



A84981

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08R-188

Introduce: 8-11-08

RESOLUTION NO. A- 84981

1 WHEREAS, Nebraska State Historical Society Foundation has offered to convey to the City
2 of Lincoln a permanent preservation easement to conserve and protect the landmark designation of
3 the Lewis-Syford House on property generally located at 700 N. 16th Street and legally described as
4 the West Half of Lots J and K, Tuttle et al's Subdivision of Lot 1, Little's Subdivision, Lincoln, Lancaster
5 County, Nebraska; and

6 WHEREAS, acquisition of this preservation easement by the City would further the goals
7 of the Comprehensive Plan relating to conserving and protecting landmark designations by restricting
8 the development of the property.

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

10 That, on behalf of the City of Lincoln, Nebraska, the offer of a preservation easement by the
11 Nebraska State Historical Society Foundation over the property legally described above and in
12 accordance with the terms of the Historic Preservation Right, attached hereto and marked as
13 Attachment "A", is hereby accepted and approved.

14 BE IT FURTHER RESOLVED that the Mayor is authorized to execute the Historic
15 Preservation Right on behalf of the City of Lincoln, Nebraska.

Introduced by:

AYES: Camp, Cook, Emery,
Marvin, Spatz, Svoboda; NAYS:
None; ABSENT: Eschliman.

Approved as to Form and Legality:

City Attorney

Approved this 20th day of Aug., 2008:

Mayor

ADOPTED
AUG 18 2008
BY CITY COUNCIL

HISTORIC PRESERVATION RIGHT

THIS DEED OF HISTORIC PRESERVATION RIGHT ("Easement") is made this ____ day of _____, 2008, by and between the Nebraska State Historical Society Foundation ("Grantor") and the City of Lincoln, ("Grantee").

WITNESSETH:

WHEREAS the subject real estate is commonly known as the Lewis-Syford House at 700 North 16th Street, more particularly described below; and

WHEREAS, the real property is improved with a residence, garage and shed, hereinafter referred to as "Premises;" and

WHEREAS, the Premises has been included in the National Register of Historic Places, a designation maintained by the U.S. Department of the Interior; and

WHEREAS, the Premises has been designated a local landmark under ordinance of the City of Lincoln, Nebraska; and

WHEREAS, the Premises is significant in Nebraska architecture, history and culture; and

WHEREAS, the Grantor is the owner in fee simple of real property and has the legal ability to grant this easement; and

WHEREAS, the grant of this historic preservation easement by Grantor to Grantee on the real property referred to herein will assist in preserving and maintaining the Premises and its architectural, historical and cultural features; and

WHEREAS, the Grantee has the legal ability to accept this easement by nature of its Home Rule Charter; and

WHEREAS, the Nebraska State Legislature has duly enacted the "Conservation and Preservation Easements Act," Nebraska Revised Statute 76-2,111 through 76-2,117, enabling a governmental body to hold preservation easements; and

WHEREAS, to these ends, Grantor desires to grant to Grantee, and Grantee desires to accept this easement.

NOW, THEREFORE, in consideration of One Dollar (\$1.00) and other good and valuable consideration, receipt of which by Grantor is hereby acknowledged, Grantor does hereby grant and convey unto Grantee irrevocably an easement in gross and right in perpetuity, binding on all future owners in any subsequent deed or other legal instrument by which Grantor's fee simple title to the Premises or any other possessory interest in the Premises, or any part thereof, may be divested or conveyed. The real property is described as follows:



Tuttle et.al. Subdivision, L1 Little's Subdivision, 24-10-6, Lot J-K, W1/2

which real property and appurtenances constitutes the Premises. In furtherance of this grant and conveyance, Grantor and Grantee further covenant and agree as follows:

