement Date, as, and to the extent, improved by the construction of the New Platform or otherwise.

4. **Rent.** Subtenant shall pay Amtrak at the Amtrak's office or at such place as Amtrak may from time to time designate in writing, Base Rent, as described herein, and Additional Rental, as described herein (collectively referred to from time to time as "Rent"), during the Term as follows:

(a) **Base Rental.** Beginning upon the Commencement Date and continuing thereafter, Subtenant shall pay to Amtrak an annual rental fee of One Dollar (\$1.00) (the "Base Rent).

(b) **Additional Rent.** Subtenant shall pay to Amtrak, as additional rent, any pass through of any increases in operating expenses and real estate taxes payable by Amtrak to Prime Landlord under the Prime Lease.

5. **New Depot Design.** Amtrak has reviewed and approved Prime Landlord's final design for its track relocation work with respect to track layouts and functional arrangement of the new depot and the station boarding tracks, and the New Platform (collectively "Station Track Design"). Amtrak acknowledges that it has reviewed preliminary design plans for the New Depot ("Plans"), a copy of which are attached hereto as **Exhibit C**, and found them to be acceptable as to form, fit and function. Based upon said review, Amtrak has determined that the design plans include all facilities needed to relocate Amtrak's operations, subject to Amtrak's review and approval of the final design and construction documents for the New Depot ("Final Plans") which approval shall not be unreasonably withheld. Amtrak's approval of the Station Track Design, Plans, Final Plans or any other plans or work shall only mean that designs, plans, or work meet Amtrak's subjective standards, and such approval shall not be deemed to mean that the designs, plans and specifications or construction contemplated therein or any work performed is structurally sound or appropriate or meets applicable regulations, laws, statutes or local ordinances, and/or building codes. The Final Plans shall be submitted to Amtrak's Deputy Chief Engineer – Construction, National Railroad Passenger Corporation, 2955 Market Street, 4SO29, Philadelphia, PA 19101, for Amtrak's review and approval. Amtrak shall approve or disapprove the Final Plans within thirty (30) days following receipt of the Final Plans. If Amtrak disapproves the Final Plans, Amtrak shall advise Subtenant in what manner the Final Plans fail to comply with the Plans as to form, fit and function and what changes are needed in order to obtain Amtrak's approval. The New Depot shall be constructed, operated and maintained by Subtenant in compliance with all applicable federal, state and local laws, regulations, rules, ordinances and orders in effect, including the provisions of the Americans with Disabilities Act. The Final Plans shall include the following elements:

(i) The new depot shall have a minimum of 1,750 square feet of space for Amtrak operations.

(ii) Passenger Main Line Track No. 4 shall be located next to the new depot and shall be the track closest to the New Platform.

6. **Construction of New Platform.** Subtenant will construct the New Platform pursuant to the Station Track Design at Subtenant's expense. The Station Track Design shall include the following elements:

(i) The platform shall have a minimum length of 1,200 feet and a minimum width of 15 feet with 22-foot wide baggage cart turnarounds at each end;

(ii) At least 800 feet of the platform shall have a canopy covering to protect passengers from the sun and rain;

(iii) The platform height shall be 8 inches above top of rail. The platform shall be offset by 5 feet 4 inches from the centerline of the track or tangent sections.

7. **Relocation of Amtrak Operations.** Prior to the termination of the Passenger Main Line Track No. 2, and following completion of construction of the New Depot in accordance with Final Plans (as defined in Paragraph 5 above) approved by Amtrak and Prime Landlord and receipt of all required permits and approvals, Amtrak will, at Subtenant's expense, relocate Amtrak's operations from the existing station facilities to the New Depot.

Amtrak agrees, subject to the completion by Subtenant of various exhibits and to Amtrak's approval of such exhibits, to execute the Station Lease attached hereto as **Exhibit D** on that date which is thirty (30) days after an occupancy permit is issued for the New Depot and which is no earlier than the date Prime Landlord's new passenger main track no. 4 (MT4) is constructed and Amtrak has commenced operations on such track.

8. **Passenger Rail Service.** Amtrak intends to stop its revenue trains, discharge and board passengers at the New Station, provided the following conditions are met:

(a) Subtenant is not in breach of any of its obligations as set forth in this Sublease or in any other agreement with Amtrak;

(b) Prime Landlord does not limit or restrict Amtrak's operations at this location; and

(c) The trains which stop at the New Depot are funded in whole (or at a level acceptable to Amtrak) by the State of Nebraska Department of Transportation or another governmental agency or authority.

In no event will Amtrak be required to stop trains at the New Depot if all of the conditions listed in subparts (a) - (c) above are not met.

9. **Ownership of New Platform.** Amtrak and Subtenant understand and acknowledge that following Subtenant's completion of construction of the New Platform, the New Platform will be owned by Subtenant until this Sublease expires or is terminated.

Subtenant agrees and acknowledges that it is leasing the Subleased Premises in "as is" condition, and that neither Amtrak nor the Prime Landlord has any obligation to make any repairs or alterations of whatsoever nature in or to any part of the Subleased Premises, including but not limited to alterations required to comply with the Americans with Disabilities Act or any other

governmental requirement, or to maintain any part of the Subleased Premises in any manner. Subtenant shall not knowingly create or permit any condition on the Subleased Premises that could present a threat to human health or to the environment. Subtenant shall be responsible for the cost of any utilities associated with the Subleased Premises.

10. Insurance.

(a) Subtenant and any of its contractors performing work on or adjacent to the Subleased Premises shall obtain and keep in full force and effect at all time during the term of this Sublease, at its sole cost and expense, the following types of insurance coverage with at least the limits set forth below. All insurance will be placed with insurance carriers acceptable to Amtrak and licensed to do business in Nebraska. Subtenant shall require all contractors performing work on or adjacent to the Subleased Premises to carry the insurance required herein, or Subtenant may, at its option, provide the coverage for any or all contractors, provided the evidence of insurance submitted by Subtenant to Amtrak so stipulates. Subtenant shall evidence such coverage by submitting to Amtrak the original Railroad Protective Liability Policy and certificates of insurance evidencing the other required insurance, prior to commencement of construction or demolition. In addition, Subtenant agrees to provide certified copies of the insurance policies for the required insurance within 30 days of Amtrak's written request. The insurance shall provide for ten (10) days prior written notice to Amtrak in the event the policy is cancelled for nonpayment of premium and thirty (30) days prior written notice to Amtrak if the policy is canceled for any other reason or non-renewed. No acceptance by Amtrak of any insurance certificate required hereunder will constitute or be construed as a waiver by Amtrak of the insurance requirements of this Section which will be and remain the sole responsibility of Subtenant as to compliance therewith.

In the event the Nebraska Political Subdivisions' Tort Claims Act is modified, repealed or replaced, Amtrak may modify the required insurance coverage and such modification will be implemented promptly by the Subtenant. Not more frequently than once every five (5) years, Amtrak may reasonably modify the required insurance coverage to reflect then-current risk management practices in the passenger railroad industry and underwriting practices in the insurance industry which request shall not unreasonably be denied by Subtenant. All of the Subtenant's insurance shall remain in force until this Sublease has been terminated and all of Subtenant's personnel and equipment have been removed from the Subleased Premises. All of the Subtenant's contractors' insurance shall remain in force until such contractor's work has been completed, all of the contractor's personnel and equipment have been removed from the Subleased Premises and the work has been accepted.

Subtenant may provide for the insurance coverages with such deductibles or retained amounts as Amtrak may approve from time to time, except however that Subtenant shall, at its sole expense, pay for all claims and damages which fall within such deductible or retained amount on the same basis as if there were full commercial insurance in force in compliance with these requirements. Subtenant's failure to comply with the insurance requirements set forth herein shall constitute a default of this Sublease.

The City of Lincoln, Nebraska may provide the coverages as required in this section for Subtenant, provided the City of Lincoln, Nebraska includes Subtenant as a named insured on its policies and the evidence of insurance provided by the Subtenant to Amtrak so stipulates.

(i) **Workers' Compensation Insurance** complying with the requirements of the statutes of the State of Nebraska, covering all employees of Subtenant. Employer's Liability coverage with limits of not less than \$1,000,000 each accident or illness shall be included. A waiver of subrogation in favor of Amtrak and Prime Landlord is required.

(ii) **Commercial General Liability Insurance** covering liability of Subtenant with respect to all services and operations to be performed and all obligations assumed by Subtenant under the terms of this Sublease. Products-completed operations, independent contractors and contractual liability coverages are to be included, with the contractual exclusion related to construction/demolition activity within fifty (50) feet of the railroad and any Explosion/Collapse/Underground (X-C-U) exclusions deleted.

The policy shall name National Railroad Passenger Corporation and, as appropriate, the Prime Landlord, and all commuter agencies and railroads that operate over the property or tracks at issue as additional insureds with respect to the operations to be performed. In addition the policy shall include an ISO endorsement form CG 24 17 10 01 or its equivalent providing contractual liability coverage for railroads listed as additional insureds. Coverage for such additional insureds shall be primary and non-contributory as respects any other insurance the additional insureds carry. A separations of insureds clause must be included. A waiver of subrogation in favor of Amtrak, and Prime Landlord must be included.

Coverage under this policy shall have limits of liability of not less than \$5 million each occurrence and \$10 million annual aggregate, for bodily injury (including disease or death), personal injury and property damage (including loss of use) liability.

(iii) **Automobile Liability Insurance** covering the liability of Subtenant arising out of the use of any vehicles which bear, or are required to bear, license plates according to the laws of the State of Nebraska, and which are not covered under Subtenant's Commercial General Liability insurance. The policy shall name National Railroad Passenger Corporation and, as appropriate the Prime Landlord, and all commuter agencies and railroads that operate over the property or tracks at issue as additional insureds with respect to the services and operations to be performed. Coverage under this policy shall have limits of liability of not less than \$1 million each occurrence, combined single limit, for bodily injury and property damage (including loss of use) liability. A separations of insureds clause is included. A waiver of subrogation in favor of Amtrak, and Prime Landlord is required.

In the event Subtenant or any contractor or subcontractor will be transporting and/or disposing of any hazardous material or waste off of the jobsite, a MCS-90 Endorsement is to be added to this policy and the limits of liability are to be increased to \$5 million each occurrence.

(iv) **Railroad Protective Liability (RRP) Insurance** covering the Operations performed by Subtenant or any contractor or subcontractor within fifty (50) feet vertically or horizontally of railroad tracks. The current ISO Occurrence Form (claims-made forms are unacceptable) in the name of the National Railroad Passenger Corporation (and as appropriate, Prime Landlord, and all commuter agencies and railroads that operate over the property or tracks at issue) shall have limits of liability of not less than \$5 million each occurrence, combined single limit, for Coverages A and B, for losses arising out of injury to or death of all persons, and for physical loss or damage to or destruction of property, including the loss of use thereof. A \$10 million annual aggregate shall apply. Additionally, Policy Endorsement CG 28 31 - Pollution Exclusion Amendment, is required to be endorsed onto the policy. Further, "Physical Damage to Property" as defined in the policy is to be deleted and replaced by the following endorsement:

"It is agreed that 'Physical Damage to Property' means direct and accidental loss of or damage to all property owned by any named insured and all property in any named insured's care, custody and control."

The original RRP Liability Insurance Policy must be submitted to Amtrak prior to commencement of demolition or construction.

In the alternative, and upon Amtrak's approval, Subtenant may elect to have Subtenant or its contractor insure the demolition, construction and/or services to be provided by Subtenant under Amtrak's Blanket RRP Liability Insurance Program. The premium, which shall be determined by the rate schedule promulgated by the insurer in effect as of the Commencement Date of this Sublease, shall be prepaid by Subtenant. In the event Amtrak and Subtenant agree to insure the demolition, construction and/or services to be provided by Subtenant under Amtrak's RRP Program, Subtenant shall include the RRP premium of \$8,501.00 in addition to the Permit Fee, and send its check made payable to National Railroad Passenger Corporation to the individual set forth below prior to commencement of any demolition or construction.

(v) **All Risk Property Insurance** covering physical loss or damage to all property used in the performance of the demolition, construction and/or services to be provided by Subtenant and its contractors hereunder on a full replacement cost basis. The policy shall have limits of liability adequate to cover all property of Subtenant and its contractors (including personal property of others in Subtenant's care, custody or control) and shall include a waiver of subrogation against Amtrak, as appropriate, Prime Landlord, and all commuter agencies and railroads that operate over the property or tracks at issue.

(vi) **Contractor's Pollution Liability Insurance** covering the liability of the Subtenant and its contractors arising out of any sudden and/or accidental pollution or impairment of the environment, including clean up costs and defense, that arise from operations of Subtenant and its contractors with National Passenger Rail Corporation, and all commuter agencies and railroads that operate over the property or tracks at issue named as additional insureds. Coverage under this policy shall not have limits of liability of not less than \$2 million each occurrence. The coverage shall be maintained during the term of the project and for at least two (2) years following completion of the lease.

(vii) **Pollution Legal Liability Insurance** is required if any hazardous material or waste is to be transported or disposed of off of the jobsite. Subtenant, its contractor or transporter, as well as the disposal site operator, shall maintain this insurance. Subtenant shall designate the disposal site, and must provide a certificate of insurance from the disposal facility to Amtrak. The policy shall name National Railroad Passenger Corporation, Prime Landlord and all commuter agencies and railroads that operate over the Subleased Property or tracks at issue as additional insureds, with limits of liability of not less than \$2 million per claim.

Further, any additional insurance coverages, permits, licenses and other forms of documentation required by the United States Department of Transportation, the Environmental Protection Agency and/or related state and local laws, rules and regulations shall be obtained by Subtenant.

(viii) **Professional Liability Insurance** covering the liability of contractor for any and all errors or omissions committed by contractor in the performance of the demolition, construction and/or services to be provided by contractor, regardless of the type of damages. The coverage shall be maintained for at least three (3) years following the termination of this Sublease. The policy shall have limits of liability of not less than \$2 million per claim and in the annual aggregate. The policy may contain a deductible of a maximum of two hundred fifty thousand dollars (\$250,000), but in such case the deductible is the sole responsibility of contractor, and no portion of such deductible is the responsibility of Amtrak. This requirement may also be satisfied by the use of a Project Specific Professional Liability insurance policy provided by the Subtenant.

A contractor that is not providing design and engineering services may elect to satisfy this requirement through the addition of endorsement CG2279 "Incidental Professional Liability" to its CGL policy.

Claims-Made Insurance - If any liability insurance specified above shall be provided on a claims-made basis, then in addition to coverage requirements above, such policy shall provide that:

1. The retroactive date shall coincide with or precede the Commencement Date hereof (including subsequent policies purchased as renewals or replacements);
2. The policy shall allow for the reporting of circumstances or incidents that might give rise to future claims;
3. Subtenant will use its best efforts to maintain similar insurance under the same terms and conditions that describe each type of policy listed above (e.g., Commercial General Liability, Professional Liability) for at least three (3) years following the termination of this Sublease; and

4. If insurance is terminated for any reason, Subtenant will purchase an extended reporting provision of at least two (2) years to report claims arising from the demolition, construction and/or services to be provided by Subtenant.

(b) Evidence of Insurance. Subtenant shall furnish evidence of insurance as specified above at least fifteen (15) days prior to commencing the Sublease or any demolition or construction. THESE DOCUMENTS SHALL INCLUDE A DESCRIPTION OF THE PROJECT AND THE LOCATION ALONG THE RAILROAD RIGHT-OF-WAY (typically given by milepost designation) IN ORDER TO FACILITATE PROCESSING. The fifteen (15) day advance notice of coverage may be waived by Amtrak in situations where such waiver will benefit Amtrak, but under no circumstances will Subtenant begin demolition or construction without providing satisfactory evidence of insurance as approved by Amtrak. Such evidence of insurance coverage shall be sent to:

Director Project Initiation & Development
National Railroad Passenger Corporation
30th Street Station, Mail Box 64
Philadelphia, PA 19104-2817

(c) Subtenant shall pay all premiums and charges for such insurance, and if Subtenant shall fail to obtain such insurance, Amtrak may, but shall not be obligated to, obtain the same, in which event the amount of the premium paid shall be paid by Subtenant to Amtrak upon Amtrak's demand therefor, shall be deemed Additional Rent and shall be collectible by Amtrak in the same manner and with the same remedies as though said sums were Additional Rent reserved hereunder. Such liability insurance policy shall include a provision to the effect that the same will be non-cancelable except upon thirty (30) days' advance written notice to Amtrak and that the act or omission of Subtenant will not invalidate the policy as to Amtrak. Certified copies of the original insurance policies or appropriate certificates thereof shall be promptly deposited with Amtrak, together with any renewals, replacements or endorsements thereto.

(d) Subtenant acknowledges that Amtrak will not carry any insurance in favor of Subtenant, and that neither Prime Landlord nor Amtrak will carry insurance on Subtenant's furniture and/or furnishings or any fixtures or equipment, improvements or appurtenances of Subtenant in or about the Subleased Premises.

(e) Not more frequently than once every five years Amtrak retains the right to reasonably modify the required insurance coverage to reflect the then-current risk management practices in the railroad industry and underwriting practices in the insurance industry.

(f) Subtenant is allowed to self-insure up to \$250,000 per occurrence and \$250,000 aggregate on General Liability and Automobile Liability and up to \$750,000 per occurrence and \$750,000 aggregate on Workers' Compensation Liability without further consent or approval from Amtrak. Subtenant's contractors are allowed to self insure up to \$250,000 per occurrence and aggregate. Subtenant is obligated to pay all claims within the self insured retention; Amtrak has no duty to make any payments with respect to any self insured retention.

(g) Subtenant agrees that to the extent any insurance required of Amtrak, Subtenant or any contractors by Prime Landlord with respect to the Lincoln, NE Station and New Platform is greater than the insurance required herein, Subtenant and/or its contractors shall provide insurance in compliance with the Prime Landlord insurance requirements.

11. **Indemnification.** Subtenant shall defend, indemnify and hold harmless Amtrak, its officers, directors, employees, agents, servants, successors, assigns and subsidiaries (collectively "Indemnified Parties") and Prime Landlord, its officers, directors, employees, agents, servants, successors, assigns and subsidiaries, from and against any and all losses and liabilities, penalties, fines, forfeitures, demands, claims, causes of action, suits, costs, and expenses incidental thereto (including costs of defense and attorneys' fees), which any of the Indemnified Parties or Prime Landlord (and its officers, directors, employees, agents, servants, successors, assigns and subsidiaries) may hereafter incur, be responsible for, or pay as a result of:

- (i) injury, death, disease, or occupational disease of any person (including employees of Subtenant), or
- (ii) damage (including environmental contamination and loss of use) to or loss of any property, including the Subleased Premises,

arising out of, in any degree directly or indirectly caused by, or resulting from materials, products or equipment supplied by, or from activities of, or work performed by Amtrak, Prime Landlord, Subtenant, and/or their officers, employees, agents, servants, contractors, subcontractors or any other person acting for or with the permission of them, or as a result of Subtenant's failure to perform its obligations in compliance with this Sublease except to the extent such loss, liability, penalty, fine, forfeiture, demand, claim, cause of action, suit, cost, or expense results directly from the sole negligence of the Indemnified Parties

Subtenant shall be responsible for all damages and expenses on account of injuries (including death) to any of its employees, agents, contractors or subcontractors while on the Subleased Premises and shall indemnify, defend and hold Amtrak and Prime Landlord harmless from all claims or damage suits which may arise in consequences of such injuries. Subtenant shall also repair or replace any property of Amtrak or Prime Landlord which is damaged by Subtenant's employees, agents, contractors or subcontractors while performing its obligations hereunder.

