



**Programs, Projects & Operations
Subcommittee Meeting
September 13, 2005
7:00 p.m.
Agenda**

Programs, Projects & Operations:

John Conley, Chairman
Rich Tesar, Vice-Chairman
Fred Conley
Rick Kolowski
Joe Neary

Alternate Members: Dorothy Lanphier
Jim Thompson

Staff Liaison: Gerry Bowen *
Martin Cleveland
Ralph Puls
Dick Sklenar
Paul Woodward

1. Meeting Called to Order – Chairperson John Conley
2. Quorum Call
3. Adoption of Agenda
4. Proof of Publication of Meeting Notice
5. Review and Recommendation on Mentored Youth Hunting Agreement with NE Game and Parks Commission – Jeff Rawlinson, NE Game and Parks, and Gerry Bowen
6. Review and Recommendation of Agreements for Papio Dam Site 13 Project – Paul Woodward
 - a. Interlocal Agreement with City of Omaha and City of Elkhorn
 - b. Addendum to Purchase Agreement with Lyman-Richey Corporation
7. Request from City of Kennard for \$200,000 Grant for Pumping Wastewater to City of Blair for Treatment – Marlin Petermann
8. Review and Recommendation on Grant Application for MoPac Equestrian Trail Improvements – Gerry Bowen

9. Review and Recommendation on Western Sarpy Clear Creek Project Cabins Demolition Services Contract – Marlin Petermann
10. Review and Recommendation on Elk Creek Channel Grade Stabilization Structure #2 Project Bids – Dick Sklenar
11. Adjourn

Memo to the Programs, Projects, and Operations Subcommittee

Subject: Mentored Youth Hunting – Agreement with Nebraska Game and Parks Commission

Date: August 29, 2005

From: Gerry Bowen

As part of the Western Sarpy/Clear Creek Levee Project, the District acquired the Glasshoff property at the tip of Vencil's Island as a conservation measure for endangered species. Several flow through and/or backwater chutes are planned for the area.

The Nebraska Game and Parks Commission (NGPC) approached the District about the utilization of this area for mentored youth hunting and fishing. A draft of an agreement prepared by NGPC was reviewed at the August 2004 Subcommittee and Board of Directors meetings. The Board decided to limit the waterfowl hunting to only the established two-day mentored youth hunting season, prohibit high-powered and/or black powder rifles, and that the agreement be in effect for one year, with the option for one additional year at the election of the NGPC. A copy of the agreement with the proposed changes is attached. The project agreement was to be reviewed at the end of the term to determine the effectiveness of the program. See attached letters from NGPC and one of the youth mentors reporting on last year's program.

- a.) The NGPC has notified the District of its intent to exercise the option of extending the lease for one more year (see attached letter), but is also suggesting that some changes be made to the agreement. A draft of the proposed agreement revisions is also attached for your review. The revisions would: provide for waterfowl hunting throughout the entire season
- b.) provide for a three year agreement term with the option of an additional three years
- c.) specify the general location of the three waterfowl hunting blinds
- d.) provide for shotgun turkey hunting

Management recommends that the Subcommittee recommend to the Board that the General Manager be authorized to execute the proposed revised agreement with the Nebraska Game and Parks Commission to allow for mentored youth hunting and fishing on the Glasshoff Tract at Vencil's Island



Nebraska Game and Parks Commission

2200 N. 33rd St. / P.O. Box 30370 / Lincoln, NE 68503-0370

Phone: 402-471-0641 / Fax: 402-471-5528 / www.outdoornebraska.org

September 1, 2005

Marlin Perermann
8901 S. 154th St.
Omaha, NE 68138
Chalco Hills Recreation Area

Dear Marlin,

I want to thank you and your staff for their efforts with the first year of youth mentored hunting programs for Vencil's Island. Such a location offers many quality opportunities and is greatly appreciated by many.

Below are a few changes we would like to make for the Cooperative Agreement. We feel these changes will continue to make great use of the property while preserving it's capability to support a variety of wildlife species and their habitats.

Page 1, Paragraph A:

"The District and the Commission shall take the necessary steps to ensure that this area is accessible and Commission activities thereon limited to (1) mentored youth archery big game hunting, (2) mentored youth shotgun and archery turkey hunting, and (3) mentored youth shotgun waterfowl hunting ~~during the two-day youth waterfowl season~~, all under the direction of the Commission. A restriction prohibiting rifles and hand guns will be enforced."

Page 3, General Maintenance of the Project Area, Paragraph B:

"All improvements constructed by the Commission at its sole cost and expense shall be and remain the property of the Commission; provided, however, the Commission shall remove or cause to be removed the respective improvements at its sole cost and expense within 90 days from and after the termination of this agreement, or respective part thereof, and shall restore the land to a safe and natural condition. These improvements shall include minor enhancements to the area that benefit youth hunting, installation of pit or free-standing blinds, ground blinds, tree stands, vehicle access features and limited parking areas. It is expressly understood the installation of pit or free-standing blinds for waterfowl hunting shall not exceed three blinds (two on the Platte River and one on the Elkhorn) to be located within 600 yards of the southern end of Vencil's Island."

Page 3, Terms and Conditions, Paragraph A:

This agreement is valid for a term of ~~one~~ three years from the date first signed, with an option for a ~~one~~ three year renewal by the Commission at the end of this initial term.

Please feel free to contact Jeff Rawlinson, our Outdoor Education Specialist, should you have any questions or comments. Thanks again for your support of what has become a productive and valuable partnership for Nebraska youth.

Sincerely,

A handwritten signature in black ink, appearing to read "Sam Sidner", written in a cursive style.

Sam Sidner
Assistant Director

AGREEMENT

BETWEEN THE PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT AND THE NEBRASKA GAME AND PARKS COMMISSION

This agreement made on _____ day of _____, 2004, between the Papio-Missouri River Natural Resources District, herein referred to as the District, pursuant to Section 2-3235 of Revised Statutes of Nebraska, 1997, and the Nebraska Game and Parks Commission, hereinafter referred to as the Commission, pursuant to Sections 37-301 and 37-304, Revised Statutes of Nebraska, 1998, and Section 37-303, Revised Statutes of Nebraska, 2000.

WITNESSETH:

WHEREAS, The District has ownership of a tract of land commonly known as Vencil's Island (Glasshoff tract) (described in the legal description attached hereto as Exhibit A and incorporated herein by reference), for the Western Sarpy Clear Creek Flood Reduction Project (hereinafter referred to as the project).

WHEREAS, the Vencil's Island tract creates public use value and interest for youth hunts and related purposes;

WHEREAS, the District therefore desires to enter into an agreement with the Commission, to provide limited access and management on said lands for the purpose of controlling and administering youth hunts thereupon;

NOW, THEREFORE, FOR AND IN CONSIDERATION of the premises, covenants and conditions, herein contained, the parties hereto agree as follows:

- A. The District and the Commission shall take the necessary steps to ensure that this area is accessible and Commission activities thereon limited to (1) mentored youth archery big game hunting, (2) mentored youth shotgun and archery turkey hunting, and (3) mentored youth shotgun waterfowl hunting ~~during the two day youth waterfowl season~~, all under the direction of the Commission. A restriction prohibiting rifles and hand guns will be enforced.
- B. The Commission shall promulgate specific area regulations mutually agreed upon by the District and Commission; and, the Commission shall enforce state statutes and regulations related to hunting, fishing, boating, trapping, and specific area regulations governing administration and use of property on this area as necessary and within its legal authority.
- C. The Commission shall place appropriate signs guiding, directing and restricting public access and use.
- D. The Commission shall not be responsible for noxious weed control in accordance with Nebraska statutes.

- E. The Commission shall assist with the management of wildlife and fishery resources. The District and Commission will mutually plan and implement management activities on planted and native vegetation on this area as necessary and appropriate, within the limits of available funds, and consistent with policies of the District and Commission.
- F. The District may enter into agricultural leases that are compatible with the public activities under this agreement, such as the existing lease agreement attached hereto as Exhibit B and incorporated herein by reference, and the Commission's rights under this Agreement shall be subject to such lease agreement(s). The Commission shall be required to obtain from the District's lessee(s) any consents to the Commission's activities under this Agreement that may be required, and the Commission shall be solely responsible for all crop damages caused by its activities under this Agreement.
- G. The District's officers, directors, agents, employees and permittees, at all times and places to have full ingress for passage over and egress from all of said lands for the purpose of carrying on operations of the District.
- H. The District's directors, agents, employees and permittees and lessees may remove from said lands any and all materials necessary for construction, operation and maintenance for the project facilities or for other purposes, provided that no such removal shall be made without prior notice to the Commission.
- I. The Commission's officers, employees, and representatives may enter upon the land and water areas of this area at any time and for any purpose necessary or convenient in connection with management, maintenance, and operation of this area according to this agreement.
- J. Except as may be caused by negligence of the District, the District shall not be responsible for, and the Commission shall defend, indemnify and hold the District harmless from and against all liability, causes of action and claims relating to, property damages or personal injuries which may arise from or be incident to the exercise of the privileges herein granted, damages to the property of the Commission, or damages to the property or injuries to the person of the Commission's employees.

GENERAL MAINTENANCE OF THE PROJECT AND AREA.

By mutual agreement with the District,

- A. The Commission may perform routine maintenance of access road, trails, parking lots and gates on the area, but shall assume no responsibility for major repair or renovation of same.
- B. All improvements constructed by the Commission at its sole cost and expense shall be and remain the property of the Commission; provided, however, the Commission shall remove or cause to be removed the respective improvements at its sole cost and expense within 90 days from and after the termination of this agreement, or respective part thereof, and shall restore

the land to a safe and natural condition. These improvements shall include minor enhancements to the area that benefit youth hunting, installation of pit or free-standing blinds, ground blinds, tree stands, vehicle access features and limited parking areas. It is expressly understood the installation of pit or free-standing blinds for waterfowl hunting shall not exceed three blinds (two on the Platte River and one on the Elkhorn) to be located within 600 yards of the southern end of Vencil's Island.

- C. All improvements constructed by the District upon the said lands and all improvements existing upon said lands at the time of execution of this agreement shall be the property of the District and shall remain so vested. The Commission shall make no additions, alterations, or improvements thereto, not already mentioned in this agreement, without the prior written consent of the District.
- D. The District shall retain responsibility for major repairs or renovations to drainage ways, channels, erosion control structures, and the like.

TERMS AND CONDITIONS

- A. This agreement is valid for a term of ~~one~~ three year from the date first signed, with an option for a ~~one~~ three year renewal by the Commission at the end of this initial term.
- B. This agreement may be terminated upon 180 days written notice by either party to the other party.
- C. The District and Commission shall observe an opportunity for contract amendments at one mutually agreed upon time each year, any such amendments to be subject to approval by the District's Board of Directors.

In Witness whereof, the parties hereto have executed this agreement as of the day and year first written.

Papio-Missouri River NRD

Nebraska Game and Parks Commission

by _____
General Manager

by _____
Director

Date _____

Date _____

Glasshoff Tract at Vencil's Island
Legal Description

Tax Lot 1A in Section 5, Township 13 North, Range 10 East of the 6th P.M., Sarpy County, Nebraska, together with all accretions Thereto; and,

Tax Lot D in Section 29, Township 14 North, Range 10 East of the 6th P.M., Sarpy County, Nebraska, together with all accretions thereto; and,

Tax Lot 1 in Section 32, Township 14 North, Range 10 East of the 6th P.M., Sarpy County, Nebraska, together with all accretions thereto; and,

A tract of land in Tax Lot 5 in Section 33, Township 14 North (T14N), Range 10 East (R10E) of the 6th P.M., Sarpy County, Nebraska, more particularly described as follows:

Beginning at the NW corner of said Section 33; thence East along the North line of said Section 33, a distance of 420.00 feet; thence Southerly to a point on the South line of the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$, being 410.00 feet East of the SW corner of the NW $\frac{1}{4}$; thence Southwesterly to a point on the South line of the NW $\frac{1}{4}$, being 225 feet East of the West $\frac{1}{4}$ Corner of said Section 33; thence continuing Southwesterly to the SW Corner of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 33; thence continuing North along the West Line of said Section 33 a distance of 3960 feet to the NW Corner of said Section 33 and the Point of Beginning, together with all accretions thereto.

EXHIBIT A

**PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT
LEASE AGREEMENT**

This Lease Agreement (hereinafter called "THIS LEASE") is made this 10th day of March, 2005, between the **PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT** (hereinafter called "LESSOR"), on the one hand, and **ARTHUR BRUGMAN** (hereinafter called "LESSEE"), on the other hand.

FOR AND IN CONSIDERATION of the payment of rent in the amount of Ten Thousand Five Hundred Forty-Three Dollars (\$10,543.00), LESSOR does hereby lease unto LESSEE the following described property in Sarpy County, Nebraska (hereinafter called "THE PREMISES"), more particularly described as follows:

Tax Lot 1A in Section 5, Township 13 North, Range 10 East of the 6th P.M., Sarpy County, Nebraska, together with all accretions thereto; and,

Tax Lot D in Section 29, Township 14 North, Range 10 East of the 6th P.M., Sarpy County, Nebraska, together with all accretions thereto; and,

Tax Lot 1 in Section 32, Township 14 North, Range 10 East of the 6th P.M., Sarpy County, Nebraska, together with all accretions thereto; and,

A tract of land in Tax Lot 5 in Section 33, Township 14 North (T14N), Range 10 East (R10E) of the 6th p.m., Sarpy County, Nebraska, more particularly described as follows: Beginning at the NW corner of said Section 33; thence East along the North line of said Section 33, a distance of 420.00 feet; thence Southerly to a point on the South Line of the NW $\frac{1}{4}$ of the NW $\frac{1}{4}$, being 410.00 feet East of the SW corner of the NW $\frac{1}{4}$; thence Southwesterly to a point on the South Line of the NW $\frac{1}{4}$, being 225.00 feet East of the West $\frac{1}{4}$ Corner of said Section 33; thence continuing Southwesterly to the SW Corner of the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 33; thence continuing North along the West Line of said Section 33 a distance of 3960 feet to the NW Corner of said Section 33 and the Point of Beginning, together with all accretions thereto;

comprising 162.2 tillable acres, more or less, together with all other improvements appurtenant to THE PREMISES, for agricultural purposes, for a term beginning as of the execution of THIS LEASE and terminating at 11:59 o'clock, P.M., on October 15, 2005. The rent heretofore provided shall be paid by the LESSEE to the LESSOR in two equal installments, the first such installment to be paid on or before March 15, 2005 and the second such installment to be paid on or before September 1, 2005.

LESSEE covenants with LESSOR that, except as hereinafter provided, at the expiration of the term of THIS LEASE, LESSEE will yield possession of THE PREMISES, including all

improvements, to LESSOR without further demand or notice, in as good order and condition as when the same was entered upon by LESSEE.

LESSEE further covenants with LESSOR as follows:

1. TILLAGE AND WEED CONTROL: LESSEE shall furnish all the labor, materials and equipment necessary to control erosion on THE PREMISES and keep THE PREMISES free of weeds, including adjoining fence lines and highways; and eliminate all weeds before they mature to seed; provided that LESSEE shall not be required to control erosion or control weeds and tillage to any further extent than is necessary to maintain THE PREMISES in its current condition. LESSEE further covenants that LESSEE will plant no crops other than soybeans without first obtaining the written consent of LESSOR.
2. CARE OF PREMISES: LESSEE agrees to keep THE PREMISES and every part thereof in good repair, ordinary wear and tear excepted, including fences and buildings, without charge or cost to LESSOR, and agrees that, except as otherwise provided in THIS LEASE, no alterations, or changes of any kind or character, will be made by LESSEE without written consent of LESSOR. LESSOR shall not be liable for any loss or damage that may result from any destruction or defective condition of the land, buildings, structures, or equipment thereon. LESSEE shall employ good agricultural husbandry, and shall not commit waste of any part of THE PREMISES. During LESSEE'S possession of THE PREMISES LESSEE shall not erect any new or additional structures on THE PREMISES without LESSOR'S written authorization, and shall not borrow or spoil any earth or other materials on any part of THE PREMISES. During LESSEE'S possession of THE PREMISES LESSEE shall not harvest or otherwise damage or remove any trees exceeding 10 feet in height, or 2 inches in diameter at breast height, now growing on THE PREMISES.
3. PASTURES, MEADOWS, and WETLANDS: LESSEE agrees to not over-graze pastures nor plow up any meadow or pasture land without the consent of LESSOR. LESSEE shall not cultivate or otherwise damage any wetlands that were not cultivated during the years 2000, 2001, 2002, 2003 and 2004.
4. RIGHT OF ENTRY: LESSOR hereby reserves the right to enter upon THE PREMISES at any time for the purpose of viewing same; conducting borings and other studies or surveys; for making repairs, alterations, or improvements thereon; or, for attending to any business matters pertaining to THE PREMISES, provided, however, LESSOR shall reimburse LESSEE for any actual damages caused to any growing crops as a result of LESSOR'S exercise of such right of entry.
5. SIGNAGE: The LESSOR reserves for itself the exclusive right to permit informational or advertising signs of any kind on THE PREMISES.
6. INSURANCE: LESSEE shall indemnify and hold harmless LESSOR from and against all claims, demands, or causes of action brought by third persons for damages for personal injury or property damage arising from LESSEE'S use of THE PREMISES. LESSEE agree to maintain a comprehensive general liability insurance policy on THE PREMISES during the term of THIS LEASE.

8. THIS AGREEMENT shall extend to and be binding upon the heirs, executors, administrators, successors, and assigns of LESSOR and LESSEE.

Arthur Brugman
ARTHUR BRUGMAN
 Address: 7909 So 216th St.
 Aptos, Neb. 68028

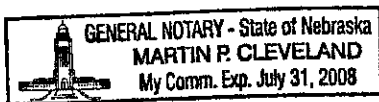
**PAPIO-MISSOURI RIVER NATURAL
RESOURCES DISTRICT**
8901 South 154th Street
Omaha, NE 68138-3621


By 
STEVEN G. OLTMANS
General Manager

[illegible]

On this 2nd day of March, 2005, before me, a Notary Public in and for said County, personally came the above named STEVEN G. OLTMANS, General Manager of the PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT and he acknowledged his execution of said instrument to be his voluntary act and deed and the voluntary act and deed of such natural resources district.

WITNESS my hand and Notarial Seal the date last aforesaid.




Notary Public

February 4, 2005

Steve Oltmans
Papio NRD
8901 South 154th
Omaha, NE 68138

Dear Steve,

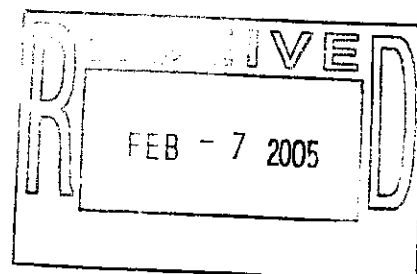
I was one of the mentors on Vencils Island youth hunt this past fall. We met that day in November when you were looking at the property along with three other people. Thank you for the opportunity to allow us to do the youth hunt there. We harvested a total of 5 deer, 4 does and one small buck. For three of the youth involved it was their first experience in taking a deer with a bow and arrow. Hunting through rain, snow and the extreme cold created many memories and stories that will be told over and over again.

The deer population seemed to decrease shortly after the soybeans were harvested. I assume they crossed the river in search of food as there wasn't much left after combining. Is there any thought to providing food plots for wildlife on this property? If so I would be willing to help in any way possible. Working at the Farmers Co-op in Gretna I have access to complimentary seed and herbicides for projects like this. And if plots are not a part of the plan we'll continue without them. Again, thanks for the opportunity to let us do our youth hunt on your property. If you ever want some of the kids or me to talk about the program at a board meeting we would be happy to do so.

Sincerely,



Loren Katt
22750 Lincoln Rd
Gretna, NE 68028





Nebraska Game and Parks Commission

Information & Education Division

2200 N 33rd, Lincoln, NE 68503

Phone: 402-471-6133 / email: Rawlinson@ngpc.state.ne.us



January 28, 2005

Gerry Bowen
8901 S. 154th St.
Omaha, NE 68138
Chalco Hills Recreation Area

Dear Gerry,

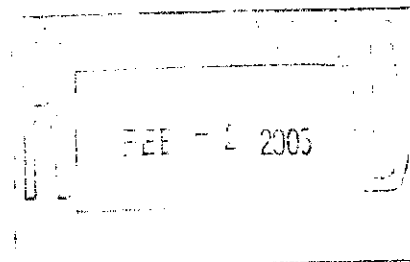
On behalf of the Nebraska Game and Parks Commission, our volunteer Bow Hunter Education Instructors/Mentors and our youth participants I thank you for your efforts during the 2004 season. All youth had a fun-filled and educational experience while participating on the Vencil's Island property during the youth hunt.

During the 2004 program, our records indicate a total of five deer harvested on Vencil's Island. During this time, much was learned by the many kids who participated. Many more deer were seen by the kids and several other opportunities were afforded to the young hunters.

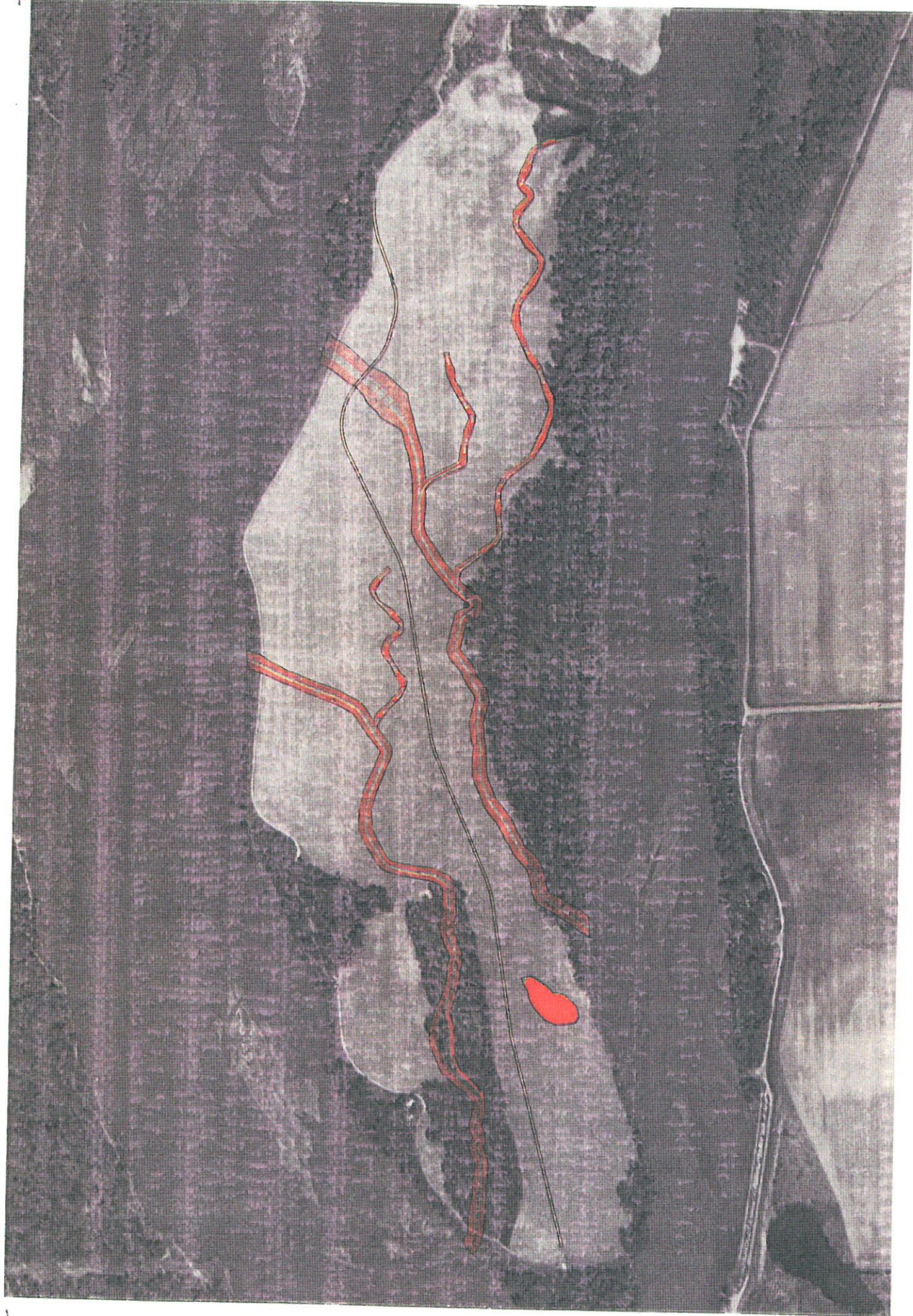
As the Spring Turkey season is ahead of us, I think it would be a good time to sit down to discuss the youth programs for 2005. I will also invite Jim Douglas, Wildlife Division Chief to join the conversation. Please offer a date a time and I will try to make it work for us. Once again, thank you for your efforts in putting this new youth program together and we look forward to enhancing such offerings in 2005.

Regards,

Jeff Rawlinson
Outdoor Educator



7/6/04
Ming
of NIN
& J. de
Glas
B. de
D. de
N. de
M. de
ASP



Memorandum

To: PPO Subcommittee
From: Paul Woodward, Water Resources Engineer
Date: September 7, 2005
Re: Inter-Local Agreement w/ Omaha and Elkhorn for the Papio Dam Site 13 Project

District staff and legal counsel have prepared the enclosed agreement, for your review and consideration, between the District and the Cities of Omaha and Elkhorn to define each entity's responsibilities regarding the construction, ownership, operation and maintenance of public facilities near the proposed Dam Site 13 Project, northwest of 192nd and W. Dodge Road (see attached map). In addition, the agreement outlines all easements on Omaha and NRD property necessary for the reservoir and recreational facilities.

The following is a summary of the provisions in the agreement:

- Omaha and Elkhorn will retain engineering consultants to prepare preliminary park and recreational facility plans, subject to the District's review. These plans will at a minimum include a trail system surrounding the lake, a boat ramp and fishing pier, landscaping on NRD property, and any necessary channel or wetland mitigation.
- Omaha and Elkhorn will retain a contractor at their expense to construct their respective park and recreational facilities.
- After constructing the dam, the NRD will convey title of all public property per the enclosed legal drawing to Omaha and Elkhorn to construct and maintain park facilities while reserving its right through permanent easement to construct, operate, and maintain the dam and to store water and sediment in the reservoir.
- Upon completion of park facilities, Omaha and Elkhorn would agree to operate and maintain them in perpetuity.

In summary, the NRD would agree to operate and maintain the Papio Dam Site 13 flood control structure, while Omaha and Elkhorn would be responsible for planning, constructing, and maintaining all park and recreational facilities surrounding the lake.

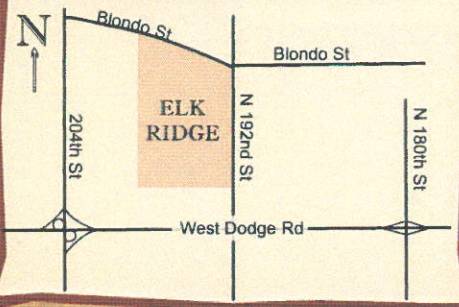
Management recommends that the Subcommittee recommend to the Board that the General Manager be authorized to execute the proposed Inter-Local Agreement between the District, the City of Omaha, and the City of Elkhorn for Dam Site 13 Improvements, subject to changes deemed necessary by the General Manager and approval as to form by District Legal Council.



ELK RIDGE



SITE LOCATION



LEGEND

The Estates at Elk Ridge

- Walkout Lots
- Terrace Lots

The Vistas at Elk Ridge

- Walkout Lots
- Terrace Lots

The Villas at Elk Ridge

- Walkout Lots
- Terrace Lots



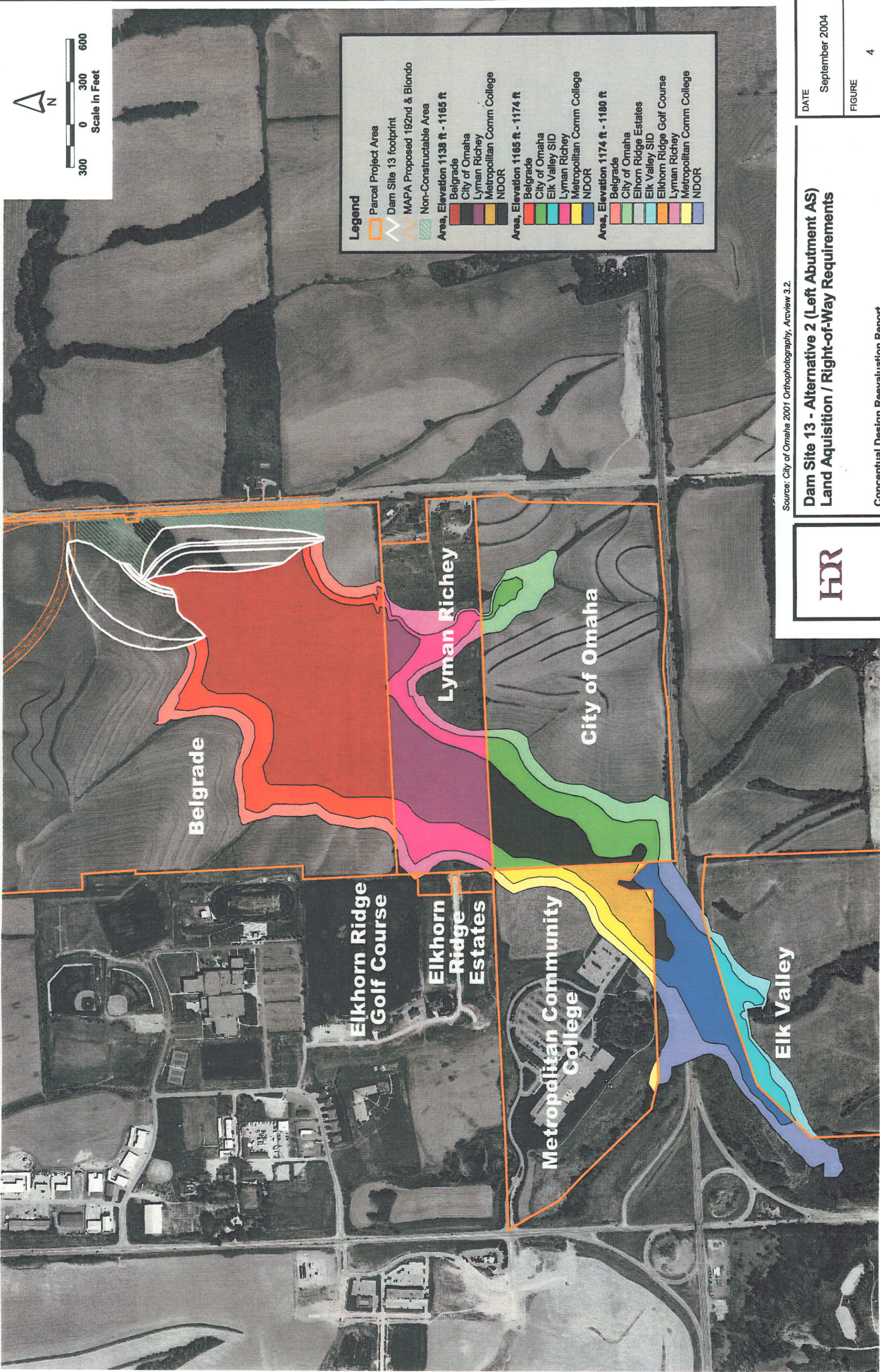
Lamp, Rynearson & Associates, Inc.

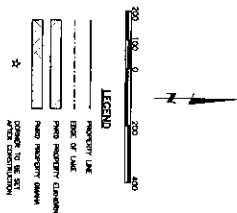
14710 West Dodge Rd
Omaha, NE 68154

Ph: 402.496.2498
Fax: 402.496.2730



11506 Nicholas St.
Suite 200
Omaha, NE 68154
402.493.2800





INTERLOCAL COOPERATION ACT AGREEMENT
AMONG
PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT,
THE CITY OF OMAHA, NEBRASKA,
AND
THE CITY OF ELKHORN, NEBRASKA,
FOR
DAM SITE 13 IMPROVEMENTS

THIS INTERLOCAL COOPERATION ACT AGREEMENT (hereinafter referred to as "**THIS AGREEMENT**") is made pursuant to the Nebraska Interlocal Cooperation Act, Sections 13-801 to 13-827 R.R.S. 1997, et seq., by and among the **PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT** (hereinafter referred to as "**the NRD**"), the **CITY OF OMAHA, NEBRASKA** (hereinafter referred to as "**OMAHA**"), and the **CITY OF ELKHORN, NEBRASKA** (hereinafter referred to as "**ELKHORN**"). The NRD, OMAHA and ELKHORN are hereinafter referred to collectively as "**the PARTIES**."

