



ORDINANCE NO. **21602**

1 **AN ORDINANCE PROVIDING FOR THE LEVY OF A**
 2 **GENERAL BUSINESS OCCUPATION TAX;**
 3 **ESTABLISHING DEFINITIONS; PROVIDING FOR THE**
 4 **ADMINISTRATION, COLLECTIONS, RETURNS,**
 5 **DELINQUENCIES AND RECOVERY OF UNPAID**
 6 **AMOUNTS RELATED TO SUCH OCCUPATION TAX;**
 7 **SPECIFYING HOW SUCH TAX REVENUE WILL BE**
 8 **USED; PROVIDING A SUNSET PROVISION FOR THE**
 9 **TAX; AND RELATED MATTERS**

10 **BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LINCOLN,**
 11 **NEBRASKA AS FOLLOWS:**

12 **Section 1. Findings and Determinations.** The City Council of the City of Lincoln,
 13 Nebraska (the "City") hereby finds and determines as follows:

14 (a) Pursuant to the Community Development Law of the State of Nebraska,
 15 Chapter 18, Article 21, Sections 18 2101-18-2144, as supplemented by and including Sections 18
 16 2147 to 18 2153, Reissue Revised Statutes of Nebraska, 1943, as enacted or hereafter amended
 17 from time to time (the "Act"), the City has prepared and adopted the East Gateway Redevelopment
 18 Plan, which, in part, (1) provides for the development of the Shops at Lincoln redevelopment
 19 project ("**Shops at Lincoln Redevelopment Project**"), to be located generally along the north
 20 side of "O" Street between North 63rd Street and North 66th Street, and (2) describes the
 21 implementation of an enhanced employment area occupation tax to assist in repaying the costs of
 22 the Shops at Lincoln Redevelopment Project through designating the Shops at Lincoln
 23 Redevelopment Project as an enhanced employment area as that term is defined by Section 18-
 24 2103(11), Reissue Revised Statutes of Nebraska, as amended ("**Enhanced Employment Area**").
 25 The area to be designated as an enhanced employment area by this Ordinance is legally described
 26 on Exhibit A, which is attached hereto and incorporated herein by this reference.

1 (b) Pursuant to the Act, the City is authorized to levy and collect a general
2 business occupation tax upon the businesses and users of space within the Enhanced Employment
3 Area for the purpose of paying all or any part of the costs and expenses of the Shops at Lincoln
4 Redevelopment Project.

5 (c) It is necessary, desirable, advisable and in the best interests of the City that a general
6 business occupation tax be imposed within the Enhanced Employment Area as provided by the
7 Act for the purpose set forth in Section 1(b).

8 **Section 2. Definitions.** As used in this Ordinance, the following words and phrases shall
9 have the meanings ascribed to them in this Section 2, except where the context clearly indicates or
10 requires a different meaning:

11 (a) **"Person"** means any natural person, individual, partnership, association,
12 organization or corporation of any kind or character engaging in the business of operating a
13 General Business.

14 (b) **"General Business"** means any activity engaged in by any Person or caused to be
15 engaged in by such Person in which products or services are sold, leased or rented for any purposes
16 other than for resale, sublease or subrent.

17 (c) **"Taxpayer"** shall mean any Person engaged in the business of operating a General
18 Business as herein defined who is required to pay the tax herein imposed.

19 **Section 3. Tax Imposed; Collection of Tax.**

20 (a) On or after September 1, 2024, and in each calendar month thereafter, there is hereby
21 imposed a general business occupation tax upon each and every Person operating a General
22 Business within the Enhanced Employment Area for any period of time during a calendar month.
23 The amount of such tax shall be five-tenths of one percent (.5%) of all gross receipts for each
24 calendar month derived from the General Businesses subject to this tax. Such tax shall be imposed
25 on the gross receipts resulting from the sale, lease or rental of any products or services within the
26 Enhanced Employment Area, except that such tax shall not be imposed on any transaction which

1 is subject to tax under Sections 53-160, 66-489, 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602,
2 or 77-4008 or which is exempt from tax under Section 77-2704.24, Reissue Revised Statutes of
3 Nebraska, as amended from time to time. This tax is limited to sale, lease or rental of products or
4 services subject to sales tax under Sections 77-2701.04 to 77-2717 Reissue Revised Statutes of
5 Nebraska, as amended from time to time.