Subtenant hereby agrees to purchase a policy of insurance covering all or any part of the liability which might be incurred under the Nebraska Political Subdivision's Tort Claims Act, including, but not limited to, those claims specifically excepted from liability by §13-910 of such Tort Claims Act, and Subtenant agrees that, with respect to any claim against Amtrak or the Prime Landlord for which Amtrak or the Prime Landlord is entitled to be indemnified by Subtenant pursuant to this Sublease, Subtenant is not entitled to avoid providing such indemnification of Amtrak or the Prime Landlord based on any defenses or immunity Subtenant may have with respect to the underlying claim. Further, Subtenant acknowledges that Subtenant's agreement to waive such protections and defenses and its agreement to purchase such insurance is a material inducement without which Amtrak would not have entered into this Sublease. In the event Amtrak incurs any expense or makes any payment (voluntarily or

involuntarily) in connection with any claim for which, but for the application of the Nebraska Political Subdivision's Tort Claims Act, Subtenant would have been responsible under this Section 11, all such expenses and payments shall be considered Additional Rent.

12. Worker Training; Protection

(a) Subtenant and any of its contractors, employees or agents who perform work on the Subleased Premises within fifty (50) feet, vertically or horizontally, of the railroad tracks shall have the proper skill and Federal Railroad Administration required training necessary to perform such work. Proof of such skill and training shall be furnished upon request.

(b) All work to be performed by Subtenant or its contractors, employees or agents on the Subleased Premises within fifty (50) feet, vertically or horizontally, of the railroad tracks must include proper railroad protective services (e.g., flagging), obtained from Prime Landlord if necessary, to avoid interference with any active rail service. Subtenant is obligated to notify Prime Landlord in advance and to make arrangements with Prime Landlord for such protective services. Subtenant shall reimburse Prime Landlord for the cost of providing flagging or other railroad protective services, as deemed necessary by Prime Landlord, in connection with Subtenant's maintenance of the New Platform.

(c) Subtenant or its contractors, employees or agents on the Subleased Premises shall comply with Amtrak Specification 01141A entitled *Safety and Protection of Railroad Traffic and Property* attached hereto as Exhibit E, as such Specification may be revised by Amtrak from time to time.

13. Signage. Subtenant shall not place any signs on the New Platform without the prior written consent of Amtrak. Subtenant shall comply with Amtrak's Graphic Standards Signage Manual and any other signage requirements made known to Subtenant.

14. Taxes; Assessments Subtenant shall pay all taxes and assessments, general, special or otherwise, which may be charged, assessed, imposed or payable in connection with the New Platform for the term of this Sublease, even though such charges may not become due and payable until after termination of this Sublease.

15. Subordination to and Incorporation of Terms of Prime Lease. This Sublease is in all respects subject and subordinate to the terms and conditions of the Prime Lease and to the matters to which the Prime Lease is or shall be subordinate. Except as otherwise expressly provided in this Sublease, the terms, provisions, covenants, stipulations, conditions, rights, obligations, remedies and agreements of the Prime Lease are incorporated in this Sublease by reference and made a part hereof as if herein set forth at length, and shall, as between Amtrak and Subtenant (as if they were the Lessor and Lessee respectively, under the Prime Lease and, as if the Sublease Premises were the Prime Leased Premises demised under the Prime Lease), constitute the terms of this Sublease, except to the extent that they are inapplicable to, inconsistent with, or modified or eliminated by, the terms of this Sublease. Amtrak and Subtenant acknowledge and agree that Subtenant has reviewed and is familiar with the Prime Lease and Amtrak hereby represents that the copy delivered to Subtenant for such purpose and attached hereto as Exhibit F is a true, correct and complete copy of such Prime Lease.

In all provisions of the Prime Lease requiring the approval or consent of the Prime Landlord, Subtenant shall be required to obtain the approval or consent of Prime Landlord and of Amtrak. In all provisions of the Prime Lease requiring that notice be given to Prime Landlord, Subtenant shall be required to give notice to Prime Landlord and Amtrak.

16. Use of Subleased Premises. Subtenant will not (a) use, occupy or permit the use or occupancy of the Subleased Premises in any manner which violates any law, statute, regulation, ordinance, order, covenant, restriction or decision of any court of competent jurisdiction, or is dangerous to life or property, or creates a public or private nuisance, or for a use other than the permitted use hereunder; (b) keep, or permit to be kept, any substance in or conduct, or permit to be conducted, any operation from the Subleased Premises which might emit offensive odors or conditions, or make undue noise or create undue vibrations; or (c) commit or permit to remain any waste to the Subleased Premises; provided, however, that such restrictions shall not apply to approved demolition and/or construction projects.

17. Construction or Demolition Projects. When proposing construction or demolition projects on the Subleased Premises, Subtenant shall provide Amtrak and Prime Landlord each with a set of plans and specifications for Amtrak's and Prime Landlord's review and approval prior to the start of construction or demolition, which approval shall not be unreasonably withheld, delayed or conditioned. Subtenant understands that Amtrak's or Prime Landlord's approval of any plans or specifications shall not be deemed to mean that the construction contemplated therein, nor completed in accordance therewith, is structurally sound or appropriate or meets applicable regulations, laws, statutes or local ordinances, and/or building codes. Subtenant will be solely responsible for determining whether its plans and specifications, construction, and maintenance meet its needs and will provide for safe operation. For such construction or demolition projects, Subtenant will fully indemnify Amtrak against any and all risks, liabilities, claims, losses and judgments arising from, or growing out of, or related in any way to the acts or negligence of Subtenant's contractors performing such construction or demolition work, their agents, employees, subcontractors, and their agents and employees and/or Amtrak, its agents or employees, excepting only such risks, liabilities, claims, losses, and judgments that result from Amtrak's sole negligence. Subtenant will require its contractors to execute and deliver a Prime Landlord such right of entry agreements as Subtenant and Prime Landlord agree upon for any construction or maintenance work to be performed on the Subleased Premises by Subtenant. Subtenant will require its contractors, after Subtenant has fully assured itself of contractual compliance in every respect, to certify in writing that the project work is of good quality and has been performed in accordance with the contract and provide appropriate lien waivers, as a condition precedent to final disbursement of project funds.

18. Liens. If, because of any act or omission of Subtenant or its agents, any mechanic's lien or other lien, charge or order for the payment of money shall be filed against Prime Landlord or any portion of the Subleased Premises, Subtenant shall, at its own expense, cause the same to be discharged of record within thirty (30) days after becoming aware of such lien or after written notice from either Amtrak or Prime Landlord to Subtenant of the filing thereof, and shall indemnify and save harmless Amtrak and Prime Landlord against and from all costs, liabilities, penalties, and claims, including legal expenses, resulting therefrom. Should Subtenant become aware of a possible or actual filing of lien in the above instances, it shall notify Amtrak in writing of same in a

timely fashion. Should Amtrak receive notice of any lien filed against any portion of the Subleased Premises, Amtrak shall notify Subtenant of the same in a timely fashion.

19. Assignment and Subletting. Subtenant may not assign this Sublease nor sublet the Subleased Premises or any part thereof without the prior written consent of Amtrak, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, Subtenant, without Amtrak's prior written consent, may assign this Sublease or sublet the whole of the Subleased Premises to a legal entity which is any one of the following: (i) the City of Lincoln, Nebraska, (ii) the successor, by merger or otherwise, to all or substantially all of Subtenant's assets and liabilities, or (iii) controls or is controlled by or is under common control with Subtenant, directly or indirectly (for purposes of this Sublease, the term "controlled" shall mean holding more than fifty percent (50%) of the ownership interest in or having voting control of the subject entity).

20. Notices.

Except as may be more specifically provided herein, any request, demand, authorization, direction, notice, consent, waiver, or other document provided or permitted by this Sublease to be made, given or furnished to the other party shall be in writing and shall be delivered by hand or by certified mail, return receipt requested or by overnight delivery service, in an envelope addressed as follows:

If to Subtenant:

555 South 10th Street
Lincoln, NE 68508
Attn: Mayor of the City of Lincoln

With a copy to:

City Attorney
City of Lincoln, Nebraska
555 South 10th Street, Suite 300
Lincoln, NE 68508

If to Amtrak:

National Railroad Passenger Corporation
30th Street Station, 5th Floor South
Philadelphia, PA 19104
Attn: Assistant Vice President
Real Estate Development

With a copy to:

National Railroad Passenger Corporation
60 Massachusetts Avenue, N.W.
Washington, D.C. 20002
Attn: Vice President, Policy and Development

21. Dispute Resolution. In the event a dispute arises under this Sublease which cannot be resolved between the parties, a mediator shall be selected by the parties and the parties

agree to mediate the issue in a good faith effort to resolve the same. In the event mediation fails to resolve the issue, either Subtenant or Amtrak may commence an action only in federal court.

22. **Non-Discrimination.** Subtenant expressly agrees that it will not discriminate in employment or the provision of services on the basis of any characteristic or condition upon which state or federal law or regulation prohibits discrimination.

23. **Labor Claims.** Subtenant shall be responsible for any valid claims made by Prime Landlord labor unions for any work performed by Amtrak, Subtenant and/or their contractors within the Subleased Premises. Amtrak will promptly notify Subtenant of Amtrak's receipt of any such claim and will assist Subtenant in its defense of any such claim. Both Amtrak's and Subtenant's obligations pursuant to this Paragraph 23 shall survive the termination or expiration of this Sublease.

24. **Contingencies.** Amtrak's and Subtenant's obligations under this Sublease shall be contingent upon the following:

(a) Execution of a Joint Facility Agreement between Union Pacific Railroad Company (UP) and Prime Landlord, with terms and conditions acceptable to Subtenant, Amtrak, Prime Landlord, and UP;

(b) Completion of the First Closing between the Prime Landlord and Subtenant pursuant to the Land Exchange Agreement between the Prime Landlord and Subtenant effective as of October 18, 2010;

(c) Obtaining any necessary permits, consents and approvals authorizing the transactions contemplated by this Sublease.

25. **Brokers.** Subtenant warrants that it has had no dealings with any real estate broker or agent in connection with this Sublease that would give rise to a valid claim for a commission. Amtrak warrants that it has had no dealings with any real estate broker or agent in connection with this Sublease that would give rise to a valid claim to a commission.

26. **Severability.** If any term of this Sublease is declared to be illegal or unenforceable, the unaffected terms shall remain in full force and effect.

27. **Successors and Assigns.** Except as otherwise provided in this Sublease, all of the covenants, conditions and provisions of this Sublease shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.

28. **Parties.** The words "Amtrak" and "Subtenant" as used herein shall include the parties to the Sublease, whether singular or plural, masculine or feminine, or corporate, partnership, limited liability company or other entity and their heirs, personal representatives, successors and assigns.

29. **Controlling Law.** This Sublease shall be enforced and construed in accordance with the laws of Nebraska.

30. **Captions.** The captions of the paragraphs of this Sublease and its Exhibits are for convenience only and are not a part of this Sublease, and do not in any way limit or amplify the terms or provisions of this Sublease, and shall not be considered in the construction or interpretation of any provision hereof.

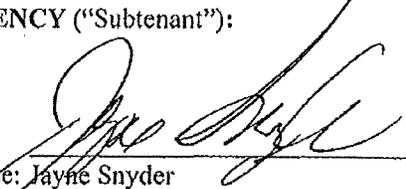
31. **Entire Agreement.** This Sublease, together with any later written modifications or amendments thereto, shall constitute the entire agreement between the parties with respect to the subject matter hereof and shall supersede any prior or contemporaneous agreements or understandings, whether written or oral, which the parties, their agents or representatives may have had relating to the subject matter hereof. No modification, alteration or waiver of any term, condition or covenant of this Sublease shall be valid unless in writing, dated and signed by the Amtrak and the Subtenant. No waiver shall be deemed a waiver of any other provision hereof or of any subsequent breach of the same or any other provision.

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

**NATIONAL RAILROAD PASSENGER
CORPORATION ("Amtrak"):**

By: _____
Name: Bruce Looloian
Title: Assistant Vice President,
Real Estate Development

**WEST HAYMARKET JOINT PUBLIC
AGENCY ("Subtenant"):**

By:  _____
Name: Jayne Snyder
Title: Chair of the West Haymarket Joint Public
Agency Board of Representative

30. **Captions.** The captions of the paragraphs of this Sublease and its Exhibits are for convenience only and are not a part of this Sublease, and do not in any way limit or amplify the terms or provisions of this Sublease, and shall not be considered in the construction or interpretation of any provision hereof.

31. **Entire Agreement.** This Sublease, together with any later written modifications or amendments thereto, shall constitute the entire agreement between the parties with respect to the subject matter hereof and shall supersede any prior or contemporaneous agreements or understandings, whether written or oral, which the parties, their agents or representatives may have had relating to the subject matter hereof. No modification, alteration or waiver of any term, condition or covenant of this Sublease shall be valid unless in writing, dated and signed by the Amtrak and the Subtenant. No waiver shall be deemed a waiver of any other provision hereof or of any subsequent breach of the same or any other provision.

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

**NATIONAL RAILROAD PASSENGER
CORPORATION ("Amtrak"):**

By: B. Looloian
Name: Bruce Looloian
Title: Assistant Vice President,
Real Estate Development

**WEST HAYMARKET JOINT PUBLIC
AGENCY ("Subtenant"):**

By: _____
Name: Jayne Snyder
Title: Chair of the West Haymarket Joint Public
Agency Board of Representative

EXHIBIT A

Subleased Premises

The Subleased Premises consists of the parcel of land situate in Lincoln, Nebraska containing a total of 50722 sq. ft. (1.16 A.C.) more or less and depicted as the shaded area on the drawing dated December 28, 2010 attached hereto as Exhibit A-1.

