

3125 Portia Street | P.O. Box 83581 • Lincoln, Nebraska 68501-3581 | P: 402.476.2729 • F: 402.476.6454 | www.lpsnrd.org

Memorandum

Date:

March 20, 2019

To:

Urban subcommittee

From:

Ed Ubben

Subject: Urban Subcommittee Minutes

The Urban Subcommittee met on March 19, 2019 at the District office at 5:30 pm. There are several items on the agenda. Present at the meeting was Mike DeKalb, (Chair), Bob Andersen, Debora Eagan, Tom Green, Luke Peterson, Milt Schmidt, Anthony Schutz and Ray Stevens. There was a quorum. Staff present was; Paul Zillig, Dave Potter, Jared Nelson, Kyle Hauschild, and Ed Ubben. Also present was Larry Ruth, Chairman of the Board, Brad Marshall (Olsson) and Teresa Hruza (Hamann Meadows Townhome Association).

- a. Consideration of a request to the City and NRD to amend the Lincoln Federal Bank Conservation Easement located southwest of 40th & Yankee Hill Road. Lincoln Federal Bank has requested an easement exchange on a conservation easement area jointly held by the NRD and City of Lincoln on a development, Wilderness Creek/Wilderness Hills, located southwest of 40th and Yankee Hill Road. It was discovered that Lincoln Federal had filled parts of the Conservation Easement. Brad Marshall with Olsson stated that Lincoln Federal and their contractor, Shanahan Construction, is in the process of removing the encroachment fill. The exchange would be at a 2:1 rate and would also need to be approved by the City. It was moved by Stevens, seconded by Peterson and voted six yea and two nay, by DeKalb and Andersen that the subcommittee recommend the Board of Directors approve the easement exchange with Lincoln Federal Bank on a development called Wilderness Creek/Wilderness Hills located southwest of 40th and Yankee Hill Road contingent upon legal counsel review. [ACTION]
- b. Consideration of a request from the City of Ashland for Community Assistance Program cost-share assistance on the construction of the Salt Creek Bank Stabilization Project at Silver Street. [SUSPENDED because of flood waters]



- c. Consideration of a request from the City of Ashland for Community Assistance Program cost-share assistance on the construction of the Drainage Ditch Improvement Project. --[SUSPENDED because of flood waters]
- d. Consider approval of the NRD Rainscaping Program --- [DEFERED]
- e. Consideration of a professional services contract for the design of erosion control measures to protect the Salt Creek Levee weir upstream of the Van Dorn Street Bridge. Nelson stated the LPSNRD received the latest USACE inspection comments in fall of 2018 and is working to address a few "Unacceptable" items related to bank erosion, located on the right bank of the levee between the Van Dorn St. Bridge and the Park Ave. Bridge. As a continued effort to maintain the levee, it is important to repair areas which have eroded badly, and to protect against future erosion. See attached background information for a map of eroded areas in need of repair, along with other information.

He also stated the NRD previously contracted Benesch in February, 2019 to obtain geotechnical soil borings of the repair area, in order to understand the soil conditions and check for dispersive clay soils. The soil test results will provide information necessary to design a robust solution. It was moved by Andersen, seconded by Stevens, and unanimously approved by the subcommittee to recommend the Board of Directors approve the Engineering Services Agreement with Alfred Benesch & Company for the Salt Creek Levee Erosion Repair near Van Dorn St Bridge, in an amount not to exceed, \$19,956, subject to legal counsel review. [ACTION]

- f. Consideration of a request from the Hamann Meadows Townhomes Association for Community Assistance Program cost-share assistance on the construction of the Hamann Meadows Townhome Association Dam Rehabilitation Project. Hauschild reported Hamman Meadows Townhomes Association is requesting \$11,948.79 cost share for 50% of the cost for the Phase II, Dam Rehabilitation Project. Phase I of the project was for the engineering and design, the Phase II portion is for the Construction, Engineering Services and Environmental Documentation. It was moved by DeKalb, seconded by Schutz, and unanimously approved by the subcommittee to recommend the Board of Directors approve 50% Community Assistance Program cost share assistance to the Hamann Meadows Townhome Association on Phase II (construction) of the Dam Rehabilitation Project in an amount not to exceed \$11,948.79. [ACTION]
- g. Consideration of an Interlocal Agreement with Lancaster County for the Little Salt Creek
 Watershed Master Plan Project #2 @ North 14th Street. Potter reported that the NRD and the
 City of Lincoln has completed a Master Plan on the Little Salt Creek Basin and identified a project LSC
 #2 and that Lancaster County has scheduled a bridge, F-88, replacement at the same location on North
 14th Street over Little Salt Creek, scheduled for construction in 2020. In cooperation with Lancaster
 County and to cause less disruption to the public it was determined to have a joint project. The Interlocal
 Agreement describes the duties and responsibilities of the parties; Lancaster County and NRD, with the

City of Lincoln cost sharing 50% with the NRD. The portion of the NRD work is a grade control structure. The estimated cost of the NRD's responsibility is estimated to be \$130,000. See the attached memo with the Interlocal Agreement to partner with Lancaster County. It was moved by Eagan, seconded by Andersen, and unanimously approved by the subcommittee to recommend the Board of Directors approve the Interlocal Agreement with Lancaster County to perform a joint project, LSC #2, and bridge replacement on Bridge F-88 at North 14th and Little Salt Creek. [ACTION]

Zillig then updated the subcommittee on the Salt Creek Resilience Study, City/NRD Stormwater Interlocal Agreement, Antelope Valley Project landrights, and the Deadmans Run Flood Reduction Project.

There being no further business the meeting adjourned at 6:47pm.



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Memorandum

Date: March 15, 2019

To: Urban subcommittee

From: Ed Ubben

Subject: Urban Subcommittee Agenda

The Urban Subcommittee will meet on March 19, 2019 at the District office at 5:30 pm. There are several items on the agenda.

Attached is some background information:

- a. Consideration of a request to the City and NRD to amend the Lincoln Federal Conservation

 Easement located southwest of 40th & Yankee Hill Road. Carryover from last month. We have been working with Olsson and Lincoln Federal on a resolution. (See attachments) [ACTION]
- b. Consideration of a request from the City of Ashland for Community Assistance Program cost-share assistance on the construction of the Salt Creek Bank Stabilization Project at Silver Street.

 A bid opening and city approval for this project and item (c. below) is scheduled for March 19th.
 More information will be available at the subcommittee meeting. The NRD approved Phase I of this request and item (c.) at the December Board of Directors Meeting which covered; design, engineering, construction services and permitting. [ACTION]
- c. <u>Consideration of a request from the City of Ashland for Community Assistance Program cost-share assistance on the construction of the Drainage Ditch Improvement Project.</u>—See item (b.) above. [ACTION]
- d. Consider approval of the NRD Rainscaping Program --- Contained within the Interlocal Stormwater Agreement with the City of Lincoln is a Rainscaping program. This new program is for the rest of the NRD District. See attachments. [ACTION]



- e. <u>Consideration of a professional services contract for the design of erosion control measures to protect the Salt Creek Levee weir upstream of the Van Dorn Street Bridge.</u> --- See the attached memo, map and photos. [ACTION]
- f. Consideration of a request from the Hamann Meadows Townhomes Association for Community Assistance Program cost-share assistance on the construction of the Hamann Meadows Townhome Association Dam Rehabilitation Project. --- Hamman Meadows Townhomes Association is requesting \$11,939.86 cost share for 50% of the cost for the Phase II, Dam. Rehabilitation Project. Phase I of the project was for the engineering and design, the Phase II portion is for the Construction, Engineering Services and Environmental Documentation. [ACTION]
- g. Consideration of an Interlocal Agreement with Lancaster County for the Little Salt Creek
 Watershed Master Plan Project #2 @ North 14th Street. --- See the attached memo with the
 Interlocal Agreement to partner with Lancaster County. [ACTION]

Reports

- Salt Creek Floodplain Resiliency Study Update.
- NRD/City of Lincoln Stormwater Interlocal Agreement
- Antelope Valley Project landrights close out.
- Deadmans Run Flood Reduction Project:
 - 1. Project Timeline & future actions.
 - 2. Agreement with UNL.
 - 3. Value Engineering workshop.
 - 4. Railroad Bridge Flume



January 24, 2019

Mr. Paul Zillig General Manager Lower Platte South Natural Resources District 3125 Portia Street Lincoln, NE 68521

Re:

Wilderness Creek / Wilderness Hills

Request for Conservation Easement Exchange

Olsson Project No. 015-0625

Dear Mr. Zillig,

On behalf of Lincoln Federal Bancorp, Inc. ("LFB"), owner of the real property legally described as a portion of Lot 68, located in the northeast quarter of Section 30, all located all located in Lancaster County, Nebraska ("the Property"). LFB is requesting an easement release of a portion of the City of Lincoln/LPSNRD Conservation Easement on the Property and a new dedicated easement is being proposed in exchange on the same Property. The proposed conservation easement is mitigating the vacated easement request at an area ratio of 2:1.

In 2006, when the easement boundary was determined, the area was designated as flood prone area. Today, the flood plain is mapped with FEMA and proposed revisions with the Wilderness Creek/Wilderness Hills developments. Exhibit 'A' shows the development area, easement release area, proposed easement area, and existing (blue) and proposed (green) flood plain limits. The development plans and drainage study have been approved by the City of Lincoln.

Enclosed find the following documents for the above-mentioned project:

- 1. Exhibit 'A' Easement Release and Dedication Exhibit
- 2. Legal Descriptions

A majority of the flood plain is being removed in the proposed easement release area. Olsson has submitted a CLOMR to FEMA for their review and a LOMR will be submitted following the completion of the grading. The existing easement will maintain the flood plain within the easement boundary preserving the intent of the easement to be within the flood plain areas for the Southeast Upper Salt Creek Watershed.

The proposed conservation easement will be dedicated in exchange for the easement release area. The proposed easement is adjacent to the existing conservation easement and flood plain that was not originally mapped at the time the conservation easement was determined in 2006. The additional easement provides the City/NRD to obtain conservation easement that may have been requested if the easement was obtained after the flood plain was established.

The above proposal should benefit both LFB and the City/NRD. LFB has proposed to dedicate a larger easement area than being released, a ratio of 2:1.

Page 2 January 23, 2019

We appreciate the Boards consideration of the above request and look forward to working with you on this proposed easement exchange in the Wilderness Creek / Wilderness Hills development. If you require further information or have any questions, please do not hesitate to contact me at bmarshall@olssonassociates.com or (402) 458-5672.

Sincerely,

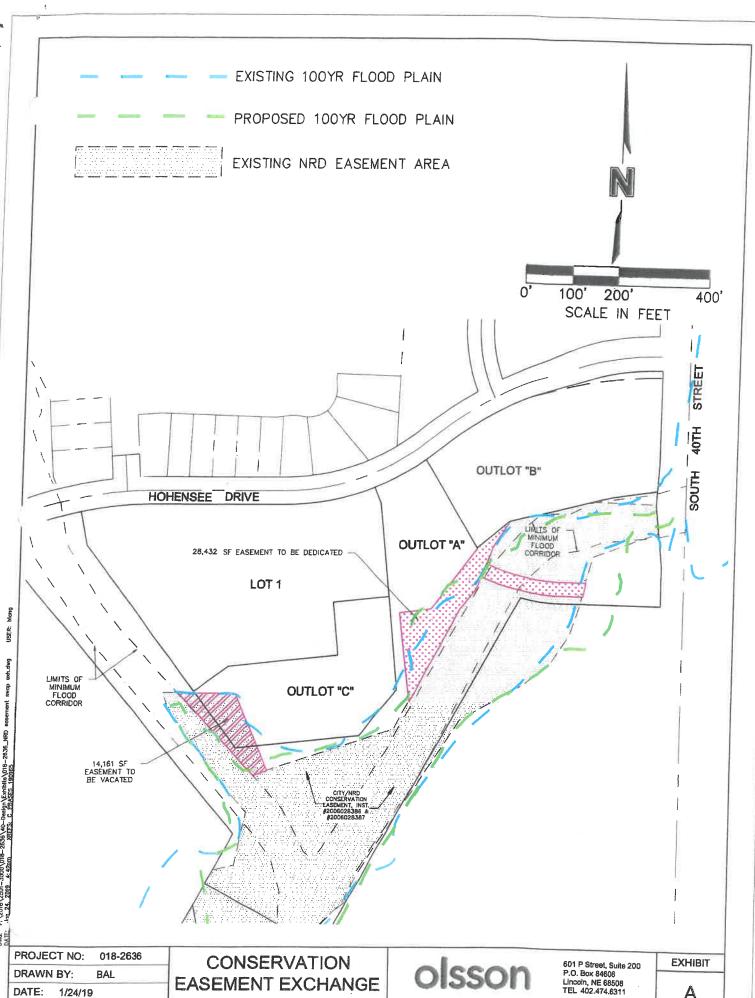
Brad Marshall. Brad Marshall. P.E.

Enclosures.

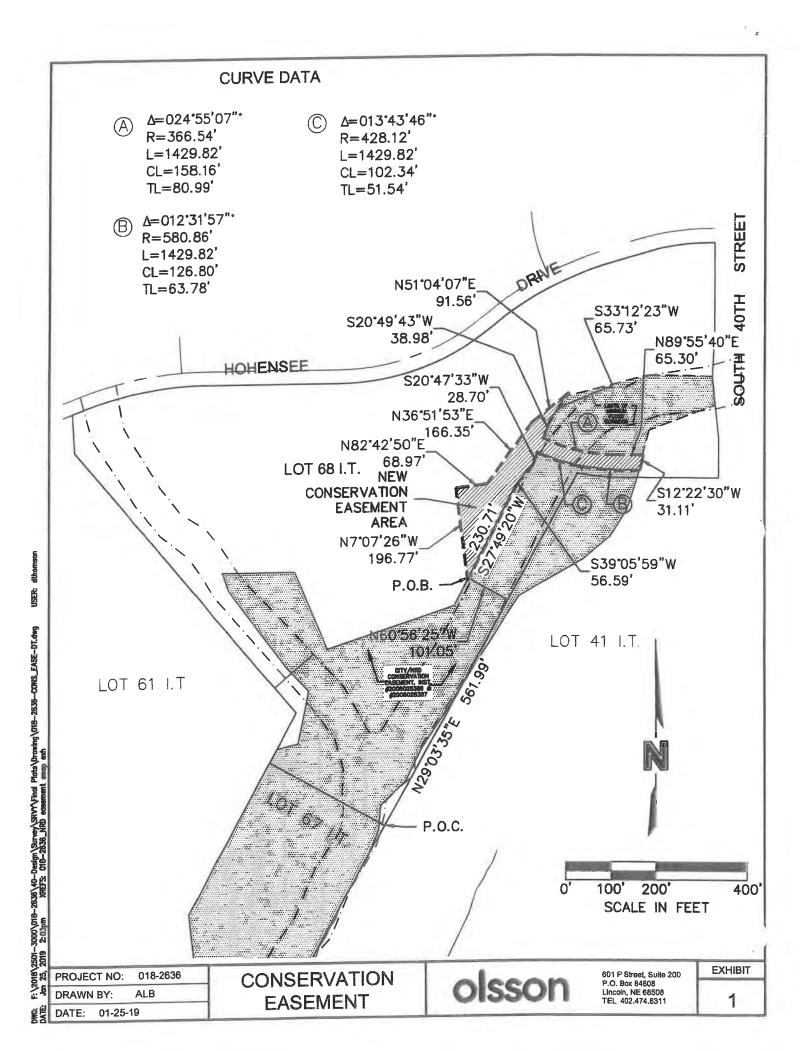
Wilderness Hills (Lincoln Federal) Conservation Easement NRD + City of Lincoln Joint Easement



2018 Aerial Imagery



A



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DATE:

CONSERVATION EASEMENT RELEASE **LEGAL DESCRIPTION**

A TRACT OF LAND COMPOSED OF A PORTION OF LOT 68 I.T., LOCATED IN THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6TH P.M., LINCOLN LANCASTER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A SOUTHEAST CORNER OF LOT 68 I.T., SAID POINT BEING A NORTHEAST CORNER OF LOT 67 I.T. OF SAID NORTHEAST QUARTER, SAID CORNER ALSO BEING ON A WEST LINE OF LOT 41 I.T. OF SAID NORTHEAST QUARTER; THENCE NORTHWESTERLY ON AN ASSUMED BEARING OF N60°56'25"W, ON A SOUTH LINE OF SAID LOT 68 I.T., SAID LINE BEING A NORTH LINE OF SAID LOT 67 I.T., A DISTANCE OF 288.77' TO A SOUTHWEST CORNER OF SAID LOT 68 I.T., SAID POINT BEING A NORTHEAST CORNER OF SAID LOT 67 I.T., SAID POINT ALSO BEING ON AN EAST LINE OF LOT 61 I.T. OF SAID NORTHEAST QUARTER; THENCE N28°16'49"E, ON AN EAST LINE OF SAID LOT 68 I.T., A DISTANCE OF 123.87' TO A NORTHWEST CORNER OF LOT 68 I.T., SAID POINT BEING A NORTHEAST CORNER OF SAID LOT 61 I.T.; THENCE N40°11'59"W, ON A SOUTH LINE OF SAID LOT 68 I.T., SAID LINE BEING A NORTH LINE OF SAID LOT 61 I.T., A DISTANCE OF 72.92 TO A POINT; THENCE N49°48'01"E, A DISTANCE OF 113.43' TO THE TRUE POINT OF BEGINNING; THENCE N42°47'19"W, A DISTANCE OF 245.32 TO A POINT ON A NORTH LINE OF A CONSERVATION EASEMENT AGREEMENT, AS REFERRED TO IN INSTRUMENT NUMBER 2006028386, RECORDS OF LANCASTER COUNTY; THENCE N90°00'00"E, ON A NORTH LINE OF SAID CONSERVATION EASEMENT, A DISTANCE OF 124.82' TO A NORTHEAST CORNER OF SAID CONSERVATION EASEMENT; THENCE S22°57'15"E, ON AN EAST LINE OF SAID CONSERVATION EASEMENT, A DISTANCE OF 184.62' TO A POINT; THENCE S71°36'29"W, A DISTANCE OF 31.80 TO THE POINT OF BEGINNING, SAID TRACT CONTAINS A CALCULATED AREA 14,161.72 SQUARE FEET OR 0.32 ACRES, MORE OR LESS.

> JANUARY 21, 2019 F:\2018\2501-3000\018-2636\40-DESIGN\SURVEY\SRVY\FINAL PLATS\DOCUMENTS\CONSERVATION EASEMENT RELEASE.DOCX

