

11R-235

Introduce: 9-26-11

RESOLUTION NO. A- 86578

BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

That the agreement titled I-80 West Lincoln Business Center Conditional Annexation and Zoning Agreement, which is attached hereto, marked as Attachment "A" and made a part hereof by reference, between Ringneck Development, LLC and the City of Lincoln, Nebraska, outlining certain conditions and understandings relating to the annexation of approximately 7.72 acres of property generally located at N.W. 48th Street and I-80, is approved.

BE IT FURTHER RESOLVED that the Mayor is authorized to execute the Conditional Annexation and Zoning Agreement on behalf of the City.

BE IT FURTHER RESOLVED that the City Clerk is directed to return one fully executed copy of this Agreement to Rick Peo, Chief Assistant City Attorney, for distribution to the Owner.

BE IT FURTHER RESOLVED that the City Clerk is directed to record the Conditional Annexation and Zoning Agreement or a summary memorandum thereof with the Register of Deeds, filing fees to be paid by the Owner.

BE IT FURTHER RESOLVED that the City Clerk is directed to forward a copy of this Agreement to Michaela Dugan, Impact Fee Administrator.

AMENDED 11-7-11

11/10 ✓

11/10 ✓

See further Council Proceedings on next page.

Approved as to Form and Legality:

[Signature]
City Attorney

Introduced by:

[Signature]

AYES: Carroll, Cook, Emery, Eskridge, Hornung, Schimek;
NAYS: None; ABSENT: Camp.

ADOPTED

NOV - 7 2011

BY CITY COUNCIL

Approved this 9 day of Nov, 2011:

[Signature]
Mayor

**I-80 WEST LINCOLN BUSINESS CENTER
CONDITIONAL ANNEXATION AND ZONING AGREEMENT**

This I-80 West Lincoln Business Center Conditional Annexation and Zoning Agreement (“Agreement”) is made and entered into as of this 9th day of November, 2011 by and between the City of Lincoln, Nebraska, a municipal corporation (“City”), and Ringneck Development, LLC, a Nebraska limited liability company (“Developer”). The parties may hereinafter jointly be referred to as the “Parties” or individually as a “Party”.

RECITALS

A. Developer desires to cause the urban development of approximately 233 acres of land located in Lancaster County, Nebraska, which is shown on Exhibit “A” attached hereto and incorporated herein by this reference, and legally described on Exhibit “B”, which is attached hereto and incorporated herein by this reference (the “Property”).

B. Developer is the owner of the Property.

C. Developer has requested the City to annex approximately 7.72 acres of the Property which is legally described and identified on Exhibit “C” attached hereto and incorporated herein by this reference (“Annexed Property”).

D. Developer has requested the City to rezone the Annexed Property from AG Agricultural District to R-3 PUD as shown on Exhibit “D” attached hereto and incorporated herein by this reference, which includes the accompanying Development Plan for I-80 West Lincoln Business Center R-3 and I-3 Planned Unit Development attached hereto as Exhibit “E” and incorporated herein by this reference (“Development Plan”).

E. The Property is designated as Tier I in the Lincoln City-Lancaster County Comprehensive Plan (“Comprehensive Plan”) designated as Priority A. The Comprehensive Plan includes three tiers of growth for the City of Lincoln. Tier I reflects the “Future Service Limit” where urban services are anticipated by 2030. The Comprehensive Plan further reflects that the City does not have sufficient financial resources to provide urban services to all of the Tier I area within the next few years. Finally, the Comprehensive Plan reflects that areas within Tier I should be prioritized for construction of infrastructure improvements. Priority A is the top priority area and identifies a “Future Service Area” to be provided with utilities in the next six years. Priority A

includes other land already annexed by the City which is subject to annexation agreements. In those agreements, the City has made best effort commitments to reimburse developers for funding impact fee facility improvements. Developer understands and acknowledges that despite the City's best efforts currently there are not adequate funds to make those reimbursements within the time frames originally envisioned and that a similar problem may arise regarding reimbursements for funding impact fee facility improvements under this Agreement. Developer further understands and agrees that, pursuant to the Comprehensive Plan, the top priority for the City's Capital Improvement Program is to maintain existing infrastructure, provide for new neighborhood improvements, and to complete needed improvements for areas already under development.

F. The City is willing to support the urban development of the Property based upon the Developer's representation that Developer shall use commercially reasonable efforts to reserve a minimum of seventy (70) acres for industrial uses as identified in the Development Plan for a period of eleven (11) years following substantial construction of the Arterial Street and Water Impact Fee Facility Improvements identified in paragraphs 3 and 4 below.

G. The Utilities and Pavement Plan for the Property is attached hereto as Exhibit "F" ("Infrastructure Exhibit") and is incorporated herein by this reference. The Annexed Property is anticipated to be final platted and developed in phases. The timing of infrastructure improvements may be modified accordingly. In addition, the remaining portion of the Property is anticipated to be annexed and developed in one or more phases, hereinafter referred to collectively as the "Future Annexed Property." Developer and City anticipate that the Future Annexed Property, or portions thereof, will be annexed, rezoned, and platted at later dates. The parties recognize and understand as part of this Agreement that Developer and City are incorporating the Development Plan (Exhibit "E") for the Future Annexed Property merely as an illustrated master plan and are agreeing to future responsibilities with respect to future annexation, rezoning, and platting of the Future Annexed Property or portions thereof at a later date based upon said Master Plan, provided that necessary infrastructure improvements identified in Exhibit "F" are constructed and available to serve development of the Future Annexed Property.

H. This Agreement identifies Developer's and City's responsibilities regarding the construction of infrastructure improvements necessitated by the development of the Property. The

execution of this Agreement by Developer does not preclude the use of Tax Increment Financing to fund all or a portion of the infrastructure improvements identified hereunder.

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

1. **Annexation by the City.** The City agrees to annex the Annexed Property as provided above in Recital C.

2. **Change of Zone.** The City agrees to approve a change of zone rezoning the Annexed Property from AG Agricultural District to R-3 PUD with the accompanying Development Plan as provided above in Recital D.

3. **Street Improvements.** The City and Developer agree that the following are the arterial street improvements necessary to serve the Property and to promote the general health and welfare of the City.

A. **NW 48th Street.** NW 48th Street from West “O” Street to Gary Gately Drive is shown in the Comprehensive Plan as an arterial road improvement during the 25-year planning period with that portion located from West “O” Street to West Holdrege Street to be constructed as four lanes plus turn lanes, and that portion from West Holdrege Street to Gary Gately Drive to be constructed as four lanes plus turn lanes. The State of Nebraska (“State”) has plans for the reconstruction of the NW 48th and I-80 Interchange as part of the NW 56th – US 77 South Interchange project, and the reconstruction of the I-80 bridge over NW 48th Street to accommodate six lanes of traffic as part of the NW 48th Street Bridges project (“State Projects”). NW 48th Street from West “O” Street to approximately 3,900 feet north is currently constructed as a four lane paved rural roadway, and from that point north to Gary Gately Drive as a two lane asphalt rural roadway. Presently, the State owns the right-of-way for NW 48th Street from West “O” Street to West Holdrege Street, and has access control along NW 48th Street from West “O” Street north approximately 3,900 feet. Any improvements to the State controlled portion of NW 48th Street must be reviewed and approved by the State.

In order to accommodate the traffic generated from the full development of the Property, NW 48th Street from West “O” Street to West Holdrege Street will be graded and constructed as a four-

lane arterial rural section with raised median and without curb and gutter, and from West Holdrege Street to Gary Gately Drive as a four-lane arterial urban section with raised median and curb and gutter, and shall include intersection improvements at West “O” Street, I-80 North Ramp, I-80 South Ramp, West Vine Street, West Opportunity Drive, West Holdrege Street and Gary Gately Drive (collectively “NW 48th Street”). NW 48th Street is conceptually shown in the NW 48th Street Agreement, defined below, and consists entirely of Arterial Street Impact Fee Facility Improvements, except for improvements at the I-80 North Ramp and I-80 South Ramp, southbound to westbound right turn lane at West Opportunity Drive, and any required traffic signal at West Opportunity Drive, which are site related improvements (“Non Impact Fee Facility Improvements”). To the extent the above improvements to NW 48th Street have not been completed by the City and/or the State, the Developer will, on behalf of the City, design, competitively bid, construct and fund NW 48th Street through the City’s Executive Order process. The City and Developer acknowledge and agree that NW 48th Street may be constructed in one or more phases as set forth in the NW 48th Street Agreement which has been entered into as of this even date by Developer, City and State. A copy of the NW 48th Street Agreement is attached hereto as Exhibit “G” and is incorporated herein by this reference (“NW 48th Street Agreement”).

The City will use its best efforts to include NW 48th Street, excluding the Non Impact Fee Facility Improvements, in a future City Six-Year Capital Improvement Program, and show it to be funded by the City, at its expense, in said future Six-Year Capital Improvement Program. In the event NW 48th Street is constructed by the Developer through the City’s Executive Order process, the City agrees to use its best efforts to reimburse the Developer for the Arterial Street Impact Fee Facility Improvements portion of NW 48th Street, including the design, grading and construction of NW 48th Street, pursuant to Paragraph 7 below within eleven (11) years from the date said improvements are substantially constructed.

B. West Holdrege Street. West Holdrege Street from NW 48th Street to NW 56th Street is shown in the Lincoln City – Lancaster County Comprehensive Plan as an arterial road improvement during the 25-year planning period to be constructed as two lanes plus center turn lane. Presently, West Holdrege Street is a two lane gravel roadway. In order to accommodate the traffic generated from the development of the Property, a grade study will be conducted for an ultimate four through lanes with turn lanes for West Holdrege Street from NW 48th Street to NW 56th Street, and it

will initially be graded and constructed as a three lane roadway section (two thru lanes and a continuous shared left turn lane) with curb and gutter, and intersections at NW 48th Street, NW 50th Street, NW 52nd Street and NW 56th Street, including westbound-to-northbound and eastbound-to-southbound right turn lanes (“West Holdrege Street”). West Holdrege Street is conceptually shown on Exhibit “F” and consists entirely of Arterial Street Impact Fee Facility Improvements, except for the westbound-to-northbound and eastbound-to-southbound right turn lanes at NW 52nd Street (“Non Impact Fee Facility Improvements”).

On behalf of the City, the Developer will design, competitively bid, construct and fund West Holdrege Street through the City’s Executive Order process in one or more phases as part of the final plat process. Developer acknowledges that any development of the Property that requires improvements to West Holdrege Street prior to the improvement of the intersection of West Holdrege Street and NW 48th Street as shown on Exhibit “F” may, at the City’s sole discretion, also require improvements to the intersection of West Holdrege Street and NW 48th Street. The City will use its best efforts to include West Holdrege Street in a future City Six-Year Capital Improvement Program, and show the Arterial Street Impact Fee Facility Improvements to be funded by the City, at its expense, in said future Six-Year Capital Improvement Program. The City agrees to use its best efforts to reimburse the Developer for the Arterial Street Impact Fee Facility Improvements portion of West Holdrege Street, including the design, grading and construction of West Holdrege Street pursuant to Paragraph 7 below within eleven (11) years from the date said improvements are substantially constructed. Notwithstanding the foregoing, the City agrees that the cost of grading and constructing the eastbound-to-southbound right turn lanes at NW 52nd Street and NW 50th Street, and the westbound-to-northbound right turn lanes at NW 52nd Street and NW 56th Street shall be reimbursed to the Developer within thirty (30) days following completion of each said right turn lane. The City agrees that the reimbursement for said right turn lanes shall not be funded from impact fees collected from the development of the Annexed Property and Future Annexed Property.

C. NW 56th Street. NW 56th Street from West Holdrege Street to “O” Street is shown in the Lincoln City – Lancaster County Comprehensive Plan as an arterial road improvement during the 25-year planning period to be constructed as two lanes plus center turn lanes. Presently, NW 56th Street from West Holdrege Street to “O” Street is constructed as two lane gravel roadway. In order to accommodate the traffic generated from the development of the Property, a grade study

will be conducted for an ultimate four through lanes with turn lanes for that portion of NW 56th Street between West Partridge Lane and the north edge of the bridge over I-80, and it will initially be graded and paved as up to a 38 feet wide roadway in a location and width to be determined by the Director of Public Works & Utilities, with northbound to eastbound right turn lanes and any required traffic signals at West Vine Street and West Holdrege Street (“NW 56th Street”). NW 56th Street consists entirely of Arterial Street Impact Fee Facility Improvements. On behalf of the City, the Developer will design, competitively bid, grade, construct and fund NW 56th Street through the City’s Executive Order process in one or more phases as part of the final plat process. The City will use its best efforts to include NW 56th Street in a future City Six-Year Capital Improvement Program, and show the Arterial Street Impact Fee Facility Improvements portion to be funded by the City, at its expense, in said future Six-Year Capital Improvement Program. The City agrees to use its best efforts to reimburse the Developer for the Arterial Street Impact Fee Facility Improvements cost of NW 56th Street, including the design, grading and construction pursuant to Paragraph 7 below within eleven (11) years from the date said improvements are substantially constructed.

D. Square Footage. The City and Developer agree that the above-described design of the Street Improvements will accommodate the following:

South Area: That portion of the Property located south of West Holdrege Street
425,000 square feet of commercial/retail uses (excluding office hotels and motels)

200 hotel/motel rooms

10 fuel positions for gasoline/service station with convenience market

825,000 square feet of light industrial uses

230,000 square feet of office uses

North Area: That portion of the Property located north of West Holdrege Street
70,000 square feet of commercial/retail/office uses with a maximum total daily trip count of 4,400

The North Area and South Area are individually referred to herein as “Area”. The parties recognize the City may require additional street infrastructure improvements in conjunction with the granting of additional PUD zoning and subdivision plats for commercial/retail/office and light industrial uses (individually and collectively “Commercial Land Use Action”) for the Property

that is subject to this Agreement; provided that, the City shall not require any additional infrastructure improvements or contributions toward additional infrastructure improvements in conjunction with the granting of Developer's Commercial Land Use Action on any portion of the Property unless the square footage of uses requested in the Developer's Land Use Action exceed the total square footage of the appropriate category(ies) of uses shown for the applicable Area on the chart above. In the event Developer or a future property owner submits and the City approves a Commercial Land Use Action within an Area whose uses comprise a greater number of square feet for a category of uses than the Area is allocated above, the Developer or a future property owner submitting such request for Commercial Land Use Action shall be responsible, at its expense, for additional infrastructure improvements or contributions toward additional infrastructure improvements that, based upon the City's standards, are required but are not included within subparagraphs A, B and C above. In the event Developer or a future property owner submits and the City approves a Commercial Land Use Action within an Area whose square footage of uses is greater than is allocated for a category of uses above, and the City determines that, based upon the City's standards, no additional infrastructure improvements or contributions are required in addition to those identified within subparagraphs A, B and C above, then the new amount of square footage allowed within the Area under the Commercial Land Use Action shall be permitted without any amendment to this Agreement.

E. Dedication of Right of Way. At the time of the applicable final platting of the Street Improvements set forth below, Developer agrees to dedicate, at no cost to the City, the following:

1. NW 48th Street: All additional right-of-way that is required from the east edge of the Property for the construction of NW 48th Street as shown upon the approved final design of the plans for NW 48th Street.
2. West Holdrege Street: 120 feet of right-of-way between NW 56th Street and NW 48th Street, plus (i) an additional six feet (6') of right-of-way (or pedestrian easement acceptable to the City) to accommodate the future trail, and (ii) ten feet (10') of additional right-of-way where required at future intersections to accommodate required turn lanes.
3. NW 56th Street. 60 feet of right-of-way measured from the section

line, plus (i) an additional six feet (6') of right-of-way (or pedestrian easement acceptable to the City) to accommodate the future trail, and (ii) ten feet (10') of additional right-of-way where required at future intersections to accommodate required turn lanes.

F. Obtaining Third Party Right-of-Way and Easements. The City, with the cooperation of the Developer, shall acquire all third party right-of-way and all temporary and permanent nonexclusive easements necessary for the construction and operation of the Street Improvements within twelve (12) months from the date the Developer provides the City notice of the estimated timeframe for the construction of a particular Street Improvement. In the event Developer is constructing NW 48th Street, West Holdrege Street and/or NW 56th Street through the City's Executive Order process, the costs of the right-of-way and temporary and permanent easements including, but not limited to, the amount of any condemnation award, court costs, expert witness fees, testing fees, interest, and City staff time shall be paid by the Developer and included as part of the project cost of NW 48th Street, West Holdrege Street and/or NW 56th Street to be reimbursed to Developer. The parties acknowledge that while the third party right-of-way is reimbursable as part of the street projects, it is not an impact fee facility. The City is authorized to utilize condemnation, if necessary, to acquire the third party right-of-way and temporary and permanent easements.

G. State Permits. The City and Developer agree to use their best efforts to cooperate and work together to obtain all necessary permits from the State of Nebraska needed for the construction of the Street Improvements set forth above. The parties acknowledge that any costs associated with obtaining necessary permits from the State of Nebraska for the construction of the Arterial Street Impact Fee Facilities portion of the Street Improvements, including, but not limited to, all costs associated with obtaining a break in controlled access along NW 48th Street for the West Vine Street intersection, shall be the responsibility of the City. In the event Developer is constructing NW 48th Street, West Holdrege Street and/or NW 56th Street through the City's Executive Order process, the costs shall be paid by the Developer and included as part of the project cost to be reimbursed to Developer.

H. Best Efforts. The duty of the City to use its best efforts to include NW 48th Street, West Holdrege Street, and NW 56th Street Arterial Street Impact Fee Facility Improvements in a future Six Year Capital Improvement Program to be funded by the City and to use its best efforts to reimburse Developer for those costs within eleven (11) years from the date said improvements are

substantially constructed does not require the City Council to adopt or increase taxes and/or fees sufficient in amount to enable the City to reimburse Developer for the Arterial Street Impact Fee Facility Improvements portion of NW 48th Street, West Holdrege Street, and NW 56th Street within eleven (11) years from the date said Improvements are substantially constructed, nor does the City's duty to use best efforts to make said reimbursement require the City to act contrary to the top priority of the Capital Improvement Program to maintain existing infrastructure, provide for new neighborhood improvements and to complete needed improvements for areas already under development, or act without regard to cost or consequences. Rather, said duty must be viewed in the context of conformance with the Comprehensive Plan, sound business judgment regarding the City's financial condition, including but not limited to operation and maintenance of the City's arterial street system, the impact of tax or fee increases on taxpayers and fee payers and the Mayor and City Council's duty to exercise independent judgment with respect to the formulation of the City's annual budgets which, under the City's home rule Charter, are required to be a complete financial plan for the ensuing budget year consisting of an operating budget and capital budget.

4. **Water Improvements.** The City and Developer agree that the following are the water improvements necessary to serve the Property and to promote the general health and welfare of the City.

A. **Water Line in West Holdrege Street.** In order to provide water service to the Property, a 16-inch water main needs to be constructed in West Holdrege Street from NW 48th Street to NW 56th Street as shown on Exhibit "F" ("West Holdrege Street Water Line"). Developer understands and acknowledges that due to budgetary constraints the City does not show funding for the Holdrege Street Water Line in the 2011-2017 Six Year Capital Improvement Program. In the event the Developer needs the West Holdrege Street Water Line prior to the time it is constructed by the City, the Developer may, on the City's behalf, design, competitively bid, construct and fund the West Holdrege Street Water Line through the City's Executive Order process in one or more phases as part of the final plat process. In the event Developer constructs the West Holdrege Street Water Line, or portions thereof, through the City's Executive Order Process, and the West Holdrege Street Water Line is not shown in the then current Six Year Capital Improvement Program, the City agrees to use its best efforts to show said completed portion of the West Holdrege Street Water Line to be funded by the City, at its expense, within the next Six-Year Capital Improvement Program approved

by the City, and to reimburse the Developer within said Six-Year Capital Improvement Program period, for the costs of said portion of the West Holdrege Street Water Line that has been constructed by Developer, including the design, grading and construction of the West Holdrege Street Water Line pursuant to Paragraph 7 below. If the City fails to adopt rate increases sufficient in amount to enable the City to finance the West Holdrege Street Water Line within said Six Year Capital Improvement Program period, then the City agrees to use its best efforts to reimburse Developer for the costs of said portion of the West Holdrege Street Water Line that has been constructed by Developer within eleven (11) years from the date said portion of the West Holdrege Street Water Line is substantially complete pursuant to Paragraph 7 below. Any reimbursement shall not constitute a general obligation or debt of the City, but shall be solely funded from water revenues.

B. Water Line in NW 56th Street. In order to provide water service to the Property, a 16-inch water main needs to be constructed in NW 56th Street from “O” Street to the north edge of the Property as shown on Exhibit “F” (“NW 56th Street Water Line”). Developer understands and acknowledges that due to budgetary constraints the City does not show funding for the NW 56th Street Water Line in the 2011-2017 Six Year Capital Improvement Program. In the event the Developer needs the NW 56th Street Water Line prior to the time it is constructed by the City, the Developer may, on the City’s behalf, design, competitively bid, construct and fund the NW 56th Street Water Line through the City’s Executive Order process in one or more phases as part of the final plat process. In the event Developer constructs the NW 56th Street Water Line, or portions thereof, through the City’s Executive Order Process and the NW 56th Street Water Line is not shown in the then current Six Year Capital Improvement Program, the City agrees to use its best efforts to show said completed portion of the NW 56th Street Water Line to be funded by the City, at its expense, within the next Six Year Capital Improvement Program approved by the City and to reimburse the Developer, within said Six Year Capital Improvement Program period, for the costs of said portion of the NW 56th Street Water Line that has been constructed by Developer, including the design, grading and construction of the NW 56th Street Water Line pursuant to Paragraph 7 below. If the City Council fails to adopt rate increases sufficient in amount to enable the City to finance the NN 56th Street Water Line within said Six Year Capital Improvement Program period, then the City agrees to use its best efforts to reimburse Developer within eleven (11) years from the date the NW 56th Street Water Line is substantially complete pursuant to Paragraph 7 below. Any reimbursement

shall not constitute a general obligation or debt of the City, but shall be solely funded from water revenues.