1. The exterior features of the Premises are documented at the time registered in the National Register of Historic Places. Such registration, dated July 3, 2007 is attached as Exhibit "A." Documentation of the Premises are those depicted in the photographs incorporated therein. Without the express written permission of the Grantee, its successors or assigns, signed by a duly authorized representative thereof, no construction, alteration, improvement, demolition or remodeling shall be undertaken or permitted to be undertaken on the Premises which would affect either the setting, exterior surfaces herein described, or increase the height, or alter the exterior facade (including, without limitation, exterior walls, roofs and chimneys) or the appearance of the buildings located thereon, insofar as they are depicted in the photographs attached hereto and incorporated herein as Exhibit "A," or which would adversely affect the structural soundness of the Premises; provided, however, that the reconstruction, repair, repainting or refinishing of presently existing parts or elements of the lot and buildings subject to this historic preservation easement, damage to which has resulted from casualty loss, deterioration or wear and tear, shall be permitted, so long as such reconstruction, repair, repainting or refinishing is performed in a manner which would not alter the appearance of those elements of the lot or buildings subject to this historic preservation easement as they are as of this date. Grantors may restore to its original condition and appearance the exterior trim and woodwork, to the extent that the original condition and appearance can be determined. In all events, the Grantors agree to obtain the prior written consent of Grantee, its successors or assigns, signed by a duly authorized representative thereof.

2. Without the express written permission of the Grantee, its successors or assigns, signed by a duly authorized representative thereof, no construction, alteration, improvement, demolition or remodeling shall be undertaken or permitted to be undertaken which would affect its interior features documented at the time registered in the National Register of Historic Places. The reconstruction, repair, repainting or refinishing of presently existing parts or elements of the interior subject to this historic preservation easement, damage to which has resulted from casualty loss, deterioration or wear and tear, shall be permitted, so long as such reconstruction, repair, repainting or refinishing is performed in a manner which would not alter the appearance of those elements of the house subject to this historic preservation easement as they are as of this date. Grantors may restore to its original condition and appearance the interior trim and woodwork, to the extent that the original condition and appearance can be determined. In all events, the Grantors agree to obtain the prior written consent of Grantee, its successors or assigns, signed by a duly authorized representative thereof.

3. Proposed restoration, alterations, construction, improvement, and landscaping will be reviewed by the Grantee's Historic Preservation Commission, as established by Chapter 27.57 of the Lincoln Municipal Code, as amended, for compliance with the "Secretary of the Interior's Standards for Rehabilitation" and "Guidelines for Rehabilitating Historic Buildings." In the event of a conflict, however, this easement shall govern.



4. Grantor agrees, at its own cost and expense, to undertake all normal maintenance and repairs and will at all times maintain the Premises in a good and sound state of repair and structural integrity.
5. The Premises shall be used only according to appropriate zoning and special permit process(es) of City of Lincoln ordinance(s) and consistent with this Easement.
6. The Premises shall not be subdivided, nor shall it ever be devised or conveyed except as a unit.
7. No erection of new structures shall be permitted, except that in the event of damage resulting from casualty loss to an extent rendering repair or reconstruction of the existing improvements impracticable, erection of a new structure of comparable size, scale, materials, and setting shall be permitted.
8. No utility transmission lines, except those required for the existing residence, garage and shed, may be created on the Premises.
9. No dumping of ashes, sawdust, bark, trash, rubbish or any other unsightly or offensive materials which are visible from public roads or streets shall be permitted on the Premises.
10. No topographical changes, including but not limited to excavation, land leveling, and the cutting of trees greater than eight inches in diameter (except when dead or dangerously decayed), shall occur upon the property without written permission of the Grantee.
11. Nothing may be erected on the Premises which would obscure the view from street level of any part of the facades shown in Exhibit A, except for temporary structures, such as scaffolds needed to assist workmen, and except for vegetation of the quantity (with allowance for managed growth) and type now on the Premises.
12. Grantor hereby agrees that representatives and agents of Grantee shall be permitted at all reasonable times to inspect the Premises. Inspections will normally take place from the street; however, Grantor agrees that representatives of Grantee shall be permitted to enter and inspect the exterior and interior upon reasonable advance notice to Grantor. Inspection of the interior will not, in the absence of evidence of noncompliance with any covenant or restriction herein, take place more often than annually. Inspection will be made at times mutually agreed upon by Grantor and Grantee, but Grantor covenants not to withhold unreasonably its consent in determining a date and time for inspection of the interior.
13. In the event of a violation of any covenant or restriction herein, in addition to any remedies now or hereafter provided by law:
 - (a) Grantee may, following reasonable notice to Grantor, institute a suit to enjoin by temporary restraining order, preliminary injunction, and permanent injunction, such violation and to require the restoration of the Premises to its condition prior to the actions which gave rise to the suit; or
 - (b) Representatives of Grantee may enter upon the Premises, correct any such



violation, hold Grantor responsible for the cost thereof, and such cost until repaid shall constitute a lien on the Premises.