WHEREAS, Corps of Engineers' Papillion Creek and Tributaries Lakes Project Dam Site No. 13, proposed for a tract of land near the southwest corner of 192nd Street and ELKHORN'S newly-proposed Blondo Street, in Section 18, Township 15 North, Range 11 East of the 6th P.M. in Douglas County, Nebraska, was an integral part of the planned flood control for the Papillion Creek Watershed; and,

WHEREAS, the NRD has purchased or is purchasing several tracts of land (hereinafter referred to as "**the NRD PROJECT LAND**") conceptually depicted in the report document entitled "Conceptual Design Re-evaluation Report –

Deleted: described in the legal description attached hereto and incorporated herein by reference as Outlot 1 and 2 in Exhibit "____1,"

Inserted: Outlot 1 and 2 in

Inserted: 1

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Chappel Hill/Elkhorn Dam Site 13,” as prepared by HDR Engineering, Inc., dated September 2004 (hereinafter referred to as “the **ALTERNATIVE NO. 2 REPORT**”), a true and correct copy of which is attached hereto as Exhibit “A” and incorporated herein by reference, at or near the location specified by the Corps of Engineers for Dam Site 13, and intends to utilize such NRD PROJECT LAND for construction, operation and maintenance of a flood control project (hereinafter referred to as “the **NRD PROJECT**”), substituting for the Corps’ Papio Dam Site 13 project; and,

WHEREAS, DIAL REALTY DEVELOPMENT CORP (hereinafter referred to as “**DIAL**”) intends to subdivide and develop Elk Ridge, a subdivision, as surveyed, platted, and recorded in Douglas County, Nebraska (hereinafter referred to as “**ELK RIDGE**”) on lands northerly of and immediately adjacent to the NRD PROJECT LAND; and intends to form a sanitary and improvement district to construct certain public improvements serving ELK RIDGE; and,

WHEREAS, the NRD PROJECT consists of a flood control structure (hereinafter referred to as “the **DAM**”), that will be constructed, operated, maintained, repaired, replaced and regulated solely at NRD expense, and associated reservoir (hereinafter referred to as “the **RESERVOIR**”), the NRD PROJECT being more particularly described in the **ALTERNATIVE NO. 2 REPORT**; and,

WHEREAS, the NRD PROJECT LAND is composed of (a) a tract of land, acquired by the NRD from DIAL and described and depicted in the legal description and diagram attached hereto collectively as Exhibit 1 and incorporated herein by reference (hereinafter referred to as “the DIAL ACQUISITION”); and, (b) a tract of land, acquired by the NRD from Lyman-Richey Corporation described and depicted in the legal description and diagram attached hereto collectively as Exhibit 2 and incorporated herein by reference (hereinafter referred to as “the **LYMAN-RICHEY ACQUISITION**”)

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~~Deleted: WHEREAS, the CITY OF OMAHA has purchased and owns certain lands near the northwest corner of 192nd Street and West Dodge Road (State Highway 36), hereinafter referred to as “the **OMAHA PARK LAND**”, the majority of which is southerly of and adjacent to the **ADDITIONAL RESERVOIR TRACT**, and intends to develop thereon certain public recreational improvements (hereinafter referred to as “the **OMAHA PARK PROJECT**”); and,1~~

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WHEREAS, the CITY OF OMAHA has purchased and owns certain lands near the northwest corner of 192nd Street and West Dodge Road (State Highway 36), hereinafter referred to as "the **OMAHA PARK LAND**", the majority of which is southerly of and adjacent to the NRD PROJECT LAND, and intends to develop thereon certain public recreational improvements (hereinafter referred to as "the **OMAHA PARK PROJECT**"); and,

WHEREAS, the NRD PROJECT will be designed by the NRD with the DAM and a portion of the RESERVOIR being constructed on a portion of the NRD PROJECT LAND and with other portions of the RESERVOIR being constructed and maintained on a portion of the OMAHA PARK LAND; and on a portion of the campus property of the Metropolitan Technical Community College Area (hereinafter referred to as "**METRO TECH**") adjacent to the OMAHA PARK LAND, pursuant to a permanent easement (hereinafter referred to as "the **METRO TECH EASEMENT**") granted or to be granted to the NRD; and (d) on other lands; and,

WHEREAS, the PARTIES hereto desire to provide herein for the cooperative construction, operation and maintenance of those certain public parks and recreational improvements intended to be constructed in the NRD PROJECT LAND at an elevation lower than 1,180.0 feet above mean sea level, referenced to the National Geodetic Vertical Datum of 1929, thus comprehending all those improvements lying below the elevation of the top of the DAM (hereinafter referred to as "the **PARK FACILITIES**"), to be permanently operated, maintained, repaired, replaced and regulated by OMAHA and ELKHORN, respectively, as hereinafter provided; and,

WHEREAS, the PARTIES hereto contemplate that the PARK FACILITIES shall be developed in phases, as funding becomes available to OMAHA and/or ELKHORN, and that the initial park facilities will be limited to a boat ramp and handicapped fishing pier (hereinafter referred to as "the **PHASE I PARK**

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Deleted: (a) a portion of an additional tract of land described as Parcels 2 and 3 in the legal description attached hereto and incorporated herein by reference as Exhibit "____2," (hereinafter referred to as "the **ADDITIONAL RESERVOIR TRACT**"), southerly of and outside the NRD PROJECT LAND, that shall be acquired by the NRD in the future from Lyman-Richey Corporation; (b)

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FACILITIES") and that development of such PHASE I PARK FACILITIES shall be contingent upon receipt by OMAHA of a grant from the Nebraska Games and Parks Commission in an amount sufficient to fund such PHASE I PARK FACILITIES; and,

WHEREAS, the PARTIES hereto desire that the PARK FACILITIES shall eventually, contingent upon available funding and the budgetary limitations of OMAHA and/or ELKHORN, include, without limitation, a boat ramp, a handicapped fishing pier, and a system of bicycle/pedestrian trails (hereinafter referred to as "the **TRAILS SYSYEM**"), one such trail in the TRAILS SYSTEM (hereinafter referred to as "the **LAKESIDE TRAIL**") to surround the RESERVOIR and the portion thereof on the NRD PROJECT LAND to be located in the corridor between the normal pool of the RESERVOIR and the legal boundary line of the NRD PROJECT LAND and other improvements; and,

WHEREAS, the PARTIES desire to set forth the terms of their agreement for the design, construction, operation, maintenance, repair, replacement, regulation and ownership of the PARK FACILITIES, and to make other agreements to facilitate the construction, operation and maintenance of a regional park on the NRD PROJECT LAND, the OMAHA PARK LAND, and other lands (hereinafter referred to collectively as "the **REGIONAL PARK**").

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RESERVOIR TRACT,

NOW, THEREFORE, IN CONSIDERATION of the foregoing recitals and their mutual covenants, the PARTIES agree as follows:

1. **PURPOSE.** The purpose of THIS AGREEMENT is to set forth the terms under which the PARK FACILITIES, including, but not limited to, the PHASE I PARK FACILITIES and certain other features of the REGIONAL PARK will be designed, constructed, operated, maintained, repaired, replaced, regulated and owned, and to specify the rights, duties and obligations of the PARTIES in connection therewith.

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2. **DUTIES OF THE PARTIES.** The design, construction, operation, maintenance, repair, replacement and regulation of the PARK FACILITIES will be undertaken without any separate entity being created, and, the duties and responsibilities of the PARTIES with respect thereto shall be as defined by THIS AGREEMENT.

3. **GENERAL BENEFIT.** The PARTIES do hereby find and agree that the PARK FACILITIES will be of general benefit to the NRD with only an incidental special benefit.

4. **THE ENGINEERS.** OMAHA and ELKHORN shall retain independently, or jointly, as in their sole discretion they deem necessary or desirable and, subsequently, fully compensate at their own expense, divided in such a manner between them as in their sole discretion they determine proper and in accordance with Paragraph 13 hereinafter, engineering consultants (hereinafter referred to as "**the ENGINEERS**") approved by the NRD (such approval to not be withheld or delayed unreasonably) to design the PARK FACILITIES and to prepare plans and specifications and contract documents for, and administer construction of, the PARK FACILITIES. Such PARK FACILITIES may be designed, developed and constructed in phases and ENGINEERS may be retained to engineer all PARK FACILITIES, or phases thereof, as OMAHA and ELKHORN, in their sole discretion, deem appropriate. OMAHA and ELKHORN may determine the timetable for design, development and construction of the PARK FACILITIES, provided that the parties hereto contemplate that the PHASE I PARK FACILITIES shall be constructed on or before July 1, 2006.

5. **PRELIMINARY PLANS.** The ENGINEERS shall prepare, in phases as OMAHA and/or ELKHORN direct, preliminary plans and specifications for PARK FACILITIES including, without limitation, the PHASE I

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PARK FACILITIES (hereinafter referred to as “the **PRELIMINARY PLANS**”), subject to the following:

a) The **PRELIMINARY PLANS** shall be drawn in accordance with design criteria provided by the General Manager of the NRD, which shall be in general compliance with:

- i) The **ALTERNATIVE NO. 2 REPORT**;
- ii) Applicable Nebraska state and federal statutes, rules and regulations.

b) The **PRELIMINARY PLANS** for the **TRAILS SYSTEM** shall specify that such trails shall be constructed of concrete surfacing not less than 10 feet in width and 6 inches in thickness that shall be designed in accordance with The American Association of State Highway and Transportation Officials’ “1999 AASHTO Guide for the Development of Bicycle Facilities.”

c) The **PRELIMINARY PLANS** shall incorporate any plans for landscaping on the **NRD PROJECT LAND** which the NRD develops and provides at its cost to **OMAHA** or **ELKHORN**.

d) The **PRELIMINARY PLANS** shall incorporate any plans for channel, wetland and riparian mitigation to be accomplished on **OMAHA PARK LAND** which the NRD develops and provides at its cost to **OMAHA** or **ELKHORN**.

e) The **PRELIMINARY PLANS** shall include plans for a boat ramp and handicapped fishing pier on the **NRD PROJECT LAND**.

6. APPROVAL OF PRELIMINARY PLANS. Upon the **ENGINEERS’** completion of each of the phases of the **PRELIMINARY PLANS**, and after approval of the same by **OMAHA** and **ELKHORN**, each of the phases of

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the PRELIMINARY PLANS shall be submitted to the NRD for its written approvals, such approval to be provided to OMAHA and ELKHORN at the NRD'S sole cost and expense. The NRD shall have 30 days to review each phase of the PRELIMINARY PLANS and to approve or disapprove the same in writing or suggest amendments thereto.

7. PREPARATION OF FINAL PLANS FOR PROJECT. Upon receipt by OMAHA and ELKHORN of the NRD'S written approval of each of the phases of the PRELIMINARY PLANS, OMAHA and ELKHORN shall direct the ENGINEERS to prepare final plans and specifications for each phase of the PARK FACILITIES, (hereinafter referred to collectively as "the **FINAL PLANS**").

8. APPROVAL OF FINAL PLANS FOR PROJECT. Upon the ENGINEERS' completion of each phase of the FINAL PLANS and approval of the same by OMAHA and ELKHORN, each phase of the FINAL PLANS shall be submitted to the NRD for its written approval. The NRD shall have a period of 30 days to review each phase of the FINAL PLANS and to approve or disapprove the same in writing or suggest amendments thereto, and shall have an additional period of 30 days to review and approve subsequent amendments thereto. Such approvals shall not be withheld or delayed unreasonably.

9. THE PROJECT CONTRACTOR. OMAHA and ELKHORN shall retain, individually or jointly, one or more, as in their sole discretion is deemed appropriate, general contractors (hereinafter referred to as "the **CONTRACTORS**") approved by the NRD (such approval to not be withheld or delayed unreasonably), to construct one or more phases of the PARK FACILITIES, provided that OMAHA and ELKHORN's obligation to retain CONTRACTORS for the PHASE I PARK FACILITIES shall be contingent upon receipt by OMAHA of a grant from the Nebraska Games and Parks Commission in an amount sufficient to fund such PHASE I PARK FACILITIES and further provided that OMAHA and

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ELKHORN's obligation to retain CONTRACTORS for subsequent phases of PARK FACILITIES shall be contingent upon funding being available to OMAHA and/or ELKHORN, respectively.

10. **CONSTRUCTION CONTRACT.** OMAHA and/or ELKHORN shall deliver to the NRD for its approval (such approval to not be withheld or delayed unreasonably) copies of any proposed contracts between OMAHA and/or ELKHORN, on the one hand, and the CONTRACTORS, on the other hand, for construction of the PARK FACILITIES, including, without limitation, the proposed schedules of all materials and labor compensation rates OMAHA and/or ELKHORN propose to pay to the CONTRACTORS for construction of the PARK FACILITIES (such contract, together with the FINAL PLANS, hereinafter being referred to collectively as "the **CONSTRUCTION CONTRACTS**"). The NRD shall have a period of 30 days to review the **CONSTRUCTION CONTRACTS** and to approve or disapprove the same in writing or suggest amendments thereto, and shall have an additional period of 30 days to review and approve subsequent amendments thereto. Such approvals shall not be withheld or delayed unreasonably.

11. **CONSTRUCTION OF PARK FACILITIES.** Within 30 days after the NRD'S approval of each of the **CONSTRUCTION CONTRACTS**—or at such other time as the PARTIES agree in writing, whichever is later, OMAHA and/or ELKHORN will sign the **CONSTRUCTION CONTRACTS** for construction of the phases of the PARK FACILITIES, which shall be constructed in conformance with the **CONSTRUCTION CONTRACTS**, including the FINAL PLANS approved by the NRD.

12. **CONTRACTOR'S WARRANTIES.** OMAHA and ELKHORN shall enforce all bonds and warranties given by the CONTRACTORS and their subcontractors in the **CONSTRUCTION CONTRACTS**. Such enforcement

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obligation will be borne as between OMAHA and ELKHORN by the party with whom the CONTRACTOR has contracted.

13. PAYMENT OF COSTS. Except as otherwise provided in THIS AGREEMENT, OMAHA and ELKHORN shall pay all the costs of design and construction of the PARK FACILITIES, provided that neither ELKHORN nor OMAHA shall have any obligation hereunder for payment of PHASE I PARK FACILITIES costs if a grant from the Nebraska Games and Parks Commission in an amount sufficient to fund the PHASE I PARK FACILITIES is not received by OMAHA, and provided that any obligation of OMAHA or ELKHORN for other PARK FACILITIES is contingent upon available funding and the budgetary limitations of OMAHA and/or ELKHORN, and further provided that neither ELKHORN nor OMAHA shall be required to bear the cost of PARK FACILITIES which are not located on property it owns or on property within its zoning jurisdiction.

14. CONSTRUCTION OBSERVATION. OMAHA and/or ELKHORN will provide for engineering observation and administration of construction of the PARK FACILITIES at the sole cost and expense of OMAHA and/or ELKHORN, divided in accordance with Paragraph 13 hereinabove, and the NRD shall be given the opportunity to fully observe such construction at all reasonable hours and contemporaneously receive from OMAHA and/or ELKHORN copies of all written communications between or issued by OMAHA or ELKHORN and/or the ENGINEERS and/or the CONTRACTORS pertaining to such construction, including but not limited to statements by the ENGINEERS as to percentage of completion and substantial completion.

15. LAND TRANSFERS. Within a reasonable time after the execution of THIS AGREEMENT:

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a) The NRD shall grant to OMAHA and ELKHORN a temporary easement, in the form as attached hereto and incorporated herein by reference as Exhibit “___” or in such other form as may be determined by agreement of such PARTIES, over and across the NRD PROJECT LAND, such easement to grant to OMAHA and ELKHORN the temporary right to construct, operate and maintain, repair and replace the PARK FACILITIES, subject to the NRD’S reserved rights to:

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i) Enter and use the NRD PROJECT LAND, for construction of the DAM and RESERVOIR; and,

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ii) Periodically flow waters and sediment upon, and inundate, those portions of the NRD PROJECT LAND that have a ground surface elevation lower than the top of the DAM (such portions hereinafter being referred to collectively as “the **MAXIMUM FLOOD POOL**”).

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b) OMAHA shall grant to the NRD a temporary easement, in the form as attached hereto and incorporated herein by reference as Exhibit “___” or in such other form as may be determined by agreement of such PARTIES, consisting of the temporary right of the NRD to enter the OMAHA PARK LANDS and grade the same in order to expand the volume of the **MAXIMUM FLOOD POOL** of the RESERVOIR to the extent approved by the CITY in writing, such easement to have a duration equal to the period of time sufficient to enable the NRD to perform such grading.

c) OMAHA shall grant to the NRD a temporary easement, in the form as attached hereto and incorporated herein by reference as Exhibit “___” or in such other form as may be determined by agreement of such PARTIES, consisting of the temporary right of the NRD to enter the OMAHA PARK LANDS, and use the same for channel and wetlands mitigation necessitated by and incident to construction of the NRD

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PROJECT, such easement to have a duration equal to the period of time sufficient to enable the NRD to fulfill such mitigation requirements.

d) OMAHA shall grant to the NRD a permanent easement, in the form as attached hereto and incorporated herein by reference as Exhibit “___” or in such other form as may be determined by agreement of such PARTIES, consisting of the permanent right of the NRD to periodically flow waters and sediment upon, and inundate, those portions of the OMAHA PARK LANDS which have a ground surface elevation lower than the top of the DAM (“the MAXIMUM FLOOD POOL”).

e) OMAHA shall grant to the NRD permanent restrictions, in the form as attached hereto and incorporated herein by reference as Exhibit “___” or in such other form as may be determined by agreement of such PARTIES, as follows, to-wit:

(1) *REGULATORY POOL STRUCTURE RESTRICTION.*

OMAHA shall not construct, maintain or permit structures, fixtures or other improvements, other than recreational trail improvements, lighting, landscaping, boat docking facilities and signage, in any areas of the OMAHA PARK LANDS, within the watershed of the DAM, having a ground surface elevation lower than 1,174.0 feet above mean sea level, NGVD.

(2) *REGULATORY POOL EXCAVATION AND FILL RESTRICTION.* OMAHA shall not fill, nor permit filling of, any areas of the OMAHA PARK LANDS, within the watershed of the DAM, having a ground surface elevation lower than 1,174.0 feet above mean sea level, NGVD, without balancing such placement with a permanent borrowing and removal of an equivalent amount of earth fill from such areas, and without the prior written approval of the

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NRD of the plans for such activities, such approval to not be withheld or delayed unreasonably.

(3) *MAXIMUM POOL EXCAVATION AND FILL RESTRICTION.* OMAHA shall not fill, nor permit filling of, any areas of the OMAHA PARK LANDS, within the watershed of the DAM, having a ground surface elevation higher than 1,174.0 feet above mean sea level and lower than 1,180.0 feet above mean sea level, NGVD, without balancing such placement with a permanent borrowing and removal of an equivalent amount of earth fill from such areas, and without the prior written approval of the NRD of the plans for such activities, such approval to not be withheld or delayed unreasonably.

16. **PERMITS.** The NRD shall have the responsibility to obtain all other permits and rights-of-way, including without limitation, zoning and subdivision approvals, licenses, easements, water rights, and permits or consents from the Corps of Engineers or other federal, state or local agencies, as may be required or convenient for construction, and for permanent operation and maintenance of the NRD PROJECT. OMAHA and/or ELKHORN shall have the responsibility to obtain all other permits and rights-of-way, including without limitation, zoning and subdivision approvals, licenses, easements, water rights, and permits or consents from the Corps of Engineers or other federal, state or local agencies, as may be required or convenient for construction, and for permanent operation, and maintenance of the PARK FACILITIES, provided that as between OMAHA and ELKHORN, each shall have responsibility for obtaining such permits, approvals, licenses, easements, rights and consents for the PARK FACILITIES on the property its owns or on property within its zoning jurisdiction.

Deleted: <#>Elkhorn shall grant to the NRD a temporary easement, in the form as attached hereto and incorporated herein by reference as Exhibit " " or in such other form as may be determined by agreement of such PARTIES, consisting of the temporary right of the NRD to enter the METROPOLITAN COMMUNITY COLLEGE PROPERTY and modify ELKHORN'S lift station located thereon as necessary for construction, operation and maintenance of the NRD PROJECT.¶

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17. OPERATION AND MAINTENANCE. After completion of construction of the NRD PROJECT, the NRD, at its sole and unreimbursed cost and expense, shall permanently operate, maintain, repair, replace and regulate the NRD PROJECT. After completion of construction of the PARK FACILITIES, and after OMAHA'S and/or ELKHORN'S acceptance of the same from the CONTRACTORS, OMAHA and ELKHORN, at their sole and unreimbursed cost and expense, shall permanently operate, maintain, repair, replace and regulate the PARK FACILITIES provided that as between OMAHA and ELKHORN, each shall have responsibility for the operation, maintenance, repair, replacement and regulation, and cost and expense thereof, of the PARK FACILITIES on the property its owns or on property within its zoning jurisdiction.

18. INDEMNIFICATIONS. OMAHA shall defend, indemnify, and hold the NRD and ELKHORN harmless from and against all costs and expenses, including attorneys fees, resulting from claims, demands or causes of action for personal injury or property damage arising out of or resulting from OMAHA'S negligence in the operation, maintenance, repair, replacement, or regulation of the PARK FACILITIES, except such personal injuries or property damages as may be caused by the sole negligence of the NRD or ELKHORN. ELKHORN, shall defend, indemnify, and hold the NRD and OMAHA harmless from and against all costs and expenses, including attorneys fees, resulting from claims, demands or causes of action for personal injury or property damage arising out of or resulting from ELKHORN'S negligence in the operation, maintenance, repair, replacement, or regulation of the PARK FACILITIES, except such personal injuries or property damages as may be caused by the sole negligence of the NRD or OMAHA. The NRD shall defend, indemnify, and hold the other PARTIES harmless from and against all costs and expenses, including attorneys fees, resulting from claims, demands or causes of action for personal injury or property damage arising out of or resulting from the NRD's operation, maintenance, repair, replacement, or regulation of the NRD PROJECT.

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19. PLAN APPROVALS. Reviews, disapprovals or approvals of the PRELIMINARY PLANS or FINAL PLANS by the NRD or ELKHORN shall not, for any purpose, be construed as professional engineering advice or direction, or as participation by the NRD or ELKHORN in OMAHA'S design processes, nor result in liability on the part of NRD or ELKHORN for any negligence or contributory negligence in the design or construction of the PARK FACILITIES. Reviews, disapprovals or approvals of the PRELIMINARY PLANS or FINAL PLANS by the NRD or OMAHA shall not, for any purpose, be construed as professional engineering advice or direction, or as participation by the NRD or OMAHA in ELKHORN'S design processes, nor result in liability on the part of NRD or OMAHA for any negligence or contributory negligence in the design or construction of the PARK FACILITIES.

20. POST-CONSTRUCTION GRANTS AND CONVEYANCES.

Upon the final completion of construction of the NRD PROJECT the NRD shall convey the NRD PROJECT LAND as follows:

a) The NRD shall convey to OMAHA the portions of the NRD PROJECT LAND referred to as Parcel 3 in the written legal description attached hereto Exhibit "2," along with Outlot 1 in ELK RIDGE, and Part B of Outlot 2 in ELK RIDGE that is legally described in the legal description attached hereto as Exhibit "1" and incorporated herein by reference, and,,

b) The NRD shall convey to ELKHORN the portions of the NRD PROJECT LAND, referred to as Parcel 2 in the written legal description attached hereto as Exhibit "2" along with Part A of Outlot 2 in Elk Ridge that is legally described in the legal description attached hereto as Exhibit "1", incorporated herein by reference;

provided however, in each such conveyance the NRD shall reserve for itself and for its successors and assigns:

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i) the following permanent rights, to-wit:

(1) the right to construct, operate, maintain, repair replace, and regulate the DAM in the NRD PROJECT LAND,

(2) the right to have unrestricted use and access over and across the NRD PROJECT LAND by any route or means and for any purpose; and,

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(3) the right to flow waters and sediment upon, and inundate, all those portions of the NRD PROJECT LAND which have a ground surface elevation lower than the top of the DAM ("the MAXIMUM Flood Pool"); and,

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ii) The right to enforce the following permanent restrictions, to-wit:

(1) *REGULATORY POOL STRUCTURE RESTRICTION.* OMAHA and ELKHORN shall not construct, maintain or permit structures, fixtures or other improvements, other than recreational trail improvements, lighting, landscaping, boat docking facilities and signage, in any areas of the NRD PROJECT LAND, within the watershed of the DAM, having a ground surface elevation lower than 1,174.0 feet above mean sea level, NGVD.

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(2) *REGULATORY POOL EXCAVATION AND FILL RESTRICTION.* OMAHA and ELKHORN shall not fill, nor permit filling of, any areas of the NRD PROJECT LAND, within the watershed of the DAM, having a ground surface elevation lower than 1,174.0 feet above mean sea level, NGVD, without balancing such placement with a permanent borrowing and removal of an equivalent amount of earth fill from such areas, and without the

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prior written approval of the NRD of the plans for such activities, such approval to not be withheld or delayed unreasonably.

(3) *MAXIMUM POOL EXCAVATION AND FILL RESTRICTION.* OMAHA and ELKHORN shall not fill, nor permit filling of, any areas of the NRD PROJECT LAND, within the watershed of the DAM, having a ground surface elevation higher than 1,174.0 feet above mean sea level and lower than 1,180.0 feet above mean sea level, NGVD, without balancing such placement with a permanent borrowing and removal of an equivalent amount of earth fill from such areas, and without the prior written approval of the NRD of the plans for such activities, such approval to not be withheld or delayed unreasonably.

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c) The NRD shall assign to OMAHA and ELKHORN the following permanent and assignable easement rights granted to the NRD by paragraph 2.a. of the METRO TECH EASEMENT, a copy of which is attached hereto and incorporated herein by reference as Exhibit “___,” to-wit: the power, privilege, right and authority to construct, operate, maintain, repair, replace and regulate public recreational trail improvements in the portion of the METRO TECH EASEMENT AREA within the REGULATED FLOOD POOL; and,

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d) OMAHA shall execute and deliver to METRO TECH an easement granting to METRO TECH the permanent right to use, for emergency public ingress and egress to and from METRO TECH’S Elkhorn campus property, a corridor of land not less than 30 feet in width over and across a parcel of land (described in the legal description attached hereto as Exhibit “___”), adjacent to the Northwest corner of the South half ½ of the Southeast Quarter of Section 18, Township 15 North, Range 11 East of the 6th P.M., Douglas County, Nebraska, owned by OMAHA; such easement to be subject to and on condition that none of the surface area of such corridor will be lower than 1,170.0 feet above mean sea

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level (referenced to the National Geodetic Vertical Datum of 1929), none of such surface area will be paved by METRO TECH, and such right will be used only for emergency ingress and egress and not for regular ingress or egress to METRO TECH'S Elkhorn campus or other development.

21. RISK OF LOSS. After substantial completion of construction of the NRD PROJECT and the PARK FACILITIES, the sole risk of loss of or damage to NRD PROJECT components or to such PARK FACILITIES shall be borne by the party that has an obligation to operate and maintain such components or facilities, whether such loss or damage results from flood or other casualty whatsoever.

22. NO SEPARATE LEGAL ENTITY. No separate legal or administrative entity is created by THIS AGREEMENT.

23. APPROVALS. Wherever THIS AGREEMENT speaks of approval and consent by OMAHA or ELKHORN, such approval is understood to be manifested by act of the respective Mayor or his designated representative. Wherever THIS AGREEMENT speaks of approval and consent by the NRD, such approval is understood to be manifested by act of the General Manager.

24. NONDISCRIMINATION. The PARTIES shall not, in the performance of THIS AGREEMENT, discriminate or permit discrimination in violation of federal or state laws or local ordinances because of race, color, sex, age, disability under the Americans with Disabilities Act, political or religious opinions, affiliations or national origin.

25. CAPTIONS. Captions used in THIS AGREEMENT are for convenience and are not used in the construction of THIS AGREEMENT.

26. APPLICABLE LAW. The PARTIES to THIS AGREEMENT shall conform to all existing and applicable ordinances, resolutions, state laws, federal

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laws, and all existing and applicable rules and regulations. Nebraska law will govern the terms and the performance under THIS AGREEMENT.

27. MERGER. THIS AGREEMENT shall not be merged into any other oral or written Agreement, lease or deed of any type.

28. MODIFICATION. THIS AGREEMENT contains the entire agreement of the PARTIES. No representations were made or relied upon by any of the PARTIES other than those that may be expressly set forth herein. No agent, employee or other representative of any PARTY is empowered to alter any of the terms hereof unless done in writing and signed by an authorized officer of such respective PARTY.

29. STRICT COMPLIANCE. All provisions of THIS AGREEMENT and each and every document that shall be attached shall be strictly complied with as written, and no substitution or change shall be made except upon written direction from authorized representative.

30. INVALID PROVISIONS. In the event that any covenant, condition, or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such covenant, condition, or provision herein contained shall not affect the validity of the remainder of the covenants, conditions or provisions of THIS AGREEMENT which shall in all respects remain a legally binding agreement with the invalid portion being deleted; provided that the validity of any such covenant, condition, or provision does not materially prejudice any of the PARTIES in its respective rights and obligations contained in the valid covenants, conditions, or provisions of THIS AGREEMENT.

31. NON-WAIVER. No delay or failure by any of the PARTIES to exercise any right under THIS AGREEMENT, and no partial or single exercise of

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that right, shall constitute a waiver of that or any other right unless otherwise expressly provided herein. A valid waiver by any of the PARTIES shall not be deemed to extend the amount of time available to perform any other act required under THIS AGREEMENT.

32. FURTHER AGREEMENTS. Each of the PARTIES will, whenever and as often as the other may request, execute, acknowledge and deliver or cause to be executed, acknowledged and delivered any and all such further conveyances, assignments or other instruments and documents as the requesting party may believe to be necessary, expedient or proper in order to complete any and all conveyances, transfers, and assignments herein provided and to do any and all other acts and to execute, acknowledge and deliver any other documents so requested in order to carry out the intent and purposes of THIS AGREEMENT.

33. TIME IS OF THE ESSENCE. Time is expressly declared to be of the essence of THIS AGREEMENT.

34. COUNTERPARTS. THIS AGREEMENT may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

35. EFFECTIVE DATE AND TERM. THIS AGREEMENT shall become effective upon its execution by all PARTIES, and shall be perpetual in its duration.

36. NOTICES. Any notice required under the terms of THIS AGREEMENT shall be deemed to have been given within forty-eight (48) hours after notice has been deposited in the United States mail; and:

a) Notices to OMAHA provided for in THIS AGREEMENT shall be sufficient if sent by certified or registered mail, postage prepaid, addressed to:

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Director
Parks, Recreation and Public Property Department
City of Omaha, Nebraska
1819 Farnam Street, Suite 701
Omaha, Nebraska 68183;

b) Notices to ELKHORN provided for in THIS AGREEMENT shall be sufficient if sent by certified or registered mail, postage prepaid, addressed to:

Director
Parks, Recreation and Public Property Department
City of Elkhorn, Nebraska

Elkhorn, Nebraska 68_____;

c) Notices to the NRD provided for in THIS AGREEMENT shall be sufficient if sent by certified or registered mail, postage prepaid addressed to:

General Manager
Papio-Missouri River NRD
8901 South 154th Street
Omaha, Nebraska 68138-3621

or to such other respective address(s) as the PARTIES may designate to each other from time to time in writing.

IN WITNESS WHEREOF

THIS AGREEMENT is executed by the PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT on this ____ day of _____, 2005, pursuant to resolution duly adopted by its Board of Directors.

**PAPIO-MISSOURI RIVER NATURAL
RESOURCES DISTRICT**

By _____
General Manager

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THIS AGREEMENT is executed by the CITY OF OMAHA, NEBRASKA on this ____ day of _____, 20045, pursuant to ordinance duly adopted by its City Council.

CITY OF OMAHA, NEBRASKA

By _____
Mayor

ATTEST:

City Clerk

THIS AGREEMENT is executed by the CITY OF ELKHORN, NEBRASKA on this ____ day of _____, 20045, pursuant to ordinance duly adopted by its City Council.

CITY OF ELKHORN, NEBRASKA

By _____
Mayor

ATTEST:

City Clerk

STATE OF NEBRASKA)
) SS.
COUNTY OF _____)

On this ____ day of _____, 20045, before me, a Notary Public, personally came _____, General Manager of the **PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT**, to me personally known to be the identical person whose name is

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affixed to the above and foregoing instrument, and he/she acknowledged the same to be his/her voluntary act and deed and the voluntary act and deed of said District.

WITNESS my hand and Notarial Seal the date last aforesaid.

Notary Public

STATE OF NEBRASKA)
) SS.
COUNTY OF _____)

On this _____ day of _____, 20045, before me, a Notary Public, personally came _____ Mayor of the **CITY OF OMAHA, NEBRASKA** to me personally known to be the identical person whose name is affixed to the above and foregoing instrument, and he/she acknowledged the same to be his/her voluntary act and deed and the voluntary act and deed of said City.

WITNESS my hand and Notarial Seal the date last aforesaid.

Notary Public

STATE OF NEBRASKA)
) SS.
COUNTY OF _____)

On this _____ day of _____, 20045, before me, a Notary Public, personally came _____ Mayor of **CITY OF ELKHORN, NEBRASKA** to me personally known to be the identical person whose name is affixed to the above and foregoing instrument, and he/she acknowledged the same to be his/her voluntary act and deed and the voluntary act and deed of said City.

WITNESS my hand and Notarial Seal the date last aforesaid.

Notary Public

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LEGAL DESCRIPTION

PART A OF OUTLOT 2

Part A of Outlot 2, ELK RIDGE, a subdivision, as surveyed, plotted and recorded in Douglas County, Nebraska, EXCEPT that part thereof described as follows:

Beginning at the southeast corner of said Outlot 2 and on the south line of the North Half of the North Half of the Southeast Quarter of Section 18, Township 15 North, Range 11 East of the 6th P.M., Douglas County, Nebraska:

Thence South 86°53'18" West (bearings referenced to ELK RIDGE final plat) for 506.54 feet along the south line of said Outlot 2;

Thence North 34°18'19" East for 832.30 feet to the north line of said North Half of the North Half of the Southeast Quarter of Section 18;

Thence North 86°51'18" East for 475.29 feet along said north line to the east line of Outlot 2.