PROJECT NO: 018-2636 DRAWN BY: AL B

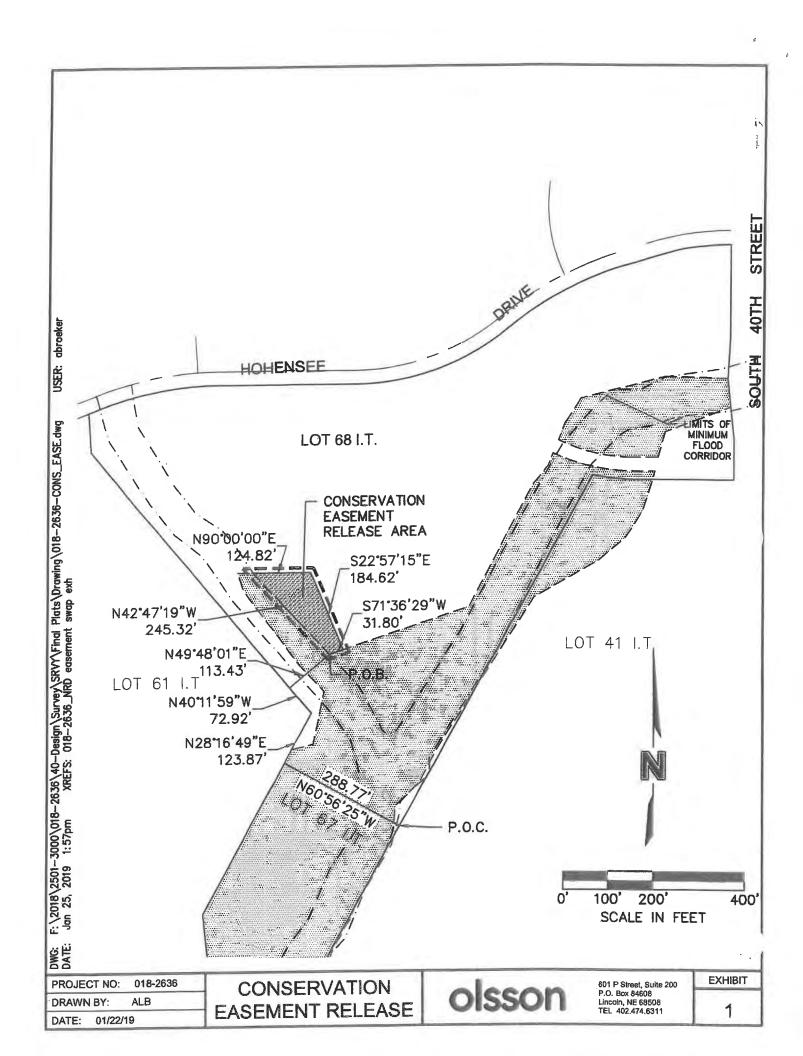
1-23-19

CONSERVATION EASEMENT RELEASE-LEGAL

601 P Street, Suite 200 P.O. Box 84608 TEL 402.474.6311

EXHIBIT

1



CONSERVATION EASEMENT LEGAL DESCRIPTION

A TRACT OF LAND COMPOSED OF A PORTION OF LOT 68 I.T., LOCATED IN THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 9 NORTH, RANGE 7 EAST OF THE 6TH P.M., LINCOLN LANCASTER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A SOUTHEAST CORNER OF LOT 68 I.T., SAID POINT BEING A NORTHEAST CORNER OF LOT 67 I.T. OF SAID NORTHEAST QUARTER, SAID CORNER ALSO BEING ON A WEST LINE OF LOT 41 I.T. OF SAID NORTHEAST QUARTER; THENCE NORTHEASTERLY ON AN ASSUMED BEARING OF N29°03'35"E, ON AN EAST LINE OF SAID LOT 68 I.T., SAID LINE BEING A WEST LINE OF SAID LOT 41 I.T., A DISTANCE OF 561.99' TO A POINT; THENCE N60°56'25"W, A DISTANCE OF 101.05' TO THE TRUE POINT OF BEGINNING; THENCE N07°07'26"W, A DISTANCE OF 196.77' TO A POINT; THENCE N82°42'50"E, A DISTANCE OF 68.97' TO A POINT; THENCE N36°51'53"E, A DISTANCE OF 166.35' TO A POINT; THENCE N51°04'07"E, A DISTANCE OF 91.56' TO A POINT ON A NORTH LINE OF A CONSERVATION EASEMENT AGREEMENT, AS REFERRED TO IN INST. NO. 2006-28386, RECORDS OF LANCASTER COUNTY; THENCE S33°12'23"W, ON A WEST LINE OF SAID CONSERVATION EASEMENT, A DISTANCE OF 65.73' TO A POINT; THENCE S20°49'43"W, ON A WEST LINE OF SAID CONSERVATION EASEMENT, A DISTANCE OF 38.98' TO A POINT OF NON TANGENT CURVATURE; THENCE ALONG A NON TANGENT CURVE TO THE LEFT. HAVING A RADIUS OF 366.54 FEET; A DELTA ANGLE OF 24 DEGREES 55 MINUTES 07 SECONDS, AN ARC LENGTH OF 159.41 FEET, A CHORD BEARING OF SOUTH 76 DEGREES 26 MINUTES 22 SECONDS EAST, AND A CHORD DISTANCE OF 158.16 FEET TO A POINT; THENCE NORTH 89 DEGREES 55 MINUTES 40 SECONDS EAST, A DISTANCE OF 65.30 FEET TO A POINT; THENCE SOUTH 12 DEGREES 22 MINUTES 30 SECONDS WEST, A DISTANCE OF 31.11 FEET TO A NORTH LINE OF A CONSERVATION EASEMENT AGREEMENT AS REFERRED TO IN INST. NO. 2006-28387, RECORDS OF LANCASTER COUNTY, SAID POINT BEING A POINT OF NON TANGENT CURVATURE, THENCE ALONG A NON TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 580.86 FEET; A DELTA ANGLE OF 12 DEGREES 31 MINUTES 57 SECONDS, AN ARC LENGTH OF 127.05 FEET, ALONG A NORTH LINE OF SAID CONSERVATION EASEMENT, A CHORD BEARING OF NORTH 86 DEGREES 32 MINUTES 34 SECONDS WEST, AND A CHORD DISTANCE OF 126.80 FEET TO A POINT ON A NORTH LINE OF A CONSERVATION EASEMENT AGREEMENT AS REFERRED TO IN SAID INST. NO. 2006-28386, SAID POINT BEING A POINT OF NON TANGENT CURVATURE, THENCE ALONG A NON TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 428.12 FEET; A DELTA ANGLE OF 13 DEGREES 43 MINUTES 46 SECONDS, AN ARC LENGTH OF 102.59 FEET, ALONG A NORTH LINE OF A CONSERVATION EASEMENT AGREEMENT AS REFERRO TO IN SAID INST. NO. 2006-28386, A CHORD BEARING OF NORTH 72 DEGREES 09 MINUTES 54 SECONDS WEST, AND A CHORD DISTANCE OF 102.34 FEET TO A POINT; THENCE S20°47'33"W, ON A WEST LINE OF SAID CONSERVATION EASEMENT, A DISTANCE OF 28.70' TO A POINT; THENCE S39°05'59"W, ON A WEST LINE OF SAID CONSERVATION EASEMENT, A DISTANCE OF 56.59' TO A POINT; THENCE S27°49'20"W, ON A WEST LINE OF SAID CONSERVATION EASEMENT, A DISTANCE OF 230.71' TO THE POINT OF BEGINNING, SAID TRACT CONTAINS A CALCULATED AREA 28,431.59 SQUARE FEET OR 0.65 ACRES, MORE OR LESS.

JANUARY 25, 2019 F:\2018\2501-3000\018-2636\40-DESIGN\SURVEY\SRVY\FINAL PLATS\DOCUMENTS\CONSERVATION EASEMENT .DOCX

PROJECT NO:

DRAWN BY:

018-2636

DATE: 1-25-19

CONSERVATION EASEMENT- LEGAL

olsson

601 P Street, Suite 200 P.O. Box 84608 Lincoln, NE 68508 TEL 402.474.6311 **EXHIBIT**

1







EXECUTIVE ORDER

076443

BY VIRTUE OF THE AUTHORITY VESTED IN ME by the Charter of the City of Lincoln,

Nebraska:

BY VIRTUE OF THE AUTHORITY VESTED IN ME by the Charter of the City of Lincoln, Nebraska:

The attached Settlement Agreement between the City of Lincoln and Lincoln Federal Bancorp, Buffalo Grass, Security Financial Life Insurance Co., B&J Partnership, Allen R. and Susan K. Hohensee, and the Lower Platte South Natural Resources District with regard to conservation easements and location of trails within the development of Wilderness Hills generally located at 40th Street and Rokeby Road upon the terms and conditions as set forth in the Settlement Agreement, is hereby approved and I have executed the same on behalf of the City.

The City Clerk is directed to return two originals to Rick Peo, City Attorney's Office, for transmittal to the Owners and the NRD.

Approved as to Form & Legality:

Chief Asst. City Attorney

SETTLEMENT AGREEMENT

RECITALS

I.

Lincoln Federal, Buffalo Grass, Security Financial, B & J, and Hohensee are collectively the owner in fee simple of Lot 41, Irregular Tract, located in the east half of Section 30, Township 9 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska, hereinafter referred to as "Lot 41."

П.

Lincoln Federal is the owner in fee simple of Lots 42, 43, 46 and the Southeast Quarter of the Southwest Quarter, all located in Section 30, Township 9 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska, hereinafter referred to as "Lot 42," "Lot 43," and the "SE 1/4 SW 1/4," respectively.

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Lincoln Federal, Buffalo Grass, Security Financial, B & J, and Hohensee are hereinafter collectively referred to herein as "Owners."

Lot 41, Lot 42, Lot 43, Lot 46, and the SE 1/4 SW 1/4 are hereinafter collectively referred to herein as the "Property."

V.

The City and NRD desire to acquire permanent conservation easements over the Property, which are located within the 100-year floodprone area as designated in the Southeast Upper Salt Creek Watershed Master Plan dated October 2003. The conservation easement areas to be acquired over Lot 41, Lot 42, Lot 43, Lot 46, and the SE 1/4 SW 1/4 are individually referred to as the "Lot 41 Easement Area," "Lot 42 Easement Area," "Lot 43 Easement Area," and "SE 1/4 SW 1/4 and Lot 46 Easement Area," respectively. The Lot 42 Easement Area, Lot 43 Easement Area, and the SE 1/4 SW 1/4 and Lot 46 Easement Area are hereinafter collectively referred to as the "Combined Easement Area." The Combined Easement Area and the Lot 41 Easement Area are collectively referred to herein as the "Conservation Easements."

VI.

Owners have proposed to develop the Property for commercial and residential uses under a use permit and preliminary plat. The proposed development and platting of the Property will require the dedication of easements for a public trail and sanitary sewer and the dedication of 8.06 acres of parkland.

VII.

Owners have requested the City to relocate the public trail to the east side of Drainageway B as identified in the Conservation Easement Agreements. The City is willing to relocate the trail as requested by Owners provided Owners agree to build a bridge to allow the trail to cross back over the channel over Drainageway C so that the trail can proceed west to 27th Street and east to 40th Street.

VIII.

Owners are willing to grant the Conservation Easements in exchange for the following consideration: (a) \$172,155.00 for the value of the parkland dedicated to the City; (b) \$277,500.00 cash; (c) inclusion of 5.01 acres of the 8.06 acres of parkland within the Conservation Easements; (d) inclusion of the trail and sanitary sewer easements within the Conservation Easements to the maximum extent practicable; and (5) approval of a use permit and preliminary plat that includes the

General Compatible Uses and Specific Permitted Uses and Practices set forth in the Conservation Easement Agreements.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual exchange of the covenants and agreements hereinafter set forth, in accordance with the foregoing Recitals, the sufficiency of which is hereby acknowledged, the parties agree as follows:

- 1. Owners hereby grant the Conservation Easements to the City and NRD, in the form attached hereto as Exhibit 1 (Lot 41 Easement Area) and Exhibit 2 (Combined Easement Area) and incorporated herein by this reference over the Property restricting its future use.
- 2. Owners shall dedicate to the City as part of any final plat of the Property 8.06 acres of land for park purposes.
- 3. The City agrees to relocate the trail from the west side to the east side of Drainageway B and Owners agree, at Owners' own cost and expense, to build a bridge, designed to meet AASHTO standards and flood standards to allow the trail to cross back over the channel over Drainageway C so that the trail may proceed west to 27th Street and east to 40th Street. Owners shall provide the City with a bond, escrow, or other security agreement approved by the City Law Department in the amount of \$25,000 to guarantee construction of said bridge prior to approval of the first final plat of Lots 41, 42, and 43 or any portion thereof. The final location of the trail and bridge will be determined at the time of construction.
- 4. Within thirty (30) days of the date this Settlement Agreement is executed, City shall pay Owners \$277,500.00 cash as the initial element of consideration for the Conservation Easements.
- 5. As an additional, future element of the total consideration due Owners, Owners' use permit and final plat, as approved by the City, shall include or reflect the following: (a) placement of 5.01 acres of the 8.06 acres of required parkland within the Conservation Easements; (b) placement of the trail and sanitary sewer easements within the Conservation Easements to the maximum extent practicable as presently reflected on Exhibit C attached to each Conservation Easement Agreement; and (c) the General Compatible Uses and Specific Permitted Uses and Practices set forth in the Conservation Easement Agreements.

- Owners in the amount of \$172,155.00 for the parklands described above. Such compensation shall be made first from Neighborhood Park & Trail Impact Fees to the extent the City's Impact Fee Ordinance is valid and enforceable. The reimbursement shall be repaid from Neighborhood Park and Trail Impact Fees collected first from the Property and second from the same benefit district in which the Property is located. In no event shall reimbursement exceed the impact fees that would otherwise be due for the entire development of the Property. Any reimbursement to be paid from impact fees shall not constitute a general obligation or debt of the City. No reimbursement shall be made prior to and unless the Impact Fee Ordinance is finally determined to be valid and enforceable. Notwithstanding the park land dedication requirements in Lincoln Municipal Code §26.23.160, and the foregoing provisions of this Paragraph 6, Owners shall be compensated in cash for the parklands described above if the Impact Fee Ordinance is found to be invalid or unenforceable by a court of competent jurisdiction. Such cash payment shall be made within ninety (90) days of the date on which a final order is entered finding the Impact Fee Ordinance invalid or unenforceable.
- 7. In addition to the consideration set forth in Paragraphs 4, 5 and 6 above, the City agrees that if the cell tower or another low traffic use approved by the City is located outside the Lot 41 Easement Area and in the area designated as Proposed Communications Tower on Exhibit 3, the City will allow a right-in and right-out access drive off of South 40th Street for such use, provided the use does not exceed ten (10) trips per day (unless otherwise approved by the City) and the driveway may be graded and constructed without encroaching into the Lot 41 Easement Area. In the event the City does not substantially approve the Specific Permitted Uses and Practices set forth in the Conservation Easement Agreements as required by Paragraph 5(c), City shall pay, and Owners shall accept in full satisfaction only of that element of the total consideration due Owners, the sum of \$792,300.00. All other obligations binding on the City under this Settlement shall remain binding. Such payment shall be made within ninety (90) days of the date on which a use permit or final plat is acted upon.
- 8. Following acquisition of the Conservation Easements, City shall accept any offered donation of fee title ownership and maintenance obligations over that portion of the Combined Easement Area south of Drainageway C, except for the Wetland Mitigation Area, as shown on the attached Exhibit 3.

- 9. This Settlement Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, devisees, personal representatives, successors, and assigns.
- 10. Governing Law. This Settlement Agreement shall be interpreted according to the laws of the State of Nebraska.
- 11. This Settlement Agreement may only be amended or modified in a writing signed by all the Parties to this Settlement Agreement.
- 12. 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.
- 13. The Parties agree that this Settlement Agreement shall be duly filed by the City and NRD with the Lancaster County Register of Deeds upon execution and acceptance by the City and NRD.
- 14. This Settlement Agreement and attachments hereto, along with the Conservation Easement Agreements attached as Exhibits 1 and 2, constitute the entire agreement among the Parties regarding the Conservation Easements. In the event of a conflict among this Settlement Agreement and the Conservation Easements, this Settlement Agreement is controlling.

IN WITNESS WHEREOF, the Parties hereto hereby execute this Agreement as of the date set forth above.

LINCOLN EEDERAL BANCORP, INC.

Bv:

Title:

BUFFALO GRASS, LLC.,

a Nebraska limited liability company

Rw

Title

SECURITY FINANCIAL LIFE INSURANCE CO., a Nebraska corporation

By:

Title:

B & J PARTNERSHIP, LTD., a Nebraska limited partnership

By:

Title:

ALLEN R. HOHENSEE

SUSAN K. HOHENSEE

CITY OF LINCOLN, NEBRASKA

By:

Mayor Coleen J. Sepg

LOWER PLATTE SOUTH NATURAL RESOURCES DISTRICT

By:

Glenn D. Johnson General Manager

-6-

Attest:

Lity Clerk

STATE OF NEBRASKA)) ss: COUNTY OF LANCASTER)		
The foregoing instrument was acknowledged before me this day of Lincoln Federal Bancorp, Inc., on behalf of said corporation.		
(SEAL) GENERAL NOTARY - Sizis of Nebraska MATTHEW L. LYMAN My Comm. Bop. Sept. 9, 2006 Notary Public		
STATE OF NEBRASKA)) ss: COUNTY OF LANCASTER)		
The foregoing instrument was acknowledged before me this 16 th day of 2006, by 2006,		
(S E A L) GENERAL NOTARY - State of Nebraska MATTHEW L LYMAN My Comm. Exp. Sept. 9, 2008 Notary Public		
STATE OF NEBRASKA)) ss: COUNTY OF LANCASTER)		
The foregoing instrument was acknowledged before me this day of		
GENERAL NOTARY-State of Nebraska JOANNE P. MOSLEY My Corror. Exp. Sept. 16, 2008 Notary Public		

STATE OF NEBRASKA)
COUNTY OF LANCASTER) ss:
The foregoing instrument was acknowledged before me this loth day of May, 2006, by Llay F. Smith General fartner of B&J Partnership, Ltd., a Nebraska limited partnership, on behalf of said limited partnership. (SEAL) GENERAL NOTARY - State of Nebraska MATTHEW L. LYMAN MY Comm. Epp. Sept. 9, 2006 Notary Public
STATE OF NEBRASKA)) ss:
COUNTY OF LANCASTER)
The foregoing instrument was acknowledged before me this 2 day of , 2006, by Allen R. Hohensee and Susan K. Hohensee, husband and wife.
(SEAL) CENERAL MOTARY - State of Nebresites RICHARD L. BREDENKAMP My Comm. Exp. Feb. 28, 2008 Notary Public
STATE OF NEBRASKA) ss:
COUNTY OF LANCASTER)
The foregoing instrument was acknowledged before me this 31 st day of 2006, by Coleen J. Seng, Mayor of the City of Lincoln, Nebraska on behalf of the City of Lincoln, Nebraska.
(SEAL) GENERAL NOTIFIY - State of Nobrasia SANCY L DUBAS My Corren. Equ. Apr. 27, 2010 Notary Public

STATE OF NEBRASKA)
COUNTY OF LANCASTER) ss:)
The foregoing ins. 2006, by Gle South Natural Resources District.	strument was acknowledged before me this day of enn D. Johnson, General Manager, on behalf of the Lower Platte
(SEAL)	Kow Juckman
GENERAL NOTARY-State of Nebraska KAREN SIECKMEYER My Comm. Exp. Aug. 28, 2008	Notary Public

EXHIBIT "1"

CONSERVATION EASEMENT AGREEMENT (Preservation of Floodprone Area)

T	HIS CONSERVATION EASEMENT A	GREEMENT is entered into as of this
	2006, by and between	LINCOLN FEDERAL BANCORP, INC.,
		imited liability company, ("Buffalo Grass");
SECURITY F	INANCIAL LIFE INSURANCE CO., al	Nebraska corporation, ("Security Financial");
B&JPARTN	ERSHIP, LTD., a Nebraska limited part	nership, ("B & J"); ALLEN R. HOHENSEE
and SUSAN	K. HOHENSEE, husband and wife, a	s joint tenants with right of survivorship,
("Hohensee");	the CITY OF LINCOLN, NEBRASKA	("City") and the LOWER PLATTE SOUTH
NATURAL R	ESOURCES DISTRICT ("NRD"), colle	ectively referred to herein as the "Parties."

RECITALS

I.

Lincoln Federal, Buffalo Grass, Security Financial, B & J, and Hohensee are collectively the owner in fee simple of Lot 41, Irregular Tract, (Lot 41) located in the east half of Section 30, Township 9 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska, including portions thereof referred to herein as the "Lot 41 Easement Area." The Lot 41 Easement Area is more particularly described as follows:

A portion of Lot 41, Irregular Tract located in the east half of Section 30, Township 9 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska, more particularly described as follows:

Beginning at the southeast corner of Lot 41, Irregular Tract, thence South 48° 17' 25" West a distance of 611.07 feet; thence South 65° 55' 08" West a distance of 179.00 feet; thence southwest a distance of 185.01 feet along a tangential curve concave northwest having a radius of 107.08 feet and a central angle of 98° 59' 43"; thence North 15° 05' 09" West a distance of

72.44 feet; thence North 25° 06' 19" West a distance of 103.56 feet; thence North 67° 56' 03" West a distance of 159.48 feet; thence North 73° 23' 53" West a distance of 170.43 feet; thence North 49° 57' 18" West a distance of 358.87 feet; thence North 71° 59' 35" West a distance of 139.85 feet; thence North 87° 30' 44" West a distance of 88.38 feet: thence South 77° 38' 34" West a distance of 58.14 feet; thence west a distance of 103.00 feet along a tangential curve concave north having a radius of 56.35 feet and a central angle of 104° 43' 13"; thence North 02° 21' 47" East a distance of 24.49 feet; thence North 29° 12' 10" East a distance of 23.21 feet; thence North 29° 12' 17" East a distance of 604.88 feet; thence North 34° 07' 45" East a distance of 903.63 feet; thence North 29° 03' 35" East a distance of 228.21 feet; thence South 21° 02' 12" West a distance of 28.24 feet; thence South 34° 14' 58" West a distance of 20.75 feet; thence South 24° 17' 29" West a distance of 19.92 feet; thence South 32° 45′ 50" West a distance of 14.06 feet; thence South 33° 04' 17" West a distance of 16.56 feet; thence South 17° 52' 44" West a distance of 50.42 feet; thence South 26° 20' 50" West a distance of 40.39 feet; thence South 26° 20' 45" West a distance of 76.78 feet; thence South 29° 21' 28" West a distance of 91.79 feet; thence South 25° 42' 35" West a distance of 59.93 feet: thence S 27° 28' 28" West a distance of 84.53 feet; thence South 15° 15' 17" West a distance of 37.37 feet; thence South 26° 38' 27" West a distance of 131.95 feet; thence South 18° 03' 17" West a distance of 138.48 feet; thence South 27° 38' 43" West a distance of 43.28 feet; thence South 10° 41' 01" West a distance of 53.56 feet; thence South 18° 16' 01" West a distance of 124.65 feet; thence South 50° 42' 37" West a distance of 14.21 feet; thence South 42° 46' 08" West a distance of 54.49 feet; thence South 65° 19' 23" West a distance of 40.72 feet; thence South 18° 57' 15" East a distance of 104.68 feet; thence South 35° 34' 35" West a distance of 276.64 feet; thence South 76° 27' 11" West a distance of 29.89 feet; thence South 01° 23' 47" East a distance of 32.95 feet; thence South 35° 16' 35" West a distance of 123.65 feet; thence South 54° 35' 46" West a distance of 58.89 feet; thence South 53° 44' 48" East a distance of 32.23 feet; thence North 52° 17' 50" East a distance of 21.40 feet; thence North 64° 01' 51" East a distance of 8.41 feet; thence North 71° 39' 05" East a distance of 8.60 feet; thence North 82° 09' 53" East a distance of 11.34 feet; thence South 87° 10' 21" East a distance of 21.70 feet; thence South 80° 57' 13" East a distance of 10.86 feet; thence South 70° 01' 28" East a distance of 10.86 feet; thence South 59° 04' 47" East a distance of 10.86 feet; thence South 52° 04' 13" East a distance of 33.76 feet; thence South 38° 22' 30" East a distance of 9.68 feet; thence North 42° 24' 04" East a distance of 4.68 feet; thence North 71° 14' 34" East a distance of 34.21 feet; thence South 17° 13' 52" East a distance of 62.82 feet; thence South 63° 40' 53" East a distance of 40.60 feet; thence North 86° 32' 59" East a distance of 239.06 feet; thence South 52° 21' 08" East a distance of 53.02 feet; thence North 36° 09' 31" East a distance of 45.23 feet; thence North

86° 33' 20" East a distance of 405.53 feet; thence South 62° 43' 53" East a distance of 45.58 feet; thence South 78° 35' 51" East a distance of 121.40 feet; thence South 88° 45' 36" East a distance of 231.05 feet; thence North 78° 04' 14" East a distance of 72.57 feet; thence North 83° 35' 21" East a distance of 89.56 feet; thence North 52° 23' 38" East a distance of 93.41 feet; thence North 71° 32' 41" East a distance of 20.56 feet. And, also:

Beginning at the northwest corner of Lot 41, Irregular Tract, thence east a distance of 127.04 feet along a non-tangential curve concave north having a radius of 580.86 feet and a central angle of 12° 31' 54"; thence South 14° 55' 38" West a distance of 26.25 feet; thence South 17° 43' 27" West a distance of 64.90 feet; thence South 33° 01' 26" West a distance of 71.56 feet; thence South 49° 45' 50" West a distance of 76.32 feet; thence South 60° 39' 01" West a distance of 162.61 feet; thence South 33° 00' 43" West a distance of 237.91 feet.

П.

The City and NRD are authorized to accept and hold this Conservation Easement under the terms of this Agreement and the Conservation and Preservation Easements Act, Neb. Rev. Stat. § §76-2,111 through 76-2,118 (the "Act"). This conveyance is made pursuant to the Act.

III.

Lincoln Federal, Buffalo Grass, Security Financial, B & J, and Hohensee are hereinafter collectively referred to herein as "Owners."