Grantee shall also have available all legal and equitable remedies to enforce Grantor's obligations hereunder, and in the event Grantor is found to have violated any of its obligations, Grantor shall reimburse Grantee for any costs or expenses incurred in connection therewith, including court costs and architect's fees. The exercise by Grantee of one remedy and the failure to exercise any remedy shall not have the effect of waiving or limiting the use of any other remedy or the use of such remedy at any other time.

14. Grantor agrees that restrictions contained in this instrument will be inserted, verbatim or by express reference, in any subsequent deed or other legal instrument by which Grantor's fee simple title to the Premises or any other possessory interest in the Premises, or any part thereof, is divested or conveyed.

15. Grantee shall do and perform at its own cost all acts necessary to the prompt recording of this instrument among the land records of the County of Lancaster, State of Nebraska, in the Office of the Register of Deeds.

16. This instrument is executed in five counterparts, each page of which (excluding exhibits) has been initialed by Grantor and Grantee for purposes of identification. In the event of any disparity between the counterparts produced, the recorded counterpart shall in all cases govern. Except as provided above, each counterpart shall constitute the agreement of the parties. Immediately after execution thereof, one counterpart shall be held by each of Grantor, Grantee, the preparer of this instrument, the Nebraska State Historical Society and one counterpart shall be recorded as provided above.

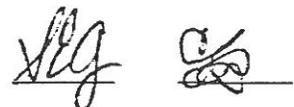
17. Any rule of strict construction designed to limit the breadth of restrictions on alienation or use of property shall not apply in the construction or interpretation of this instrument and this instrument shall be interpreted broadly to effect the transfer of rights and the restrictions on use herein contained.

18. This instrument shall extend to and be binding upon Grantor and all persons hereafter claiming under or through Grantor, and the word "Grantor" when used herein shall include all such persons, whether or not such persons have signed this instrument or then have an interest in the Premises. Anything contained herein to the contrary notwithstanding, a person shall have no obligation pursuant to this instrument where such person shall cease to have any interest (present, partial, contingent, collateral or future) in the Premises by reason of a bona fide transfer for full value. Any right, title or interest herein granted to Grantee shall be deemed granted to each successor and assign of Grantee and such following successor and assign thereof.

19. Transfer of development rights shall not be exercisable on, above, or below the Premises during the term of this instrument.

20. The following provisions shall govern the effectiveness, interpretation and duration of this instrument.

(a) This instrument is effective only after recording among the land records of the



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**DEED OF ARCHITECTURAL FACADE
AND
INTERIOR PRESERVATION EASEMENTS**

THIS DEED of Architectural Facade and Interior Preservation Easements, made by Sartore Family Revocable Trust, located at 2733 Sheridan Blvd., Lincoln, NE , 68502, hereinafter referred to as “Grantor” to the CITY OF LINCOLN, a municipal corporation in the State of Nebraska, hereinafter referred to as “Grantee.”