6 (b) The Person engaged in operating a General Business may itemize the tax levied on a
7 bill, receipt, or other invoice to the purchaser, but each Person engaged in such business shall
8 remain liable for the tax imposed by this Ordinance.

9 **Section 4. Return.** Each and every Person engaged in the operation of a General Business
10 within the Enhanced Employment Area for the calendar month beginning September 1, 2024, and
11 for each and every month thereafter, shall prepare and file, on or before the 25th day of the
12 following month on a form prescribed and furnished by the City Finance Director, a return for
13 such month, and at the same time pay to the City the tax herein imposed. The return shall be
14 verified and sworn to by the officer in charge of the business. The return shall be considered filed
15 on time if mailed in an envelope properly addressed to the City Finance Director, postage prepaid
16 and postmarked before midnight of the 25th of the appropriate month.

17 **Section 5. Tax Cumulative.**

18 (a) The levy of the tax under this Ordinance is in addition to all other fees, taxes, excises
19 and licenses levied and imposed under any contract or any other ordinances of the City, in addition
20 to any fee, tax, excise or license imposed by the state.

21 (b) Payment of the tax imposed by this Ordinance shall not relieve the Person paying the
22 same from payment of any other tax now or hereafter imposed by contract or ordinance or by this
23 Ordinance, including those imposed for any business or occupation he or she may carry on, unless
24 so provided therein. The occupation taxes imposed by this Ordinance shall be cumulative except
25 where otherwise specifically provided.

1 **Section 6. Use of Revenue.** The five-tenths of one percent (.5%) occupation tax imposed
2 by this Ordinance, less any administrative expenses, shall be used to fund any expenditures that
3 the City is lawfully authorized to make in connection with eligible public improvements within an
4 approved redevelopment project as permitted by the Act.

5 **Section 7. Failure to File Return; Delinquency; Assessment by City Finance Director.**

6 (a) If any Person neglects or refuses to file a return or make payment of the taxes as
7 required by this Ordinance, the City Finance Director shall make an estimate, based upon such
8 information as may be reasonably available, of the amount of taxes due for the period or periods
9 for which the Taxpayer is delinquent, and upon the basis of such estimated amount, compute and
10 assess in addition thereto interest on such delinquent taxes, at the rate of one percent (1.00%) per
11 month, or fraction thereof from the date when due and, when applicable, a penalty equal to ten
12 percent (10.00%) thereof. Any such interest due may be compounded quarterly.

13 (b) The City Finance Director shall give the delinquent Taxpayer written notice of such
14 estimated taxes, penalty, and interest, which notice must be served personally or by certified mail.

15 (c) Such estimate shall thereupon become an assessment, and such assessment shall be
16 final and due and payable from the Taxpayer to the City Finance Director ten (10) days from the
17 date of service of the notice or the date of mailing by certified mail; however, within such ten (10)
18 day period the delinquent Taxpayer may petition the City Finance Director for a revision or
19 modification of such assessment and shall, within such ten-day period, furnish the City Finance
20 Director the facts and correct figures showing the correct amount of such taxes.

21 (d) Such petition shall be in writing, and the facts and figures submitted shall be
22 submitted in writing and shall be given under oath of the Taxpayer.

23 (e) The City Finance Director may then modify such assessment in accordance with the
24 facts which he or she deems correct. Such adjusted assessment shall be made in writing, and notice
25 thereof shall be mailed to the Taxpayer within ten (10) days after receipt of the correct figures
26 from the Taxpayer; and all such decisions shall become final upon the expiration of thirty (30)

1 days from the date of service, unless proceedings are commenced within that time for appeal in
2 the District Court.