IV.

The Lot 41 Easement Area is generally located within the 100-year floodprone area as designated in the Southeast Upper Salt Creek Watershed Master Plan dated October 2003. The Lot 41 Easement Area is shown on the attached Exhibit "A", which is made a part of this agreement by this reference.

V.

The City and NRD desire to acquire and Owners are willing to convey a permanent Conservation Easement to preserve the flood storage capacity and other natural resources over the Lot 41 Easement Area.

NOW, THEREFORE, in consideration of NINETY SEVEN THOUSAND, ONE HUNDRED TWENTY FIVE AND 00/100 DOLLARS, (\$97,125.00), and other good and valuable consideration as set forth in the Settlement Agreement (to which this Agreement is attached as Exhibit 1), Owners hereby grant and convey to City and NRD for their benefit and the benefit of the public a conservation easement over the Lot 41 Easement Area to restrict the use of the Lot 41 Easement Area to open space to protect and preserve the floodprone area, drainageway, wetlands, and tree masses that occur on the land, to protect other water resources and biologic resources of the floodprone area as identified on Exhibit B, and to restrict development and future use of the Lot 41 Easement Area that will significantly impair or interfere with the open space values and natural resources of the Lot 41 Easement Area.

The terms, conditions, and covenants of the conservation easement hereby created are as follows:

1. Use of Lot 41 Easement Area.

A. General Compatible Uses. The Lot 41 Easement Area shall be used only for the purposes compatible with open space, recreational (including exercising by people and their pets), or wetlands management practices, except that areas historically in agricultural use within ten (10) years of the date the easement is acquired may continue in such use. In addition, notwithstanding subsection B, "Non-Compatible Uses," below, the following uses are compatible with the purposes of the Lot 41 Easement Area, provided that the uses are approved in advance by the Director of Public Works and Utilities and that the Lot 41 Easement Area is restored following disturbance to the maximum extent practicable.

- i. Roadway or utility crossings necessary for the functional use of adjacent lands constructed in accordance with the flood regulations.
- ii. Public sanitary sewer lines generally along the stream alignment necessary for the functional use of adjacent lands.
- iii. Trails or other public or private recreational or educational components and activities.
- iv. Stream rehabilitation and water quality projects.
- v. Protection, maintenance and enhancement of the Lot 41 Easement Area.

- vi. Lot 41 Easement Area rehabilitation necessary to protect and/or restore the natural resources listed in Exhibit B.
- vii. Removal of dead, diseased or dangerous trees or shrubs.
- viii. Temporary access and construction easements to allow installation, maintenance, repair and replacement of utilities and fences abutting the Lot 41 Easement Area.
- ix. Storm drain and outlet improvements conforming to the City's design standards necessary for the functional drainage of uses of adjacent lands.
- x. Control or removal of insects, pests and other matters that are a danger to public health while conserving the function of the Lot 41 Easement Area.
- xi. Stormwater storage facilities as shown on Exhibit D provided the facilities meet City of Lincoln regulations and design standards for stormwater detention and do not adversely impact the tree masses and/or other natural resources listed in Exhibit B.
- xii. Other uses compatible with the purposes of the Conservation Easement.
- B. <u>Non-Compatible Uses</u>. The following uses and practices, although not an exhaustive recital of the inconsistent uses and practices, are inconsistent with the purposes of this Conservation Easement and shall be prohibited within the Lot 41 Easement Area:
 - Construction or placing of roadways, buildings, camping accommodations, or mobile homes, fences, commercial signs, billboards or other advertising material, or any other structure;
 - ii. Filling, excavating, dredging, mining or drilling, removal of top soil, sand, gravel, rock, minerals, or other materials;
 - iii. Building of roads, or changing in the topography of the land in any manner excepting the maintenance of the items described in subsection A above or any work approved by the City;
 - iv. Dumping of ashes, trash, garbage, or other unsightly or offensive material;
 - v. Changing the topography of the land by placing of soil or other substances or materials such as landfill or dredging spoils;

- vi. Commercial and residential development of any nature:
- vii. Intentional human introduction of non-native plant or animal species which may compete with and result in decline or elimination of native animal species, except for non-native plants approved in advance by the Directors of Public Works and Utilities and Parks and Recreation;
- viii. Operation of motorized vehicles except as necessary in the use of the area as provided herein;
- ix. The broadcast application of pesticides, herbicides, and insecticides at any time, except for that which is needed for areas historically in agricultural use at the time this easement is acquired. Spot application of pesticides and herbicides for the control of noxious weeds as provided by state law will be permitted;
- x. Cultivation, planting, or drilling of row crops, small grains, and forages, such as alfalfa and forage sorghum within areas not historically in agricultural use within ten (10) years of the acquisition of this easement;
- xi. Removal of tree masses.
- xii. Unreasonable sedimentation of the Lot 41 Easement Area due to grading or construction activities outside the Lot 41 Easement Area. Erosion and sediment control measures for grading and construction conducted in accordance with a federal, state, or local stormwater discharge permit shall be deemed reasonable.
- xiii. Any other act which would be detrimental to the functionality of the floodplain within the Lot 41 Easement Area.
- C. <u>Specific Permitted and Prohibited Uses and Practices</u>. Notwithstanding subsections A (General Compatible Uses) and B (Non-Compatible Uses) above, the following specific uses and practices associated with the proposed future development of Lot 41 are permitted or prohibited within the Lot 41 Easement Area as provided below:

i. <u>Drainageway B.</u> Trail Easement. A 20-foot wide public trail easement shall be shown in any preliminary plat, community unit plan, or use permit of the Property running along the east side of Drainageway B within the Lot 41 Easement Area to the maximum extent practicable as currently reflected in Exhibit C. It is anticipated that the trail easement will cross Drainageway B from the Combined Easement Area at the half mile-line street (identified as Wilderness Hills Boulevard on Exhibit D), and then will proceed generally south along the east side of Drainageway B. However, after crossing Drainageway B, the trail may be on the Lot 41 Easement Area, or may be on the Combined Easement Area depending upon the final trail location.

ii. Drainageway C.

- (1) Commercial Zoning. The Lot 41 Easement Area may be zoned for commercial uses on the east side of Drainageway B and on the north side of Drainageway C east of Drainageway B, as shown on Exhibit C.
- (2) Commercial Open Space. The following uses are permitted on the north side of Drainageway C and outside of the tree mass as shown on Exhibit C: (a) manicured lawn area, (b) walking trail and related non-structural facilities, (c) an at-grade water fountain, and (d) relocation of the existing cellular telecommunication tower (but not the ground equipment compound), provided such uses are approved in advance by the Director of Parks and Recreation in conjunction with the Director of Public Works and Utilities and said improvements are maintained by the Owners. Owners understand and acknowledge that the restriction on placing the ground equipment in the Lot 41 Easement Area may preclude location of the cellular communications tower in the Lot 41 Easement Area.
- (3) Trail. The trail easement described in i. above will cross Drainageway C at a point to be determined at the time of platting. The location of the

trail heading east to South 40th Street may be revised during the time of platting to be within the Combined Easement Area or within the Lot 41 Easement Area, once the most practicable location has been determined to facilitate an underpass at South 40th Street.

- iii. Stormwater Detention. The stormwater detention facilities shown on Exhibit D attached hereto which are located within the Lot 41 Easement Area; provided the facilities meet City of Lincoln regulations and design standards for stormwater detention. Stormwater detention facilities shown on Attachment D which are located outside the Lot 41 Easement Area are shown for illustrative purposes only.
- 2. Term. The term of this Conservation Easement will be in perpetuity unless earlier terminated pursuant to any of the following provisions:
 - i. By the City and NRD pursuant to the provisions of Neb. Rev. Stat. § 76-2,113.
 - By the Lancaster County District Court pursuant to the provisions of Neb.
 Rev. Stat. § 76-2,114.

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

- 3. Condition of the Lot 41 Easement Area at Time of Grant. The condition of the Lot 41 Easement Area without limiting the generality of the terms is defined to mean the open space, drainageway, wetlands, tree masses, and the functional integrity of other water resources and biologic resources of the floodprone area identified on Exhibit B, as evidenced by reports, photographs and scientific documentation on file with the City's Planning Department.
 - 4. Survey, Protection and Maintenance of the Lot 41 Easement Area.
- A. The City shall, at its sole cost, survey and stake the Lot 41 Easement Area within a reasonable period following execution of this Conservation Easement Agreement. The City may, at its discretion, install permanent above-ground boundary markers identifying the Lot 41 Easement Area boundary. The City shall use its best efforts to locate the boundary markers on side lot lines.

- B. The Owners shall, at Owners' sole cost and expense, maintain the Lot 41 Easement Area. Maintenance shall consist of routine noxious weed control, routine weed and brush control, routine removal of trash and debris and routine non-structural maintenance of stream bed and bank stability measures following installation. If Owners fail to maintain the Lot 41 Easement Area the City and/or NRD may carry out such maintenance and bill the cost thereof to Owners. Owners shall pay said cost within thirty days from receipt of said billing.
- C. Each Owner agrees to pay any real estate taxes, estate taxes or assessments levied by competent authorities on its ownership of the Lot 41 Easement Area, including but not limited to any tax or assessment affecting the easement granted herein. Owners retain the right to challenge the assessed value of the property and to challenge the validity of an any such tax or assessment. The Parties intend that Neb. Rev. Stat. § 76-2,116 govern future assessment of the Lot 41 Easement Area.
- D. Owners shall cooperate with and assist the City and NRD at the City's or NRD's cost in applying for, obtaining, protecting, and enhancing any and all surface water and ground water rights and privileges related to the Lot 41 Easement Area by signing applications which the City or NRD deems necessary or desirable for the management, maintenance or development of the Lot 41 Easement Area for the purposes provided for herein.
- 5. Inspections and Access by City and NRD. The City and NRD shall have the right of reasonable ingress and egress to and from the Lot 41 Easement Area from public roads and streets and from the adjacent Property for its employees, contractors, vehicles and equipment for the purpose of revegetating and for inspecting, protecting or enhancing the floodprone area within the Lot 41 Easement Area, including but not limited to stream stabilization projects, as the City or NRD may deem necessary or desirable. Any such access from Lot 41 shall be used so as to not damage said adjacent areas or crops or improvements which are now or which in the future may be on said adjacent areas, and shall use public right-of-way or private streets to the fullest extent practicable. Such right of access will be modified as reasonably necessary upon subdivision or development of said adjacent areas.
- 6. Enforcement. The Owners, City and NRD may enforce the provisions of this Conservation Easement by any proceeding at law or in equity and may seek any remedy so available, including specific performance, and the right to require restoration of the Lot 41 Easement Area to

the condition at the time of its acquisition, except for compatible uses described in subsections A and C above. The Owners, City and NRD do not waive or forfeit the right to take any action as they deem necessary to insure compliance with the covenants and purposes of this grant by any prior failure to act. In any suit to enforce this Easement or for the alleged violation of this Easement, each party shall bear its own enforcement costs including reasonable attorney fees.

- 7. Title to Lot 41 Easement Area. Owners covenant that Owners are the owners of marketable title to all of the Lot 41 Easement Area, have legal right, title and capacity to grant the Conservation Easement granted herein subject to easements and restrictions of record.
 - 8. Transfer of Interest.
- A. Owners' Title to Lot 41 Easement Area. If the land subject to this Conservation Easement Agreement or any interest therein is subsequently transferred by any Owner to a third party, said Owner shall use its best efforts to notify the City and NRD in writing prior to the transfer of the land.
- B. <u>City and NRD's Conservation Easement</u>. The City and NRD shall have the right to transfer this Conservation Easement to any public agency, charitable organization or trust that, at the time of transfer, is an organization qualified to assume the responsibility imposed on the City and NRD by this Conservation Easement Agreement.
- 9. Binding Affect. The Conservation Easement granted herein shall constitute a covenant running with the land and shall inure to the benefit of and be binding upon the heirs, successors and assigns of Owners, City and NRD.
- 10. Approvals. Any approval required under this Conservation Easement Agreement shall not be unreasonably withheld.
- 11. Recordation. The parties agree that this Conservation Easement Agreement shall be duly filed by the City and NRD with the Lancaster County Register of Deeds upon execution and acceptance by the City and NRD.
- 12. Governing Law. This Conservation Easement Agreement shall be interpreted according to the laws of the State of Nebraska.

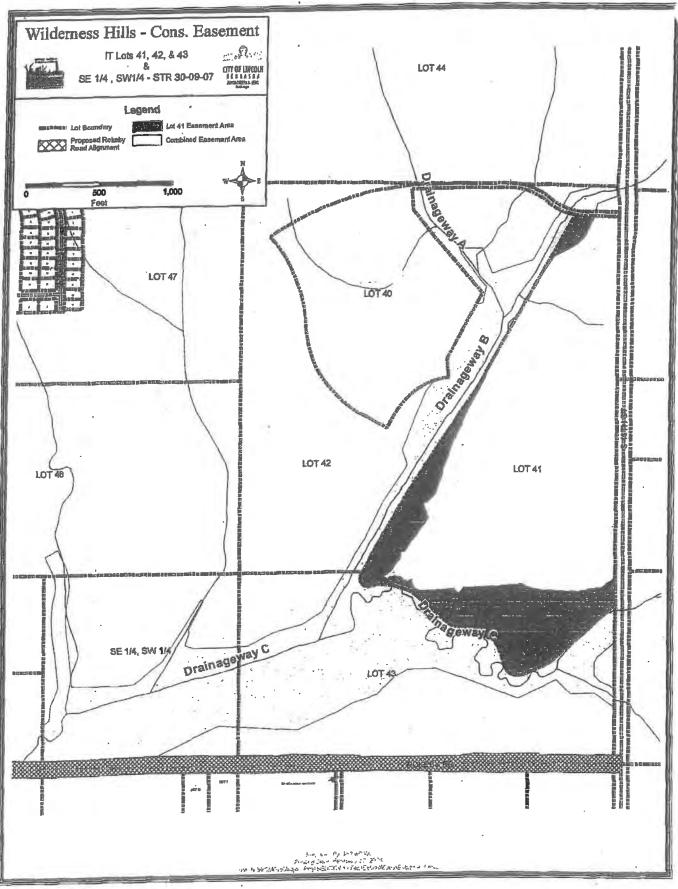
13. Entire Agreement. This Conservation Easement Agreement and attachments hereto, along with the Settlement Agreement to which this Conservation Easement Agreement is attached, constitute the entire agreement among the Parties regarding the Conservation Easement.

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

LINCOLN FEDERAL BANCORP, INC.

Ву:	Title:
	BUFFALO GRASS, LLC., a Nebraska limited liability company
Ву:	Title:
	SECURITY FINANCIAL LIFE INSURANCE CO., a Nebraska corporation
Ву:	Title:
	Title:
	B & J PARTNERSHIP, LTD., a Nebraska limited partnership
Ву:	Title:
	Title:

•	ALLEN R. HOHENSEE
	SUSAN K. HOHENSEE
Attest:	CITY OF LINCOLN, NEBRASKA
City Clerk	By: Mayor Coleen J. Seng
	LOWER PLATTE SOUTH NATURAL RESOURCES DISTRICT By: Glenn D. Johnson, General Manager
STATE OF) ss:	
The foregoing instrument was, 2006, by	of of
Lincoln Federal Bancorp, Inc., on behalf of sa	id corporation.
(SEAL)	e e e
*	Notary Public



APPENDIX A

NATURAL RESOURCES OF FLOODPLAINS

loodplains that are relatively undisturbed (or have been restored to a nearly natural state) provide a wide range of benefits to both human and natural systems. These benefits take many forms: some are static conditions (like providing aesthetic pleasure) and some are active processes (like filtering nutrients). There is some ambiguity over which of these benefits are properly termed "functions," which are "resources," and where the terms overlap. A fairly well accepted (but not necessarily comprehensive) list follows. The resources and functions have been loosely grouped into three categories, and the categories have been labelled according to the primary recipient of the benefit or its relationship to a larger system. That is, "water resources" include those resources and functions of floodplains that are part of or provide a benefit to the hydrologic cycles on the earth's surface and below ground; "biologic resources" are floodplain resources and functions that benefit plants and animals; and "societal resources" are floodplain resources and functions that directly benefit human society. Throughout the Unified National Program document, the term "natural resources" is used to refer to any or all of the resources and functions listed here.

Water Resources

Natural Flood & Erosion Control

- Provide flood storage and conveyance
- Reduce flood velocities
- Reduce flood peaks
- Reduce sedimentation

Water Quality Maintenance

- Filter nutrients and impurities from runoff
- Process organic wastes
- Moderate temperature fluctuations

Groundwater Recharge

- Promote infiltration and aquifer recharge
- Reduce frequency and duration of low surface flows

Biologic Resources

Biological Productivity

- Support high rate of plant growth
- Maintain biodiversity
- Maintain integrity of ecosystem

Fish and Wildlife Habitats

- Provide breeding and feeding grounds
- Create and enhance waterfowl habitat
- Protect habitats for rare and endangered species

Societal Resources

Harvest of Wild & Cultivated Products

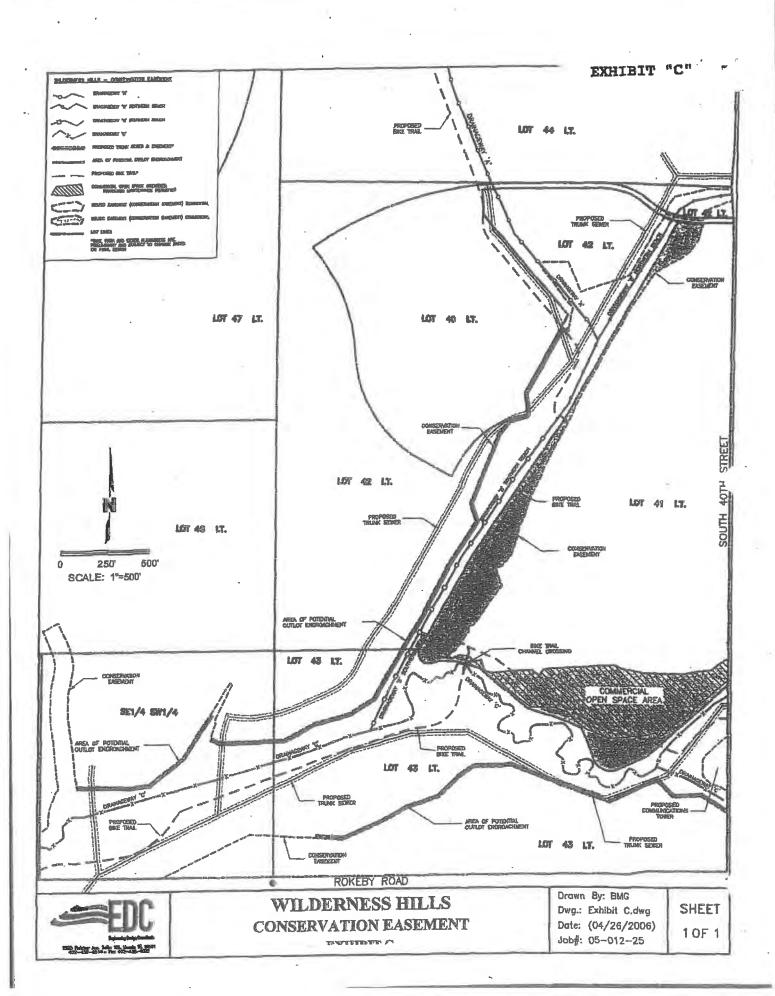
- Enhance agricultural lands
- Provide sites for aquaculture
- Restore and enhance forest lands

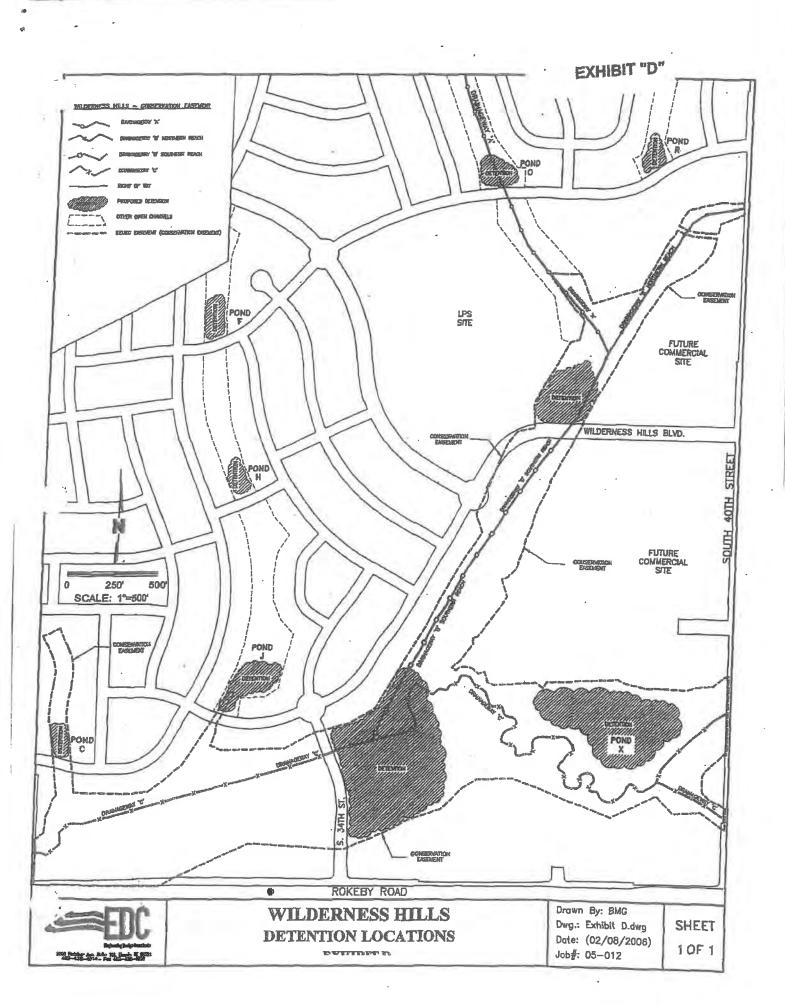
Recreational Opportunities

- Provide areas for active and passive uses
- Provide open space
- Provide aestheric pleasure

Areas for Scientific Study and Outdoor Education

- Contain cultural resources (historic and archaeological sites)
- Provide opportunities for environmental and other studies





CONSERVATION EASEMENT AGREEMENT (Preservation of Floodprone Area)

1	THIS CONSERVATION EASEMENT A	GREEMENT is entered into as of this
day of	2006, by and between	LINCOLN FEDERAL BANCORP, INC.,
("Lincoln Fed	deral"), and the CITY OF LINCOLN, NEB	BRASKA ("City") and the LOWER PLATTE
SOUTH NA	TURAL RESOURCES DISTRICT ("NI	RD"), collectively referred to herein as the
"Parties."		