C. Best Efforts. Notwithstanding the foregoing, the duty of the City to use its best efforts to reimburse Developer for the cost to install the West Holdrege Street Water Line and the NW 56th Street Water Line does not require the City to act (1) contrary to the top priority of the Capital Improvement Program to maintain existing infrastructure, provide for new neighborhood improvements, and to complete needed improvements for areas already under development, (2) contrary to the fair and equitable process for funding the Priority A Mains or (3) without regard to cost or consequences. Rather, said duty must be viewed in the context of conformance with the Comprehensive Plan, sound business judgment regarding the City's financial condition, including but not limited to, operation and maintenance of the City's Lincoln Water System, the impact of rate increases on rate payers, and the Mayor's and City Council's duty to exercise independent judgment with respect to the formulation of the City's annual budgets which under the City's Home Rule Charter are required to be a complete financial plan for the ensuing budget year consisting of an operating budget and capital budget.

D. Obtaining Easements. The City, with the cooperation of the Developer, shall acquire all temporary and permanent nonexclusive easements necessary for the construction and operation of the West Holdrege Street Water Line and NW 56th Street Water Line in a timely manner after the Developer provides the City reasonable advance notice of the estimated timeframe for the construction either Water Improvement. In the event Developer is constructing the West Holdrege Street Water Line or NW 56th Street Water Line through the City's Executive Order process, the costs of the temporary and permanent easements including, but not limited to, the amount of any condemnation award, court costs, expert witness fees, testing fees, interest, and City staff time shall be paid by the Developer and included as part of the project cost of the West Holdrege Street Water Line and/or NW 56th Street Water Line to be reimbursed to Developer. The City is authorized to utilize condemnation, if necessary, to acquire the temporary and permanent easements.

5. Sanitary Sewer Improvements. The City and Developer agree that the following are the sanitary sewer improvements necessary to serve the Property and to promote the general health and welfare of the City.

A. **Internal Sewer Line.** In order to provide gravity sewer service to the Property, an internal 10-inch and 12-inch sanitary sewer line needs to be constructed from the current terminus north of I-80 to West Holdrege Street generally as shown on Exhibit "F" ("Internal Sewer Line"). In the event the Developer needs the Internal Sewer Line prior to the time it is constructed by the City, the Developer may, on the City's behalf, design, competitively bid, construct and fund the Internal Sewer Line through the City's Executive Order process in one or more phases as part of the final plat process. In the event the Developer utilizes the Internal Sewer Line for service, then the City will reimburse the Developer for all costs attributable to oversizing the Internal Sewer Line with pipe, valves, fittings and all other accessories that are larger than 8-inch. In the event the Developer does not utilize the Internal Sewer Line for service, then the City will reimburse the Developer for the costs of the Internal Sewer Line, including the design and construction of the Internal Sewer Line. In either event, the reimbursement shall be made solely from directed impact fees pursuant to Paragraph 7.A below.

6. **Development and Phasing of Future Annexed Property.** Developer believes that the Future Annexed Property will be annexed, rezoned, platted, and developed in phases in accordance with the Master Plan attached hereto as Exhibit "A". The City and Developer agree that the infrastructure improvements identified in Exhibit "F" show the Impact Fee Facility wastewater, water and arterial street improvements necessary to serve all phases of the Future Annexed Property as shown on the Master Plan and to promote the general health and welfare of the City. In the event the Developer does not follow the Master Plan or makes material modification(s) to the Master Plan as it relates to rezoning and platting that would negatively impact the Impact Fee Facility wastewater, water and arterial street improvements as shown on Exhibit "F", then the Developer and City agree that there will need to be appropriate amendment(s) to this Annexation Agreement to reflect such changes in the Master Plan as it relates to rezoning and platting, prior to the City's approval of the annexation of the Future Annexed Property.

7. **Reimbursement for Impact Fee Facility Improvements.** In the event Developer funds the Impact Fee Facility Improvements described herein, then the City agrees, except as

otherwise provided herein, to reimburse Developer for said costs with Interest (as set forth below) from the following sources of funds.

A. Directed Impact Fees. The City agrees to reimburse the Developer for Impact Fee Facility Improvements with the applicable Impact Fees collected from the entire development of the Annexed Property and Future Annexed Property under the applicable Impact Fee Facility Improvements category (e.g., Water Distribution, Wastewater, Arterial Street), subject to the following conditions:

1. Said reimbursement shall be paid quarterly from impact fees actually received;
2. The maturity of the reimbursement shall be until the outstanding principle amount, plus Interest, is collected against the entire development of the Annexed Property and Future Annexed Property or is reimbursed pursuant to this Paragraph 7; and
3. Any reimbursement to be paid from impact fees shall not constitute a general obligation or debt of the City.

B. Capital Improvement Budget and Program. The City agrees to reimburse Developer for Arterial Street, Wastewater and Water Distribution Impact Fee Facility Improvements included in Year One of a future Six Year Capital Improvement Program from funds appropriated in the capital budget for those improvements.

C. Excess Costs. In the event Developer's costs for Arterial Street Impact Fee Facility Improvements are in excess of \$3,503,011, and/or Water Distribution Impact Fee Facility Improvements are in excess of \$524,390, then City agrees to use its best efforts to reimburse Developer with Interest for the excess cost from the Impact Fees collected from other development within the same benefit district or from other funding sources identified in this Agreement within eleven (11) years from the date the applicable Impact Fee Facility Improvement has been substantially completed as determined by the City. Any agreement to reimburse the Developer for Impact Fee Facility Improvements with the applicable Impact Fees collected from other developments within the same benefit district shall be subject to the same three conditions listed in Paragraph 7A. above. Notwithstanding the above, the City's best efforts to reimburse Developer with the impact fees collected from other development within the same benefit district does not

restrict the City from agreeing to reimburse future developers within the same benefit district from directed impact fees is those developers fund Impact Fee Facility Improvements.

D. Interest. In the event Developer's costs for Arterial Street Impact Fee Facility Improvements are in excess of \$3,503,011, and/or Water Distribution Impact Fee Facility Improvements are in excess of \$524,390, then City agrees to pay interest upon the outstanding balance owed to the Developer to reimburse the Developer for the Developer's cost of the Arterial Street and Water Distribution Impact Fee Facility Improvements in excess of said amounts. Said outstanding balance shall draw interest at the rate of two percent (2%) per annum ("Interest"); provided, however, Interest shall not begin to accrue until the Developer advances any excess funds to the City.

8. Industrial Reserve. The Developer agrees to use commercially reasonable efforts to reserve a minimum of seventy (70) acres of the Property for industrial uses under I-3 Industrial District Zoning as identified in the Development Plan for a period of eleven (11) years following substantial construction of the Arterial Street and Water Impact Fee Facility Improvements identified in paragraphs 3 and 4 above.

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

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

11. Governing Law. All aspects of this Agreement shall be governed by the laws of the State of Nebraska. The invalidity of any portion of this Agreement shall not invalidate the remaining provisions.

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

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

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

15. Assignment. In the case of the assignment of this Agreement by any of the parties, prompt written notice shall be given to the other parties who shall at the time of such notice be furnished with a duplicate of such assignment by such assignor. Any such assignment shall not terminate the liability of the assignor to perform its obligations hereunder, unless a specific release in writing is given and signed by the other parties to this Agreement or unless otherwise stated herein.

16. Default. Developer and City agree that the annexation and change of zone promote the public health, safety and welfare so long as Developer fulfills all of the conditions and responsibilities set forth in this Agreement. In the event Developer defaults in fulfilling any of their covenants and responsibilities as set forth in this Agreement, then the City may in its legislative authority rescind said Preliminary Plat and rezone the Annexed Property to its previous designation or such other designations as the City may deem appropriate under the then existing circumstances, or take such other remedies, legal or equitable, which the City may have to enforce this Agreement or to obtain damages for its breach. In the event the City defaults in fulfilling any of its covenants and responsibilities as set forth in this Agreement, then the Developer may take such remedies, legal or equitable, to enforce this Agreement or to obtain damages for its breach.

17. **Definitions.** For purposes of this Agreement, the words and phrases "cost" or "entire cost" of a type of improvement shall be deemed to include all design and engineering fees, testing expenses, acquisition of right-of-way from a third party, construction costs, publication costs, financing costs, and related miscellaneous costs. For the purposes of this Agreement, the words and phrases "building permit," "development," "Impact Fee Facility," "Impact Fee Facility Improvement," and "site-related improvements" shall have the same meaning as provided for said words and phrases in the Impact Fee Ordinance.

18. **Fair Share.** Landowners acknowledge that the City has a legitimate interest in the public health, safety and welfare and in providing for the safe and efficient movement of vehicles on the public arterial streets and the provision of adequate water and wastewater service and adequate neighborhood parks and trails as provided for in the Impact Fee Ordinance which is promoted by requiring Developer to pay their fair share of the cost to construct such Impact Fee Facilities and that an essential nexus exists between the City's legitimate interests and the conditions placed upon Developer under this Agreement. In addition, Developer and City have made an individualized determination and found that the conditions placed upon Developer under this Agreement are related both in nature and extent and are in rough proportionality to the projected adverse effects that full development of the Annexed Property under the annexation and change of zone would have on the City's Impact Fee Facilities.

19. **Recordation.** This Agreement or a memorandum thereof shall be filed in the Office of the Register of Deeds of Lancaster County, Nebraska at Developer's cost and expense.

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

21. **Engineering Services.** The uniform procedure for the selection of professional consultants set forth in Executive Order No. 80199 dated October 9, 2007 need not be utilized to

select the Developer's engineer to design the required improvements to be installed by Developer. The Developer's engineer has performed preliminary design work and continuing utilization of the Developer's engineer will avoid delay, inefficiencies, lack of coordination, and duplication of effort. Notwithstanding the above, the Developer agrees that, in order for Developer's engineer design costs to be reimbursable Impact Fee Facility Improvements, the compensation to be paid for such services must be approved the City's Department of Public Works & Utilities.

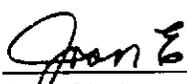
22. **Authority.** The City has the authority to engage in the reimbursements to Developer described in this Agreement, and (i) has taken all steps to legally exercise that authority, and (ii) the reimbursements to Developer described in this Agreement will comply with all applicable laws.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first written above.

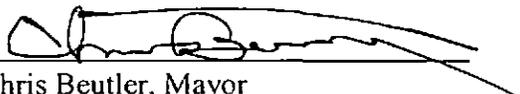
"CITY"

CITY OF LINCOLN, NEBRASKA,
a municipal corporation

ATTEST:

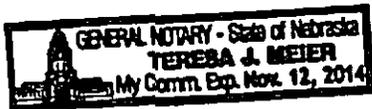

City Clerk

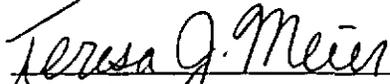


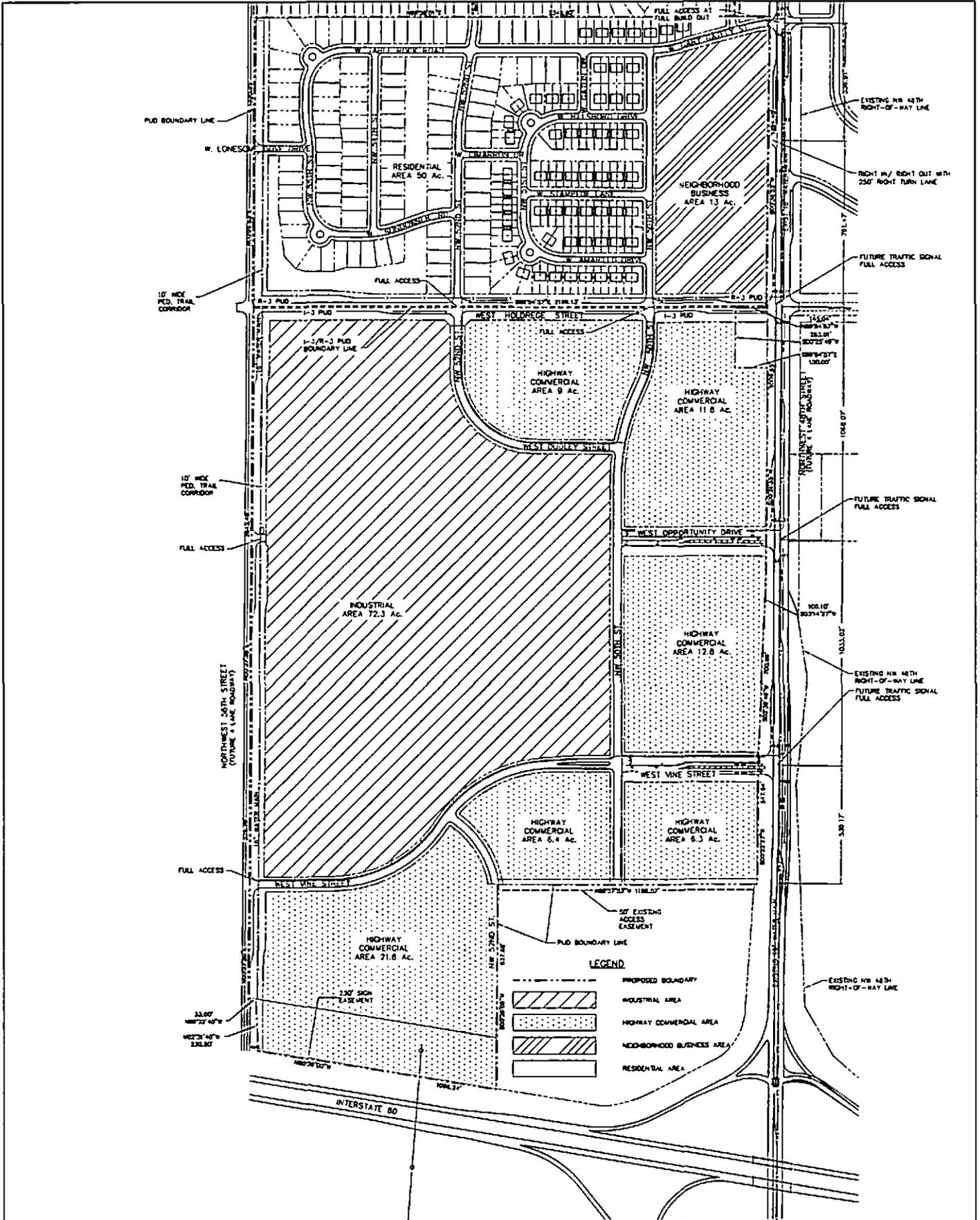
By: 
Chris Beutler, Mayor

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 9th day of Nov., 2011, by Chris Beutler, Mayor of the City of Lincoln, Nebraska, a municipal corporation.




Notary Public



PROJECT NO: 006-2085
 DRAWN BY: NKB
 DATE: 08.25.11 - City Version

I-80 WEST LINCOLN BUSINESS CENTER



1111 Lincoln Mall, Suite 111
 P.O. Box 84808
 Lincoln, NE 68501-4608
 TEL 402.474.8311
 FAX 402.474.5160

EXHIBIT
A

PROPERTY LEGAL DESCRIPTION

A LEGAL DESCRIPTION FOR A TRACT OF LAND COMPOSED OF LOT 8 I.T., AND THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, ALL LOCATED SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 10 NORTH, RANGE 6 EAST, LOTS 23 I.T., 31 I.T., AND 33 I.T., AND THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 10 NORTH, RANGE 6 EAST, ALL OF THE 6TH P.M., CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 18, SAID POINT BEING THE POINT OF BEGINNING; THENCE NORTHERLY ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 18 ON AN ASSUMED BEARING OF NORTH 00 DEGREES 26 MINUTES 53 SECONDS EAST, A DISTANCE OF 1,320.25 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 18, THENCE NORTH 89 DEGREES 59 MINUTES 01 SECONDS EAST ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 18, AND THE NORTH LINE OF LOT 8 I.T., A DISTANCE OF 2,345.82 FEET TO THE NORTHEAST CORNER OF SAID LOT 8 I.T., SAID POINT BEING ON THE WEST LINE OF NORTH WEST 48TH STREET RIGHT-OF-WAY, THENCE SOUTH 00 DEGREES 38 MINUTES 52 SECONDS WEST ALONG THE WEST LINE OF SAID LOT 8 I.T., SAID LINE BEING A WEST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 1,324.40 FEET TO THE SOUTHEAST CORNER OF SAID LOT 8 I.T., THENCE NORTH 89 DEGREES 54 MINUTES 57 SECONDS WEST ALONG THE SOUTH LINE OF SAID LOT 8 I.T., SAID LINE BEING THE NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 19, A DISTANCE OF 145.04 FEET TO THE NORTHEAST CORNER OF LOT 31 I.T., THENCE SOUTH 00 DEGREES 25 MINUTES 49 SECONDS WEST ALONG A EAST LINE OF SAID LOT 31 I.T., A DISTANCE OF 283.01 FEET TO NORTH CORNER OF SAID LOT 31 I.T., THENCE SOUTH 89 DEGREES 54 MINUTES 57 SECONDS EAST ALONG A NORTH LINE OF SAID LOT 31 I.T., A DISTANCE OF 150.00 FEET TO A NORTHEAST CORNER OF SAID LOT 31 I.T., SAID POINT BEING ON THE WEST LINE OF NORTH WEST 48TH STREET RIGHT-OF-WAY, THENCE SOUTH 00 DEGREES 31 MINUTES 35 SECONDS WEST ALONG A EAST LINE OF SAID LOT 31 I.T., SAID LINE BEING A WEST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 1,009.65 FEET TO A POINT OF DEFLECTION, THENCE SOUTH 03 DEGREES 14 MINUTES 27 SECONDS WEST ALONG A EAST LINE OF SAID LOT 31 I.T., AND A EAST LINE OF LOT 33 I.T., A DISTANCE OF 100.10 FEET TO A POINT OF DEFLECTION. THENCE SOUTH 02 DEGREES 39 MINUTES 46 SECONDS WEST ALONG A EAST LINE OF SAID LOT 33 I.T., SAID LINE BEING A WEST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 700.96 FEET TO A POINT OF DEFLECTION, THENCE SOUTH 00 DEGREES 22 MINUTES 27 SECONDS WEST ALONG A EAST LINE OF SAID LOT 33 I.T., SAID LINE BEING A WEST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 547.64 FEET TO THE SOUTHEAST CORNER OF SAID LOT 33 I.T., THENCE NORTH 89 DEGREES 57 MINUTES 53 SECONDS WEST THE SOUTH LINE OF SAID LOT 33 I.T., A DISTANCE OF 1,186.57 FEET TO THE NORTHEAST CORNER OF LOT 23 I.T., THENCE SOUTH 00 DEGREES 26 MINUTES 06 SECONDS WEST ALONG THE EAST LINE OF SAID LOT 23 I.T., A DISTANCE OF 937.68 FEET TO THE SOUTHEAST CORNER OF SAID LOT 23 I.T., SAID POINT BEING ON THE NORTH LINE OF INTERSTATE 80 RIGHT-OF-WAY, THENCE NORTH 80 DEGREES 36 MINUTES 00 SECONDS WEST ALONG A SOUTH LINE OF SAID LOT 23 I.T., SAID LINE BEING A NORTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 1,096.24 FEET TO THE SOUTHWEST CORNER OF SAID LOT 23 I.T., SAID POINT BEING ON THE EAST LINE OF NORTH WEST 56TH STREET RIGHT-OF-WAY, THENCE NORTH 02 DEGREES 31 MINUTES 40 SECONDS WEST ALONG A WEST LINE OF SAID LOT 23 I.T., SAID LINE BEING A EAST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 230.50 FEET TO A SOUTH CORNER OF SAID LOT 23 I.T., THENCE NORTH 89 DEGREES 32 MINUTES 40 SECONDS WEST ALONG A SOUTH LINE OF SAID LOT 23 I.T., SAID LINE BEING A NORTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 33.00 FEET TO A SOUTHWEST CORNER OF SAID LOT 23 I.T., SAID POINT BEING ON THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 19, THENCE NORTH 00 DEGREES 27 MINUTES 20 SECONDS EAST ALONG THE WEST LINE OF SAID LOT 23 I.T., SAID LINE BEING THE WEST LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 528.78 FEET TO THE NORTHWEST CORNER OF SAID LOT 23 I.T., SAID POINT BEING THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 19, THENCE NORTH 00 DEGREES 27 MINUTES 38 SECONDS EAST ALONG THE WEST LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 2,642.48 FEET TO THE NORTHWEST CORNER OF SAID NORTHWEST QUARTER, SAID POINT BEING THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 18, THENCE NORTH 00 DEGREES 26 MINUTES 53 SECONDS EAST ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 1,320.25 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINS A CALCULATED AREA OF 10,165,264.23 SQUARE FEET OR 233.36 ACRES, MORE OR LESS.