Exhibit A-1
Dated December 28, 2010

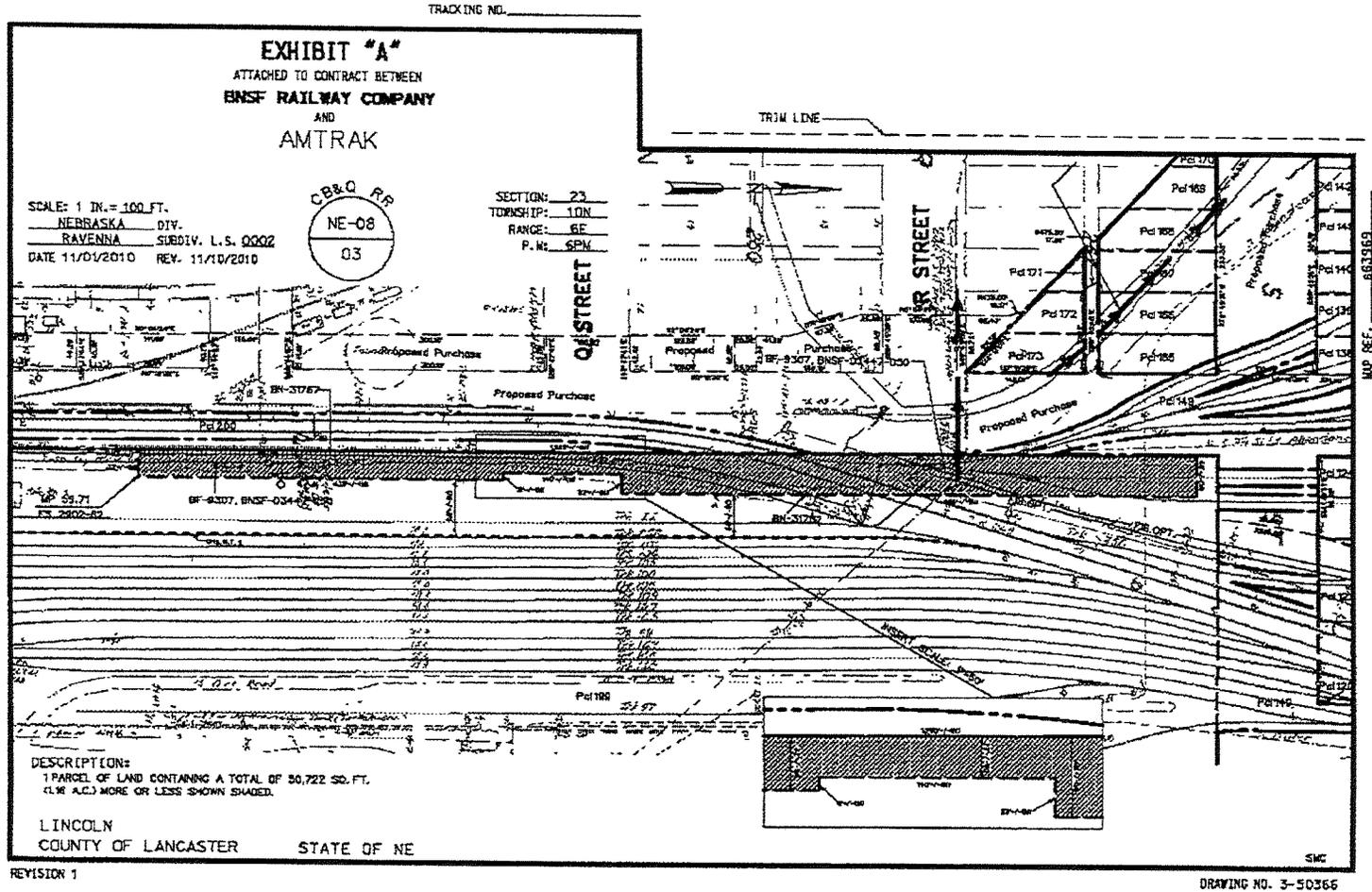


EXHIBIT B

Prime Landlord's Main Line Track Realignment

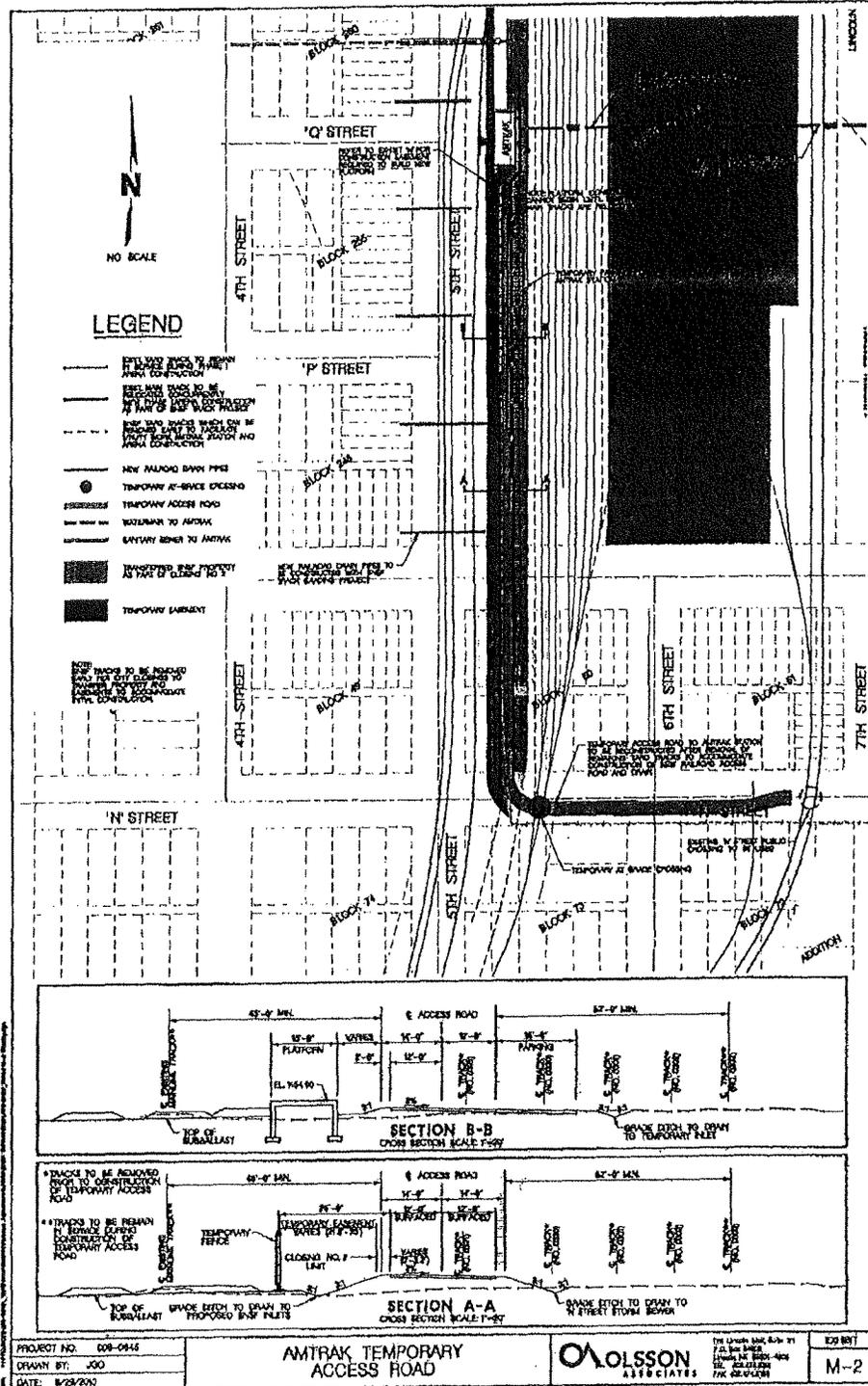


EXHIBIT B

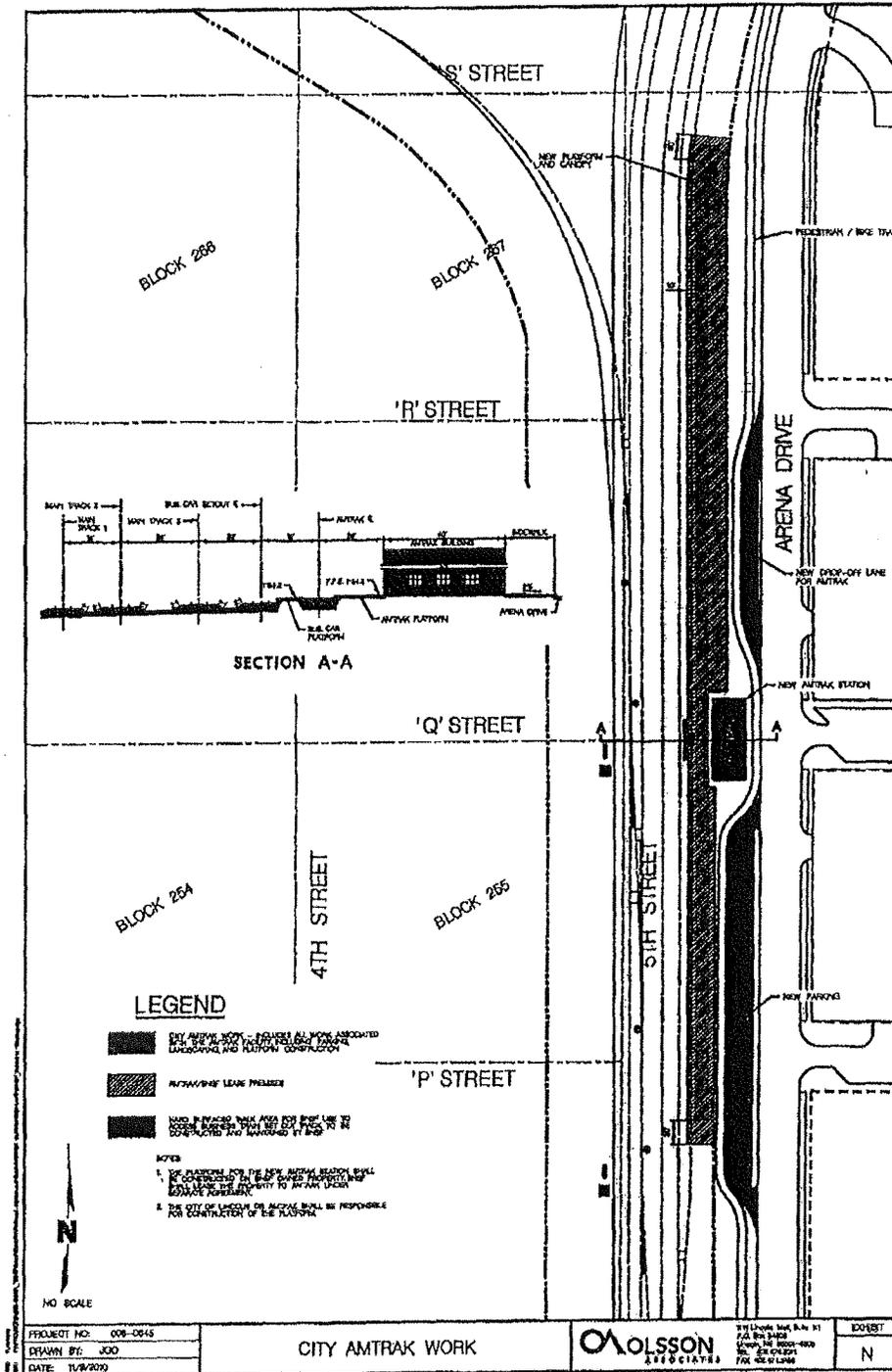
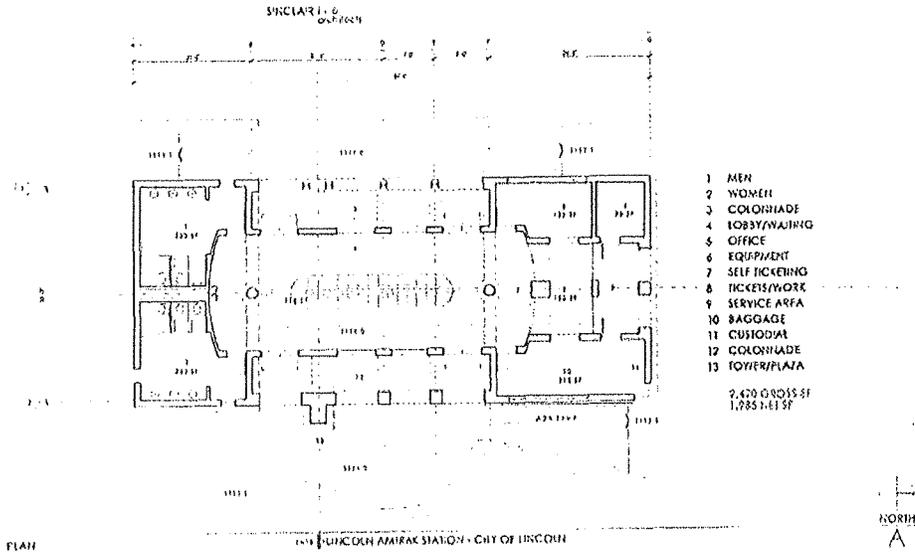
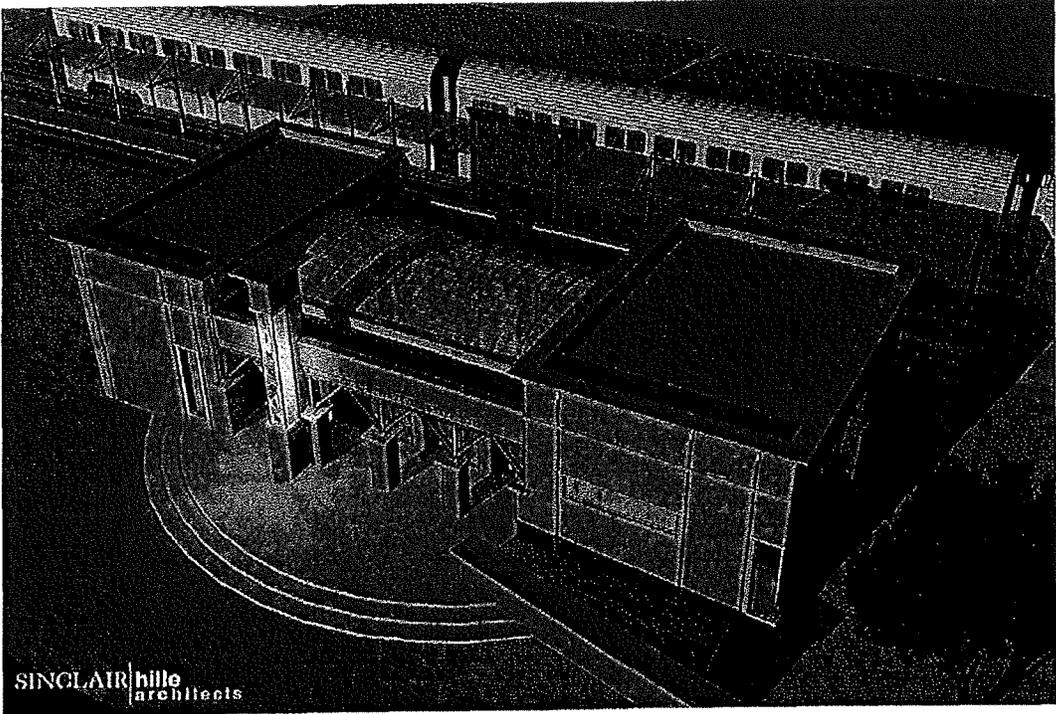


EXHIBIT C

New Depot Design Plans





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Exhibit D

LEASE AGREEMENT
(West Haymarket Station)

This Lease Agreement ("Lease") is made and entered into as of this _____ day of _____, 201____, by and between the WEST HAYMARKET JOINT PUBLIC AGENCY, a political subdivision and corporate body politic of the State of Nebraska ("JPA"), and National Railroad Passenger Corporation, a corporation organized under the former Rail Passenger Service Act and the laws of the District of Columbia, with offices at 30th Street Station, 5th Floor South Tower, Philadelphia, PA 19104 ("AMTRAK").

BACKGROUND

WHEREAS, JPA owns certain real property in the City of Lincoln, located at _____, together with all improvements constructed thereon, including that certain building commonly known as West Haymarket Station ("Station"), being more particularly described and shown on Exhibit "A" and Exhibit "B" attached hereto, respectively, and made a part hereof; and,

WHEREAS, AMTRAK desires to lease a portion of the Station as set forth in Section 1 below.

NOW, THEREFORE, in consideration of the terms and conditions set forth herein, JPA and AMTRAK do hereby agree as follows:

1. **PREMISES**

a. JPA hereby leases to AMTRAK and AMTRAK leases from JPA for the Term upon all the conditions set forth herein, One Thousand Seven Hundred Fifty (1,750) square feet ("Premises") of the Two Thousand Four Hundred Fifty (2,450) total square feet of space in the Station as delineated on the plan attached and incorporated herein as Exhibit "C". JPA reserves the right to lease other portions of the Station to other tenants providing such leasing does not interfere with AMTRAK's "Use" (as herein after defined).

b. JPA also hereby grants to AMTRAK, its employees, agents, licensees, contractors, passengers and invitees, the nonexclusive right in common with JPA and all others designated by JPA for the use of the common areas and common facilities in the Station and on the land on which the Station is located. The Station and the land on which it is located are collectively referred to herein as the "Property." Common areas include common sidewalks necessary to access the Station, hallways, stairways, elevators, public bathrooms, common entrances, lobbies, waiting area for passengers, and other public portions of the Property ("Common Areas"). The Common Areas shall provide reasonable ingress and egress for AMTRAK and its employees, passengers, invitees, licensees, and agents from abutting public right-of-way to the Station. AMTRAK shall have the right to enter in and upon the Common Areas to: a) install, repair and maintain AMTRAK's ticket machines, passenger information display systems (including station signage and public address systems), and video monitors, if

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Exhibit D

any; b) provide reasonable services to passengers, including the sale of tickets; c) maintain railroad operating facilities, communication lines, and other equipment; and d) perform other functions required in connection with the provision of intercity rail passenger service.

2. TERM

a. The initial term of this Lease shall be for thirty-five (35) years ("Term") commencing thirty (30) days after an occupancy permit is issued for the Premises ("Commencement Date"); provided that the Commencement Date shall not be earlier than the date BNSF Railway Co's ("BNSF") new passenger main track no. 4 (MT4) is constructed and Amtrak has commenced operations on such track. The Term will end thirty-five (35) years thereafter, unless (a) sooner terminated (1) by AMTRAK giving thirty (30) days' prior written notice to JPA that AMTRAK's rail passenger service to Lincoln, Nebraska will relocate or cease or (2) in the event JPA elects not to rebuild the Station as provided in paragraphs 14 and 15 in this Lease or (b) extended by AMTRAK as provided below.

b. On or about the Commencement Date, JPA shall execute and deliver to AMTRAK a Declaration of Commencement ("Declaration") in the form attached hereto as Exhibit D. AMTRAK shall promptly execute such Declaration confirming the Commencement Date and return such to JPA. JPA shall record this Lease in the appropriate recorder of deeds office.

c. AMTRAK shall have the option to extend the Term of this Lease for three (3) additional five (5) year terms by giving notice of its intent to exercise this option at least sixty (60) days before the end of the then current term. Any extended term shall be upon all the same terms and conditions as set forth in this Lease.

3. RENT

AMTRAK shall pay rent in the amount of Two Thousand Four Hundred Twenty-five and 00/100ths Dollars (\$2,425.00) per month or the amount of AMTRAK's monthly rent at its current station in effect upon termination of AMTRAK's tenancy, whichever is greater ("Rent"). The Rent shall be increased for inflation on an annual basis beginning at the commencement of the second year of the Term and each succeeding year thereafter utilizing the Consumer Price Index for all Urban Consumer's (CPI-U) over the last twelve months before seasonable adjustment as reported for the month of adjustment is made by the U.S. Bureau of Labor Statistics (or its successor) or a comparable Consumer Price Index in the event the CPI-U is discontinued. Rent shall be due and payable on the first day of each calendar month during the term of this Lease. Should the lease commence and/or terminate on a day other than the first day of a calendar month, such rental for such month's shall be reduced proportionately.

4. USE

AMTRAK may occupy and use the Premises for railroad passenger services and any lawful purpose reasonably related to the operation of a rail passenger station and AMTRAK'S business operations, including ticketing, related mail, package, baggage, and express services and office, mechanical and/or engineering facilities, connecting bus service and operations incidental to AMTRAK'S business. AMTRAK shall be permitted to assign and/or sublease portions of the

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Exhibit D

Premises to third parties for retail use for the convenience of AMTRAK'S passengers, such as newsstands, coffee stands, ATM and vending machines beverage and snack stands (collectively "USE").

5. PARKING

Public parking improvements to serve the West Haymarket Project (including AMTRAK) will be constructed by the JPA. The public parking improvements at full build out are envisioned to contain 1700 – 1800 parking spaces in two new parking garages as well as some on-street metered public parking spaces abutting the West Haymarket Station ("Parking"). The Parking shall be available for AMTRAK's passengers, employees, licensees, and invitees on a nonexclusive basis twenty-four hours per day, seven days per week at the City of Lincoln Nebraska's or JPA's standard rates for public Parking.

6. HOURS OF OPERATION

AMTRAK shall have the right to keep the Premises open at all such times as it desires.

7. UTILITIES

The JPA shall provide water and sanitary sewer service to Common Areas. The JPA shall further provide electricity and natural gas to the Premises. AMTRAK shall pay its proportionate share of such utility costs for the Premises (to be determined by dividing the total square footage of the Premises by the total rental square footage in the Station) providing such amount shall not exceed Seven Hundred Two Dollars (\$702) per month for the Term.

8. JPA'S WORK

Amtrak
JPA agrees to provide AMTRAK, at no cost to AMTRAK, with leasehold improvements within the Premises in accordance with the plans and specifications attached hereto and incorporated herein as Exhibit E, attached hereto and made a part hereof, by the Commencement Date. All such leasehold improvements shall be constructed in accordance with all applicable statutes, laws, rules, regulations, ordinances and codes, including without limitation, the Americans with Disabilities Act of 1990, as amended, and the regulations promulgated thereunder and must be constructed in accordance with AMTRAK'S safety, security, operation and engineering procedures, as applicable.

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Exhibit D

9. SIGNS

a. AMTRAK shall submit to the JPA for its review and approval all of AMTRAK'S business signs proposed to be erected, placed, or maintained by AMTRAK on the Premises and/or on the exterior of the Station or the Property grounds. AMTRAK may (a) keep and maintain all approved signs throughout the Term of this Lease, and (b) replace any or all approved signs with new signs of similar content when such replacement is warranted in AMTRAK'S sole discretion, provided AMTRAK shall not erect, install, or replace any approved sign in violation of any applicable law, ordinance, rule or regulation of the City of Lincoln, Nebraska or any other governmental agency.

b. JPA shall not place any signs at the Station without the prior written consent of AMTRAK, which consent shall not unreasonably be withheld.

c. In collaboration with AMTRAK, JPA shall provide trail blazing signs providing directions to the Station.