RECITALS

I.

Lincoln Federal is the owner in fee simple of Lot 42, Irregular Tract, (Lot 42) located in Section 30, Township 9 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska, including those portions thereof referred to herein as the "Lot 42 Easement Area." The Lot 42 Easement Area is more particularly described as follows:

A portion of Lot 42, Irregular Tract located in the East Half of Section 30, Township 9 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska, more particularly described as follows:

Commencing at the southwest corner of Lot 42, Irregular Tract, thence South 89° 52' 08" East a distance of 726.21 feet to the Point of Beginning, thence North 30° 47' 26" East a distance of 237.73 feet; thence North 26° 53' 30" East a distance of 321.77 feet; thence North 32° 48' 49" East a distance of 290.04 feet; thence North 18° 36' 01" West a distance of 109.73 feet; thence North 22° 24' 24" East a distance of 428.24 feet; thence North 39° 27' 10" East a distance of 99.01 feet; thence North 73° 34' 19" East a distance of 34.90 feet; thence North 77° 34' 19" East a distance of 34.90 feet; thence North 81° 34' 20" East a distance of 34.90 feet; thence North 06° 25' 40" West a distance of 129.99 feet; thence North 28° 16' 49" East a distance of 409.20 feet; thence North 75° 57' 49" East a distance of 47.88 feet; thence North 11° 41' 22" East a distance of 118.46 feet; thence North 42° 27' 53" West a distance of 76.37 feet; thence North 36° 44' 50" West a

distance of 208.00 feet; thence North 18° 53' 09" West a distance of 40.16 feet; thence South 90° 00' 00" East a distance of 159.00 feet; thence South 22° 57' 15" East a distance of 184.62 feet; thence North 71° 36' 29" East a distance of 291.91 feet; thence North 27° 49' 20" East a distance of 298.49 feet; thence North 39° 05' 59" East a distance of 56.59 feet; thence North 20° 47' 33" East a distance of 28.70 feet; thence southeast a distance of 102.81 feet along a non-tangential curve concave northeast having a radius of 428.12 feet and a central angle of 13° 45' 35"; thence South 29° 03' 35" West a distance of 552.94 feet; thence South 33° 00' 42" West a distance of 160.39 feet; thence South 26° 33' 54" West a distance of 78.26 feet; thence South 45° 59' 16" West a distance of 74.91 feet; thence South 04° 32' 38" West a distance of 48.74 feet; thence South 11° 09' 15" West a distance of 6.83 feet; thence South 17° 21' 46" West a distance of 4.35 feet: thence South 20° 14' 37" West a distance of 33.48 feet; thence South 26° 08' 04" West a distance of 22.00 feet; thence South 29° 03' 35" West a distance of 87.62 feet; thence South 29° 08' 02" West a distance of 40.14 feet; thence South 28° 48' 33" West a distance of 11.83 feet; thence South 29° 03' 35" West a distance of 216.74 feet; thence South 34°07'45" West a distance of 903.63 feet; thence South 29° 12' 17" West a distance of 604.88 feet; thence North 89° 55' 50" West a distance of 121.57 feet to the Point of Beginning. And, also:

A portion of Lot 42, Irregular Tract, (Lot 42) located in the East Half of Section 30, Township 9 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska, more particularly described as follows:

Beginning at the northeast corner of Lot 42, Irregular Tract, thence South 06° 22' 19" East a distance of 63.10 feet; thence South 68° 51' 51" West a distance of 153.99 feet; thence South 14° 57' 45" West a distance of 57.38 feet; thence South 89° 55' 40" West a distance of 65.30 feet; thence west a distance of 159.41 feet along a non-tangential curve concave north having a radius of 366.54 feet and a central angle of 24° 55' 06"; thence North 20° 49' 43" East a distance of 38.98 feet; thence North 33° 12' 23" East a distance of 65.73 feet; thence North 75° 19' 02" East a distance of 188.41 feet.

П.

Lincoln Federal is the owner in fee simple of Lot 43, Irregular Tract, (Lot 43) located in the Southwest Quarter of Section 30, Township 9 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska, including those portions thereof referred to herein as the "Lot 43 Easement Area." The Lot 43 Easement Area is more particularly described as follows:

A portion of Lot 43, Irregular Tract located in the Southwest Quarter of Section 30, Township 9 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska, more particularly described as follows:

Beginning at the southwest corner of Lot 43, Irregular Tract thence North 00° 02' 58" East a distance of 549.92 feet; thence North 87° 51' 04" East a distance of 0.47 feet; thence North 87° 27' 08" East a distance of 57.77 feet;

4-19-06 RESIDENTIAL

thence North 62° 39' 01" East a distance of 195.90 feet; thence North 75° 03' 04" East a distance of 213.22 feet; thence North 57° 48' 01" East a distance of 157.64 feet; thence North 30° 02' 40" East a distance of 310.79 feet; thence South 89° 55' 50" East a distance of 121.17 feet; thence North 87° 36' 51" East a distance of 0.00 feet; thence South 29° 12' 10" West a distance of 23.21 feet; thence South 02° 21' 47" West a distance of 24.49 feet; thence south a distance of 103.00 feet along a tangential curve concave east having a radius of 56.35 feet and a central angle of 104° 43' 13".; thence North 77° 38' 34" East a distance of 58.14 feet; thence South 87° 30' 44" East a distance of 88.38 feet; thence South 71° 59' 35" East a distance of 139.85 feet; thence South 49° 57' 18" East a distance of 358.87 feet; thence South 73° 23' 53" East a distance of 170.43 feet; thence South 67° 56' 03" East a distance of 159.48 feet; thence South 25° 06' 19" East a distance of 103.56 feet; thence South 15° 05' 09" East a distance of 72.44 feet; thence south a distance of 185.01 feet along a tangential curve concave east having a radius of 107.08 feet and a central angle of 98° 59' 43"; thence North 65° 55' 08" East a distance of 179.00 feet; thence North 48° 17' 25" East a distance of 611.07 feet; thence South 00° 02' 06" East a distance of 274.12 feet; thence North 63° 09' 38" West a distance of 12.07 feet; thence South 49° 06' 11" West a distance of 154.27 feet; thence South 27° 51' 57" West a distance of 35.07 feet; thence South 01° 31' 16" East a distance of 90.03 feet; thence South 46° 30' 58" East a distance of 59.80 feet; thence South 70° 03' 52" East a distance of 65.60 feet; thence South 58° 50' 34" East a distance of 42.67 feet; thence South 00° 02' 07" East a distance of 128.94 feet; thence North 56° 31' 36" West a distance of 179.06 feet; thence South 86° 35' 59" West a distance of 155.56 feet; thence North 45° 17' 05" West a distance of 138.28 feet; thence South 59° 32' 43" West a distance of 14.81 feet; thence South 63° 50' 37" West a distance of 276.26 feet; thence North 69° 47' 04" West a distance of 610.61 feet; thence South 88° 52' 44" West a distance of 204.43 feet; thence South 58° 23' 16" West a distance of 93.48 feet; thence South 45° 57' 03" West a distance of 176.76 feet; thence South 71° 28' 17" West a distance of 185.98 feet; thence South 59° 48' 59" West a distance of 113.37 feet; thence South 66° 18' 22" West a distance of 291.15 feet; thence North 86° 26' 34" West a distance of 410.84 feet to the Point of Beginning.

m.

Lincoln Federal is the owner in fee simple of the Southeast Quarter of the Southwest Quarter (SE 1/4 SW 1/4) and Lot 46, Irregular Tract, located in Section 30, Township 9 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska, including those portions thereof referred to herein as the "SE 1/4 SW 1/4 and Lot 46 Easement Area." The SE 1/4 SW 1/4 and Lot 46 Easement Area is more particularly described as follows:

A portion of the Southeast Quarter of the Southwest Quarter and a portion of Lot 46 located in Section 30, Township 9 North, Range 7 East of the Sixth Principal Meridian, in Lancaster County, Nebraska, more particularly described as follows:

Commencing at the southwest corner of Section 30, Township 9 North. Range 7 East, thence S 89 deg. 46 min. 44 sec. E a distance of 1319.50 feet: thence N 00 deg. 01 min. 35 sec. E a distance of 56.00 feet to the point of beginning; thence N 00 deg. 07 min. 34 sec. E a distance of 238.19 feet; thence N 52 deg. 52 min. 03 sec. E a distance of 57.14 feet; thence N 04 deg. 17 min. 21 sec. E a distance of 99.52 feet; thence N 21 deg. 37 min. 34 sec. E a distance of 100.41 feet; thence N 22 deg. 09 min. 06 sec. E a distance of 32.44 feet; thence N 06 deg. 45 min. 09 sec. W a distance of 291.88 feet; thence N 08 deg. 53 min. 25 sec. W a distance of 18.73 feet; thence N 09 deg. 31 min. 33 sec. W a distance of 40.81 feet; thence N 06 deg. 29 min. 23 sec. W a distance of 40.85 feet; thence N 03 deg. 28 min. 58 sec. W a distance of 40.84 feet; thence N 00 deg. 23 min. 14 sec. W a distance of 40.80 feet; thence N 02 deg. 36 min. 41 sec. E a distance of 40.84 feet; thence N 05 deg. 40 min. 02 sec. E a distance of 40.82 feet; thence N 08 deg. 41 min. 01 sec. E a distance of 40.85 feet; thence N 11 deg. 44 min. 12 sec. E a distance of 40.82 feet; thence N 10 deg. 52 min. 55 sec. E a distance of 20.81 feet; thence N 06 deg. 10 min. 22 sec. E a distance of 20.83 feet; thence N 01 deg. 19 min. 32 sec. E a distance of 20.85 feet; thence N 03 deg. 30 min. 41 sec. W a distance of 20.82 feet; thence N 08 deg. 11 min. 01 sec. W a distance of 20.82 feet; thence N 13 deg. 00 min. 06 sec. W a distance of 20.83 feet; thence N 17 deg. 48 min. 22 sec. W a distance of 20.85 feet; thence N 22 deg. 34 min. 34 sec. W a distance of 20.82 feet; thence N 24 deg. 55 min. 47 sec. W a distance of 115.02 feet; thence N 65 deg. 04 min. 38 sec. E a distance of 100.00 feet; thence S 24 deg. 56 min. 13 sec. E a distance of 114.99 feet; thence S 22 deg. 49 min. 08 sec. E a distance of 25.94 feet; thence S 18 deg. 31 min. 53 sec. E a distance of 25.91 feet; thence S 14 deg. 18 min. 48 sec. E a distance of 25.92 feet; thence S 10 deg. 06 min. 50 sec. E a distance of 25.90 feet; thence S 05 deg. 52 min. 11 sec. E a distance of 25.94 feet: thence S 01 deg. 35 min. 59 sec. E a distance of 25.92 feet; thence S 02 deg. 40 min. 06 sec. W a distance of 25.91 feet; thence S 06 deg. 52 min. 12 sec. W a distance of 25.93 feet; thence S 11 deg. 11 min. 26 sec. W a distance of 25.92 feet; thence S 11 deg. 45 min. 25 sec. W a distance of 35.51 feet; thence S 08 deg. 41 min. 44 sec. W a distance of 35.56 feet; thence S 05 deg. 37 min. 20 sec. W a distance of 35.52 feet; thence S 02 deg. 40 min. 05 sec. W a distance of 35.53 feet; thence S 00 deg. 26 min. 40 sec. E a distance of 35.53 feet; thence S 03 deg. 26 min. 53 sec. E a distance of 35.52 feet; thence S 06 deg. 27 min. 47 sec. E a distance of 35.51 feet; thence S 09 deg. 32 min. 40 sec. E a distance of 35.54 feet; thence S 08 deg. 55 min. 04 sec. E a distance of 26.23 feet; thence S 06 deg. 45 min. 09 sec. E a distance of 115.26 feet; thence S 06 deg. 45 min. 17 sec. E a distance of 181.61 feet; thence N 89 deg. 58 min. 48 sec. E a distance of 189.47 feet; thence S 89deg. 16 min. 04 sec. E a distance of 115.96 feet; thence N 84 deg. 01 min. 32 sec. E a distance of 110.90 feet; thence N 50 deg. 31 min. 43 sec. E a distance of 243.54 feet; thence N 32 deg. 09 min. 29 sec. E a distance of 491.11 feet; thence S 69 deg. 23 min. 15 sec. E a distance of 16.35 feet; thence S 26 deg. 31 min. 29 sec. W a distance of 219.44 feet; thence S 02 deg. 02 min. 26 sec. E a distance of 29.03 feet; thence S 18 deg. 38 min. 14 sec. W a distance of 80.22 feet; thence S 64 deg. 38 min. 31 sec. E a distance of 62.92 feet; thence N 87 deg. 50 min. 52 sec. E a distance of 302.78 feet; thence S 00 deg. 02 min. 48 sec. W a distance of 549.94 feet; thence N 86 deg. 25 min. 49 sec. W a

distance of 131.16 feet; thence S 64 deg. 08 min. 20 sec. W a distance of 458.41 feet; thence S 88 deg. 55 min. 28 sec. W a distance of 94.70 feet; thence S 88 deg. 26 min. 04 sec. W a distance of 78.10 feet; thence S 88 deg. 04 min. 11 sec. W a distance of 50.80 feet; thence S 87 deg. 43 min. 04 sec. W a distance of 169.25 feet; thence S 88 deg. 19 min. 09 sec. W a distance of 112.78 feet; thence S 88 deg. 52 min. 18 sec. W a distance of 78.95 feet; thence S 89 deg. 21 min. 32 sec. W a distance of 90.23 feet; thence S 89 deg. 54 min. 41 sec. W a distance of 101.51 feet to the point of beginning of the land to be described.

IV.

The Lot 42 Easement Area, Lot 43 Easement Area, and the SE 1/4 SW 1/4 and Lot 46 Easement Area are hereinafter collectively referred to as the Combined Easement Area.

V.

The Combined Easement Area is generally located within the 100-year floodprone area as designated in the Southeast Upper Salt Creek Watershed Master Plan dated October 2003. The Combined Easement Area is shown on the attached Exhibit A, which is made a part of this agreement by this reference.

VI.

The City and NRD desire to acquire and Lincoln Federal is willing to convey a permanent Conservation Easement to preserve the flood storage capacity and other natural resources over the Combined Easement Area.

VII.

The City and NRD are authorized to accept and hold this Conservation Easement under the terms of this Agreement and the Conservation and Preservation Easements Act, Neb. Rev. Stat. §§ 76-2,111 through 76-2,118 (the "Act"). This conveyance is made pursuant to the Act.

NOW, THEREFORE, in consideration of ONE HUNDRED EIGHTY THOUSAND, THREE HUNDRED SEVENTY FIVE AND 00/100 DOLLARS, (\$180,375.00), and other good and valuable consideration, as set forth in the Settlement Agreement (to which this Agreement is attached as Exhibit 2), Lincoln Federal hereby grants and conveys to City and NRD for their benefit and the benefit of the public a conservation easement over the Combined Easement Area to restrict the use of the Combined Easement Area to open space to protect and preserve the floodprone area, drainageway, wetlands, and tree masses that occur on the land, to protect other water resources and

biologic resources of the floodprone area as identified on Exhibit B, and to restrict development and future use of the Combined Easement Area that will significantly impair or interfere with the open space values and natural resources of the Combined Easement Area.

The terms, conditions, and covenants of the conservation easement hereby created are as follows:

1. Use of Combined Easement Area.

- A. General Compatible Uses. The Combined Easement Area shall be used only for the purposes compatible with open space, recreational (including exercising by people and their pets), or wetlands management practices, except that areas historically in agricultural use within ten (10) years of the date the easement is acquired may continue in such use. In addition, notwithstanding subsection B, "Non-Compatible Uses," below, the following uses are compatible with the purposes of the Combined Easement Area, provided that the uses are approved in advance by the Director of Public Works and Utilities and that the Combined Easement Area is restored following disturbance to the maximum extent practicable.
 - i. Roadway or utility crossings necessary for the functional use of adjacent lands constructed in accordance with the flood regulations.
 - ii. Public sanitary sewer lines generally along the stream alignment necessary for the functional use of adjacent lands.
 - iii. Trails or other public or private recreational or educational components and activities.
 - iv. Stream rehabilitation and water quality projects.
 - v. Protection, maintenance and enhancement of the Combined Easement Area.
 - vi. Combined Easement Area rehabilitation necessary to protect and/or restore the natural resources listed in Exhibit B.
 - vii. Removal of dead, diseased or dangerous trees or shrubs.
 - viii. Temporary access and construction easements to allow installation, maintenance, repair and replacement of utilities and fences abutting the Combined Easement Area.
 - ix. Storm drain and outlet improvements conforming to the City's design standards necessary for the functional drainage of uses of adjacent lands.
 - x. Control or removal of insects, pests and other matters that are a danger to public health while conserving the function of the Combined Easement Area.

- xi. Stormwater storage facilities shown on Exhibit D provided the facilities meet City of Lincoln regulations and design standards for stormwater detention and do not adversely impact the tree masses and/or other natural resources listed in Exhibit B.
- xii. Other uses compatible with the purposes of the Conservation Easement.
- B. <u>Non-Compatible Uses</u>. The following uses and practices, although not an exhaustive recital of the inconsistent uses and practices, are inconsistent with the purposes of this Conservation Easement and shall be prohibited within the Combined Easement Area:
 - i. Construction or placing of roadways, buildings, camping accommodations, or mobile homes, fences, commercial signs, billboards or other advertising material, or any other structure;
 - ii. Filling, excavating, dredging, mining or drilling, removal of top soil, sand, gravel, rock, minerals, or other materials;
 - iii. Building of roads, or changing in the topography of the land in any manner excepting the maintenance of the items described in subsection A above or any work approved by the City;
 - iv. Dumping of ashes, trash, garbage, or other unsightly or offensive material;
 - v. Changing the topography of the land by placing of soil or other substances or materials such as landfill or dredging spoils;
 - vi. Commercial and residential development of any nature;
 - vii. Intentional human introduction of non-native plant or animal species which may compete with and result in decline or elimination of native animal species, except for non-native plants approved in advance by the Directors of Public Works and Utilities and Parks and Recreation;
 - viii. Operation of motorized vehicles except as necessary in the use of the area as provided herein;
 - ix. The broadcast application of pesticides, herbicides, and insecticides at any time, except for that which is needed for areas historically in agricultural use at the time this easement is acquired. Spot application of pesticides and herbicides for the control of noxious weeds as provided by state law will be permitted;
 - x. Cultivation, planting, or drilling of row crops, small grains, and forages, such as alfalfa and forage sorghum within areas not historically in agricultural use within ten (10) years of the acquisition of this easement;

- xi. Removal of tree masses;
- xii. Unreasonable sedimentation of the Combined Easement Area due to grading or construction activities outside the Combined Easement Area. Erosion and sediment control measures for grading and construction conducted in accordance with a federal, state, or local stormwater discharge permit shall be deemed reasonable;
- xiii. Any other act which would be detrimental to functionality of the floodplain within the Combined Easement Area.
- C. Specific Permitted and Prohibited Uses and Practices. Notwithstanding subsections A (General Compatible Uses) and B (Non-Compatible Uses) above, the following specific uses and practices associated with the proposed future development of Lot 42, Lot 43, and the SE 1/4 SW 1/4 (hereinafter "Property") are permitted or prohibited within the Combined Easement Area as provided below:
 - i. <u>Drainageway A.</u> A 20-foot wide public trail easement is anticipated to be granted to the City when the Property is final platted. The trail generally will run northwest to southeast along the west side of Drainageway A from Yankee Hill Road and shall not be located within the Combined Easement Area, as shown on Exhibit C.

ii. Drainageway B.

- (1) A 20-foot wide outlot is anticipated to be platted adjacent to the residential lots abutting the Combined Easement Area along the west side of a portion of Drainageway B, as shown on Exhibit C. The 20-foot wide outlot may extend up to 20 feet into the Combined Easement Area and such area within the Combined Easement Area may be planted and maintained with turf grass or ornamental landscaping provided the boundary furthest away from the residential lots is demarcated by permanent boundary markers or landscaping acceptable to both parties at Lincoln Federal's own cost and expense.
- (2) Sanitary Sewer Easement. A 30-foot wide sanitary sewer easement for a 15-inch public sanitary sewer main shall be shown in any preliminary plat, community unit plan, or use permit of the Property running along the west side of the northern reach of Drainageway B. To the maximum extent practicable, the sanitary sewer easement

- may be located within the Combined Easement Area, except that the sanitary sewer easement shall be shown outside of the Combined Easement Area and within the street system west of the southern reach of Drainageway B, as shown on Exhibit C.
- (3) The 20-foot wide dedicated trail easement generally will run south along the west side of Drainageway B to the half mile-line street (identified as Wilderness Hills Boulevard on Exhibit D). The trail will cross Drainageway B at this location and proceed generally south along the east side of Drainageway B, as generally shown on Exhibit C. However, after crossing Drainageway B, the trail may be on the Combined Easement Area, or may be on the Lot 41 Easement Area depending upon the final trail location.
- (4) Final Approval of Trail and Sanitary Sewer Easements. The actual location of the above-described trail and sanitary sewer easements shall be subject to City approval.

iii. Drainageway C.

- (1) A 20-foot wide outlot is anticipated to be platted adjacent to the residential lots abutting the Combined Easement along Drainageway C. The 20-foot wide outlot may extend up to 20 feet into the Combined Easement Area along Drainageway C and such area within the Combined Easement Area may be planted and maintained with turf grass and/or ornamental landscaping provided the boundary furthest away from the residential lots is demarcated by permanent boundary markers and landscaping acceptable to the parties at Lincoln Federal's own cost and expense.
- (2) Sanitary Sewer and Trail Easements. The sanitary sewer easement described in ii. above will cross Drainageway C at the proposed north/south roadway connection to Rokeby Road. The trail easement described in ii. above will cross Drainageway C at a point to be determined at the time of platting. The location of the trail heading east to South 40th Street may b revised during the time of platting to be within the Combined Easement Area or within the Lot 41 Easement Area, once the most practicable location has been determined to facilitate an underpass at South 40th Street. The sewer and trail easements will run along the south side of

Drainageway C, both west to South 27th Street and East to South 40th Street. The 30-foot sanitary sewer easement and the 20-foot wide trail easement shall be shown on any preliminary plat, community unit plan, or use permit of the Property located within the Combined Easement Area to the maximum extent practicable as currently reflected in Exhibit C.