WITNESSETH:

WHEREAS, Grantor is owner in fee simple of certain real property, more particularly described as follows:

The west 175 feet of Lots J-K of the subdivision of Lot 1 of S. W. Littles Sub of the SW quarter of 24-1-6 (Tuttle), Lincoln, Lancaster County, Nebraska

which real property is improved with three structures, one located at and commonly known a 700 North 16th Street, hereinafter referred to as “Lewis-Syford House,” and two outbuildings located in the rear (east) yard of Lewis-Syford House, hereinafter referred to as “Shed” and “Carriage House”;

WHEREAS, the Lewis-Syford House was designated by Grantee as an Historic Landmark on May 7, 2008 by Ordinance No. 19079, and whereas the Lewis-Syford House was listed on the National Register of Historic Places in 1971, as amended in 2007; and

WHEREAS, the Lewis-Syford House is significant in Lincoln’s history and culture and constitutes an important element in the architectural cityscape of the City of Lincoln as a rare example of the French Second Empire style and a rare remnant of early private residences in an area now within the University of Nebraska-Lincoln campus, and should be preserved if possible; and

WHEREAS, the Grantee possesses a “Historic Preservation Right” granted in 2008 for the protection of all interior and exterior aspects of the Lewis-Syford House; and

WHEREAS, the Grantee possesses other preservation easements for historic real property in Lincoln such as the Harris House, Phi Delta Theta Fraternity, and the Former U. S. Post Office & Courthouse (Old Federal Building) & Comfort Station; and

WHEREAS, the Grantor wishes to exchange the Historic Preservation Right granted in 2008 for a historic preservation easement modeled on easements possessed by the Grantee for other Lincoln Landmarks, proposing that the existing Historic Preservation Right may be unduly cumbersome for the continued upkeep and use of Lewis-Syford House and therefore may threaten its preservation; and

WHEREAS, the Grantor is the owner in fee simple of real property and has the legal ability to grant this easement; and

WHEREAS, the Grantee is the holder of a "Historic Preservation Right" granted in 2008 and has the legal ability to exchange that easement for the preservation easement offered by the Grantor, and accept the easement offered by the Grantor by nature of its Home Rule Charter; and

WHEREAS, the State of Nebraska has duly enacted the "Conservation and Preservation Easements Act," Nebraska Revised Statute 76-2,111 through 76-2,117, enabling a governmental body to hold preservation easements; and

WHEREAS, to these ends, the Grantor desires to exchange the 2008 "Historic Preservation Right" and grant this easement, and the Grantee desires to relinquish the 2008 "Historic Preservation Right" and accept this easement.

NOW THEREFORE, in consideration of relinquishing the 2008 "Historic Preservation Right," receipt of which by the Grantor is hereby acknowledged, Grantor does hereby grant and convey unto Grantee irrevocably a historic preservation easement in and to that certain real property known as the Lewis-Syford House and its site, located on property commonly known as 700 North 16th Street, in Lincoln, Nebraska, and legally described as
the west 175 feet of Lots J-K of the subdivision of Lot 1 of S. W. Littles Sub of the southwest quarter of 24-1-6 (Tuttle), Lincoln, Lancaster County, Nebraska

The exterior and the interior features of the Premises referred to below are documented by the photographs taken in 2013 and attached as Exhibit "A."

The terms, conditions, and covenants of the historic preservation easement hereby created, hereinafter sometimes referred to as the "easement," are as follows:

1. Exterior: Grantor shall undertake no alteration, construction, improvement, demolition in whole or in part to any exterior elevation of the Lewis-Syford House, the shed, or the Carriage house without first obtaining the prior written approval of Grantee or its successors in interest or assigns.
2. Interior: Grantor shall undertake no alteration other than maintenance or cosmetic work (e.g., painting, wallpapering, carpeting, refinishing, etc) of the principal staircase, the central hall, and the northwest and the southeast rooms of the main floor of the Lewis-Syford House without first obtaining the prior written approval of Grantee or its successors in interest or assigns.
3. Setting: Grantor shall undertake no alteration of the west and the south yards of the property, other than ordinary maintenance, including trimming or removal of dead or diseased vegetation or plant materials that threaten the buildings, without first obtaining the prior written approval of Grantee or its successors in interest or assigns.