10. TRADE FIXTURES

AMTRAK may install on the Premises and remove therefrom such trade fixtures as AMTRAK may deem necessary or appropriate for its business operations.

11. MAINTENANCE, REPAIR AND SERVICES

a. JPA Responsibilities. JPA, at its sole cost and expense, shall:

(i) Maintain the sidewalks, pedestrian surfaces, parking lots and landscaping on the Property and keep such cleared of snow and ice;

(ii) Maintain and repair the interior and exterior of the Station (including entrances and exits) and all fixtures, equipment, components and systems that are a part of the Station or necessary to and for the operation of the Station and AMTRAK'S use and occupancy of its Premises, including structural and roof repairs and maintenance;

(iii) Pay all costs, expenses, fees, taxes and sums related to its ownership, operation and maintenance of the Station before delinquency;

(iv) Provide heating, ventilation and air conditioning ("HVAC") for the Station, including the Premises, during all hours of scheduled passenger train (and bus) operations, sufficient to maintain temperatures in the interior portions of the Station at commercially reasonable levels, provided that in no event shall JPA maintain heating settings below 68 degrees DB. or air conditioning settings above 72 degrees DB. 50 % relative humidity, as appropriate depending on the outside weather conditions. At the Lease Commencement, AMTRAK shall provide to the JPA a written schedule of AMTRAK'S then current passenger train (and bus) operations. Throughout the Term, AMTRAK shall keep a current written schedule of AMTRAK'S passenger train (and bus) operations at the Station and available for JPA'S review upon JPA'S request. JPA may stop the heating and cooling systems when necessary by reason of accident or emergency or for repairs, alterations, replacements or improvements, which, in the reasonable judgment of JPA, are desirable or necessary. JPA agrees to make any necessary repairs, alterations, replacements or improvements to the heating and cooling systems as quickly as possible, with due diligence, and with the minimum interference with AMTRAK'S use of the Premises;

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Exhibit D

(iv) Provide janitorial services to the Common Areas, including emptying wastepaper baskets, dry mop and wet mop, vacuum, clean restrooms, and supply toiletries as reasonably needed;

(v) Provide hot and cold water sufficient for drinking, lavatory, toilet and ordinary cleaning purposes to be drawn from approved fixtures in the Common Areas;

(vi) Replace lighting tubes, lamp ballasts, starters and bulbs in the Common Areas;

(vii) Arrange for extermination and pest control in the Station, included the Premises as often as may be deemed necessary in the exercise of prudent management practices, and in no event less than semi-annually. To the greatest extent possible, such work shall be performed at times other than when passenger train and bus operations are not scheduled;

(viii) Have a building manager or engineer capable of responding to AMTRAK'S requests for service within two (2) hours thereafter during all times when AMTRAK'S passenger train (and bus) operations are scheduled;

(ix) Provide panic button(s) under the AMTRAK ticket counter at locations as specified by AMTRAK, and ensure that all panic buttons are connected directly to and will contact directly the nearest local police station;

b. AMTRAK Responsibilities. AMTRAK, at its own cost and expense, shall:

(i) Keep and maintain the Premises in good and safe condition at all times during the term of the Lease;

(ii) Provide janitorial services in the Premises, including emptying of wastepaper baskets, dry mop and wet mop, and vacuum as reasonably necessary;

(iii) Maintain and repair any trade fixtures, equipment or other personal property of AMTRAK located on or within the Premises;

(iv) Replace lighting tubes, lamp ballasts, starters and bulbs in the Premises;

c. At JPA's sole cost and expense, AMTRAK shall maintain and repair and keep in good, unobstructed (including snow and ice removal) the train platforms adjacent to the Station ("Platforms"). JPA shall pay to AMTRAK any and all costs and expenses related to AMTRAK's maintenance and repair or replacement of the Platforms. Such payments shall be made to AMTRAK within 20 days of receipt of invoice. AMTRAK may, in its sole discretion, off set such costs against any Rent, costs or other charges or fees owed to JPA.

d. Failure to Maintain, Repair, or Provide Services.

Notwithstanding anything to the contrary in this Lease, if any party fails in any of its obligations under this Section 11, and such failure continues for more than three (3) consecutive days after notice from the non-defaulting party of such failure, the non-defaulting party may provide any such maintenance, repairs and services or arrange for the provision of such. In the event the non-defaulting party provides any such maintenance, repairs or service, the defaulting party shall reimburse the non-defaulting party for the cost and expense of such maintenance, repairs and services within forty-five (45) days of notice from the non-defaulting party for such payment.

12. ALTERATIONS AND IMPROVEMENTS

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Exhibit D

At its expense, JPA may make alterations and improvements to Common Areas of the Station which improvements shall be owned and maintained by the JPA. The JPA reserves the right from time to time (i) to install, use, maintain, repair, replace, relocate for service to the Premises and/or other parts of the Station the pipes, ducts, conduits, wires and appurtenant fixtures and mechanical systems, wherever located in the Premises or the Station; and (ii) to alter, remodel, close, or relocate any facility in the Common Areas, so long as AMTRAK'S access to the Premises, restrooms, and ingress and egress to all abutting public rights-of-way and Platforms and is not unreasonably impeded thereby. Before JPA may make any alterations or improvements to the Station, it must obtain AMTRAK's written approval. AMTRAK's approval shall not unreasonably be withheld.

At its expense, AMTRAK shall have the right to make alterations and improvements to the Premises subject to the following terms and conditions:

- a. No alterations or improvements made by AMTRAK shall in any way impair the structural stability of the Premises.
- b. AMTRAK shall request JPA's approval prior to making any alterations or improvements and all alterations or improvements must be approved in writing by JPA. JPA's approval shall not be unreasonably withheld, conditioned or delayed.
- c. AMTRAK shall keep the Premises and every part of the Station free and clear of any mechanic's lien or materialmen's liens arising out of the construction of any such alterations or improvements and further agrees to hold JPA harmless from any liability or liens therefor.
- d. All alterations and improvements that are permanently affixed to the Station shall become the property of the JPA and shall remain on and be surrendered with the Premises at the expiration or sooner termination of this Lease or any extension of the Term of this Lease.
- e. AMTRAK'S personal property and its trade fixtures, including machinery, equipment, and furnishings, shall remain the property of AMTRAK and may be removed by AMTRAK at any time during the Term or upon the expiration or sooner termination of this Lease (including any extension term). AMTRAK shall repair any damage to the Premises or Station caused by AMTRAK'S removal of its personal property, trade fixtures, or equipment. All of AMTRAK'S personal property not removed within thirty (30) days following expiration or sooner termination of this Lease shall be conclusively presumed to have been abandoned and shall automatically become the property of the JPA.

13. INSURANCE AND INDEMNIFICATION

a. INSURANCE.

AMTRAK is insured under its corporate wide self-insurance program and excess railroad liability insurance program. If at any time AMTRAK does not have a self-insurance program AMTRAK shall provide the following:

- (i) Liability Insurance. At AMTRAK'S expense, a general liability policy for personal injury (including sexual harassment and abuse), bodily injury, death, or property damage in or about the Station and grounds surrounding the Station as specified in this paragraph resulting from or related to AMTRAK'S use of the Premises.

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Exhibit D

(ii) Terms of Insurance. The insurance policy maintained pursuant to this Lease Agreement shall name JPA as an additional insured per ISO form CG 2011. The policy shall further provide that there shall be no cancellation, non-renewal, termination for any reason, or modification without at least thirty (30) days prior written notification to JPA. A copy of the policy shall be delivered to and retained by JPA.

(iii) The Commercial General Liability Insurance policy shall provide no less comprehensive and no more restrictive coverage than provided under the ISO® form CG00010798 or newer with standard exclusions "a" through "o" and with minimum limits as provided below. Any other exclusions that operate to contradict or materially alter the standard exclusions shall be specifically listed on the certificate of insurance and shall be subject to the prior written approval of the City Attorney for the City of Lincoln.

Coverage Min Amt Notes

General	\$2,000,000 Aggregate
Products and Completed Operations	\$2,000,000 Aggregate
Personal and Advertising Injury	\$1,000,000
Each Occurrence	\$1,000,000
Fire Damage Limit	\$ 100,000 any one fire
Medical Damage Limit	\$ 10,000 any one person

(iv) The required Commercial General Liability Insurance shall also include the following:

- Coverage for all premises and operations
- Endorsement to provide the general aggregate per project endorsement
- Personal and advertising injury included
- Operations by independent contractors included
- Contractual liability coverage included
- X.C.U. Coverage including coverage for demolition of any building or structure, collapse, explosion, blasting, excavation and damage to property below the surface of ground.
- Any fellow employee exclusions shall be deleted
- Coverage shall not contain an absolute pollution exclusion, and applicable remaining coverage shall apply for pollution exposures arising from products and completed operations.
- Coverage for products and completed operations maintained for duration of work and shall be maintained for a minimum of three years after final acceptance under the Contract or the warranty period for the same whichever is longer, unless modified in any Special Provisions.
- Contractual Liability coverage shall include contractually assumed defense costs in addition to any policy limits.

c. INDEMNIFICATION.

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(i) AMTRAK shall indemnify, defend, and hold harmless JPA, its officers, agents, and employees from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) due to bodily injury, including death, to any person, or loss or damage (including loss of use) to any property, caused by the sole and direct negligence, gross negligence, or willful misconduct of AMTRAK, its employees or agents, in connection with this Lease or AMTRAK's failure to comply with any of its obligations contained in this Lease, except for any loss or damage or portion of loss or damage that is caused by the sole and direct negligence, gross negligence, or willful misconduct of JPA, its officers, agents, contractors or employees.

(ii) AMTRAK shall cover its indemnity obligations hereto under its corporate-wide self-insurance program. AMTRAK warrants that adequate self insurance levels will be maintained during the Term of this Lease.

(iii) AMTRAK shall cause all its subcontractors who perform work at the Station to add JPA and AMTRAK as additional insureds on subcontractors' general and auto liability insurance policies.

(iv) JPA shall indemnify, defend and hold harmless AMTRAK, its officers, officials, employees and agents from and against any and all liability, loss, damage, expense, costs (including without limitation, costs and fees of litigation) due to bodily injury, including death, to any person, or loss or damage (including loss of use) to any property, caused by the sole and direct negligence, gross negligence or willful misconduct of JPA, its officers, officials, directors, its employees or agents in connection with this Lease, or JPA's failure to comply with any of its obligations contained in this Lease, except for any loss or damage or portion of loss or damage that is caused by the sole and direct negligence, gross negligence or willful misconduct of AMTRAK.

(v) JPA shall cause all its subcontractors who perform work at the Station to add JPA and AMTRAK as additional insureds on subcontractors' general and auto liability insurance policies.

(vi) During the Term, JPA shall obtain and keep in force and effect fire and extended property coverage insurance for the Station and Amtrak Improvements and Public Liability Insurance, in such reasonable amounts with such reasonable deductions as would a prudent owner of a similar building in the area. AMTRAK acknowledges that it will not be a named insured in such policy, that it has no right to receive any proceeds from any such insurance policies carried by JPA.

(vii) All of AMTRAK's personal property, including fixtures kept, stored or maintained on the Property shall be kept, stored, or maintained at the sole risk of AMTRAK. AMTRAK may, in its sole discretion, procure and maintain throughout the Term of this Lease, Fire and Extended Coverage Insurance, including vandalism and malicious mischief coverage in an amount equal to the full replacement value of all personal property of AMTRAK. AMTRAK may self-insure this risk at its option.

(viii) Waiver and Subrogation. Each party hereto hereby waives any and all claims or right of recovery which such party or anyone claiming through such party may have against the other party (or such other party's owners, officers, agents, or employees) for, or with respect to, any loss of or damage to such waiving party's property or for any business interruption

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Exhibit D

which is insured or indemnified under valid policies, whether or not such loss, damage, or business interruption is caused by the negligence of such other party or such other party's owners, officers, agents, employees, or any other person or persons for whose actions such other party may be responsible or liable; provided, that the foregoing waiver shall be effective only to the extent of the insurance proceeds actually collected under such policies in respect of such loss, damage, or business interruption and only when permitted by the applicable insurance policy. Any self-insurance by AMTRAK shall be deemed to include such waiver of subrogation.

14. DAMAGE OR DESTRUCTION

In the event of destruction, or substantial damage, to the Premises during the Term of this Lease which renders the Premises unusable to AMTRAK, in AMTRAK'S sole discretion, JPA shall have the option of:

a. Within one hundred eighty (180) days after such damage or destruction, replacing or rebuilding the Station, including the Premises, and in such manner and according to such plans and specifications which would restore the Station, including the Premises, to substantially the same condition as immediately before its destruction or substantial damage, in which event JPA or the City of Lincoln Nebraska shall provide suitable temporary facilities while such replacement or rebuilding is ongoing; or

b. Declining to replace or rebuild, in which event AMTRAK shall have the option of terminating this Lease Agreement by written notice. If JPA does not rebuild the Station, JPA or the City of Lincoln Nebraska shall provide AMTRAK with suitable alternative space to use as a passenger station.

c. JPA shall notify AMTRAK within thirty (30) days after such damages or destruction of JPA'S decision to rebuild the Station including the Premises or declining to rebuild. During the 180 day repair or replacement period identified in Subsection (a) above, AMTRAK shall have no obligation to: (1) Pay any costs or expenses associated with the Station, including the Premises, required under this Lease; or (2) Provide any services including janitorial services to the Premises required under this Lease.

15. EMINENT DOMAIN

Eminent domain proceedings resulting in the condemnation of part of the Premises herein that leave the remaining portion usable by AMTRAK for purposes of the business for which the Premises are leased in, AMTRAK'S sole opinion, will not terminate this Lease Agreement. If AMTRAK, in its sole opinion, determines that the remaining portion is not usable by AMTRAK, AMTRAK may terminate this Lease by giving written notice of termination to JPA no more than ninety (90) days after the notice of condemnation or taking. The effect of such condemnation, should AMTRAK not terminate this Lease, will be to terminate this Lease Agreement as to the portion of the Premises condemned and leave it in effect as to the remainder of the Premises, and the Rent and all other expenses provided for herein shall be adjusted accordingly. Compensation awarded as a result of such condemnation shall be that of JPA, except to the extent that part of the award is allocated as damages to fixtures on the Station which were furnished by AMTRAK, damages for the value of AMTRAK's leasehold estate or relocation expenses for AMTRAK.

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16. ACCEPTANCE

AMTRAK hereby acknowledges that when it occupies the Premises it shall be deemed to have received the Premises in good order and condition unless AMTRAK notifies JPA of defects or problems with the Premises within one (1) year after AMTRAK takes occupancy. If AMTRAK notifies JPA as aforesaid, JPA shall correct and repair any defects or problems identified by AMTRAK within thirty (30) days after the date of the notice.

17. SUBLEASE AND ASSIGNMENT

Except as provided in this Lease, AMTRAK shall not assign or sublet the whole or any part of the Premises without JPA'S prior written consent. This provision requiring JPA's consent shall not apply, and AMTRAK shall be permitted to assign or sublet to any entity whose management and operation is indirectly or directly controlling, controlled by or under common control with AMTRAK or if such assignment or subletting is due to or arises out of any judicial or legislative action or mandate, and any such transfers shall not be deemed an assignment or subletting.

18. DEFAULT BY AMTRAK

The failure of AMTRAK to perform substantially or keep or observe any of the terms, covenants and conditions which it is obligated to perform, keep or observe under this Lease Agreement within thirty (30) days after written notice from JPA identifying the specific term, covenant, or condition and requesting AMTRAK to correct or to commence correction for any such deficiency or default or such longer time period if the correction cannot be completed within said 30 days, provided that AMTRAK has commenced such correction, shall constitute an "Event of Default" by AMTRAK.

19. RIGHTS OF JPA AFTER DEFAULT BY AMTRAK

a. If an Event of Default by AMTRAK occurs, as provided in Section 18, JPA shall have the right (unless otherwise specified in the termination notice), in addition to any rights of the JPA at law or in equity and after written notice to AMTRAK, to terminate this Lease and enter and take possession of the Premises and expel, oust and remove any and all parties who may occupy any portion of the Premises, all in accordance with all applicable laws and procedures.

b. In case of any termination, re-entry, reletting and/or dispossession by the JPA in accordance with lawful proceedings:

(i) The Rent shall become due thereupon and be paid up to the time of such reentry, dispossession and/or expiration; and

(ii) JPA may relet the Premises or any part or parts thereof, either in the name of JPA or otherwise, for a term or terms which may at JPA's option be less than or exceed the period which would otherwise have constituted the balance of the Term of the Agreement.

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20. JPA'S DEFAULT

In the event JPA fails to perform any covenant or obligation required to be performed under this Lease, and such failure continues for more than thirty (30) days after notice from AMTRAK identifying such failure, such failure shall constitute an "Event of Default" by JPA. If an Event of Default by JPA occurs, AMTRAK, at its sole option and discretion, may: (1) perform such covenant or obligation on behalf of JPA in which event the JPA shall reimburse AMTRAK all costs and expenses associated with AMTRAK'S performance (including attorney's fees) within twenty (20) days after AMTRAK presents an invoice to JPA for such performance; (2) terminate this Lease; or (3) pursue any and all rights and remedies available at law or in equity.

21. QUIET ENJOYMENT

If and so long as AMTRAK shall keep all the covenants and agreements required by it to be kept under this Lease, JPA covenants and agrees that it and anyone claiming by through or under JPA shall not interfere with the peaceful and quiet occupation and enjoyment of the Premises by AMTRAK.

22. RIGHT OF ENTRY UPON PREMISES

JPA and its agents and employees shall have the right to enter upon the Premises, if accompanied by an AMTRAK employee, to inspect the same to determine if AMTRAK is performing the covenants of this Lease, on its part to be performed, to post such reasonable notices as JPA may desire to protect its rights, and to perform service and maintenance pursuant to its obligations under this Lease. AMTRAK shall make an AMTRAK employee available for such inspection during normal hours of operation.

23. TAXES

Pursuant to 49 U.S.C. §24301(l), AMTRAK is exempt from all state and local taxes, surcharges, or fees.

24. COMPLIANCE WITH LAWS, ORDINANCES, AND RULES

AMTRAK agrees to conform to and not violate any applicable laws, ordinances, rules, regulations, and requirements of federal authorities now existing or hereinafter created affecting AMTRAK'S use and occupancy of the Premises. In no event shall AMTRAK be required to make physical changes in the Premises unless the physical changes are necessitated by AMTRAK'S acts or omissions. JPA agrees to conform and comply with all applicable laws, ordinances, rules, regulations and requirements of federal, state, county or other governmental authorities and various departments there of now existing or hereinafter created regarding JPA's ownership and maintenance of the Station, including the Americans with Disabilities Act. Nothing in this Lease shall be interpreted as making AMTRAK a responsible party for purposes of accessibility requirements under the Americans with Disabilities Act.