- (3) Final Approval of the Trail and Sanitary Sewer Easements. The actual location of the above-described trail and sanitary sewer easements shall be subject to City approval.
- iv. Stormwater Detention. The stormwater detention facilities shown on Exhibit D attached hereto which are located within the Combined Easement Area; provided the facilities meet City of Lincoln regulations and design standards for stormwater detention. Stormwater detention facilities shown on Exhibit D which are outside the Combined Easement Area are shown for illustrative purposes only.
- v. 34th Street. A local street intersection with South 34th Street north of Rokeby Road may be located in the Combined Easement Area along with access and parking for the park on the west side of South 34th Street.
- 2. Term. The term of this Conservation Easement will be in perpetuity unless earlier terminated pursuant to any of the following provisions:
 - i. By the City and NRD pursuant to the provisions of Neb. Rev. Stat. § 76-2,113.
 - By the Lancaster County District Court pursuant to the provisions of Neb. Rev. Stat. § 76-2,114.

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

- 3. Wetland Mitigation Area. A portion of a re-aligned channel and a wetland mitigation area is included within the boundaries of the Combined Easement Area on the south side of Drainageway C as shown on Exhibit E, Wilderness Hills Wetlands Exhibit. Lincoln Federal agrees that Lincoln Federal maintains responsibility for all mitigation, monitoring, certification, and maintenance of the Wetland Mitigation Area in conformance with the 404 Permit issued by the U.S. Army Corps of Engineers, so long as such obligations continue under the 404 Permit.
- 4. Condition of the Combined Easement Area at Time of Grant. The condition of the Combined Easement Area without limiting the generality of the terms is defined to mean the

open space, drainageway, wetlands, tree masses, and the functional integrity of other water resources and biologic resources of the floodprone area identified on Exhibit B, as evidenced by reports, photographs and scientific documentation on file with the City's Planning Department.

- 5. Survey, Protection and Maintenance of the Combined Easement Area.
- A. The City shall, at its sole cost, survey and stake the Combined Easement Area within a reasonable period following execution of this Conservation Easement Agreement. The City may, at its discretion, install permanent above-ground boundary markers identifying the Combined Easement Area boundary. The City shall use its best efforts to locate the boundary on side lot lines.
- B. Lincoln Federal shall, at its sole cost and expense, maintain the Combined Easement Area, except that the City is willing to maintain the land south of Drainageway C (except for the mitigation, monitoring, certification and maintenance of the Wetland Mitigation Area) upon transfer of fee title to said land to the City. Maintenance shall consist of noxious weed control, routine weed and brush control, removal of trash and debris and routine non-structural maintenance of stream bed and bank stabilizing measures following installation. If Lincoln Federal fails to maintain the Combined Easement Area, the City and/or NRD may carry out such maintenance and bill the cost thereof to Lincoln Federal and Lincoln Federal shall pay said cost within thirty (30) days from receipt of said billing.
- C. Lincoln Federal agrees to pay any real estate taxes, estate taxes or assessments levied by competent authorities on its ownership of the Combined Easement Area, including but not limited to any tax or assessment affecting the easement granted herein. Lincoln Federal retains the right to challenge the assessed value of the property and to challenge the validity of an any such tax or assessment. The Parties intend that Neb. Rev. Stat. § 76-2,116 govern future assessment of the Lot 41 Easement Area.
- D. Lincoln Federal shall cooperate with and assist the City and NRD at the City's or NRD's cost in applying for, obtaining, protecting, and enhancing any and all surface water and ground water rights and privileges related to the Combined Easement Area by signing applications which the City or NRD deems necessary or desirable for the management, maintenance or development of the Combined Easement Area for the purposes provided for herein.
- 6. Inspections and Access by City and NRD. The City and NRD shall have the right of reasonable ingress and egress to and from the Combined Easement Area from public roads and streets and from the adjacent Property for its employees, contractors, vehicles and equipment for the purpose of revegetating and for inspecting, protecting or enhancing the floodprone area within the Combined Easement Area including but not limited to channel stabilization projects as the City or NRD may deem necessary or desirable. Any such access from Lincoln Federal's Property shall

be used so as to not damage said adjacent areas or crops or improvements which are now or which in the future may be on said adjacent areas, and shall use public right-of-way or private streets to the fullest extent practicable. Such right of access will be modified as reasonably necessary upon subdivision or development of said adjacent areas.

- 7. Enforcement. Lincoln Federal and the City and NRD may enforce the provisions of this Conservation Easement by any proceeding at law or in equity and may seek any remedy so available including specific performance and the right to require restoration of the Combined Easement Area to the condition at the time of its acquisition, except for compatible uses described in subsections A and C above. Lincoln Federal and the City and NRD do not waive or forfeit the right to take any action as they deem necessary to insure compliance with the covenants and purposes of this grant by any prior failure to act. In any suit to enforce this Easement or for the alleged violation of this Easement, each party shall bear its own enforcement costs including reasonable attorney fees.
- 8. Title to Combined Easement Area. Lincoln Federal covenants that it is the owner of marketable title to all of the Combined Easement Area, and has legal right, title and capacity to grant the Conservation Easement granted herein subject to easements and restrictions of record.

9. Transfer of Interest.

- A. <u>Title to Combined Easement Area</u>. If the land subject to this Conservation Easement Agreement or any interest therein is subsequently transferred by Lincoln Federal to a third party, Lincoln Federal shall use its best efforts to notify the City and NRD in writing prior to the transfer of the land.
- B. <u>City and NRD's Conservation Easement</u>. The City and NRD shall have the right to transfer this Conservation Easement to any public agency, charitable organization or trust that, at the time of transfer, is an organization qualified to assume the responsibility imposed on the City and NRD by this Conservation Easement Agreement.
- 10. Binding Affect. The Conservation Easement granted herein shall constitute a covenant running with the land and shall inure to the benefit of and be binding upon the heirs, successors and assigns of Lincoln Federal, City and NRD.
- 11. Approvals. Any approval required under this Conservation Easement Agreement shall not be unreasonably withheld.
- 12. Recordation. The parties agree that this Conservation Easement Agreement shall be duly filed by the City and NRD with the Lancaster County Register of Deeds upon execution and acceptance by the City and NRD.

13. Governing Law. This Conservation Easement Agreement shall be interpreted according to the laws of the State of Nebraska.

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

	LINCOLN FEDERAL BANCORP, INC.
	By:
Attest:	CITY OF LINCOLN, NEBRASKA
City Clerk	By: Mayor Coleen J. Seng
	By: Glenn D. Johnson, General Manager
STATE OF) ss:	
The foregoing instrument was , 2006, by	acknowledged before me this day of of d corporation.
(SEAL)	Notary Public

Arminen By WYVPVA In 1884 J Takk Foogle (17) WAR Firm In NYTH TO Grow March 1874 WING WIT 1884 - 1700

APPENDIX A

NATURAL RESOURCES OF FLOODPLAINS

loodplains that are relatively undisturbed (or have been restored to a nearly natural state) provide a wide range of benefits to both human and natural systems. These benefits take many forms: some are static conditions (like providing aesthetic pleasure) and some are active processes (like filtering nutrients). There is some ambiguity over which of these benefits are properly termed "functions," which are "resources," and where the terms overlap. A fairly well accepted (but not necessarily comprehensive) list follows. The resources and functions have been loosely grouped into three categories, and the categories have been labelled according to the primary recipient of the benefit or its relationship to a larger system. That is, "water resources" include those resources and functions of floodplains that are part of or provide a benefit to the hydrologic cycles on the earth's surface and below ground; "biologic resources" are floodplain resources and functions that directly benefit human society. Throughout the Unified National Program document, the term "natural resources" is used to refer to any or all of the resources and functions listed here.

Water Resources

Natural Flood & Erosion Control

- Provide flood storage and conveyance
- Reduce flood velocities
- Reduce flood peaks
- Reduce sedimentation

Water Quality Maintenance

- Filter nutrients and impurities from runoff
- Process organic wastes
- Moderate temperature fluctuations

Groundwater Recharge

- Promote infiltration and aquifer recharge
- Reduce frequency and duration of low surface flows

Biologic Resources

Biological Productivity

- Support high rate of plant growth
- Maintain biodiversity
- Maintain integrity of ecosystem

Fish and Wildlife Habitats

- Provide breeding and feeding grounds
- Create and enhance waterfowl habitat
- Protect habitats for rare and endangered species

Societal Resources

Harvest of Wild & Cultivated Products

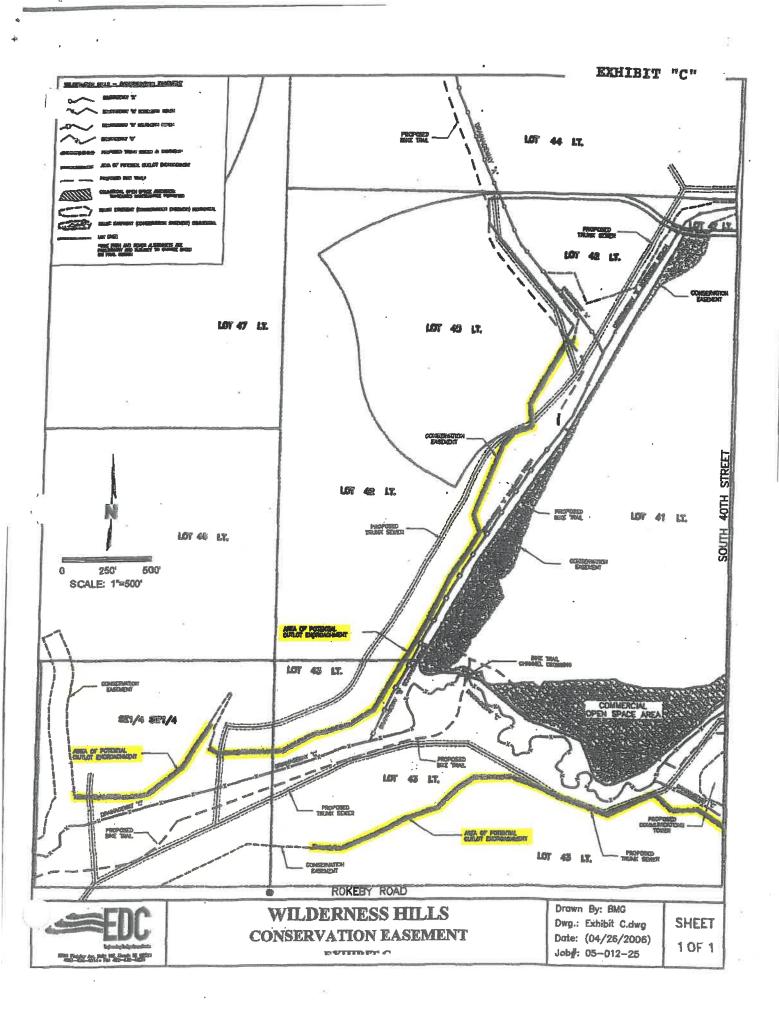
- Enhance agricultural lands
- Provide sites for aquaculture
- Restore and enhance forest lands

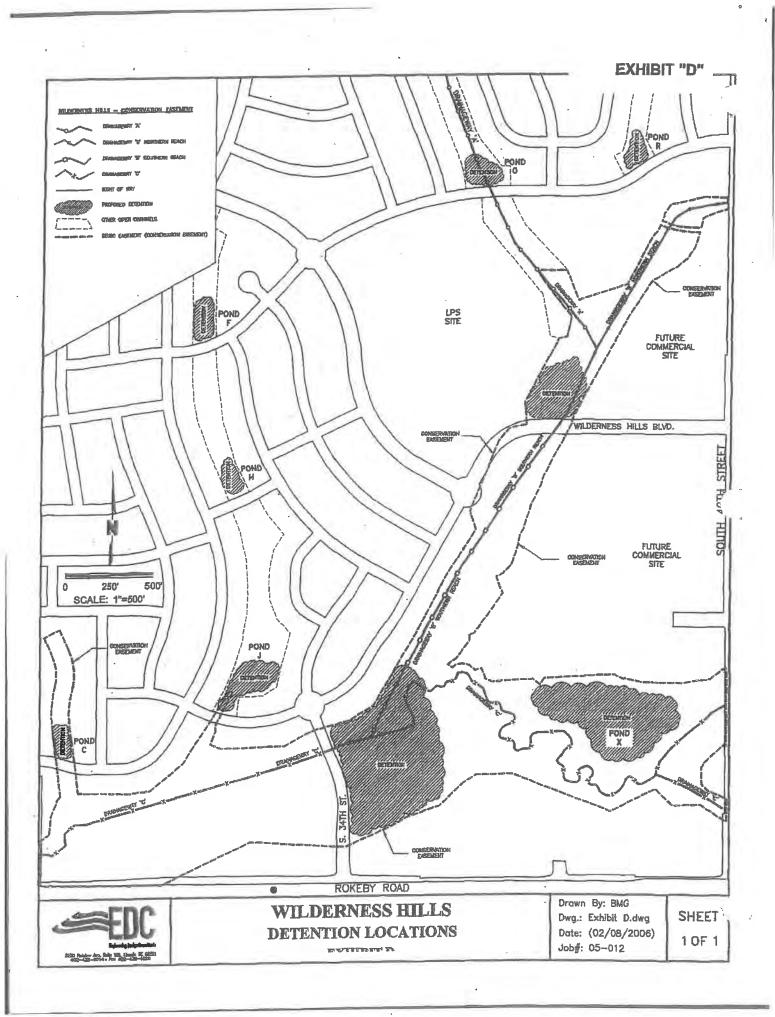
Recreational Opportunities

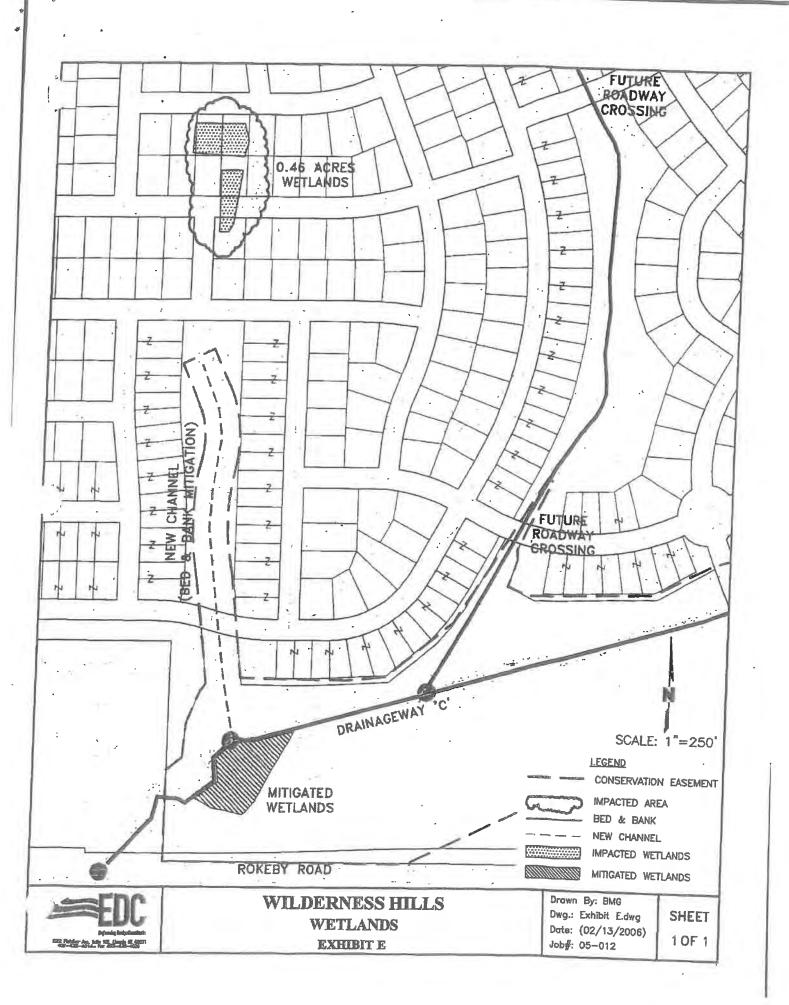
- Provide areas for active and passive uses
- Provide open space
- Provide aesthetic pleasure

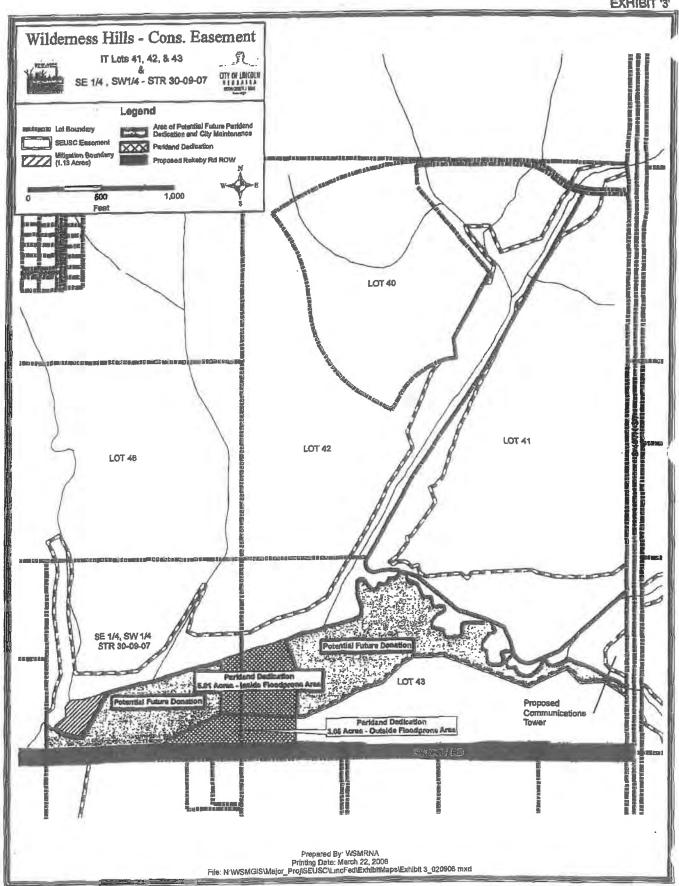
Areas for Scientific Study and Outdoor Education

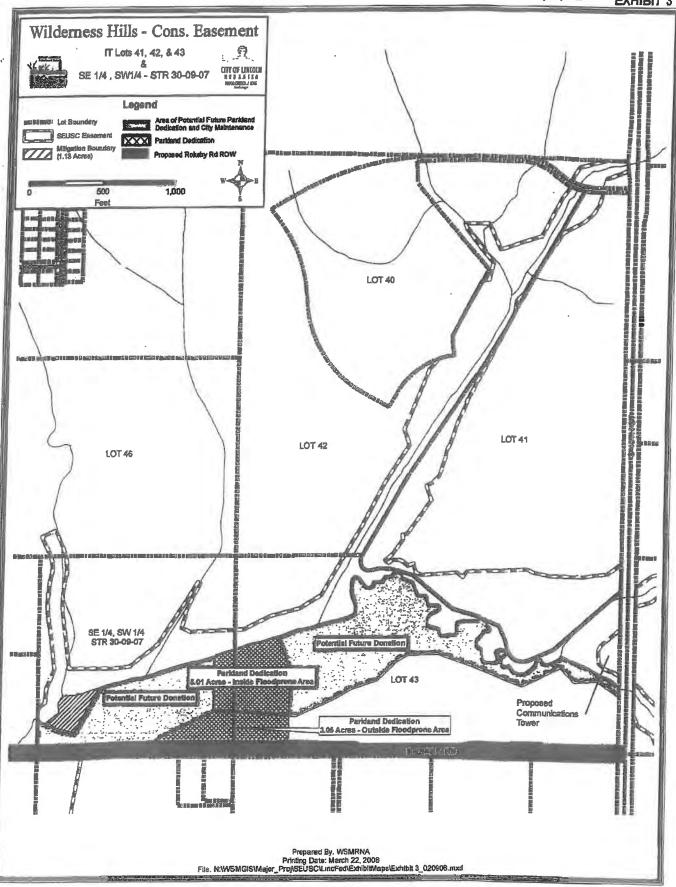
- Contain cultural resources (historic and archaeological sites)
- Provide opportunities for environmental and other studies



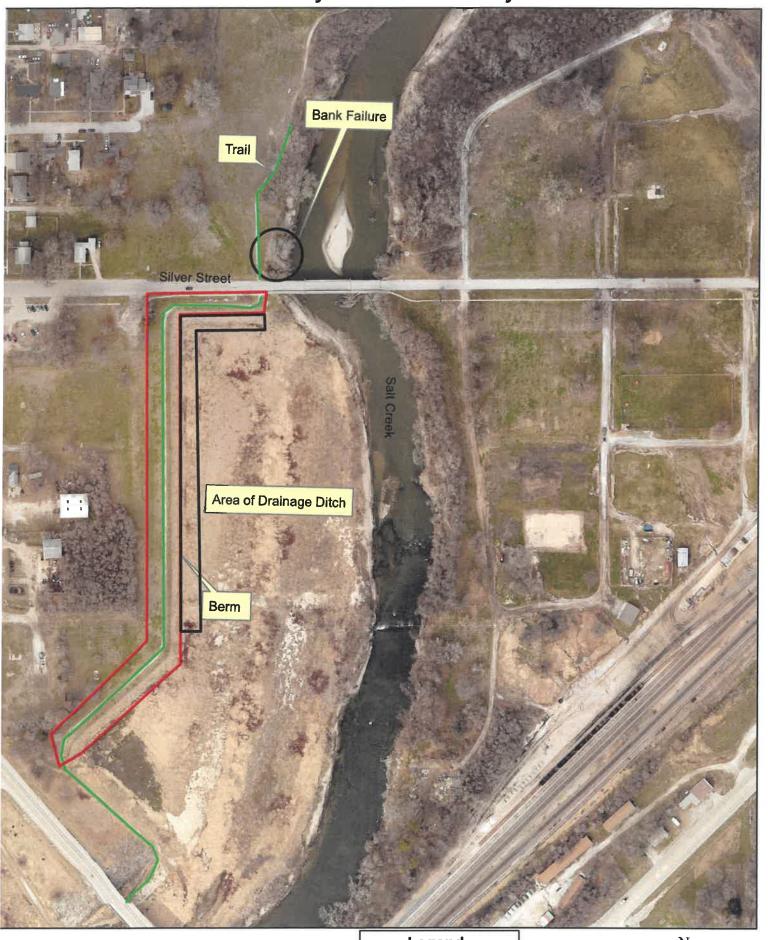














NRD Rainscaping Program

Eligibility

Currently the NRD partners with the City of Lincoln that has a Rainscaping program as well that the NRD helps fund. If you are in the city of Lincoln and are interested in doing a Rainscaping project please go to the <u>Rainscaping Lincoln</u> website for information on how to apply for their cost share. If you are in the NRD district and outside of the City of Lincoln you eligible for the NRD Rainscaping Program.