PROJECT NO: 006-2085

DRAWN BY: NKB

DATE: 08.25.11

PROPERTY LEGAL
DESCRIPTION

MOLSSON
ASSOCIATES

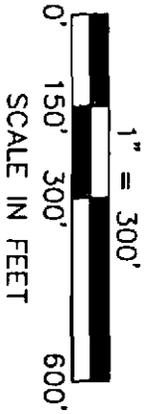
1111 Lincoln Mall, Suite 111
P.O. Box 84808
Lincoln, NE 68501-4808
TEL 402.474.8311
FAX 402.474.5160

EXHIBIT

B



N.W. 56TH STREET



N.W. 55TH STREET

N.W. 54TH STREET

N.W. 53RD STREET

WEST PARKBOURNE LANE

N.W. 52ND STREET

N.W. 51ST STREET

N.W. 50TH STREET

WEST PARKBOURNE LANE

N.W. 49TH STREET

WEST HOLDREGE STREET

ANNEXED
PROPERTY

N.W. 56TH STREET

N.W. 56TH STREET

PROJECT NO: 006-2085

DRAWN BY: NKB

DATE: 08.25.11

ANNEXED PROPERTY

OLSSON
ASSOCIATES

1111 Lincoln Mall, Suite 111
P.O. Box 94608
Lincoln, NE 68501-4608
TEL 402.474.6311
FAX 402.474.5180

EXHIBIT

C

EXHIBIT "C"

LEGAL DESCRIPTION
ANNEXATION

A LEGAL DESCRIPTION FOR A TRACT OF LAND COMPOSED OF A PORTION OF LOT 8 I.T. LOCATED IN THE SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 10 NORTH, RANGE 6 EAST OF THE 6TH P.M., LANCASTER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER OF THE SOUTHWEST QUARTER; THENCE WESTERLY ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER ON AN ASSUMED BEARING OF N89°54'57"W, A DISTANCE OF 107.11' TO A POINT; THENCE N00°05'03"E, A DISTANCE OF 33.00' TO THE SOUTHEAST CORNER OF SAID LOT 8 I.T., SAID POINT BEING ON THE NORTH RIGHT-OF-WAY LINE OF WEST HOLDREGE STREET AND A WEST RIGHT-OF-WAY LINE OF NORTHWEST 48TH STREET, SAID POINT ALSO BEING 107.20' WEST OF THE EAST LINE OF SAID SOUTHWEST QUARTER; THENCE N00°23'02"E ALONG A EAST LINE OF SAID LOT 8 I.T., SAID LINE ALSO BEING A WEST RIGHT-OF-WAY LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 605.60' TO A POINT, SAID POINT BEING 105.70' WEST OF THE EAST LINE OF SAID SOUTHWEST QUARTER; THENCE N00°32'18"E ALONG A EAST LINE OF SAID LOT 8 I.T., SAID LINE ALSO BEING THE WEST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 95.61' TO THE TRUE POINT OF BEGINNING; THENCE N89°54'57"W, A DISTANCE OF 567.75' TO A POINT; THENCE N00°05'03"E, A DISTANCE OF 589.13' TO A POINT OF INTERSECTION WITH THE NORTH LINE OF SAID LOT 8 I.T., SAID LINE ALSO BEING THE NORTH LINE OF SAID SOUTHWEST QUARTER; THENCE N89°59'01"E ALONG THE NORTH LINE OF SAID LOT 8 I.T., SAID LINE ALSO BEING THE NORTH LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 572.42' TO THE NORTHEAST CORNER OF SAID LOT 8.T., SAID POINT BEING ON A WEST RIGHT-OF-WAY LINE OF NORTHWEST 48TH STREET, SAID POINT ALSO BEING 102.15' WEST OF THE EAST LINE OF SAID SOUTHWEST QUARTER; THENCE S00°32'18"W ALONG A EAST LINE OF SAID LOT 8 I.T., SAID LINE ALSO BEING A WEST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 590.15' TO THE POINT OF BEGINNING, SAID TRACT CONTAINS A CALCULATED AREA OF 336,138.52 SQUARE FEET OR 7.72 ACRES, MORE OR LESS.



N.W. 56TH STREET



WEST HOLDREGE STREET

AG TO
R-3 PUD

N.W. 56TH STREET

N.W. 56TH STREET

N.W. 55TH STREET

N.W. 54TH STREET

N.W. 53RD STREET

N.W. 52ND STREET

N.W. 51ST STREET

N.W. 48TH STREET

PROJECT NO: 006-2085
 DRAWN BY: NKB
 DATE: 08.25.11

CHANGE OF ZONE

OLSSON
 ASSOCIATES

3111 Lincoln Mall, Suite 111
 P.O. Box 94508
 Lincoln, NE 68591-4508
 TEL 402.474.0311
 FAX 402.474.5160

EXHIBIT
D

Exhibit "E"

I-80 West Lincoln Business Center

I-3 and R-3

Planned Unit Development

DEVELOPMENT

PLAN

I-80 and NW 48th Street

AUGUST 25, 2011

Introduction

I-80 West Lincoln Business Center I-3 and R-3 Planned Unit Development (“PUD”) is located northwest of the intersection of Northwest 48th Street and Interstate 80. The PUD is intended to provide planned residential, office, retail, services, hotel and light industrial facilities as a mixed-use employment and commercial center in an attractive setting. The PUD is authorized and submitted as a planned unit development district pursuant to Chapter 27.60 of the Lincoln Municipal Code, as may be amended from time to time. The PUD includes four sub-areas:

- Residential Area
- Neighborhood Business Area
- Highway Commercial Area
- Industrial Area

The attached Site Map shows the property subject to the PUD (“Property”) and the four sub-areas.

Development Plan

This Development Plan for the I-80 West Lincoln Business Center I-3 and R-3 PUD (“Development Plan”) describes the regulatory land use provisions. The Development Plan is comprised of two parts: PUD Regulations and PUD Permit.

Part 1. PUD Regulations: Regulations of the R-3 Residential District, B-2 Planned Neighborhood Business District, H-3 Highway Commercial District, I-3 Employment Center District, and other regulatory chapters of the Lincoln Municipal Code (“L.M.C.”) and corresponding City of Lincoln Design Standards (“Design Standards”) shall apply to the Residential, Neighborhood Business, Highway Commercial and Industrial Areas shown on the Site Plan, unless specifically modified by this Development Plan (collectively “PUD Regulations”). The PUD Regulations have the following five sections:

- 1a. **Property PUD:** Regulations applicable for the entire Property comprising the I-80 West Lincoln Business Center I-3 and R-3 PUD;
- 1b. **Residential Area:** Regulations applicable to those portions of the Property marked Residential Area;
- 1c. **Neighborhood Business Area:** Regulations applicable to those portions of the Property marked Neighborhood Business Area;
- 1d. **Highway Commercial Area:** Regulations applicable to those portions of the Property marked Highway Commercial Area; and
- 1e. **Industrial Area:** Regulations applicable to those portions of the Property marked Industrial Area.

Part 2. PUD Permit: Architectural and engineering site maps and illustrations of the uses of the Property, including corresponding notes, shall apply to the Property (“PUD Permit”).

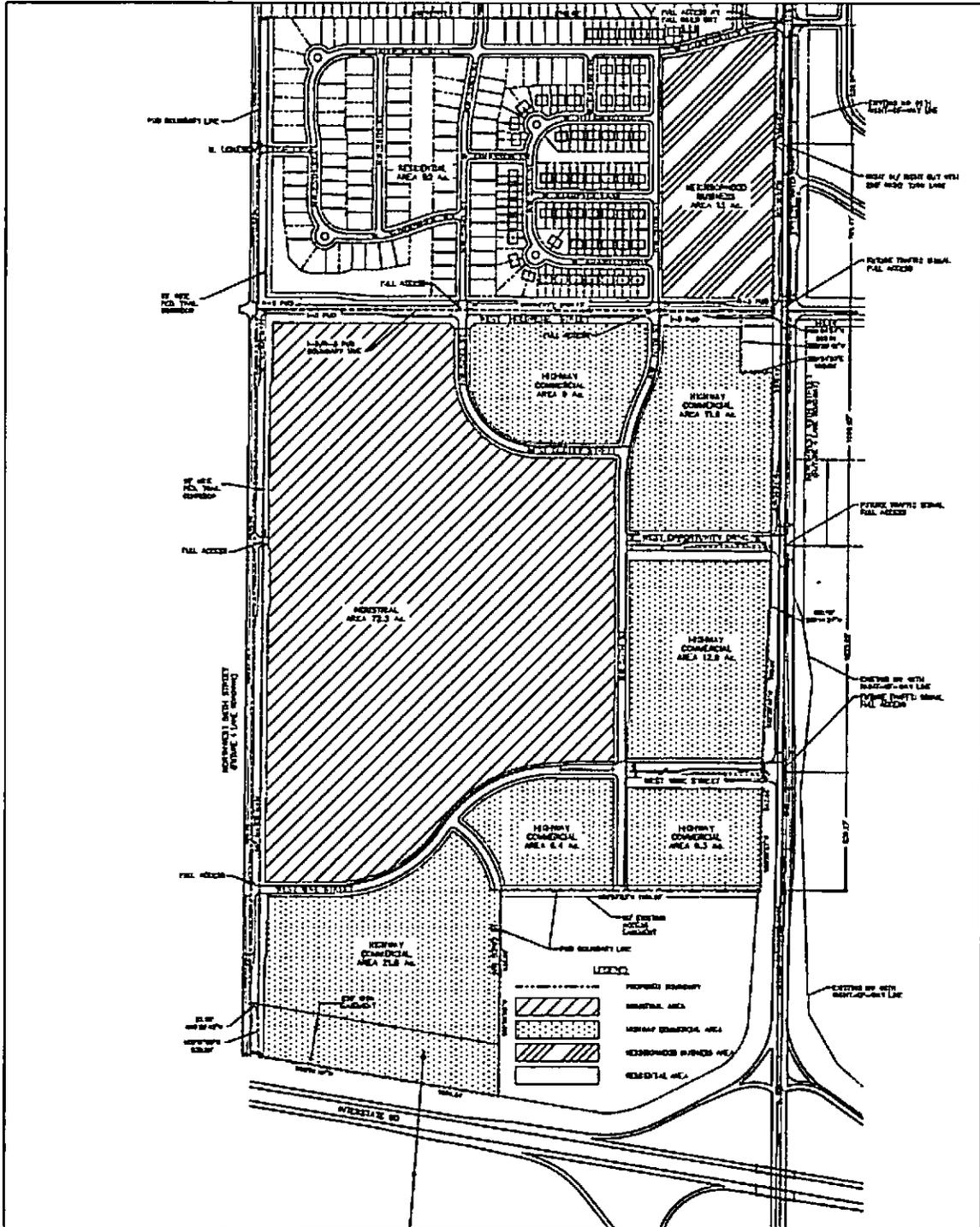
The Development Plan components modify the use limitations and regulations of the L.M.C. The Development Plan is designed to regulate buildings on private properties to shape the public realm and help create quality streets, open space and other public spaces.

I-80 West Lincoln Business Center I-3 and R-3 PUD

The I-80 West Lincoln Business Center I-3 and R-3 PUD is authorized and approved as a planned unit development district pursuant to Chapter 27.60 of the L.M.C., as may be amended from time to time. A separate use permit is not necessary or required to permit any use permit use. This I-80 West Lincoln Business Center I-3 and R-3 PUD will replace any required use permit under the L.M.C. and any applicable ordinances, regulations, codes, and design standards.

After approval of the I-80 West Lincoln Business Center I-3 and R-3 PUD, the City shall have the right to require additional information typically required for a preliminary plat including street and lot layout, street centerline profiles, grading plan, drainage study and utility plan to be approved by administrative amendment prior to final plat approval. Building permits, certificates of occupancy and final plats of the property will be issued or approved upon general compliance with the Development Plan as approved, or as amended. In circumstances where there are minor variations from the Development Plan, the Planning Director or his/her designee, shall review the proposal and determine if the proposal is in general conformance with the spirit and intent of the approved PUD. After the City Council has approved the PUD, the Planning Director is authorized to approve amendments to the Development Plan pursuant to L.M.C. §27.60.060. In circumstances where there are conflicts between the PUD Regulations and the PUD Permit, the PUD Permit shall control.

PUD Site Plan



PROJECT NO: 006-2085
 DRAWN BY: NKB
 DATE: 08.25.11 - City Version

I-80 WEST LINCOLN
 BUSINESS CENTER

MOLSSON
 ASSOCIATES

1111 Lincoln Blvd, Suite 111
 P.O. Box 88008
 Lincoln, NE 68218-0008
 TEL 402.474.8311
 FAX 402.474.8160

EXHIBIT
A

Part 1: PUD Regulations

Part 1a: Property PUD – General Regulations

These General Regulations are applicable for the entire Property comprising the I-80 West Lincoln Business Park I-3 and R-3 PUD. Should the terms of these General Regulations and the Area Regulations conflict, these General Regulations shall control.

- (a) General Regulations. Any development, including building and open land uses, except farming and the sale of farm products, shall be prohibited on the Property prior to the approval of a PUD Permit in conformance with the requirements of this Development Plan.
- (b) Use Regulations. The aggregate for all retail, restaurant, bank, consumer and business service (excluding office, hotels and motels) uses permitted within the Highway Commercial and Industrial Areas shall not exceed four hundred twenty-five thousand (425,000) square feet, of which a maximum of two hundred thousand (200,000) square feet may be located within the Industrial Area. The aggregate for all office, retail, restaurant, bank, consumer and business service uses permitted within the Neighborhood Business Area shall not exceed seventy thousand (70,000) square feet with a total daily trip count not to exceed 4,400.
- (c) Sign Regulations. Signs within the I-80 West Lincoln Business Park I-3 and R-3 PUD shall be regulated in conformance with the provisions of Chapter 27.69, except as modified below:

- (1) The definition of “On-Premises Sign” contained in 27.69.020 **Definitions** is hereby deleted and replaced with the following:

ON-PREMISES SIGN shall mean any sign which serves to advertise and/or identify a product, service, or activity conducted within the Highway Commercial or Industrial Areas, or identifies said Area or Areas or a use thereof.

- (2) Notwithstanding the specific regulations applicable to the Highway Commercial and Industrial Areas listed below, the number of on-premises signs permitted along each street adjacent to the Highway Commercial and Industrial Areas shall not exceed the following:

- (a) Thirteen on-premises pole and/or ground signs along Northwest 48th Street, plus the one additional sign permitted in the Highway Commercial Area under Part 1a:

- (c)(5)(e) below;

- (b) Eleven on-premises ground signs along West Holdrege Street;

(c) Thirteen on-premises pole and/or ground signs along Northwest 56th Street; and

(d) Five on-premises pole and/or ground signs along Interstate 80.

(3) In the Residential Area the specific regulations found in 27.69 that are applicable to the R-3 Residential Zoning District or other specific use provisions shall apply.

(4) In the Neighborhood Business Area the specific regulations found in 27.69 that are applicable to the B-2 Planned Neighborhood Business District or other specific use provisions shall apply, except that no pole signs shall be allowed along Holdrege Street, NW 50th Street or W. Gary Gately Drive.

(5) In the Highway Commercial Area, the specific regulations are as follows:

(a) One on-premises pole sign or one on-premises ground sign per business per frontage is permitted, except that no pole signs shall be permitted along West Holdrege Street. Such signs shall be spaced a minimum of 50 feet apart along any street frontage. If such sign is located in a required front yard, it shall not exceed fifty square feet of area, and a pole sign shall have a maximum height of twenty-five feet, and a ground sign shall have a maximum height of eight feet. If such sign is located outside the required front yard, it may have a maximum area of 100 square feet and a maximum height of fifty feet.

(b) On-premises wall signs are permitted. The sign area of such wall signs per building facade shall not exceed thirty percent coverage of the wall face, or a total of 500 square feet, whichever is lesser. Any marquee sign shall not exceed three feet in height or the height or vertical thickness of the marquee, whichever is greater. One pedestrian marquee sign per entrance not exceeding one foot in height and six square feet in area is permitted.

(c) Where more than one business is located on the lot, the on-premises signs permitted in the required front yard, pursuant to (a) above may be combined. If the combined sign is located in a required front yard, it shall not exceed fifty square feet in area. If the combined sign is a pole sign, it shall have a maximum height of twenty-five feet, and if the combined sign is a ground sign, it shall have a maximum height of eight feet. If the combined sign is located outside the required front yard, it may have a maximum area of 150 square feet. If the combined sign is a pole sign, it shall be spaced a minimum of seventy-five feet from an adjoining premise. Any such combined sign shall be counted as one sign for purposes of Part 1a: (c)(2) above.

(d) In addition to the foregoing, within 660 feet of the designated interstate, the on-premises pole sign may be eighty feet in height and 360 square feet in area is permitted when such sign is within *fifty feet radius of main buildings*.

(e) One additional on-premises sign not exceeding 300 square feet in area may be located in the vicinity of the intersection of Northwest 48th Street and Opportunity Drive. Such sign must be set back from the front lot line at least one-half the distance of the front yard setback and may not exceed fifty feet in height.

(f) In lieu of the sign permitted in subsection (a) above, one on-premises projecting sign is permitted. Said projecting sign may project from a building a maximum of six feet six inches and may project into a required front yard, but it shall not extend above the roof line or top of a cornice wall. Such sign shall have a minimum ground clearance of eight feet above the walk or grade below and may project over the public right-of-way when the building is erected adjacent to the front property line. The maximum area of such sign shall be 100 square feet.

(6) In the Industrial Area, the specific regulations are as follows:

(a) On-premises wall signs and on-premises projecting signs are permitted. The total sign area of such signs shall not exceed an area equivalent to thirty percent of the wall face, or a total of 500 square feet, whichever is less. The projecting sign may project from a building a maximum of six feet six inches and may project into a required front yard, but it shall not project above the roof line or top of the cornice wall. Such sign shall have a maximum clearance of eight feet above the walk or grade below and may project over the public right-of-way when the building is erected adjacent to the front property line. Any marquee sign shall not exceed three feet in height or the height or vertical thickness of the marquee, whichever is greater.

(b) One pedestrian marquee sign per entrance not exceeding one foot in height and six square feet in area is allowed. Any other marquee sign shall not exceed three feet in height or the height or vertical thickness of the marquee, whichever is greater.

(c) The Industrial Area is permitted two on-premises entrance ground signs. Such sign shall not exceed 300 square feet in area and shall be permitted (i) adjacent to a public street abutting the perimeter of the Industrial Area; provided that said street frontage extends for a least 300 feet or (ii) at the entrance point of a public street at the perimeter of the Industrial Area. Said signs shall be permitted in the required front yard and have a maximum height of ten feet. If located in the required front yard, such ground sign shall not be located more than one-half of the distance into said required front yard.

(d) One on-premises pole sign or one on-premises ground sign per business per frontage is permitted, except that no pole signs shall be permitted along West Holdrege Street. Such signs shall be spaced a minimum of fifty feet apart along any street frontage. If such sign is located in a required front yard, it shall not exceed fifty square feet of area, and a pole sign shall have a maximum height of twenty-five feet, and a ground sign shall have a maximum height of eight feet. If such sign is located outside the required front yard, it may have a maximum area of 100 square feet and a maximum height of fifty feet.

(e) Where more than one business is located on the lot, the on-premises signs permitted in the required front yard, pursuant to (a) above may be

combined. If the combined sign is located in a required front yard, it shall not exceed fifty square feet in area. If the combined sign is a pole sign, it shall have a maximum height of twenty-five feet, and if the combined sign is a ground sign, it shall have a maximum height of eight feet. If the combined sign is located outside the required front yard, it may have a maximum area of 150 square feet. If the combined sign is a pole sign, it shall be spaced a minimum of seventy-five feet from an adjoining premise. Any such combined sign shall be counted as one sign for purposes of Part 1 a: (c)(2) above.

(f) When a building is more than 300 feet from major street frontage, the permitted wall sign may exceed the five hundred square feet limit if the resulting larger sign does not exceed ten percent of the area of the wall in elevation view or 700 square feet, whichever is lesser.

Part 1b: Residential Area

The regulations contained in Chapter 27.15 for the R-3 Residential District shall be applicable to those portions of the Property located within the Residential Area except as set forth below:

The maximum density permitted in the Residential Area is 348 dwelling units.

27.15.080 Height and Area Regulations is modified as follows:

(a) General requirements: Table 27.15.080(a) is hereby deleted in its entirety and replaced with:

| Table 27.15.080(a) | | | | | | |
|--------------------------------|-----------------------|----------------------|---------------------|-------------------------|--|--------|
| | Lot Area (Sq. ft.) | Avg. Lot Width | Req'd Front Yard | Req'd Side Yard | Req'd Rear Yard | Height |
| Dwelling, single- family | 6,000** | 50*** | 20'* | 5' | Smaller of 30' or 20% of depth | 35' |
| Dwelling, two-family | 3,200 per family** | 30' per family*** | 20' | 5', 0' if party wall | | 35' |
| Other permitted uses | 6,000 | 50' | 20' | 5' | | 35' |

* See subparagraphs (b) and (c)
 **See subparagraph (e)

Subparagraphs (b) through (f) shall remain unchanged.

Part 1c: Neighborhood Business Area

The regulations contained in Chapter 27.15 for the R-3 Residential District shall not apply. Instead, the regulations contained in Chapter 27.31 for the B-2 Planned Neighborhood Business District shall be applicable to those portions of the Property located within the Neighborhood Business Area except as set forth below:

27.31.030 Permitted Uses is modified to add the following uses:

- (aa) Single family dwellings;
- (bb) Two-family dwellings;
- (cc) Townhouses; and
- (dd) Multiple dwellings.

27.31.040 Permitted Conditional Uses is modified to delete (c) Dwellings.

27.31.090 Height and Area Regulations is hereby deleted in its entirety and replaced with:

The maximum height and minimum lot requirements within the Neighborhood Business Area shall be as follows:

- (a) General requirements:

| | Lot Area (Sq. ft.) | Frontage | Req'd Front Yard | Req'd Side Yard | Req'd Rear Yard | Height |
|--|-----------------------|----------------|------------------|---------------------------------|-----------------|--------|
| Dwelling, single-family | 6,000 | 50' | 20' | 5' | Smaller | 45' |
| Dwelling, two-family | 3,200 per family | 30' per family | 20' | 5', 0' if party wall | of 30' or | 45' |
| Townhouses | 2,500 per family | 20' per family | 20' | 5', 0' if party wall | 20% | 45' |
| Dwelling, Multiple | 1,500 per unit | 50' | 20' | 7' or 10' if over 20' in height | of depth | 45' |
| Other Permitted Uses and Dwellings Above the | 0 | 0 | 20' | 0' | 0' | 45' |

(b) There shall be a required front yard on each street side of a double frontage lot.

(c) Intentionally deleted

(d) The entire front yard shall be entirely landscaped, except for necessary paving of walkways and driveways to reach parking and loading areas, provided that any driveway in the front yard shall be substantially perpendicular to the street and shall not be wider than thirty feet.

(e) Accessory buildings shall not extend into any required yard.

(f) Intentionally deleted.