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25. CONDITION OF PREMISES UPON SURRENDER

When AMTRAK vacates the Premises at the expiration of the Term or earlier termination of this Lease, whichever occurs first, AMTRAK shall leave the Premises in the same condition as when AMTRAK received possession, ordinary wear and tear, damage by fire or other casualty, or condemnation excepted and as may be altered, modified or improved in accordance with the terms of this Lease.

26. NON-WAIVER

Any waiver of any breach of covenants or conditions herein contained to be kept and performed by either party shall be effective only if in writing and shall not be deemed or considered as a continuing waiver. Any waiver shall not operate to bar or prevent the waiving party from declaring a forfeiture or exercising its rights for any succeeding breach of either the same or other condition or covenant.

27. PARTNERSHIP DISCLAIMER

It is mutually understood and agreed that nothing in this Lease is intended or shall be construed in any way as creating or establishing the relationship of partners or joint venturers between the parties hereto, or as constituting AMTRAK as an agent or representative of JPA for any purpose or in any manner whatsoever.

28. PARTIES BOUND

Except as otherwise specifically provided in this Lease, this Lease shall bind and inure to the benefit of the parties hereto and their respective administrators, legal representatives, successors and assigns.

29. NOTICES

Notices given under the terms of this Lease must be in writing and shall be deemed properly served if such notice is hand delivered or mailed by certified mail, return receipt requested, or sent by an established overnight commercial courier for delivery on the next business day with delivery charges prepaid, addressed to the other party at the following address, or such other address as either party may, from time to time, designate in writing:

JPA:

City Attorney
City of Lincoln, Nebraska
555 South 10th Street
Lincoln, NE 68508

AMTRAK:

AMTRAK
30th Street Station, 5th Floor South
Philadelphia, PA 19104
Attn: Assistant Vice President
Real Estate Development

Notice mailed in accordance with the provisions hereof shall be deemed to have been given as to the date of hand delivery or the third business day following the date of such mailing, whichever is earlier.

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30. LEGAL CONSTRUCTION

In the event any one or more of the provisions contained in this Lease Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Lease Agreement shall be construed as if such invalid, illegal or unenforceable provision has never been contained herein.

31. TIME OF ESSENCE, BINDING UPON HEIRS, ETC.

Time is of the essence of each and all the terms and provisions of this Lease and the terms and provisions of this Lease Agreement shall extend to and be binding upon and inure to the benefit of the, administrators, successors and assigns of the respective parties hereto.

32. NUMBER AND GENDER

All words used herein in the singular number shall include plural and the present tense shall include the future, and the masculine gender shall include the feminine and neuter.

33. ENTIRE AGREEMENT

This Lease contains the sole and only agreement of the parties. Any prior agreements, promises, negotiations or representations not expressly set forth in this Lease are of no force or effect.

34. LANGUAGE CONSTRUCTION

The language of each and all paragraphs, terms, and/or provisions of this Lease shall, in all cases and for any and all purposes, and any and all circumstances whatsoever, be construed as a whole, according to its fair meaning, and not for or against any party hereto and with no regard whatsoever to the identify or status of any person or persons who drafted all or any portion of this Lease.

35. HOLDING OVER

If AMTRAK shall hold over the Premises, after expiration of the Term or any extension thereof, such holding over shall be construed to be only a tenancy from month to month subject to all of the covenants, conditions and obligations contained in this Lease provided, however, that nothing in this paragraph shall be construed to give AMTRAK any rights to so hold over and to continue in possession of the Premises without the consent of JPA.

36. AMENDMENT

This Lease, including any exhibits hereto, shall not be amended, except in writing signed by the parties. Any amendment or addendum to this Lease shall expressly refer to this Lease.

37. AUDIT RIGHTS

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Exhibit D

AMTRAK or the Federal Railroad Administration, their respective agents, designees and accountants shall have the right at any time or from time to time after advance notice to JPA and/or the City of Lincoln, Nebraska to make any examination or audit of JPA's JPA and/or the City of Lincoln, Nebraska's books and records which relate in any way to the Station or Premises. If it is determined that costs, expenses or amounts that AMTRAK paid to JPA are in error, then JPA shall pay any overpayment to AMTRAK and AMTRAK shall pay any underpayment to JPA.

38. RUN WITH THE LAND

This Lease shall be recorded by JPA. AMTRAK's rights hereunder shall run with the land for the Term, as may be extended, modified or altered and all succeeding landlords of the Station shall be bound by the terms herein. JPA and all succeeding landlords shall notify AMTRAK of a sale, assignment or other disposition of the Station and provide AMTRAK with a nondisturbance agreement approved by AMTRAK, in its sole discretion, prior to any disposition of the Station.

39. CONTROLLING LAW

This Lease Agreement shall be enforced and construed in accordance with the laws of the State of Nebraska and adjudicated in Federal Courts.

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Exhibit D

IN WITNESS WHEREOF, the parties hereto have affixed their signatures the day and year first above written.

“JPA”

“AMTRAK”

WEST HAYMARKET JOINT
PUBLIC AGENCY

NATIONAL RAILROAD PASSENGER
CORPORATION

By _____
Jayne Snyder
Chairperson of the West Haymarket
Joint Public Agency Board of
Representatives

By _____
Bruce Looloian
Assistant Vice President
Real Estate Development

The City of Lincoln, Nebraska agrees to be bound by paragraphs 14 and 37 herein. Further, if at any time JPA is no longer in existence or does not have the funds to fulfill its obligations hereunder, the City of Lincoln, Nebraska hereby assumes all of the obligations of JPA hereunder and agrees to be bound by the terms of this Lease as the landlord or JPA.

CITY OF LINCOLN, NEBRASKA
a municipal corporation

By _____
Chris Beutler
Mayor of Lincoln, Nebraska

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Exhibit D

Exhibit A to Station Lease

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Exhibit D

Exhibit C to Station Lease

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Exhibit D

Exhibit C to Station Lease

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Exhibit D

DECLARATION OF COMMENCEMENT

THIS DECLARATION OF COMMENCEMENT dated _____, ____ between the National Railroad Passenger Corporation ("Amtrak") and West Haymarket Joint Public Agency ("JPA").

BACKGROUND

A. By lease agreement dated _____, 201_ ("Lease"), JPA leased to Amtrak that certain premises located in the building commonly known as West Haymarket Station in the City of Lincoln, State of Nebraska, as more fully described ("Premises").

C. Amtrak is in possession of the Premises.

D. Under Section 2 of the Lease, JPA agreed to execute and deliver to Amtrak an agreement setting forth the "Commencement Date" (as defined in the Lease) of the Lease and Amtrak agreed to confirm such date.

NOW, THEREFORE, JPA and Amtrak confirm the following:

- 1. The Commencement Date of the Lease is _____
- 2. Nothing in this Declaration of Commencement is intended to change or modify the rights of the parties under the Lease.

IN WITNESS WHEREOF, the parties hereto have caused this Declaration of Commencement to be executed as of the day and year first above written.

AMTRAK:
NATIONAL RAILROAD PASSENGER CORPORATION

By: _____
Bruce Looloian
Assistant Vice President, Real Estate Development

JPA:
WEST HAYMARKET JOINT
PUBLIC AGENCY

By: _____
Jayne Snyder
Chairperson of the West Haymarket
Joint Public Agency Board of
Representatives

EXHIBIT E

Amtrak Specification 01141A
Safety and Protection of Railroad Traffic and Property

I&C Specification

Systemwide
Rev 3 02/03/06

SECTION 01141A - SAFETY AND PROTECTION OF RAILROAD TRAFFIC AND PROPERTY

PART 1 - GENERAL

1.1 SCOPE

- A. This specification describes the safety procedures and protection provisions for Contractors and Permittees entering and working upon railroad property.
- B. Use of this specification is as required by Amtrak, as described in Amtrak Engineering Practice EP3014.

1.2 RELATED DOCUMENTS

- A. Drawings and general provisions of the Contract, including General and Supplementary Conditions and other Division 1 Specification Sections, apply to this Section.

1.3 DEFINITIONS

- A. CHIEF ENGINEER: Amtrak Chief Engineer
- B. RAILROAD: National Railroad Passenger Corporation (Amtrak), and/or the duly authorized representative
- C. ENGINEERING PRACTICE: Amtrak Engineering Practices establish a system of uniform practices, notices and instructions for the Amtrak Engineering Department, providing current, permanent and temporary, departmental procedures and policies.

PART 2 - PRODUCTS (Not Used)

PART 3 - EXECUTION

3.1 PRE-ENTRY MEETING

- A. Before entry of Permittee and/or Contractors onto Railroad's property, a pre-entry meeting shall be held at which time Permittee and/or Contractors shall submit for written approval of the Chief Engineer, plans, computations and a detailed description of proposed methods for accomplishing the work, including methods for protecting Railroad's traffic. Any such written approval shall not relieve Permittee and/or Contractor of their complete responsibility for the adequacy and safety of their operations.

3.2 RULES, REGULATIONS AND REQUIREMENTS

SAFETY AND PROTECTION OF RAILROAD TRAFFIC AND PROPERTY

01141A - 1

I&C Specification

Systemwide
Rev 3 02/03/06

- A. Railroad traffic shall be maintained at all times with safety and continuity, and Permittee and/or Contractors shall conduct their operations in compliance with all rules, regulations, and requirements of Railroad (including these Specifications) with respect to any work performed on, over, under, within or adjacent to Railroad's property. Permittee and/or Contractors shall be responsible for acquainting themselves with such rules, regulations and requirements. Any violation of Railroad's safety rules, regulations, or requirements shall be grounds for the immediate suspension of the Permittee and/or Contractor work, and the re-training of all personnel, at the Permittee's expense.

3.3 MAINTENANCE OF SAFE CONDITIONS

- A. If tracks or other property of Railroad are endangered during the work, Permittee and/or Contractor shall immediately take such steps as may be directed by Railroad to restore safe conditions, and upon failure of Permittee and/or Contractor to immediately carry out such direction, Railroad may take whatever steps are reasonably necessary to restore safe conditions. All costs and expenses of restoring safe conditions, and of repairing any damage to Railroad's trains, tracks, right-of-way or other property caused by the operations of Permittee and/or Contractors, shall be paid by Permittee.

3.4 PROTECTION IN GENERAL

- A. Permittee and/or Contractors shall consult with the Chief Engineer to determine the type and extent of protection required to insure safety and continuity of railroad traffic. Any Inspectors, Track Foremen, Track Watchmen, Flagman, Signalmen, Electric Traction Linemen, or other employees deemed necessary by Railroad, at its sole discretion, for protective services shall be obtained from Railroad by Permittee and/or Contractors. The cost of same shall be paid directly to Railroad by Permittee. The provision of such employees by Railroad, and any other precautionary measures taken by Railroad, shall not relieve Permittee and/or Contractors from their complete responsibility for the adequacy and safety of their operations.

3.5 PROTECTION FOR WORK NEAR ELECTRIFIED TRACK OR WIRE

- A. Whenever work is performed in the vicinity of electrified tracks and/or high voltage wires, particular care must be exercised, and Railroad's requirements regarding clearance to be maintained between equipment and tracks and/or energized wires, and otherwise regarding work in the vicinity of electrified tracks, must be strictly observed. No employees or equipment will be permitted to work near overhead wires, except when protected by a Class A employee of Railroad. Permittee and/or Contractors must supply an adequate length of grounding cable (4/0 copper with approved clamps) for each piece of equipment working near or adjacent to any overhead wire.

3.6 FOULING OF TRACK OR WIRE

- A. No work will be permitted within twenty-five (25) feet of the centerline of track or the energized wire or have potential of getting within twenty-five (25) feet of track wire without the approval of the Chief Engineer's representative. Permittee and/or Contractors shall conduct their work so that no part of any equipment or material shall foul an active track or overhead

SAFETY AND PROTECTION OF RAILROAD TRAFFIC AND PROPERTY

01141A - 2

I&C Specification

Systemwide
Rev 3 02/03/06

wire without the written permission of the Chief Engineer's representative. When Permittee and/or Contractors desire to foul an active track, they must provide the Chief Engineer's representative with their site-specific work plan a minimum of twenty-one (21) working days in advance, so that, if approved, arrangements may be made for proper protection of Railroad. Any equipment shall be considered to be fouling a track or overhead wire when located (a) within fifteen (15) feet from the centerline of the track or within fifteen (15) feet from the wire, or (b) in such a position that failure of same, with or without a load, would bring it within fifteen (15) feet from the centerline of the track or within fifteen (15) feet from the wire and requires the presence of the proper Railroad protection personnel.

- B. If acceptable to the Chief Engineer's representative, a safety barrier (approved temporary fence or barricade) may be installed at fifteen (15) feet from centerline of track or overhead wire to afford the Permittee and/or Contractor with a work area that is not considered fouling. Nevertheless, protection personnel may be required at the discretion of the Chief Engineer's representative.

3.7 TRACK OUTAGES

- A. Permittee and/or Contractors shall verify the time and schedule of track outages from Railroad before scheduling any of their work on, over, under, within, or adjacent to Railroad's right-of-way. Railroad does not guarantee the availability of any track outage at any particular time. Permittee and/or Contractors shall schedule all work to be performed in such a manner as not to interfere with Railroad operations. Permittee and/or Contractors shall use all necessary care and precaution to avoid accidents, delay or interference with Railroad's trains or other property.

3.8 DEMOLITION

- A. During any demolition, the Contractor must provide horizontal and vertical shields, designed by a Professional Engineer registered in the state in which the work takes place. These shields shall be designed in accordance with the Railroad's specifications and approved by the Railroad, so as to prevent any debris from falling onto the Railroad's right-of-way or other property. A grounded temporary vertical protective barrier must be provided if an existing vertical protective barrier is removed during demolition. In addition, if any openings are left in an existing bridge deck, a protective fence must be erected at both ends of the bridge to prohibit unauthorized persons from entering onto the bridge.
- B. Ballasted track structure shall be kept free of all construction and demolition debris. Geotextiles or canvas shall be placed over the track ties and ballast to keep the ballast clean.

3.9 EQUIPMENT CONDITION

- A. All equipment to be used in the vicinity of operating tracks shall be in "certified" first-class condition so as to prevent failures that might cause delay to trains or damage to Railroad's property. No equipment shall be placed or put into operation near or adjacent to operating tracks without first obtaining permission from the Chief Engineer's representative. Under no circumstances shall any equipment or materials be placed or stored within twenty-five (25) feet from the centerline of an outside track, except as approved by the Site Specific

SAFETY AND PROTECTION OF RAILROAD TRAFFIC AND PROPERTY

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I&C Specification

Systemwide
Rev 3 02/03/06

Safety Work Plan. To insure compliance with this requirement, Permittee and/or Contractors must establish a twenty-five (25) foot foul line prior to the start of work by either driving stakes, taping off or erecting a temporary fence, or providing an alternate method as approved by the Chief Engineer's representative. Permittee and/or Contractors will be issued warning stickers which must be placed in the operating cabs of all equipment as a constant reminder of the twenty-five (25) foot clearance envelope.

3.10 STORAGE OF MATERIALS AND EQUIPMENT

- A. No material or equipment shall be stored on Railroad's property without first having obtained permission from the Chief Engineer. Any such storage will be on the condition that Railroad will not be liable for loss of or damage to such materials or equipment from any cause.
- B. If permission is granted for the storage of compressed gas cylinders on Railroad property, they shall be stored a minimum of 25 feet from the nearest track in an approved lockable enclosure. The enclosure shall be locked when the Permittee and/or Contractor is not on the project site.

3.11 CONDITION OF RAILROAD'S PROPERTY

- A. Permittee and/or Contractors shall keep Railroad's property clear of all refuse and debris from its operations. Upon completion of the work, Permittee and/or Contractors shall remove from Railroad's property all machinery, equipment, surplus materials, falsework, rubbish, temporary structures, and other property of the Permittee and/or Contractors and shall leave Railroad's property in a condition satisfactory to the Chief Engineer.

3.12 SAFETY TRAINING

- A. All individuals, including representatives and employees of the Permittee and/or Contractors, before entering onto Railroad's property or coming within twenty-five (25) feet of the centerline of the track or energized wire shall first attend Railroad's Safety Contractor/Leasee Employee Training Class. The Safety Orientation Class will be provided by Railroad's Safety Representative at Permittee's expense. A photo I.D. will be issued and must be worn/displayed while on Railroad property. All costs of complying with Railroad's safety training shall be at the sole expense of Permittee. Permittee and/or Contractors shall appoint a qualified person as their Safety Representative. The Safety Representative shall continuously assure that all individuals comply with Railroad's safety requirements. All safety training records shall be maintained with site specific work plan.

3.13 NO CHARGES TO RAILROAD

- A. It is expressly understood that neither these Specifications, nor any document to which they are attached, include any work for which Railroad is to be billed by Permittee and/or Contractors, unless Railroad gives a written request that such work be performed at Railroad's expense.

END OF SECTION 01141A

SAFETY AND PROTECTION OF RAILROAD TRAFFIC AND PROPERTY

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Exhibit F

Prime Lease Attached

**LEASE AGREEMENT
BETWEEN AMTRAK AND BNSF
FOR CERTAIN FACILITIES AT THE
LINCOLN, NE STATION**

This Lease Agreement (the "Agreement") is entered into by and between the **National Railroad Passenger Corporation**, a corporation organized under the Rail Passenger Service Act and the laws of the District of Columbia ("Amtrak"), and **BNSF Railway Company**, a Delaware corporation ("BNSF").