Thence along a curve to the right (having a radius of 5280.00 feet and a long chord bearing South 32°32'45" West for 813.92 feet) for an arc length of 814.72 feet along said east line to the Point of Beginning;

Contains 2,287,201 square feet or 52.507 acres.

PART B OF OUTLOT 2

Part B of Outlot 2, ELK RIDGE, a subdivision, as surveyed, plotted and recorded in Douglas County, Nebraska, described as follows:

Beginning at the southeast corner of said Outlot 2 and on the south line of the North Half of the North Half of the Southeast Quarter of Section 18, Township 15 North, Range 11 East of the 6th P.M., Douglas County, Nebraska:

Thence South 86°53'18" West (bearings referenced to ELK RIDGE final plat) for 506.54 feet along the south line of said Outlot 2;

Thence North 34°18'19" East for 832.30 feet to the north line of said North Half of the North Half of the Southeast Quarter of Section 18;

Thence North 86°51'18" East for 475.29 feet along said north line to the east line of Outlot 2;

Thence along a curve to the right (having a radius of 5280.00 feet and a long chord bearing South 32°32'45" West for 813.92 feet) for an arc length of 814.72 feet along said east line to the Point of Beginning;

Contains 333,039 square feet or 7.646 acres.

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Book: 96082 #2 Page: 26

Date: Aug. 29, 2005

Drawn By: MJW

Job Number: 96082.03 - 400



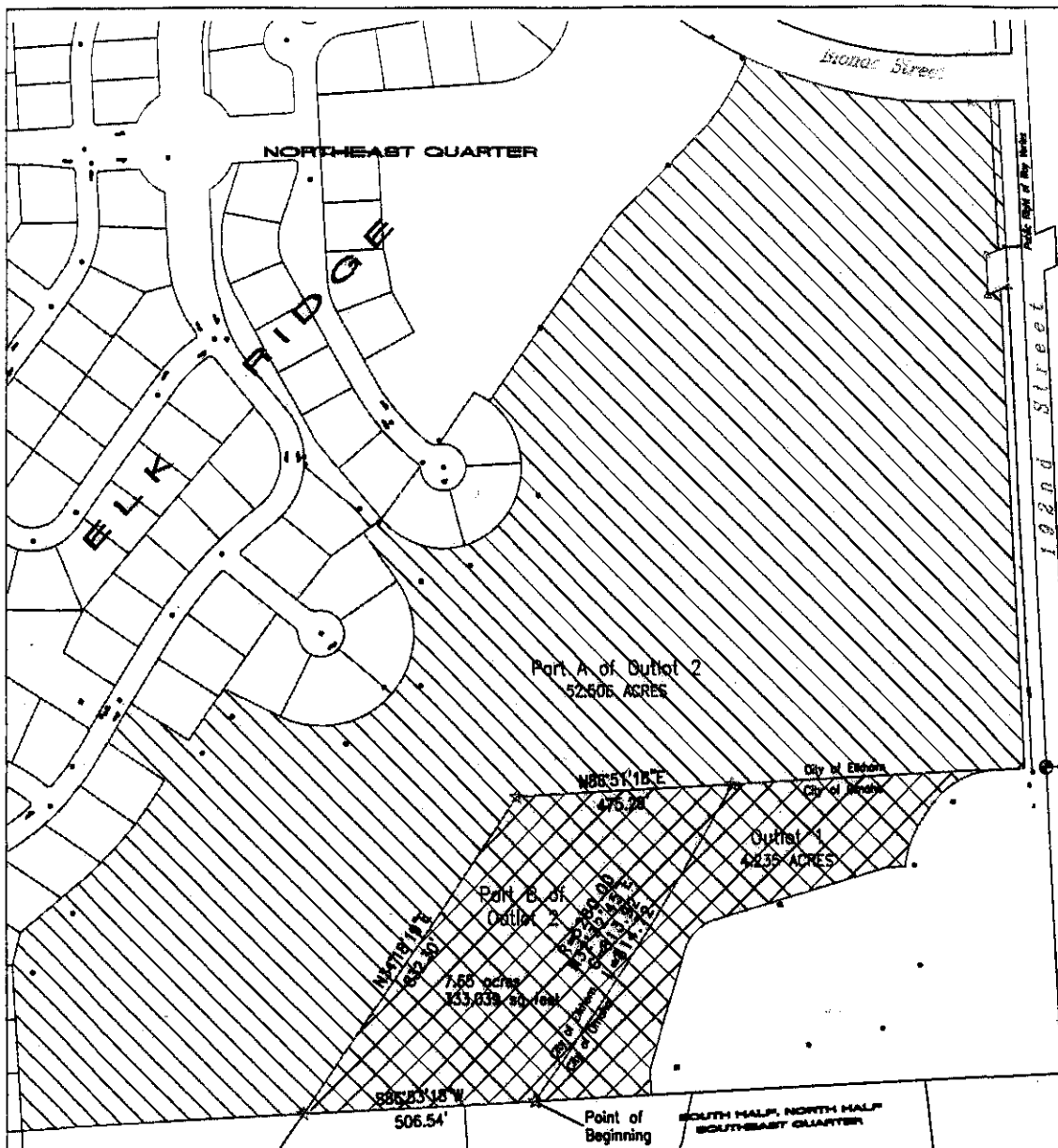
LRA, Inc.

1440 West Dodge Road, Suite 100
Omaha, Nebraska 68154-2027





WWW.LRA-INC.COM

(Ph) 402.496.2498

(Fax) 402.496.2730



LEGEND

-  PROPERTY LINE
-  PNRD PROPERTY ELKHORN
-  PNRD PROPERTY OMAHA
-  CORNER TO BE SET AFTER CONSTRUCTION

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Book: 96082 #2 Page: 26

Date: Aug. 29, 2005

Drawn By: MJW

Job Number: 96082.03 - 400



Lamp, Ryecarson & Associates, Inc.

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Omaha, Nebraska 68154-2027

WWW.LRA-INC.COM

(Ph) 402.496.2498
(Fax) 402.496.2730



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(Fax) 402.496.2730

LEGAL DESCRIPTION

PARCEL 1

Lots 113 through 120, inclusive, and dedicated Elk Ridge Drive in ELK RIDGE, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska, described as follows:

Beginning at the northwest corner of said Lot 113;

Thence North 86°53'18" East (bearings referenced to the Nebraska State Plane System NAD88) for 350.00 feet along the north line of said Lots 113 and 120 to the northeast corner of said Lot 120;

Thence along the east and south lines of said Lots 116 through 120, inclusive, for the following three (3) courses:

(1) Thence South 03°00'42" East for 295.57 feet;

(2) Thence along a curve to the right (having a radius of 275.00 feet and a long chord bearing South 41°57'34" West for 388.71 feet) for an arc length of 431.69 feet;

(3) Thence South 86°55'50" West for 39.30 feet to the southwest corner of said Lot 116;

Thence North 03°06'37" West for 150.00 feet along the west line of said Lot 116 to the northwest corner thereof and the south right of way line of Elk Ridge Drive;

Thence South 86°55'50" West for 35.00 feet along said south right of way line to the northeast corner of Lot 12, ELKHORN RIDGE ESTATES, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska;

Thence North 03°06'37" West for 420.03 feet along the east line of ELKHORN RIDGE ESTATES to the Point of Beginning.

Contains 177,836 square or 4.083 acres.

PARCEL 2

Part of the South Half of the North Half of the Southeast Quarter of Section 18, Township 15 North, Range 11 East of the 6th P.M., Douglas County, Nebraska, described as follows:

Beginning at the northeast corner of Lot 120, ELK RIDGE, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska;

Thence North 86°53'18" East (bearings referenced to the Nebraska State Plane System NAD88) for 625.82 feet along the north line of said South Half of the North Half of the Southeast Quarter of Section 18;

Thence South 34°18'19" West for 832.51 feet to the south line of said South Half of the North Half of the Southeast Quarter of Section 18;

Thence South 86°54'09" West for 469.99 feet along said south line to the southwest corner thereof and the southeast corner of Lot 12, ELKHORN RIDGE ESTATES, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska;

Thence North 03°06'37" West for 241.06 feet along the east line of said Lot 12 to the northeast corner thereof and south right of way line of Elkhorn Ridge Drive;

Thence North 86°55'50" East for 35.00 feet along said south right of way line to the northwest corner of Lot 116, ELK RIDGE;

Thence South 03°06'37" East for 150.00 feet along west line of said Lot 116 to the southwest corner thereof;

Thence along the south and east lines of Lots 116 through 120, inclusive, Elk Ridge for the following three (3) courses:

1) Thence North 86°55'50" East for 39.30 feet;

2) Thence along a curve to the left (having a radius of 275.00 feet and a long chord bearing North 41°57'34" East for 388.71 feet) for an arc length of 431.69 feet;

3) Thence North 03°00'42" West for 295.57 feet to the Point of Beginning.

Contains 300,132 square feet or 6.890 acres.

PARCEL 3

Part of the South Half of the North Half of the Southeast Quarter of Section 18, Township 15 North, Range 11 East of the 6th P.M., Douglas County, Nebraska, described as follows:

Commencing at the northeast corner of Lot 120, ELK RIDGE, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska

Thence North 86°53'18" East (bearings referenced to the Nebraska State Plane System NAD88) for 625.82 feet along the north line of said South Half of the North Half of the Southeast Quarter of Section 18 to the TRUE POINT OF BEGINNING;

Thence North 86°53'18" East for 856.42 feet continuing along said north line;

Thence South 12°07'53" West for 102.37 feet;

Thence along a curve to the right (having a radius of 100.00 feet and a long chord bearing South 35°37'17" West for 79.72 feet) for an arc length of 82.00 feet;

Thence along a curve to the left (having a radius of 150.00 feet and a long chord bearing South 26°16'30" West for 162.67 feet) for an arc length of 171.93 feet;

Thence along a curve to the left (having a radius of 300.00 feet and a long chord bearing South 12°08'18" East for 58.31 feet) for an arc length of 58.40 feet;

Thence South 64°14'59" West for 279.84 feet;

Thence South 25°43'02" East for 209.57 feet to the south line of said South Half of the North Half of the Southeast Quarter of Section 18;

Thence South 86°54'09" West for 1037.07 feet along the said south line;

Thence North 34°18'19" East for 832.51 feet to the Point of Beginning.

Containing 601,119 square feet or 13.800 acres.

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Date August 23, 2005 Dwn.By MJW

Job Number 96082.03-400



Lamp, Rynearson & Associates, Inc.

14710 West Dodge Road, Suite 100
Omaha, Nebraska 68154-2027

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(Ph) 402.496.2498
(Fax) 402.496.2730

Memorandum

To: PPO Subcommittee
From: Paul Woodward, Water Resources Engineer
Date: September 7, 2005
Re: Addendum to Purchase Agreement w/ Lyman Richey Corporation for the Papio Dam Site 13 Project

The enclosed Purchase Agreement with the Lyman Richey Corporation (LRC) to acquire property impacted by the reservoir of Dam Site 13 (NE of 192nd and Dodge) was approved by the Board in December 2004 and executed on March 1, 2005. However, since this time, several activities have taken place which altered provisions in the original purchase agreement and proposed easements. Therefore, enclosed for your consideration is an Addendum to the Purchase Agreement with LRC along with revisions to the Cross-Easements Agreement.

A summary of the revisions in the Purchase Agreement and Cross-Easements Agreement are as follows:

- ☐ The final purchase price was recalculated based on the agreed upon price per acre of \$51,031.75 in the original agreement. Therefore, the final purchase price for 24.77 acres is \$1,264,056.40.
- ☐ Several easements previously included in the Pre-Closing Cross Easements Agreement were moved to the Cross-Easements Agreement, including LRC's Temporary Grading and Construction Easement and the NRD's Permanent Channel and Wetland Mitigation Easement. Revisions to the Channel and Wetland Mitigation Easement reflect the NRD's final Channel Mitigation plan.
- ☐ In addition, other easements were added to the Cross-Easements Agreement. These easements include the right for Lyman-Richey or the City of Omaha to construct a Parking Lot on the future park property to be used jointly by LRC and the public. This latest plan for the park and future headquarters is shown in the attached drawing prepared by Kirkham Michael on July 18, 2005.

In conclusion, the District would acquire 24.77 acres from Lyman-Richey for the Dam Site 13 project and future regional park. Following this acquisition, the western-most portion of the property would still be sold to Dial for \$544,000 and the rest would be deeded to the City of Omaha or Elkhorn per a proposed Inter-local agreement. Ultimately, these revisions don't alter the cost of the Dam Site 13 project as shown in the table below.

| EXPENSE ITEM | COST (IN MILLIONS) | DATE DUE |
|-----------------------------|--------------------|----------------------------|
| Belgrade Property | 3.5 | March 15, 2005 |
| HDR Engineering | 0.4 | 0.2 in FY 05, 0.2 in FY 06 |
| Dam Construction | 2.4 | FY 06 |
| LRC Property | 1.3 | September 16, 2005 |
| SUB-TOTAL | 7.6 | |
| Less Dial Contribution | 1.0 | December 15, 2005 |
| Less Dial Property Purchase | 0.5 | |
| SUB-TOTAL | 1.5 | |
| FINAL NRD TOTAL | 6.1 | |

Management recommends that the Subcommittee recommend to the Board that the General Manager be authorized to execute the proposed Addendum to Purchase Agreement with Lyman Richey Corporation for the purchase price of \$1,264,056.40 to acquire land rights needed for Dam Site 13 project, subject to changes deemed necessary by the General Manager and approval as to form by District Legal Council.

PURCHASE AGREEMENT

PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT DAM SITE 13 FLOOD CONTROL PROJECT

THIS AGREEMENT (hereinafter referred to as "**THIS AGREEMENT**") is entered into by and between **LYMAN-RICHEY CORPORATION**, a Delaware corporation (hereinafter referred to as the "**SELLER**"), and the **PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT** (hereinafter referred to as "the **NRD**").

WHEREAS, Lyman-Richey Corporation ("Seller") is currently the owner of a 38 acre tract of ground generally described as the South Half of the North Half of the Southeast Quarter of Section 18, Township 15 North, Range 11 East of the 6th P.M., Douglas County, Nebraska;

WHEREAS, the NRD desires to construct, operate and maintain a flood control dam on a portion of the aforementioned tract of ground;

WHEREAS, Seller intends to use a portion of the above-described tract of ground for the purpose of constructing a ready mixed plant, a corporate headquarters building consisting of approximately 50,000 square feet of usable office space, and other legitimate business purposes consistent with its existing trade or business;

WHEREAS, Seller acknowledges that the NRD has the ability to take the portion of the above-described real property by instituting an action in eminent domain;

WHEREAS, the NRD has threatened to take approximately 25 acres of the above-described real property by utilizing its powers of eminent domain;

WHEREAS, the parties have been engaged in time consuming and protracted negotiations with respect to the fair market value of the property which the NRD is seeking to utilize for the construction, operation and maintenance of the contemplated flood control dam;

WHEREAS, the NRD and Seller have arrived at a compromise value of Fifty-one Thousand Thirty-one and 75/100 Dollars (\$51,031.75) per acre for the approximately 25 acre tract which the NRD is seeking to obtain for its intended public purposes.

NOW, THEREFORE, IN CONSIDERATION of the foregoing recitals and the mutual promises, covenants and agreements hereinafter set forth, the SELLER hereby agrees to sell, convey and grant to the NRD, and the NRD hereby agrees to purchase and accept from the SELLER, the following described real property upon the following terms and conditions:

1. Property. The real property of the SELLER to be sold and granted to the NRD pursuant to THIS AGREEMENT (hereinafter referred to collectively as "the **PROPERTY**") consists of the following, to-wit:

a) Marketable fee simple title to the three tracts of land in Section 18, Township 15 North, Range 11 East of the 6th P.M., Douglas County, Nebraska, containing 25.2 acres, more or less, and legally described in the legal description attached hereto as Exhibit "1" and incorporated herein by reference, provided, however, prior to the CLOSING, the legal description of the **PROPERTY** may be modified, at the election of the SELLER, to add to or subtract from the **PROPERTY** a parcel of land, abutting the division line between the **PROPERTY** and the SELLER'S remainder and not exceeding one-half acre, in order to comply with express requirements of or conditions imposed by the Omaha Planning Board, Omaha City Council, or other political or governmental subdivision with respect to the matters referred to in paragraph 12(a) and 12(b) of THIS AGREEMENT; and,

b) Easements, in the form as contained in the Cross-Easements Agreement attached hereto as Exhibit "A" and incorporated herein by reference, in, on, over and across the tract(s) of land in Section 18, Township 15 North, Range 11 East of the 6th P.M., Douglas County, Nebraska, described therein.

2. Consideration. The consideration the NRD agrees to pay to the SELLER for the PROPERTY is the sum of ONE MILLION TWO HUNDRED EIGHTY-SIX THOUSAND DOLLARS (\$1,286,000.00) except to the extent that that amount of money may be modified by reason of paragraphs 1(a) and/or 12 of this Agreement, relating to the issuance of a special use permit, zoning and platting of the Lyman-Richey Property. Any adjustments in the acreage of the PROPERTY made pursuant thereto shall result in a net reduction or increase in the aforesaid purchase price, as the case may be, at the rate of \$51,031.75 per acre.

3. Payment. The consideration for the PROPERTY shall be paid by the NRD to the SELLER at the time of the CLOSING in cash or its equivalent.

4. Deed and Easement. Marketable fee simple title to the portion of the PROPERTY to be conveyed to the NRD in fee simple absolute (described in Exhibit "1") shall be conveyed by the SELLER to the NRD by special warranty deed, free and clear of all leases, mortgages, taxes and other liens and encumbrances, except current year taxes (all such excepted items hereinafter being referred to collectively as "the **PERMITTED EXCEPTIONS**"). The Cross-Easements Agreement in the form as attached hereto as Exhibit "A" shall be executed in two counterparts by the NRD and the SELLER, and such executed counterparts shall be delivered by each of such parties to the other at the time of the CLOSING, the grants of such easements to be free and clear of all leases, mortgages, taxes and other liens and encumbrances except the **PERMITTED EXCEPTIONS**.

5. Pre-Closing Cross-Easements Agreement. At the same time as the execution of THIS AGREEMENT, the Pre-Closing Cross-Easements Agreement, in the form as attached hereto as Exhibit "B" and incorporated herein by reference, shall be executed in two counterparts by the NRD and the SELLER, and such executed counterparts shall be delivered by each of such parties to the other.

6. Dial Development Rights Agreement. At the same time as the execution of THIS AGREEMENT, the Development Rights Agreement with Dial Realty Development

Corp, a Nebraska corporation, 11506 Nicholas Street, Suite 200, Omaha, Nebraska 68154, in the form as attached hereto as Exhibit "C" and incorporated herein by reference, shall be executed in three counterparts by the NRD and the SELLER, and such executed counterparts shall be delivered by each of such parties to the other and to Dial Realty Development Corp.

7. Title Insurance. Within thirty (30) days after the effective date of THIS AGREEMENT, the SELLER shall order and deliver to the NRD a commitment for a title insurance policy for the PROPERTY. That commitment for title insurance shall be obtained from Nebraska Land Title and Abstract Company and the cost of the commitment and the eventual title policy shall be shared equally by SELLER and the NRD.

a) Such commitment shall be in the amount of the purchase price and shall show marketable fee simple title to the PROPERTY to be vested in the SELLER, subject only to the PERMITTED EXCEPTIONS and liens and encumbrances of an ascertainable amount which may be removed by the payment of money at the time of the CLOSING and which the SELLER may so remove at that time by using a portion of the purchase price to be paid at the CLOSING and including deposit of same for the SELLER'S account with the title insurer pursuant to a "title indemnity" or similar escrow arrangement pending removal or release of such liens or encumbrances. The aforesaid policy or commitment shall be conclusive evidence of good title as therein shown as to all matters insured or to be insured by the policy, subject only to the exceptions as therein stated.

b) If the aforesaid commitment discloses any exceptions to title other than the PERMITTED EXCEPTIONS (hereinafter referred to as "the NONPERMITTED EXCEPTIONS"), the SELLER shall have thirty (30) days from the date of delivery of the commitment to the SELLER to have the NONPERMITTED EXCEPTIONS removed from the policy or commitment, or, at

the SELLER'S expense, to have the title insurer commit to insure against loss or damage that may be occasioned by such NONPERMITTED EXCEPTIONS.

c) If the SELLER fails to have the NONPERMITTED EXCEPTIONS removed, or in the alternative, to obtain the commitment for title insurance specified above as to such NONPERMITTED EXCEPTIONS within the specified time, the NRD may, at the NRD's election, terminate THIS AGREEMENT as to all of the PROPERTY or take the PROPERTY as title then is, in either case by giving the SELLER written notice of NRD'S election and, in the latter case, by tendering performance on the NRD's part. If the NRD fails to give notice of such election within thirty (30) days after the expiration of the aforesaid thirty (30) day period, then the NRD shall be deemed to have elected to take the PROPERTY as title then is, and this transaction shall close in accordance with the preceding provisions hereof. If the NRD shall give notice of the NRD's election to terminate THIS AGREEMENT, as aforesaid, within the time provided, then THIS AGREEMENT shall thereupon, without further action by any party, become null and void and neither party shall have any obligation hereunder.

8. Real Estate Taxes. All real estate taxes on the PROPERTY which could become delinquent during the year in which the CLOSING occurs shall be pro-rated between the NRD and the SELLER as of the date of the CLOSING.

9. Survey. All surveys which the NRD may require in connection with the CLOSING of this transaction, shall be at the expense of the NRD.

10. Eminent Domain. Neither THIS AGREEMENT nor termination of THIS AGREEMENT by the SELLER or the NRD pursuant to any provision of THIS AGREEMENT shall be deemed to estop the NRD from instituting an action in eminent domain in the future to acquire the PROPERTY, or any portion thereof, more than one year after the date of execution of THIS AGREEMENT. In the event that the NRD institutes an action in eminent domain as authorized by the terms and provisions of this

paragraph, the parties hereto specifically understand, covenant and agree that the agreed fair market value for the PROPERTY being condemned by the NRD shall be no less than the sum of ONE MILLION TWO HUNDRED EIGHTY-SIX THOUSAND DOLLARS (\$1,286,000.00).

11. Closing. This transaction shall be closed upon a date and at a time to be designated in a written 30-day notice mailed by the SELLER to the NRD, referred to as "the CLOSING"), and, except as otherwise specified in THIS AGREEMENT, the CLOSING date shall occur no sooner than March 18, 2005 and no later than September 16, 2005, provided however, the CLOSING shall not in any event occur prior to the issuance by the City of Omaha of a special use permit, platting or zoning change having the effect of permitting the SELLER to construct a headquarters office building on the remainder of the SELLER'S property in Section 18, Township 15 North, Range 11 East of the 6th P.M., Douglas County, Nebraska. The CLOSING shall be held at the address of the NRD, set out below, or at such other place as may be agreed upon by the NRD and the SELLER.

12. Conditions of Closing. The parties hereto specifically understand, covenant and agree that the CLOSING of the purchase and sale transaction evidenced by this Purchase Agreement shall be specifically conditional upon fulfillment of the following conditions either prior to or simultaneously with the CLOSING:

- (a) The issuance by the City of Omaha of a special use permit or zoning change having the effect of permitting the SELLER to construct a headquarters office building on the remainder of SELLER'S property in Section 18, Township 15 North, Range 11 East of the 6th P.M., Douglas County, Nebraska; and
- (b) The granting by the City of Omaha of an administrative lot split or other appropriate platting of the portion of the real property defined in the preceding subparagraph to permit the construction of a separate headquarters building on the remainder of SELLER'S property or the possible sale of that property to a third party purchaser.

- (c) The execution of the previously mentioned Cross Easements Agreement (Exhibit A), Pre-Closing Easement Agreement (Exhibit B) and Development Rights Agreement (Exhibit C).

13. Delivery of possession. Possession of the PROPERTY shall be delivered to the NRD at the closing or at such other time as may be agreed upon in writing by the NRD and the SELLER.

14. Environmental Contamination. Notwithstanding any other provision of THIS AGREEMENT, the NRD shall be afforded a period of sixty (60) days from and after the effective date of THIS AGREEMENT to conduct or obtain its own environmental assessment of the PROPERTY at the NRD's sole cost and expense. If, during such sixty (60) day period, the General Manager of the NRD, in the exercise of his sole discretion, determines that the expected costs to the NRD of clean-up of and response to existing environmental contamination of the PROPERTY probably will exceed the sum of FIFTY THOUSAND DOLLARS (\$50,000.00), he shall give written notification to the SELLER of such determination, whereupon either party may terminate this Agreement.

15. Revenue Stamps. All documentary stamp taxes shall be paid by the SELLER to the extent that this transaction is not exempt therefrom.

16. Exchange Cooperation. The parties agree that either or both of them may assign THIS AGREEMENT to a nominee or qualified intermediary ("NOMINEE") to act in its/his place as the buyer or seller of the PROPERTY in order to effectuate a deferred like-kind exchange or a reverse like-kind exchange pursuant to Section 1031 of the Internal Revenue Code of 1986, as amended. Such an assignment shall be made in writing by the assigning party. Upon assignment of THIS AGREEMENT to NOMINEE and NOMINEE'S written assumption of assigning party's obligation herein, NOMINEE shall be substituted for the assigning party under THIS AGREEMENT as the buyer or seller of the PROPERTY, as the case may be. The non-assigning party agrees to accept the consideration and all other required performance of THIS AGREEMENT from

NOMINEE and to render its performance of all its obligations hereunder to NOMINEE. The non-assigning party agrees that the performance by NOMINEE will be treated as performance by the assigning party. The non-assigning party further agrees that any representations, warranties (whether explicit or implied), indemnities, obligations, and undertakings it makes to the assigning party or NOMINEE in connection with this transaction shall be treated as made directly to the assigning party and shall be fully enforceable by the assigning party notwithstanding the assigning party's assignment of THIS AGREEMENT.

17. Assignment. Except to the extent otherwise provided in paragraph 16 of THIS AGREEMENT, THIS AGREEMENT, and/or any interest of the SELLER hereunder, may not be assigned in whole or in part by the SELLER without the prior written consent of the NRD.

18. Entire agreement. THIS AGREEMENT contains the entire agreement between the parties, and each of the parties agree that neither the other party, nor any of officers, agents or employees of the other party, have made any representation or promise with respect to, or affecting the PROPERTY or THIS AGREEMENT not expressly contained herein.

19. Governing law. The provisions of THIS AGREEMENT shall be governed by, and construed in accordance with, the laws of the State of Nebraska.

20. Captions. The captions contained in THIS AGREEMENT are for convenience only and are not intended to limit or define the scope or effect of any provision of THIS AGREEMENT.

21. Time. Time is of the essence of THIS AGREEMENT.

22. Default. If either party shall default hereunder, the other party shall be entitled to enforce specific performance of THIS AGREEMENT or may terminate THIS AGREEMENT.

23. Notices. All notices herein required shall be in writing and shall be served on the parties at the addresses set out below, or at such other address as either party may hereafter designate in writing for service of notice to itself. The mailing of a notice by certified or registered mail, return receipt requested, or delivery thereof by messenger, shall be sufficient service.

24. Binding Effect. The provisions of THIS AGREEMENT shall inure to the benefit of, and shall be binding upon, the successors in interest and assigns of the respective parties hereto.

25. Tree Planting. The NRD agrees to seek the temporary postponement by the City of Omaha of the SELLER'S covenant requiring the SELLER to perform tree-planting along the western margin of the SELLER'S remaining land in Section 18, Township 15 North, Range 11 East of the 6th P.M., Douglas County, Nebraska.

26. Screening Wall. The NRD agrees to encourage the City of Omaha to permit the SELLER to construct a screening wall along the western margin of the SELLER'S remaining land in Section 18, Township 15 North, Range 11 East of the 6th P.M., Douglas County, Nebraska.

27. Lyman-Richey Wetlands Mitigation Dedication Area and Buffer Zone. The NRD agrees to relocate the SELLER'S existing Wetlands Mitigation Area and Buffer Zone [Declaration of Wetlands Mitigation Restrictions recorded on February 18, 2005 as Instrument No. 2005019086 of the Miscellaneous Records of the Register of Deeds of Douglas County, Nebraska] and agrees to assume the SELLER'S obligations to operate and maintain such area and zone, such obligations to be performed in conjunction with the NRD'S operation and maintenance of NRD channel and wetlands mitigation measures that the NRD will be required to install to compensate for channels and wetlands that will be lost as a result of the NRD'S construction of the DAM and RESERVOIR.

28. Storm Water Retention Pond Erosion. The NRD agrees to take measures to prevent erosion of the backslope of the SELLER'S storm water retention pond.

29. Survival of conditions. The terms and conditions of this AGREEMENT, and all covenants and agreements made herein, shall survive the CLOSING of this transaction, and shall not be deemed to have merged or terminated upon the CLOSING.

30. Effective Date. THIS AGREEMENT shall be effective upon its complete execution by both parties.

THIS AGREEMENT is executed by LYMAN-RICHEY on this 1ST day of MARCH, 2005.

LYMAN-RICHEY CORPORATION

4315 Cuming Street, Omaha, NE 68131

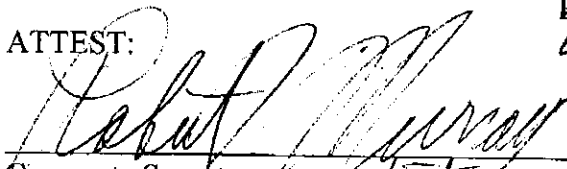
By


~~PATRICK J. GORUP~~ KEVIN D. SCHMIDT

President and Chief Executive Officer

EXECUTIVE VICE PRESIDENT & CO.O.

ATTEST:


~~Corporate Secretary~~


Witness

THIS AGREEMENT is executed by the NRD on this 1st day of MARCH, 2005.

**PAPIO-MISSOURI RIVER NATURAL
RESOURCES DISTRICT**

8901 South 154th Street, Omaha, NE 68138

By


STEVEN G. OLTMANS, General Manager

STATE OF NEBRASKA)
) SS.
COUNTY OF Douglas)

On this 1st day of MARCH, 2005, before me, a Notary Public, personally came the above-named ~~PATRICK J. GORUP~~ ^{Kevin D. Schmidt ~~was~~ Executive Vice P.C.O.}, President of LYMAN-RICHEY CORPORATION, to me personally known to be the identical person whose name is affixed to the above and foregoing instrument, and he acknowledged the same to be his voluntary act and deed as such officer and the voluntary act and deed of such corporation.

WITNESS my hand and Notarial Seal the date last aforesaid.



Terry L. Kaminski
Notary Public

STATE OF NEBRASKA)
) SS.
COUNTY OF Douglas)

On this 1st day of MARCH, 2005, before me, a Notary Public, personally came the above-named Steven G. Oltmans, General Manager of the PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT, to me personally known to be the identical person whose name is affixed to the above and foregoing instrument, and he acknowledged the same to be his voluntary act and deed as such officer and the voluntary act and deed of such natural resources district.

WITNESS my hand and Notarial Seal the date last aforesaid.



Terry L. Kaminski
Notary Public

CROSS-EASEMENTS AGREEMENT

THIS AGREEMENT ("THIS AGREEMENT") is entered into by and between **LYMAN-RICHEY CORPORATION**, a Delaware corporation ("**LYMAN-RICHEY**"), and the **PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT** ("the **NRD**").

WHEREAS, the NRD intends to construct, operate and maintain a flood control dam ("the **DAM**") in Section 18, Township 15 North, Range 11 East of the 6th P.M., Douglas County, Nebraska, which will create a reservoir ("the **RESERVOIR**") in said section having a flood pool ("the **REGULATED FLOOD POOL**") that will be designed to impound flood waters to 1,174.0 feet above mean sea level, referenced to the National Geodetic Vertical Datum of 1929 ("**NGVD**"), and having a maximum flood pool ("the **MAXIMUM FLOOD POOL**") that will be designed to impound flood waters to 1,180.0 feet above mean sea level, NGVD; and,

WHEREAS, a portion of the **RESERVOIR** is or will be located on the tract of land in Section 18, Township 15 North, Range 11 East of the 6th P.M., Douglas County, Nebraska (hereinafter referred to collectively as "the **NRD PARCEL**"), referred to and

legally described in the legal description attached hereto as Exhibit "1" and incorporated herein by reference; the NRD PARCEL being purchased by the NRD from LYMAN-RICHEY for construction, operation and maintenance of the DAM and RESERVOIR; and,

WHEREAS, LYMAN-RICHEY owns certain additional parcels of land in Section 18, Township 15 North, Range 11 East of the 6th P.M., Douglas County, Nebraska (collectively, "the LYMAN-RICHEY PARCEL"), adjacent to the NRD PARCEL and described in the legal description attached hereto as Exhibit "2" and incorporated herein by reference; and,

WHEREAS, the parties desire to grant to each other certain permanent easements, hereinafter described.

IN CONSIDERATION of the foregoing recitals and the mutual covenants of the parties hereinafter set forth, the parties hereby grant and agree as follows:

SECTION A PERMANENT DRAINAGE DEVICE AND FLOWAGE EASEMENTS

WHEREAS, LYMAN-RICHEY desires permanent easements over the NRD PARCEL for certain drainage device outlets and the flowage therefrom.