3 **Section 8. Administration; Miscellaneous Provisions.**

4 (a) The administration of the provisions of this Ordinance are hereby vested in the City
5 Finance Director, or his designee, who shall prescribe forms in conformity with this Ordinance for
6 the making of returns, for the ascertainment, assessment and collection of the tax imposed
7 hereunder, and for the proper administration and enforcement hereof.

8 (b) All notices required to be given to the Taxpayer under the provisions of this
9 Ordinance shall be in writing. Notices shall be mailed by registered or certified mail, postage
10 prepaid, return receipt requested, to the Taxpayer at his or her last known address.

11 (c) It shall be the duty of every Taxpayer to keep and preserve suitable records and other
12 books or accounts as may be necessary to determine the amount of tax for which he/she is liable
13 hereunder.

14 (1) Records of the gross receipts by which this tax is measured shall be kept separate and
15 apart from the records of other sales or receipts in order to facilitate the examination of
16 books and records as necessary for the collection of this tax.

1 (2) It shall be the duty of every such Taxpayer to keep and preserve for a period of four
2 (4) years all such books, invoices and other records, which shall be open for examination
3 at any time by the City Finance Director or his or her duly designated persons. If such
4 Person keeps or maintains books, invoices, accounts or other records, or any portion
5 thereof, outside of the state, upon demand of the City Finance Director he/she shall make
6 the same available at a suitable place within the City, to be designated by the City Finance
7 Director, for examination, inspection and audit by the City Finance Director or his or her
8 duly authorized persons. The Taxpayer shall reimburse the City for the reasonable costs
9 of the examination, inspection and audit if the City Finance Director determines that the
10 Taxpayer paid ninety percent or less of the tax owing for the period of the examination.

11 (3) The City Finance Director, in his or her discretion, may make, permit or cause to be
12 made the examination, inspection or audit of books, invoices, accounts or other records so
13 kept or maintained by such Person outside of the state at the place where same are kept or
14 maintained or at any place outside the state where the same may be made available,
15 provided such Person shall have entered into a binding agreement with the City to
16 reimburse it for all costs and expenses incurred by it in order to have such examination,
17 inspection or audit made in such place.

18 (d) For the purpose of ascertaining the correctness of a return, or for the purpose of
19 determining the amount of tax due from any Person, the City Finance Director or his or her duly
20 authorized persons, may conduct investigations concerning any matters covered by this Ordinance;
21 and may examine any relevant books, papers, records or memoranda of any such Person.

22 **Section 9. Recovery of Unpaid Tax by Action at Law.**

23 (a) The City Finance Director may also treat any such taxes, penalties or interest due and
24 unpaid as a debt due the City.

25 (b) In case of failure to pay the taxes, or any portion thereof, or any penalty or interest
26 thereon when due, the City may recover at law the amount of such taxes, penalties and interest in

1 any court of Lancaster County, Nebraska or of the county wherein the Taxpayer resides or has its
2 principal place of business having jurisdiction of the amounts sought to be collected.

3 (c) The return of the Taxpayer or the assessment made by the City Finance Director, as
4 herein provided, shall be prima facie proof of the amount due.

5 (d) The City Attorney may commence an action for the recovery of taxes due under this
6 Ordinance and this remedy shall be in addition to all other existing remedies, or remedies provided
7 in this Ordinance.

8 **Section 10. Suspension or Revocation of Licenses for Failure to Pay Tax; Hearing.** If
9 the Mayor or the Mayor's designee, after holding a hearing, shall find that any Person has willfully
10 evaded payment or collection and remittance of the tax imposed by this Ordinance, such official
11 may suspend or revoke any City license, permit or other approval held by such tax evader. Such
12 Person shall have an opportunity to be heard at such hearing to be held not less than seven (7) days
13 after notice is given of the time and place of the hearing to be held, addressed to the last known
14 place of business of such Person. Pending the notice, hearing and finding, any license, permit or
15 other approval issued by the City to the Person may be temporarily suspended. No suspension or
16 revocation hereunder shall release or discharge the Person from civil liability for the payment or
17 collection and remittance of the tax, nor from prosecution for such offense.