27.31.100 Use Permit; Procedures and Requirements is hereby deleted in its entirety.

Part 1d: Highway Commercial Area

The regulations contained in Chapter 27.51 for the I-3 Employment Center District shall not apply. Instead, the regulations contained in Chapter 27.43 for the H-3 Highway Commercial District shall be applicable to those portions of the Property located within the Highway Commercial Area except as set forth below:

27.43.020 Permitted Uses (a) through (kk) as delineated are deleted in their entirety and replaced with:

- (a) Parks, playgrounds, and community buildings, owned or operated by a public agency;
- (b) Public libraries;
- (c) Public elementary and high schools, or private schools having a curriculum equivalent to a public elementary or public high school, and having no rooms regularly used for housing or sleeping purposes;
- (d) Churches;
- (e) Nonprofit religious, educational, and philanthropic institutions;
- (f) Banks, savings and loan associations, credit unions and finance companies;
- (g) Barber shops, beauty parlors, and shoeshine shops;
- (h) Private schools;
- (i) Dwelling for a caretaker employed and residing on the premises;
- (j) Hospitals and clinics for animals, but not open kennels;
- (k) Messenger and telegraph stations;
- (l) Office buildings;
- (m) Restaurants;
- (n) Undertaking establishments;
- (o) Photography studios;
- (p) Key shops;
- (q) Ambulance services;
- (r) Recreational uses;
- (s) Food storage lockers;
- (t) Bakeries;
- (u) Bottling works;
- (v) Printing shops and photocopy centers;
- (w) Mini-warehouses;
- (x) Optical lens grinding and finishing;
- (y) Laundries, dyeing, and drycleaning establishments, including laundrettes, laundromats, and receiving stores for drycleaning or laundry;
- (z) Creameries;
- (aa) Sale barns;
- (bb) Warehouses;
- (cc) Outdoor theaters;
- (dd) Parking lots;
- (ee) Clubs;

- (ff) Service facilities, including but not limited to repair and maintenance of home and office equipment and appliances;
- (gg) Contractors' offices and storage yards, and lumber and coal yards;
- (hh) Stores or shops for the sale of goods at retail, not otherwise permitted in this chapter;
- (ii) Enclosed commercial recreational facilities;
- (jj) Service stations and motorcycle, bicycle, home and office equipment, and appliance sales and repair but not including vehicle body repair shops;
- (kk) Mail order catalog sales;
- (ll) Wholesale and distribution centers;
- (mm) Recreational facilities;
- (oo) Church steeples, towers, and ornamental spires exceeding the maximum permitted height in the H-3 Area;
- (pp) Outdoor lighting for recreational facilities;
- (qq) Historic preservation;
- (rr) Public utility purposes;
- (ss) Wind energy conversion systems;
- (tt) Health care facilities;
- (uu) Indoor animal hospitals;
- (vv) Indoor kennels;
- (ww) Outdoor exercise area associated with an indoor animal hospital or indoor.

27.43.030 Permitted Conditional Uses is modified to add the following uses:

- (p) Sale of alcoholic beverages for consumption on the premises in conformance with 27.31.040(f)(1-5).
- (q) Sale of alcoholic beverages for consumption off the premises in conformance with 27.31.040(g)(1-5).
- (r) Broadcast towers and personal wireless facilities in conformance with Chapter 27.68.

27.43.040 Permitted Special Uses is deleted in its entirety.

27.43.080 Height and Area Regulations is modified as follows:

- (a) General requirements: Table 27.43.080(a) is hereby deleted in its entirety and replaced with:

| | Lot Area (Sq. ft.) | Avg. Lot Width | Req'd Front Yard | Req'd Side Yard | Req'd Rear Yard | Height |
|--------------------|-----------------------|----------------------|------------------------|--------------------|-----------------------|--------|
| All permitted uses | 0 | 0' | 20' | 0' | 0' | 55' |

Part 1e: Industrial Area

The regulations contained in Chapter 27.51 for the I-3 Employment Center District shall be applicable to those portions of the Property located with the Industrial Area except set forth below:

27.51.030 Use Regulations is hereby deleted in its entirety and replaced with:

(a) General Regulations. Any development, including building and open land uses, except farming and the sale of farm products, shall be prohibited in the Industrial Area prior to the approval of a PUD. Any EPA designated RMP (Risk Management Program) uses shall be prohibited within two hundred (200) feet of the south right-of-way line of West Holdrege Street.

(b) Specific Regulations.

(1) Intentionally omitted.

(2) Intentionally omitted.

(3) Intentionally omitted.

(4) *Those conditional and special uses permitted in Sections 27.51.040 and 27.51.050 below shall be limited by the restrictions placed thereon.*

(5) All uses shall comply with all applicable ordinances and regulations including such environmental performance standards relating to noise, emission, dust, odor, glare, and heat as may be approved by resolution of the City Council.

(6) No galvanized or other raw metal sheeting shall be used for the exterior construction of any building. No painted galvanized or other painted metal sheeting shall be used for more than seventy percent (70%) of the exterior construction of a building on any side of such building which is visible from an abutting public street.

(c) Permitted Uses. Subject to the general and specific regulations above, a building or premises may be used for the following purposes in the Industrial Area:

(1) Retail use, subject to the limitations in the Property PUD - General Regulations Part 1a(b) above;

(2) Office buildings;

(3) Production, manufacturing, assembly, processing, warehousing, storage, distribution, or transportation of goods and materials, except:

(i) The refining, distillation, or manufacture of:

A. Acids or alcohols;

B. Ammonia, bleach, or chlorine;

C. Asphalt, tar, or products made therewith, including roofing or waterproofing;

D. Cement, lime, gypsum, or plaster of paris;

E. Disinfectants;

F. Dyestuffs;

G. Fertilizer;

H. Glue, sizing, or gelatin;

I. Oilcloth, linoleum, oiled rubber goods; .

J. Paint, shellac, turpentine, or oils;

K. Rubber, gutta-percha, balata, creosote, or products treated therewith;

- L. Shoe polish;
- (ii) The operation of:
 - A. Bag cleaning works;
 - B. Blast furnaces, coke ovens, smelting or ore reduction works;
 - C. Boiler works;
 - D. Forges;
 - E. Rolling mills;
 - F. Yeast plants;
- (iii) Production, manufacture, processing, distribution, and storage, warehousing, or transportation of toxic, radioactive, flammable, or explosive materials, except that any of the above referenced materials may be stored or used in connection with a permitted use as allowed by any ordinances or regulations of the City of Lincoln as incidental to the permitted use;
- (iv) Tanning, curing, or storage of raw hides or skins; stockyards or slaughter of animals or fowl; rendering fat; distillation of bones, coals or wood;
- (v) Dumping or reduction of garbage, offal, or dead animals;
- (vi) The manufacture of acetylene, or the transfer of the gas from one container to another, or the storage of the gas in containers having a capacity greater than the equivalent of 1,000 cubic feet at standard temperature and pressure;
- (vii) Mining, quarrying, stone milling, or rock crushing;
- (viii) Extraction of sand, gravel, or soil;
- (ix) The milling, processing, refining, or distillation of agricultural crops.
- (4) Community colleges, colleges, or other post-secondary education facilities;
- (5) Private schools;
- (6) Nonprofit religious, educational and philanthropic institutions;
- (7) Farming and the sale of farm produce.

27.51.040 Permitted Conditional Uses is hereby deleted in its entirety and replaced with:

A building or premises may be used for the following purposes in the Industrial Area in conformance with the conditions prescribed herein:

- (a) Fuel oil storage tanks and all bulk storage of oils, petroleum and similar flammable liquids and chemicals. Such use shall:
 - (1) Be adequately screened from public view;
 - (2) Be for storage of such materials for use on the premises and not for resale, except that resale of such stored material at retail only shall be permitted in conjunction with the operation of a service station or similar retail outlet pursuant to Section 27.5 1.070;
 - (3) Be located, constructed, maintained, and operated in compliance with all codes and regulations of the City of Lincoln;
- (b) Liquefied petroleum, gas and similar gas used for fuel stored in tanks above ground, provided:
 - (1) Such tanks may not exceed 30,000 gallon capacity;

- (2) Such gas shall be used for use on the premises, and not for resale;
- (3) Such tanks shall be adequately screened from public view by a fire-resistant ventilated barrier which shall be at least six feet in height;
- (4) Such use must be in full compliance with all codes and regulations of the City of Lincoln;
- (c) All other combustible materials:
 - (1) Combustible materials shall be stored in such a way as to permit free access of fire-fighting equipment;
 - (2) Such use must be in full compliance with all codes and regulations of the City of Lincoln;
- (d) Motels and hotels;
- (e) Churches in conformance with 27.51.040(e);
- (f) Joint parking lots and parking garages.
 - (1) Such joint parking lots and garages shall be authorized by cross access easements or by written agreement between the parties to such use.
 - (2) The aggregate number of parking stalls provided shall be sufficient to satisfy the required parking for each use.
- (g) Sale of alcoholic beverages for consumption on the premises in conformance with 27.31.040(f)(1-5).
- (h) Sale of alcoholic beverages for consumption off the premises in conformance with 27.31.040(g)(1-5).
- (i) Early childhood care facilities in conformance with 27.63.070(a)(1-2), (b), (d), (e) and (f).
- (j) Broadcast towers and personal wireless facilities in conformance with Chapter 27.68.

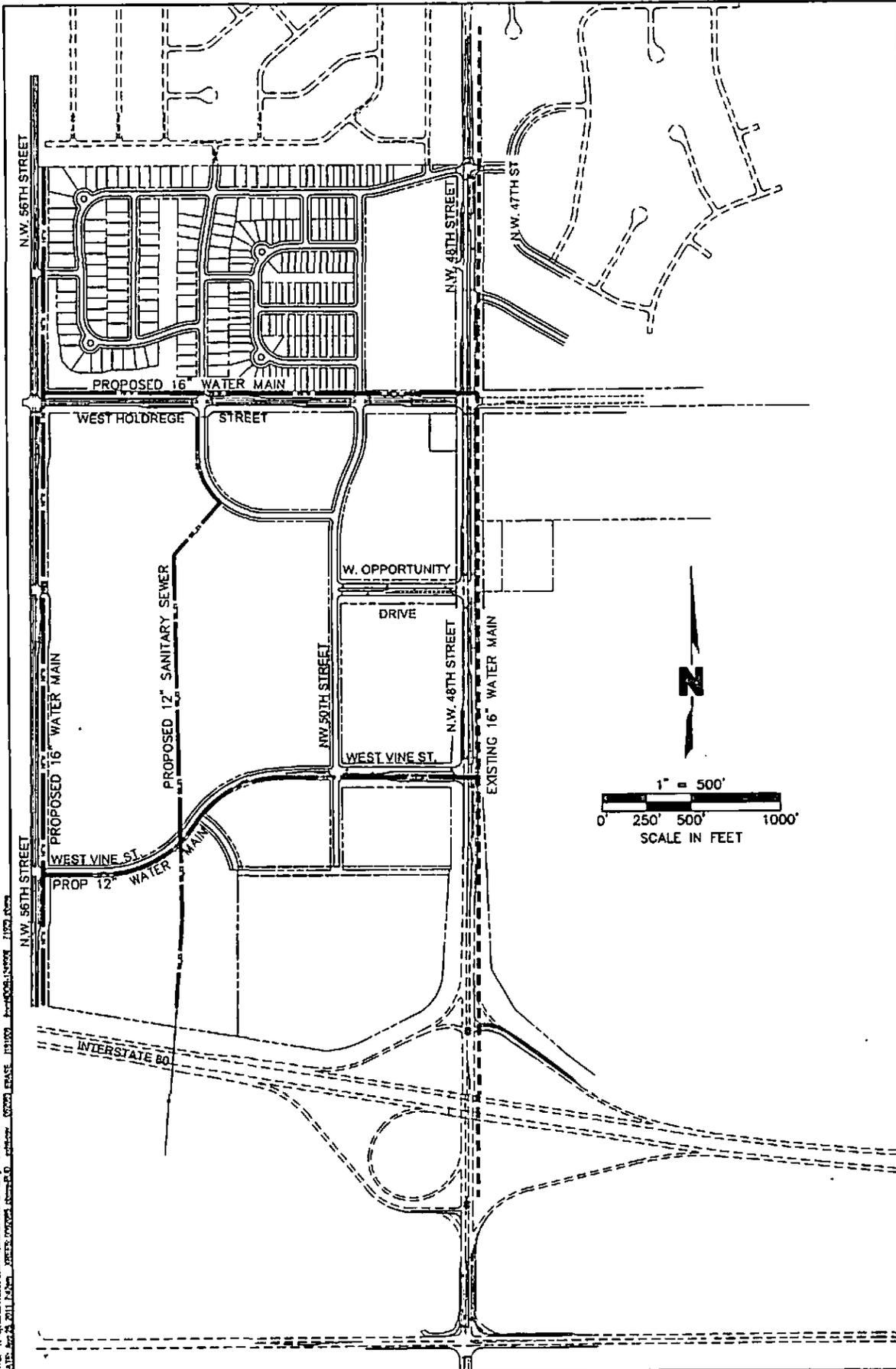
27.51.090 Height and Area Regulations is modified as follows:

- (a) General Requirements: Table 27.51.090(a) is hereby deleted and replaced with the following:

| Table 27.51.090(a) | | | | | | |
|-----------------------------|-----------------------|----------|---------------------|--------------------|--------------------|--------|
| | Lot Area (Sq. ft.) | Frontage | Req'd Front Yard | Req'd Side Yard | Req'd Rear Yard | Height |
| 27.51 .030(c)(3) Uses | 0 | 50' | 20'* | 0' | 0' | 55' |
| Retail | 0 | 50' | 20' | 0' | 0' | 45' |
| Office | 0 | 50' | 20' | 0' | 0' | 45' |
| Hotels and Motels | 0 | 50' | 20' | 0' | 0' | 55' |
| Other | 0 | 50' | 20' | 0' | 0' | 35' |

*When the front yard of a 27.51.030(c)(3) use abuts Holdrege Street, the required building setback shall be 50 feet.

27.51.100 Use Permit Section is hereby deleted in its entirety.



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 DATE: 08/25/11 11:45am PLOT: 082511.dwg PLOTDATE: 08/25/11 11:52am

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|-------------|-------------------------|
| PROJECT NO: | 006-2085 |
| DRAWN BY: | NKB |
| DATE: | 08.25.11 - City Version |

INFRASTRUCTURE EXHIBIT



1211 Lincoln Blvd. Suite 111
 P.O. Box 84028
 Lincoln, NE 68521-1408
 TEL 402.474.8311
 FAX 402.474.8180

| |
|---------|
| EXHIBIT |
| F |

NW 48th STREET AGREEMENT

This NW 48th Street Agreement ("Agreement") is made and entered into as of this ____ day of _____, 2011, by and between the State of Nebraska Department of Roads ("State"), City of Lincoln, Nebraska, a municipal corporation ("City"), and Ringneck Development, LLC, a Nebraska limited liability company ("Developer"). The parties may hereinafter jointly be referred to as the "Parties" or individually as a "Party".

RECITALS

A. Developer owns real estate totaling approximately 233 acres located north of Interstate 80 and west of NW 48th Street in Lancaster County, Nebraska, which is legally described and shown on Exhibit "A" attached hereto and incorporated herein by this reference (the "Property").

B. Developer has plans to develop the Property in phases which will require the completion of various infrastructure improvements, both public and private, to and adjacent to the Property, hereinafter referred to as "Improvements."

C. Developer is concurrently entering into an Annexation Agreement with the City dated as of this even date which outlines the Improvements necessary to serve the Property and to promote the general health and welfare of the public ("Annexation Agreement").

D. The Annexation Agreement identifies the arterial street improvements necessary to serve the full development of the Property, including improvements to NW 48th Street which are conceptually shown on Exhibit "B" attached hereto and incorporated herein by this reference ("NW 48th Street Improvements").

E. The State currently owns the right-of-way for NW 48th Street from West "O" Street to West Holdrege Street, and has access control along NW 48th Street from West "O" Street north approximately 3900 feet.

C. Developer, City and State wish to set forth a phasing plan for the construction of the NW 48th Street Improvements, and to clarify certain rights, duties and responsibilities among the parties relating to the construction of the NW 48th Street Improvements.

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

The State, City and Developer agree that the NW 48th Street Improvements necessary to serve the full development of the Property and to promote the general health and welfare of the State and the City may be constructed in three phases as development of the Property occurs.

1. **Trip Generation and Counting.** P.M. Peak Hour site trips generated from the Property will be monitored by the City through periodic traffic counts taken and paid for by Developer. The City shall from time to time, at its discretion, notify Developer of the timing, locations and parameters for traffic counts to be taken of the P.M. Peak Hour site trips generated from the Property, and Developer shall, at its sole cost and expense, conduct said traffic counts within the timeframe and pursuant to the parameters outlined by the City. The parties agree the parameters outlined for the traffic counts may include an analysis of warrant threshold criteria for signal warrants at NW 48th Street. If the Developer fails to conduct said traffic counts within the timeframe and/or pursuant to the parameters outlined by the City, the City may withhold the issuance of any building permit on the Property until said traffic count has been completed and reported to the City. The parties acknowledge that actual traffic counts are necessary to determine when certain triggers have been met that require the construction of the phased NW 48th Street Improvements set forth below.

2. **Phase I Improvements.** The Phase I Improvements identified and shown on Exhibit "C", which is attached hereto and incorporated herein by this reference, shall be constructed prior to the City's approval of any occupancy permit on the Property located south of West Holdrege Street. The Phase I Improvements will accommodate development of the Property located south of West Holdrege Street that generates up to 680 P.M. Peak Hour site trips utilizing the connection of West Vine Street to NW 48th Street.

A. **On-Site Improvements.** Developer, at its cost and expense, shall be responsible for designing and constructing the West Vine Street and NW 50th Street Phase I On-Site Improvements identified on Exhibit "C" through the City's Executive Order process. The State agrees to grant to the City, at no cost to the City or Developer, a break in access control for the construction of the intersection of West Vine Street and NW 48th Street in accordance with the terms of this Agreement. Developer agrees to simultaneously release to the State by quitclaim deed or other appropriate instrument, any and all of its rights of access the State previously granted to NW

48th Street at the south end of the Property. Notwithstanding the foregoing, Developer and State acknowledge and agree that said release by the Developer shall not impact any of the existing legal rights (including easement rights) of the Adjacent Property, defined below. Developer also agrees that it will not seek a permit or develop a drive, street or private roadway taking access to NW 48th Street in the south twenty (20) feet of the Property adjoining the Adjacent Property. In addition, Developer agrees to deed the State access control along West Vine Street for a distance of two hundred feet (200') measured west from the ultimate west curb line of NW 48th Street shown on Exhibit "B", and to deed to the City access control along the west side of NW 48th Street from West Vine Street to the north edge of the Property, except for the access points shown on Exhibit "A".

B. Off-Site Improvements.

i. NW 48th Street. The Phase I Off-Site Improvements to NW 48th Street at the intersection with West Vine Street identified on Exhibit "C" consist of Arterial Street Impact Fee Facility Improvements. To the extent said improvements have not been completed by the City, the Developer will design, competitively bid, construct and fund the NW 48th Street Phase I Off-Site Improvements through the City's Executive Order process.

ii. I-80 North Ramp. In the event the State has not commenced reconstruction of the NW 48th and I-80 Interchange as part of the NW 56th – US 77 South Interchange project, Developer, at its cost and expense, shall be responsible for designing and constructing the I-80 North Ramp Phase I Off-Site Improvements identified on Exhibit "C"; provided, however, any construction contracts shall be managed by NDOR. Notwithstanding the foregoing, the I-80 North Ramp Phase I Off-Site Improvements shall not be constructed until the City and NDOR determine a traffic signal is warranted at this location.

C. Adjacent Property. In the event any portion of the Phase I On-Site Improvements or Phase I Off-Site Improvements identified on Exhibit "C" are needed to provide access to Lot 56 Irregular Tract located in the Southwest Quarter of Section 19, Township 10 North, Range 6 East of the 6th P.M., Lancaster County, Nebraska ("Adjacent Property"), prior to the time they are constructed by Developer under terms of this Agreement, Developer agrees to dedicate right-of-way for said portion of NW 48th Street, West Vine Street and NW 50th Street as required by the State and/or the City.

3. Phase II Improvements. The Phase II Improvements identified on Exhibit "D", which is attached hereto and incorporated herein by this reference, together with the Phase I

Improvements identified on Exhibit “C” and set forth in Paragraph 2 above, are required when development of the Property located south of West Holdrege Street generates 680 P.M. Peak Hour site trips (“Phase II Trigger”). In the event the Phase II Improvements have not been constructed or escrow agreements put in place by the Developer that guaranty their construction within a certain period of time prior to the date the Property meets the Phase II Trigger, the City may withhold the issuance of any building permit on the Property located south of West Holdrege until Developer constructs the Phase II Improvements or puts escrow agreements in place to guaranty their construction.

A. On-Site Improvements. Developer, at its cost and expense, shall be responsible for designing and constructing the Phase II On-Site Improvements to West Opportunity Drive identified on Exhibit “D” through the City’s Executive Order process. Developer agrees to grant the City access control along West Opportunity Drive for a distance of two hundred feet (200’) measured west from the ultimate west curb line of NW 48th Street shown on Exhibit “B”.

B. Off-Site Improvements.

i. West Holdrege Street. The Phase II Off-Site Improvements to West Holdrege Street west of NW 48th Street identified on Exhibit “D” consist of Arterial Street Impact Fee Facility Improvements. To the extent said improvements have not been completed by the City, the Developer will design, competitively bid, construct and fund the Holdrege Street Phase II Off-Site Improvements through the City’s Executive Order process.

ii. NW 48th Street. The Phase II Off-Site Improvements to NW 48th Street, including the construction of a four-lane rural cross section with sixteen feet wide raised medians north of the existing four-lane terminus and improvements at the intersections with West “O” Street, West Opportunity Drive and West Holdrege Street consist entirely of Arterial Street Impact Fee Facility Improvements, except for the southbound to westbound right turn lane and signal, when warranted, at West Opportunity Drive, which are site-related improvements. To the extent said improvements have not been completed by the City, the Developer will design, competitively bid, construct and fund the NW 48th Street Phase II Off-Site Improvements through the City’s Executive Order process.

iii. I-80 South Ramp. In the event the State has not commenced reconstruction of the NW 48th and I-80 Interchange as part of the NW 56th – US 77 South Interchange project, Developer, at its cost and expense, shall be responsible for designing and

constructing the I-80 South Ramp Phase II Off-Site Improvements identified on Exhibit “D”; provided, however, any construction contracts shall be managed by NDOR. Notwithstanding the foregoing, the I-80 South Ramp Phase II Off-Site Improvements shall not be constructed until the City and NDOR determine a traffic signal is warranted at this location.

4. **Phase III Improvements.** The Phase III Improvements identified on Exhibit “E”, which is attached hereto and incorporated herein by this reference, along with the Phase I Improvements identified on Exhibit “C” and set forth in Paragraph 2 above, and the Phase II Improvements identified on Exhibit “D” and set forth in Paragraph 3 above, are required when development of the Property generates 1,598 P.M. Peak Hour site trips (“Phase III Trigger”). In the event the Phase II Improvements have not been constructed or escrow agreements put in place by the Developer that guaranty their construction within a certain period of time prior to the date the Property meets the Phase III Trigger, the City may withhold the issuance of any building permit on the Property until Developer constructs the Phase III Improvements or puts escrow agreements in place to guaranty their construction.