NOW, THEREFORE, the NRD does hereby grant to LYMAN-RICHEY the permanent right to enter the NRD PARCEL from time to time and therein operate, maintain, repair, replace and re-construct, the following drainage device appurtenant to LYMAN-RICHEY'S aggregate storage yard, as such device or portions thereof may now be configured and situated, in whole or part, in, on, under, over and across the NRD PARCEL, to-wit: The twelve inch (12") pump discharge pipe running and extending in a northwesterly direction from the groundwater and rainwater collection sump in LYMAN-RICHEY'S aggregate storage yard on the LYMAN-RICHEY PARCEL; together with the permanent right to flow the respectively-described waters from such device, over and across the NRD PARCEL and into the RESERVOIR; provided however, LYMAN

RICHEY shall keep such discharge pipe in operating condition and, if such device, or the respective originating sump pump, basin or outlet, or the maintenance or use thereof for the respectively-described purposes, shall be abandoned by LYMAN-RICHEY, the above-described permanent easement, at the NRD'S election, shall be deemed to be terminated, and any portions of such device located on the NRD PARCEL shall be removed by LYMAN RICHEY without expense to the NRD and properly decommissioned; and, provided, further, that LYMAN RICHEY shall not discharge into the RESERVOIR, through any such drainage device, any sewage, animal waste, or any hazardous substance regulated under the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. Sections 9601-9675).

SECTION B PERMANENT FLOWAGE EASEMENTS AND RESTRICTIVE COVENANTS

WHEREAS, the NRD desires the permanent right to inundate portions of the LYMAN-RICHEY PARCEL with flood waters and sediment impounded by the DAM from time to time, and desires other restrictions and covenants governing the LYMAN-RICHEY PARCEL.

NOW, THEREFORE, LYMAN-RICHEY does hereby grant to the NRD a permanent flowage easement and does hereby agree to certain permanent restrictive covenants, as follows:

1. The NRD shall have the perpetual power, privilege, right and authority to periodically flow and overflow waters and sediment upon, and inundate, all areas of the LYMAN-RICHEY PARCEL that, either now or hereafter, are within the MAXIMUM POOL or have a ground surface elevation lower than 1,180.0 feet above mean sea level, NGVD.
2. LYMAN-RICHEY shall not construct or maintain structures, fixtures or other improvements in the areas of the LYMAN-RICHEY PARCEL

that, either now or hereafter, are within the REGULATED FLOOD POOL or have a ground surface elevation lower than 1,174.0 feet above mean sea level, NGVD.

3. LYMAN-RICHEY shall not place any further earthen or other fill in any areas of the LYMAN-RICHEY PARCEL that, either now or hereafter, are within the MAXIMUM POOL or have a ground surface elevation lower than 1,180.0 feet above mean sea level, NGVD.

SECTION C EASEMENT FOR SANITARY SEWER, WATER MAIN AND NATURAL GAS LINE

LYMAN-RICHEY is hereby granted an easement across the NRD PARCEL for the purpose of connecting to contemplated interceptor sewer, sanitary sewer, water main and natural gas line appropriate to service the contemplated headquarters building referred to in this Agreement. LYMAN-RICHEY is hereby granted a permanent easement Twenty (20) feet in width and a construction easement Sixty (60) feet in width for the installation and maintenance of such interceptor sewer, sanitary sewer, water main and natural gas line connections. The exact location of such construction easement and permanent easement shall be more specifically defined by a survey to be completed by Kirkham Michael & Associates which will be subject to the approval of both LYMAN-RICHEY and the NRD (such approvals to not be withheld or delayed unreasonably).

SECTION D CONSTRUCTION OF FENCE ALONG THE WESTERN BOUNDARY OF THE LYMAN-RICHEY PARCEL

The parties hereto specifically understand, covenant and agree that as partial consideration for the mutual promises, covenants and agreements set forth in this Cross-Easements Agreement, the NRD will construct a Five (5) foot high woven wire fence with wood or steel posts fence along the western boundary of the LYMAN-RICHEY PARCEL designed to serve as a security fence for LYMAN-RICHEY and its business interests. The parties hereto further understand, covenant and agree that the NRD shall

erect and maintain that fence consistent with the general provisions of THIS AGREEMENT. LYMAN-RICHEY shall be permitted to affix appropriate warning signs on the security fence to inform invitees of the NRD PARCEL that anyone scaling the fence and entering the LYMAN-RICHEY PARCEL shall be trespassing.

SECTION E CHANNEL AND WETLAND MITIGATION

WHEREAS, the NRD will be required to install channel and wetlands mitigation measures to compensate for channels and wetlands that will be lost as a result of the NRD'S construction of the DAM and RESERVOIR; and,

WHEREAS, such mitigation measures could advantageously be constructed in the RESERVOIR on ground below 1,180.0 feet above mean sea level.

NOW, THEREFORE, the parties hereto specifically understand, covenant and agree that the NRD shall be and is hereby granted an easement across that portion of the LYMAN-RICHEY PARCEL easterly of LYMAN-RICHEY'S proposed headquarters building site that, after completion of the LYMAN-RICHEY GRADING WORK and the NRD GRADING WORK, will have a ground surface elevation lower than 1,180 feet above mean sea level, NGVD, for the purpose of constructing, installing, maintaining and replacing channel and wetland mitigation measures necessitated by and incident to construction of the of the DAM and RESERVOIR, plus the NRD shall be and is hereby granted an easement for ingress and egress over a 20 foot wide corridor adjacent to and on the upstream side of said 1,180 foot contour line. The plans for such measures shall be submitted to LYMAN-RICHEY for its approval, such approval to not be withheld or delayed unreasonably. Prior to entering the LYMAN-RICHEY PARCEL to construct, install, maintain or replace any such channel and wetland mitigation measures, the NRD shall give LYMAN-RICHEY reasonable advance notice of such activity, and within a reasonable time after the NRD'S completion of such activity, the NRD shall repair any damage caused during such activity to LYMAN-RICHEY'S improvements in such 20 foot wide ingress and egress corridor, which improvements shall be limited to grasses. In

no event shall the west line of such 20 foot wide corridor be within 5 feet of the Headquarters Building referred to in this Agreement.

SECTION F ADDITIONAL PROVISIONS

The following additional provisions shall govern THIS AGREEMENT, to-wit:

1. THIS AGREEMENT shall run with the land and shall be binding upon and inure to the benefit of the parties to this instrument and their successors and assigns. The contemplated benefits shall specifically include, but not be limited to, the designated portions of THIS AGREEMENT dealing with the anticipated preparation for and construction of a headquarters building by LYMAN-RICHEY and the parties specifically understand, covenant and agree that those benefits shall be assignable to LYMAN-RICHEY'S successors and assigns.

2. THIS AGREEMENT contains the entire agreement between the parties. Each of the parties agrees that neither the other party, nor any officers, agents or employees of the other party, have made any representations or promises with respect to or affecting THIS AGREEMENT not expressly contained herein.

3. The consideration stated herein shall constitute payment in full for all damages sustained by a party and its successors and assigns by reason of the exercise by the other party of any of the rights or privileges herein expressly granted or reasonably implied.

4. Time is of the essence of THIS AGREEMENT.

5. Whenever THIS AGREEMENT calls for the approval of the NRD, such approval may be granted by the General Manager of the NRD.

6. Whenever THIS AGREEMENT calls for the approval of LYMAN-RICHEY, such approval may be granted by either Patrick J. Gorup, Chief

Executive Officer, or Kevin Schmidt, Chief Operating Officer of LYMAN-
RICHEY, or their respective successors.

7. THIS AGREEMENT shall be effective upon its complete execution
by the parties.

THIS AGREEMENT is executed by LYMAN-RICHEY on this _____ day of
_____, 2005.

LYMAN-RICHEY CORPORATION
4315 Cuming Street, Omaha, NE 68131

By _____
KEVIN D. SCHMIDT
Executive Vice President and C.O.O.

ATTEST:

Corporate Secretary

THIS AGREEMENT is executed by the NRD on this _____ day of March, 2005.

**PAPIO-MISSOURI RIVER NATURAL
RESOURCES DISTRICT**
8901 South 154th Street, Omaha, NE 68138

By _____
STEVEN G. OLTMANS, General Manager

STATE OF NEBRASKA)
) SS.
COUNTY OF DOUGLAS)

On this _____ day of March, 2005, before me, a Notary Public, personally came the above-named KEVIN D. SCHMIDT, EXECUTIVE VICE PRESIDENT AND C.O.O. of LYMAN-RICHEY CORPORATION, to me personally known to be the identical person whose name is affixed to the above and foregoing instrument, and he acknowledged the same to be his voluntary act and deed as such officer and the voluntary act and deed of such corporation.

WITNESS my hand and Notarial Seal the date last aforesaid.

Notary Public

STATE OF NEBRASKA)
) SS.
COUNTY OF DOUGLAS)

On this _____ day of March, 2005, before me, a Notary Public, personally came the above-named Steven G. Oltmans, General Manager of the PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT, to me personally known to be the identical person whose name is affixed to the above and foregoing instrument, and he acknowledged the same to be his voluntary act and deed as such officer and the voluntary act and deed of such natural resources district.

WITNESS my hand and Notarial Seal the date last aforesaid.

Notary Public

THE SOUTH ONE-HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER AND THE SOUTH ONE-HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 15 NORTH, RANGE 11 EAST OF THE 6TH P.M., IN DOUGLAS COUNTY, NEBRASKA, EXCEPT THAT PART MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF THE SOUTH ONE-HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 18, TOWNSHIP 15 NORTH, RANGE 11 EAST OF THE 6TH P.M.; THENCE SOUTH $89^{\circ}56'38.5''$ WEST ALONG THE NORTH LINE OF THE SAID SOUTH ONE-HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 15 NORTH, RANGE 11 EAST OF THE 6TH P.M., A DISTANCE OF 309.80 FEET; THENCE SOUTH $03^{\circ}08'31''$ EAST, A DISTANCE OF 337.00 FEET; THENCE NORTH $87^{\circ}25'39.5''$ EAST, A DISTANCE OF 290.97 FEET TO A POINT ON THE EAST LINE OF THE SAID SOUTH ONE-HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 18, TOWNSHIP 15 NORTH, RANGE 11 EAST OF THE 6TH P.M.; THENCE NORTH $00^{\circ}06'43.75''$ EAST ALONG THE SAID EAST LINE OF THE SOUTH ONE-HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 18, TOWNSHIP 15 NORTH, RANGE 11 EAST OF THE 6TH P.M., A DISTANCE OF 323.74 FEET TO THE POINT OF BEGINNING; AND ALSO EXCEPT THE EAST 33 FEET THEREOF TAKEN FOR RIGHT OF WAY PURPOSES.

AND EXCEPT THAT PART DEEDED TO DOUGLAS COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS: A PARCEL OF LAND LYING IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 15 NORTH, RANGE 11 EAST OF THE 6TH P.M., IN DOUGLAS COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEING THE WEST 17.00 FEET OF THE EAST 50.00 FEET OF THE SOUTH ONE-HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 18.

AND EXCEPT THE THREE TRACTS OF LAND REFERRED TO AND LEGALLY DESCRIBED IN THE LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT "1" AND INCORPORATED HEREIN BY REFERENCE

EXHIBIT "2"

**PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT
DAM SITE 13 FLOOD CONTROL PROJECT**

PRE-CLOSING CROSS-EASEMENTS AGREEMENT

THIS AGREEMENT ("**THIS AGREEMENT**") is entered into by and between **LYMAN-RICHEY CORPORATION**, a Delaware corporation ("**LYMAN-RICHEY**"), and the **PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT** ("the **NRD**").

IN CONSIDERATION of the following recitals and the mutual covenants of the parties hereinafter set forth, the parties grant and agree that, prior to and in anticipation of the closing of the NRD'S purchase from LYMAN-RICHEY of the tract of land in Section 18, Township 15 North, Range 11 East of the 6th P.M., Douglas County, Nebraska (hereinafter referred to collectively as "**the NRD PARCEL**"), referred to and legally described in the legal description attached hereto as Exhibit "1" and incorporated herein by reference, and for a period of three years from and after the effective date of THIS AGREEMENT, the parties shall temporarily have and enjoy the following reciprocal rights and obligations:

SECTION A
LYMAN-RICHEY TEMPORARY GRADING EASEMENT

WHEREAS, the NRD intends to construct, operate and maintain a flood control dam ("the **DAM**") on a parcel of land in Section 18, Township 15 North, Range 11 East of the 6th P.M., Douglas County, Nebraska, adjacent to the NRD PARCEL, which will create a reservoir ("the **RESERVOIR**") having a flood pool ("the **REGULATED FLOOD POOL**") that will be designed to impound flood waters to 1,174.0 feet above mean sea level, referenced to the National Geodetic Vertical Datum of 1929 ("**NGVD**"), and having a maximum flood pool ("the **MAXIMUM FLOOD POOL**") that will be designed to impound flood waters to 1,180.0 feet above mean sea level, NGVD; and,

WHEREAS, LYMAN-RICHEY intends to simultaneously borrow earthen materials from, fill earthen materials on, and re-grade certain portions of, the NRD PARCEL and remaining parcels of land owned by LYMAN-RICHEY in Section 18, Township 15 North, Range 11 East of the 6th P.M., Douglas County, Nebraska (collectively, "the **LYMAN-RICHEY PARCEL**"), adjacent to the NRD PARCEL and described in the legal description attached hereto as Exhibit "2" and incorporated herein by reference; and,

WHEREAS, LYMAN-RICHEY desires to transport earthen materials between the LYMAN-RICHEY PARCEL and the NRD PARCEL (collectively, "the **COMBINED PARCELS**"), deposit such earthen materials as fill on the COMBINED PARCELS, and re-grade the COMBINED PARCELS as a unit, all according to a written grading plan ("the **LYMAN-RICHEY GRADING PLAN**") to be prepared by LYMAN-RICHEY and approved by the NRD, such borrowing, filling and grading by LYMAN-RICHEY on the COMBINED PARCELS hereinafter being referred to collectively as "the **LYMAN-RICHEY GRADING WORK**"

NOW, THEREFORE the NRD does hereby agree, as follows:

1. Prior to performing the LYMAN-RICHEY GRADING WORK, LYMAN-RICHEY shall retain a professional engineer to prepare the LYMAN-

RICHEY GRADING PLAN and submit the same to the NRD for approval (such approval to not be withheld or delayed unreasonably).

2. The LYMAN-RICHEY GRADING WORK to be specified in the LYMAN-RICHEY GRADING PLAN includes:

a. Borrowing and filling of earthen material in that area of the COMBINED PARCELS that (if the LYMAN-RICHEY GRADING WORK was not performed) would be ground covered by the full extents of the REGULATED FLOOD POOL; provided, however, such borrowing and filling in that area of the COMBINED PARCELS shall be balanced so that the total compacted volume of fill permanently placed in such area does not exceed the total volume of earthen materials in place permanently borrowed and removed from such area, such balancing being intended to prevent the GRADING WORK from resulting in a net loss of design flood storage volume of the REGULATED FLOOD POOL portion of the RESERVOIR, i.e. the portion of the RESERVOIR above 1,165.0 feet above mean sea level and below 1,174.0 feet above mean sea level, NGVD; and,

b. Borrowing and filling of earthen material in that area of the COMBINED PARCELS that (if the LYMAN-RICHEY GRADING WORK was not performed) would be ground (external to the REGULATED FLOOD POOL) covered by the full extents of the MAXIMUM FLOOD POOL; provided, however, such borrowing and filling in such area of the COMBINED PARCELS shall be balanced so that the total compacted volume of fill permanently placed in such area does not exceed the total volume of earthen materials in place permanently borrowed and removed from such area, such balancing being intended to prevent the LYMAN-RICHEY GRADING WORK from resulting in a net loss of design flood storage volume of the MAXIMUM FLOOD POOL, i.e., the portion of the

RESERVOIR above 1,174.0 feet above mean sea level and below 1,180.0 feet above mean sea level, NGVD; and,

c. Borrowing and filling earthen material in that area of the COMBINED PARCELS that is external to the MAXIMUM FLOOD POOL, i.e., ground having a surface elevation above 1,180.0 feet above mean sea level, NGVD (if the LYMAN-RICHEY GRADING WORK was not performed).

d. Borrowing and filling of earthen material in the COMBINED PARCELS sufficiently to raise the contemplated site for LYMAN-RICHEY'S new headquarters building to an elevation that will permit the construction of that new headquarters building and the granting of the required permits and licenses to construct such a building

3. The LYMAN-RICHEY GRADING WORK shall be performed by or for LYMAN RICHEY pursuant to and in strict accordance with the NRD-approved LYMAN-RICHEY GRADING PLAN.

4. During the LYMAN-RICHEY GRADING WORK, LYMAN RICHEY shall not bring earthen materials, obtained elsewhere, into areas of the COMBINED PARCELS within the MAXIMUM FLOOD POOL, without the prior written approval of the NRD (such approval to not be withheld or delayed unreasonably).

5. Prior to the expiration of the term of THIS AGREEMENT, LYMAN-RICHEY shall restore the vegetative cover on all areas of the NRD PARCEL, disturbed by the LYMAN-RICHEY GRADING WORK, to the present condition of such vegetative cover prior to the commencement of the LYMAN-RICHEY GRADING WORK.

SECTION B NRD TEMPORARY GRADING EASEMENT

WHEREAS, the NRD desires the right to re-grade certain portions of, the LYMAN-RICHEY PARCEL and the NRD PARCEL in connection with its construction of the DAM and RESERVOIR, both prior to and during construction of the DAM.

NOW, THEREFORE LYMAN-RICHEY does hereby grant to the NRD a grading easement ("the **NRD GRADING EASEMENT**") consisting of the temporary right to re-grade portions of the NRD PARCEL and the LYMAN-RICHEY PARCEL pursuant to the grading plan being developed by HDR Engineering, Inc. ("the **NRD GRADING PLAN**"), which shall specifically be subject to the approval of LYMAN-RICHEY (such approval to not be withheld or delayed unreasonably).

SECTION C FLOWAGE EASEMENTS AND RESTRICTIVE COVENANTS

WHEREAS, the NRD desires the right to inundate portions of the LYMAN-RICHEY PARCEL with flood waters and sediment impounded by the DAM from time to time, and desires other restrictions and covenants governing the LYMAN-RICHEY PARCEL.

NOW, THEREFORE, LYMAN-RICHEY does hereby grant to the NRD a flowage easement and does hereby agree to certain temporary restrictive covenants, as follows:

1. During the term of THIS AGREEMENT, the NRD shall have the power, privilege, right and authority to periodically flow and overflow waters and sediment, detained by the DAM in the RESERVOIR, upon all areas of the LYMAN-RICHEY PARCEL and NRD PARCEL that, either before or after completion of the LYMAN-RICHEY GRADING WORK and NRD GRADING WORK have a ground surface elevation lower than 1,180.0 feet above mean sea level, NGVD.

2. During the term of THIS AGREEMENT, LYMAN-RICHEY shall not construct or maintain structures, fixtures or other improvements in the areas of the LYMAN-RICHEY PARCEL or NRD PARCEL that have a ground surface elevation lower than 1,174.0 feet above mean sea level, NGVD.

SECTION D CHANNEL AND WETLAND MITIGATION

WHEREAS, the NRD will be required to install channel and wetlands mitigation measures to compensate for channels and wetlands that will be lost as a result of the NRD'S construction of the DAM and RESERVOIR; and,

WHEREAS, such mitigation could advantageously be constructed in the RESERVOIR on ground below 1,180.0 feet above mean sea level.

NOW, THEREFORE, the parties hereto specifically understand, covenant and agree that the NRD shall be and is hereby granted an easement across that portion of the LYMAN-RICHEY PARCEL easterly of LYMAN-RICHEY'S proposed headquarters building site that, after completion of the LYMAN-RICHEY GRADING WORK and the NRD GRADING WORK, will have a ground surface elevation lower than 1,180 feet above mean sea level, NGVD, for the purpose of constructing, installing, maintaining and replacing channel and wetland mitigation measures necessitated by and incident to construction of the of the DAM and RESERVOIR, plus the NRD shall be and is hereby granted an easement for ingress and egress over a 20 foot wide corridor adjacent to and on the upstream side of said 1,180 foot contour line. The plans for such measures shall be submitted to LYMAN-RICHEY for its approval, such approval to not be withheld or delayed unreasonably. Prior to entering the LYMAN-RICHEY PARCEL to construct, install, maintain or replace any such channel and wetland mitigation measures, the NRD shall give LYMAN-RICHEY reasonable advance notice of such activity, and within a reasonable time after the NRD'S completion of such activity, the NRD shall repair any damage caused during such activity to LYMAN-RICHEY'S improvements in such 20 foot wide ingress and egress corridor, which improvements shall be limited to grasses. In no event shall the west line of such 20 foot wide corridor be within 5 feet of the Headquarters Building referred to in this Agreement.

SECTION E BOUNDARY TREES

WHEREAS, LYMAN-RICHEY has agreed to plant a number of trees adjacent to the common boundary between the NRD PARCEL and the LYMAN-RICHEY PARCEL; and,

WHEREAS, both parties understand and agree that the planting of those trees very well may occur after the effective date of THIS AGREEMENT, because of the practical consideration that the contemplated trees should not be planted prior to completion of the anticipated grading work.

NOW, THEREFORE, LYMAN-RICHEY specifically covenants and agrees to honor its contractual commitment to plant the trees called for in the Agreement between itself and the City of Omaha effective December 16, 2003, attached and incorporated herein by reference as Exhibit "3," and after completion of the work contemplated by the NRD GRADING PLAN, and to water and otherwise nurture the growth of those trees for a period of up to two years after the planting of same in order to make a good faith effort to see that those trees take root and grow as hoped for by both Lyman-Richey and the NRD. Lyman-Richey shall be and is hereby granted an easement across all that portion of the NRD PARCEL lying within Fifty Feet (50') of and adjacent to the western margin of LYMAN-RICHEY'S remaining land in Section 18, Township 15 North, Range 11 East of the 6th P.M., Douglas County, Nebraska, for the purpose of planting and watering said trees.

SECTION F ADDITIONAL PROVISIONS

The following additional provisions shall govern THIS AGREEMENT, to-wit:

1. THIS AGREEMENT shall run with the land and shall be binding upon and inure to the benefit of the parties to this instrument and their successors and assigns.

2. THIS AGREEMENT contains the entire agreement between the parties. Each of the parties agrees that neither the other party, nor any officers, agents or employees of the other party, have made any representations or promises with respect to or affecting THIS AGREEMENT not expressly contained herein.

3. The consideration stated herein shall constitute payment in full for all damages sustained by a party and its successors and assigns by reason of the exercise by the other party of any of the rights or privileges herein expressly granted or reasonably implied.

4. Time is of the essence of THIS AGREEMENT.

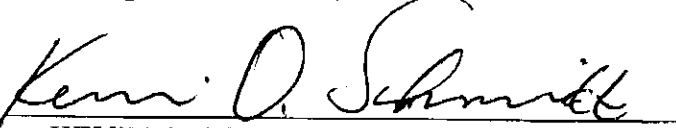
5. Whenever THIS AGREEMENT calls for the approval of the NRD, such approval may be granted by the General Manager of the NRD.

6. Whenever THIS AGREEMENT calls for the approval of LYMAN-RICHEY, such approval may be granted by either Patrick J. Gorup, Chief Executive Officer, or Kevin Schmidt, Chief Operating Officer of LYMAN-RICHEY, or their respective successors.


7. THIS AGREEMENT shall be effective upon its complete execution by the parties.

THIS AGREEMENT is executed by LYMAN-RICHEY on this 15th day of March, 2005.

LYMAN-RICHEY CORPORATION
4315 Cuming Street, Omaha, NE 68131

By 
KEVIN D. SCHMIDT
Executive Vice President and C.O.O.

ATTEST:


Corporate Secretary

THIS AGREEMENT is executed by the NRD on this 1st day of March, 2005.

**PAPIO-MISSOURI RIVER NATURAL
RESOURCES DISTRICT**

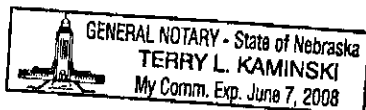
8901 South 154th Street, Omaha, NE 68138

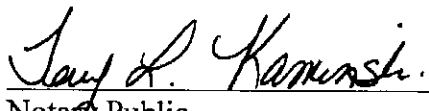
By 
STEVEN G. OLTMANS, General Manager

STATE OF NEBRASKA)
) SS.
COUNTY OF DOUGLAS)

On this 1st day of March, 2005, before me, a Notary Public, personally came the above-named KEVIN D. SCHMIDT, EXECUTIVE VICE PRESIDENT and C.O.O. of LYMAN-RICHEY CORPORATION, to me personally known to be the identical person whose name is affixed to the above and foregoing instrument, and he acknowledged the same to be his voluntary act and deed as such officer and the voluntary act and deed of such corporation.

WITNESS my hand and Notarial Seal the date last aforesaid.




Notary Public

STATE OF NEBRASKA)
) SS.
COUNTY OF DOUGLAS)

On this 1st day of March, 2005, before me, a Notary Public, personally came the above-named Steven G. Oltmans, General Manager of the PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT, to me personally known to be the identical person whose name is affixed to the above and foregoing instrument, and he acknowledged the same to be his voluntary act and deed as such officer and the voluntary act and deed of such natural resources district.

WITNESS my hand and Notarial Seal the date last aforesaid.



Terry L. Kaminski

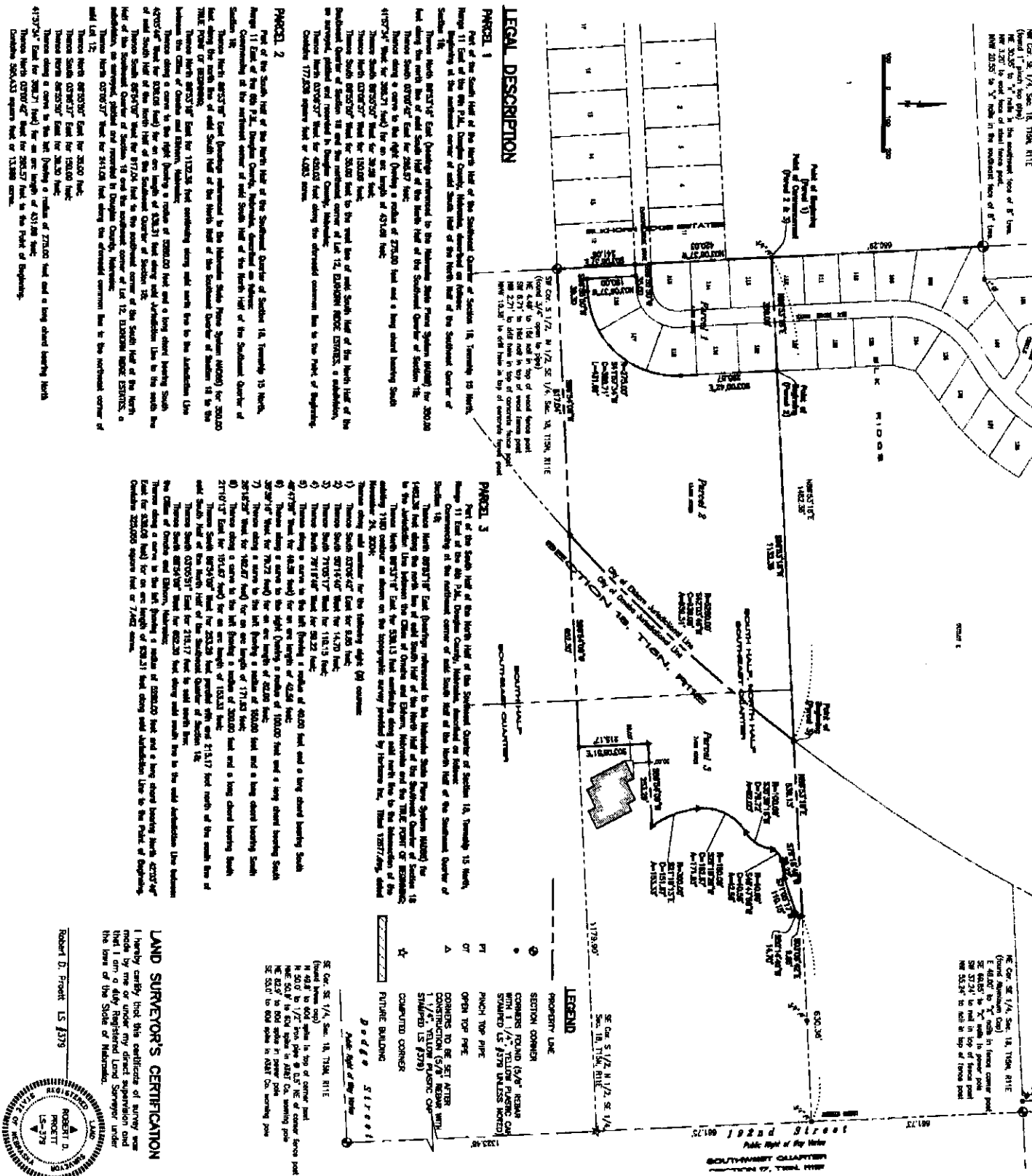
Notary Public

THE SOUTH ONE-HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER AND THE SOUTH ONE-HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 15 NORTH, RANGE 11 EAST OF THE 6TH P.M., IN DOUGLAS COUNTY, NEBRASKA, EXCEPT THAT PART MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF THE SOUTH ONE-HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 18, TOWNSHIP 15 NORTH, RANGE 11 EAST OF THE 6TH P.M.; THENCE SOUTH $89^{\circ}56'38.5''$ WEST ALONG THE NORTH LINE OF THE SAID SOUTH ONE-HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 15 NORTH, RANGE 11 EAST OF THE 6TH P.M., A DISTANCE OF 309.80 FEET; THENCE SOUTH $03^{\circ}08'31''$ EAST, A DISTANCE OF 337.00 FEET; THENCE NORTH $87^{\circ}25'39.5''$ EAST, A DISTANCE OF 290.97 FEET TO A POINT ON THE EAST LINE OF THE SAID SOUTH ONE-HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 18, TOWNSHIP 15 NORTH, RANGE 11 EAST OF THE 6TH P.M.; THENCE NORTH $00^{\circ}06'43.75''$ EAST ALONG THE SAID EAST LINE OF THE SOUTH ONE-HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 18, TOWNSHIP 15 NORTH, RANGE 11 EAST OF THE 6TH P.M., A DISTANCE OF 323.74 FEET TO THE POINT OF BEGINNING; AND ALSO EXCEPT THE EAST 33 FEET THEREOF TAKEN FOR RIGHT OF WAY PURPOSES.

AND EXCEPT THAT PART DEEDED TO DOUGLAS COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS: A PARCEL OF LAND LYING IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 15 NORTH, RANGE 11 EAST OF THE 6TH P.M., IN DOUGLAS COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEING THE WEST 17.00 FEET OF THE EAST 50.00 FEET OF THE SOUTH ONE-HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 18.

AND EXCEPT THE THREE TRACTS OF LAND LEGALLY DESCRIBED, AND REFERRED TO AS PARCEL 1, PARCEL 2 AND PARCEL 3, IN THE CERTIFICATE OF SURVEY PREPARED BY LAMP RYNEARSON & ASSOCIATES, INC., BOOK 96082, PAGE 15, DATED NOVEMBER 24, 2004, A COPY OF WHICH IS ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.

EXHIBIT "2"



THE SOUTH ONE-HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER AND THE SOUTH ONE-HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 15 NORTH, RANGE 11 EAST OF THE 6TH P.M., IN DOUGLAS COUNTY, NEBRASKA, EXCEPT THAT PART MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF THE SOUTH ONE-HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 18, TOWNSHIP 15 NORTH, RANGE 11 EAST OF THE 6TH P.M.; THENCE SOUTH $89^{\circ}56'38.5''$ WEST ALONG THE NORTH LINE OF THE SAID SOUTH ONE-HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 15 NORTH, RANGE 11 EAST OF THE 6TH P.M., A DISTANCE OF 309.80 FEET; THENCE SOUTH $03^{\circ}08'31''$ EAST, A DISTANCE OF 337.00 FEET; THENCE NORTH $87^{\circ}25'39.5''$ EAST, A DISTANCE OF 290.97 FEET TO A POINT ON THE EAST LINE OF THE SAID SOUTH ONE-HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 18, TOWNSHIP 15 NORTH, RANGE 11 EAST OF THE 6TH P.M.; THENCE NORTH $00^{\circ}06'43.75''$ EAST ALONG THE SAID EAST LINE OF THE SOUTH ONE-HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 18, TOWNSHIP 15 NORTH, RANGE 11 EAST OF THE 6TH P.M., A DISTANCE OF 323.74 FEET TO THE POINT OF BEGINNING; AND ALSO EXCEPT THE EAST 33 FEET THEREOF TAKEN FOR RIGHT OF WAY PURPOSES.

AND EXCEPT THAT PART DEEDED TO DOUGLAS COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS: A PARCEL OF LAND LYING IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 15 NORTH, RANGE 11 EAST OF THE 6TH P.M., IN DOUGLAS COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEING THE WEST 17.00 FEET OF THE EAST 50.00 FEET OF THE SOUTH ONE-HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 18.

AND EXCEPT THE THREE TRACTS OF LAND REFERRED TO AND LEGALLY DESCRIBED IN THE LEGAL DESCRIPTION ATTACHED HERETO AS EXHIBIT "1" AND INCORPORATED HEREIN BY REFERENCE

EXHIBIT "2"

Honorable President

and Members of the City Council,

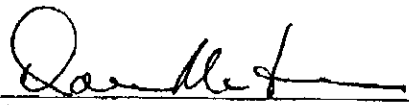
The attached Ordinance approves an Easement Agreement between the City of Omaha and Lyman-Richey Corporation for the use of City owned park property located northwest of 192nd and Dodge. Lyman-Richey owns property north of the future community park site that the City owns and it is their intent to construct a new ready-mix production facility on their property. Access to 192nd Street is limited, so it is desirable to have just one access point that can serve both the park and the ready-mix facility. Lyman-Richey's engineer and City of Omaha staff have worked together to develop a plan for a shared entry road that would serve both the Lyman-Richey facility and the future park. The concrete road will be built on the park property by Lyman-Richey at their sole expense. They will grade the area so that it conforms to the future park improvement plans and Lyman-Richey will also provide a landscape buffer to screen the ready mix facility from the park. If a future corporate headquarters is built by Lyman-Richey, a shared parking lot may be constructed by Lyman-Richey on park property.