Practices (BMPs)

- Raingarden
- Bio-swale
 - Add-on
- Rain Barrel

Purpose

The Lower Platte South NRD has established a cost share to work with landowners within the district to implement Best Management Practices (BMPs) to improve water quality and quantity. These BMPs will capture water which will slow the speed that it runs off of the land owners properties. When the water is captured it will improve the water quality by letting pollutants drop out, it will also help the water soak into the soil.

Cost Share

The Lower Platte South is offering a cost share for up to a maximum of \$1000 for Home Owners that apply for approved projects (including add-ons) associated with the NRD Rainscaping Program. The cost share will reimburse the property owner for 50% of eligible expenses related to these projects. Property owners will be required to cover the remaining 50% of eligible expenses, plus any additional or ineligible expenses they wish to incur. This is a cost share program intended to improve water quality, reduce runoff, and facilitate infiltration throughout the NRD.

Deadline

- March 1st is the application deadline for spring projects
- August 1st is the application deadline for fall projects

Terms

- 50% Cost-share on constructing one of the BMPs listed above
- Must have BMP in place for a minimum of 5 years
- Must be a landowner inside LPS NRD (if in Lincoln see Rainscaping Lincoln website)

Lower Platte South Rainscaping

COST SHARE APPLICATION

Funded by the Lower Platte South Natural Resources District in an effort to improve surface water quality by utilizing Best Management Practices that facilitate the infiltration of stormwater runoff. NRD partners with the City of Lincoln on their Rainscaping Lincoln program, if inside city limits go to Rainscaping Lincoln for more information on that cost-share oppertunity.

Requirements:

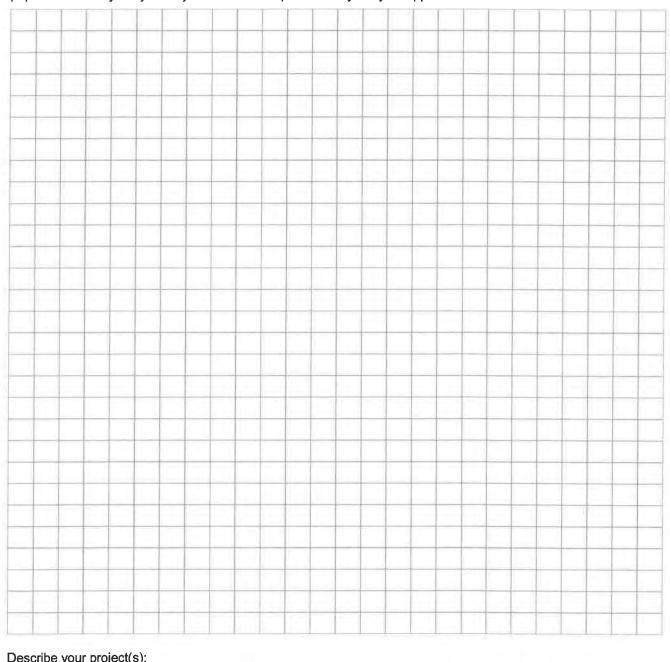
- ♦Live within the Lower Platte South NRD and own the property where the project will take place.
- •Submit the following application and have proposed project(s) approved by NRD Staff.
- ♦Pay upfront for project costs and submit receipts for eligible expenses for reimbursement up to \$1000.

Name:		
Address:	Talanhana	
General Questions: Who will complete the installation?	neowner Approved Contractor	
Which project(s) are you considering (please check at lease Rain Garden Bio-Swale	st one)?	
Are you considering and add on? (optional) Rain Barrel(s)		
Would you be willing to maintain your projects for at least	t 5 years?	No
Would you be willing to participate in potential neighborho	ood tours?	No
How did you hear about the program?		
Why are you interested in participating in the program?		
Please Send Completed Application to: Lower Platte South NRD	To be completed by NRDStaff:	,
ATTN Kyle Hauschild PO Box 83581	Date Received:	
Lincoln, NE 68501	Annointment:	

Appointment:

Project Proposal:

Please provide a basic sketch of proposed project(s) on your property as viewed from above. Include north arrow, outline of buildings, driveways, sidewalks, and streets (if applicable). Label project(s) and mark relevant distances, such as the distance between a proposed rain garden and buildings or other objects. You may use a larger sheet of paper if necessary. Or you may attach a sketch provided to you by an approved contactor.



About the Rainscaping Cost Share Program:

The Lower Platte South is offering a cost share for up to a maximum of \$1000 for Home Owners that apply for approved projects (including add-ons) associated with the NRD Rainscaping Program. The cost share will reimburse the property owner for 50% of eligible expenses related to these projects. Property owners will be required to cover the remaining 50% of eligible expenses, plus any additional or ineligible expenses they wish to incur. This is a cost share program intended to improve water quality, reduce runoff, and facilitate infiltration throughout the NRD.

Project Definitions:

Rain Garden: a garden of native perennials, grasses and shrubs planted in a shallow depression. Rain gardens are designed and strategically placed on a gentle slope (less than 12%) to capture stormwater runoff from a rooftop or other impervious surface. A berm is used to hold the water within the boundaries of the rain garden, allowing it time to soak into the ground below. Rain gardens are dry most of the time and typically do not hold captured stormwater for more than 24 hours following a rain event. Soil amendments such as compost are often required to achieve adequate infiltration rates.

Bioswale: a garden of native perennials, grasses and shrubs planted in a long, shallow channel. Similar to rain gardens, bioswales are designed and strategically placed to capture stormwater runoff from a rooftop or other impervious surface. Stormwater filters through the plants and soaks in as it makes its way along the channel. Bioswales are dry most of the time and, unlike rain gardens, typically do not hold captured stormwater for a significant length of time following a rain event (unless check dams are used). Soil amendments such as compost are often required to achieve adequate infiltration rates. Some bioswales may also require an underdrain system. Bioswales can be used as a pre-treatment area leading to other BMPs or they can be stand-alone projects.

Add-On Definitions:

Rain Barrel(s): an above ground container modified to capture, store and distribute rooftop runoff for lawn and garden watering needs. Up to two rain barrels may be added to any project. Rain barrels must be between 40 and 60 gallons each.

The Application Process

- Applications may be downloaded from the NRD's website at: NRD Rainscape. Property Owners interested in participating are to apply via email or mail. All applications (even those received after the grant is full) will be put on file for future programming announcements. After the application has been received, staff will contact the Owner and schedule a preliminary site evaluation between 8:30 a.m. and 4:00 p.m., Monday through Friday, NRD staff will review the site for appropriate location, drainage, and soil type as well as possible projects for approval. Upon approval by NRD Board of Directors, the Owner is responsible for completing and returning the Participant Agreement Form. Only after the agreement form is received by our office will the Owner's acceptance into the program be finalized. If a final design was not submitted with the application and approved by Staff, the Owner shall complete a final design and schedule a second site evaluation with Staff prior to installation of the project. All projects must be installed in accordance with the provided educational materials. Work may be done by the Owner or an approved contractor may be hired by the Owner to install the project. The Owner pays all upfront expenses (including hired contractors) and then assembles receipts/invoices for reimbursable items. Once the project is complete, the Owner contacts Staff to schedule a final site evaluation. NRD Staff performs a final evaluation of the project and determines:
 - a. If projects are installed correctly and in accordance with provided materials: the provided reimbursement request envelope and all receipts are collected at this time for reimbursement consideration. If the Owner does not have all receipts ready for Staff at this time, those expenses will not be considered for reimbursement.
 - b. If the projects are NOT installed correctly and in accordance to provided materials: NRD Staff will give written request of necessary amendments. The Owner will amend the project and contact Staff upon completion. Staff will return to perform a second final site evaluation and collect receipts.
- 2. Following approval, the NRD will provide reimbursement for 50% of reimbursable expenses for the Rainscaping projects (maximum reimbursement amount shall not exceed \$1000 per applicant). Reimbursement shall be a check payment mailed to the Owner via US Postal Service within 45 days of receiving receipts. The Owner maintains the project (e.g. necessary weeding, watering, and plant replacement) for five (5) years following construction per Application and Agreement Form.

ACCEPTING GRANT APPLICATIONS	PROJECT INSTALLATION	COMPLETION DEADLINE (GRANT CLOSES)
Spring Project: March 1st Fall Projects: August 1st	May – October	6 months Following Approval of Application

For more information: Please visit lpsnrd.org

Small-Scale Residential Stormwater Best Management Practices

1.0 Overview

1.1 Purpose

This manual is designed to provide guidance for landscapers, landscape architects, homeowners and small business owners in selecting, designing and installing stormwater Best Management Practices (BMPs) to reduce stormwater runoff on small-scale sites. It focuses on smaller, more frequently occurring precipitation events, which have the greatest overall impact on the quality of local waterways.

The purpose of this manual is to provide criteria for utilizing small-scale Stormwater BMPs to prevent and manage stormwater pollution and to diminish adverse impacts to our streams and lakes, as well as the health and safety of residents.

1.2 Introduction

The physical and chemical characteristics of stormwater runoff change as urbanization occurs, requiring comprehensive planning and management to reduce adverse effects on receiving waters. As stormwater flows across roads, rooftops, and other hard surfaces, pollutants are picked up and carried to streams and lakes. Additionally, the increased frequency and volume of stormwater discharges due to urbanization can result in the scouring of rivers and streams, degrading the physical integrity of aquatic habitats, stream function, and overall water quality (EPA 2009). This manual provides information fundamental to effective stormwater quality management and planning, including:

- An overview of the potential adverse impacts of stormwater runoff.
- A summary of small-scale residential BMPs and how they can help reduce these adverse impacts and improve the quality of our streams and lakes.
- Design guidelines for these small-scale residential BMPs.

1.3 Urban Stormwater Characteristics

Numerous studies conducted since the late 1970s show stormwater runoff from urban and industrial areas can be a significant source of pollution. Stormwater impacts can occur during both the construction and post-construction phases of development. As a result, federal, state, and local regulations have been declared to address stormwater quality. Although historical focus of stormwater management was either flooding or chemical water quality, more recently, the hydrologic and hydraulic (physical) changes in watersheds associated with urbanization are recognized as significant contributors to receiving water degradation. Whereas only a few runoff events per year may occur prior to development, many runoff events per year may occur after urbanization. In the absence of controls, runoff peaks and volumes increase due to urbanization. This increased runoff is environmentally harmful, causing erosion in receiving streams and generating greater pollutant loading downstream. Urban characteristics (e.g. imperviousness, BMPs, drainage infrastructure, time of concentration) and watershed characteristics (e.g. drainage network, geology, slope, soils, climate) are some of the physical factors associated with stormwater runoff and the subsequent response of receiving waters (e.g. pollutant loads, channel morphology changes, riparian and aquatic conditions, connectivity, flooding).

With regard to chemical water quality, Table 8.1 identifies a variety of pollutant types and sources often found in urban setting such as solids, nutrients, pathogens, dissolved oxygen demands, metals, and oils. Several national data sources are available characterizing the chemical quality of urban runoff.

				Pollutants							
Pollution Source	Source Explanation		Nutrients	Pathogens	Dissolved Oxygen Demands	Metals	Oils	Synthetic Organic Chemicals			
Pet Waste	Pet waste (typically from dogs and cats) may contribute significantly if waste is not properly disposed of. Other animal wastes, such as birds and wildlife, may also contribute.	x	х	х	х						
Fertilizers	Improper storage and disposal of fertilizers, over-application, or incidental application to impervious surfaces (e.g. driveways and sidewalks) can lead to excess nutrients in stormwater runoff. Excess nutrients often contribute to algal blooms.		х	х	х						
Soil Erosion	Sediment entering a stream through natural processes or erosion of construction sites can decrease the biological function of the water and be detrimental to aquatic habitat. In addition, sediment can "pick up" nutrients such as nitrogen and phosphorus, and carry them downstream. This can create an incubation zone for algae and bacteria growth.	x	x		x	x					
Gravel and Sand	Gravel and sand, primarily applied in the winter to provide better traction on urban streets, typically gets flushed off paved surfaces after rain events if it is not removed manually by a sweeper truck or other method.	x									
Vehicle Fuel and Fluids	Pollution from vehicles includes oil, grease, metals and fuel. Maintenance facilities, streets, driveways and parking lots typically drain directly to an urban storm drain system where water and pollutants are piped directly to streams.	x			x	x	x	х			
Household Chemicals	Household chemicals, including paint, cleaners and preservatives, can contribute to the degradation of water quality if they enter the storm drain system.	x	х		х	x	х	x			

2.0 STORMWATER BEST MANAGEMENT PRACTICES

2.1 Background

In the past, conventional wisdom for stormwater management held that water was a problem to solve rather than a valuable resource to conserve. Historically, the primary objective of conventional stormwater engineering methods has been to convey stormwater away from our developed areas, seeking to quickly export water away from where it falls instead of beneficially storing and using the resource. In nature, by contrast, stormwater is dispersed across the landscape, reducing water runoff volumes and release rates while simultaneously cleaning the water through natural filtration processes.

As native vegetation is replaced by impervious surfaces created by conventional development, these natural stormwater management and treatment functions are lost, resulting in increased runoff, flooding, erosion, and pollution. With increased amounts of paved areas and impervious surfaces, as well as shallow-rooted vegetation (e.g. bluegrass lawns.), filtration and infiltration of stormwater is greatly reduced and traditional stormwater management quickly sends increased runoff volumes into our lakes and streams.

Alternatively, stormwater Best Management Practices (BMPs) emulate natural systems by capturing stormwater runoff and allowing more rain to soak in where it lands. These BMPs can be designed into new developments or retrofitted into developed areas.

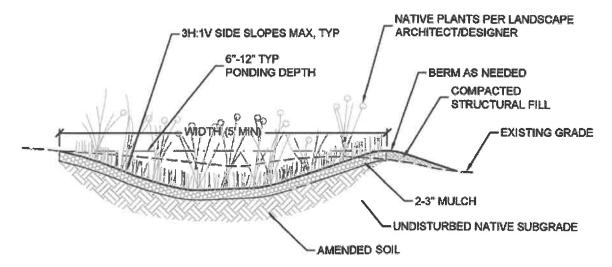
2.2 Rain Garden

2.2.1 Definition

A rain garden is a garden of native perennials, grasses and shrubs planted in a shallow depression. Rain gardens are designed and strategically placed on a gentle slope to capture stormwater runoff from a rooftop or other impervious surface. A berm is used to hold the water within the boundaries of the rain garden, allowing it time to soak into the ground below. Rain gardens are dry most of the time and typically do not hold captured stormwater for more than 24 hours following a rain event. If installed properly and under the right conditions, rain gardens can remove up to 90% of nutrients and chemicals from stormwater runoff (during a typical rain event).

2.2.2 Limitations

- Restrictions on where the facility may be successfully installed (e.g. cannot be installed uphill from a building foundation, etc.)
- Erosion-prone areas draining to the rain garden can clog the facility, pre-treatment is required for drainage areas with high sediment yields.
- Depending on the location of the rain garden, local ordinances may restrict plant height. Such restrictions may prohibit the use of certain species and/or varieties.



2.2.3 Design Specifications

Location:

- Rain gardens must be at least 10 feet away from building foundations and 20 feet is recommended.
- Rain gardens should be located downhill from buildings and other structures.
- Rain gardens cannot be in the public right-of-way or directly above buried utilities.
- Rain gardens must be located at least 25 feet away from a septic system or wellhead.
- Rain gardens should not be located where water tends to pool or where the water table is high.
- Slope of the surrounding area should not exceed 12%.

Sizing:

- Rain garden size is dependent on the size of the area draining to it. Rain gardens must be
 designed to capture, at a minimum, 100% of runoff produced by the area draining to it during a
 0.83 inch rain fall event.
- Slope should be used to determine the depth of the rain garden, with steeper slopes requiring larger berms on the downhill side. Rain garden depth should not exceed 8 inches.

Infiltration:

- Overall infiltration rate must be greater than 0.25 inches per hour.
- Rain gardens should drain within 24 hours, but up to 48 hours is allowable.
- If necessary, deep aeration and soil amendments (e.g. compost) may be used to increase infiltration rate.
- An underdrain system, complete with clean-out pipe(s), may also be used to increase infiltration
 rate. Underdrains should be encased in 8 to 12 inches of #2 (2 ½ inch) crushed stone, with a 2
 inch layer of #8 (3/8 inch) crushed stone on top (see bioswale diagram). Filter socks or geotextile
 fabric should not be used.

Features:

- Overflow should consist of a notch in the berm lined with 6 to 8 inch flat cobblestones (a.k.a. river skippers) to prevent erosion.
- If a sediment trap is needed/desired, it should be constructed with a flat bottom and notched overflow. Metal or high density plastic "boxes" are recommended.

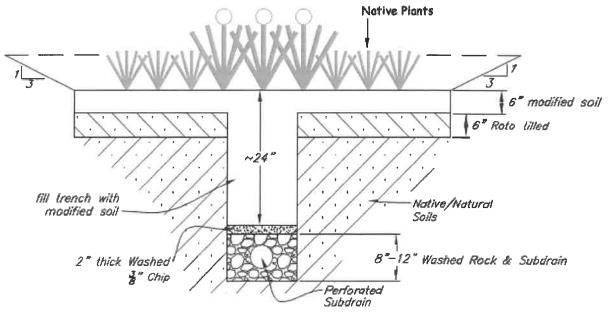
2.3 Bioswale

2.3.1 Definition

A bioswale is a garden of native perennials, grasses and shrubs planted in a long, shallow channel. Bioswales are designed and strategically placed to capture stormwater runoff from a rooftop or other impervious surface. Stormwater filters through the plants and soaks in as it makes its way along the channel. Some bioswales also utilize an underdrain system to speed infiltration. Bioswales are dry most of the time and they only hold water during a rainfall event. If installed properly and under the right conditions, bioswales can remove up to 70% of nutrients and chemicals from stormwater runoff (during a typical rain event).

2.3.2 Limitations

- Restrictions on where the facility may be successfully installed (e.g. cannot be installed uphill from a building foundation, etc.).
- Installations on steeper slopes are more prone to soil erosion.
- Depending on the location of the bioswale, local ordinances may restrict plant height. Such restrictions may prohibit the use of certain species and/or varieties.



Bioswale Cross Section

2.3.3 Design Specifications

Location:

- Bioswales must be at least 10 feet away from building foundations and 20 feet is recommended.
- Bioswales should be located downhill from buildings and other structures.
- Bioswales cannot be in the public right-of-way or directly above buried utilities.
- Bioswales must be located at least 25 feet away from a septic system or wellhead.
- Bioswales should not be located where water tends to pool or where the water table is high.
- Slope of the surrounding area should not exceed 5%.
- If slope of the surrounding area exceeds 5%, check dams should be used to slow velocity and control flow.

Sizing:

 Bioswale size is dependent on the size of the area draining to it. Bioswales must be designed to contain within its banks, at a minimum, 100% of runoff produced by the area draining to it during a 0.83 inch rain fall event.

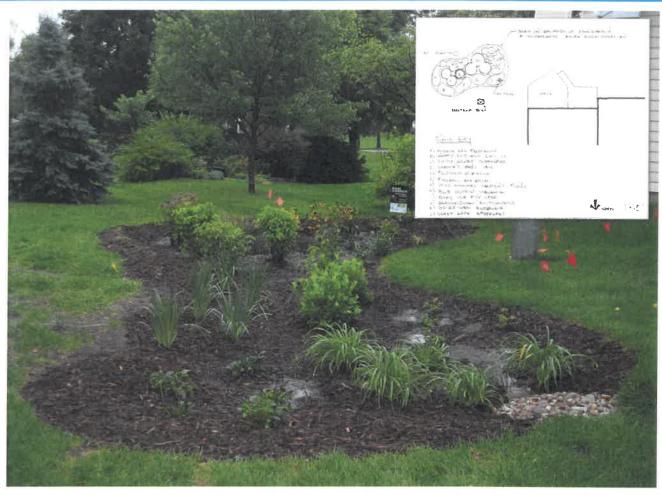
Infiltration:

- Overall infiltration rate must be greater than 0.5 inches per hour.
- If necessary, deep aeration and soil amendments (e.g. compost) may be used to increase infiltration rate.
- An underdrain system, complete with clean-out pipe(s), may also be used to increase infiltration rate. Underdrains should be encased in 8 to 12 inches of #2 (2 ½ inch) crushed stone, with a 2 inch layer of #8 (3/8 inch) crushed stone on top (see diagram). Filter socks or geotextile fabric should not be used.

Features:

• If check dams are needed/desired, they should be designed to resist washout and scouring.

EXAMPLE PROJECT - RAIN GARDEN/BIOSWALE



Size: 300 ft² Total Cost: \$2,475 (Before Reimbursement) Year Installed: 2009

Eligible Expenses

- Approved native or hardy introduced plants appropriate for rain gardens or bioswales:
 - Arrowwood Viburnum
 - · Virginia Sweetspire
 - Switchgrass
 - · Siberian Iris
 - · Joe Pye-Weed
 - Beebalm
 - · Virginia Spiderwort
 - · Sedum
 - · Orange Coneflower
 - Obedient Plant
 - Daylily
- Soil amendments (e.g. compost)
- Rocks for rain garden inlet and overflow
- Hardwood mulch
- Professional landscape design and installation fees

Ineligible Expenses

- Water or other utility bills
- Irrigation equipment including hoses and sprinklers

Note: The expenses listed above are not a complete list of eligible vs. ineligible expenses. They are examples of actual expenses incurred by the property owner.