A. **On-Site Improvements.** Developer, at its cost and expense, shall be responsible for designing and constructing the West Vine Street Phase III On-Site Improvements identified on Exhibit “E”. The construction of the eastbound to southbound right turn lane in West Vine Street and the extension of West Vine Street west of NW 50th Street shall be constructed through the City’s Executive Order Process. In addition, Developer shall construct an additional access south of West Vine Street to the northern property line of the property to the south under separate ownership. The additional access connection shall be constructed as a public street and shall be centered on the joint property line with the property to the south.

B. **Off-Site Improvements.**

i. **NW 48th Street.** The Phase III Off-Site Improvements to NW 48th Street, including the improvements at the intersections with West Vine Street, West Opportunity Drive and West Holdrege Street identified on Exhibit “E”, consist entirely of Arterial Street Impact Fee Facility Improvements, except for the southbound to westbound right turn lane at West Holdrege Street, which is a site-related improvement. To the extent said improvements have not been completed by the City, the Developer will design, competitively bid, construct and fund the NW 48th Street Phase III Off-Site Improvements through the City’s Executive Order process.

iii. I-80 North Ramp. In the event the State has not commenced reconstruction of the NW 48th and I-80 Interchange as part of the NW 56th – US 77 South Interchange project, Developer, at its cost and expense, shall be responsible for designing and constructing the I-80 North Ramp Phase III Off-Site Improvements identified on Exhibit “E”; provided, however, any construction contracts shall be managed by NDOR. Notwithstanding the foregoing, the I-80 North Ramp Phase III Off-Site Improvements shall not be constructed until the City and NDOR determine a traffic signal is warranted at this location.

5. Design and Construction. Developer shall coordinate the design of and the construction plans for the NW 48th Street Improvements with the State and the City. The City and Developer agree to use their best efforts to cooperate and work together to obtain all necessary permits from the State of Nebraska needed for the construction of the NW 48th Street Improvements prior to beginning work on the State’s right-of-way. The Exhibits attached to this Agreement shall be further refined and detailed as may be necessary for the review and approval of the required permits. In addition, the parties agree to use their best efforts to cooperate and work together to obtain any and all necessary federal permits for work relating to the I-80 ramps. Installation of the traffic signals required as part of the NW 48th Street Improvements shall include all items required by the State and City that are necessary to make the signals function. The signal controller and mast arms with signal heads shall not be installed until the signals are to be energized. The City shall determine when the various signals will be energized, as well as the signal phasing and timing on NW 48th Street.

The parties acknowledge that any costs associated with obtaining necessary permits from the State of Nebraska for the construction of the Arterial Street Impact Fee Facilities portion of the NW 48th Street Improvements shall be the responsibility of the City. In the event Developer is constructing the NW 48th Street Improvements through the City’s Executive Order process, the costs shall be paid by the Developer and included as part of the project cost to be reimbursed to Developer pursuant to the terms and conditions of the Annexation Agreement.

6. Responsibility for Claims, Liability and Insurance. The Developer agrees to indemnify and hold harmless, to the fullest extent allowed by law, the State, its agents, employees and representatives from all claims, demands, suits, actions, payments, liability, judgments and

expenses (including court-ordered attorney's fees), arising out of or resulting from the performance of this Agreement that results in bodily injury, sickness, disease, death, civil rights liability, or damage to or destruction of tangible property, including the loss of use resulting there from, that are caused in whole or in part by the Developer, contractor, any subcontractor, or any agents or representatives, either directly or indirectly employed by them. In this connection, the Developer, or the Developer's contractor shall for the life of this agreement, carry the insurance required on Exhibit "F", the terms of which are hereby incorporated by this reference into this agreement. In addition, Developer agrees to include the following clause in its contractor and subcontractor agreements: "The contractor shall not commence work under this Agreement until it has obtained all insurance meeting the State's insurance requirements and has provided the State with a Certificate of Insurance showing the State as additional insured. Such certificate shall specifically state that insurance policies are to be endorsed to require the insurer to provide the State thirty (30) days notice of cancellation, non-renewal or any material reduction in insurance coverage."

7. City Reimbursement. In the event Developer constructs the NW 48th Street Improvements through the City's Executive Order process, Developer's rights to reimbursement from the City shall be governed by the terms and conditions of the Annexation Agreement.

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

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

10. Governing Law. All aspects of this Agreement shall be governed by the laws of the State of Nebraska. The invalidity of any portion of this Agreement shall not invalidate the remaining provisions.

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

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

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

14. **Assignment.** In the case of the assignment of this Agreement by any of the parties, prompt written notice shall be given to the other parties who shall at the time of such notice be furnished with a duplicate of such assignment by such assignor. Any such assignment shall not terminate the liability of the assignor to perform its obligations hereunder, unless a specific release in writing is given and signed by the other parties to this Agreement or unless otherwise stated herein.

15. **Default.** In the event of a default by a party hereunder in fulfilling any of its covenants and responsibilities as set forth in this Agreement, then the remaining party or parties may take such remedies, legal or equitable, to enforce this Agreement or to obtain damages for its breach.. In the event of a default by Developer, the City, in its legislative authority, or NDOR, in exercising its authority, may also rescind their respective approvals or permits

16. **Definitions.** For purposes of this Agreement, the words and phrases "cost" or "entire cost" of a type of improvement shall be deemed to include all design and engineering fees, testing expenses, acquisition of right-of-way from a third party, construction costs, publication costs, financing costs, and related miscellaneous costs. For the purposes of this Agreement, the words and phrases "building permit," "development," "Impact Fee Facility," "Impact Fee Facility

Improvement,” and “site-related improvements” shall have the same meaning as provided for said words and phrases in the Impact Fee Ordinance.

17. **Recordation.** This Agreement or a memorandum thereof shall be filed in the Office of the Register of Deeds of Lancaster County, Nebraska at Developer’s cost and expense.

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

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first written above.

“STATE”

RECOMMENDED:

STATE OF NEBRASKA
DEPARTMENT OF ROADS

By: _____
Thomas W. Goodbarn, P.E.,
District 1 Engineer

By: _____
James J. Knott, P.E.
Roadway Design Engineer

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____, 2011, by James J. Knott, P.E., Roadway Design Engineer of the State of Nebraska Department of Roads, on behalf of the State of Nebraska Department of Roads.

Notary Public

“CITY”

CITY OF LINCOLN, NEBRASKA,
a municipal corporation

ATTEST:

City Clerk

By: _____
Chris Beutler, Mayor

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this ____ day of _____,
2011, by Chris Beutler, Mayor of the **City of Lincoln, Nebraska**, a municipal corporation.

Notary Public

“DEVELOPER”

RINGNECK DEVELOPMENT, LLC, a
Nebraska limited liability company

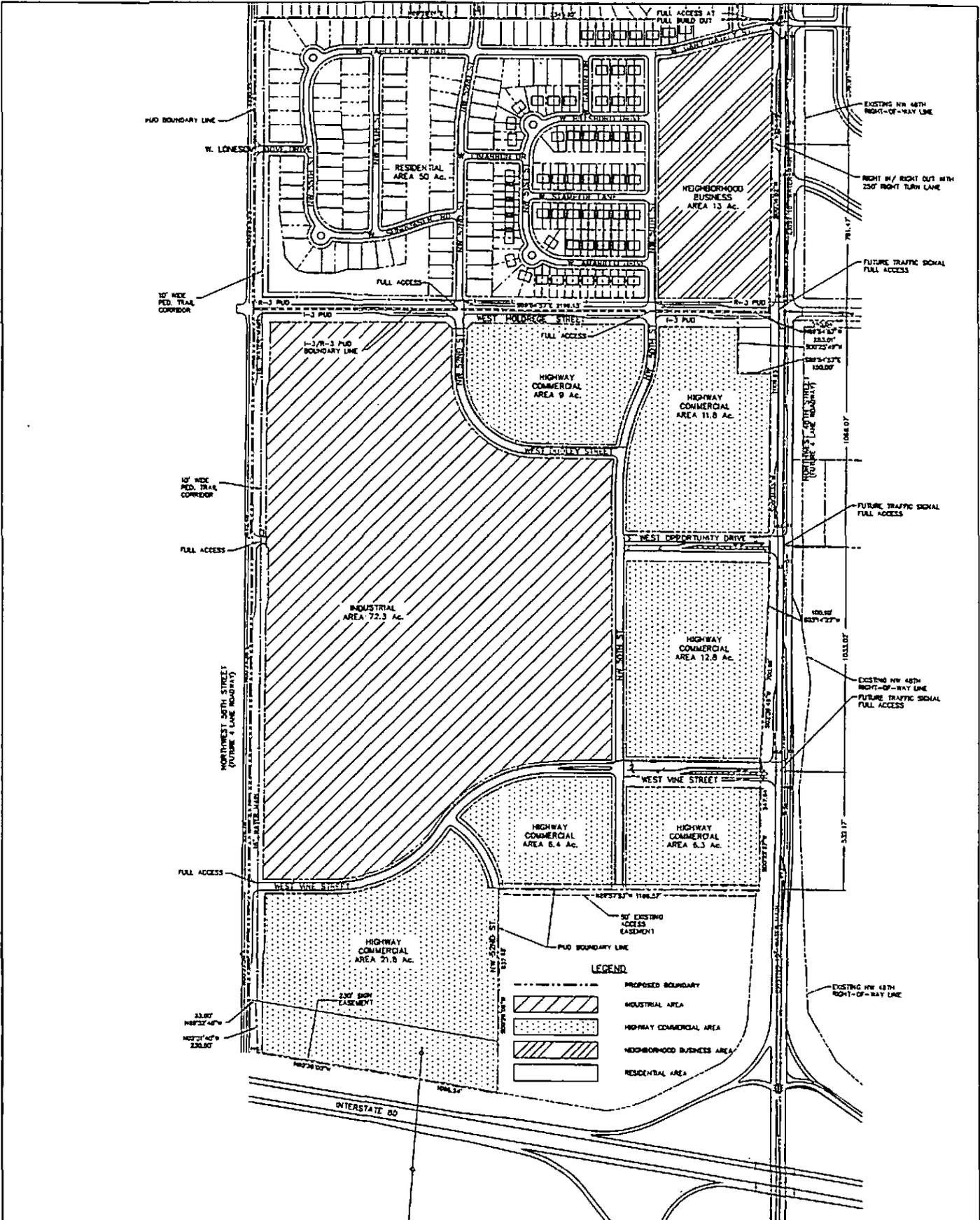
By: Midwest First Financial, Inc., a Nebraska
corporation, Manager

By: _____
Title: _____

STATE OF NEBRASKA)
) ss.
COUNTY OF _____)

The foregoing was acknowledged before me this ____ day of _____, 2011, by
_____, _____ of Midwest First Financial, Inc, a Nebraska
corporation, Manager of **Ringneck Development, LLC**, a Nebraska limited liability company, on
behalf of the limited liability company.

Notary Public



PROJECT NO: 006-2085
 DRAWN BY: NKB
 DATE: 08.25.11 - City Version

**I-80 WEST LINCOLN
 BUSINESS CENTER**



1111 Lincoln Mall, Suite 111
 P.O. Box 84608
 Lincoln, NE 68501-4808
 TEL 402.474.8311
 FAX 402.474.5160

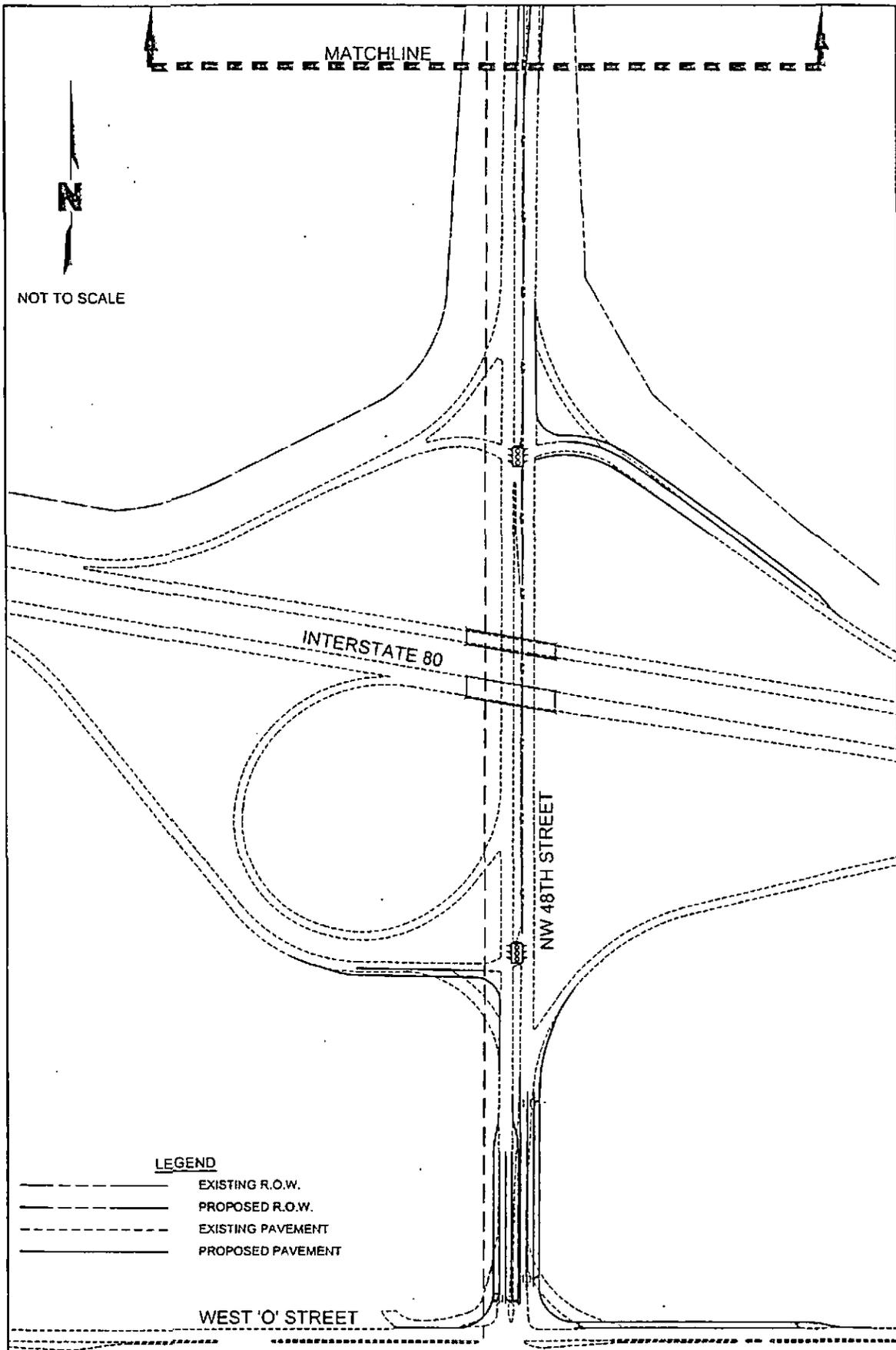
EXHIBIT
A

PROPERTY LEGAL DESCRIPTION

A LEGAL DESCRIPTION FOR A TRACT OF LAND COMPOSED OF LOT 8 I.T., AND THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER, ALL LOCATED SOUTHWEST QUARTER OF SECTION 18, TOWNSHIP 10 NORTH, RANGE 6 EAST, LOTS 23 I.T., 31 I.T., AND 33 I.T., AND THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 10 NORTH, RANGE 6 EAST, ALL OF THE 6TH P.M., CITY OF LINCOLN, LANCASTER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 18, SAID POINT BEING THE POINT OF BEGINNING; THENCE NORTHERLY ALONG THE WEST LINE OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 18 ON AN ASSUMED BEARING OF NORTH 00 DEGREES 26 MINUTES 53 SECONDS EAST, A DISTANCE OF 1,320.25 FEET TO THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 18, THENCE NORTH 89 DEGREES 59 MINUTES 01 SECONDS EAST ALONG THE NORTH LINE OF SAID SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 18, AND THE NORTH LINE OF LOT 8 I.T., A DISTANCE OF 2,345.82 FEET TO THE NORTHEAST CORNER OF SAID LOT 8 I.T., SAID POINT BEING ON THE WEST LINE OF NORTH WEST 48TH STREET RIGHT-OF-WAY, THENCE SOUTH 00 DEGREES 38 MINUTES 52 SECONDS WEST ALONG THE WEST LINE OF SAID LOT 8 I.T., SAID LINE BEING A WEST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 1,324.40 FEET TO THE SOUTHEAST CORNER OF SAID LOT 8 I.T., THENCE NORTH 89 DEGREES 54 MINUTES 57 SECONDS WEST ALONG THE SOUTH LINE OF SAID LOT 8 I.T., SAID LINE BEING THE NORTH LINE OF THE NORTHWEST QUARTER OF SECTION 19, A DISTANCE OF 145.04 FEET TO THE NORTHEAST CORNER OF LOT 31 I.T., THENCE SOUTH 00 DEGREES 25 MINUTES 49 SECONDS WEST ALONG A EAST LINE OF SAID LOT 31 I.T., A DISTANCE OF 283.01 FEET TO NORTH CORNER OF SAID LOT 31 I.T., THENCE SOUTH 89 DEGREES 54 MINUTES 57 SECONDS EAST ALONG A NORTH LINE OF SAID LOT 31 I.T., A DISTANCE OF 150.00 FEET TO A NORTHEAST CORNER OF SAID LOT 31 I.T., SAID POINT BEING ON THE WEST LINE OF NORTH WEST 48TH STREET RIGHT-OF-WAY, THENCE SOUTH 00 DEGREES 31 MINUTES 35 SECONDS WEST ALONG A EAST LINE OF SAID LOT 31 I.T., SAID LINE BEING A WEST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 1,009.65 FEET TO A POINT OF DEFLECTION, THENCE SOUTH 03 DEGREES 14 MINUTES 27 SECONDS WEST ALONG A EAST LINE OF SAID LOT 31 I.T., AND A EAST LINE OF LOT 33 I.T., A DISTANCE OF 100.10 FEET TO A POINT OF DEFLECTION. THENCE SOUTH 02 DEGREES 39 MINUTES 46 SECONDS WEST ALONG A EAST LINE OF SAID LOT 33 I.T., SAID LINE BEING A WEST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 700.96 FEET TO A POINT OF DEFLECTION, THENCE SOUTH 00 DEGREES 22 MINUTES 27 SECONDS WEST ALONG A EAST LINE OF SAID LOT 33 I.T., SAID LINE BEING A WEST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 547.64 FEET TO THE SOUTHEAST CORNER OF SAID LOT 33 I.T., THENCE NORTH 89 DEGREES 57 MINUTES 53 SECONDS WEST THE SOUTH LINE OF SAID LOT 33 I.T., A DISTANCE OF 1,186.57 FEET TO THE NORTHEAST CORNER OF LOT 23 I.T., THENCE SOUTH 00 DEGREES 26 MINUTES 06 SECONDS WEST ALONG THE EAST LINE OF SAID LOT 23 I.T., A DISTANCE OF 937.68 FEET TO THE SOUTHEAST CORNER OF SAID LOT 23 I.T., SAID POINT BEING ON THE NORTH LINE OF INTERSTATE 80 RIGHT-OF-WAY, THENCE NORTH 80 DEGREES 36 MINUTES 00 SECONDS WEST ALONG A SOUTH LINE OF SAID LOT 23 I.T., SAID LINE BEING A NORTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 1,096.24 FEET TO THE SOUTHWEST CORNER OF SAID LOT 23 I.T., SAID POINT BEING ON THE EAST LINE OF NORTH WEST 56TH STREET RIGHT-OF-WAY, THENCE NORTH 02 DEGREES 31 MINUTES 40 SECONDS WEST ALONG A WEST LINE OF SAID LOT 23 I.T., SAID LINE BEING A EAST LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 230.50 FEET TO A SOUTH CORNER OF SAID LOT 23 I.T., THENCE NORTH 89 DEGREES 32 MINUTES 40 SECONDS WEST ALONG A SOUTH LINE OF SAID LOT 23 I.T., SAID LINE BEING A NORTH LINE OF SAID RIGHT-OF-WAY, A DISTANCE OF 33.00 FEET TO A SOUTHWEST CORNER OF SAID LOT 23 I.T., SAID POINT BEING ON THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 19, THENCE NORTH 00 DEGREES 27 MINUTES 20 SECONDS EAST ALONG THE WEST LINE OF SAID LOT 23 I.T., SAID LINE BEING THE WEST LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 528.78 FEET TO THE NORTHWEST CORNER OF SAID LOT 23 I.T., SAID POINT BEING THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 19, THENCE NORTH 00 DEGREES 27 MINUTES 38 SECONDS EAST ALONG THE WEST LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 2,642.48 FEET TO THE NORTHWEST CORNER OF SAID NORTHWEST QUARTER, SAID POINT BEING THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SECTION 18, THENCE NORTH 00 DEGREES 26 MINUTES 53 SECONDS EAST ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 1,320.25 FEET TO THE POINT OF BEGINNING. SAID TRACT CONTAINS A CALCULATED AREA OF 10,165,264.23 SQUARE FEET OR 233.36 ACRES, MORE OR LESS.

| | | | | |
|----------------------|---------------------------------------|--|--|---------|
| PROJECT NO: 006-2085 | PROPERTY LEGAL DESCRIPTION |  MOLSSON ASSOCIATES | 1111 Lincoln Mall, Suite 111 P.O. Box 84508 Lincoln, NE 68501-4508 TEL 402.474.6311 FAX 402.474.5160 | EXHIBIT |
| DRAWN BY: NKB | | | A | |
| DATE: 08.25.11 | | | | |