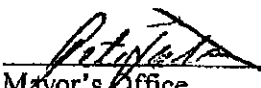
Under the terms of this Easement Agreement, the City of Omaha shall grant to Lyman-Richey a nonexclusive easement over and upon a portion of the City's property for the road and parking area. A nonexclusive easement is also granted over City property that is depicted as the "landscape buffer." We consider this agreement to be in the best interests of the City of Omaha and will help facilitate development of a future park.

Your favorable consideration is requested.

Respectfully submitted,

Referred to City Council for Consideration

for  10/22/03
Larry N. Foster, Acting Director Date
Parks, Recreation and Public
Property Department

 10/22/03
Mayor's Office Date

AN ORDINANCE to approve easements on land to Lyman-Richey Corporation, a Delaware corporation for use of City park property, located northwest of 192nd and Dodge, for a shared paved road and a possible parking area for the benefit of both the City of Omaha and Lyman-Richey; to authorize the Mayor to execute the attached Easement Agreement; and to provide an effective date hereof.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OMAHA:

Section 1. That the City of Omaha, notwithstanding the procedure outlined in Section 27-51 to 27-75 of the Omaha Municipal Code, will transfer to the Lyman-Richey Corporation, a Delaware corporation, easements in property legally described in the attached Easement Agreement negotiated between the parties.

Section 2. That the Mayor of the City of Omaha shall be authorized to execute the Easement Agreement attached to this ordinance.

Section 3. That this Ordinance, not being of legislative character, shall be in full force and take effect on the date of its passage.

INTRODUCED BY COUNCILMEMBER

James D. Volkert Jr.

APPROVED BY:

Mike J. J. J. 12/18/03
MAYOR OF THE CITY OF OMAHA DATE

PASSED DEC 16 2003 as amended 7-0

ATTEST:

Christa Brown 12/18/03
CITY CLERK OF THE CITY OF OMAHA DATE

APPROVED AS TO FORM:

R. J. J. J. 10/27/03
Asst CITY ATTORNEY DATE

I hereby certify that the foregoing is a true and correct copy of the original document now on file in the City Clerk's Office.

Christa Brown
CITY CLERK

BY

1416

part 4 Sec 5

ORDINANCE NO. 36412

DEC 16 2003 - Ordinance read

Amendment 891 - Approved 7-0

Amendment 890 - Approved 7-0

Passed As Amended 7-0

AN ORDINANCE to approve easements on land to Lyman-Richey Corporation, a Delaware corporation for use of City park property, located northwest of 192nd and Dodge, for a shared paved road and a possible parking area for the benefit of both the City of Omaha and Lyman-Richey; to authorize the Mayor to execute the attached Easement Agreement; and to provide an effective date hereof.

16 ✓

PRESENTED TO COUNCIL

1st Reading NOV - 4 2003 - *Passing*

11/18/03 amendment to City Ordinance 1416 Sec 4.

Hearing NOV 18 2003 - *Motion to*

Carryover the public hearing to the 1st reading on 12/2/03

Carried 7-0

Final Reading DEC - 2 2003 - *Motion*

to carry over & amend to 12/16/03 and postpone the public hearing period 7-0

ACTIONS

OF HEARING

7-03

OF ORDINANCE

BUSTER BROWN
City Clerk

THIS Easement Agreement ("Agreement") is made and entered into this 16th day of December, 2003, by and between THE CITY OF OMAHA, a Municipal corporation of the State of Nebraska (herein "City"), and LYMAN-RICHEY CORPORATION, a Delaware corporation (herein "Lyman-Richey").

RECITALS

WHEREAS, Lyman-Richey is the owner of certain real property located north and west of the intersections of Dodge and 192nd Streets, Omaha, Nebraska, and identified on Exhibit "A" (the "Lyman-Richey Property"). City is the owner of certain real property located adjacent to the Southern boundary of the Lyman-Richey Property, legally described as set forth on Exhibit "B" (the "City Property"). The City Property is dedicated as a public park, except for ten (10) acres as depicted on Exhibit "B."

WHEREAS, Lyman-Richey desires to construct a Ready-Mix production facility on the Lyman-Richey property and plans to begin initial grading work and to commence construction of that production facility within the next ninety to one hundred twenty (90-120) days.

WHEREAS, the City plans to develop the City Property as a public park at some undetermined time in the future.

WHEREAS, the City has requested, and Lyman-Richey has agreed, to relocate its contemplated Ready-Mix production facility and other planned improvements to be constructed on the Lyman-Richey Property generally towards the eastern end of the Lyman-Richey Property so as to be compatible with the planned development of the contemplated public park.

WHEREAS, the relocation of the planned improvements to be constructed on the Lyman-Richey Property and the topography of the Lyman-Richey Property and the City Property are

such that the parties have negotiated this Easement Agreement.

GAINES PANSING & HOGAN LLP
10250 REGENCY CIRCLE, SUITE 300
OMAHA, NE 68114-3728 47-0391049

City Property as more specifically depicted on that certain Conceptual Site Plan developed by Purdy & Slack, Architects, and to possibly construct a parking area on the City Property for the benefit of the Owner of the Lyman-Richey Property and the Owner of the City Property contingent upon the commencement and development of a Lyman-Richey corporate headquarters building.

WHEREAS, the contemplated concrete-paved road and parking area shall be located on and across the Lyman-Richey Property and on and across the City Property as more specifically legally described on Exhibit "C" (the "Easement Property").

WHEREAS, the paved road and parking area will provide ingress and egress and parking for both the Owners of the Lyman-Richey Property and the Owners of the City Property and will benefit the legal titleholders of the Lyman-Richey Property and the City Property and their respective employees, agents, customers, patrons, invitees and licensees, successors and assigns:

WHEREAS, the site plan attached hereto as Exhibit "D" and incorporated herein by reference depicts the design and layout of the Ready-Mix production facility, road, parking area and corporate headquarters building on the Lyman-Richey property and Easement areas which the parties have agreed upon.

NOW, THEREFORE, for the consideration recited herein and the following mutual promises, covenants and agreements, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. DEFINITIONS

For purposes of this Agreement, the following terms shall have the meanings set forth below:

(b) Owner of the Lyman-Richey Property shall refer to Lyman-Richey and to its successors and assigns in ownership of the Lyman-Richey Property legally described on Exhibit "A" attached.

(c) The "Easement Property" shall refer to that part of the City Property legally described and shown in Exhibit "C" to this Agreement.

(d) "Parking Area" shall refer to that part of the Easement Property designated as "Parking Area" on Exhibit "E" attached to this Agreement.

(e) "Road" shall refer to that part of the Easement Property designated as the "Road" on Exhibit "F" attached to this Agreement.

(f) "Permittees" shall mean and refer to the Owner of the Lyman-Richey Property, the Owner of the City Property, and those persons who may be entitled from time to time to use and occupy the real property and improvements located on the Lyman-Richey Property and to use facilities that are part of the City Property, and their respective customers, employees, agents, licensees and invitees, but only to the extent authorized by the Owner of the Lyman-Richey Property and the Owner of the City Property.

(g) "Borrow Area" shall refer to that part of the City Property (including, without limitation, the Easement Property) designated as the "Borrow Area" on Exhibit "G" attached to this Agreement.

2. EASEMENTS GRANTED

The City hereby grants to Lyman-Richey as the Owner of the Lyman-Richey Property and its Permittees: (i) a nonexclusive easement over and upon the Road for the purpose of pedestrian and vehicular ingress and egress; (ii) a nonexclusive easement over and upon the Parking Area commencing upon construction and installation of a concrete-paved surface for purposes of vehicle parking; (iii) a nonexclusive easement to improve, repair, maintain and replace the road portion of the Easement Property for the uses described above; and (iv) a temporary easement of approximately fifty (50) feet on either side of the permanent easement for the Road, said temporary easement to be used during the period of time necessary to construct the contemplated Road.

The City hereby grants to Lyman-Richey and the Owner of the Lyman-Richey Property and its Permittees, a nonexclusive easement over and upon portions of the City Property depicted on Exhibit "H" attached hereto and incorporated herein by reference (the "Landscape Buffer") for the purpose of constructing, installing, operating, maintaining, repairing, replacing, preserving and renewing landscape buffers and set backs as may be required by the City Code or other governmental regulation to construct and maintain its facilities on the Lyman-Richey Property. The City covenants and agrees that Lyman-Richey shall be permitted to use the Landscape Buffer which lies between the Road and the Lyman-Richey Property, for purposes of establishing a landscape buffer to screen the Southern boundary of the Lyman-Richey Property from its customers, employees, agents, licensees and invitees who are anticipated to be using the City park ground to be developed on the City Property. In addition, the City will support Lyman-Richey's efforts to obtain a waiver of the 60-foot landscape requirement along the Southern boundary of the Lyman-Richey Property where the landscape requirement can be accommodated on the Landscape Buffer and directly to the south of the corporate headquarters in order to permit Lyman-Richey to more fully utilize the Lyman-Richey Property for its intended business purposes. Lyman-Richey agrees to otherwise comply with landscape buffer and set back requirements on the other Lyman-Richey Property boundaries and further agrees that if future development of the Lyman-Richey Property occurs which is not shown in the site plan, that the City may review the landscape buffering and screening in place on the Lyman-Richey Property and reasonably impose additional requirements for the new development. Lyman-Richey agrees to establish the buffer and plant appropriate nursery stock in the designated buffer area of trees within 12 months after commencement of its efforts to grade and improve the Lyman-Richey Property for construction of a Ready-Mix production facility. Such

contemplated under the terms of this Agreement until such time as the City develops a public park on the remainder of the City Property. Once the City commences development of the City Park, the obligation to maintain, repair and replace the vegetation and the landscape buffer described in this paragraph shall become the obligation of the City.

4. DIRT BORROW EASEMENT

The City hereby grants to Lyman-Richey a temporary easement over the Borrow Area to permit Lyman-Richey to move approximately 100,000 cubic yards of dirt from the Borrow Area to portions of the Lyman-Richey Property and the City Property in order to assist Lyman-Richey in facilitating the grading and site preparation work necessary for the construction of the Road and a Ready-Mix production facility on the Lyman-Richey Property. The Borrow Area and the contemplated temporary easement needed for permitting Lyman-Richey to remove the specified quantity of dirt from the Borrow Area to the Lyman-Richey Property are more specifically set forth on Exhibit "G" attached hereto and incorporated herein by reference. The removal of dirt from the Borrow Area by representatives and/or agents of Lyman-Richey shall be pursuant to the grading plan attached hereto as Exhibit "I" (the "Site Grading Plan") so that the remaining topography of the Borrow Area is consistent with the intended future use by the City of the City Property. Any resulting crop damage to the crops of an existing tenant who may be farming the City Property shall be paid for by Lyman-Richey. The parties hereto specifically understand and agree that the contemplated removal of dirt from the Borrow Area by Lyman-Richey for use by Lyman-Richey on the Lyman-Richey Property is intended to be mutually beneficial to the respective interests of Lyman-Richey and the City and is therefore compatible with the overall purposes and objectives of this Easement Agreement. Such temporary easement over the

the Lyman-Richey Property.

5. ROAD DEVELOPMENT

At such time as the Owner of the Lyman-Richey Property desires to improve the Easement Property with the Road, but in no event later than July 31, 2009, provided Lyman Richey owns the land, the Owner of the Lyman-Richey Property will submit a written improvement plan to the Owner of the City Property in respect to constructing the Road on the Easement Property with a concrete-paved road. Upon approval of the written improvement plan, the Owner of the Lyman-Richey Property shall have six (6) months from the date of such approval to improve the Road by constructing a concrete-paved road. Such approval shall not be unreasonably withheld and shall be promptly given. In the event that the City shall not give written approval or disapproval within forty-five (45) calendar days of submittal, such plans shall be deemed approved. Following such approval, the Owner of the Lyman-Richey Property may improve the Easement Property in accordance with the approved plan, which plan shall include without limitation, the right to construct, install, pave, grade and surface the Road. For so long as the Road is used by the Permittees of the Owner of the Lyman-Richey Property, the Owner of the Lyman-Richey Property shall be solely responsible for installation and maintenance of the Road.

6. HEADQUARTERS AND PARKING AREA DEVELOPMENT

If the Owner of the Lyman-Richey Property commences development and/or construction of its corporate headquarters on the Lyman-Richey Property (the "Headquarters"), which must be in accordance with the site plan, prior to the development by the City of park amenities on the City Property, the Owner of the Lyman-Richey Property shall be authorized to improve the

provided that such Permittees may not use such Parking Area for the parking of loaded concrete trucks unless the Parking Area has been designed and constructed to a load bearing capacity that exceeds that of loaded concrete trucks. For this purpose, if the Owner of the Lyman-Richey Property commences construction of its Headquarters and decides to improve the Parking Area, the Owner of the Lyman-Richey Property shall submit a written improvement plan to the Owner of the City Property in respect to improving the Parking Area with a concrete-paved surface. Such Parking Area improvement must meet or exceed City standards for parking lots located in City parks and must be sited in accordance with the site plan. The design of the contemplated written improvement plan shall be specifically subject to the approval of the City and the written improvement plan shall be submitted to the City no later than three (3) months before the Owner of the Lyman-Richey Property commences construction of the Headquarters on the Lyman-Richey Property, with the improvements to the Parking Area to be completed no later than one (1) year after approval of the written improvement plan. Such approval shall not be unreasonably withheld and shall be promptly given. In the event the City shall not give written approval or disapproval within forty-five (45) calendar days of submittal, such plan shall be deemed approved. Notwithstanding the foregoing, the Owner of the City Property may improve the Parking Area at any time at its sole cost and expense, by constructing a concrete-paved surface.

7. PARKING AREA MAINTENANCE

If the Parking Area is improved, the Owner of the City Property, at its expense, shall be responsible for maintenance, repair and replacement of the Parking Area. Such maintenance, repair and replacement, including, but not limited to, snow removal, striping, lighting and

Lyman-Richey Property desires maintenance, repair or replacement in excess of such City standard, the Owner of the Lyman-Richey Property shall notify the City of such additional services and amenities desired and agrees to pay, within thirty (30) days of billing, the additional cost charged by the City or its contractor for such additional services and amenities. In the event the Owner of the City Property fails or refuses to maintain, repair and replace the Parking Area as required by this Agreement, the Owner of the Lyman-Richey Property may, at its sole expense, after five (5) days written notice to the Owner of the City Property, accomplish such maintenance, repair or replacement, with the exception of snow removal which may be accomplished without notice.

8. SITE GRADING

At such time as the Owner of the Lyman-Richey Property commences development and/or construction of any improvements to the Lyman-Richey Property, the City hereby grants the Owner of the Lyman-Richey Property a temporary easement over and through the City Property for the purpose of removing fill materials from and grading the Borrow Area in accordance with its grading plan (the "Site Grading Plan"). For this purpose, the Owner of the Lyman-Richey Property shall submit a written Site Grading Plan to the Owner of the City Property. Such Site Grading Plan shall be submitted no less than thirty (30) days prior to such removal of fill materials or grading and shall identify the estimated cubic yards of fill materials to be removed from the Borrow Area and the estimated time for such removal, not to exceed three hundred sixty-five (365) days. If the City shall not give written approval or disapproval within forty-five (45) days of submittal, such Site Grading Plan shall be deemed approved; disapproval shall not be unreasonably withheld.

shall remain reasonably accessible for use by the Owner of the Lyman-Richey Property, the Owner of the City Property, and their respective Permittees.

10. ROAD MAINTENANCE

Except as otherwise provided herein, the Owner of the Lyman-Richey Property, at its expense, shall provide such maintenance, repair and replacement as may be necessary to maintain a clear, level, smooth, evenly covered, and appropriately striped Road. However, once the City commences development of the City park, the obligation to maintain, repair and replace the entrance boulevard off of 192nd Street shall exist with the City.

11. APPURTENANCES

Each and all of the easements and rights granted and created in this Agreement are appurtenances to the affected property, and none of the easements and rights may be transferred, assigned or encumbered except as appurtenances to such property. For purposes of such easements and rights, the property which is benefited shall constitute the dominant estate, and the specific areas and portions of the areas of the property which are burdened by such easements and rights shall be considered the servient estate.

12. BENEFIT OF THE EASEMENTS

Each and all of the easements, covenants, restrictions and provisions contained in this Agreement: (i) are made for the direct, mutual and reciprocal benefit of the Permittees of the Owner of the Lyman-Richey Property and the Owner of the City Property; and (ii) shall run with the land to the benefit and burden of the successors in interest of the Owner of Lyman-Richey Property and the Owner of the City Property.

13. PERPETUAL EASEMENTS

Except to the extent otherwise provided in paragraphs 2, 3, 4, and Exhibit "G" of this Easement Agreement, the mutual easements, covenants and agreements granted in this Agreement shall be perpetual.

Area shall be for the nonexclusive use by the Owner of the Lyman-Richey Property, the Owner of the City Property, and their respective Permittees, under the terms and conditions as may be mutually developed, adopted and/or amended by Lyman-Richey and City from time to time. The Owner of the Lyman-Richey Property hereby agrees to defend, indemnify and hold the Owner of the City Property harmless from and against any liabilities, causes of action, suits, claims and expenses (including, without limitation, reasonable attorneys fees) resulting or arising from the use of the Easement Property including the Parking Area under this Agreement by the Owner of the Lyman-Richey Property and/or its respective Permittees; provided, however, that the Owners of the Lyman-Richey Property shall have no obligation to defend, indemnify and hold the Owner of the City Property harmless from and against any liabilities, causes of action, suits, claims or expenses (including, without limitation, reasonable attorneys fees) resulting or arising from the negligence or willful misconduct of the Owner of the City Property or its respective Permittees. The Owner of the City Property hereby agrees to defend, indemnify and hold the Owner of the Lyman-Richey Property harmless from and against any liabilities, causes of action, suits, claims and expenses (including, without limitation, reasonable attorneys fees) resulting or arising from the use of the Easement Property including the Parking Area under this Agreement by the Owner of the City Property and/or its respective Permittees; provided, however, that the Owner of the City Property shall have no obligation to defend, indemnify and hold the Owner of the Lyman-Richey Property harmless from and against any liabilities, causes of action, suits, claims and expenses (including, without limitation, reasonable attorneys fees) resulting or arising from the negligence or willful misconduct of the Owner of the Lyman-Richey Property or its respective Permittees.

respective successors and assigns. No waiver or breach of any of the agreements, covenants or easements contained in this Agreement shall be construed so as to constitute a waiver of any other breach, or waiver, acquiescence in or other consent to any future or succeeding breach of the same or any other covenant or agreement. If any term or provision of this Agreement shall, to any extent, be held invalid or unenforceable, the remaining terms and provisions of this Agreement shall not be affected thereby, but each remaining term and provision shall be valid and enforceable to the fullest extent permitted by law. This Agreement shall be construed and enforced in accordance with the laws of the State of Nebraska.

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

THE CITY OF OMAHA, a Municipal
corporation of the State of Nebraska,

APPROVED AS TO FORM:

Paul C. [Signature] 10/22/03
ASSISTANT CITY ATTORNEY

By

Mike Fahey
Mike Fahey, Mayor

ATTEST:

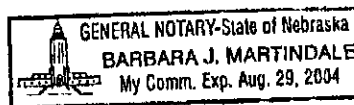
[Signature]
City Clerk

LYMAN-RICHEY CORPORATION, a
Delaware corporation

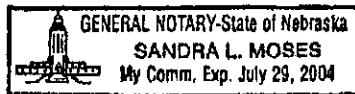
By

[Signature]
Title *President & CEO*

Barbara Martindale



The foregoing instrument was acknowledged before me this 18th day of December, 2003, by Mike Fahey, Mayor of THE CITY OF OMAHA, a Municipal corporation of the State of Nebraska, on behalf of the City.

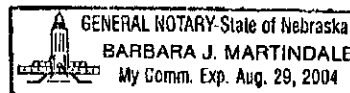


Sandra L. Moses
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 25th day of December, 2003, by Patrick Harup, President / CEO of LYMAN-RICHEY CORPORATION, a Delaware corporation, on behalf of the corporation.

Barbara J. Martindale
Notary Public







The South One-Half ($S\frac{1}{2}$) of the Northwest Quarter ($NW\frac{1}{4}$) of the Southeast Quarter ($SE\frac{1}{4}$) and the South One-Half ($S\frac{1}{2}$) of the Northeast Quarter ($NE\frac{1}{4}$) of the Southeast Quarter ($SE\frac{1}{4}$) of Section 18, Township 15 North, Range 11 East of the 6th P.M. in Douglas County, Nebraska; EXCEPT that part more particularly described as follows: Beginning at the Northeast corner of the South $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of said Section 18, Township 15 North, Range 11 East of the 6th P.M.; thence South $89^{\circ}56'38.5''$ West along the North line of the said South $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of Section 18, Township 15 North, Range 11 East of the 6th P.M., a distance of 309.80 feet; thence South $03^{\circ}08'31''$ East a distance of 337.00'; thence North $87^{\circ}25'39.5''$ East a distance of 290.97' to a point on the East line of the said South $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of said Section 18, Township 15 North, Range 11 East of the 6th P.M.; thence North $00^{\circ}06'43.75''$ East along the said East line of the South $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of said Section 18, Township 15 North, Range 11 East of the 6th P.M., a distance of 323.74' to the Point of Beginning; AND ALSO EXCEPT the East 33 feet thereof taken for right-of-way purposes.

A TRACT OF LAND LOCATED IN THE SOUTH $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ OF SECTION 18, TOWNSHIP 15 NORTH, RANGE 11 EAST OF THE 6TH PRINCIPAL MERIDIAN IN DOUGLAS COUNTY, NEBRASKA; EXCEPT THAT PART TAKEN FOR STREET AND HIGHWAY R.O.W., BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTH $\frac{1}{4}$ CORNER OF SAID SECTION 18; THENCE NORTH 00°-02'-04" WEST A DISTANCE OF 50.10 FEET TO A POINT. THE POINT OF BEGINNING; THENCE NORTH 00°-06'-20" WEST ALONG THE WEST LINE OF THE SOUTH $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ OF SAID SECTION 18 FOR 1270.69 FEET TO THE NORTHWEST CORNER OF THE SOUTH $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ OF SAID SECTION 18; THENCE NORTH 89°-50'-38" EAST ALONG THE NORTH LINE OF THE SOUTH $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ OF SAID SECTION 18 FOR 2616.06 FEET TO THE WEST R.O.W. LINE OF 192ND STREET, SAID POINT BEING 33.00 FEET WEST OF THE NE CORNER OF THE SOUTH $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ OF SAID SECTION 18; THENCE SOUTH 00°-00'-00" EAST ALONG THE WEST R.O.W. LINE OF 192ND STREET 33.00 FEET WEST OF AND PARALLEL TO THE EAST LINE OF THE SOUTH $\frac{1}{4}$ OF THE SOUTHEAST $\frac{1}{4}$ OF SAID SECTION 18 FOR 371.86 FEET; THENCE CONTINUE ALONG THE WEST R.O.W. LINE OF 192ND STREET SOUTH 09°-27'-51" WEST FOR 52.48 FEET; THENCE CONTINUING ALONG THE WEST R.O.W. LINE OF 192ND STREET SOUTH 03°-49'-31" WEST FOR 200.41 FEET; THENCE CONTINUING ALONG THE WEST R.O.W. LINE OF 192ND STREET SOUTH 00°-00'-00" EAST FOR 500.00 FEET; THENCE CONTINUING ALONG THE WEST R.O.W. LINE OF 192ND STREET SOUTH 06°-29'-00" WEST FOR 132.50 FEET TO THE NORTH R.O.W. LINE OF WEST DODGE ROAD; THENCE SOUTH 87°-19'-00" WEST ALONG THE NORTH R.O.W. LINE OF WEST DODGE ROAD FOR 406.28 FEET; THENCE CONTINUING ALONG THE NORTH R.O.W. LINE OF WEST DODGE ROAD SOUTH 89°-52'-57" WEST FOR 400.04 FEET; THENCE CONTINUING ALONG THE NORTH R.O.W. LINE OF WEST DODGE ROAD NORTH 84°-23'-21" WEST FOR 301.53 FEET; THENCE CONTINUING ALONG THE NORTH R.O.W. LINE OF WEST DODGE ROAD SOUTH 89°-49'-42" WEST FOR 100.08 FEET; THENCE CONTINUING ALONG THE NORTH R.O.W. LINE OF WEST DODGE ROAD SOUTH 84°-10'-28" WEST FOR 301.19 FEET; THENCE CONTINUING ALONG THE NORTH R.O.W. LINE OF WEST DODGE ROAD SOUTH 89°-54'-31" WEST 1071.09 FEET TO THE POINT OF BEGINNING; CONTAINING 75.574 ACRES MORE OR LESS.

BASIS OF BEARING BASED ON SOUTH LINE OF THE SOUTHEAST QUARTER FROM SURVEY DATED 11-27-1979.

[illegible][illegible][illegible]

| | |
|---|---------------------------------|
|  | TEMPORARY CONSTRUCTION EASEMENT |
|  | TEMPORARY LANDSCAPE EASEMENT |
|  | PERMANENT PAVING LOT EASEMENT |
|  | PERMANENT IMPROVEMENT EASEMENT |



NE CORNER
-51/2 SE1/4
SECTION 18
T15N, R11E

~~45.36 ACTRIS~~

192ND STREET

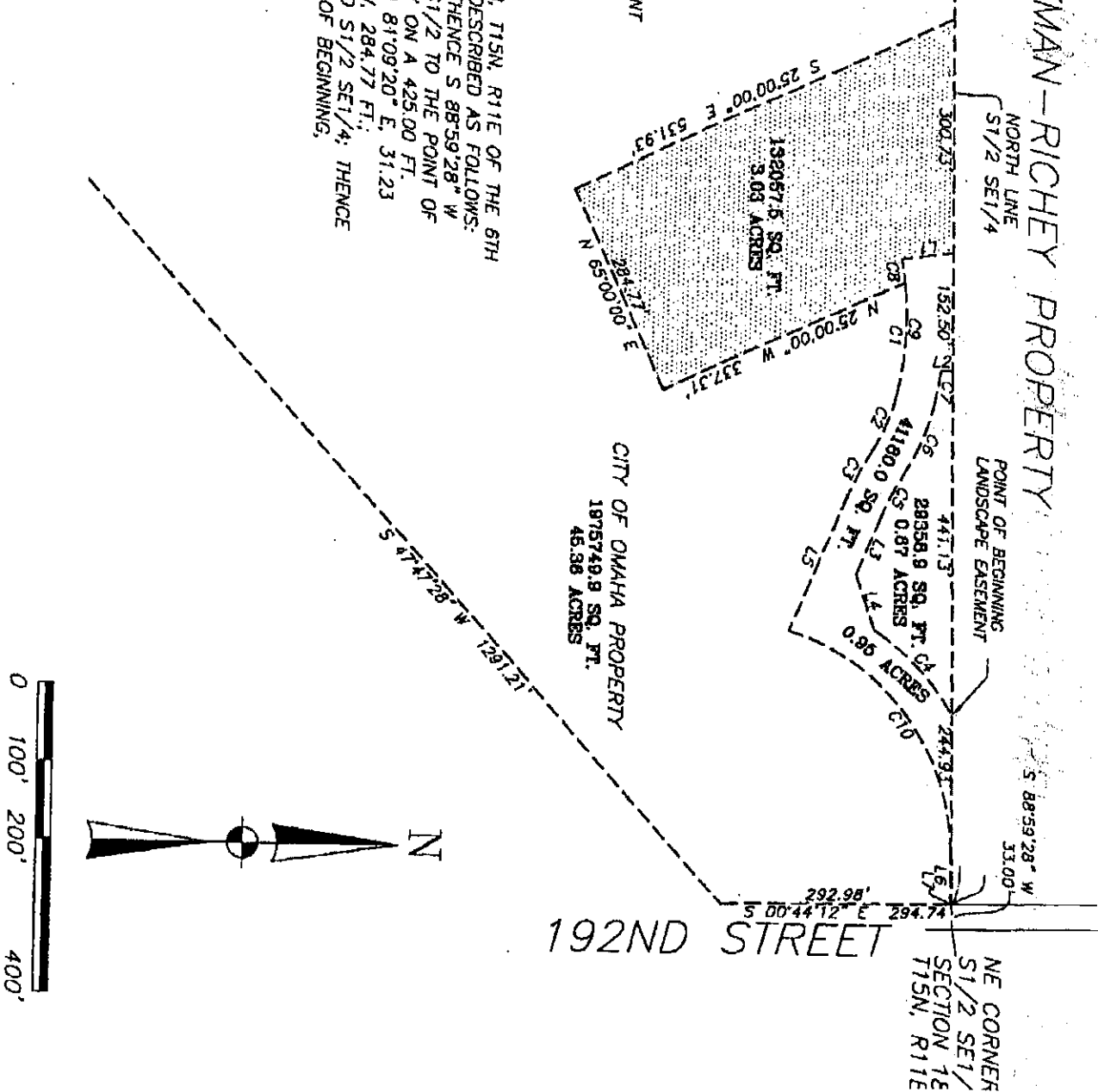
LYMAN-RICHEY PROPERTY

| ARC LENGTH | CHORD LENGTH | CHORD BEARING | DELTA ANGLE |
|------------|--------------|---------------|-------------|
| 1476.36' | 146.84' | S 86°47'36" E | 18°31'46" |
| 141.58' | 72.75' | S 67°24'35" E | 18°31'53" |
| 74.08' | 74.93' | N 63°02'04" W | 30°06'31" |
| 74.08' | 147.87' | N 46°37'08" E | 24°18'35" |
| 144.50' | 66.17' | N 63°02'04" W | 10°08'31" |
| 66.00' | 92.14' | S 67°24'35" E | 18°31'53" |
| 90.35' | 45.84' | S 75°38'29" E | 05°01'53" |
| 30.24' | 38.23' | N 81°09'20" E | 04°12'42" |
| 178.48' | 177.50' | N 88°59'28" W | 24°02'28" |
| 376.87' | 382.87' | N 53°07'14" E | 71°39'05" |
| 657.00' | | | |
| 66.27' | | | |
| 15.28' | | | |
| 82.57' | | | |
| 73.58' | | | |
| 101.00' | | | |
| 66.27' | | | |
| 1.77' | | | |

PERMANENT PARKING LOT EASEMENT

PERMANENT PARKING LOT EASEMENT

A TRACT OF LAND LOCATED IN THE S1/2 SE1/4 OF SECTION 18, T15N, R11E OF THE 6TH P.M. DOUGLAS COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: (ASSUMED BEARING), 871.56 FT. ON THE NORTHEAST CORNER OF SAID S1/2 SE1/4; THENCE S 88°59'28" W BEGINNING; THENCE S 07°34'41" E, 66.72 FT.; THENCE EASTERLY ON A 425.00 FT. RADIUS CURVE TO THE RIGHT, 31.24 FT. (LONG CHORD BEARS N 81°09'20" E, 31.23 FT.); THENCE S 25°00'00" E, 337.31 FT.; THENCE S 65°00'00" W, 284.77 FT.; THENCE N 88°59'28" E, 300.73 FT. ON SAID NORTH LINE TO THE POINT OF BEGINNING, CONTAINING 3.03 ACRES MORE OR LESS.