RAIN GARDEN OR BIOSWALE REIMBURSABLE EXPENSES



REIMBURSABLE EXPENSES

- Approved native or hardy introduced plants appropriate for rain gardens or bioswales
- Soil amendments (e.g. compost, etc.) to increase soil fertility and infilitration rate
- Hardwood mulch
- Stone to prevent erosion in overflow and inlet
- Downspout extensions (including buried downspouts) or stone needed to direct water to the rain garden or bioswale
- Soil grading to direct water to the rain garden or bioswale
- Rental equipment fees for installing the rain garden or bioswale (e.g. rototiller, etc.)
- Design and installation labor performed by a landscape company or contractor
- Attendance of rain garden or stormwater workshop or educational class

NON-REIMBURSABLE EXPENSES

- Unapproved plants including annuals, vegetables, and invasive species
- Ornamental features (e.g. lawn ornaments, bird baths or feeders, decorative boulders, landscape lighting, edging, etc.)
- Tool purchases (e.g. rakes, shovels, wheelbarrows, power tools, etc.)
- Irrigation equipment including hoses and sprinklers
- Retaining walls or raised garden beds
- Water or other utility bills, gasoline, etc.
- Design and installation labor done by the homeowner or a non-professional
- Additional landscaping or dirtwork that does not pertain to the rainscaping projects
- Expenses for work performed or projects completed prior to acceptance into the program



Memorandum

Date:

March 14, 2019

To:

Urban Subcommittee

From:

Jared Nelson, District Engineer

Subject:

Salt Creek Levee Erosion Repair near Van Dorn St Bridge (STA 82+50R)

The Salt Creek Levee System consists of various levee and channel segments from Calvert to Superior Street along Salt Creek in Lincoln, NE. The Levee System was built by the US Army Corps of Engineers (USACE) in the 1960's to reduce flooding risks, and the LPSNRD is the 'local sponsor' responsible for protecting, maintaining, and operating the System. The USACE has an interest in maintaining the System in good condition and they inspect the System each year.

The LPSNRD received the latest USACE inspection comments in fall of 2018 and is working to address a few "Unacceptable" items related to bank erosion, located on the right bank of the levee between the Van Dorn St. bridge and the (now closed) Park Ave. bridge. As a continued effort to maintain the levee, it is important to repair areas which have eroded badly, and to protect against future erosion. See attached background information for a map of eroded areas in need of repair, along with other information.

The NRD previously contracted Benesch in February, 2019 to obtain geotechnical soil borings of the repair area, in order to understand the soil conditions and check for dispersive clay soils. The soil test results will provide information necessary to design a robust solution.

Staff has worked to negotiate a contract with Benesch to further analyze the soil results and to design a repair to fix the erosion. Attached is the Engineering Services agreement for them to do this work. Staff recommends doing this work to repair the damaged areas and protect against future erosion. The NRD Board will need to consider the recommendation that the Board of Directors approve the engineering services agreement with Benesch for the Salt Creek Levee Erosion Repair near Van Dorn St Bridge, in an amount not to exceed, \$19,956.

JLN/jln

Enc.

pc: Steve Seglin







Alfred Benesch & Company 825 "M" Street, Suite 100 Lincoln, NE 68508-2958 www.benesch.com P 402-479-2200 F 402-479-2276

March 6, 2019

Mr. Jared Nelson District Engineer Lower Platte South NRD 3125 Portia Street Lincoln, NE 68521

REFERENCE: Proposal for Design Services

Salt Creek Levee Repairs

Levee Embankment at Station 82+50R

Toe of Embankment from Station 76+00R to 77+50R South of Van Dorn Street Bridge, Lincoln, NE

Dear Mr. Nelson:

Alfred Benesch & Company (Benesch) is pleased to submit a proposal for providing consulting engineering services for design of repairs to levee at the referenced site.

TASK 1: GEOTECHNICAL DESIGN SERVICES

DRILLING, IN-SITU TESTING, AND SAMPLING METHODS - COMPLETED UNDER SEPARATE PROPOSAL

LABORATORY TESTING PROGRAM - COMPLETED UNDER SEPARATE PROPOSAL

FOUNDATION ENGINEERING EVALUATION AND RECOMMENDATIONS

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

- 1. Penetration diagrams of Dutch friction-cone penetrometer.
- 2. Boring logs.
- 3. Density and moisture content of undisturbed soil samples.
- 4. Unconfined compressive strengths of selected samples of foundation soils.
- 5. Consolidation/swell test data on selected samples of subgrade and foundation soils.
- 6. Geology:
 - a) Depth to groundwater--if encountered.
 - b) Summary of surface and subsurface conditions at the site.

March 6, 2019 Page 2

- 7. Soil classification chart and tables listing the criteria used to describe various soil properties.
- 8. Soil classification test data.

Benesch's geotechnical engineering report will include at a minimum the following information:

- 1. Analysis of soil to ascertain dispersivity characteristics.
- 2. An opinion on the cause(s) of the slope erosion/failure.
- 3. Recommendations regarding the repair of the erosion/failed area.
- 4. Analyses of on-site dispersive soils if present.
- 5. Analyses of levee stability with proposed repair design.
- 6. Recommended types of fill and backfill materials and compaction requirements.
- 7. Assistance with development of repair plans and specifications

TASK 2 – TOPOGRAPHIC SURVEY – COMPLETED UNDER SEPARATE PROPOSAL

TASK 3 – DESIGN AND PLAN PREPARATION

Benesch's Civil design team will gather all the data from the survey and geotechnical tasks and utilize that information to develop a plan and specifications package that will include the following:

- Cover sheet & general notes
- Typical sections
- Horizontal and vertical control
- Cross sections
- Earthwork computations and project quantities
- Erosion control
- Project construction specifications and special provisions

Benesch will also prepare bid documents and obtain 3 to 4 bids from local contractors to perform the work.

FEE ESTIMATE

Benesch's services for geotechnical, design, and plan preparation shall be for the Not-to-Exceed Fee of \$19,956.

EXECUTION OF CONTRACT

If this fee estimate is acceptable, please sign below and return one copy to Benesch. Upon execution and receipt by both parties, this Document and the attached General Conditions shall form an Agreement between Lower Platte South NRD and Benesch.

Benesch appreciates having the opportunity to present this proposal. Please contact us at your convenience if any clarification or additional information is required.

Page 3	
Sincerely,	
ALFRED BE	NESCH & COMPANY
Brandon	. Dash

Brandon Desh, PE Geotechnical Group Manager

Enclosure

March 6, 2019

Benesch Proposal-LPSNRD Salt Creek Levee Repair 82+50R Design.doc

LOWER PLATTE SOUTH NRD	ALFRED BENESCH & COMPANY
By:Authorized Signature	By:Authorized Representative
Title:	Title: Sr. Vice President
Date:, 20	Date: March 6 , 20 <u>19</u>
	Alfred Benesch & Company 825 "M" Street, Suite 100 Lincoln, Nebraska 68508 (402) 479-2200 FAX (402) 479-2276



Scope of Services and Fee Estimate LPSNRD Salt Creek Levee Repair Design

Attachment A

82+50R and 76+00R- South of W. Van Dorn Bridge - Lincoln, NE

Item	Description	Estimated	Unit			
No.		Quantity	Price	-	Amount	
l.	Geotechnical Analyses and Report			+		
	1. Project Manager II	50.0 hr.	\$ 154.00 /hr.	\$	7,700.00	
	2. Project Engineer I	32.0 hr.	\$ 107.00 /hr.	\$	3,424.00	
	3. Project Scientist II	6.0 hr.	\$ 74.00 /hr.	\$	444.00	
	4. Senior Field/Lab Technician	hr.	\$ 87.00 /hr.	\$	-	
II.	Topographic Survey - Complete under separate proposal					
III.	Design and Plan Preparation					
	1. Senior Project Manager	24.0 hr.	\$ 168.00 /hr.	\$	4,032.00	
	2. Project Engineer II	36.0 hr.	\$ 121.00 /hr.	\$	4,356.00	
	Estir	mated Design Total:		\$	19,956	

HAMANN MEADOWS TOWNHOMES ASSOCIATION

Lower Platte South NRD 3125 Portia Street Lincoln NE 68521

March 7, 2019

Dear Members of the Board:

Hamann Meadows Home Owners Association appreciates the funding assistance that the Lower Platte South NRD has provided for engineering design services on our detention cell repairs. In October of 2018, the LPSNRD approved 50% cost share with the Hamann Meadows HOA for Engineering and Design up to and not to exceed \$4,050. Since that time the design of the repairs has been completed and the project has been bid.

Hamann Meadows appreciates the assistance that the LPSNRD has provided and would like to request your continued assistance in funding of the environmental documentation and construction of the repairs.

It has been recommended by our engineer (Olsson) that an environmental documentation be prepared for the project. The berm repair is considered a maintenance project and will be a non-notifying NWP-3 by the U.S. Army Corps of Engineers. Olsson has provided us a fee of \$1,500 to document the site conditions, and a prepare a letter in accordance with the USACE no-notifying NWP-3.

Bids for construction of the project were opened on Thursday February 28th. Two Bids were received. The low bid was submitted by Gana Trucking and Excavating in the amount of \$36,195.61. A portion of the project will affect Lincoln Parks and Recreation, and they have agreed to fund the items of the project in the amount of \$13,798.04 that

Concierge Realty Management 8410 Executive Woods Drive Suite E Lincoln, NE 68512 are directly related to Parks and Recreations. The remaining items that Hamann Meadows HOA is responsible for totals \$22,379.75 for construction.

We would like to request that LPSNRD provide 50% funding assistance with the remainder of the project in the amount of \$11,939.86 through the Community Assistance Program.

Sincerely,

Teresa Hruza – Hamann Meadows Townhomes Association

YOUR LOGO HERE Street Address Address 2 City, ST ZIP Code Country PHONE Enter phone
FAX Enter fax
EMAIL Enter email
WEBSITE Enter website



Hamann Meadows HOA Attn: Mr. Teresa Hruza 8410 Executive Woods Lincoln, NE 68510

Re: Hamann Meadows Detention Cell Repair

Letter of Recommendation of Award

Olsson Project No. 018-3414

Dear Ms. Hruza,

Bids for the above referenced project were received on Thursday February 28, 2019. This letter is prepared to summarize the bids received and provide our recommendation for making an award of the project.

A total of two (2) bids were submitted for the project as follows:

Bidder	Total Base Bid
Bookstrom	\$81,660.00
Gana Trucking and Excavating	36,195.61

The engineer's opinion of probable construction costs for the project was \$27,634.00. The low bid in the amount of \$36,195.61 was submitted by Gana Trucking and Excavating of Martell, Nebraska.

Gana Trucking and Excavating has been deemed a responsive and responsible bidder, it is our recommendation that they should be awarded the contract in the amount of \$36,195.61.

Please contact us with any additional questions that you may have.

Michael W Phohe

Michael W. Placke, PE, MBA

Olsson

Tabulations of Bids Received - Hamann Meadows Berm Repair Bld Opening 3:00 PM February 28th, 2019

Olsson Project: 018-3414

			Engineer Opinion of Cost		BOOKSTROM		GANA		Bidder 3	
ltem	Quantity	Unit	Unit Cost	Total Cost	Unit Cost	Total Cost	Unit Cost	Total Cost	Unit Cost	Total Cost
Base Bid A (Hamann Meadows)										10010030
Mobilization and Construction Staking	1	LS	\$3,000.00	\$3,000.00	\$10,000,00	\$10,000.00	\$2,600.00	\$2,600.00		
General Clearing and Grubbing		LS	\$500.00	N/A			42,000.00	Ψ2,000.00		
Earthwork Measured as Fill	227	CY	\$12.00	\$2,724.00	\$50.00	\$11,350.00	\$42,17	\$9,572.59		
Tree Stump Removal	2	EA	\$500.00	\$1,000.00	\$1,000.00	\$2,000.00	\$698.00	\$1,396.00		
30" Corrugated HDPE Pipe (ADS N-12)	60	LF	\$80.00	\$4,800.00	\$250.00	\$15,000.00	\$62.74	\$3,764.40		
Trash Rack	1	EA	\$1,500.00	\$1,500.00	\$10,000.00	\$10,000.00	\$2,065.00	\$2,065.00		
Seeding and Mulching	0.05	AC	\$5,000.00	\$250.00	\$2,000.00	\$100.00	\$13,750.00	\$687.50		
Remove and Replace Concrete Trail (5" Thick)	_	SF	\$20.00	N/A			410,100.00	φοστ.υυ		
Remove and Reinstall Railing		LF	\$10.00	N/A				*************************		
Concrete Riser	1	EA	\$4,000.00	\$4,000.00	\$5,000.00	\$5,000.00	\$2,162.08	\$2,162,08		
Warning Sign	1	EA	\$150.00	\$150.00	\$200.00	\$200.00	\$150.00	\$150.00		
Sub-Total - Base Bid				\$17,424.00						
Construction Contingency			0%	\$0.00						
Total Base Bid A (Hamann Meadows HOA)				\$17,424.00		\$53,650.00		\$22,397.57		
Base Bid B (Parks and Rec.)			20.000							
Mobilization and Construction Staking		LS	\$3,000.00	N/A						
General Clearing and Grubbing	1	LS	\$500.00	\$500.00	\$7,500.00	\$7,500.00	\$2,630.00	\$2,630.00		
Earthwork Measured as Fill	100	CY	\$12.00	\$1,200.00	\$50.00	\$5,000.00	\$42.17	\$4,217.00		
Free Stump Removal		EA	\$500.00	N/A					1	
30" Corrugated HDPE Pipe (ADS N-12)	25	LF	\$80.00	\$2,000.00	\$250.00	\$6,250.00	\$62.74	\$1,568.50		
Frash Rack		EA	\$1,500.00	N/A						
Seeding and Mulching	0.05	AC	\$5,000.00	\$250.00	\$20,000.00	\$1,000.00	\$13,750.00	\$687.50		
Remove and Replace Concrete Trail (5" Thick)	288	SF	\$20.00	\$5,760.00	\$20.00	\$5,760.00	\$12.83	\$3,695.04		
Remove and Reinstall Railing	50	LF	\$10.00	\$500.00	\$50.00	\$2,500.00	\$20.00	\$1,000.00		
Concrete Riser	****	EA	\$4,000.00	N/A						***************************************
Varning Sign		EA	\$150.00	N/A						
Sub-Total - Base Bid				040.040.00						
Construction Contingency			00/	\$10,210.00						
otal Base Bid B (Parks and Rec.)			0%	\$0.00		***************************************				
CHAIL DUSC DIN C (FOIRS AIM REG.)				\$10,210.00		\$28,010.00	-	\$13,798.04		
otal (Sum of Base Bid A and Base Bid B)				\$27,634.00		\$81,660.00		\$36,195.61		

Highlighed items are mathmatical errors from bid document





Little Salt Creek Master Plan #2

The Little Salt Creek Watershed Master Plan was completed and approved in June 2009. The Master Plan was prepared because some near-term growth within the basin is expected as identified in the Lincoln-Lancaster County Comprehensive Plan. The Master Plan also includes the potential impacts to sensitive natural resources, including the saline wetlands and the federally listed endangered species Salt Creek Tiger Beetle. The Little Salt Creek Watershed is located north of the City of Lincoln with much of the watershed north of I-80. The watershed drains approximately 45.8 square miles from the headwaters near just north of West Ashland Road to its confluence with Salt Creek located just southeast of I-80 at 27th Street. The watershed is approximately 14.25 miles in length with a maximum width of about 5.5 miles. The purpose of the Master Plan was to outline long-term planning tools and improvement projects to address water quality, flood management, and stream stability to provide guidance for sustainable urban growth in the watershed. The project team was led by the City and NRD, in cooperation with Lancaster County (County). The City/NRD retained the consultant team of Intuition & Logic (I&L), in association with Heartland Center for Leadership Development (HC), PBS&J, E&A Consulting Group, Inc. (E&A), University of Nebraska (UNL), and Terracon to provide assistance with the planning effort. To date, the city and NRD have completed three projects identified in the Master Plan.

Project #2 located at North 14th Street has been identified as a priority. Lancaster County has prepared an interlocal agreement for the construction and maintenance of the project. The project is expected to be let for bidding in spring 2020. According to county engineering, estimated cost for the materials and labor to install the grade stabilization structure is ~\$126,522.50. Right-of-way for the access road and construction of the grade stabilization structure is estimated at approximately ~\$4,250. Wetlands impacted for the grade stabilization structure only is approximately 0.05 acres. Total estimate based on 90% plans for the grade stabilization structure portion of the project only should be in the neighborhood of \$130,500.

Master Plan Project #2 will be built in conjunction with the construction of a new 14th Street Bridge over Little Salt Creek. The City and NRD will split the cost of the estimated \$130,500 cost of the stream stabilization project and include this project in the annual City/NRD Stormwater Interlocal Agreement.

9.2.3.2 Project 2: Grade Control Main Stem, North 14th Street Bridge

Problem description: The main stem is incising and projected to continue to incise an additional six to twelve feet over the next 25 years. The incision will cause erosion at the bridge that could compromise bridge footings and stability. Sediment released from incision and subsequent bank failures could threaten natural resources along the channel.

Recommendation: The recommended improvement is to construct a grade control immediately downstream of the bridge crossing to hold the profile grade of the channel. Figure 9-9 shows the proposed location of the grade



Figure 9-8: North 14th Street Bridge over Main Stem

control, possible limits of construction and possible easement needs. The grade control should be placed at grade on the channel bottom and formed in a manner to mimic the elevation and stable slopes of the existing channel banks. The grade control should extend to the top of each bank or the 25 year flow depth, whichever is greater. Consideration should be given to soil erodability, piping and shear stresses along the grade control and at the edges. The grade control can be constructed using various materials. For the purposes of this study, a sheet pile grade control system was assumed.

Impact to Natural Resources and/or Salt Creek Tiger Beetle Habitat:

Grade stabilizing the main stem will protect the Tiger Beetle habitat at the toe of slope and within the saline wetlands near the top of banks along the main stem. The grade control is sited within road right of way so there is no direct impact on the possible Salt Creek Tiger Beetle habitat.

Estimated Project Cost: \$113,000

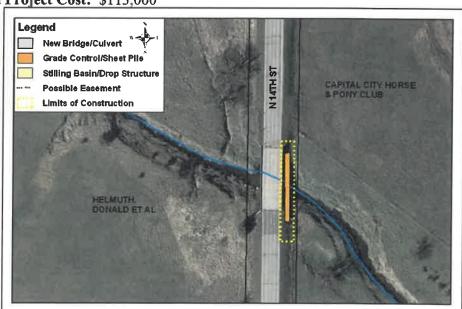


Figure 9-9: Project 2 Proposed Improvements



INTERLOCAL AGREEMENT

FOR

PROJECT NO. C.I.P. SITE 2

THIS INTERLOCAL AGREEMENT (the "Agreement") is entered into by and between the Lower Platte South Natural Resources District hereafter referred to as "The District" and the County of Lancaster, Nebraska, hereinafter referred to as "the County," and hereinafter individually referred to as a "Party" or collectively as the "Parties."

WITNESSETH:

RECITALS

- 1. The State or any local government may exercise any of its powers or perform any of its functions jointly or in cooperation with any other governmental entity as authorized by Article XV § 18 of the Nebraska Constitution. Any two or more public agencies (county, city, village, school district, agency of the State government, or political subdivision of this State) are authorized by *Neb. Rev. Stat.* §§ 13-801 to 13-827 to enter into interlocal agreements with one another for joint or cooperative action for any power or powers, privileges or authorities exercised or capable of exercise individually by such public agencies.
- The County is responsible for providing improvements to and the maintenance of roads, bridges, and other drainage structures within Lancaster County.
- 3. The District pursuant to *Neb. Rev. Stat.* § 2-3229, has, among others, the authority to develop and execute plans, facilities, works and programs which includes, among others

- "(1) erosion prevention and control" and "(2) prevention of damage from floodwaters and sediment."
- 4. The District has plans to construct certain improvements which will control erosion and stabilize streams within the Little Salt Creek basin as shown in Exhibit "A."
- 5. The District has identified said improvements as the "Little Salt Creek Watershed Master Plan; Project No. C.I.P. site number 2", and hereinafter shall be referred to as the "Project."
- 6. The Project will be constructed at the following Lancaster County bridge:
 - a. Site #2 Lancaster County Bridge F-88 (C005512360), located on N. 14th
 St. at its intersection with Little Salt Creek between W. Waverly Rd. and
 W. Mill Rd. in the NW ¼ of Section 12, Township 11 N., Range 6 E. of
 the 6th Principle Meridian as shown in Exhibit "B".

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants contained herein, it is agreed between the Parties as follows:

- A. The objectives and purposes of this Interlocal Agreement are to carry out the public powers, duties and obligations of the Parties with respect to the construction, operation and maintenance of the Project as provided below.
- B. In order to attain the objectives and purposes of this Interlocal Agreement, each

 Party shall perform the applicable provisions of this Agreement in good faith and shall

 cooperate with the other Party in order to achieve the construction of the Project..
- C. This Interlocal Agreement shall become effective and binding upon its approval by appropriate action of the governing bodies of the Parties pursuant to *Neb. Rev. Stat.* § 13-1804(2) and execution by the Parties.

- D. Each Party hereby agrees to participate with the other Party to this Interlocal
 Agreement in the conduct of the activities hereinafter described.
- E. The term of this Interlocal Agreement shall be five (5) years from the date of its execution by the Parties unless terminated sooner pursuant to Section Q below and may be further extended by the mutual written agreement of the Parties. This Interlocal Agreement shall survive a transition of the form of government of a Party from one form to another. The maintenance responsibilities as set forth in Section F will continue in full force and effect following the termination of the Agreement.
- F. <u>C.I.P. Site #2 (F-88).</u> The work proposed at this site consists of the construction of a grade stabilization structure in Little Salt Creek downstream from Lancaster County Bridge F-88, and replacement of the existing bridge with a 125'-0" triple span continuous concrete slab bridge. The Parties further agree:
 - 1. The County agrees to:
 - a. Furnish the District plans for the grade stabilization structure and bridge replacement at no cost to the District.
 - b. Acquire the right-of-way and/or easements necessary for the construction, operation and maintenance of the grade stabilization structure and bridge replacement.
 - c. Obtain all permits necessary to construct the grade stabilization structure and the bridge replacement and at no cost to the District.
 - d. Advertise for and award a contract for the construction of the grade stabilization structure and bridge replacement and to administer the construction for both at no cost to the District.

- e. Review the bids for the grade stabilization structure with the District before awarding any contract.
- f. Furnish the construction engineering services (surveying, inspection, material testing, supervision, and processing of contractor progress payments) for the grade stabilization structure and the bridge replacement construction contract at no cost to the District.
- g. Require its Contractor(s) to provide continuous and uninterrupted ingress and egress to private property within the work area.
- h. Maintain the bridge replacement at no cost to the District.