LEGEND

- EXISTING R.O.W.
- PROPOSED R.O.W.
- EXISTING PAVEMENT
- PROPOSED PAVEMENT

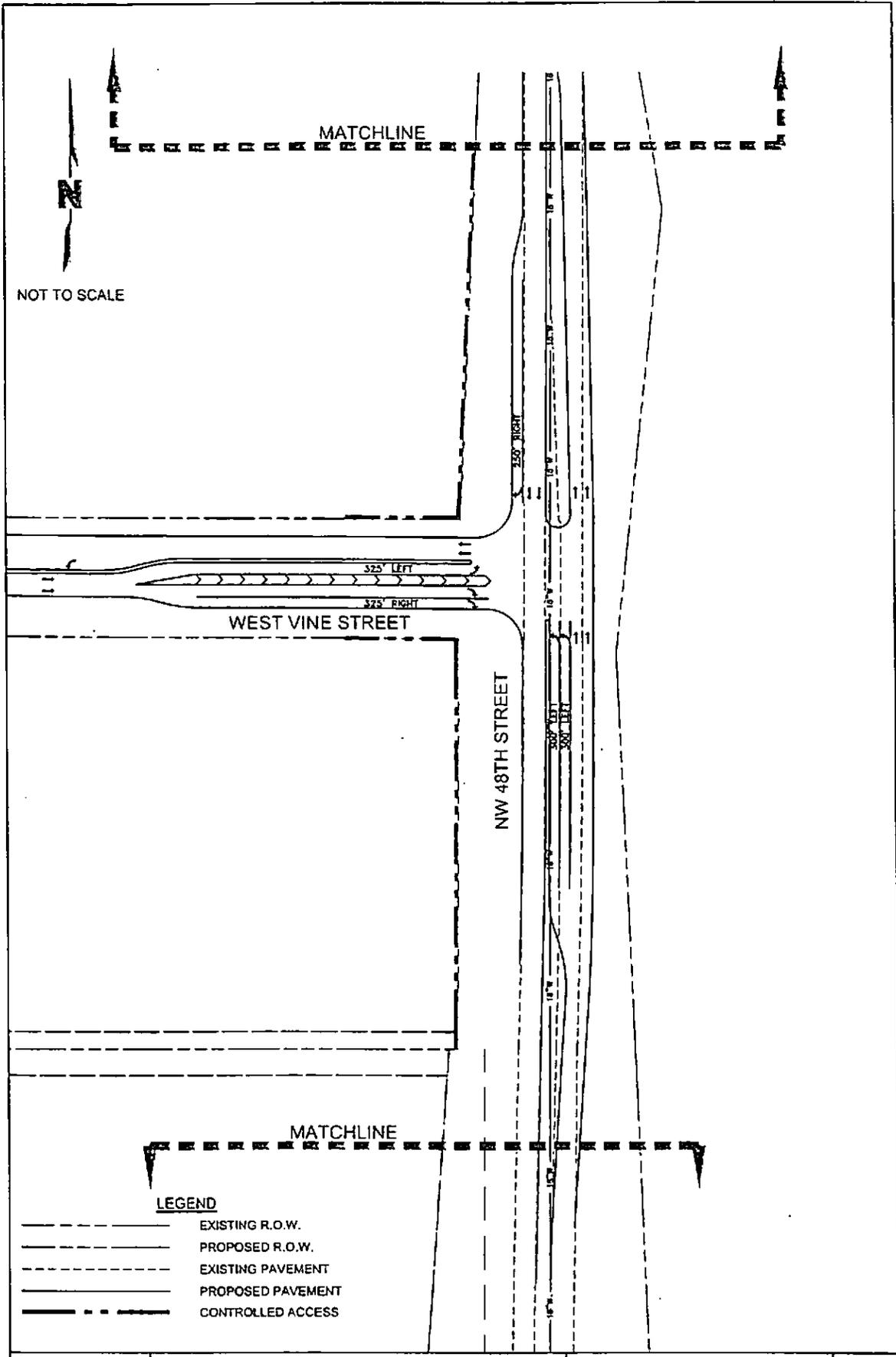
PROJECT NO: 008-2085
 DRAWN BY: NKB
 DATE: 05.28.11

I-80 WEST LINCOLN BUSINESS CENTER
 NW 48TH STREET FULL BUILD OUT

MOLSSON
 ASSOCIATES

1151 Lincoln Mall, Suite 111
 P.O. Box 94928
 Lincoln, NE 68501-0028
 TEL: 402.474.8311
 FAX: 402.474.8160

EXHIBIT
 B-1



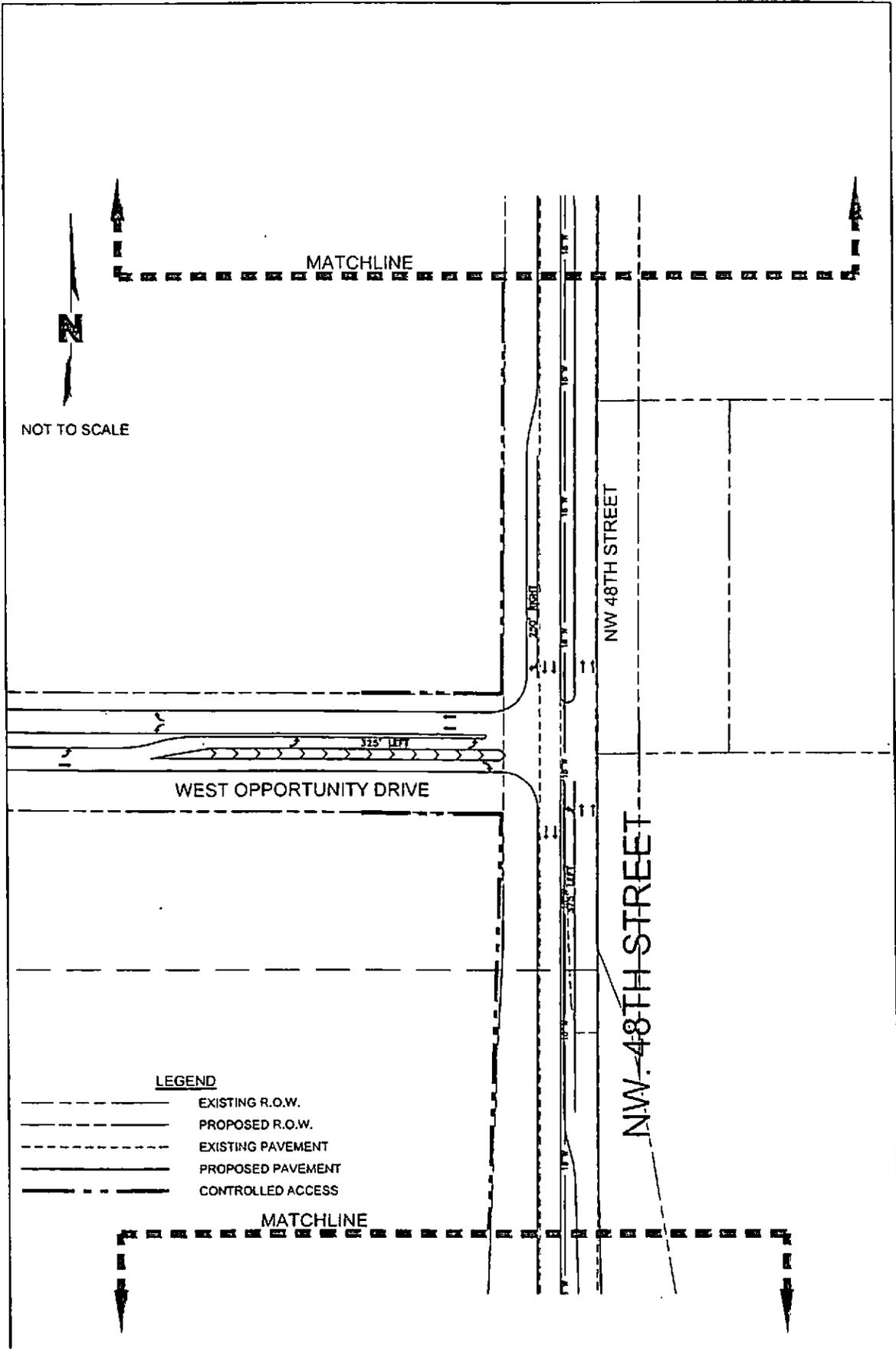
PROJECT NO: 006-2065
 DRAWN BY: HKD
 DATE: 05.26.11

I-80 WEST LINCOLN BUSINESS CENTER
 NW 48TH STREET FULL BUILD OUT

OLSSON
 ASSOCIATES

1111 Progress Road, Suite 111
 P.O. Box 8400
 Lincoln, NE 68509-4000
 TEL: 402.474.8311
 FAX: 402.474.8190

EXHIBIT
 B-2



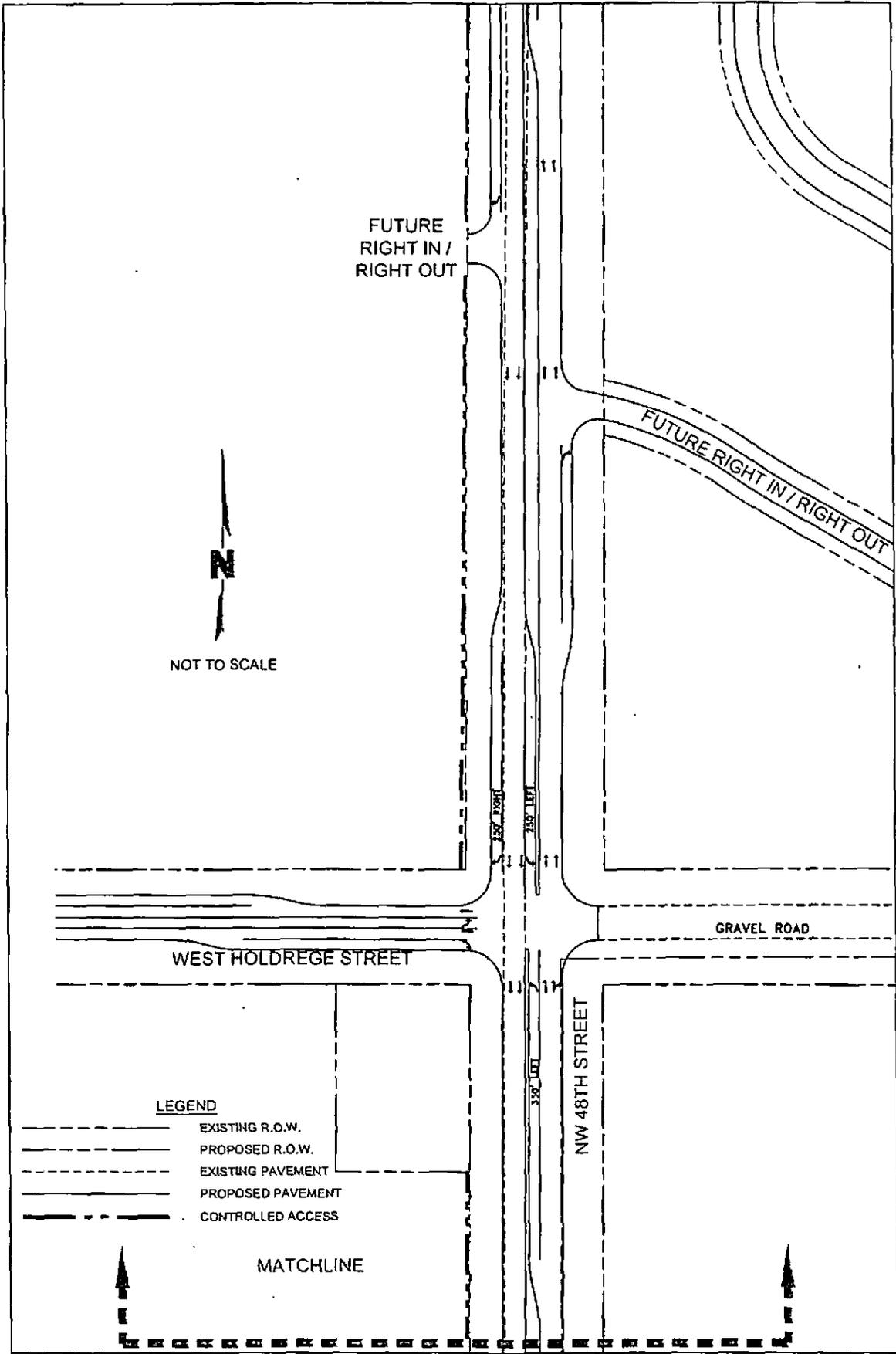
PROJECT NO: 006-2065
 DRAWN BY: HKB
 DATE: 05.28.11

I-80 WEST LINCOLN BUSINESS CENTER
 NW 48TH STREET FULL BUILD OUT

MOLSSON
 ASSOCIATES

1701 Lincoln Mall, Suite 111
 P.O. Box 8480
 Lincoln, NE 68509-0808
 TEL: 402.474.4311
 FAX: 402.474.8160

EXHIBIT
 B-3



FUTURE
RIGHT IN /
RIGHT OUT

N

NOT TO SCALE

FUTURE RIGHT IN / RIGHT OUT

WEST HOLDREGE STREET

GRAVEL ROAD

NW 48TH STREET

LEGEND

- EXISTING R.O.W.
- PROPOSED R.O.W.
- EXISTING PAVEMENT
- PROPOSED PAVEMENT
- CONTROLLED ACCESS

MATCHLINE

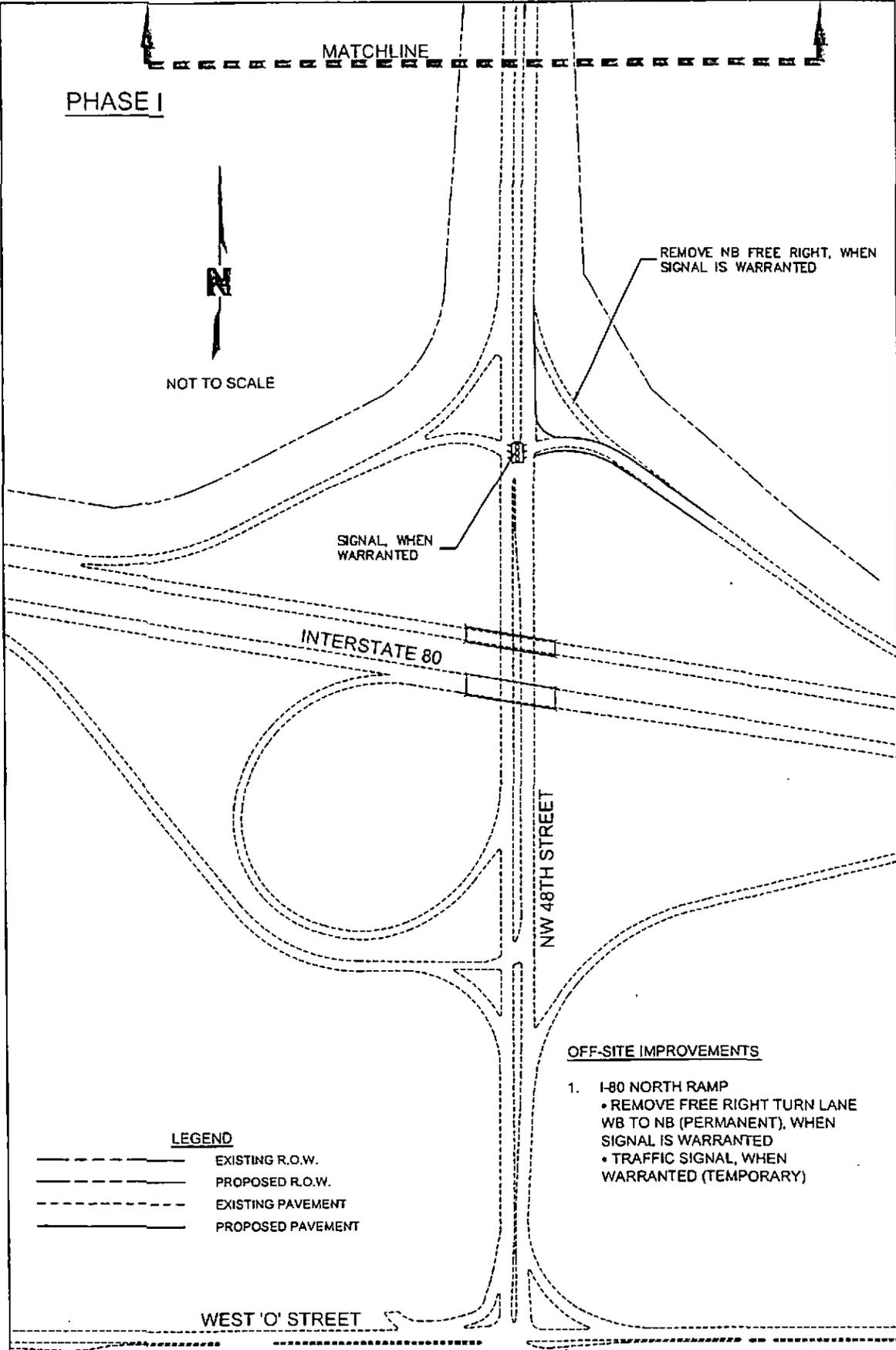
PROJECT NO: 006-2025
DRAWN BY: NKB
DATE: 05.28.11

I-80 WEST LINCOLN BUSINESS CENTER
NW 48TH STREET FULL BUILD OUT

MOLSSON
ASSOCIATES

1111 Lincoln Blvd, Suite 111
P.O. Box 94828
Lincoln, NE 68301-8488
TEL: 402.474.0211
FAX: 402.474.2140

EXHIBIT
B-4



PHASE I

MATCHLINE



NOT TO SCALE

REMOVE NB FREE RIGHT, WHEN SIGNAL IS WARRANTED

SIGNAL WHEN WARRANTED

INTERSTATE 80

NW 48TH STREET

WEST 'O' STREET

LEGEND

- EXISTING R.O.W.
- PROPOSED R.O.W.
- EXISTING PAVEMENT
- PROPOSED PAVEMENT

OFF-SITE IMPROVEMENTS

1. I-80 NORTH RAMP
 - REMOVE FREE RIGHT TURN LANE WB TO NB (PERMANENT), WHEN SIGNAL IS WARRANTED
 - TRAFFIC SIGNAL, WHEN WARRANTED (TEMPORARY)

PROJECT NO: 006-2065
 DRAWN BY: HKD
 DATE: 05.10.11

I-80 WEST LINCOLN BUSINESS CENTER PHASE I
 IMPROVEMENTS ONLY ALLSWS UP TO 680 PM PEAK HOUR
 SITE TRIPS (SOUTH OF WEST HOLDREGE)

MOLSSON
 ASSOCIATES

1111 Lincoln Mall Suite 111
 P.O. Box 84228
 Lincoln, NE 68591-0028
 TEL: 402.474.8311
 FAX: 402.474.8360

EXHIBIT
 C-1

PHASE I



NOT TO SCALE

ON-SITE IMPROVEMENTS

1. WEST VINE STREET
 - TWO WB LANES INTO SITE (PERMANENT)
 - EB TO NB LEFT TURN LANE (325') (PERMANENT)
 - EB TO SB RIGHT TURN LANE (PERMANENT)
 - BUILD W. VINE ST. THRU NW 50TH ST. (PERMANENT)
2. BUILD NW 50TH FROM WEST VINE STREET TO THE SOUTH PROPERTY LINE OF PROPERTY (PERMANENT)
3. CONTINUOUS RAISED MEDIAN FROM NW 48TH TO NW 50TH (PERMANENT)

NW 50TH STREET

NW 48TH ST

675' TRANSITION FROM TWO LANES TO ONE LANE

WEST VINE STREET

OFF-SITE IMPROVEMENTS

1. NW 48TH ST. AT W. VINE ST.
 - NB TO WB LEFT TURN LANE (300') (PERMANENT)
 - SB TO WB RIGHT TURN LANE (250') (PERMANENT)
 - TRAFFIC SIGNAL, WHEN WARRANTED (PERMANENT)

NW 50TH STREET (SOUTH OF W. VINE STREET) AS A PUBLIC STREET

NW 50TH STREET

NW 48TH STREET

LEGEND

- EXISTING R.O.W.
- PROPOSED R.O.W.
- EXISTING PAVEMENT
- PROPOSED PAVEMENT

MATCHLINE

PROJECT NO: 006-2085
 DRAWN BY: NKB
 DATE: 05.10.11

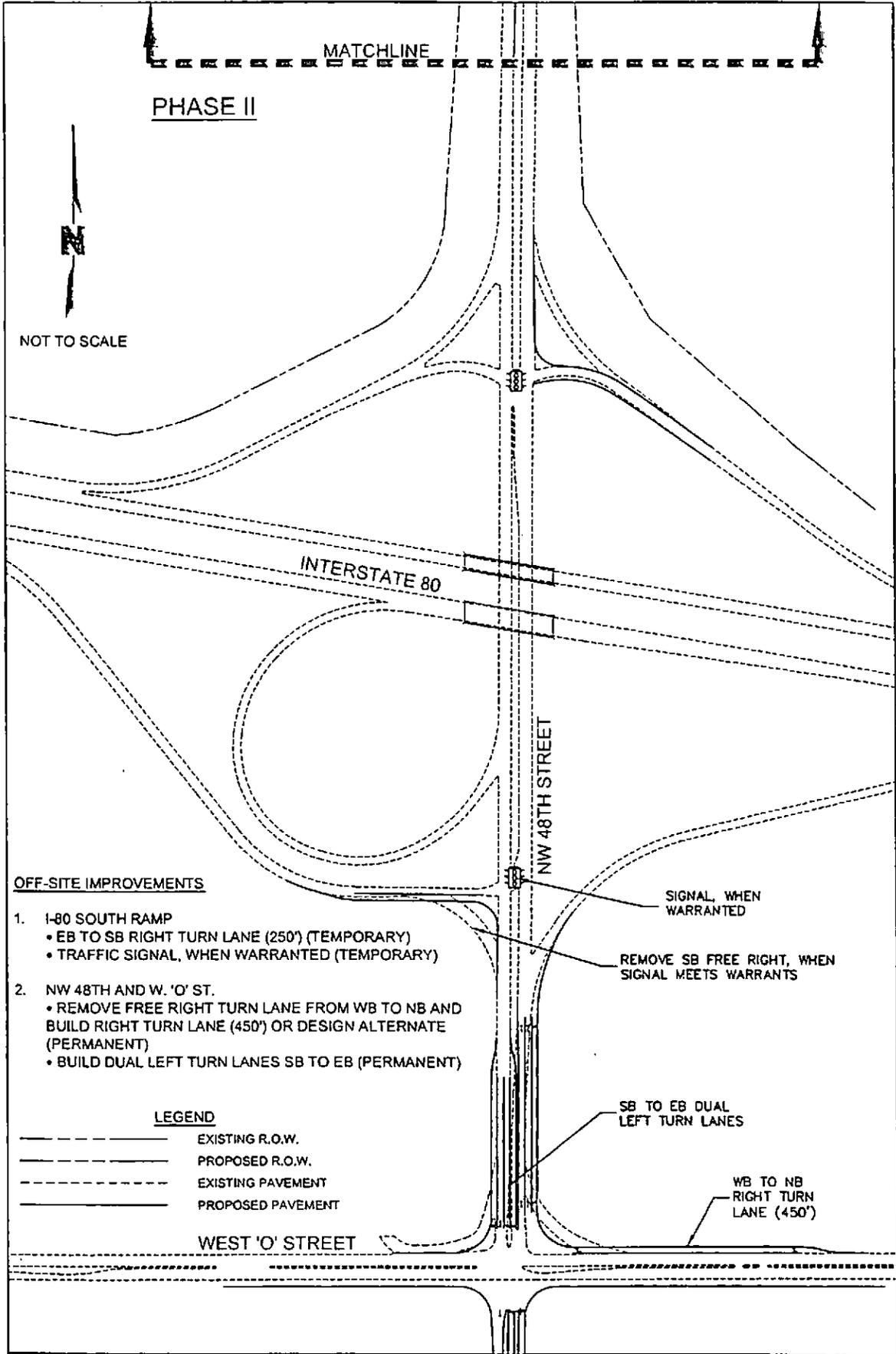
I-80 WEST LINCOLN BUSINESS CENTER PHASE I
 IMPROVEMENTS ONLY ALLOWS UP TO 680 PM PEAK HOUR
 SITE TRIPS (SOUTH OF WEST HOLDREGGE)