LYMAN-RICHEY PROPERTY

N 88°59'28" E 2615.64'

NORTH LINE
S1/2 SET 1/4

POINT OF BEGINNING
LANDSCAPE EASEMENT

S 88°59'28" W
33.00'

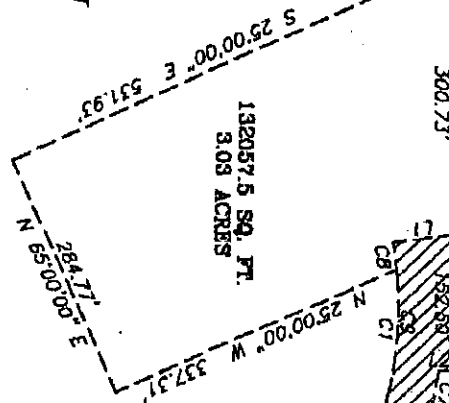
NE CORNER
S1/2 SET 1/4
SECTION 18
T15N, R11E

| ARC LENGTH | CHORD LENGTH | CHORD BEARING | DELTA ANGLE |
|------------|--------------|---------------|-------------|
| 117.54' | 146.64' | S 88°59'28" E | 19°51'46" |
| 74.08' | 73.75' | S 67°24'35" E | 18°51'55" |
| 73.02' | 74.93' | N 61°02'04" W | 10°06'51" |
| 146.50' | 147.39' | N 48°21'06" E | 24°19'35" |
| 66.20' | 66.17' | N 63°02'04" W | 10°06'51" |
| 90.35' | 90.14' | S 67°24'35" E | 18°51'55" |
| 45.86' | 45.84' | S 79°38'29" E | 05°31'53" |
| 31.24' | 31.23' | N 81°09'20" E | 04°12'42" |
| 178.62' | 177.51' | N 88°59'28" E | 24°18'28" |
| 326.97' | 326.97' | N 53°07'14" E | 71°59'05" |

PERMANENT INGRESS/EGRESS EASEMENT



| DISTANCE | BEARING |
|----------|---------------|
| 66.72' | N 53°07'14" E |
| 15.28' | N 53°07'14" E |
| 81.57' | N 53°07'14" E |
| 75.58' | N 53°07'14" E |
| 101.66' | N 53°07'14" E |
| 66.72' | N 53°07'14" E |
| 1.77' | N 53°07'14" E |



CITY OF OMAHA PROPERTY
1975749.9 SQ. FT.
45.96 ACRES

192ND STREET

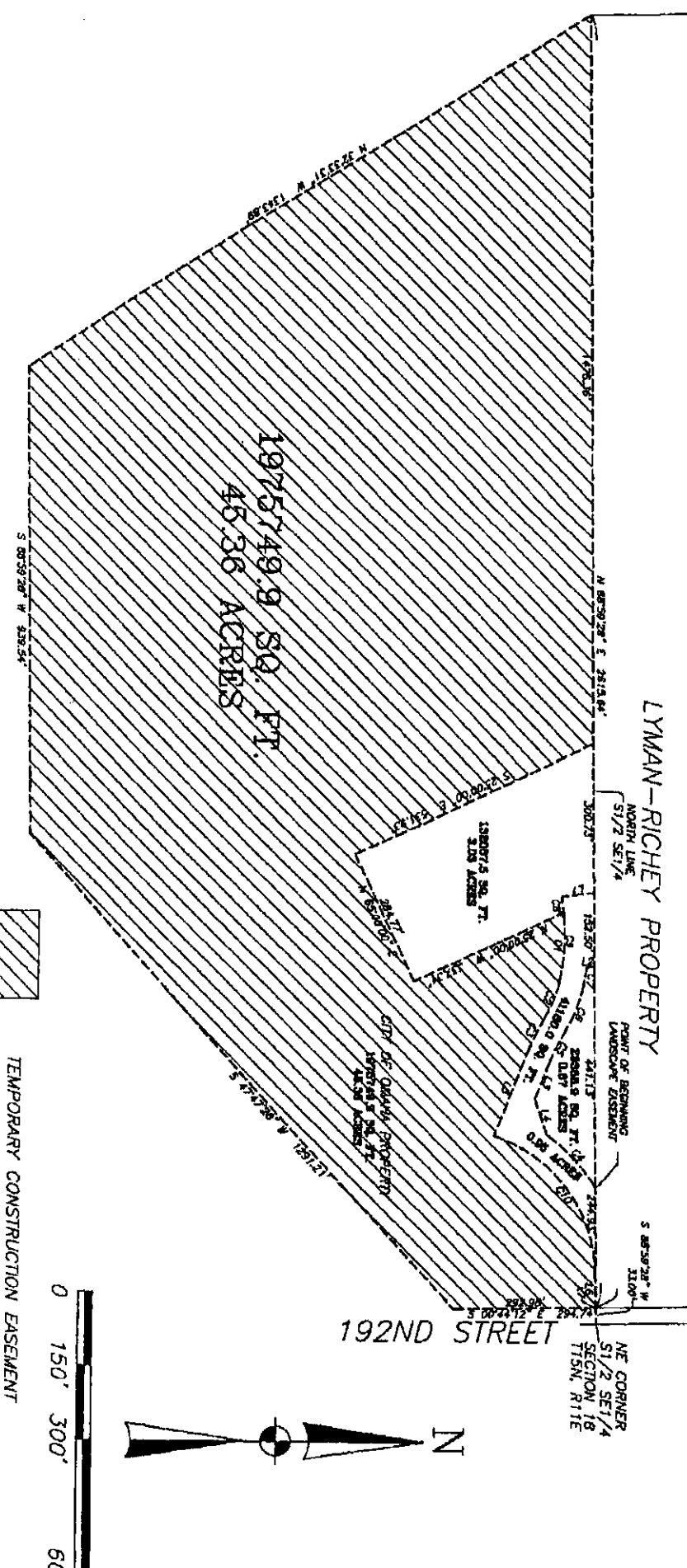
A TRACT OF LAND LOCATED IN THE S1/2 SET 1/4 OF SECTION 18, T15N, R11E OF THE 6TH P.M., DOLICLAS COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
(ASSUMED BEARING), 33.00 FT. ON THE NORTH LINE OF SAID S1/2 TO THE WEST RIGHT OF WAY LINE OF A COUNTY ROAD AND THE POINT OF BEGINNING; THENCE S 00°44'12" E, 1.76 FT. ON SAID RIGHT OF WAY LINE; THENCE S 69°06'47" W, 66.72 FT.; THENCE SOUTHWESTERLY ON A 300.00 FT. RADIUS CURVE TO THE LEFT, 376.91 FT. (LONG CHORD BEARS S 53°07'14" W, 352.61 FT.); THENCE N 68°05'29" W, 181.66 FT.; THENCE NORTHWESTERLY ON A 425.00 FT. RADIUS CURVE TO THE RIGHT, 75.02 FT. (LONG CHORD BEARS N 63°02'04" W, 74.93 FT.); THENCE NORTHWESTERLY ON A 225.00 FT. RADIUS CURVE TO THE LEFT, 74.08 FT. (LONG CHORD BEARS N 67°24'35" W, 73.75 FT.); THENCE WESTERLY ON A 425.00 FT. RADIUS CURVE TO THE LEFT, 178.82 FT. (LONG CHORD BEARS N 88°53'47" W, 177.51 FT.); THENCE N 07°34'41" W, 66.72 FT. TO THE NORTH LINE OF SAID S1/2 SET 1/4; THENCE N 88°59'28" E, 152.50 FT. ON SAID NORTH LINE; THENCE S 00°21'38" E, 15.28 FT.; THENCE EASTERLY ON A 475.00 FT. RADIUS CURVE TO THE RIGHT, 45.86 FT. (LONG CHORD BEARS S 79°38'29" E, 45.84 FT.); THENCE SOUTHEASTERLY ON A 275.00 FT. RADIUS CURVE TO THE RIGHT, 90.55 FT. (LONG CHORD BEARS S 67°24'35" E, 90.14 FT.); THENCE SOUTHEASTERLY ON A 375.00 FT. RADIUS CURVE TO THE LEFT, 66.20 FT. (LONG CHORD BEARS S 63°02'04" E, 66.11 FT.); THENCE S 68°05'29" E, 81.51 FT.; THENCE N 71°00'17" E, 75.58 FT.; THENCE NORTHEASTERLY ON A 350.00 FT. RADIUS CURVE TO THE RIGHT, 148.50 FT. (LONG CHORD BEARS N 46°21'06" E, 147.39 FT.); TO THE NORTH LINE OF SAID S1/2 SET 1/4; THENCE N 88°59'28" E, 244.93 FT. ON SAID NORTH LINE TO THE POINT OF BEGINNING, CONTAINING 0.95 ACRES MORE OR LESS.



TEMPORARY CONSTRUCTION EASEMENT

A TRACT OF LAND LOCATED IN THE S1/2 SE1/4 OF SECTION 18, T15N, R11E OF THE 6TH P.M., DOUGLAS COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: (ASSUMED BEARING), 33.00 FT. ON THE NORTH LINE OF SAID S1/2 SE1/4, THENCE S 88°59'28" W. (ASSUMED BEARING), 33.00 FT. ON THE NORTH LINE OF SAID S1/2 SE1/4 TO THE WEST RIGHT OF WAY LINE OF A COUNTY ROAD, THENCE S 00°44'12" E, 117.6 FT. ON SAID RIGHT OF WAY LINE TO THE POINT OF BEGINNING, THENCE CONTINUING S 00°44'12" E, 292.98 FT. ON S 88°59'28" W, 939.54 FT.; THENCE S 47°47'28" W, 1291.21 FT.; THENCE S 88°59'28" W, 939.54 FT.; THENCE N 32°33'31" W, 1343.89 FT. TO THE NORTHWEST CORNER OF SAID S1/2 SE1/4; THENCE N 88°59'28" E, 1476.36 FT. ON THE SOUTH LINE OF SAID S1/2 SE1/4; THENCE S 25°00'00" E, 531.93 FT.; THENCE N 65°00'00" E, 284.77 FT.; THENCE N 25°00'00" W, 337.31 FT.; THENCE EASTERLY ON A 425.00 FT. RADIUS CURVE TO THE RIGHT, 147.58 FT. (LONG CHORD BEARS S 86°47'26" E, 146.84 FT.); THENCE SOUTHEASTERLY ON A 225.00 FT. RADIUS CURVE TO THE RIGHT, 74.08 FT. (LONG CHORD BEARS S 67°24'35" E, 73.75 FT.); THENCE SOUTHEASTERLY ON A 425.00 FT. RADIUS CURVE TO THE LEFT, 75.02 FT. (LONG CHORD BEARS S 63°02'04" E, 74.93 FT.); THENCE S 68°05'29" E, 181.66 FT.; THENCE NORTHEASTERLY ON A 300.00 FT. RADIUS CURVE TO THE RIGHT, 379.91 FT. (LONG CHORD BEARS N 53°07'14" E, 352.81 FT.); THENCE N 89°06'47" E, 66.72 FT. TO THE POINT OF BEGINNING, CONTAINING 45.36 ACRES MORE OR LESS.

| CURVE | RADIUS | ARC LENGTH | CHORD LENGTH | CHORD BEARING | DELTA ANGLE |
|-------|--------|------------|--------------|---------------|-------------|
| C1 | 425.00 | 147.58 | 146.84 | S 88°47'26" E | 105°14'05" |
| C2 | 225.00 | 74.08 | 72.75 | S 67°24'35" E | 105°14'05" |
| C3 | 425.00 | 75.02 | 74.93 | N 63°02'04" E | 105°14'05" |
| C4 | 300.00 | 147.58 | 147.58 | N 53°07'14" E | 105°14'05" |
| C5 | 181.66 | 66.72 | 66.72 | N 89°06'47" E | 105°14'05" |
| C6 | 146.84 | 90.15 | 90.14 | S 68°05'29" E | 105°14'05" |
| C7 | 147.58 | 147.58 | 147.58 | S 47°47'28" W | 105°14'05" |
| C8 | 425.00 | 379.91 | 379.91 | N 88°59'28" E | 105°14'05" |
| C9 | 425.00 | 379.91 | 379.91 | N 88°59'28" E | 105°14'05" |
| C10 | 300.00 | 147.58 | 147.58 | N 53°07'14" E | 105°14'05" |
| C11 | 425.00 | 147.58 | 146.84 | S 88°47'26" E | 105°14'05" |
| C12 | 225.00 | 74.08 | 72.75 | S 67°24'35" E | 105°14'05" |
| C13 | 425.00 | 75.02 | 74.93 | N 63°02'04" E | 105°14'05" |
| C14 | 300.00 | 147.58 | 147.58 | N 53°07'14" E | 105°14'05" |
| C15 | 181.66 | 66.72 | 66.72 | N 89°06'47" E | 105°14'05" |
| C16 | 146.84 | 90.15 | 90.14 | S 68°05'29" E | 105°14'05" |
| C17 | 147.58 | 147.58 | 147.58 | S 47°47'28" W | 105°14'05" |
| C18 | 425.00 | 379.91 | 379.91 | N 88°59'28" E | 105°14'05" |
| C19 | 425.00 | 379.91 | 379.91 | N 88°59'28" E | 105°14'05" |
| C20 | 300.00 | 147.58 | 147.58 | N 53°07'14" E | 105°14'05" |
| C21 | 425.00 | 147.58 | 146.84 | S 88°47'26" E | 105°14'05" |
| C22 | 225.00 | 74.08 | 72.75 | S 67°24'35" E | 105°14'05" |
| C23 | 425.00 | 75.02 | 74.93 | N 63°02'04" E | 105°14'05" |
| C24 | 300.00 | 147.58 | 147.58 | N 53°07'14" E | 105°14'05" |
| C25 | 181.66 | 66.72 | 66.72 | N 89°06'47" E | 105°14'05" |
| C26 | 146.84 | 90.15 | 90.14 | S 68°05'29" E | 105°14'05" |
| C27 | 147.58 | 147.58 | 147.58 | S 47°47'28" W | 105°14'05" |
| C28 | 425.00 | 379.91 | 379.91 | N 88°59'28" E | 105°14'05" |
| C29 | 425.00 | 379.91 | 379.91 | N 88°59'28" E | 105°14'05" |
| C30 | 300.00 | 147.58 | 147.58 | N 53°07'14" E | 105°14'05" |
| C31 | 425.00 | 147.58 | 146.84 | S 88°47'26" E | 105°14'05" |
| C32 | 225.00 | 74.08 | 72.75 | S 67°24'35" E | 105°14'05" |
| C33 | 425.00 | 75.02 | 74.93 | N 63°02'04" E | 105°14'05" |
| C34 | 300.00 | 147.58 | 147.58 | N 53°07'14" E | 105°14'05" |
| C35 | 181.66 | 66.72 | 66.72 | N 89°06'47" E | 105°14'05" |
| C36 | 146.84 | 90.15 | 90.14 | S 68°05'29" E | 105°14'05" |
| C37 | 147.58 | 147.58 | 147.58 | S 47°47'28" W | 105°14'05" |
| C38 | 425.00 | 379.91 | 379.91 | N 88°59'28" E | 105°14'05" |
| C39 | 425.00 | 379.91 | 379.91 | N 88°59'28" E | 105°14'05" |
| C40 | 300.00 | 147.58 | 147.58 | N 53°07'14" E | 105°14'05" |
| C41 | 425.00 | 147.58 | 146.84 | S 88°47'26" E | 105°14'05" |
| C42 | 225.00 | 74.08 | 72.75 | S 67°24'35" E | 105°14'05" |
| C43 | 425.00 | 75.02 | 74.93 | N 63°02'04" E | 105°14'05" |
| C44 | 300.00 | 147.58 | 147.58 | N 53°07'14" E | 105°14'05" |
| C45 | 181.66 | 66.72 | 66.72 | N 89°06'47" E | 105°14'05" |
| C46 | 146.84 | 90.15 | 90.14 | S 68°05'29" E | 105°14'05" |
| C47 | 147.58 | 147.58 | 147.58 | S 47°47'28" W | 105°14'05" |
| C48 | 425.00 | 379.91 | 379.91 | N 88°59'28" E | 105°14'05" |
| C49 | 425.00 | 379.91 | 379.91 | N 88°59'28" E | 105°14'05" |
| C50 | 300.00 | 147.58 | 147.58 | N 53°07'14" E | 105°14'05" |
| C51 | 425.00 | 147.58 | 146.84 | S 88°47'26" E | 105°14'05" |
| C52 | 225.00 | 74.08 | 72.75 | S 67°24'35" E | 105°14'05" |
| C53 | 425.00 | 75.02 | 74.93 | N 63°02'04" E | 105°14'05" |
| C54 | 300.00 | 147.58 | 147.58 | N 53°07'14" E | 105°14'05" |
| C55 | 181.66 | 66.72 | 66.72 | N 89°06'47" E | 105°14'05" |
| C56 | 146.84 | 90.15 | 90.14 | S 68°05'29" E | 105°14'05" |
| C57 | 147.58 | 147.58 | 147.58 | S 47°47'28" W | 105°14'05" |
| C58 | 425.00 | 379.91 | 379.91 | N 88°59'28" E | 105°14'05" |
| C59 | 425.00 | 379.91 | 379.91 | N 88°59'28" E | 105°14'05" |
| C60 | 300.00 | 147.58 | 147.58 | N 53°07'14" E | 105°14'05" |
| C61 | 425.00 | 147.58 | 146.84 | S 88°47'26" E | 105°14'05" |
| C62 | 225.00 | 74.08 | 72.75 | S 67°24'35" E | 105°14'05" |
| C63 | 425.00 | 75.02 | 74.93 | N 63°02'04" E | 105°14'05" |
| C64 | 300.00 | 147.58 | 147.58 | N 53°07'14" E | 105°14'05" |
| C65 | 181.66 | 66.72 | 66.72 | N 89°06'47" E | 105°14'05" |
| C66 | 146.84 | 90.15 | 90.14 | S 68°05'29" E | 105°14'05" |
| C67 | 147.58 | 147.58 | 147.58 | S 47°47'28" W | 105°14'05" |
| C68 | 425.00 | 379.91 | 379.91 | N 88°59'28" E | 105°14'05" |
| C69 | 425.00 | 379.91 | 379.91 | N 88°59'28" E | 105°14'05" |
| C70 | 300.00 | 147.58 | 147.58 | N 53°07'14" E | 105°14'05" |
| C71 | 425.00 | 147.58 | 146.84 | S 88°47'26" E | 105°14'05" |
| C72 | 225.00 | 74.08 | 72.75 | S 67°24'35" E | 105°14'05" |
| C73 | 425.00 | 75.02 | 74.93 | N 63°02'04" E | 105°14'05" |
| C74 | 300.00 | 147.58 | 147.58 | N 53°07'14" E | 105°14'05" |
| C75 | 181.66 | 66.72 | 66.72 | N 89°06'47" E | 105°14'05" |
| C76 | 146.84 | 90.15 | 90.14 | S 68°05'29" E | 105°14'05" |
| C77 | 147.58 | 147.58 | 147.58 | S 47°47'28" W | 105°14'05" |
| C78 | 425.00 | 379.91 | 379.91 | N 88°59'28" E | 105°14'05" |
| C79 | 425.00 | 379.91 | 379.91 | N 88°59'28" E | 105°14'05" |
| C80 | 300.00 | 147.58 | 147.58 | N 53°07'14" E | 105°14'05" |
| C81 | 425.00 | 147.58 | 146.84 | S 88°47'26" E | 105°14'05" |
| C82 | 225.00 | 74.08 | 72.75 | S 67°24'35" E | 105°14'05" |
| C83 | 425.00 | 75.02 | 74.93 | N 63°02'04" E | 105°14'05" |
| C84 | 300.00 | 147.58 | 147.58 | N 53°07'14" E | 105°14'05" |
| C85 | 181.66 | 66.72 | 66.72 | N 89°06'47" E | 105°14'05" |
| C86 | 146.84 | 90.15 | 90.14 | S 68°05'29" E | 105°14'05" |
| C87 | 147.58 | 147.58 | 147.58 | S 47°47'28" W | 105°14'05" |
| C88 | 425.00 | 379.91 | 379.91 | N 88°59'28" E | 105°14'05" |
| C89 | 425.00 | 379.91 | 379.91 | N 88°59'28" E | 105°14'05" |
| C90 | 300.00 | 147.58 | 147.58 | N 53°07'14" E | 105°14'05" |
| C91 | 425.00 | 147.58 | 146.84 | S 88°47'26" E | 105°14'05" |
| C92 | 225.00 | 74.08 | 72.75 | S 67°24'35" E | 105°14'05" |
| C93 | 425.00 | 75.02 | 74.93 | N 63°02'04" E | 105°14'05" |
| C94 | 300.00 | 147.58 | 147.58 | N 53°07'14" E | 105°14'05" |
| C95 | 181.66 | 66.72 | 66.72 | N 89°06'47" E | 105°14'05" |
| C96 | 146.84 | 90.15 | 90.14 | S 68°05'29" E | 105°14'05" |
| C97 | 147.58 | 147.58 | 147.58 | S 47°47'28" W | 105°14'05" |
| C98 | 425.00 | 379.91 | 379.91 | N 88°59'28" E | 105°14'05" |
| C99 | 425.00 | 379.91 | 379.91 | N 88°59'28" E | 105°14'05" |
| C100 | 300.00 | 147.58 | 147.58 | N 53°07'14" E | 105°14'05" |



LYMAN-RICHEY PROPERTY

N 88°59'28" E 2615.64'

NORTH LINE
S1/2 SE1/4

POINT OF BEGINNING
LANDSCAPE EASEMENT

S 88°59'28" W
33.00'

NE CORNER
S1/2 SE1/4
SECTION 18
T15N, R11E

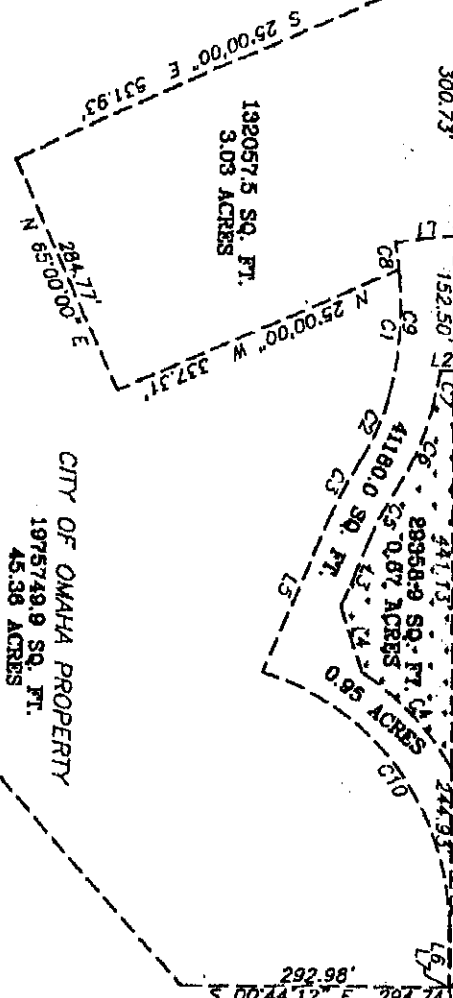
| ARC LENGTH | CHORD LENGTH | CHORD BEARING | DELTA ANGLE |
|------------|--------------|---------------|-------------|
| 1476.36' | 146.84' | S 88°59'28" E | 193°54' |
| 74.08' | 73.25' | S 67°24'35" E | 185°55' |
| 75.02' | 74.93' | N 63°02'04" W | 190°53' |
| 148.50' | 147.39' | N 46°23'06" E | 247°35' |
| 64.20' | 65.11' | N 63°02'04" W | 106°51' |
| 90.55' | 90.14' | S 67°24'35" E | 165°53' |
| 45.88' | 45.84' | S 79°36'29" E | 65°33' |
| 31.24' | 31.25' | N 81°28'20" E | 04°12'42" |
| 178.42' | 177.57' | N 88°59'28" E | 240°28' |
| 376.91' | 352.61' | N 53°07'14" E | 21°39'05" |
| DISTANCE | | | |
| 66.72' | | | |
| 13.86' | | | |
| 81.57' | | | |
| 75.59' | | | |
| 120.86' | | | |
| 64.73' | | | |
| 1.77' | | | |



TEMPORARY LANDSCAPE EASEMENT

TEMPORARY LANDSCAPE EASEMENT

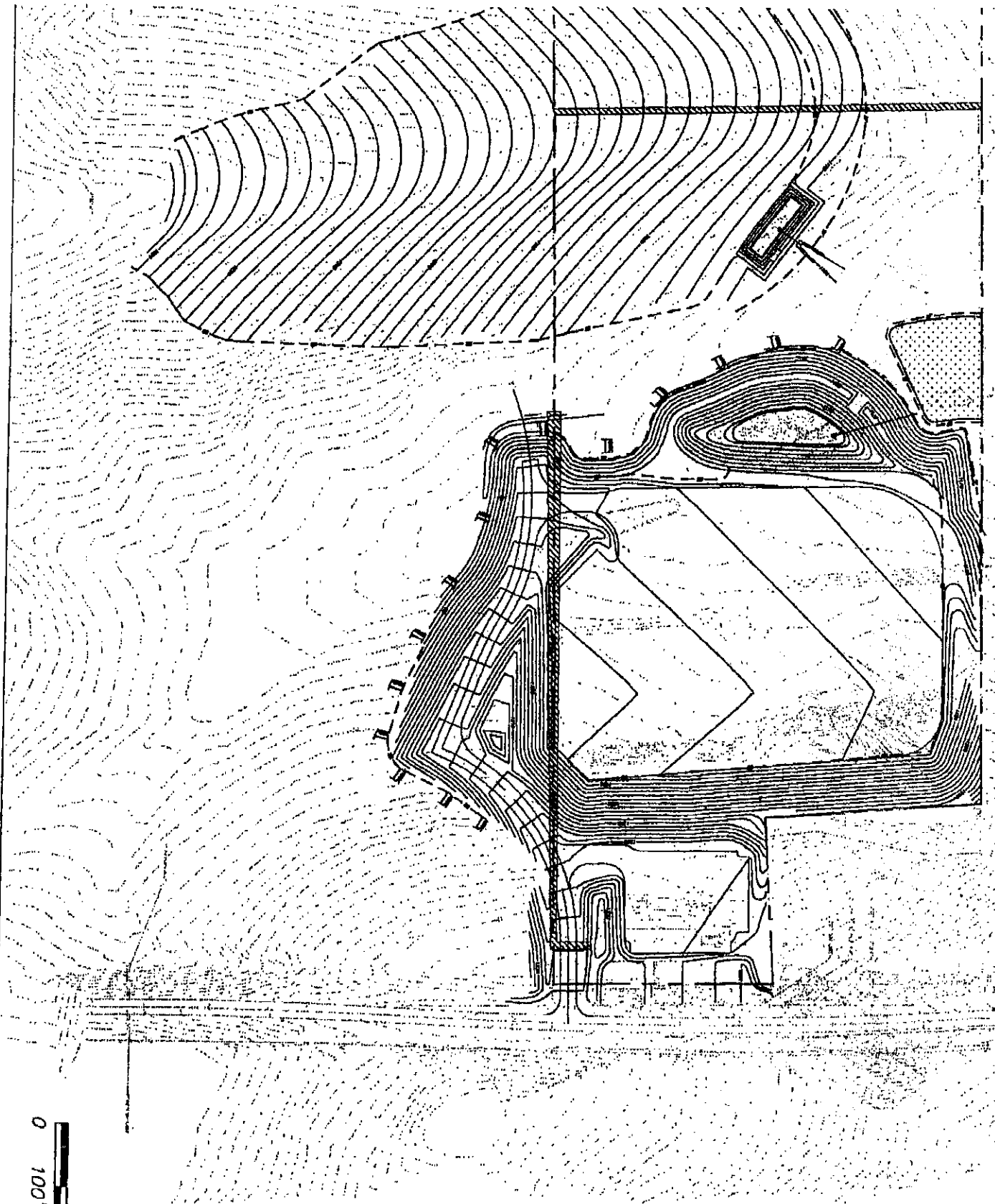
A TRACT OF LAND LOCATED IN THE S1/2 SE1/4 OF SECTION 18, T15N, R11E OF THE 6TH P.M., DOUGLAS COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: (ASSUMED BEARING), 277.93 FT. ON THE NORTH LINE OF SAID S1/2 TO THE POINT OF BEGINNING; THENCE SOUTHWESTERLY ON A 350.00 FT. RADIUS CURVE TO THE LEFT, 148.50 FT. (LONG CHORD BEARS S 46°21'06" W, 147.39 FT.); THENCE S 71°00'17" W, 75.58 FT.; THENCE N 68°05'29" W, 81.51 FT.; THENCE NORTHWESTERLY ON A 375.00 FT. RADIUS CURVE TO THE RIGHT, 66.20 FT. (LONG CHORD BEARS N 63°02'04" W, 66.11 FT.); THENCE NORTHWESTERLY ON A 275.00 FT. RADIUS CURVE TO THE LEFT, 90.55 FT. (LONG CHORD BEARS N 67°24'35" W, 90.14 FT.); THENCE WESTERLY ON A 475.00 FT. RADIUS CURVE TO THE LEFT, 45.86 FT. (LONG CHORD BEARS N 79°36'29" W, 45.84 FT.); THENCE N 00°21'38" W, 15.28 FT. TO THE NORTH LINE OF SAID S1/2 SE1/4; THENCE N 88°59'28" E, 441.13 FT. ON SAID NORTH LINE TO THE POINT OF BEGINNING, CONTAINING 0.57 ACRES MORE OR LESS.



CITY OF OMAHA PROPERTY
1975749.9 SQ. FT.
45.36 ACRES



0 100' 200' 400'



DEVELOPMENT RIGHTS AGREEMENT

THIS DEVELOPMENT AGREEMENT ("Agreement") is made and entered into on this 1st day of MARCH, 2005, by and among Dial Realty Development Corp, a Nebraska corporation, 11506 Nicholas Street, Suite 200, Omaha, Nebraska 68154 ("Dial"), Lyman-Richey Corporation, a Delaware corporation ("Lyman Richey") and Papio Missouri River Natural Resources District ("the NRD");

WHEREAS, Lyman Richey is the owner of certain real property comprising 38 acres, more or less, located in or near the City of Elkhorn, County of Douglas, State of Nebraska and which is more particularly described on Exhibit 4 attached hereto and incorporated herein by reference (the "Lyman-Richey Property");

WHEREAS, the NRD has the contractual right to purchase a portion of the Lyman-Richey Property consisting of 4.03 acres more or less (the "Dial Property"), in addition to other property to be purchased from Lyman Richey and has agreed to sell the Dial Property to Dial pursuant to a Purchase Agreement to which this Development Agreement is attached;

WHEREAS, Dial is purchasing additional property from the Zalkin Trust (the "Zalkin Trust Property"), which acquisition may occur prior to the acquisition of the Property; and,

WHEREAS, Dial proposes to construct various improvements on and perform other activities in connection with the Dial Property and the Zalkin Trust Property as a part of its development of both of those properties.

NOW, THEREFORE, in consideration of the sum of ten dollars (\$10.00) and other good and valuable consideration the receipt, sufficiency and adequacy of which is hereby acknowledged, the parties agree as follows:

1. Scope of Work. The parties hereto agree that Dial may, prior to the closing on its acquisition of the Dial Property, cause any or all of the following activities to occur with respect to the Dial Property:

- A. Grading
- B. Platting
- C. Inclusion in a Sanitary and Improvement District
- D. Installation of Improvements
- E. Specially Assess for any such Improvements
- F. Record Covenants affecting the Property

For purposes of this Agreement, the parties hereto specifically understand, covenant and agree that the grading contemplated under the terms of this paragraph shall be pursuant to comprehensive grading plans being developed by Lamp Rynearson & Associates and HDR Engineering which shall specifically be subject to the approval of Lyman-Richey prior to commencement of the grading work. In the event that the contemplated purchase and sale transaction between the NRD and Dial for Dial's acquisition of the Dial Property is not consummated in the manner described in the recitals to this Agreement, Dial specifically covenants and agrees that any grading work done on any portion of the Lyman-Richey Property shall be completed in such a manner to provide appropriate balance with respect to such grading work that the Property is left with appropriate grades, topography and condition so as to permit appropriate mowing and other similar care of the Lyman-Richey Property.

In the event that the contemplated Purchase and Sale Transaction between the NRD and Dial for Dial's acquisition of the Dial Property is not consummated in the manner described in the recitals to this Agreement, Dial specifically covenants and agrees that it shall be responsible for any special assessments which may be made with respect to the Dial Property for improvements made by or under the direction of Dial.

2. Berm on North Boundary of the Property Line Between Future Lot 1 of the Lyman-Richey Property and the Zalkin Property. The parties hereto specifically understand, covenant and agree that the grading plans referred to in paragraph 1 of this Agreement shall provide for the construction of a berm on the north boundary line between the Zalkin Property and future Lot 1 of the Lyman-Richey Property. The parties further understand, covenant and agree that Dial shall be granted a temporary easement for the purpose of constructing the contemplated berm which is to be more specifically described on an Easement Agreement to be developed by Lamp Rynearson & Associates.

3. Cooperation. Lyman-Richey and the NRD agree to execute such documents and otherwise cooperate with Dial as Dial may reasonably request from time to time as necessary to enable Dial to perform the aforesaid permitted activities with respect to the Dial Property.

4. Tie in of Waterline and Sanitary Sewer to be Anticipated Improvements. The parties hereto understand that Dial intends to construct certain improvements on the Zalkin Trust Property which will necessitate the installation of a waterline, sanitary sewer and natural gas line. As partial consideration for the mutual promises and covenants set forth in this Agreement, a Pre-closing Cross-Easements Agreement and a Cross Easement Agreement of even date herewith, Dial specifically understands, covenants and agrees to construct the contemplated waterline, sanitary sewer and natural gas line in such a

manner and with sufficient capacity to permit Lyman-Richey to tie into those anticipated improvements to serve the needs of the contemplated Lyman-Richey Headquarters Building which is presently planned to provide approximately Fifty Thousand (50,000) feet of office space for Lyman-Richey. The parties hereto further covenant and agree that Dial shall grant Lyman-Richey a 60 foot construction easement and a 20 foot permanent easement for the construction and maintenance of the contemplated water line, sanitary sewer and natural gas line. The exact location of those easements shall be determined by the engineering firm of Kirkham Michael & Associates and shall be subject to the approval of Dial, which approval shall not be unreasonably withheld. The parties hereto further understand, covenant and agree that if Lyman-Richey utilizes its ability to tie into the contemplated water line as contemplated in this paragraph, Lyman-Richey will pay its proportionate share of any pioneering tap-main fees which are designed to serve the needs of Lyman-Richey for its contemplated Headquarters Building on the real property to be designated as future Lot 2, Lyman-Richey West, which currently comprises a portion of the Lyman-Richey Property.