2. The District agrees to:

- a. Provide reimbursement to the County for its acquisition of right-of-way and/or easements necessary to construct the grade stabilization structure within thirty
 (30) days of receipt of an invoice from the County.
- b. Provide reimbursement to the County for the costs of construction of the grade stabilization structure within thirty (30) days of receipt of an invoice from the County. Maintain the grade stabilization structure once completed at no cost to the County.
- G. <u>Independent Contractor (County and District)</u>. It is the express intent of the Parties that this Agreement shall not create an employer-employee relationship between the Parties. Employees of the District shall not be deemed to be employees of the County and employees of the County shall not be deemed to be employees of the District. The District and the County shall be responsible to their respective employees for all salaries and benefits. Neither the District's employees nor the County's employees shall be

entitled to any salary or wages from the other Party or to any benefits made to their employees, including but not limited to, overtime, vacation, retirement benefits, workers compensation, sick leave or injury leave. The District and the County shall each be responsible for maintaining Worker's Compensation Insurance and Unemployment Insurance for its employees, and for payment of all Federal, State, local and any other payroll taxes with respect to its employees' compensation.

- H. <u>Assignment</u>. Neither the County nor the District shall assign its duties and responsibilities under this Agreement without the express written permission of the other Party. The County hereby expressly gives its permission and consent to the District to Contract or Subcontract for the services to be performed by the District under this Agreement as provided herein. Any assignment of any services to be provided herein without the express written permission of the other Party, shall be absolutely void.
- I. <u>Construction Area Control</u>. To the extent permitted by law, the District relinquishes control of the construction area possessed by the District to the County and its Contractors during the period of the construction. The placement of barricades in the area of construction will be the responsibility of the County. This shall include placement of construction equipment and any obstacles which are created as a result of the construction project. To the extent permitted by law, the County expressly accepts control of the construction area, such control shall include, but not be limited to, barricades, road crossing, construction equipment, and any obstacles created during construction of the Project.
- J. <u>Hold Harmless</u>. Each Party agrees to save and hold harmless, to the fullest extent allowed by law, the other Party and its principals, officers, and employees from and

.

against all claims, demands, suits, actions, payments, liabilities, judgments and expenses (including court-ordered attorneys' fees), arising out of or resulting from the negligent or wrongful acts or omissions of their principals, officers, or employees in the performance of this Agreement. Liability includes any claims, damages, losses, and expenses arising out of or resulting from performance of this Agreement that results in any claim for damage whatsoever including any bodily injury, civil rights liability, sickness, disease, or damage to or destruction of tangible property, including the loss of use resulting therefrom. Further, each Party shall maintain a policy or policies of insurance (or a self-insurance program), sufficient in coverage and amount to pay any judgments or related expenses from or in conjunction with any such claims. Nothing in this Agreement shall require either Party to indemnify or hold harmless the other Party from liability for the negligent or wrongful acts or omissions of said other Party or its principals, officers, or employees.

- K. <u>Subcontractors</u>. The County agrees to require any contractors or subcontractors, providing services under this Agreement, to indemnify and hold the District harmless to the same extent and as provided in Section J of this Agreement.
- L. <u>Severability</u>. If any portion of this Agreement is held invalid, the remainder hereof shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.
- M. Equal Employment Opportunity. In connection with the carrying out of the activities provided herein, neither the District nor the County shall discriminate against a bidder or employee because of race, color, religion, sex, disability, national origin, age, marital status or receipt of public assistance.

N. <u>Independent Contractors (County Contractors and Subcontractors)</u>. The County further agrees that it shall require its contractors or subcontractors, providing services under this Agreement, to agree to the following clause by including it in its contractor and subcontractor agreements:

It is the express intent of the Parties that this Agreement shall not create an employer-employee relationship, and the Contractor, or any employees or other persons acting on behalf of the Contractor in the performance of this Agreement, shall be deemed to be independent contractor(s) during the entire term of this Agreement or any renewals thereof. It is agreed between the Parties that the designated staff shall at all times continue to be employees of the Contractor for the duration of the Agreement. The Contractor shall be responsible for all salary and benefits payable under this Agreement and the Contractor's employees shall not be entitled to any salary from the District or the County or to any benefits made to District or County employees, including, but not limited to, overtime, vacation, retirement benefits, workers' compensation, sick leave or injury leave. The Contractor shall also be responsible for maintaining workers' compensation insurance, unemployment insurance and any applicable malpractice insurance coverage for its employees, and for payment of all federal, state, local and any other payroll taxes with respect to the employee's compensation.

- O. <u>Insurance</u>. The County shall require any contractors or subcontractors, providing services under this Agreement, to agree to the insurance clause to be used for all County contracts, as provided in Exhibit "C" attached hereto and incorporated by this reference.
- P. Certificate of Insurance. The Contractor shall not commence work under this Agreement

until it has obtained all insurance required pursuant Exhibit "C" and has provided the District and the County with a Certificate of Insurance showing the specific limits of insurance required by Exhibit "C" and showing the District and the County as additional insured and waiver of subrogation for policies of Commercial General Liability and Auto Liability. Such certificate shall specifically state that Insurance policies are to be endorsed to require the insurer to provide the District and the County thirty (30) days notice of cancellation, non-renewal of any material reduction of insurance coverage.

- Q. <u>Budgetary Limitations</u>. It is expressly understood by each Party that budgetary or fund limitations may limit their ability to comply with all or part of this Agreement. If either Party experiences budgetary or fund limitations which interferes with their ability to comply with all or part of this Agreement, such Party will immediately notify the other Party and the Parties shall in good faith mutually decide how they will proceed to fulfill their obligations under this Agreement.
- R. Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter herein and merges all prior discussions between them. It shall not be modified except by written agreement dated subsequent to the date of this Agreement and signed by both Parties.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement on the date opposite their signatures by their authorized representatives.

EXECUTED this	_ day of	, 20, by the County.
		LANCASTER COUNTY, NEBRASKA
		By: Chair, Lancaster County Board of Commissioners
APPROVED AS TO FORM: This day of	, 20	·
Deputy County Attorney for PAT CONDON County Attorney		
EXECUTED this	_ day of	, 20, by the District.
		LOWER PLATTE SOUTH NATURAL RESOURCES DISTRICT
		By: Paul Zillig, General Manager Lower Platte South Natural Resources District
APPROVED AS TO FORM: This day of	20	
Steve Seglin. Attorney for the		- **

Exhibit "A"

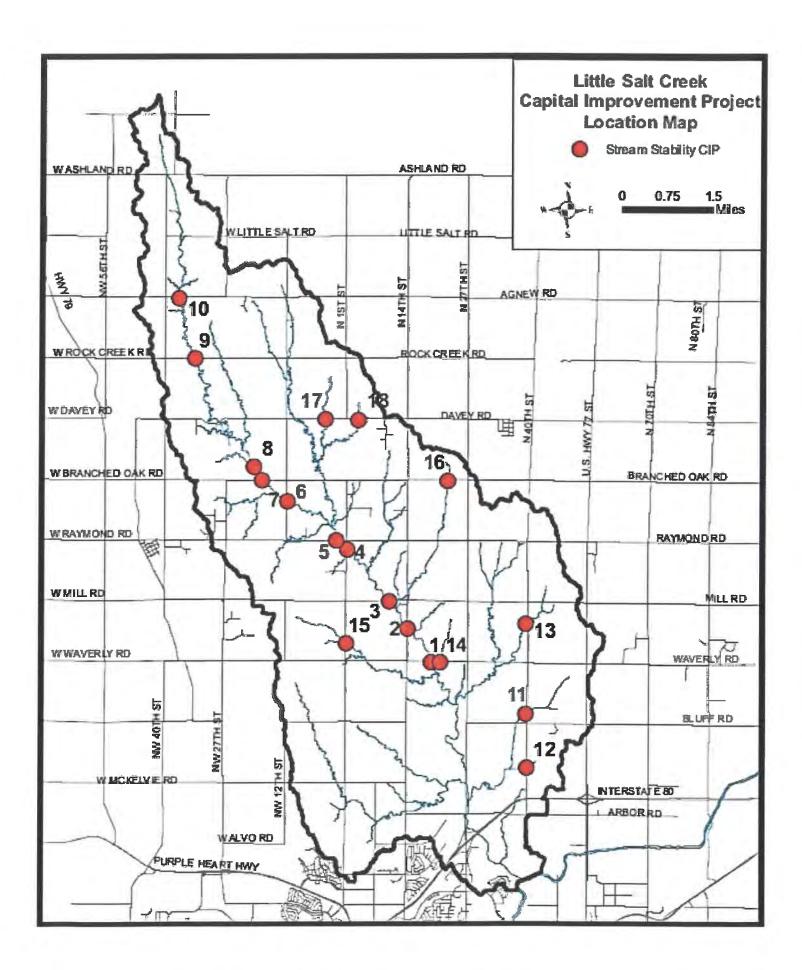


Exhibit "B"

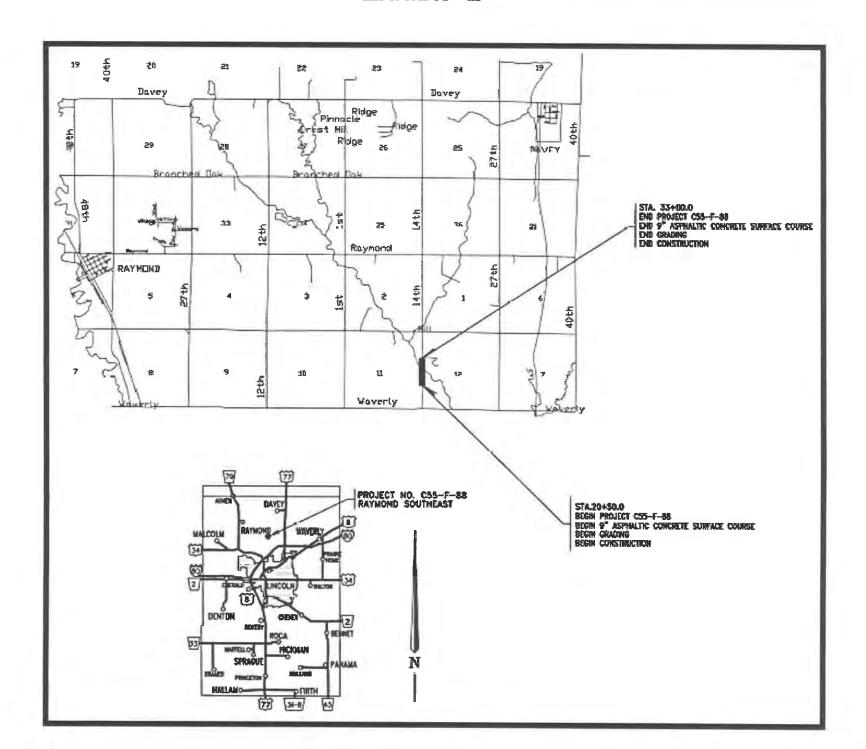


Exhibit "C"

INSURANCE CLAUSE FOR ALL CITY OF LINCOLN, LANCASTER COUNTY AND PUBLIC BUILDING COMMISSION CONTRACTS

Insurance coverage on	this Contract will be req	quired for the entities selected below
☐ City of Lincoln	□ Lancaster County	Public Building Commission

Vendors must provide coverage & documents related to the items with a check mark in Sections 1 – 1.9.

This includes proof of coverage and waivers as required below.

All Vendors must comply with Sections 2-8.

THE REQUIREMENTS HEREIN APPLY TO CONTRACTS TO BE ISSUED BY THE CITY OF LINCOLN, LANCASTER COUNTY, AND THE LINCOLN-LANCASTER COUNTY PUBLIC BUILDING COMMISSION. FOR PURPOSES OF CERTIFICATES, ENDORSEMENTS AND OTHER PROOF REQUIRED HEREIN, ONLY INCLUDE THE ENTITY ISSUING THE CONTRACT.

FAILURE OF THE APPROPRIATE ENTITY (CITY, COUNTY, OR PUBLIC BUILDING COMMISSION) TO OBJECT TO THE FORM OF THE CERTIFICATE OR ENDORSEMENT OR TO DEMAND SUCH PROOF AS IS REQUIRED HEREIN SHALL NOT CONSTITUTE A WAIVER OF ANY OF THE INSURANCE REQUIREMENTS SET FORTH BELOW.

Insurance: Coverage Information

The Contractor shall, prior to beginning work, provide proof of insurance coverage in a form satisfactory to the City/County/PBC, which shall not withhold approval unreasonably. The coverages and minimum levels required by this Contract are set forth below and shall be in effect for all times that work is being done pursuant to this Contract. No work on the Project or pursuant to this Contract shall begin until all insurance obligations herein are met to the satisfaction of the City/County/PBC, which shall not unreasonably withhold approval. Self-insurance shall not be permitted unless consent is given by the City/County/PBC prior to execution of the Contract and may require submission of financial information for analysis. Deductible levels shall be provided in writing from the Contractor's insurer and will be no more than \$25,000 per occurrence or as may be approved by the City or County as appropriate. Said insurance shall be written on an OCCURRENCE basis, and shall be PRIMARY, with any insurance coverage maintained by the City/County/PBC being secondary or excess.

Certificates

The Contractor shall provide certificates of insurance and such other proof, such as endorsements, as may be acceptable to the City or County (as appropriate) evidencing compliance with these requirements. The Contractor shall provide a Certificate of Insurance demonstrating the coverage required herein and the necessary endorsements or other proof and waivers described herein and below before being permitted to begin the work or project pursuant to this Contract.

△ 1. Commercial General Liability

The Contractor shall provide proof of Commercial General Liability Insurance with a minimum limit of not less than \$1,000,000 each occurrence and \$2,000,000 aggregate. These minimum limits can be met by primary and umbrella liability policies. Coverage shall include: Premises-Operations, Products/ Completed Operations, Contractual, Broad Form Property Damage, and Personal Injury. Such coverage shall be endorsed for the general aggregate to be on a **PER PROJECT** basis, and the Contractor shall provide an additional insured endorsement acceptable to the City/County/PBC. The required insurance must include coverage for all projects and operations of Contractor or similar language that meets the approval of the City/County/PBC, which approval shall not be unreasonably withheld.

≥ 1.1 Additional Insured (Requires an Endorsement Form)

All Contractors shall provide an Additional Insured Endorsement form or other proof showing the City/County/PBC as additional insured for commercial general liability, auto liability and such other coverages as may be required by the City/County/PBC. The form or other proof shall be as is acceptable to the City/County Attorney.

≥ 1.2 Automobile Liability

The Contractor shall provide proof of Automobile Liability coverage, which shall include: Owned, Hired and Non-Owned. Bodily Injury and Property Damage Combined Single Limit shall be at least \$1,000,000 Per Accident.

☐ 1.3 Garage Keepers / Garage Liability

The Contractor shall provide garage insurance, if required. Coverage shall include Garage Liability and Garage Keepers on a Direct Primary Basis, including Auto Physical Damage, with limits of not less than \$1,000,000 each accident Bodily Injury and Property Damage combined liability and Actual Cash Value auto physical damage. Coverage symbol(s) 30 and 21 shall be provided, where applicable.

≥ 1.4 Workers' Compensation; Employers' Liability

The Contractor shall provide proof of workers' compensation insurance of not less than minimum statutory requirements under the laws of the State of Nebraska and any other applicable State. Employers' Liability coverage with limits of not less than \$500,000 each accident or injury shall be included. The Contractor shall provide the City/County/PBC with an endorsement for waiver of subrogation or other proof of such waiver as may be acceptable to the City or County. The Contractor shall also be responsible for ensuring that all subcontractors have workers' compensation insurance for their employees before and during the time any work is done pursuant to this Contract.

□ 1.5 Builder's Risk Insurance

The Contractor shall purchase and maintain builder's risk property insurance for all sites upon which construction is occurring as provided by Contract and all storage sites where equipment, materials, and supplies of any kind purchased pursuant to the Contract are being held or stored unless the Contractor receives notice that the City/County/PBC has obtained a builder's risk policy for itself. Except to the extent recoverable by Contractor from another subcontractor, deductibles shall be the responsibility of the Contractor. This coverage is required whenever the work under contract involves construction or repair of a building structure or bridge.

1.5.1Waiver of Builder's Risk Insurance Carrier's Subrogation Rights

The Contractor and its subcontractor(s) waive all rights of action and subrogation that the insurance company providing the builder's risk policy may have against each of them and/or the City/County/PBC, Architect, and the officers, agents and employees of any of them, for all claims, damages, injuries and losses, to the extent covered by such property insurance. Such waiver of subrogation shall be effective for such persons even though such persons would otherwise have a duty of indemnification or contribution, contractual or otherwise, and even though such persons did not pay the insurance premium directly or indirectly, and whether or not such persons had an insurable interest in any property damaged. The Contractor or subcontractor shall provide proof of such waiver.

☐ 1.6 Pollution Liability

Contractors shall provide proof of pollution liability insurance arising out of all operations of the Contractors and subcontractors, due to discharge, dispersal, release, or escape of contaminants or pollutants into or upon land, the atmosphere or any watercourse or body of water with bodily injury and property damage limits of not less than \$1,000,000 per occurrence and \$2,000,000 annual aggregate for:

- 1) Bodily injury, sickness, disease, mental anguish or shock sustained by any person, including death;
- 2) Property damage including physical injury to or destruction of tangible property including the resulting loss of use thereof, clean-up costs, and the loss of use of tangible property that has not been physically injured or destroyed;
- 3)Defense including loss adjustment costs, charges and expenses incurred in the investigation, adjustment or defense of claims for such compensatory damages;
- 4) Definition of pollution conditions shall include asbestos, lead, and mold so that these risks are covered if caused by Contractor/successful candidate's work or operations.
- 5) Coverage is required on an occurrence form.

1.7 Errors and Omissions; Professional Liability

Errors and Omissions or Professional Liability insurance, as may be required, covering damages arising out of negligent acts, errors, or omissions committed by Contractor in the performance of this Contract, with a liability limit of not less than \$1,000,000 each claim. Contractor shall maintain this policy for a minimum of two (2) years after completion of the work or shall arrange for a two year extended discovery (tail) provision if the policy is not renewed. The intent of this policy is to provide coverage for claims arising out of the performance of professional Services under this contract and caused by any error, omission, breach or negligent act, including infringement of intellectual property (except patent and trade secret) of the Contractor. This coverage is required whenever the Contractor or service provider is required to be certified, licensed or registered by a regulatory entity and/or where the provider's judgment in planning and design could result in economic loss to City/County/PBC.

1.8 Railroad Contractual Liability Insurance

If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or railroad crossing, the Contractor must provide proof acceptable to the City or County that any exception for such work in the Contractor's commercial general liability policy has been removed or deleted.

☐ 1.8.1 Railroad Protective Liability

If work is to be performed within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road beds, tunnel, underpass or crossing or otherwise required by the Special Provisions or applicable requirements of an affected railroad, the Contractor shall provide Railroad Protective Liability Insurance naming the affected railroad/s as insured with minimum limits for bodily injury and property damage of \$2,000,000 per occurrence, \$6,000,000 aggregate, or such other limits as required in the Special Provisions or by the affected railroad. The original of the policy shall be furnished to the railroad and a certified copy of the same furnished to the City/County/PBC Purchasing Department prior to any related construction or entry upon railroad premises by the Contractor or for work related to the Contract.

1.9 Cyber Insurance

The Contractor shall maintain network risk and cyber liability coverage (including coverage for unauthorized access, failure of security, breach of privacy perils, as well at notification costs and regulatory defense) in an amount of not less than \$1,000,000. Such insurance shall be maintained in force at all times during the term of the Contract and for a period of two years thereafter for services completed during the term of the Contract.

2. Cancellation Notice

All Contractors shall include an endorsement to provide for at least thirty (30) days' firm written notice in the event of cancellation during the term of the Contract and during the period of any required continuing coverages. The Contractor shall provide, prior to expiration of the policies, certificates and endorsement forms evidencing renewal insurance coverages. The parties agree that the failure of City/County/PBC to object to the form of a certificate and/or additional insured endorsement or endorsement forms provided shall not constitute a waiver of this requirement.

3. Risk of Loss

Except to the extent covered by the builder's risk insurance, the Contractor shall have the sole responsibility for the proper storage and protection of, and assumes all risk of loss of, any subcontractor's Work and tools, materials, equipment, supplies, facilities, offices and other property at or off the Project site. The Contractor shall be solely responsible for ensuring each subcontractor shall take every reasonable precaution in the protection of all structures, streets, sidewalks, materials and work of other subcontractors. Contractor shall protect its Work from damage by the elements or by other trades working in the area.

4. Umbrella or Excess Liability

The Contractor may use an Umbrella, Excess Liability, or similar coverage to supplement the primary insurance stated above in order to meet or exceed the minimum coverage levels required by this Contract.

5. Minimum Scope of Insurance

All Liability Insurance policies shall be written on an "Occurrence" basis only. All insurance coverage are to be placed with insurers authorized to do business in the State of Nebraska and must be placed with an insurer that has an A.M. Best's Rating of no less than A:VII unless specific approval has been granted otherwise.

6. Indemnification

To the fullest extent permitted by law the Contractor shall indemnify, defend, and hold harmless the Owner, its elected officials, officers, employees, agents, consultants, and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorney fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible or intangible property, including the Work itself, but only to the extent caused by the negligent, wrongful, or intentional acts or omissions of the Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or

expense is caused in part by the negligence of a party indemnified hereunder. In the event the claim, damage, loss or expense is caused in part by the negligence of a party indemnified hereunder, the indemnification by the Contractor shall be prorated based on the extent of the liability of the party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce obligations of indemnity which would otherwise exist as to a party or person described in this Section. Nothing herein shall be construed to be a waiver of sovereign immunity by the Owner.

7. Reservation of Rights

The City/County/PBC reserves the right to require a higher limit of insurance or additional coverages when the City/County/PBC determines that a higher limit or additional coverage is required to protect the City/County/PBC or the interests of the public. Such changes in limits or coverages shall be eligible for a change order or amendment to the Contract.

8. Sovereign Immunity

Nothing contained in this clause or other clauses of this Contract shall be construed to waive the Sovereign Immunity of the City/County/PBC.

9. Further Contact

For further information or questions concerning coverage or acceptable forms, Contractors may contact the Purchasing Division or the department that issued the bid or the request for proposal.

For general questions regarding Insurance Requirements, please contact Risk Management for the City or County.