WHEREAS, the City of Lincoln or the West Haymarket Joint Public Agency, a political subdivision and corporate body of the State of Nebraska created and established by and between the Board of Regents of the University of Nebraska and the City pursuant to the Joint Public Agency Act (Chapter 13, Article 25, Reissue Revised Statutes of Nebraska, as amended) for the purpose of constructing, equipping, furnishing, and financing public facilities including, but not limited to, the Haymarket Project (collectively, the "JPA") is undertaking a redevelopment project in the vicinity of the Leased Premises (as hereinafter defined) (the "Haymarket Project"); and

WHEREAS, the Haymarket Project includes a new train station, including a new depot to be constructed by the JPA on property owned by the JPA, and a new intercity rail passenger platform and canopy (together the "New Platform") to be constructed by the JPA under the Sublease (as hereinafter defined) on land owned or controlled by BNSF (the new depot, passenger platform and canopy are collectively referred to as the "New Depot"); and

WHEREAS, as part of the Haymarket Project the parties anticipate that certain of BNSF's tracks and other property, including tracks and platform areas currently used for Amtrak service, will be realigned and BNSF's interest in the underlying land will be conveyed to the JPA, and, once construction of the New Depot has been completed in accordance with plans and specifications approved by Amtrak, Amtrak operations will be relocated to the New Depot, and the existing platform and depot will be closed; and

WHEREAS, Amtrak has consented to and concurred with the conveyance, realignment and change in location, and subject to the construction of the New Depot in accordance with approved specifications and plans, intends to enter into a new depot lease with the JPA for such new depot in a form substantially similar to Exhibit D to the Sublease (defined below) (the "Amtrak/JPA Lease") and relocate its operations to the New Depot; and

WHEREAS, Amtrak and BNSF are currently parties to a certain agreement dated September 1, 1996, as amended, which relates to the provision of Intercity Passenger Rail Service on BNSF rail lines (the "Operating Agreement"); and

WHEREAS, BNSF and Amtrak desire to enter into this Agreement to formalize their relationship with each other concerning the use of the Leased Premises; and

NOW, THEREFORE, in consideration of the terms, conditions, covenants, and performances herein contained, and with the intent to be legally bound hereby, BNSF and Amtrak mutually agree that the foregoing recitals are incorporated into this Agreement by this reference and further agree as follows:

1. **Leased Premises.** In consideration of the promises herein, and for an annual rental fee of one dollar (\$1.00), Amtrak does hereby lease from BNSF all real property and facilities owned by BNSF shown as shaded on **Exhibit A** attached to this Agreement and by this reference made a part hereof (the "Leased Premises"). The address of the Leased Premises will be established in connection with the Haymarket Project and amended into this Agreement. The trackside boundaries of the Leased Premises shall commence at the edges of the ballasted right of way, and shall be measured by the trackside edge of platforms where they exist, or are built. The Leased Premises include areas used exclusively by Amtrak, including but not limited to platforms, station facilities, connecting walkways and parking areas to the extent such areas fall within the shaded area on **Exhibit A**. All passenger boarding platforms within the Leased Premises shall be deemed to be used exclusively by Amtrak.

The Leased Premises may also include areas and facilities used jointly by or for the benefit of both Amtrak and BNSF, to the extent such areas fall within the shaded area on **Exhibit A** (the “Shared Facilities”). All designated parking areas within the Leased Premises shall be Shared Facilities, and no stalls shall be reserved or specifically allocated to either party, except those parking stalls reserved for physically disabled passengers. BNSF reserves for itself, its employees, agents and contractors, an irrevocable right to use the Shared Facilities in common with Amtrak as may be necessary or desirable for conducting BNSF’s business.

If the Leased Premises include a station building that is used by both BNSF and Amtrak, then all elements of such building that are used by or for the benefit of both Amtrak and BNSF (e.g., the roof, exterior walls, parking areas and shared restrooms) shall be included as part of the Shared Facilities under this Agreement. A station building that is used jointly by both Amtrak and BNSF as of the Commencement Date is referred to herein as a “Jointly Used Facility”. Elements of any Jointly Used Facility that are used exclusively by either party are excluded from the definition of Shared Facilities.

Specifically excluded from the Leased Premises are: (a) facilities used exclusively by BNSF that may be adjacent to or a portion of the land and improvements depicted on **Exhibit A**, (b) facilities that, as of the Commencement Date, are leased to a third party or are vacant, and (c) facilities that are within the shaded area but are not owned by BNSF (collectively, the “Excluded Facilities”) all as determined on the Commencement Date.

If the Leased Premises includes Shared Facilities, BNSF shall reimburse Amtrak on a pro rata basis for its share of capital expenditures (excluding capital expenditures made by Amtrak using funds received by Amtrak pursuant to its 2009 American Recovery and Reinvestment Act grant) and operating expenses incurred by Amtrak in connection with the Shared Facilities (including, but not limited to, maintenance, repair, utility, and snow/ice removal costs).

If the Leased Premises include a Jointly Used Facility, the parties’ pro rata shares shall be calculated based upon the portions of the Jointly Used Facility used exclusively by each party, by dividing the square footage used exclusively by BNSF or Amtrak, as the case may be, by the total square footage of the Jointly Used Facility that is a part of the Leased Premises. For purposes of the foregoing calculations, any Shared Facilities within any Jointly Used Facility on the Leased Premises shall be excluded from the total square footage of such building, and any unused vacant space within any building shall be deemed to be used exclusively by BNSF. The parties shall mutually agree upon the allocation of pro rata shares using the formulas shown below.

Category of use	Square Footage	Formula for allocating costs associated with a Jointly Used Facility	Cost for Sample \$1000 repair
Gross Square Footage of Jointly Used Facility	1100 sf	N/A	
Shared Facilities (e.g. shared restrooms)	100 sf	N/A	
Net Square Footage of Jointly Used Facility (Gross Square Footage Less Shared Facilities)	1000 sf	N/A	\$1000
Portion used exclusively by BNSF (including vacant space)	600 sf	600 sf/1000 sf	\$600
Portion used exclusively by Amtrak	400 sf	400 sf/1000 sf	\$400

If the Leased Premises include Shared Facilities but do not include a Jointly Used Facility, the parties agree to compute each party’s pro rata share of capital expenditures and operating expenses incurred by Amtrak in connection with the Shared Facilities based upon each party’s use of the Shared Facilities.

- 2. Duration of Lease.** The term of this Agreement shall commence upon satisfaction of the Conditions Precedent (defined below) (the “Commencement Date”) and continue in effect for a period co-terminus with the

Operating Agreement, as it may be amended or replaced. However, at any time after two (2) years from the Commencement Date, Amtrak may terminate this Agreement if the Leased Premises no longer meets Amtrak's operational needs (for example, if Amtrak ceases to provide intercity passenger rail services at the station) by giving BNSF at least ninety (90) days' prior written notice.

The following conditions precedent (the "Conditions Precedent") all must be satisfied before Amtrak will have any rights or obligations with respect to the Leased Premises: (i) the JPA and Amtrak have entered into the Amtrak/JPA Lease; (ii) the land underlying the New Depot has been conveyed from BNSF to the JPA; (iii) BNSF has completed all construction activities within the Leased Premises, including all of its work relating to track serving the New Platform; (iv) the JPA and Amtrak have entered into the Sublease; and (v) BNSF has completed all of its work relating to track serving the New Depot and New Platform. In the event any of the Conditions Precedent has not occurred within a period of three (3) years from the execution of this Agreement by Amtrak, this Agreement shall expire without any further action.

In the event the JPA is unable to construct the New Platform due, in whole or in part, to the quality of BNSF's ownership interest in the Leased Premises, any restrictions, liens, encumbrances, assessments, easements, zoning or other limitation on the Leased Premises or its use, Amtrak may, in its sole discretion, terminate this Lease by giving BNSF at least thirty (30) days' prior written notice.

The period of time commencing on the Commencement Date and ending on the date on which Amtrak agrees that the New Depot and New Platform are at final completion is the "Initial Construction Period". Amtrak's agreement as to the final completion of the New Depot and New Platform shall not be unreasonably withheld or delayed and Amtrak agrees to notify BNSF once Amtrak and the JPA have reached agreement regarding such final completion.

Upon commencement of operations by Amtrak on the Leased Premises, Amtrak shall surrender to BNSF any BNSF land and other property used by Amtrak at its existing station location in Lincoln, NE. Surrender of such land and other property shall not terminate or affect any liabilities of the parties arising prior to the date of such surrender. Amtrak has waived any rights it may have with respect to the acquisition of its existing station location, and upon commencement of operations on the Leased Premises shall have waived any rights it may have with respect to the use of its existing station location. Except as expressly set forth herein, nothing in this Agreement shall be deemed to be a surrender or waiver of Amtrak's rights or BNSF's obligations to Amtrak at law or under the Operating Agreement or any under any existing agreement between BNSF and Amtrak.

3. **Use of Leased Premises.** Except during the Initial Construction Period, the Leased Premises may be used by Amtrak during the term of this Agreement in connection with the provision of Intercity Rail Passenger Service, as defined in the Operating Agreement. ~~Amtrak shall have no right to enter onto or otherwise use the Leased Premises during the Initial Construction Period, and during such time the JPA shall only have the right to use the Leased Premises for construction of the New Platform as Amtrak's subtenant pursuant to the Sublease.~~ BNSF shall permit reasonable ingress and egress to and from the Leased Premises over BNSF property.

In its use of the Leased Premises for the aforesaid purposes, Amtrak will not permit new parking within twenty-five (25) feet of the center line of any track without prior approval of BNSF. ~~All Leased Premises shall be subject to BNSF's present and future pole line and signal installation purposes,~~ and to purposes of maintaining its right of way and operating its railroad. Parking areas within the Leased Premises shall not be used to store materials or heavy equipment, other than on a temporary basis in connection with a construction or demolition project.

All Leased Premises shall be subject to all existing utility agreements and easements, and BNSF reserves unto itself, its successors and assigns and licensees the right to operate, maintain and renew such improvements in the ballasted right of way, crossing signals, utilities, pipelines, telephone, telegraph and signal lines, electric transmission lines, and other facilities of like character, as may now exist on, over or under said Leased Premises, and to construct operate, maintain, and renew such additional facilities thereon so long as the same will not interfere with the use of said Leased Premises for the purposes set forth herein.

Amtrak will not (a) use, occupy or permit the use or occupancy of the Leased Premises in any manner which violates any law, statute, regulation, ordinance, order, covenant, restriction or decision of any court of competent jurisdiction, or is dangerous to life or property, or creates a public or private nuisance, or for a use other than the permitted use hereunder; (b) keep, or permit to be kept, any substance in or conduct, or permit to be conducted, any operation from the Leased Premises which might emit offensive odors or conditions, or make undue noise or create undue vibrations; or (c) commit or permit to remain any waste to the Leased Premises; provided, however, that such restrictions shall not apply to approved demolition and/or construction projects.

4. **Maintenance; Special Assessments.** During the term of this Agreement, Amtrak shall maintain, repair as necessary, and replace to the extent required for Amtrak service, the Leased Premises, including without limitation platforms, canopies, lighting facilities, sidewalks, entrances and exits, and shall keep the same in a state of order and cleanliness corresponding to standards applicable to other public buildings and grounds owned or operated by Amtrak; provided, however, that Amtrak shall have no responsibility or liability for the condition of the Leased Premises during the Initial Construction Period. Amtrak agrees and acknowledges that it is leasing the Leased Premises in "as is" condition, and that BNSF has no obligation to make any repairs or alterations of whatsoever nature in or to any part of the Leased Premises (other than Shared Facilities), including but not limited to alterations required to comply with the Americans with Disabilities Act or any other governmental requirement, or to maintain any part of the Leased Premises in any manner. Nothing in this Agreement shall relieve BNSF of any obligation to make alterations to the Shared Facilities and/or Excluded Facilities that are required, as a result of BNSF's use of the Shared Facilities and/or Excluded Facilities, to comply with the Americans with Disabilities Act or any other governmental requirement, or to maintain the Excluded Facilities. Amtrak shall not knowingly create or permit any condition on the Leased Premises that could present a threat to human health or to the environment. Amtrak shall be responsible for the cost of any utilities associated with the Leased Premises where Amtrak is the sole occupant. Accordingly, BNSF shall transfer the utility accounts for Leased Premises where Amtrak is the sole occupant to Amtrak for the term of this Agreement as of a date to be mutually agreed upon by BNSF and Amtrak. If the Leased Premises include a Jointly Used Facility, each party shall be responsible for utility accounts for its exclusively used area to the extent separately metered. Utility accounts for Shared Facilities and for Leased Premises where Amtrak's exclusively used areas are not separately metered shall remain in BNSF's name, and BNSF will continue to charge Amtrak its pro rata share for utilities at such location using the same allocation set forth in Paragraph 1 above. Except as provided in Paragraph 1 hereof, BNSF will not be obligated to fund any capital or maintenance costs associated with the Leased Premises unless mutually agreed to.

Should the Leased Premises be subject to special assessment for public improvements, Amtrak shall be obligated to pay such assessments (or its pro rata share of such assessments) for the term of this Agreement, even though such charges may not become due and payable until after termination of this Agreement.

When necessary, Amtrak shall promptly remove ice and snow from the Leased Premises, including without limitation platforms, entrances, exits, sidewalks, driveways and parking areas constructed or maintained under the terms of this Agreement.

5. **Indemnification.** Subject to the terms and conditions set forth in Paragraph 9 of this Agreement, during the term of this Agreement, risk of liability and damage shall be governed by Section 7.2 of the Operating Agreement. For purposes of construing Section 7.2 of the Operating Agreement as it applies to this Agreement, the Leased Premises shall be deemed to be Amtrak's property and Amtrak contractors shall be deemed to be Amtrak employees.

Notwithstanding anything herein to the contrary, Amtrak shall have no responsibility or indemnification obligations for any acts or omissions of, the JPA, its employees, contractors, agents or invitees in connection with the construction of the New Platform during the Initial Construction Period, nor shall the JPA, its employees or its contractors (or subcontractors) be deemed to be Amtrak employees in connection with the construction of the New Platform during the Initial Construction Period. Except for its rights with respect to approval of plans and specifications, Amtrak shall have no right to supervise, direct, or otherwise participate in the JPA's construction of the New Platform.

6. **Effect of Termination.**

(a) When either this Agreement or the Operating Agreement has been terminated for any reason, the Leased Premises, including any subsequent improvements approved by BNSF to be affixed to the Leased Premises, shall become the property of BNSF without payment or reimbursement by BNSF to Amtrak or any other party. Improvements that are not affixed to the Leased Premises or approved by BNSF to remain in the Leased Premises following termination shall be removed by Amtrak.

(b) If either party to this Agreement shall fail to perform its substantive duties and obligations hereunder, and such failure continues for more than thirty (30) days after written notice from the other party to cure such failure, such other party may terminate this Agreement. After such termination, each party may pursue such legal remedies as it may elect to protect its own interests, but subject to Paragraph 6(a) above. After the termination of this Agreement, the rights and obligations of the parties with respect to the Leased Premises shall be governed by the Rail Passenger Service Act and/or the Operating Agreement, as either or both may apply.

7. **Third Party Services.** It is understood and agreed that Amtrak may contract with outside parties to furnish construction, maintenance or operational services in and about the Leased Premises for the functions permitted under this Agreement.
8. **Construction or Demolition Projects.** When proposing construction or demolition projects on the Leased Premises, Amtrak shall provide BNSF with a set of plans and specifications for BNSF's review and approval prior to the start of construction or demolition, which approval shall not be unreasonably withheld, delayed or conditioned. Notwithstanding the foregoing, with regard to the initial construction of the New Platform Amtrak shall direct the JPA to provide such plans and specifications to BNSF rather than being required to provide directly to BNSF itself. The parties understand that BNSF's approval of any plans or specifications shall not be deemed to mean that the construction contemplated therein, nor completed in accordance therewith, is structurally sound or appropriate or meets applicable regulations, laws, statutes or local ordinances, and/or building codes. Amtrak will be solely responsible for determining whether its plans and specifications, construction, and maintenance meet its needs and will provide for safe operation. For such construction or demolition projects (excluding the Haymarket Project), Amtrak will fully indemnify BNSF against any and all risks, liabilities, claims, losses and judgments arising from, or growing out of, or related in any way to the acts or negligence of BNSF, its agents or employees, of the contractors performing such construction or demolition work, their agents, employees, subcontractors, and their agents and employees, and will require its contractors to execute and deliver a BNSF Contractor's Right of Entry in the form attached as **Exhibit B** hereto, unless BNSF notifies Amtrak in writing that a Contractor's Right of Entry is not required. Notwithstanding the foregoing, Amtrak's indemnification obligations shall be limited during the Initial Construction Period as set forth in Section 5 above, and Amtrak shall not be required to obtain a Contractor's Right of Entry for the initial construction of or maintenance work on the New Platform to be performed on the Leased Premises by the JPA during the Initial Construction Period. Amtrak will require its construction and demolition contractors, after Amtrak has fully assured itself of contractual compliance in every respect, to certify in writing that the project work is of good quality and has been performed in accordance with the contract and provide appropriate lien waivers, as a condition precedent to final disbursement of project funds.
9. **Liens.** If, because of any act or omission of Amtrak or its agents, any mechanic's lien or other lien, charge or order for the payment of money shall be filed against BNSF or any portion of the Leased Premises, Amtrak shall, at its own expense, cause the same to be discharged of record within thirty (30) days after becoming aware of such lien or after written notice from BNSF to Amtrak of the filing thereof, and shall indemnify and save harmless BNSF against and from all costs, liabilities, penalties, and claims, including legal expenses, resulting therefrom; provided that Amtrak shall have no obligations with respect to any liens, charges or orders of payment created by or through the JPA during the Initial Construction Period. Should Amtrak become aware of a possible or actual filing of lien in the above instances, it shall notify the BNSF Amtrak Operations Officer in writing of same in a timely fashion. Should the BNSF Amtrak Operations Officer receive notice of any lien filed against any portion of the Leased Premises, the BNSF Amtrak Operations Officer shall notify Amtrak of the same in a timely fashion. In the event Amtrak incurs additional costs as a result of the BNSF Amtrak Operations Officer's failure after he or she has received notice a) to notify Amtrak in a timely manner, or b) to appear and prosecute or defend an action covered by the preceding sentences where BNSF has standing to do so

and Amtrak does not and where BNSF has not given Amtrak sufficient legal rights to represent BNSF, Amtrak shall have the right to pursue its legal remedies and to recover such costs from BNSF.