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4. Proposed restoration, alterations, construction, improvement, or demolition will be reviewed by the Grantee's Historic Preservation Commission, hereinafter sometimes referred to as the "Commission," as established by Chapter 27.57 of the Lincoln Municipal Code, as amended, for compliance with the preservation guidelines established by Ordinance No. 19079 designating the property a Landmark on May 7, 2008, which guidelines are based on the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings. Review of proposals will be conducted by the Commission in accordance with the procedures defined in Chapter 27.57 of the Lincoln Municipal Code, as amended, except that the "certificate of allowance" procedure shall not apply.
5. If the Grantee, through the Historic Preservation Commission, agrees to an alteration, improvement, or demolition that permanently changes a significant feature of one of the buildings or the site, the Grantor shall proposed and upon approval of the Grantee, document the feature before and after the alteration and submit the recordation to the Grantor and to the Nebraska State Historic Preservation Officer.
6. Grantor agrees, at its own cost and expense, to undertake all normal maintenance and repairs to the exterior elevations and to maintain the interior of the buildings, including the foundation, basement, and mechanical systems in such a manner as to assure the good condition and structural integrity of the exterior elevations.
7. Grantor hereby agrees that representatives and agents of the Grantee shall be permitted at all reasonable times to inspect the Lewis-Syford House and property at 700 North 16th Street. Inspections will ordinarily take place from the public right-of-way; however, Grantor agrees that representatives of the Grantee shall be permitted to enter and inspect the interior of the buildings to ensure maintenance of structural soundness. Inspection of interior spaces will not, in the absence of significant deterioration, take place more often than annually. Inspection of the interiors will be made at times mutually agreed upon by Grantor and Grantee, Grantor covenanting not to withhold unreasonably its consent in determining a date and time for inspection of the interiors.
8. In the event of a violation of any covenant or restriction herein, in addition to any remedies now or hereafter provided by law, Grantee may, following reasonable notice to Grantor, institute a suit to enjoin by temporary restraining order, preliminary injunction, and permanent injunction, such violation and to require the restoration of the Lewis-Syford House to its condition prior to the actions which gave rise to the suit. Grantee shall also have available all legal and equitable remedies to enforce Grantor's obligations hereunder. The exercise by Grantee of one remedy and the failure to exercise any remedy shall not have the effect of waiving or limiting use of any other remedy or the use of such remedy at any other time.
9. Grantor agrees that restrictions contained in this instrument will be inserted, verbatim or by express reference, in any subsequent deed or other legal instrument by which Grantor's fee simple title to the premises or any other possessory interest in the premises, or any

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part thereof, is divested or conveyed.

10. Grantee shall do and perform at its own cost all casts necessary to the prompt recording of this instrument.
11. This instrument shall be interpreted broadly the effect the transfer or rights and the restrictions on use herein contained.
12. This instrument shall extend to and be binding upon Grantor and all persons hereafter claiming under or through Grantor, and the "Grantor," when used herein, shall include all such persons, whether or not such persons have signed this instrument or then having an interest in the premises. Anything contained herein to the contrary notwithstanding, a person shall have no obligation pursuant to this instrument where such person shall cease to have any interest (present, partial, contingent, collateral, or future) in the premises by reason of a bona fide transfer of full value. Any right, title, interest herein granted to Grantee shall be deemed granted to each successor and assign of Grantee and such following successor and assign thereof.
13. For the purposes of furthering the preservation of the Lewis-Syford House and its site and furthering the other purposes of this instrument, and to meet changing conditions, Grantor and Grantee are free to amend the terms of this instrument by mutual consent in writing without notice to any other party, and such amendment shall become effective upon recording.
14. Grantor, at its own cost and expense, shall keep the premises insured against casualty loss or damage and liability for injury or damage to persons or property according to terms as may be reasonably required by Grantee. Grantee shall be named as an additional insured party under the liability policy with coverage per person per occurrence of not less than Five Hundred Thousand and No/100 Dollars (\$500,000.00).

This instrument, and the covenants and agreements herein contained, shall inure to the benefit and be binding and obligatory upon the successors and assigns of the respective parties. This agreement shall supercede and release the provisions of the prior recorded instrument on the same subject filed as instrument number 08-xxxxx in all respects except that as to operation and effectiveness the Parties agree that the same shall continue without interruption as of the xxth day of xxx, 2008 as if there was a single instrument executed as of that date.

IN WITNESS WHEREOF, Grantor has executed this instrument this ___ day of _____, 2013.