MOLSSON
 ASSOCIATES

1111 Lincoln Blvd. Suite 111
 P.O. Box 54808
 Lincoln, NE 68501-4808
 TEL: 402.474.8311
 FAX: 402.474.8180

EXHIBIT

C-2



OFF-SITE IMPROVEMENTS

1. I-80 SOUTH RAMP
 - EB TO SB RIGHT TURN LANE (250') (TEMPORARY)
 - TRAFFIC SIGNAL, WHEN WARRANTED (TEMPORARY)
2. NW 48TH AND W. 'O' ST.
 - REMOVE FREE RIGHT TURN LANE FROM WB TO NB AND BUILD RIGHT TURN LANE (450') OR DESIGN ALTERNATE (PERMANENT)
 - BUILD DUAL LEFT TURN LANES SB TO EB (PERMANENT)

SIGNAL, WHEN WARRANTED

REMOVE SB FREE RIGHT, WHEN SIGNAL MEETS WARRANTS

SB TO EB DUAL LEFT TURN LANES

WB TO NB RIGHT TURN LANE (450')

LEGEND

- EXISTING R.O.W.
- PROPOSED R.O.W.
- EXISTING PAVEMENT
- PROPOSED PAVEMENT

WEST 'O' STREET

PROJECT NO: 006-2085
 DRAWN BY: HKB
 DATE: 05.10.11

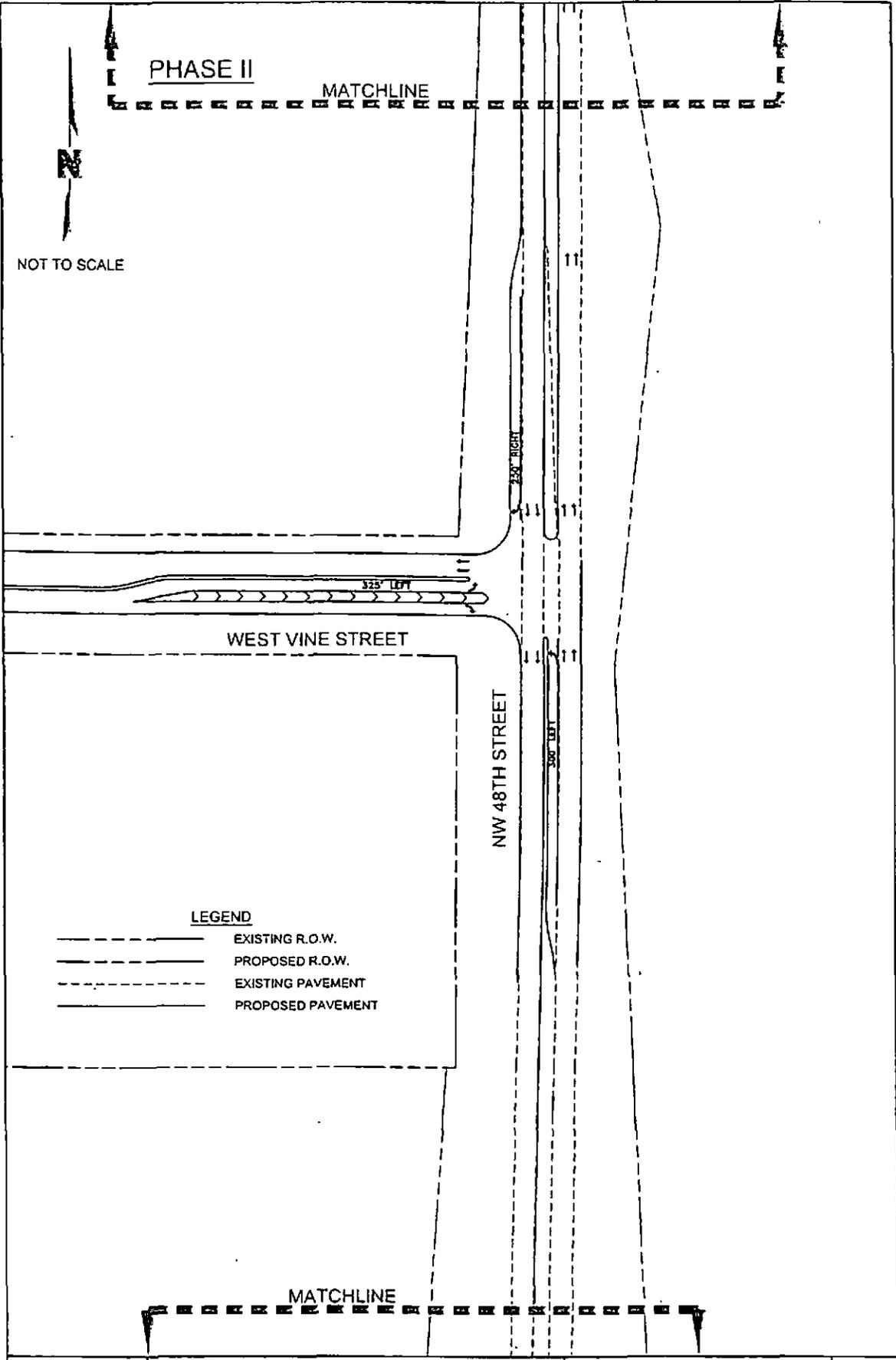
I-80 WEST LINCOLN BUSINESS CENTER PHASE II IMPROVEMENTS TO W. VINE, W. OPPORTUNITY, W. HOLDREGE ALLOWS UP TO 1,171 PM PEAK HOUR SITE TRIPS (SOUTH OF WEST HOLDREGE) AND 427 PM PEAK HOUR SITE TRIPS (NORTH OF WEST HOLDREGE)

COLSSON
 ASSOCIATES

1111 Lincoln Blvd. Suite 111
 P.O. Box 94808
 Durham, NC 27709-0808
 TEL: 402.474.8211
 FAX: 402.474.8180

EXHIBIT

D-1



PHASE II

MATCHLINE

NOT TO SCALE

WEST VINE STREET

NW 48TH STREET

LEGEND

- EXISTING R.O.W.
- PROPOSED R.O.W.
- EXISTING PAVEMENT
- PROPOSED PAVEMENT

MATCHLINE

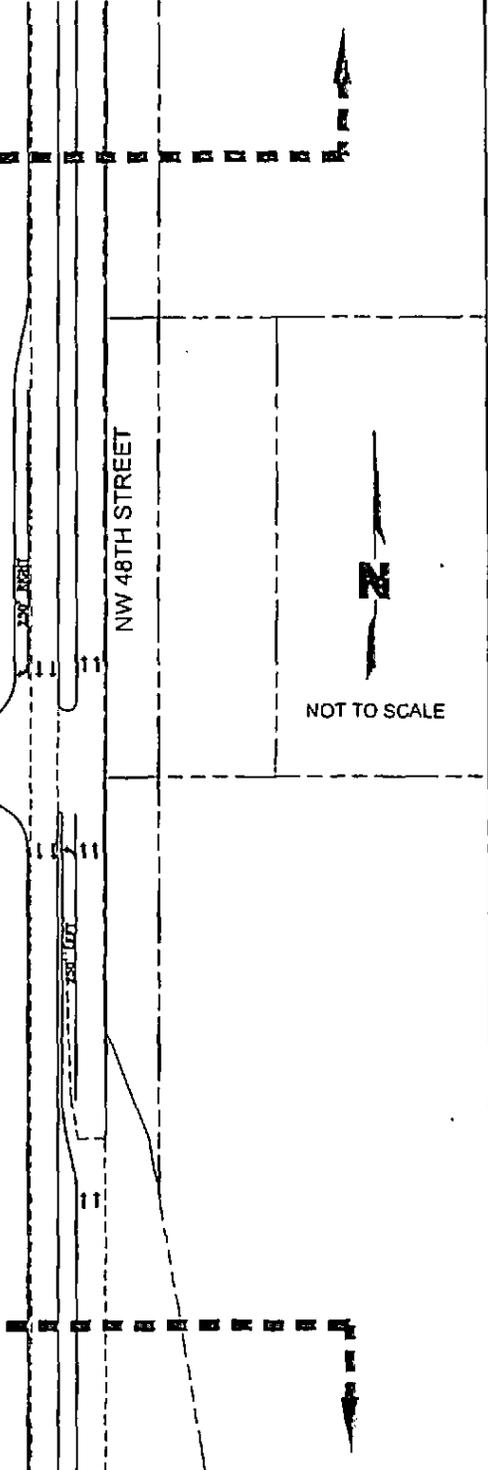
| | | | |
|----------------------|--|---|---------|
| PROJECT NO: 006-2065 | I-80 WEST LINCOLN BUSINESS CENTER PHASE II IMPROVEMENTS TO W. VINE, W. OPPORTUNITY, W. HOLDREGE ALLOWS UP TO 1,171 PM PEAK HOUR SITE TRIPS (SOUTH OF WEST HOLDREGE) AND 427 PM PEAK HOUR SITE TRIPS (NORTH OF WEST HOLDREGE) |  <p>1111 Lincoln Ave, Suite 111 P.O. Box 94828 Lincoln, NE 68509-4808 TEL: 402.474.8311 FAX: 402.474.8180</p> | EXHIBIT |
| DRAWN BY: NKB | | | D-2 |
| DATE: 05.10.11 | | | |

PHASE II



OFF-SITE IMPROVEMENTS

1. NW 48TH ST. THRU LANES
 - CONSTRUCT TWO (2) NB THRU LANES FROM EXISTING 4-LANE TERMINUS NORTH THRU W. GARY GATELY DR. INTERSECTION WITH 16' RAISED MEDIAN AS A RURAL SECTION (PERMANENT)
 - CONSTRUCT TWO (2) SB THRU LANES FROM EXISTING 4-LANE TERMINUS NORTH THRU W. GARY GATELY DR. INTERSECTION WITH 16' RAISED MEDIAN AS A RURAL SECTION (PERMANENT)
2. NW 48TH ST. AT W. OPPORTUNITY DR.
 - NB TO WB LEFT TURN LANE (250') (PERMANENT)
 - SB TO WB RIGHT TURN LANE (250') (PERMANENT)
3. TRAFFIC SIGNAL, WHEN WARRANTED (PERMANENT)



WEST OPPORTUNITY DRIVE

ON-SITE IMPROVEMENTS

1. WEST OPPORTUNITY DRIVE
 - TWO WB LANES INTO SITE (PERMANENT)
 - EB TO NB LEFT TURN LANE (325') (PERMANENT)
 - EB TO SB RIGHT TURN LANE (PERMANENT)

LEGEND

- EXISTING R.O.W.
- - - PROPOSED R.O.W.
- EXISTING PAVEMENT
- - - PROPOSED PAVEMENT



PHASE II

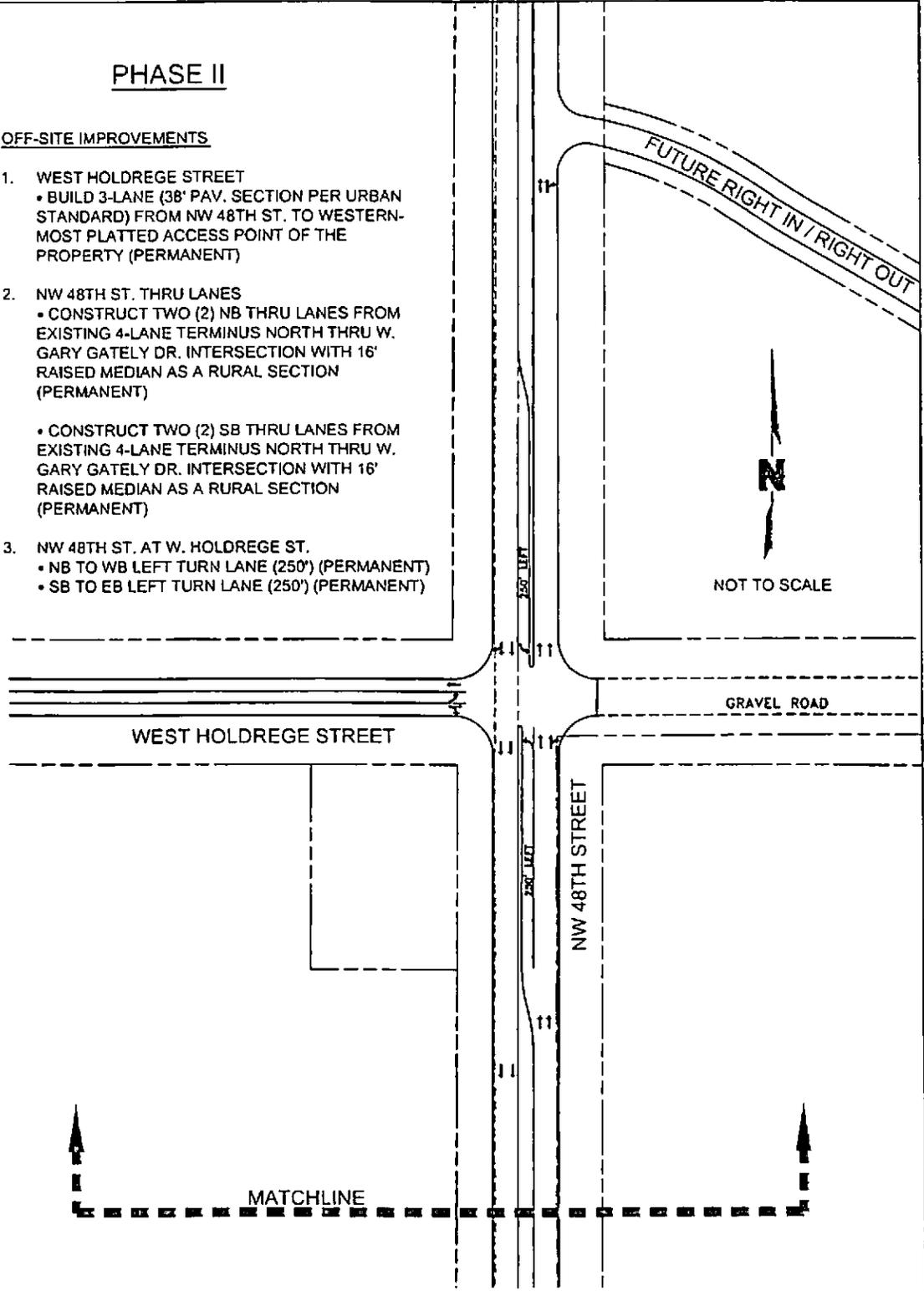
OFF-SITE IMPROVEMENTS

1. WEST HOLDREGE STREET
 - BUILD 3-LANE (38' PAV. SECTION PER URBAN STANDARD) FROM NW 48TH ST. TO WESTERN-MOST PLATTED ACCESS POINT OF THE PROPERTY (PERMANENT)

2. NW 48TH ST. THRU LANES
 - CONSTRUCT TWO (2) NB THRU LANES FROM EXISTING 4-LANE TERMINUS NORTH THRU W. GARY GATELY DR. INTERSECTION WITH 16' RAISED MEDIAN AS A RURAL SECTION (PERMANENT)

 - CONSTRUCT TWO (2) SB THRU LANES FROM EXISTING 4-LANE TERMINUS NORTH THRU W. GARY GATELY DR. INTERSECTION WITH 16' RAISED MEDIAN AS A RURAL SECTION (PERMANENT)

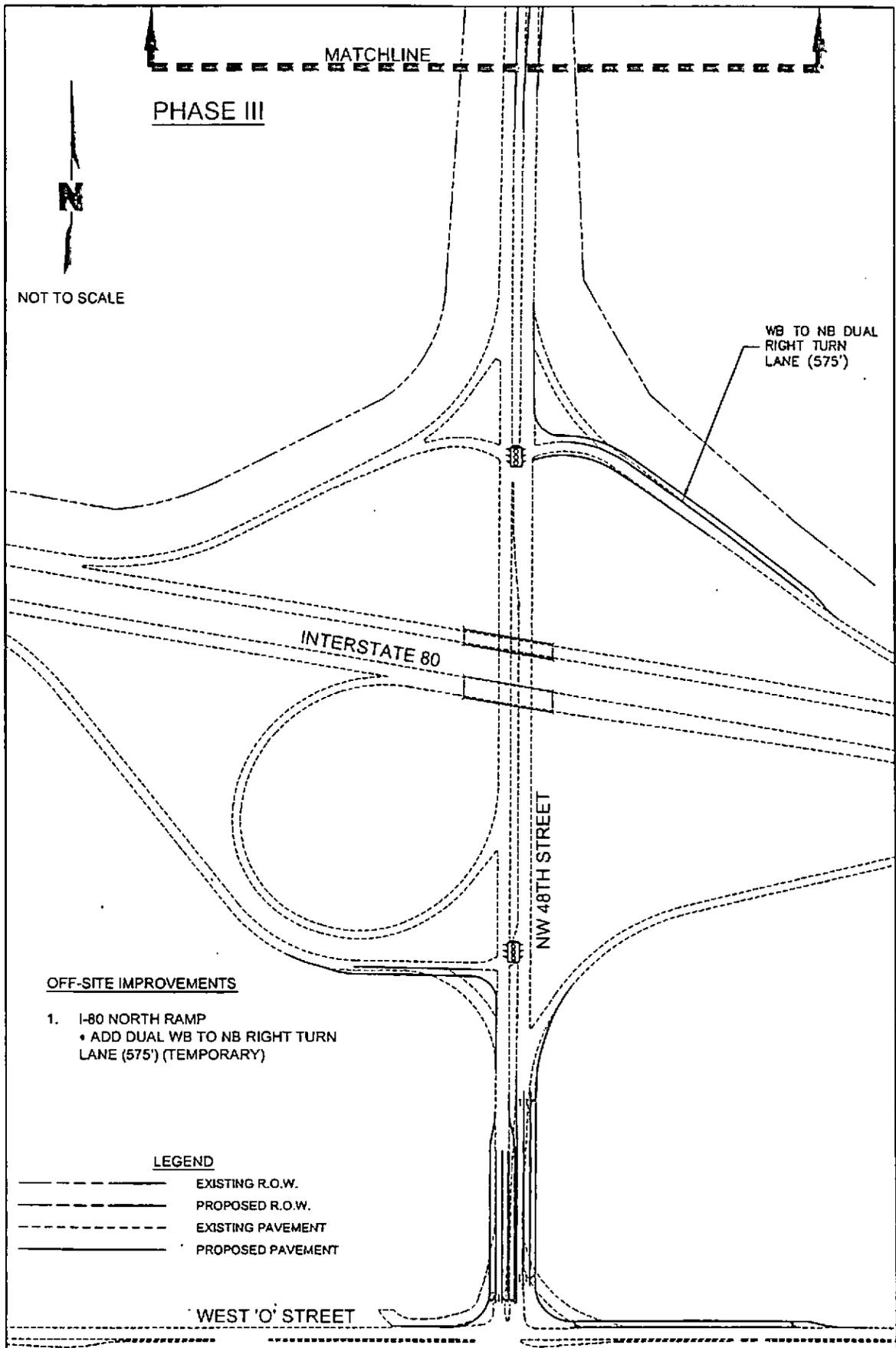
3. NW 48TH ST. AT W. HOLDREGE ST.
 - NB TO WB LEFT TURN LANE (250') (PERMANENT)
 - SB TO EB LEFT TURN LANE (250') (PERMANENT)



LEGEND

- EXISTING R.O.W.
- PROPOSED R.O.W.
- EXISTING PAVEMENT
- PROPOSED PAVEMENT

| | | | | |
|------------------------------|--|-----------------------------|---|---------------------------|
| PROJECT NO.: 006-2085 | I-80 WEST LINCOLN BUSINESS CENTER PHASE II IMPROVEMENTS TO W. VINE, W. OPPORTUNITY, W. HOLDREGE ALLOWS UP TO 1,171 PM PEAK HOUR SITE TRIPS (SOUTH OF WEST HOLDREGE) AND 427 PM PEAK HOUR SITE TRIPS (NORTH OF WEST HOLDREGE) | OLSSON ASSOCIATES | 1111 Lincoln Blvd., Suite 111 P.O. Box 84028 Lincoln, NE 68501-4008 TEL: 402.474.8311 FAX: 402.474.8180 | EXHIBIT D-4 |
| DRAWN BY: NKB | | | | |
| DATE: 05.10.11 | | | | |



PROJECT NO: 006-2065
 DRAWN BY: NKB
 DATE: 05.10.11

I-80 WEST LINCOLN BUSINESS CENTER
 PHASE III IMPROVEMENTS TO W. VINE, W. OPPORTUNITY,
 W. HOLDREGA FULL BUILD OUT

MOLSSON
 ASSOCIATES
 1111 Lincoln Med. Bldg-111
 P.O. Box 84528
 Lincoln, NE 68521-4908
 TEL: 402.474.8211
 FAX: 402.474.8190

EXHIBIT
 E-1

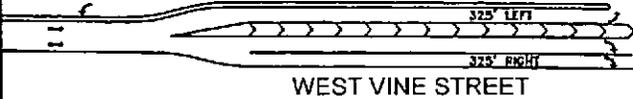
PHASE III

MATCHLINE

NOT TO SCALE

ON-SITE IMPROVEMENTS

1. WEST VINE STREET
 - EB TO SB RIGHT TURN LANE (325') (PERMANENT)
 - CONSTRUCT W. VINE ST. WEST OF NW 50TH ST. HARD SURFACE ADDITIONAL PUBLIC ACCESS TO THE LINE SOUTH OF THE PROPERTY. CONNECTION SHALL BE CENTERED ON THE WEST LINE OF THE DOWD PROPERTY