10. **Renegotiation.** At any time after three (3) years from the execution of this Agreement by Amtrak, and at the request of either party, the location, size and/or configuration of the Leased Premises may be renegotiated. In the event of such a renegotiation, the parties shall cooperate with one another to resolve the circumstances giving rise to the request for renegotiation. **Exhibit A** to this Agreement shall be amended to reflect any agreed upon change in the Leased Premises.
11. **Entire Agreement.** This Agreement (including the Operating Agreement referenced herein), signed by both parties, constitutes a final written expression of all the terms of this Agreement, and is a complete and exclusive statement of those terms. If the terms and conditions of this Agreement and the Operating Agreement conflict, the terms of this Agreement shall control. No other agreement or understanding of any nature concerning the same has been made or entered into. The parties agree that upon the execution of this Agreement by both parties, any lease between the parties covering all or a portion of the Leased Premises that is in effect as of the date hereof, if any such lease exists, is hereby deemed to have been terminated by mutual agreement effective immediately; provided, however, that any right or obligation in an existing lease which, by its nature, would ordinarily survive the termination of the existing lease (such as the obligation to make an outstanding payment) shall survive the termination of the existing lease until it is satisfied.
12. **Severability.** In the event a court of competent jurisdiction finds and determines that any provision of this Agreement, in whole or in part, is invalid, the remaining provisions of this Agreement shall remain in full force and effect.
13. **Non-Waiver.** The failure or delay of BNSF or Amtrak to exercise or enforce any of the rights granted to them under this Agreement or any of the obligations or duties imposed on them as may be set forth in this Agreement shall not be construed as or constitute a waiver by BNSF or Amtrak of any such rights, obligations or duties. Amtrak has waived any rights it may have with respect to the acquisition of its existing station location, and upon commencement of operations on the Leased Premises shall have waived any rights it may have with respect to the use of its existing station location. Except as expressly set forth herein, nothing in this Agreement shall waive or derogate any of the parties' rights or responsibilities under law or statute.
14. **Subletting.** Subject to the terms and conditions of this Agreement and the Operating Agreement, Amtrak shall have the right to sublease a portion of the Leased Premises to any third-party sublessee (each a "Permitted Sublessee"), without prior notice, consent or approval by BNSF; *provided, however, that* (i) such Permitted Sublessees shall be limited to newsstands, food and beverage concessions, vending machines, telephones, automated teller/ticketing machines, and direct telephone line connections for local hotel, restaurants, entertainment, sports and convention centers and car rentals; (ii) except as expressly permitted below, Amtrak shall not assign this Agreement or sublease "*substantially all*" of the Leased Premises without the prior written consent of BNSF, which consent shall not be unreasonably withheld, conditioned or delayed; (iii) BNSF shall have the right to impose operational and safety requirements and restrictions upon any Permitted Sublessee (e.g., fencing separating outdoor dining areas from platforms and tracks, prohibitions against sale of alcoholic beverages, etc.); and (iv) no billboards or other advertising materials or signage shall be permitted on or about the Leased Premises without BNSF's prior written consent, which consent shall not be unreasonably withheld, delayed or conditioned. In the event the rent, concession fees or other revenue received by Amtrak from a Permitted Sublessee at any location exceeds One Thousand Dollars (\$1,000) per month, Amtrak shall remit to BNSF on a monthly basis fifty percent (50%) of any such excess amount. Amtrak shall provide written notice to BNSF within thirty (30) days after the execution of an agreement with a Permitted Sublessee, together with supporting documentation substantiating the amount of any rent or other payments to be paid by such Permitted Sublessees. Reimbursement to Amtrak by the JPA or any Permitted Sublessee of engineering fees or any other costs or expenses for services provided by Amtrak to, on behalf of or in the assistance of the JPA or such Permitted Sublessee shall not be considered rent, commission or other revenue under this Agreement even if the monies are defined as such in any agreement between Amtrak and the JPA or such Permitted Sublessee.

Notwithstanding the preceding paragraph, subject to the other terms and conditions of this Agreement and the Operating Agreement, Amtrak shall have the right to sublease all or a portion of the Leased Premises to the JPA pursuant to the form of Sublease Agreement attached as **Exhibit C** hereto (the "Sublease"), without any

requirement of further consent or approval by BNSF. BNSF acknowledges that: (i) the Sublease grants the JPA the right to construct the New Platform on the Leased Premises, (ii) the Sublease provides that the JPA will own and maintain the New Platform so long as the Sublease is in effect, and (iii) upon the termination of the Sublease, the New Platform will be considered an improvement approved by BNSF and affixed to the Leased Premises under this Agreement.

Dated this _____ of _____, 2011.

National Railroad Passenger Corporation

BNSF Railway Company

By: Bruce Looloian
Its: Assistant Vice President
Real Estate Development

By: _____
Its: _____

Exhibit A

Description of Leased Premises

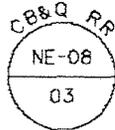
The Leased Premises consists of the land in the shaded area depicted on Exhibit 1-A dated _____, 2010 where the New Platform will be constructed attached hereto. The Leased Premises does NOT include any Shared Facilities nor a Jointly Used Facility.

Exhibit A-1
Lincoln, NE

TRACKING NO. _____

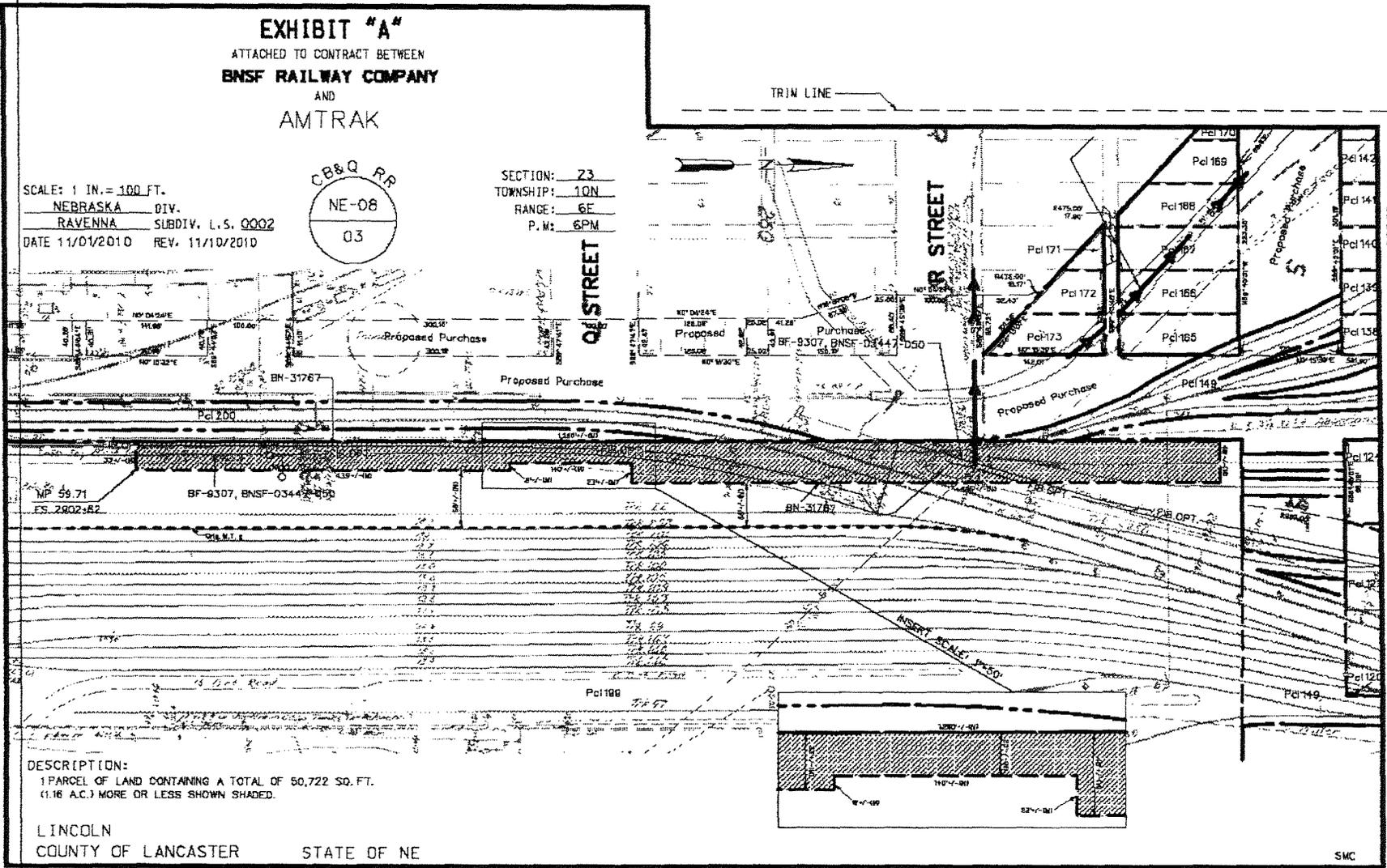
EXHIBIT "A"
ATTACHED TO CONTRACT BETWEEN
BNSF RAILWAY COMPANY
AND
AMTRAK

SCALE: 1 IN. = 100 FT.
NEBRASKA DIV.
RAVENNA SUBDIV. L.S. 0002
DATE 11/01/2010 REV. 11/10/2010



SECTION: 23
TOWNSHIP: 10N
RANGE: 6E
P.M.: 6PM

TRIN LINE



DESCRIPTION:
1 PARCEL OF LAND CONTAINING A TOTAL OF 50,722 SQ. FT.
(1.16 A.C.) MORE OR LESS SHOWN SHADED.

LINCOLN
COUNTY OF LANCASTER STATE OF NE

MAP REF. 663363

SMC

REVISION 1

DRAWING NO. 3-50366

Exhibit B

BNSF CONTRACTOR'S RIGHT OF ENTRY AGREEMENT
FOR CONSTRUCTION PROJECTS ON OR ADJACENT TO PROPERTY OF
BNSF RAILWAY COMPANY

This Right of Entry Agreement ("Agreement") is made to be effective _____, 20___, by and between **BNSF RAILWAY COMPANY** ("Railroad"), a Delaware corporation, and _____, a(n) _____ ("Contractor").

WHEREAS, Railroad operates a freight transportation system by rail with operations throughout the United States and Canada; and

WHEREAS, The National Railroad Passenger Corporation, a corporation organized under the Rail Passenger Service Act and the laws of the District of Columbia, (hereinafter referred to as "Amtrak"), desires Contractor to perform certain construction services adjacent to and upon Railroad's right of way and/or property, and Contractor is willing to perform such services.

NOW, THEREFORE, in consideration of Railroad entering this Agreement with Contractor and granting Contractor permission to enter upon the Premises (defined herein), Contractor agrees with Railroad as follows:

SECTION 1. SCOPE OF SERVICES

Contractor will perform the following services, hereinafter described as "Work":

Performance of the Work will necessarily require Contractor to enter Railroad's right of way and property ("Premises"). Contractor agrees that no work will be commenced on the Premises until (i) this Agreement is executed by both Contractor and Railroad, and (ii) Contractor provides Railroad with the insurance contemplated herein. Contractor further agrees that if this Agreement is not executed by the owner, general partner, president or vice-president of Contractor, Contractor will furnish Railroad with evidence certifying that the signatory is empowered to execute this Agreement.

SECTION 2. PAYMENT OF FEES

Amtrak will be solely responsible for paying Contractor for the Work.

SECTION 3. RELEASE OF LIABILITY AND INDEMNITY

(a) Contractor agrees to release Railroad and Railroad's duly authorized representative from any claims arising from the performance of this Agreement which Contractor or any of its employees, subcontractors, agents or invitees could otherwise assert against Railroad, regardless of the negligence of Railroad, except to the extent that such claims are proximately caused by the intentional misconduct or gross negligence of Railroad.

(b) Contractor shall indemnify and hold harmless Railroad and Railroad's duly authorized representative for all judgments, awards, claims, demands, and expenses (including attorneys' fees), for injury or death to all persons, including Railroad's and Contractor's officers and employees, and for loss and damage to property belonging to any person, arising in any manner from Contractor's or any of Contractor's subcontractors' acts or omissions or failure to perform any obligation hereunder. **THE LIABILITY ASSUMED BY CONTRACTOR SHALL NOT BE AFFECTED BY THE FACT, IF IT IS A FACT, THAT THE DESTRUCTION, DAMAGE, DEATH, OR INJURY WAS OCCASIONED BY OR CONTRIBUTED TO BY THE NEGLIGENCE OF RAILROAD, ITS AGENTS, SERVANTS, EMPLOYEES OR OTHERWISE, EXCEPT TO THE EXTENT THAT SUCH CLAIMS ARE PROXIMATELY CAUSED BY THE INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE OF RAILROAD.**

(c) **THE INDEMNIFICATION OBLIGATION ASSUMED BY CONTRACTOR SHALL INCLUDE ANY CLAIMS, SUITS OR JUDGMENTS BROUGHT AGAINST RAILROAD UNDER THE FEDERAL EMPLOYER'S LIABILITY ACT, INCLUDING CLAIMS FOR STRICT LIABILITY UNDER THE SAFETY APPLIANCE ACT OR THE BOILER INSPECTION ACT, WHENEVER SO CLAIMED.**

(d) Contractor further agrees, at its expense, in the name and on behalf of Railroad, that it shall adjust and settle all claims made against Railroad, and shall, at Railroad's discretion, appear and defend any suits or actions

at law or in equity brought against Railroad on any claim or cause of action arising or growing out of or in any manner connected with any liability assumed by Contractor under this Agreement for which Railroad is liable or is alleged to be liable. Railroad shall give notice to Contractor, in writing, of the receipt or pendency of such claims and thereupon Contractor shall proceed to adjust and handle to a conclusion such claims, and in the event of a suit being brought against Railroad, Railroad may forward summons and complaint or other process in connection therewith to Contractor, and Contractor, at Railroad's discretion, shall defend, adjust, or settle such suits and protect, indemnify, and save harmless Railroad from and against all damages, judgments, decrees, attorney's fees, costs, and expenses growing out of or resulting from or incident to any such claims or suits.

(e) With regard to any construction or maintenance work to be done in the State of Nebraska, pursuant to Neb. Rev. Stat. S 25-21, 187:

Nothing in this contract is intended to be construed to indemnify or hold harmless Contractor from Railroad's own negligence.

(f) 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 Railroad to the fullest extent permitted by applicable law. **THROUGH THIS AGREEMENT THE PARTIES EXPRESSLY INTEND FOR CONTRACTOR TO INDEMNIFY RAILROAD FOR RAILROAD'S ACTS OF NEGLIGENCE.**

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

SECTION 4. INSURANCE

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

(i) Commercial General Liability Insurance. This insurance must contain broad form contractual liability with a combined single limit of a minimum of \$5,000,000 each occurrence and an aggregate limit of at least \$10,000,000 but in no event less than the amount otherwise carried by the contract holder. 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 must also contain the following endorsements or language, which shall be indicated on the certificate of insurance:

The definition of insured contract must 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 and Jones, Lang, LaSalle Global Services - RR, Inc.

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(ies) required herein are intended to apply to employees of the policy holder and shall not apply to Railroad employees.

No other endorsements limiting coverage may be included on the policy with regard to the work being performed under this Agreement or otherwise with respect to any obligations under this Agreement.

(iii) Business Automobile Insurance. This insurance must 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

The 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 of and acceptable to Railroad.

Separation of insureds.

The policy shall be primary and non-contributing with respect to any insurance carried by Railroad.

(iv) Workers' Compensation and Employers' Liability Insurance. This insurance shall include coverage for, but not limited to:

Contractor's statutory liability under the workers' 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.

(v) Railroad Protective Liability Insurance. This insurance must name only Railroad as the Insured with coverage of at least \$5,000,000 per occurrence and \$10,000,000 in the aggregate. The policy must 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 include Evacuation Expense Coverage Endorsement.

No other endorsements restricting coverage may be added.

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

In lieu of providing a Railroad Protective Liability Policy, Contractor may participate in Railroad's Blanket Railroad Protective Liability Insurance Policy. The limits of coverage are the same as above. The cost is \$_____.

I elect to participate in Railroad's Blanket Policy for activities commencing as of the Effective Date (if any);

I elect not to participate in Railroad's Blanket Policy for activities commencing as of the Effective Date (if any).

(b) In addition to the foregoing, the following other requirements shall apply to this Agreement:

Where allowable by law, 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. 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. 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 its care, custody or control.

Allocated Loss Expense shall be in addition to all policy limits for coverages referenced above.

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 shall 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 Work, Contractor shall furnish to Railroad an acceptable certificate(s) of insurance from an authorized representative evidencing the required coverage(s), 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 shall be indicated on the certificate of insurance.

Any insurance policy must be written by a reputable insurance company 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.

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 the subcontractor provide and maintain the insurance coverages set forth herein, naming Railroad as an additional insured, and requiring that the subcontractor 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 4 will entitle, but not require, Railroad to terminate this Agreement immediately. 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.

In the event of a claim or lawsuit involving Railroad arising out of this Agreement, Contractor will make available any required policy covering such claim or lawsuit.

For purposes of this Section 4, "**Railroad**" means "Burlington Northern Santa Fe LLC", "BNSF Railway Company" and the subsidiaries, successors, assigns and affiliates of each.

SECTION 5. CONTRACTOR REQUIREMENTS

(a) While on or about the Premises, Contractor must fully comply with Railroad's "Contractor Requirements", including (but not limited to) clearance requirements and personal protective equipment requirements. Contractor will be solely responsible for fully informing itself as to Railroad's "Contractor Requirements".

(b) Contractor must ensure that each of its employees, subcontractors, agents or invitees entering upon the Premises completes the safety training program at the following Internet Website: "www.contractororientation.com" (the "**Safety Orientation**") within one year prior to entering upon the Premises. Additionally, Contractor must ensure that each and every employee of Contractor, its subcontractors, agents and invitees possess a card certifying completion of the Safety Orientation prior to entering the Premises. Contractor must renew the Safety Orientation annually.

(c) Prior to entering the Premises, Contractor must prepare and implement a safety action plan acceptable to Railroad. Contractor must audit compliance with that plan during the course of Contractor's work. A copy of the plan and audit results must be kept at the Premises and will be available for inspection by Railroad at all reasonable times.

(d) When not in use, Contractor's machinery and materials must be kept at least 50 feet from the centerline of Railroad's nearest track. Contractor must not cross Railroad's tracks except at existing open public crossings.

SECTION 6. PROTECTION OF RAILROAD FACILITIES / FLAGGER SERVICES

(a) Railroad flagger and protective services and devices will be required and furnished when Railroad determines, in Railroad's sole discretion, that such services and devices are necessary for safety purposes, including but not limited to the following events:

- (i) when Work is located over, under or within twenty-five (25) feet from the center line of the nearest track;
- (ii) when cranes or similar equipment are positioned outside of 25-foot horizontally from track center line but could foul the track in the event of tip-over or other catastrophic occurrence;
- (iii) when any excavation is performed below the bottom of tie elevation, if, in Railroad's sole opinion track or other Railroad facilities may be subject to movement or settlement.
- (iv) when Work in any way interferes, or is likely to interfere, with the safe operation of trains at timetable speeds.
- (v) when persons, material, equipment, blasting or other hazardous activities in the vicinity present any actual or potential threat to Railroad's personnel, track, communications, signal, electrical, or other facilities.

Special permission must be obtained from Railroad before moving heavy or cumbersome objects or equipment which might result in damage, injury or making the track impassable.

(b) Contractor must give Railroad's Roadmaster (telephone _____) a minimum of thirty (30) working 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 Contractor and the parties hereto subsequently determine that such services are no longer necessary, 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.

(c) Flagging services will be performed solely by qualified Railroad flaggers. The costs for flaggers shall include, but not be limited to, the following: pay for at least an eight (8) hour basic day with time and one-half or double time for overtime, rest days and holidays (as applicable); vacation allowance; paid holidays (as applicable); Railroad and unemployment insurance; public liability and property damage insurance; health and welfare benefits; transportation; meals; lodging and supervision. Negotiations for Railroad labor or collective bargaining agreements and rate changes authorized by appropriate Federal authorities may increase flagging rates. The flagging rate in effect at the time of performance by Contractor will be used to calculate the costs of flagging pursuant to this **Section 6(c)**.

(i) A flagging crew generally consists of one employee. However, additional personnel may be required to protect the Premises and operations, if deemed necessary by Railroad's representative.

(ii) The cost of flagger services provided by Railroad, when deemed necessary by Railroad's representative, will be borne by Contractor.