18 **Section 11. Sunset Provision.** The occupation tax imposed by this Ordinance shall
19 terminate and collection of the tax shall cease no later than the earlier of August 31, 2044, or upon
20 payment in full of all eligible public improvements within an approved redevelopment project to
21 be incurred and indebtedness issued by the City pursuant to the provisions of the Act, for which
22 such occupation tax receipts have been pledged.

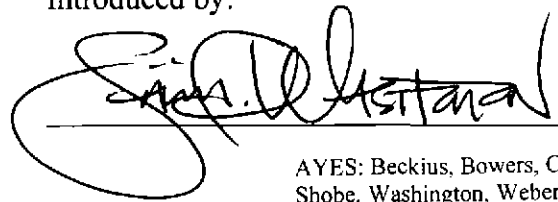
23 **Section 12. Conflicts.** All ordinances, resolutions or orders, or parts thereof in conflict
24 with the provisions of this Ordinance are to the extent of such conflict hereby repealed.

1 **Section 13. Severability.** If any section, paragraph, clause or provision of this Ordinance
2 shall for any reason be held to be invalid, the invalidity of the remainder hereof shall not be affected
3 thereby.

4 **Section 14. Headings of Sections Not Controlling.** The headings of sections of this
5 Ordinance are set forth herein for convenience of reference only and shall not affect the
6 construction or interpretation of this Ordinance or any section hereof.


7 **Section 15. Effective Date.** Pursuant to Article VII, Section 7 of the City Charter, this
8 ordinance shall be posted on the official bulletin board of the City, located on the wall across from
9 the City Clerk's office at 555 S. 10th Street, in lieu of and in place of newspaper publication with
10 notice of passage and such posting to be given by publication one time in the official newspaper
11 by the City Clerk. This ordinance shall take effect and be in force from and after its passage and
12 publication as herein and in the City Charter provided.

Introduced by:



AYES: Beckius, Bowers, Carlson, Duden,
Shobe, Washington, Weber; NAYS: None.

Approved as Form and Legality:


City Attorney

PASSED
MAY 13 2024
BY CITY COUNCIL


Approved this 16th day of May, 2024:

Mayor

Exhibit A

Legal Description for Enhanced Employment Area

Lot 3, Gateway Shopping Center Subdivision, except 1,943.08 square feet as described in Instrument No. 2002-62130 in the Office of the Register of Deeds for Lancaster County, Nebraska, City of Lincoln, Lancaster County, Nebraska (Parcel ID 17-21-322-003-000).

ORDINANCE NO. 21602

AN ORDINANCE Authorizing a five tenths of one percent (.5%) Occupation Tax, Effective September 1, 2024, on gross receipts for the operation of a general business within the designated enhanced employment area to be used to pay for construction and operation of Shops at Lincoln generally located at 6400 O Street. (Related to 24R-186, 24R-187, 24-50, 24-51) (Action date 5/13/24)

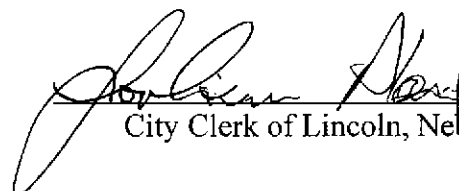
Read First Time	<u>April 29, 2024</u>
Read Second Time	<u>May 6, 2024</u>
Read Third Time	<u>May 13, 2024</u>
Passed	<u>May 13, 2024</u>
Published in	<u>Lincoln Journal Star</u>
on	<u>May 24, 2024</u>

CERTIFICATE

State of Nebraska)
) ss
County of Lancaster)

I, the undersigned, City Clerk of the City of Lincoln, Nebraska, do hereby certify that the within ordinance is the original Ordinance No. 21602 as passed by the City Council of said City, as indicated above, and as approved by the Mayor of said City and as the same appears of record in my office and is now in my charge remaining as City Clerk aforesaid.

IN WITNESS WHEREOF, I have hereunto set my hand officially and affixed the seal of the City of Lincoln, Nebraska this 15 day of May, 2024.



City Clerk of Lincoln, Nebraska