5. Insurance. The parties hereto specifically covenant and agree that prior to the commencement of any of the activities described in paragraph 1 of this Agreement, Dial shall cause the grading contractor for the grading work contemplated under paragraph 1 of this Agreement, as well as any other third party contractors with whom it contracts to have work done on any portion of the Lyman-Richey Property, to provide a Certificate of Insurance reflecting the fact that it has acquired general liability insurance coverage which shall designate Lyman-Richey and the NRD as additional named insureds. Dial shall also cause the grading contractor for the grading work contemplated under paragraph 1 of this Agreement, as well as any other third party contractors with whom it contracts to have work done on any portion of the Lyman-Richey Property to provide appropriate evidence of current workers' compensation insurance coverage pursuant to the existing laws of the State of Nebraska. The general liability certificate shall reflect minimum coverage of One Million Dollars (\$1,000,000) per incident or occurrence. Dial, its various contractors and their insurers as contemplated under the terms of this Agreement shall waive all rights against Lyman-Richey for damages caused by activities of Dial or its contractors to the extent those losses or damages are covered by the contemplated insurance policies. The contemplated insurance policies shall specifically provide such waivers of subrogation by endorsement or otherwise.

In addition to the foregoing, Dial and its various third party contractors shall also agree to hold harmless and indemnify Lyman-Richey from any liability to any governmental agency such as the Nebraska Department of Environmental Quality or the United States Environmental Protection Agency for the manner in which any work is performed on the Dial Property or any other portion of the Lyman-Richey Property such as compliance with all governmental regulations such as silt containment and other similar requirements.

6. Governing Law. This Agreement is governed by and construed under the laws of the State of Nebraska.

7. Successors. This Agreement shall be binding upon the parties hereto, their heirs, successors or assigns, and can only be changed by written agreement, signed by all parties.

IN WITNESS WHEREOF, this Agreement has been executed on the day and year first written above.

Lyman-Richey Corporation, a Delaware corporation

BY Kenn. D. Schmidt
Title: EXECUTIVE VICE PRESIDENT & C.O.O.

Papio-Missouri River Natural Resources District

BY Steven G. Oltmans
Steven G. Oltmans, General Manager

Dial Realty Development Corp, a Nebraska corporation

BY [Signature]
Title: Vice President

336936

THE SOUTH ONE-HALF OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER AND THE SOUTH ONE-HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 15 NORTH, RANGE 11 EAST OF THE 6TH P.M., IN DOUGLAS COUNTY, NEBRASKA, EXCEPT THAT PART MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF THE SOUTH ONE-HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 18, TOWNSHIP 15 NORTH, RANGE 11 EAST OF THE 6TH P.M.; THENCE SOUTH $89^{\circ}56'38.5''$ WEST ALONG THE NORTH LINE OF THE SAID SOUTH ONE-HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 15 NORTH, RANGE 11 EAST OF THE 6TH P.M., A DISTANCE OF 309.80 FEET; THENCE SOUTH $03^{\circ}08'31''$ EAST, A DISTANCE OF 337.00 FEET; THENCE NORTH $87^{\circ}25'39.5''$ EAST, A DISTANCE OF 290.97 FEET TO A POINT ON THE EAST LINE OF THE SAID SOUTH ONE-HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 18, TOWNSHIP 15 NORTH, RANGE 11 EAST OF THE 6TH P.M.; THENCE NORTH $00^{\circ}06'43.75''$ EAST ALONG THE SAID EAST LINE OF THE SOUTH ONE-HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 18, TOWNSHIP 15 NORTH, RANGE 11 EAST OF THE 6TH P.M., A DISTANCE OF 323.74 FEET TO THE POINT OF BEGINNING; AND ALSO EXCEPT THE EAST 33 FEET THEREOF TAKEN FOR RIGHT OF WAY PURPOSES.

AND EXCEPT THAT PART DEEDED TO DOUGLAS COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS: A PARCEL OF LAND LYING IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 15 NORTH, RANGE 11 EAST OF THE 6TH P.M., IN DOUGLAS COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEING THE WEST 17.00 FEET OF THE EAST 50.00 FEET OF THE SOUTH ONE-HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 18.

EXHIBIT "4"

ADDENDUM TO PURCHASE AGREEMENT

This Addendum is made and entered into this ___ day of September, 2005, by and between Lyman-Richey Corporation, a Delaware corporation ("Seller"), and the Papio-Missouri River Natural Resources District ("NRD"), to amend, clarify and modify that certain Purchase Agreement between the parties dated March 1, 2005 (the "Purchase Agreement").

WITNESSETH:

WHEREAS, Seller and the NRD entered into that certain Purchase Agreement dated March 1, 2005, for the purchase and sale of a tract of ground consisting of approximately twenty-five (25) acres located in the South One-half of the Northwest Quarter of the Southeast Quarter and the South One-half of the North One-half of the Northeast Quarter of the Southeast Quarter of Section 18, Township 15N, Range 11E of the Oh P.M in Douglas County, Nebraska.

WHEREAS, the remainder of the approximately thirty-eight (38) acre tract owned by Seller located in the South One-half of the North One-half of the Northeast Quarter of the Southeast Quarter of Section 18, Township 15 North, Range 11 East of the 6th Prime Meridian in Douglas County, Nebraska, has now been surveyed, platted and recorded as Lot 1 and Lot 2 of Lyman-Richey West. Lot 1 is generally the location of a Ready Mix Concrete Plant of the Seller and Lot 2 is the location of what is currently contemplated as the future headquarters office building of the Seller.

WHEREAS, from and after March 1, 2005, until the present time, there have been a number of ongoing negotiations between Seller and the NRD with respect to the final configuration of the property which is the subject of the Purchase Agreement between the parties and those ongoing discussions have included additional negotiations with the City of Omaha with respect to access easements and other related matters pertaining to the City of Omaha property

that lies immediately adjacent to property currently owned by Seller and the Property to be sold to the NRD.

WHEREAS, the parties hereto covenant and agree that the terms used herein shall have the same meaning ascribed to those terms as are set forth in the original Purchase Agreement except to the extent as otherwise hereinafter provided.

WHEREAS, Seller and the NRD desire to memorialize the various agreements which they have achieved between themselves with respect to the purchase and sale of the Property as that term is defined in the original Purchase Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises, covenants and agreements set forth in the original Purchase Agreement and the additional promises, covenants and agreements hereinafter set forth, the Seller and the NRD hereby agree to amend, clarify and modify the operative provisions of the Purchase Agreement by adding the provision hereinafter set forth:

31. Revised Description of the Property. The parties hereto covenant and agree that an agreement has been made to modify the legal description for the Property which constitutes the subject of this purchase and sale in the manner reflected on the revised survey which is attached hereto and incorporated herein as Revised Exhibit "1" which reflects a total number of square feet equal to 24.77 acres. Consequently, the total consideration to be paid by NRD to Seller at the time of closing shall be in the amount set forth in the next succeeding paragraph and that there will be no further adjustment to the number of acres or the purchase price at the time of closing.

32. Recalculated Consideration. The parties hereto covenant and agree that NRD shall pay the Seller for the Property the sum of One Million Two Hundred Sixty-four Thousand Fifty-six and 45/100 Dollars (\$1,264,056.4) at the

time of closing.

33. Revised Cross Easements Agreement. The parties hereto covenant and agree that the original form of the Cross-Easements Agreement attached to the original Purchase Agreement as Exhibit "A" has been revised in the manner reflected on the Revised Cross-Easements Agreement attached hereto as Exhibit ___ and incorporated herein by reference, and that the Revised Cross-Easements Agreement as so amended shall be executed in two (2) counterparts by the NRD and the Seller at the time of closing, in lieu of the original form of the Cross-Easements Agreement.

34. Revised Development Rights Agreement. The parties hereto covenant and agree that the Development Rights Agreement attached to the original Purchase Agreement as Exhibit "C" has been amended in the manner reflected on the Addendum to Development Rights Agreement attached hereto as Exhibit ___ and incorporated herein by reference. Both parties hereto accept the modifications reflected on such Addendum to the Development Rights Agreement and agree to be bound by the terms of that Addendum to the extent that the Addendum to Development Rights Agreement affects the terms and provisions of the Development Rights Agreement as amended.

35. Closing Date. The parties hereto covenant and agree that notwithstanding the provisions of paragraph 11 of the original Purchase Agreement, the closing of the transaction evidenced by the Purchase Agreement as amended shall be on September 16, 2005 at 9:00 a.m. at the offices of Nebraska Land Title & Abstract Company provided that all conditions of closing have been fulfilled, or at such other time and place as may be agreed upon by the NRD and the Seller.

36. Conditions of Closing. The parties hereto acknowledge and agree that the conditions set forth in subparagraphs (a) and (b) of paragraph 12 of the original Purchase Agreement have been fulfilled. However, the parties hereto

covenant and agree that the following additional conditions must be fulfilled prior to the time of closing:

(d) The execution of a Revised and Amended Easement Agreement between Seller and the City of Omaha amending the existing Easement Agreement which was executed on or about the 16t day of December, 2003, so as to conform the Easement Agreement to the revised Master Plan prepared by Kirkham Michael & Associates Consulting Engineers dated July 18, 2005.

¹(e) Final agreement on the location of a Wetlands Mitigation Channel to be located on a portion of the Lyman-Richey Property which lies between Lot 1 and Lot 2 of the Lyman-Richey Property, together with final negotiations and an agreement on an easement to be granted to the NRD for appropriate repair and maintenance of the contemplated Wetlands Mitigation Channel.²

(f) An agreement between the City of Omaha, the NRD and Seller with respect to a final grading plan or other appropriate assurance that the final grading plan to be developed for the Property, Lots 1 and 2 of Lyman-Richey West and the property owned by the City of Omaha which lies adjacent and contiguous with the real property currently owned by the Seller will be finalized in a manner so as to prepare Lot 1 of Lyman-Richey West for the construction of the contemplated Lyman-Richey headquarters building. The specific grading plan must provide for moving appropriate quantities of dirt to Lot 1 of Lyman-Richey West to raise the elevation of that lot to at least 1,185 feet, referenced to the National Geodetic Vertical Datum of 1929 ("NGVD"). The grading plan must further provide that the dirt used to raise the elevation of Lot 1 of Lyman-Richey West must be from a source no further than ____ feet from the southern edge of Lot 1 of

¹ Moved to Revised Cross Easements Agreement

Lyman-Richey West.

37. Revised Tree Planting Schedule. The parties hereto specifically covenant and agree that paragraph 25 of the original Purchase Agreement shall be revised by deleting that paragraph as it appeared in the original Purchase Agreement and substituting the following: [Need]

38. Revised Provisions Regarding Storm Water Retention Pond. In addition to the provisions, set forth in paragraph 28 of the original Purchase Agreement, the parties hereto further covenant and agree that Seller shall remove the Storm Water Retention Pond discharge pipe, and shall provide appropriate maintenance and dredging of the Storm Water Retention Pond so that that pond retains its utility as a receptacle to control storm water runoff from Lot 1 of Lyman-Richey West as now surveyed, platted and recorded.

39. Effect of Addendum. Except to the extent otherwise specifically amended by the terms of this Addendum, all of the original terms and provisions of the original Purchase Agreement are ratified in all respects. In the event of any inconsistency between the terms and provisions of the original Purchase Agreement and this Addendum, the specific terms and provisions of this Addendum shall control.

THIS AGREEMENT is executed by LYMAN-RICHEY on this _____ day of September, 2005.

LYMAN-RICHEY CORPORATION
4315 Cuming Street, Omaha, NE 68131

By _____
KEVIN D. SCHMIDT
Executive Vice President & C.O.O.

ATTEST:

² Already part of Cross-Easements Agreement

Corporate Secretary

THIS AGREEMENT is executed by the NRD on this _____ day of _____, 2005.

**PAPIO-MISSOURI RIVER NATURAL
RESOURCES DISTRICT**
8901 South 154th Street, Omaha, NE 68138

By _____
STEVEN G. OLTMANS, General Manager

STATE OF NEBRASKA)
) SS.
COUNTY OF _____)

On this _____ day of September, 2005, before me, a Notary Public, personally came the above-named KEVIN D. SCHMIDT, Executive Vice President and Chief Operating Officer of LYMAN-RICHEY CORPORATION, to me personally known to be the identical person whose name is affixed to the above and foregoing instrument, and he acknowledged the same to be his voluntary act and deed as such officer and the voluntary act and deed of such corporation.

WITNESS my hand and Notarial Seal the date last aforesaid.

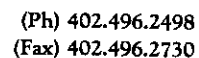
Notary Public

STATE OF NEBRASKA)
) SS.
COUNTY OF _____)

On this _____ day of September, 2005, before me, a Notary Public, personally came the above-named Steven G. Oltmans, General Manager of the PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT, to me personally known to be the identical person whose name is affixed to the above and foregoing instrument, and he acknowledged the same to be his voluntary act and deed as such officer and the voluntary act and deed of such natural resources district.

WITNESS my hand and Notarial Seal the date last aforesaid.

Notary Public



LEGAL DESCRIPTION

PARCEL 1

Lots 113 through 120, inclusive, and dedicated Elk Ridge Drive in ELK RIDGE, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska, described as follows:

Beginning at the northwest corner of said Lot 113;

Thence North 86°53'18" East (bearings referenced to the Nebraska State Plane System NAD88) for 350.00 feet along the north line of said Lots 113 and 120 to the northeast corner of said Lot 120;

Thence along the east and south lines of said Lots 116 through 120, inclusive, for the following three (3) courses:

(1) Thence South 03°00'42" East for 295.57 feet;

(2) Thence along a curve to the right (having a radius of 275.00 feet and a long chord bearing South 41°57'34" West for 388.71 feet) for an arc length of 431.69 feet;

(3) Thence South 86°55'50" West for 39.30 feet to the southwest corner of said Lot 116;

Thence North 03°06'37" West for 150.00 feet along the west line of said Lot 116 to the northwest corner thereof and the south right of way line of Elk Ridge Drive;

Thence South 86°55'50" West for 35.00 feet along said south right of way line to the northeast corner of Lot 12, ELKHORN RIDGE ESTATES, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska;

Thence North 03°06'37" West for 420.03 feet along the east line of ELKHORN RIDGE ESTATES to the Point of Beginning.

Contains 177,836 square or 4.083 acres.

PARCEL 2

Part of the South Half of the North Half of the Southeast Quarter of Section 18, Township 15 North, Range 11 East of the 6th P.M., Douglas County, Nebraska, described as follows:

Beginning at the northeast corner of Lot 120, ELK RIDGE, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska;

Thence North 86°53'18" East (bearings referenced to the Nebraska State Plane System NAD88) for 625.82 feet along the north line of said South Half of the North Half of the Southeast Quarter of Section 18;

Thence South 34°18'19" West for 832.51 feet to the south line of said South Half of the North Half of the Southeast Quarter of Section 18;

Thence South 86°54'09" West for 469.99 feet along said south line to the southwest corner thereof and the southeast corner of Lot 12, ELKHORN RIDGE ESTATES, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska;

Thence North 03°06'37" West for 241.06 feet along the east line of said Lot 12 to the northeast corner thereof and south right of way line of Elkhorn Ridge Drive;

Thence North 86°55'50" East for 35.00 feet along said south right of way line to the northwest corner of Lot 116, ELK RIDGE;

Thence South 03°06'37" East for 150.00 feet along west line of said Lot 116 to the southwest corner thereof;

Thence along the south and east lines of Lots 116 through 120, inclusive, Elk Ridge for the following three (3) courses:

1) Thence North 86°55'50" East for 39.30 feet;

2) Thence along a curve to the left (having a radius of 275.00 feet and a long chord bearing North 41°57'34" East for 388.71 feet) for an arc length of 431.69 feet;

3) Thence North 03°00'42" West for 295.57 feet to the Point of Beginning.

Contains 300,132 square feet or 6.890 acres.

PARCEL 3

Part of the South Half of the North Half of the Southeast Quarter of Section 18, Township 15 North, Range 11 East of the 6th P.M., Douglas County, Nebraska, described as follows:

Commencing at the northeast corner of Lot 120, ELK RIDGE, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska

Thence North 86°53'18" East (bearings referenced to the Nebraska State Plane System NAD88) for 625.82 feet along the north line of said South Half of the North Half of the Southeast Quarter of Section 18 to the TRUE POINT OF BEGINNING;

Thence North 86°53'18" East for 856.42 feet continuing along said north line;

Thence South 12°07'53" West for 102.37 feet;

Thence along a curve to the right (having a radius of 100.00 feet and a long chord bearing South 35°37'17" West for 79.72 feet) for an arc length of 82.00 feet;

Thence along a curve to the left (having a radius of 150.00 feet and a long chord bearing South 26°16'30" West for 162.67 feet) for an arc length of 171.93 feet;

Thence along a curve to the left (having a radius of 300.00 feet and a long chord bearing South 12°08'18" East for 58.31 feet) for an arc length of 58.40 feet;

Thence South 64°14'59" West for 279.84 feet;

Thence South 25°43'02" East for 209.57 feet to the south line of said South Half of the North Half of the Southeast Quarter of Section 18;

Thence South 86°54'09" West for 1037.07 feet along the said south line;

Thence North 34°18'19" East for 832.51 feet to the Point of Beginning.

Containing 601,119 square feet or 13.800 acres.

96082\dwg\9682PNRD-bndrev.dwg

Book 96082 #2 Page 26

Date August 23, 2005 Dwn.By MJW

Job Number 96082.03-400



Lamp, Rynearson & Associates, Inc.

WWW.LRA-INC.COM

14710 West Dodge Road, Suite 100
Omaha, Nebraska 68154-2027

(Ph) 402.496.2498
(Fax) 402.496.2730

REVISED CROSS-EASEMENTS AGREEMENT

This Agreement ("Agreement") is made and entered into by and between Lyman-Richey Corporation, a Delaware Corporation ("Lyman-Richey"), and the Papio-Missouri River Natural Resources District ("NRD").

WITNESSETH:

WHEREAS, the NRD intends to construct, operate and maintain a flood control dam ("the Dam") in Section 18 Township 15 North, Range 11 East of 6th P.M., Douglas County, Nebraska, which will create a reservoir (the "Reservoir") in said section having a flood pool (the "Regulated Flood Pool") that will be designed to impound flood waters to 1,174.0 feet above mean sea level, referenced to the National Geodetic Vertical Datum of 1929 ("NGVD"), and having a maximum flood pool (the "Maximum Flood Pool") that will be designed to impound flood waters to 1,180.0 feet above mean sea level, NGVD; and,

WHEREAS, a portion of the Reservoir is or will be located on the tract of land in Section 18, Township 15 North, Range 11 East of the 6th P.M., Douglas County, Nebraska (hereinafter referred to collectively as the "NRD Parcel"), referred to and legally described in the legal description attached hereto as Exhibit "1" and incorporated herein by reference; the NRD Parcel being purchased by the NRD from Lyman-Richey for construction, operation and maintenance of the Dam and Reservoir: and,

WHEREAS, Lyman-Richey owns certain additional parcels of land in Section 18, Township 15 North, Range 11 East of the 6th P.M., Douglas County, Nebraska (collectively the "Lyman-Richey Parcel"), adjacent to the NRD Parcel and described in the legal description attached hereto as Exhibit "2" and incorporated herein by reference; and,

WHEREAS, the parties desire to grant to each other certain permanent easements, hereinafter described.

IN CONSIDERATION of the foregoing recitals and mutual covenants and

agreements of the parties as set forth in that certain Purchase Agreement dated March 1, 2005, as amended, and the additional promises and covenants hereinafter set forth, the parties hereto grant and agree as follows:

SECTION A

PERMANENT DRAINAGE DEVICE AND FLOWAGE EASEMENTS

WHEREAS, Lyman-Richey desires permanent easements over the NRD Parcel for certain drainage device outlets and the flowage therefrom.

NOW, THEREFORE, the NRD does hereby grant to Lyman-Richey the permanent right to enter the NRD Parcel from time to time and therein operate, maintain, repair, replace and reconstruct, the following drainage device appurtenant to Lyman-Richey's aggregate storage yard, as such device or portions thereof may now be configured and situated, in whole or part, in, on, under, over and across the NRD Parcel, to-wit: The Twelve inch (12") pump discharge pipe running and extending in a northwesterly direction from the groundwater and rainwater collection sump in Lyman-Richey's aggregate storage yard on the Lyman-Richey Parcel; together with the permanent right to flow the respectively-described waters from such device, over and across the NRD Parcel and into the Reservoir; provided, however, Lyman-Richey shall keep such discharge pipe in operating condition and, if such device, or the respective originating sump pump, basin or outlet, or the maintenance or use thereof for the respectively-described purposes, shall be abandoned by Lyman-Richey, the above-described permanent easement, at the NRD's election, shall be deemed to be terminated, and any portions of such device located on the NRD Parcel shall be removed by Lyman-Richey without expense to the NRD and properly decommissioned; and, provided, further, that Lyman-Richey shall not discharge into the Reservoir, through any such drainage device, any sewage, animal waste, or any hazardous substance regulated under the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Sections 9601-9675).

The parties hereto further acknowledge, covenant and agree that Lyman-

Richey shall be permitted to divert natural drainage, from the grass and tree area located on and adjacent to the berm on the North boundary of Lot 1 of Lyman-Richey West addition, onto the NRD's Property, through the above discharge pipe.

SECTION B

PERMANENT FLOWAGE EASEMENTS AND RESTRICTIVE COVENANTS

WHEREAS, the NRD desires the permanent right to inundate portions of the Lyman-Richey Parcel with flood waters and sediment impounded by the Dam from time to time, and desires other restrictions and covenants governing the Lyman-Richey Parcel.

NOW, THEREFORE, Lyman-Richey does hereby grant to the NRD a permanent flowage easement and does hereby agree to certain permanent restrictive covenants, as follows:

1. The NRD shall have the perpetual power, privilege, right and authority to periodically flow and overflow waters and sediment upon, and inundate, all areas of the Lyman-Richey Parcel that, either now or hereafter, are within the Maximum Pool or have a ground surface elevation lower than 1,180.0 feet above mean sea level, NGVD.

2. Lyman-Richey shall not construct or maintain structures fixtures or other improvements in the areas of the Lyman-Richey Parcel that, either now or hereafter, are within the Regulated Flood Pool or have a ground surface elevation lower than 1,174.0 feet about mean sea level, NGVD.

3. Lyman-Richey shall not place any further earthen or other fill in any areas of the Lyman-Richey Parcel that, either now or hereafter, are within the Maximum Pool or have a ground surface elevation lower than 1,180.0 feet above mean sea level, NGVD.

SECTION C

EASEMENT FOR SANITARY SEWER, WATER MAIN,

NATURAL GAS AND LAKE VIEW

Lyman-Richey is hereby granted an easement across the NRD Parcel in the specific area legally described on Exhibit "6" for the purpose of connecting to the contemplated interceptor sewer, sanitary sewer, water main and natural gas line utilities appropriate to service a contemplated headquarters building. The NRD further agrees to restrict its use of the area legally described on Exhibit "6" to limit tree plantings, other vegetation and construction of improvements to a height of not more than 6' in order to provide Lyman-Richey with a view from its contemplated headquarters building of the Reservoir which will be created by the construction of the Flood Control Dam contemplated under the terms of the Master Plan for the NRD Property dated July 18, 2005. The exact location of the contemplated interceptor sewer, sanitary sewer, water main and natural gas lines contemplated under the terms of this paragraph will be subject to the approval of both Lyman-Richey and the NRD (such approvals to not be unreasonably withheld or delayed).

SECTION D

CONSTRUCTION OF FENCE ALONG THE WESTERN BOUNDARY OF THE LYMAN-RICHEY PARCEL

The parties hereto specifically understand, covenant and agree that as partial consideration for the mutual promises, covenants and agreements set forth in this Cross-Easements Agreement, the NRD will construct a Five (5) foot high woven wire fence with wood or steel fence posts along the western boundary of the Lyman-Richey Parcel designed to serve as a security fence for Lyman-Richey and its business interests. The parties hereto further understand, covenant and agree that the NRD shall erect and maintain that fence consistent with the general provisions of this Agreement. Lyman-Richey shall be permitted to affix appropriate warnings signs on the security fence to inform invitees of the NRD Parcel that anyone scaling the fence and entering the Lyman-Richey Parcel shall be trespassing.

SECTION E
CHANNEL AND WETLAND MITIGATION

WHEREAS, the NRD will be required to install channel and wetlands mitigation measures to compensate for channels and wetlands that will be lost as a result of the NRD's construction of the Dam and the Reservoir; and,

WHEREAS, such mitigation measures could advantageously be constructed in the Reservoir on ground below 1,180.0 feet above mean sea level.

NOW, THEREFORE, the parties hereto specifically understand, covenant and agree that the NRD shall be and is hereby granted an permanent easement across the tract of land described in Exhibit "7" attached hereto and incorporated herein by reference (consisting of a portion of the Lyman-Richey Parcel easterly of Lyman-Richey's proposed headquarters building site), for the purpose of constructing, installing, maintaining and replacing channel and wetland mitigation measures necessitated by and incident to construction of the Dam and Reservoir, such easement shall also include and be subject to the following permanent restriction that shall run with the land and be binding upon the parties and their heirs, successors and assigns:

1. There shall be no construction or placement of structures or mobile homes, fences, signs, billboards or other advertising material, or other structures, whether temporary or permanent, on the land;
2. There shall be no filling, draining, excavating, dredging, mining, drilling or removal of topsoil, loam, peat, sand, gravel, rock, minerals or other materials;
3. There shall be no building of roads or paths for vehicular or pedestrian travel or any change in the topography of the land;
4. There shall be no removal, destruction, or cutting of trees or plants, spraying with biocides, insecticides, or pesticides, grazing of animals, farming, tilling of soil, or other agricultural activity;

5. There shall be no operation of all-terrain vehicles or any other type of motorized vehicle on the land;
6. These restrictions may be changed, modified or revoked only upon written approval of the District Engineer of the Omaha District of the U.S. Army Corps of Engineers and to be effective , such approval must be witnessed, authenticated, and recorded pursuant to the law of the State of Nebraska; and;
7. This covenant is made in perpetuity such that the present owner and its successors and assigns forever shall be bound by the terms and conditions set forth herein.

The plans for such measures shall be submitted to Lyman-Richey for its approval, such approval to not be withheld or delayed unreasonably. Prior to entering the Lyman-Richey Parcel to construct, install, maintain or replace any such channel and wetland mitigation measures, the NRD shall give Lyman-Richey reasonable advance notice of such activity, and within a reasonable time after the NRD's completion of such activity, the NRD shall repair any damage caused during such activity to Lyman-Richey's improvements.

The parties hereto specifically acknowledge, covenant and agree that during the construction of the contemplated Lyman-Richey headquarters building on Lot 1 of Lyman-Richey West addition, as currently surveyed, platted and recorded, Lyman-Richey and/or its agents, contractors or representatives shall be permitted to temporarily disturb the ground cover on the easement area described in Exhibit "7" attached provided that upon completion of the construction of the Lyman-Richey headquarters building, Lyman-Richey shall be required to restore the ground cover and other vegetation in such easement area to the status of that ground cover and vegetation as it existed immediately prior to the commencement of construction.

SECTION F

PARKING LOT AND INGRESS/EGRESS EASEMENT

WHEREAS, Lyman-Richey desires the right to construct a parking lot on a portion of the NRD Parcel, with the understanding such parking lot may be used both by Lyman-Richey and the public.

Now, therefore, the NRD does hereby grant to Lyman-Richey the permanent right to construct, operate, maintain and use, along with the public, an automobile parking lot on that portion of the NRD Parcel immediately north and west of what is now platted as Lot 2 of Lyman-Richey West addition, such portion being described in the legal description attached hereto as Exhibit 4 and incorporated herein by reference. Such right to construct such parking lot may be exercised by Lyman-Richey in the event the City of Omaha fails to construct a parking lot at such location prior to the time Lyman-Richey desires to use a parking lot at such location. Prior to constructing such parking lot, Lyman-Richey shall retain a professional engineer to prepare a plans and specifications for such parking lot and shall submit the same to the NRD for approval (such approval to not be withheld or delayed unreasonably). Lyman-Richey agrees that such parking lot may be permanently used both by Lyman-Richey and the public.

SECTION G

TEMPORARY CONSTRUCTION EASEMENT

Lyman-Richey is hereby granted a Temporary Construction Easement over and across those portions of the NRD Parcel located within 50 feet of the west and north lines of Lot 2 of Lyman-Richey West addition, described in the legal description attached hereto as Exhibit 5 and incorporated herein by reference, to facilitate the construction of Lyman-Richey's office building improvements contemplated on Lot 2 of Lyman-Richey West addition. Within a reasonable time after Lyman-Richey's completion of such activity, Lyman-Richey shall repair any damage to fencing and other improvements then existing in such portions of the NRD Parcel, caused during construction of Lyman-Richey's office building improvements.

SECTION H
LYMAN-RICHEY TEMPORARY GRADING EASEMENT

WHEREAS, Lyman-Richey intends to simultaneously borrow earthen materials from, fill earthen materials on, and re-grade certain portions of, the NRD Parcel and the Lyman-Richey Parcel; and,

WHEREAS, Lyman-Richey desires to transport earthen materials among the Lyman-Richey Parcel, the NRD Parcel, and other NRD's tracts described as Outlots 1 and 2 in Elk Ridge addition a subdivision as surveyed, platted and recorded, Douglas County, Nebraska (collectively, "the Combined Parcels"), deposit such earthen materials as fill on the Combined Parcels, and re-grade the Combined Parcels as a unit, all according to a written grading plan ("the Lyman-Richey Grading Plan") to be prepared by Lyman-Richey and approved by the NRD, such borrowing, filling and grading by Lyman-Richey on the Combined Parcels hereinafter being referred to collectively as "the Lyman-Richey Grading Work."

NOW, THEREFORE the parties hereby agree, as follows:

1. Prior to performing the Lyman-Richey Grading Work, Lyman-Richey shall retain a professional engineer to prepare the Lyman-Richey Grading Plan and submit the same to the NRD for approval (such approval to not be withheld or delayed unreasonably).
2. Lyman-Richey is hereby granted the right to perform the Lyman-Richey Grading Work pursuant to and in strict accordance with the NRD-approved Lyman-Richey Grading Plan.
3. During the Lyman-Richey Grading Work, Lyman-Richey shall not bring earthen materials, obtained elsewhere, into areas of the Combined Parcels within the Maximum Flood Pool, without the prior written approval of the NRD (such approval to not be withheld or delayed unreasonably).
4. Prior to completion of the Lyman-Richey Grading Work, Lyman-Richey shall establish an erosion-inhibiting vegetative cover on all areas of the

Combined Parcels disturbed by the Lyman-Richey Grading Work.

ADDITIONAL PROVISIONS

1. This Agreement shall run with the land and shall be binding upon and inure to the benefit of the parties to this instrument and their successors and assigns. The contemplated benefits shall specifically include, but not be limited to, the designated portions of this Agreement dealing with the anticipated preparation for and construction of a headquarters building by Lyman-Richey and the parties specifically understand, covenant and agree that those benefits shall be assignable to Lyman-Richey's successors and assigns.

2. This Agreement contains the entire agreement between the parties. Each of the parties agrees that neither the other party, nor any officers, agents or employees of the other party, have made any representations or promises with respect to or affecting this Agreement not expressly contained herein.

3. The consideration stated herein shall constitute payment in full for all damages sustained by a party and its successors and assigns by reason of the exercise by the other party of any of the rights or privileges herein expressly granted or reasonably implied.

4. Time is of the essence of this Agreement.

5. Whenever this Agreement calls for the approval of the NRD, such approval may be granted by the General Manager of the NRD.

6. Whenever this Agreement calls for the approval of Lyman-Richey, such approval may be granted by either Patrick J. Gorup, Chief Executive Officer of Lyman-Richey, or his respective successors.

7. This Agreement shall be effective upon its complete execution by the parties.

THIS REVISED CROSS-EASEMENTS AGREEMENT is executed by LYMAN-RICHEY on this _____ day of September, 2005.

LYMAN-RICHEY CORPORATION

4315 Cuming Street, Omaha, NE 68131

By _____

KEVIN D. SCHMIDT

Executive Vice President & C.O.O.

ATTEST:

Corporate Secretary

THIS REVISED CROSS-EASEMENTS AGREEMENT is executed by the
NRD on this _____ day of September, 2005.

**PAPIO-MISSOURI RIVER NATURAL
RESOURCES DISTRICT**

8901 South 154th Street, Omaha, NE 68138

By _____

STEVEN G. OLTMANS, General Manager

STATE OF NEBRASKA)
) SS.
COUNTY OF _____)

On this _____ day of September, 2005, before me, a Notary Public,
personally came the above-named KEVIN D. SCHMIDT, Executive Vice President
and Chief Operating Officer of LYMAN-RICHEY CORPORATION, to me personally
known to be the identical person whose name is affixed to the above and foregoing
instrument, and he acknowledged the same to be his voluntary act and deed as such
officer and the voluntary act and deed of such corporation.

WITNESS my hand and Notarial Seal the date last aforesaid.

Notary Public

STATE OF NEBRASKA)
) SS.
COUNTY OF _____)

On this _____ day of September, 2005, before me, a Notary Public, personally came the above-named Steven G. Oltmans, General Manager of the PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT, to me personally known to be the identical person whose name is affixed to the above and foregoing instrument, and he acknowledged the same to be his voluntary act and deed as such officer and the voluntary act and deed of such natural resources district.

WITNESS my hand and Notarial Seal the date last aforesaid.

Notary Public

ADDENDUM TO DEVELOPMENT RIGHTS AGREEMENT

This Addendum is made and entered into this _____ day of September, 2005, by and among Dial Realty Development Corp., a Nebraska corporation, 11506 Nicholas Street, Suite 200, Omaha, NE 68154 ("Dial"), Lyman-Richey Corporation, a Delaware corporation ("Lyman-Richey"), and Papio-Missouri River Natural Resources District ("NRD").