SECTION 7. INDEPENDENT CONTRACTOR

Contractor is considered an independent contractor under this Agreement and neither Contractor nor any of its employees, subcontractors, agents or servants are considered employees of Railroad in any respect. Contractor has the exclusive right and duty to control the work of its employees. All persons employed by Contractor or any of its subcontractors under this Agreement are the sole employees of Contractor or its subcontractors. Contractor will be given general directions and instructions regarding the Work; however, direct supervision of Contractor's employees will be Contractor's responsibility and obligation.

SECTION 8. TRAIN DELAYS

Work performed by Contractor must not cause any interference with the constant, continuous and uninterrupted use of the tracks, property and facilities of Railroad, its lessees, licensees or others, unless specifically permitted under this Agreement, or specifically authorized in writing in advance by Railroad's representative. Additionally, Contractor must not, at any time, impair the safety of Railroad operations or the operations of Railroad's lessees, licensees or other Railroad invitees. Delays to freight or passenger trains affect Railroad's ability to fully utilize its equipment and to meet customer service and contract obligations. Contractor will be responsible to Railroad, including its subsidiaries, affiliated companies, partners, successors and assigns, for all economic losses resulting from unscheduled delays to freight or passenger trains in accordance with the following:

(i) Contractor will be billed for the economic losses arising from loss of use of equipment and train service employees, contractual incentive pay and bonuses and contractual penalties resulting from train delays, whether caused by Contractor, its subcontractors or by Railroad performing Work.

(ii) The parties acknowledge that passenger, U.S. mail trains and certain other grain, intermodal, coal and freight trains operate under incentive/penalty contracts with Railroad. Under such arrangements, if Railroad does not meet its contract service commitments, Railroad may (i) suffer loss of performance or incentive pay, or (ii) be subject to a penalty payment. Contractor is responsible for any train performance and incentive penalties or other contractual economic losses actually incurred by Railroad which are attributable to a train delay caused by Contractor or its subcontractors.

(iii) The contractual relationship between Railroad and its passenger customers is proprietary and confidential. In the event of a train delay covered by this Agreement, Railroad will share information relevant to any train delay to the maximum extent consistent with Railroad confidentiality obligations.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK;
SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date below each party's signature; to be effective, however, as of the Effective Date above.

RAILROAD:

BNSF Railway Company, a Delaware corporation

By: _____
Name: _____
Title: _____
Date: _____

CONTRACTOR:

By: _____
Name: _____
Title: _____
Date: _____

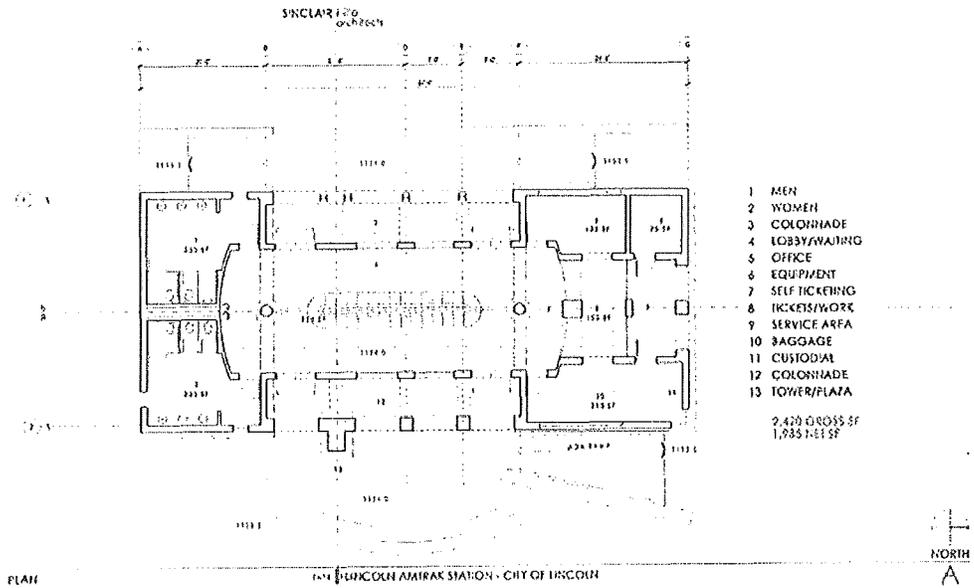
Exhibit C

Form of Sublease

[See Attached]

EXHIBIT C

New Depot Design Plans



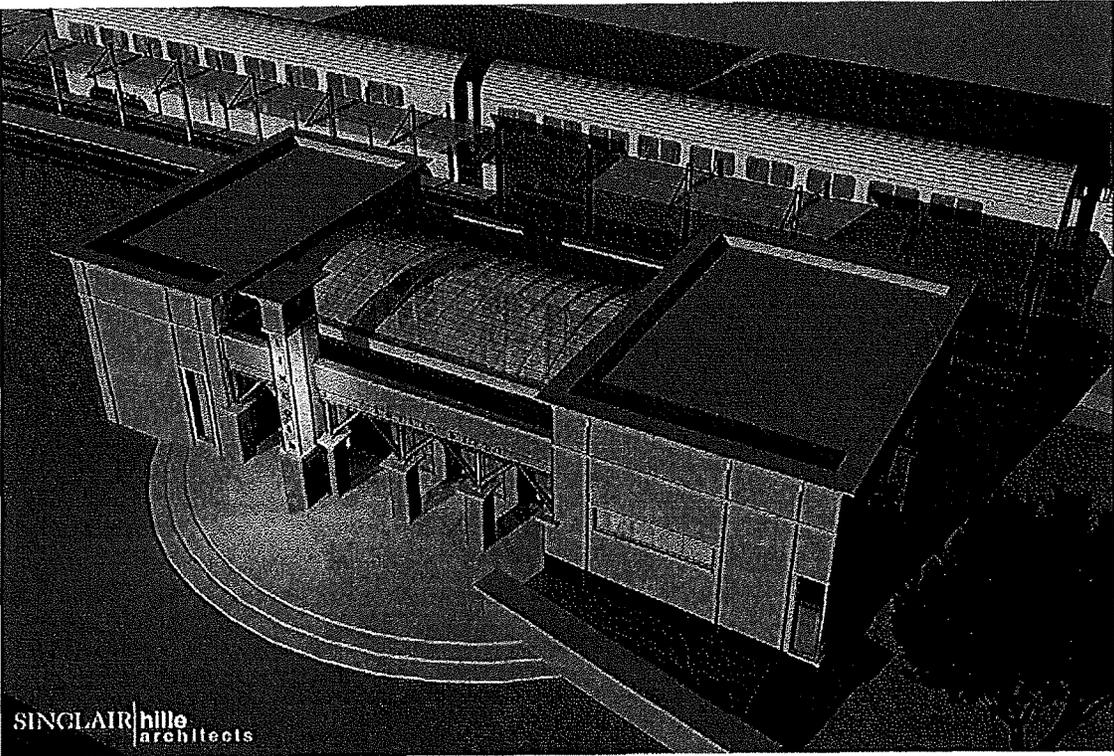
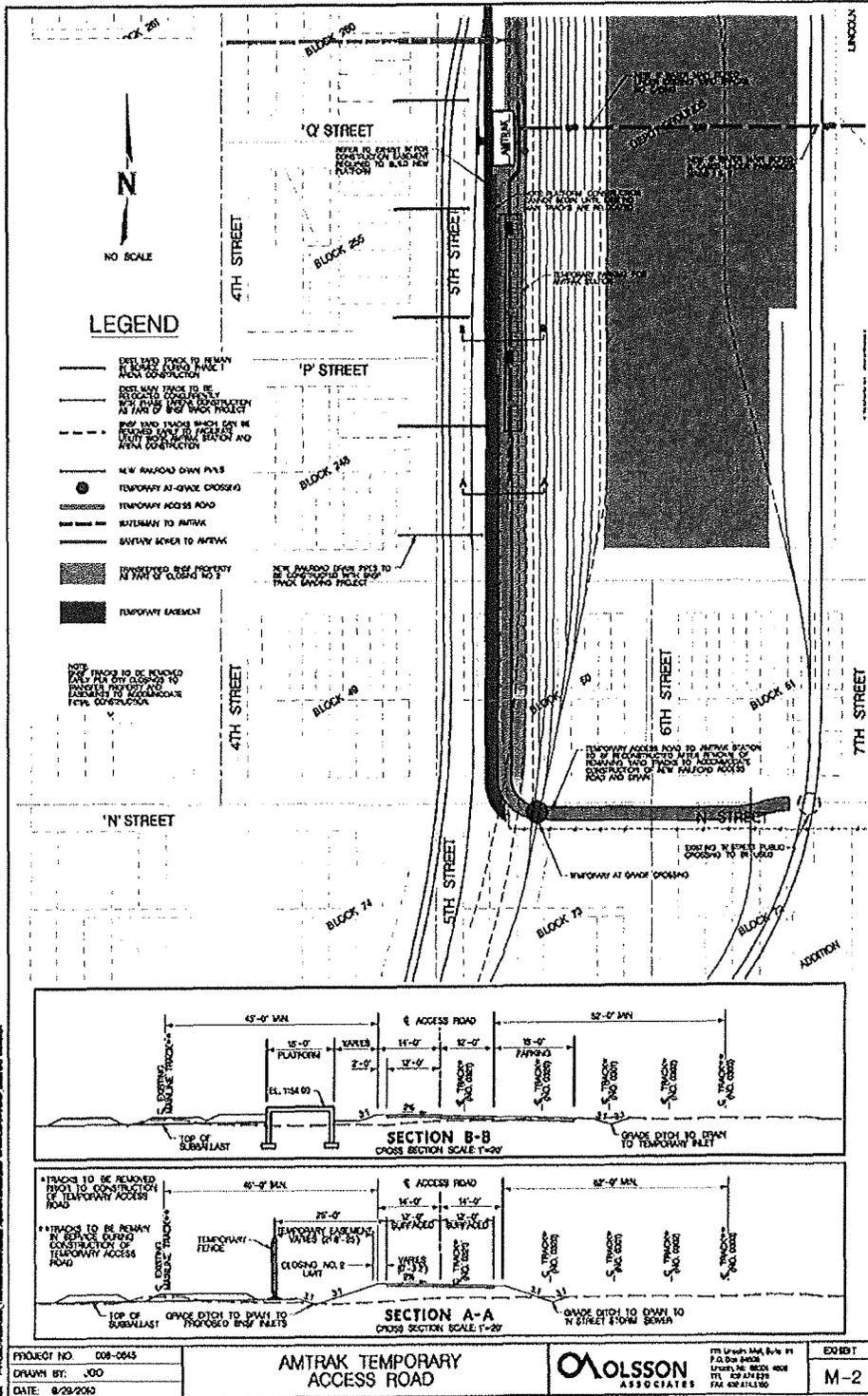


EXHIBIT B

Prime Landlord's Main Line Track Realignment



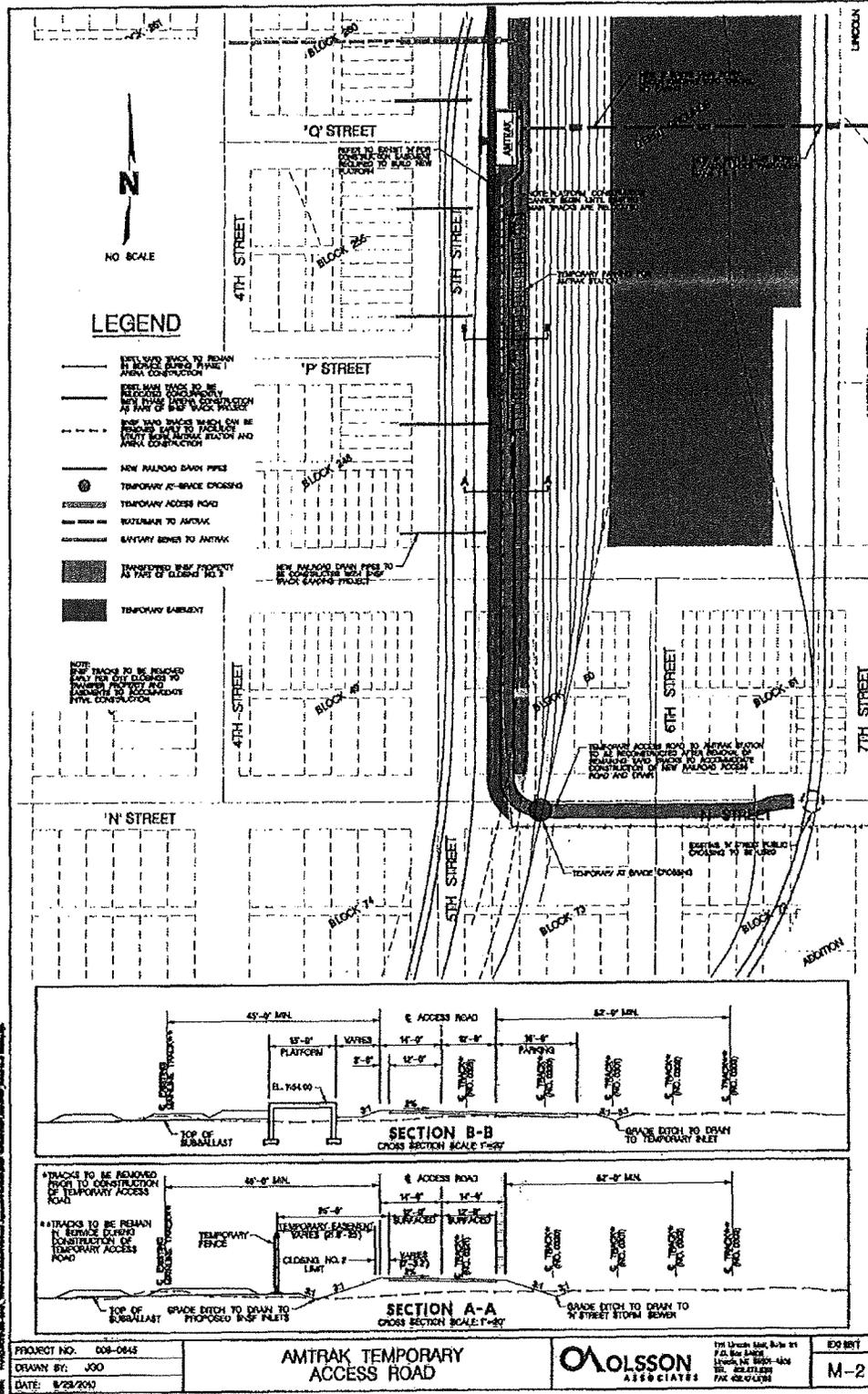
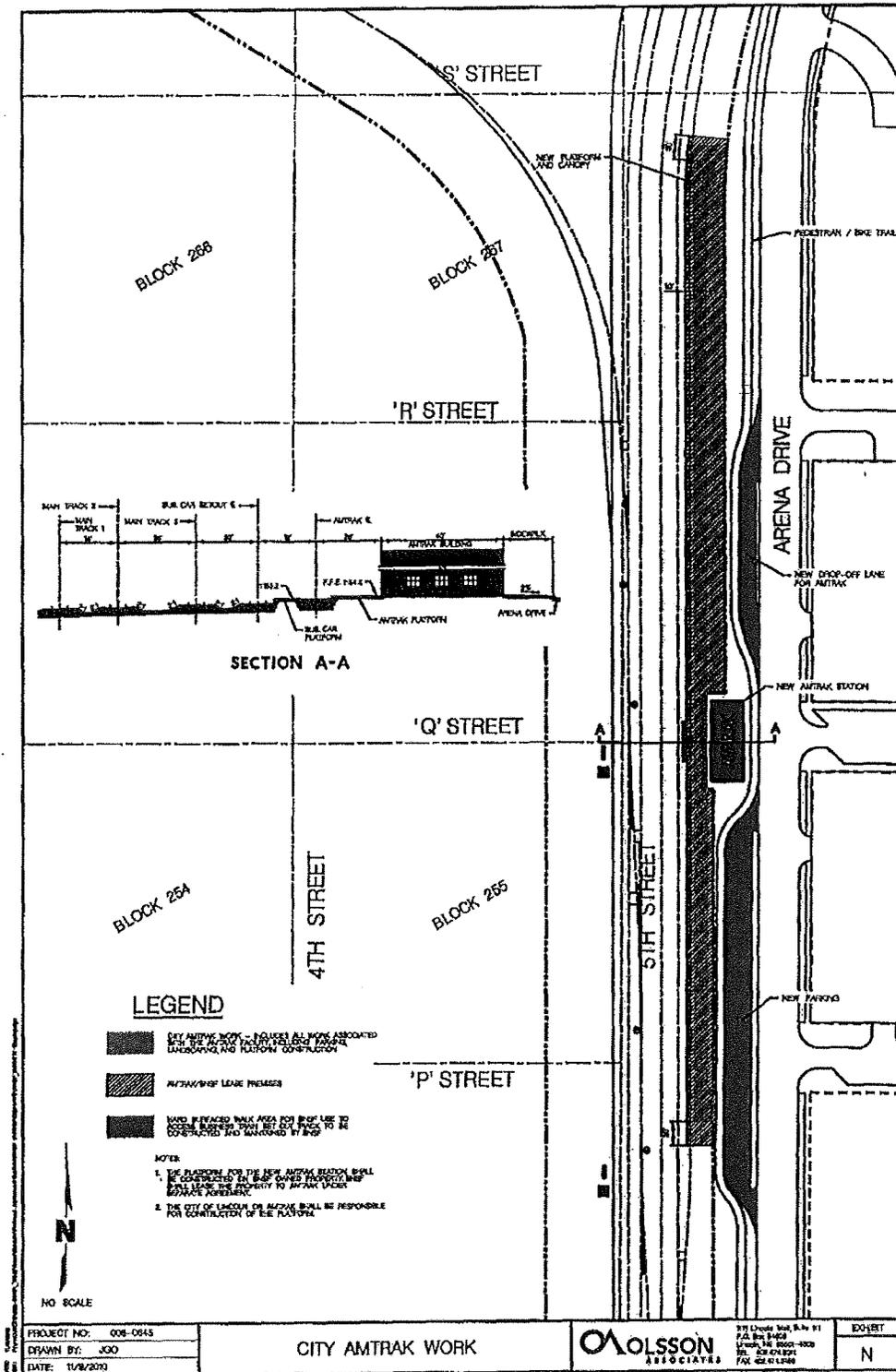


EXHIBIT B



RESOLUTION NO. WH- _____

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

3 That Chris Beutler, Chair of the West Haymarket Joint Public Agency Board of
4 Representatives, is hereby authorized to enter into, on behalf of the West Haymarket Joint Public
5 Agency, a Contract with the lowest responsible bidder for construction of the Amtrak station and
6 canopy over the platform.

7 Adopted this _____ day of December, 2011.

Introduced by:

Approved as to Form & Legality:

West Haymarket Joint Public Agency
Board of Representatives

Legal Counsel for
West Haymarket Joint Public Agency

Tim Clare

Chris Beutler

Eugene Carroll