WEST VINE STREET

NW 48TH STREET

OFF-SITE IMPROVEMENTS

1. NW 48TH ST. AT W. VINE ST.
 - ADD TACK ON MEDIAN TO DELINEATE NB TO WB DUAL LEFT TURN LANES (300' TURN LANE) (PERMANENT)
 - WIDEN THRU LANES TO ALLOW FOR DUAL LEFT-TURN LANES

MATCHLINE

LEGEND

- EXISTING R.O.W.
- - - PROPOSED R.O.W.
- EXISTING PAVEMENT
- - - PROPOSED PAVEMENT

PROJECT NO: 006-2065
 DRAWN BY: NKB
 DATE: 05.10.11

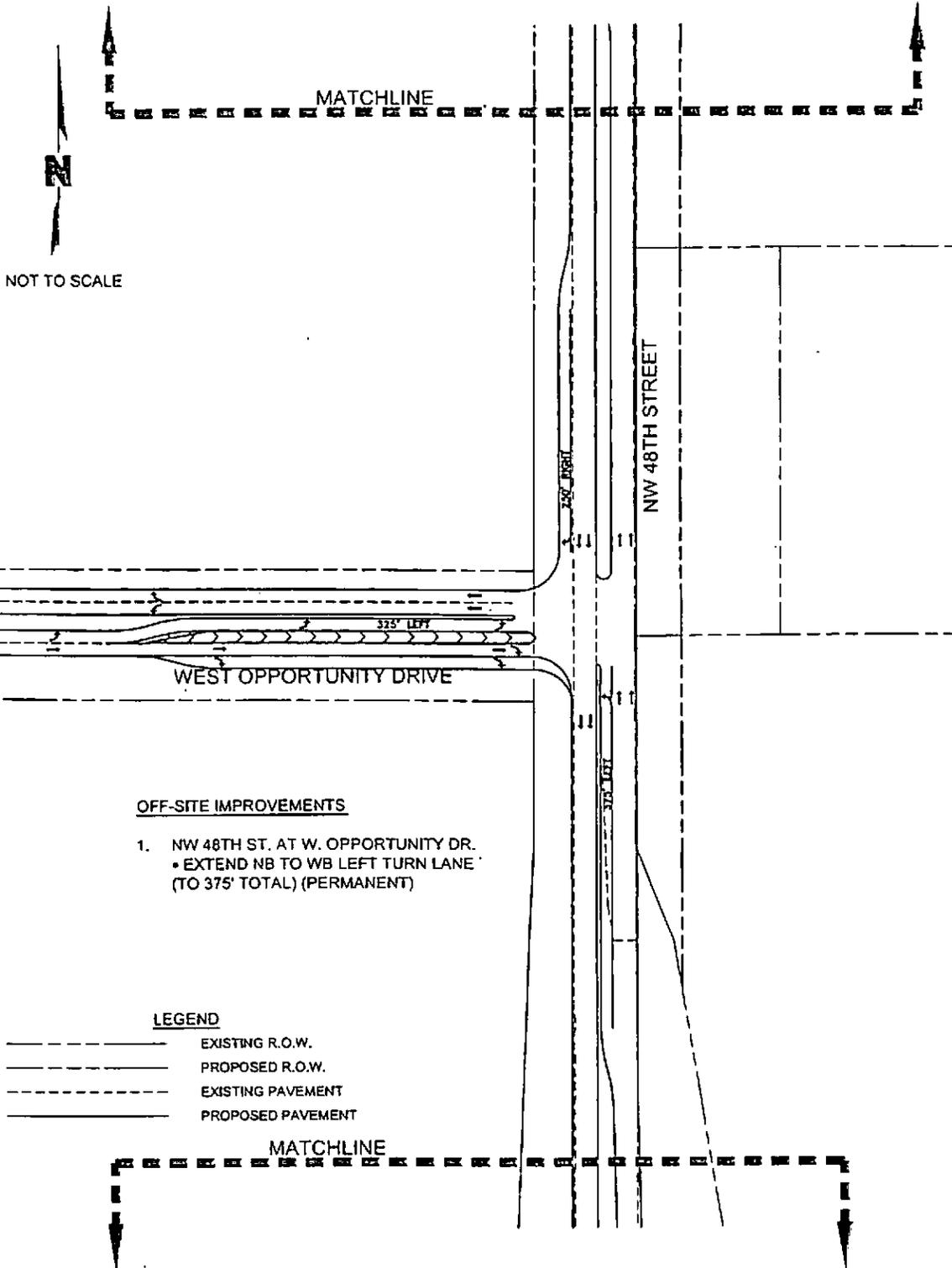
I-80 WEST LINCOLN BUSINESS CENTER
 PHASE III IMPROVEMENTS TO W. VINE, W. OPPORTUNITY,
 W. HOLDREGE FULL BUILD OUT

OLSSON
 ASSOCIATES

1111 Lincoln Blvd, Suite 111
 P.O. Box 99408
 Lincoln, NE 68509-0408
 TEL: 402.474.8311
 FAX: 402.474.8360

EXHIBIT
E-2

PHASE III



OFF-SITE IMPROVEMENTS

- NW 48TH ST. AT W. OPPORTUNITY DR.
 - EXTEND NB TO WB LEFT TURN LANE (TO 375' TOTAL) (PERMANENT)

LEGEND

- EXISTING R.O.W.
- PROPOSED R.O.W.
- EXISTING PAVEMENT
- PROPOSED PAVEMENT

PROJECT NO: 008-2085
 DRAWN BY: HKB
 DATE: 05.10.11

I-80 WEST LINCOLN BUSINESS CENTER
 PHASE III IMPROVEMENTS TO W. VINE, W. OPPORTUNITY,
 W. HOLDREGE FULL BUILD OUT



1115 Lincoln Ave Suite 111
 P.O. Box 8402
 Lincoln, NE 68501-4002
 TEL: 402-474-8211
 FAX: 402-474-8160

EXHIBIT
E-3

PHASE III



NOT TO SCALE

FUTURE RIGHT IN / RIGHT OUT

RIGHT TURN LANE, TO BE FUNDED BY OTHERS

250' RIGHT
350' LEFT
350' LEFT
350' LEFT

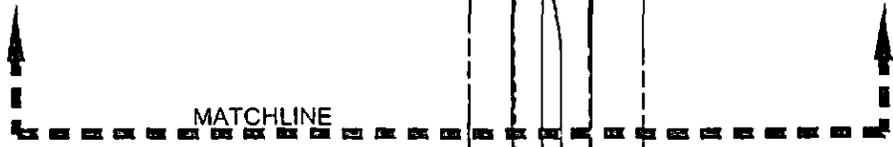
WEST HOLDREGE STREET

GRAVEL ROAD

NW 48TH STREET

OFF-SITE IMPROVEMENTS

1. NW 48TH ST. AT W. HOLDREGE ST.
 - EXTEND NB TO WB LEFT TURN LANE (TO 350' TOTAL) (PERMANENT)
 - SB TO WB RIGHT TURN LANE (250') (PERMANENT)
 - TRAFFIC SIGNAL, WHEN WARRANTED (PERMANENT)



MATCHLINE

LEGEND

- EXISTING R.O.W.
- PROPOSED R.O.W.
- EXISTING PAVEMENT
- PROPOSED PAVEMENT

PROJECT NO: 006-2065
DRAWN BY: NKB
DATE: 05.10.11

I-80 WEST LINCOLN BUSINESS CENTER
PHASE III IMPROVEMENTS TO W. VINE, W. OPPORTUNITY,
W. HOLDREGE FULL BUILD OUT

MOLSSON
ASSOCIATES

1111 Lincoln Mall Suite 1111
P.O. Box 94028
Lincoln, NE 68501-0028
TEL: 402 478 8271
FAX: 402 474 8100

EXHIBIT
E-4

Exhibit "F"

**INSURANCE REQUIREMENTS FOR DEVELOPER'S CONTRACTOR
PERFORMING WORK ON STATE HIGHWAY PROPERTY**

The Developer shall require and the contractor shall make a detailed review of its existing insurance coverage, compare that coverage with the expected scope of the work under this contract, obtain sufficient insurance coverage to fully protect it from loss associated with the work, and have at a minimum the insurance described below:

1. General Liability:

Limits of at least:

\$ 1,000,000 per Occurrence

\$ 2,000,000 General Aggregate

\$ 2,000,000 Completed Operations Aggregate

\$ 1,000,000 Personal and Advertising Injury

a. Contractor shall be responsible for the payment of any deductibles.

b. Coverage shall be provided by a standard form Commercial General Liability Policy (CG0001 or equivalent) covering bodily injury, property damage including loss of use, and personal injury.

c. General Aggregate to apply on a Per Project Basis.

d. The State of Nebraska, Department of Roads, shall be named as an Additional Insured on a primary and non-contributory basis including completed operations for three (3) years after final acceptance and payment.

e. Contractor agrees to waive its rights of recovery against the State. Waiver of Subrogation in favor of the State shall be added to the policy.

f. Contractual liability coverage shall be on a broad form basis and shall not be

amended by any limiting endorsements.

g. If work is being done near a railroad track, the 50' railroad right of way exclusion must be deleted.

h. Products and completed operations coverage in the amount provided above shall be maintained for the duration of the work, and shall be further maintained for a minimum period of three years after final acceptance and payment.

i. Coverage shall be included for demolition of any building or structure, collapse, explosion, blasting, excavation and damage to property below surface of ground (XCU coverage).

j. Policy shall not contain a total or absolute pollution exclusion. Coverage shall be provided for pollution exposures arising from products and completed operations as per standard CG0001 Pollution Exclusion or equivalent. If the standard pollution exclusion as provided by CG0001 has been amended, coverage may be substituted with a separate Pollution Liability policy of \$1.0 million per occurrence and \$2.0 million aggregate. If coverage is provided by a "claims made" form, coverage will be maintained for three years after project completion. Any applicable deductible is the responsibility of the contractor.

2. Automobile Liability:

Limits of at least:

\$ 1,000,000 CSL per Accident

a. Coverage shall apply to all Owned, Hired, and Non-Owned Autos.

b. If work is being done near a railroad track, the 50-foot railroad right of way exclusion must be deleted.

c. Contractor agrees to waive its rights of recovery against the State of Nebraska, Department of Roads. Waiver of Subrogation in favor of the State of

Nebraska, Department of Roads, shall be added to the policy.

d. Automobile liability coverage shall be obtained from an insurance carrier who is licensed with the Nebraska Department of Insurance.

3. Workers' Compensation:

Limit: Statutory coverage for the State where the project is located.

Employer's Liability limits: \$500,000 Each Accident

\$500,000 Disease – Per Person

\$500,000 Disease – Policy Limit

a. Contractor agrees to waive its rights of recovery against the State of Nebraska, Department of Roads. Waiver of Subrogation in favor of the State of Nebraska, Department of Roads shall be added to the policy

b. Workers' compensation coverage shall be obtained from an insurance carrier who is licensed with the Nebraska Department of Insurance.

c. Where applicable, the Longshore and Harborworkers Compensation Act endorsement shall be attached to the policy.

4. Umbrella/Excess:

Limits of at least:

\$1,000,000 per Occurrence

a. Policy shall provide liability coverage in excess of the specified Employers Liability, Commercial General Liability and Automobile Liability.

b. The State of Nebraska, Department of Roads, shall be an "Additional Insured."

c. Contractor agrees to waive its rights of recovery against the State of Nebraska, Department of Roads. Waiver of subrogation in favor of the State of Nebraska, Department

of Roads shall be provided.

5. Pollution Liability:

a. When “hazardous wastes” or contaminated or polluted materials must be handled and/or moved, the contractor shall obtain Pollution Liability Coverage with minimum limits of \$1,000,000 per occurrence and \$2,000,000 aggregate.

b. If, during the course of construction, hazardous wastes, contaminated or polluted material are discovered on the project, the contractor shall immediately cease any operation that may disturb these materials, and shall immediately notify the State of all facts related to the discovery of these materials.

6. Additional Requirements:

a. The contractor shall provide and carry any additional insurance required by the Developer.

b. Except as otherwise provided herein, all insurance shall be kept in full force and effect until after the State releases the Developer from all obligations under the contract.

c. If any of the work is sublet, equivalent insurance shall be provided by or in behalf of the subcontractor or subcontractors (at any tier) to cover all operations.

d. Any insurance policy shall be written by a reputable insurance company acceptable to the State or with a current Best’s Insurance Guide Rating of A – VII or better.

e. Prior to execution of the contract, Developer shall provide the State of Nebraska, Department of Roads evidence of Developer’s contractor’s insurance coverage in effect in the form of an Accord (or equivalent) certificate of insurance executed by a licensed representative of the participating insurer(s) Certificates of insurance shall show the Nebraska Department of Roads as the certificate holder.

f. For so long as insurance coverage is required under this Agreement, the

Developer shall require it's contractor have a duty to notify the Developer and State when the contractor knows, or has reason to believe, that any insurance coverage required under this Agreement will lapse, or may be cancelled or terminated. The contractor must forward any pertinent notice of cancellation or termination to the State at the address listed below by mail (return receipt requested), hand-delivery, or facsimile transmission within 2 business days of receipt by contractor of any such notice from an insurance carrier. Notice shall be sent to:

Nebraska Department of Roads
Construction Division --- Insurance Section
1500 Highway 2, P.O. Box 94759
Lincoln, NE 68509-4759
Facsimile No. 402-479-4854

g. Failure of the State or any other party to review, approve, and/or reject a certificate of insurance in whole or in part does not waive the requirements of this Agreement.

h. The limits of coverage set forth in this document are suggested minimum limits of coverage. The suggested limits of coverage shall not be construed to be a limitation of the liability on the part of the Developer or its contractor or any of its subcontractors/tier subcontractors. The carrying of insurance described shall in no way be interpreted as relieving the contractor, subcontractor, or tier subcontractors of any responsibility or liability under the contract.

i. If there is a discrepancy of coverage between this document and any other insurance specification for Developer's project, the greater limit or coverage requirement shall prevail.

11R-235

MOTION TO AMEND NO. 2

I hereby move to amend Bill No. 11R-235 by substituting the attached I-80 West Lincoln Business Center Conditional Annexation and Zoning Agreement ("Substitute Agreement") for the I-80 West Lincoln Business Center Conditional Annexation and Zoning Agreement attached as Attachment "A" to Bill No. 11R-235 ("Original Agreement"). The Substitute Agreement modifies the Original Agreement as follows:

1. On page 5, the second paragraph of Section 3.B. has been amended to read as follows:

On behalf of the City, the Developer will design, competitively bid, construct and fund West Holdrege Street through the City's Executive Order process in one or more phases as part of the final plat process. Developer acknowledges that any development of the Property that requires improvements to West Holdrege Street prior to the improvement of the intersection of West Holdrege Street and NW 48th Street as shown on Exhibit "F" may, at the City's sole discretion, also require improvements to the intersection of West Holdrege Street and NW 48th Street. The City will use its best efforts to include West Holdrege Street in a future City Six-Year Capital Improvement Program, and show the Arterial Street Impact Fee Facility Improvements to be funded by the City, at its expense, in said future Six-Year Capital Improvement Program. The City agrees to use its best efforts to reimburse the Developer for the Arterial Street Impact Fee Facility Improvements portion of West Holdrege Street,

including the design, grading and construction of West Holdrege Street pursuant to Paragraph 7 below within eleven (11) years from the date said improvements are substantially constructed. Notwithstanding the foregoing, the City agrees that the cost of grading and constructing the eastbound-to-southbound right turn lanes at NW 52nd Street and NW 50th Street, and the westbound-to-northbound right turn lanes at NW 52nd Street and NW 56th Street shall be reimbursed to the Developer within thirty (30) days following completion of each said right turn lane. The City agrees that the reimbursement for said right turn lanes shall not be funded from impact fees collected from the development of the Annexed Property and Future Annexed Property.

2. On page 5, Section 3.C. has been amended to read as follows:

C. NW 56th Street. NW 56th Street from West Holdrege Street to "O" Street is shown in the Lincoln City - Lancaster County Comprehensive Plan as an arterial road improvement during the 25-year planning period to be constructed as two lanes plus center turn lanes. Presently, NW 56th Street from West Holdrege Street to "O" Street is constructed as two lane gravel roadway. In order to accommodate the traffic generated from the development of the Property, a grade study will be conducted for an ultimate four through lanes with turn lanes for that portion of NW 56th Street between West Partridge Lane and the north edge of the bridge over I-80 existing pavement located approximately

~~1,000 feet north of "O" Street~~, and it will initially be graded and paved as up to a 38 feet wide roadway in a location and width to be determined by the Director of Public Works & Utilities, with northbound to eastbound right turn lanes and any required traffic signals at West Vine Street and West Holdrege Street ("NW 56th Street"). NW 56th Street consists entirely of Arterial Street Impact Fee Facility Improvements. On behalf of the City, the Developer will design, competitively bid, grade, construct and fund NW 56th Street through the City's Executive Order process in one or more phases as part of the final plat process. The City will use its best efforts to include NW 56th Street in a future City Six-Year Capital Improvement Program, and show the Arterial Street Impact Fee Facility Improvements portion to be funded by the City, at its expense, in said future Six-Year Capital Improvement Program. The City agrees to use its best efforts to reimburse the Developer for the Arterial Street Impact Fee Facility Improvements cost of NW 56th Street, including the design, grading and construction pursuant to Paragraph 7 below within eleven (11) years from the date said improvements are substantially constructed.

3. On pages 2 and 3 of Exhibit G (NW 48th Street Agreement) Paragraph 2.A. has been amended to read as follows:

A. On-Site Improvements. Developer, at its cost and expense, shall be responsible for designing and constructing the West Vine Street and NW 50th Street Phase I On-Site Improvements identified on Exhibit "C" through the City's Executive Order process. The State agrees to grant to the City, at no cost to the City or Developer, a break in access control

for the construction of the intersection of West Vine Street and NW 48th Street in accordance with the terms of this Agreement. Developer agrees to simultaneously release to the State by quitclaim deed or other appropriate instrument, any and all of its rights of access the State previously granted to NW 48th Street at the south end of the Property. Notwithstanding the foregoing, Developer and State acknowledge and agree that said release by the Developer shall not impact any of the existing legal rights (including easement rights) of the Adjacent Property, defined below. Developer also agrees that it will not seek a permit or develop a drive, street or private roadway taking access to NW 48th Street in the south twenty (20) feet of the Property adjoining the Adjacent Property. In addition, Developer agrees to deed the State access control along West Vine Street for a distance of two hundred feet (200') measured west from the ultimate west curb line of NW 48th Street shown on Exhibit "B", and to deed to the City access control along the west side of NW 48th Street from West Vine Street to the north edge of the Property, except for the access points shown on Exhibit "A".

4. On page 3 of Exhibit G (NW 48th Street Agreement) Paragraph 2.C. has been added to read as follows:

C. Adjacent Property. In the event any portion of the Phase I On-Site Improvements or Phase I Off-Site Improvements identified on Exhibit "C" are needed to provide access to Lot 56 Irregular Tract located in the Southwest Quarter of Section 19, Township 10 North, Range 6 East of the 6th P.M., Lancaster County, Nebraska ("Adjacent Property"), prior

to the time they are constructed by Developer under terms of this Agreement, Developer agrees to dedicate right-of-way for said portion of NW 48th Street, West Vine Street and NW 50th Street as required by the State and/or the City.

5. On page 5 of Exhibit G (NW 48th Street Agreement) Paragraph 4.A. has been amended to read as follows:

A. On-Site Improvements. Developer, at its cost and expense, shall be responsible for designing and constructing the West Vine Street Phase III On-Site Improvements identified on Exhibit "E". The construction of the eastbound to southbound right turn lane in West Vine Street and the extension of West Vine Street west of NW 50th Street shall be constructed through the City's Executive Order Process. In addition, Developer shall construct an additional access south of West Vine Street to the northern property line of the property to the south under separate ownership. The additional access connection shall be constructed as a public street, ~~private roadway or public access easement~~ and shall be centered on the joint property line with the property to the south.

6. On Exhibit C-2 of Exhibit G (NW 48th Street Agreement) the option to construct NW 50th Street south of West Vine Street as a private roadway or private drive with a public access easement has been deleted.

Introduced by:



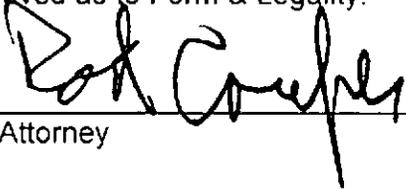
AYES: Carroll, Cook, Emery,
Eskridge, Hörnung, Schimek;
NAYS: None; ABSENT: Camp.

ADOPTED

NOV - 7 2011

BY CITY COUNCIL

Approved as to Form & Legality:



City Attorney

Requested by: Seacrest & Kalkowski for the Developer, NDOR, the Public Works & Utilities and Planning Departments for the City.

Reason for Request: To reflect a compromise between the parties.

11R-235

10/10/11 Council Proceedings:

COOK Moved to delay action on Bill No. 11R-235 four weeks to November 7, 2011.
Seconded by Hornung & carried by the following vote: Camp, Carroll, Cook, Emery, Eskridge, Hornung, Schimek; NAYS: None.

11/07/11 Council Proceedings:

HORNUNG Moved MTA #2 to Bill No. 11R-235 by substituting the attached I-80 West Lincoln Business Center Conditional Annexation and Zoning Agreement ("Substitute Agreement") for the I-80 West Lincoln Business Center Conditional Annexation and Zoning Agreement attached as Attachment "A" to Bill No. 11R-235 ("Original Agreement"). The Substitute Agreement modifies the Original Agreement as follows:

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6. On Exhibit C-2 of Exhibit G (NW 48th Street Agreement) the option to construct NW 50th Street south of West Vine Street as a private roadway or private drive with a public access easement has been deleted.

Seconded by Cook & carried by the following vote: AYES: Carroll, Cook, Emery, Eskridge, Hornung, Schimek; NAYS: None; ABSENT: Camp.

NW 48th St. Agreement

THE AGREEMENT WILL BE SCANNED

WHEN ALL NECESSARY SIGNATURES ARE OBTAINED

Miki Esposito
11/10