WITNESSETH:

WHEREAS, the parties hereto entered into that certain Development Rights Agreement on or about March 1, 2005, a copy of which is attached hereto and incorporated herein by reference as Exhibit "C"

WHEREAS, the parties hereto desire to amend, modify and clarify the provisions of the original Development Rights Agreement in the manner hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in the original Development Rights Agreement and the additional promises and covenants hereinafter set forth, the parties mutually agree to amend the original Developments Rights Agreement in the following respects:

2. Berm on North Boundary of the Property Line Between Lot 1 of Lyman-Richey West and the Zalkin Property. The parties hereto hereby covenant and agree to amplify the terms of paragraph 2 of the original Development Rights Agreement by adding the following language to that paragraph. Dial agrees to assume the obligation of Lyman-Richey for planting trees along the north boundary of the Property line between Lot 1 of Lyman-Richey West and the Zalkin Property provided Lyman-Richey agrees to contribute a sum of money to Dial equal to Lyman-Richey's original budgeted amount for that tree planting in that area.

4. Tie in of Waterline and Sanitary Sewer to be Anticipated Improvements. Dial specifically grants Lyman-Richey a 60' construction easement and a 20' permanent easement for the construction and maintenance of the contemplated waterline, sanitary sewer and natural gas line within the location set for on Exhibit "9" attached hereto and incorporated herein by reference.

8. Scope of Addendum. The parties hereto ratify all of the operative terms and provisions of the original Development Rights Agreement except to the extent that those operative provisions are otherwise amended, modified or clarified as set forth in this Addendum. To the extent that there are any inconsistency between the original Development Rights

Agreement and the provisions of this Addendum, the terms and provisions of this Addendum shall control.

IN WITNESS WHEREOF, this Addendum has been executed the day and year first written above.

LYMAN-RICHEY CORPORATION, a Delaware
corporation,

By: _____

Kevin D. Schmidt
Executive Vice President and C.O.O.

PAPIO-MISSOURI RIVER NATURAL RESOURCES
DISTRICT,

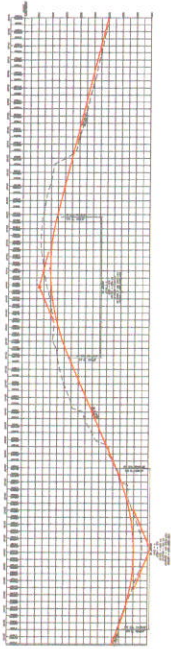
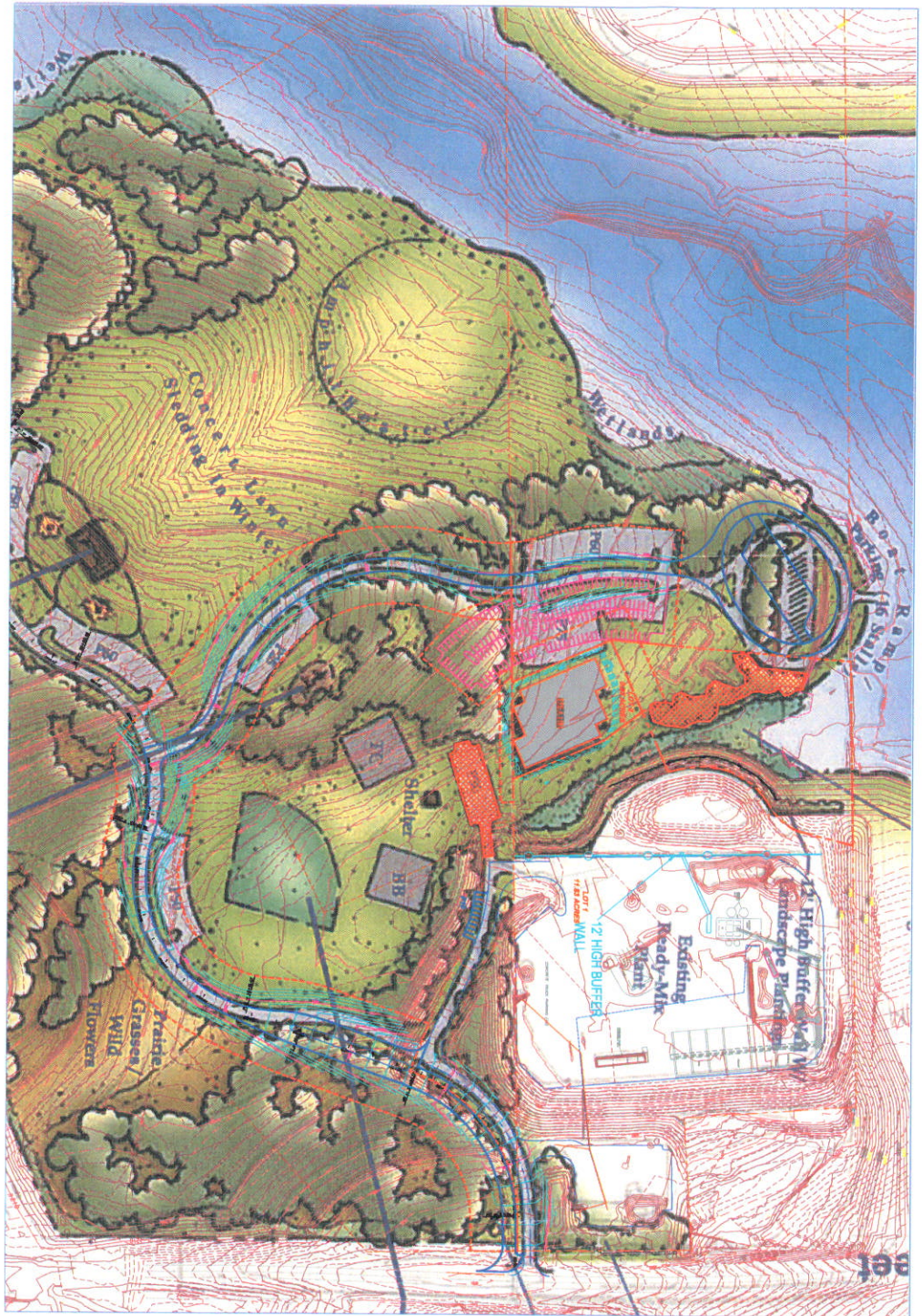
By: _____

Steven G. Oltmans, General Manager

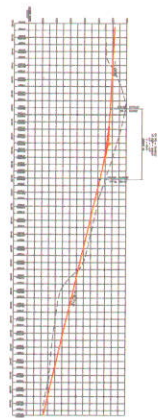
DIAL REALTY DEVELOPMENT CORP., a Nebraska
corporation,

By: _____

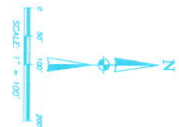
Title: _____



STREET 1 PROFILE



STREET 2 PROFILE



STREET 1 EARTHWORK

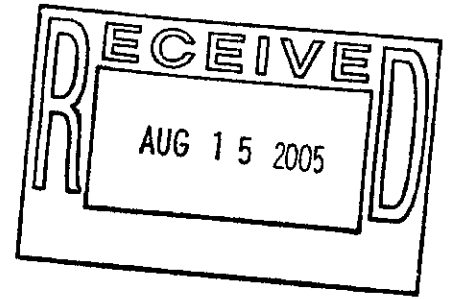
| Station | Existing Elev. | Proposed Elev. | Cut (ft) | Fill (ft) | Volume (cu yd) |
|---------|----------------|----------------|----------|-----------|----------------|
| 0+00 | 100.00 | 100.00 | 0.00 | 0.00 | 0.00 |
| 0+10 | 98.50 | 98.50 | 0.00 | 0.00 | 0.00 |
| 0+20 | 97.00 | 97.00 | 0.00 | 0.00 | 0.00 |
| 0+30 | 95.50 | 95.50 | 0.00 | 0.00 | 0.00 |
| 0+40 | 94.00 | 94.00 | 0.00 | 0.00 | 0.00 |
| 0+50 | 92.50 | 92.50 | 0.00 | 0.00 | 0.00 |
| 0+60 | 91.00 | 91.00 | 0.00 | 0.00 | 0.00 |
| 0+70 | 89.50 | 89.50 | 0.00 | 0.00 | 0.00 |
| 0+80 | 88.00 | 88.00 | 0.00 | 0.00 | 0.00 |
| 0+90 | 86.50 | 86.50 | 0.00 | 0.00 | 0.00 |
| 1+00 | 85.00 | 85.00 | 0.00 | 0.00 | 0.00 |

STREET 2 EARTHWORK

| Station | Existing Elev. | Proposed Elev. | Cut (ft) | Fill (ft) | Volume (cu yd) |
|---------|----------------|----------------|----------|-----------|----------------|
| 0+00 | 100.00 | 100.00 | 0.00 | 0.00 | 0.00 |
| 0+10 | 98.50 | 98.50 | 0.00 | 0.00 | 0.00 |
| 0+20 | 97.00 | 97.00 | 0.00 | 0.00 | 0.00 |
| 0+30 | 95.50 | 95.50 | 0.00 | 0.00 | 0.00 |
| 0+40 | 94.00 | 94.00 | 0.00 | 0.00 | 0.00 |
| 0+50 | 92.50 | 92.50 | 0.00 | 0.00 | 0.00 |
| 0+60 | 91.00 | 91.00 | 0.00 | 0.00 | 0.00 |
| 0+70 | 89.50 | 89.50 | 0.00 | 0.00 | 0.00 |
| 0+80 | 88.00 | 88.00 | 0.00 | 0.00 | 0.00 |
| 0+90 | 86.50 | 86.50 | 0.00 | 0.00 | 0.00 |
| 1+00 | 85.00 | 85.00 | 0.00 | 0.00 | 0.00 |

VILLAGE OF KENNARD

208 Main St. P.O. Box 151
Kennard, NE 68034
402-427-7311 Fax: 402-427-7311
E-Mail: kvfd@huntel.net



July 28, 2005

Mr. Richard Jansen, Chairman
Papio-Missouri River NRD Board of Directors
8901 South 154th Street
Omaha, NE. 68138

Dear Mr. Jansen:

On behalf of the Village, I would like to take this opportunity to inform you and the rest of the Board about an important project being considered by the Village. As you may know, Kennard's existing lagoon system is located just south of Highway 30 along the banks of the Big Papillion Creek and is currently not meeting state compliance standards. In response to this situation, the Village's engineer, JEO Consulting, has completed a study, which demonstrates the feasibility of pumping the wastewater to the City of Blair for treatment. The results of this proposed system have been coordinated with Blair officials. At an estimated cost of \$900,000, this regionalized wastewater system would provide benefits to water quality and overall public health, and eliminate the need for the Village to employ a licensed operator.

Several applications have been made for Federal and State funding through loans or grants with MAPA's assistance. The Village is optimistic about receiving these funds. However, Federal and State sources will only account for approximately \$700,000.00 of the \$900,000 total. Therefore, the Village respectfully requests that the Papio-Missouri River NRD consider providing a grant in the amount of \$200,000. In return for this grant, the Village would be willing to sell the 40 acre property encompassing the existing lagoons to the District for a nominal cost, assuming the \$200,000 would cover the appraised value of the property.

The Village Board hopes that you carefully consider this request in the best interest of the general public throughout the Papio Watershed.

Optimistically,

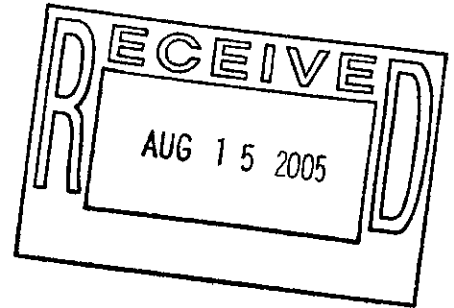
A handwritten signature in cursive script that reads 'George Pearson'.

George Pearson, Chairman
Village of Kennard

CC: Ron Bottorff, JEO Consulting Group
Allen Schoemaker, City of Blair
Marty Norton and Jolene Kasper, USDA Rural Development
Jake Hansen, MAPA
Rick Bay, NDEQ
Steve Oltmans and Paul Woodward, P-MRNRD

VILLAGE OF KENNARD

208 Main St. P.O. Box 151
Kennard, NE 68034
402-427-7311 Fax: 402-427-7311
E-Mail: kvfd@huntel.net



August 2, 2005


Papio-Missouri River Natural Resources District
Attn: Board Chairman
8901 South 154th Street
Omaha, NE 68138-3621

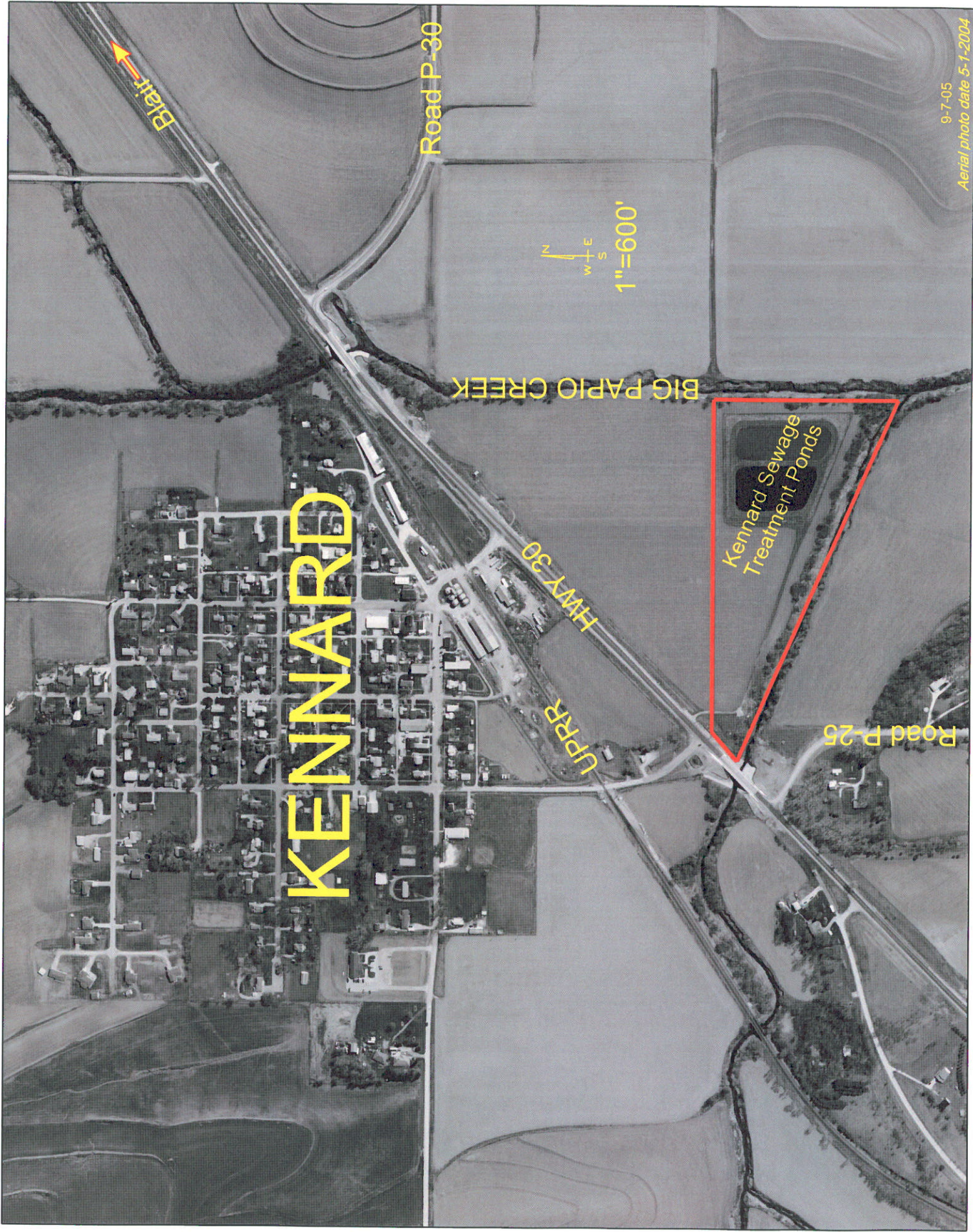
RE: Survey Work

Dear Mr. Chairman:

There has been a request made on the behalf of the PMRNRD to allow their survey crew to perform a survey of the property that the Village of Kennard owns on the east side of Highway 30 outside of Kennard. Please accept this letter as approval for the survey crew to access the Village's property for the purpose of conducting a boundary survey.

Sincerely,


George Pearson
Board Chairman



KENNARD

Blair

Road P-30

BIG PAPIO CREEK



1"=600'

Hwy 30

UPRR

Kennard Sewage Treatment Ponds

Road P-25

Memo to: Programs, Projects, and Operations Subcommittees

Subject: MoPac Trail – Application for Recreational Trails Program Funding

Date: August 30, 2005

From: Gerry Bowen

In August, 2005, the Board authorized allowing equestrian usage of the Mopac Trail between Springfield and the Platte River on a separate trail surface. The Board also required that the equestrian community provide half of the local share of the costs to accomplish this purpose.

The NRD is eligible for 80% funding from the Nebraska Game and Parks Commission (NGPC) for this purpose under the Recreational Trails Program. Upon Board authorization, an application for this purpose will be submitted to NGPC. Current NGPC procedures require the adoption of the attached resolution to accompany the application. The deadline for applications is October 1, 2005.

The cost estimate (attached) has been revised to reflect inclusion of a trailhead parking lot to be established at the Springfield end of the project. Project costs now total \$68,762.52. It is intended that the District and the equestrian community would split the 20% local share estimated at \$13,752.50.

Management recommends that the Subcommittee recommend to the Board that the General Manager be authorized to submit a grant application to the Recreational Trails Program administered by the Nebraska Game and Parks Commission for the Mopac Equestrian Trail and that the attached resolution be adopted.

Resolution

Be it resolved:

The Papio-Missouri River Natural Resources District, Omaha, Nebraska is applying for federal assistance from the Recreational trails Program for the purpose of establishing an equestrian trail adjacent to, but separate from, the existing Mopac Trail located between Springfield and the Platte River in Sarpy County, Nebraska.

The General Manager of the Papio-Missouri River Natural Resources District, Omaha, Nebraska is authorized to sign the application for federal assistance, and any other official project documents that are necessary to obtain such assistance, including any agreements, contracts, or other documents that are required by the State of Nebraska or the Federal Highway Administration.

The Papio-Missouri River Natural Resources District, Omaha, Nebraska, currently has the written commitment for the 20% local matching share for the project elements that are identified on the application form and the Supplemental Documents, and will, as it becomes necessary, allocate the local funds for this project.

The Papio-Missouri River Natural Resources District, Omaha, Nebraska, will commit the necessary financial reserves to operate and maintain the completed project in a safe and attractive manner.

The Papio-Missouri River Natural Resources District, Omaha, Nebraska will not discriminate against any person on the basis of race, color, age, religion, disability, sex, or national origin in the use of any property or facility that is required or developed pursuant to the project proposal, and shall comply with the terms and intent of Title VI of the Civil Rights Act of 1964, and any of the regulations promulgated pursuant to the Act.

The Papio-Missouri River Natural Resources District, Omaha, Nebraska will comply with all rules and regulations of the Recreational Trails Program, applicable Executive Orders and all state laws that govern the grant applicant during the performance of the project.

The Papio-Missouri River Natural Resources District, Omaha, Nebraska will comply with the Federal disability access and uses standards where they can be reasonably applied, in accord with the American with Disabilities Act of 1991.

I certify that this resolution is a true copy of the original document that was adopted by the Papio-Missouri River Natural Resources District, Omaha, Nebraska at a properly advertised and announced public meeting held this 15th day of September, 2005.

Attest:

Chairperson, Papio-Missouri River
Natural Resources District

**MoPac Equestrian Trail
Construction Cost Estimate
August 30, 2005**

| Item No. | Description | Quantity | Unit | Unit Price (\$) | Total Amount (\$) |
|-----------------------------------|-------------------------|-----------------|-------------|------------------------|--------------------------|
| 1 | Clearing and Grubbing | 1 | LS | \$ 6,250.00 | \$ 6,250.00 |
| 2 | Common Excavation | 2,500 | CY | \$ 6.00 | \$ 15,000.00 |
| 3 | Crushed Rock Surfacing | 250 | Tons | \$ 15.00 | \$ 3,750.00 |
| 5 | 42" CMP Culvert | 180 | LF | \$ 55.00 | \$ 9,900.00 |
| 6 | Bridge Deck Replacement | 2 | LS | \$ 2,500.00 | \$ 5,000.00 |
| 7 | Bridge Railing | 120 | LF | \$ 20.00 | \$ 2,400.00 |
| 8 | Property Fence | 7,700 | LF | \$ 1.50 | \$ 11,550.00 |
| 9 | Seeding | 1 | LS | \$ 1,000.00 | \$ 1,000.00 |
| 10 | Signage | 1 | LS | \$ 1,000.00 | \$ 1,000.00 |
| Construction Cost Subtotal | | | | | \$ 55,850.00 |
| | Mobilization | | LS | 8% Subtotal | \$ 4,468.00 |
| Construction Costs Total | | | | | \$ 60,318.00 |

| | | | | | |
|--------------------------------|--------------------------------------|-----|--|--|---------------------|
| Engineering Costs | | | | | |
| | Construction Engineering/Contingency | 14% | | | \$ 8,444.52 |
| Engineering Costs Total | | | | | \$ 8,444.52 |
| Total Project Costs | | | | | \$ 68,762.52 |

| | | | | | |
|------------------------|------------------------|-----|--|--|---------------------|
| Funding Sources | | | | | |
| | Applicant's Cash Match | 20% | | | \$ 13,752.50 |
| | Federal Funding | 80% | | | \$ 55,010.02 |
| Total Revenues | | | | | \$ 68,762.52 |

MEMORANDUM

TO: Programs, Projects and Operations Subcommittee

FROM: Martin P. Cleveland

SUBJECT: Western Sarpy Clear Creek Project Cabin Demolition Bids
Tracts 5L (Former Grothe Property) and 6L (Former Vosler
Property)

DATE: August 31, 2005

The Papio-Missouri River Natural Resources District received and opened Bids for the Western Sarpy Clear Creek Project Cabin Demolition, (Tracts #5L and 6L), on August 26, 2005 at 2:00 p.m.

There were three contactors who submitted bids. Attached is a bid summary and a location map. The bids were reviewed by the NRD Staff. The project consists of removing all structures (cabins, outbuildings, etc.), abandoning wells and septic tanks on Tracts #5L and 6L, owned by the District. These properties were purchased in winter 2005. This project allowed for structure salvage and possible payment to the District. The apparent lowest and best bid of \$14,700 was submitted by Brown Excavating/Warren Corporation.

It is Management's recommendation that the Subcommittee recommend to the Board that the General Manager be authorized to execute a contract with Brown Excavating/Warren Corporation for \$14,700 for the Western Sarpy Clear Creek Project Cabin Demolition (Tracts 5L and 6L).

Enclosure – bid summary, location map and cabin photos

WSCC PROJECT CABIN DEMOLITION SERVICES
BID SUMMARY
AUGUST 26, 2005 – 2:00 p.m.

| Item | Cabin Description | HEIMES CORPORATION | | | ANDERSON EXCAVATING | | | BROWN EXCAVATING/WARRINGTON CORPORATION | | |
|----------------------|-------------------|--------------------|---------|----------|---------------------|---------|----------|---|---------|-----------|
| | | Demo | Salvage | NET | Demo | Salvage | NET | Demo | Salvage | NET |
| A | Tract 5L (Grothe) | \$5,828 | \$0 | \$5,828 | \$5,180 | \$0 | \$5,180 | \$3,995** | \$0 | \$3,955 |
| B | Tract 6L (Vosler) | \$11,439 | \$0 | \$11,439 | \$11,540 | \$0 | \$11,540 | \$10,745 | \$0 | \$10,745 |
| Total | X | | | \$17,267 | | | \$16,720 | | | \$14,700* |
| Bid Bond (Yes or No) | X | | | YES | | | YES | | | YES |

*Apparent low bid/Management recommendation

**Bid entry error by Contractor – net total (A + B) governs

PROJECT LOCATION MAP



Tract 5L (Former Grotthe Cabin)



Tract 6L [Former Vosler Cabin]



MEMORANDUM

TO: Programs, Projects and Operations Subcommittee

FROM: Martin P. Cleveland

SUBJECT: Elk Creek Channel Grade Stabilization Structure

DATE: August 31, 2005

The Papio-Missouri River Natural Resources District received and opened bids for the Elk Creek Channel Grade Stabilization Structure #2 Project on August 26, 2005 at 10:00 a.m.

There were two contractors who submitted bids. Attached is a bid summary, a location map and photo of a previously completed structure #1. The bids were reviewed by the NRD Staff and the District's consultant, Troy Grothe, Sundquist Engineering (see attached email). The project consists of installing a 5 foot tall steel sheet pile weir across the creek and installing 3,900 tons of rock riprap to stabilize the nearby creek bank sloughs/erosion. This weir is a "twin" to a weir installed in 2003, about one mile downstream. These two weirs should reduce channel bottom degradation, which negatively impacts adjacent levees, in a two mile reach between Hwy 20 and 137th Street. The apparent lowest and best bid of \$165,085.25 was submitted by L.A. Carlson Contracting, Inc.

It is Management's recommendation that the Subcommittee recommend to the Board of Directors that the General Manager be authorized to execute a contract with L. A. Carlson Contracting Inc. for \$165,085.25 for the Elk Creek Channel Grade Stabilization Structure #2 Project.

Enclosure – Bid Summary, location map, Sundquist Engineering email and photo of Structure #1

ELK CREEK GRADE STABILIZATION STRUCTURE #2

BID SUMMARY

AUGUST 26, 2005 – 10:00 a.m.

BIDDER'S NAME

| ITEM NO. | ITEM | UNIT | APPROVAL QUANTITY | ENGINEER'S ESTIMATE | | LA CARLSON CONTRACTING INC. | | NELSON ROCK CONTRACTING INC. | |
|----------|------------------------------------|------|-------------------|---------------------|--------------|-----------------------------|---------------|------------------------------|--------------|
| | | | | UNIT PRICE | TOTAL COST | UNIT PRICE | TOTAL COST | UNIT PRICE | TOTAL COST |
| 1 | EXCAVATION – CHANNEL | CY | 2577 | \$ 3.00 | \$ 7,731.00 | \$2.00 | \$5,154.00 | \$5.00 | \$12,885.00 |
| 2 | EMBANKMENT | CY | 1425 | 7.00 | 9,975.00 | 2.00 | 2,850.00 | 4.00 | 5,700.00 |
| 3 | SURFACING, DRIVEWAY | TON | 500 | 9.00 | 4,500.00 | 14.95 | 7,475.00 | 25.00 | 12,500.00 |
| 4 | PILES, STEEL HP 10x42 | LF | 128 | 30.00 | 3,840.00 | 24.00 | 3,072.00 | 35.00 | 4,480.00 |
| 5 | PILES, STEEL SHEET | SF | 2400 | 20.00 | 48,000.00 | 13.75 | 33,000.00 | 20.00 | 48,000.00 |
| 6 | ENGINEERING FABRIC | SY | 1933 | 2.50 | 4,832.50 | 1.75 | 3,382.75 | 3.00 | 5,799.00 |
| 7 | GROUT EMBEDMENT OF RIPRAP | CY | 138 | 200.00 | 27,600.00 | 175.00 | 24,150.00 | 250.00 | 34,500.00 |
| 8 | ROCK RIPRAP (TYPE C) | TON | 1859 | 25.00 | 46,475.00 | 22.90 | 42,571.10 | 30.00 | 55,770.00 |
| 9 | BANK STABILIZATION RIPRAP (TYPE C) | TON | 1565 | 20.00 | 31,300.00 | 22.90 | 35,838.50 | 29.00 | 45,385.00 |
| 10 | MOBILIZATION | LS | 1 | 5,066.50 | 5,066.50 | 2,000.00 | 2,000.00 | 20,000.00 | 20,000.00 |
| 11 | REMOVAL OF WATER | LS | 1 | 10,000.00 | 10,000.00 | 2,000.00 | 2,000.00 | 20,000.00 | 20,000.00 |
| 12 | SEEDING AND FERTILIZING | ACRE | 1.1 | 2,000.00 | 2,200.00 | 600.00 | 660.00 | 2,000.00 | 2,200.00 |
| 13 | SLOPE PROTECTION MAT | SQ | 174.0 | 20.00 | 3,480.00 | 16.85 | 2,931.90 | 25.00 | 4,350.00 |
| | TOTAL | | | | | | \$165,085.25* | | 271,569.00 |
| | BID BOND (YES OR NO) | | | | \$205,000.00 | | Yes | | Yes |
| | Riprap Source | | | | | | L.G. Everist | | L.G. Everist |

CY: Cubic Yards LF: Linear Feet SF: Square Feet LS: Lump Sum SQ = Square = 100 square feet

* Apparent Low Bid and Management Recommendation

Cleveland, Martin

From: Troy Groth [tgroth.sepc@frontiernet.net]
Sent: Wednesday, August 31, 2005 6:35 PM
To: Cleveland, Martin
Subject: Elk Creek Weir #2

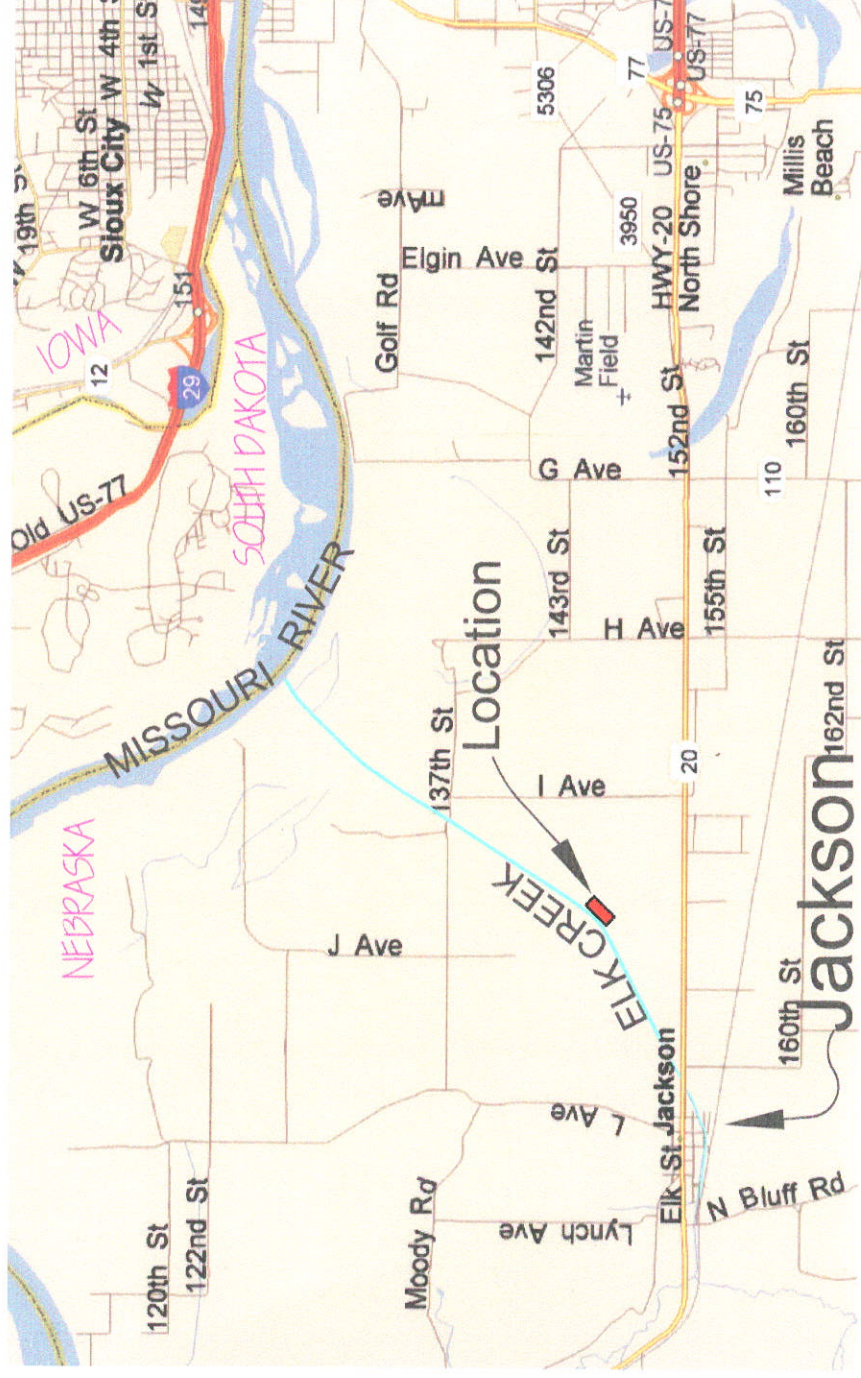
Martin,

I have reviewed the bid tab you forwarded for the subject project. We worked with the low bidder, L.A. Carlson Contracting, in 1994 on a bank stabilization project in the City of Denison. They performed satisfactorily on this past project. Based on this experience and the fact that we are unaware of any unfavorable comments on other projects they have constructed, I would recommend the NRD award contract to L.A. Carlson.

Troy J. Groth, P.E.
SUNDQUIST ENGINEERING, P.C.
120 South Main
P.O. Box 220
Denison, Iowa 51442

Phone: (712)263-8118
Fax: (712)263-2181
email: tgroth.sepc@frontiernet.net

ELK CREEK GRADE STABILIZATION STRUCTURE # 2 LOCATION MAP



Elk Creek Grade Stabilization Structure #1, Completed in 2003

