



A91473

19R-20

Introduce: 1-28-19

RESOLUTION A- 91473

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

2 WHEREAS, Amendment No. 1 to the Highway 77 & Warlick Boulevard Conditional  
3 Annexation and Zoning Agreement was approved on September 24, 2012 as City Council  
4 Resolution No. A-87015 and the Highway 77 & Warlick Boulevard Conditional Annexation and  
5 Zoning Agreement was approved on June 12, 2006 as City Council Ordinance No. 18736 to  
6 develop property located at South 1<sup>st</sup> Street and West Denton Road.

7 WHEREAS, Amendment No. 2, attached hereto as Attachment "A", to the Highway 77 &  
8 Warlick Boulevard Conditional Annexation and Zoning Agreement between the City of Lincoln,  
9 LAGKK-GP, Inc., Dial-Hwy 77, LLC, Waverly Development Co., LLC, Southport Ventures  
10 Company, LLC, Spangles, LLC, Southwest Folsom Development, LLC, CDW Properties, LLC,  
11 LeGrande Excavating, Inc., and Nebraska Horsemen's Benevolent & Protective Association, Inc.  
12 ("Parcel Owners") to develop property located at South 1<sup>st</sup> Street and West Denton Road, is hereby  
13 approved and the Mayor is authorized to execute Amendment No. 2 on behalf of the City.

14 BE IT FURTHER RESOLVED that the City Clerk is directed to return one fully-executed  
15 copy of this Agreement to Tim Sieh, Assistant City Attorney, for distribution to the Parcel Owners.

16 BE IT FURTHER RESOLVED that the City Clerk is directed to record Amendment No.  
17 2 to the Highway 77 & Warlick Boulevard Conditional Annexation and Zoning Agreement with  
18 the Register of Deeds for Lancaster County, Nebraska to be indexed against the properties listed  
19 in Exhibit "A" to Amendment No. 2, filing fees to be paid by the Parcel Owners.

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

AMENDED 02/11/19

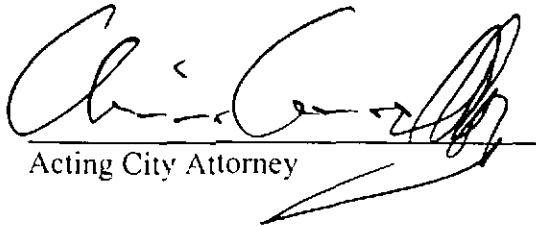
See further Council Proceedings on next page.


Introduced by:



AYES: Camp, Christensen, Eskridge, Gaylor  
Baird, Lamm, Raybould, Shobe; NAYS: None.

Approved as to Form & Legality:

  
Acting City Attorney

Approved this 14<sup>th</sup> day of Febr., 2019:  
  
Mayor

**ADOPTED**  
FEB 11 2019  
BY CITY COUNCIL

**19R-20**

02/11/19 Council Proceedings:

CAMP Moved Motion to Amend #1 on Bill No. 19R-20 to adopt a substitute Agreement attached hereto.

Seconded by Gaylor Baird and carried by the following vote: AYES: Camp, Christensen, Eskridge, Gaylor Baird, Lamm, Raybould, Shobe; NAYS: None.

CHRISTENSEN Moved approval.

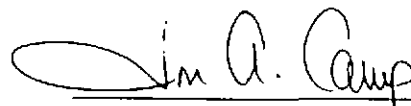
Seconded by Raybould and carried by the following vote: AYES: Camp, Christensen, Eskridge, Gaylor Baird, Lamm, Raybould, Shobe; NAYS: None.

19R-20

MOTION TO AMEND NO. 1

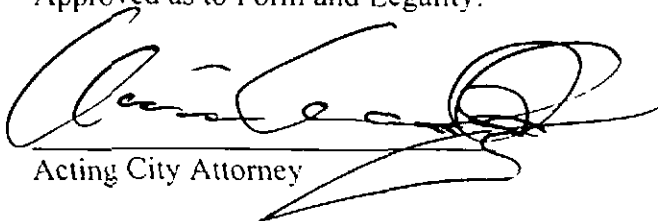
I hereby move to amend Bill No. 19R-20 to adopt a substitute Agreement attached hereto.

Introduced by:



AYES: Camp, Christensen, Eskridge, Gaylor  
Baird, Lamm, Raybould, Shobe; NAYS: None.

Approved as to Form and Legality:

  
Acting City Attorney

Requested by: Law Department

Reason for Request: Remove property owners no longer affected by the terms of the Conditional Annexation and Zoning Agreement from the Amendment.

**ADOPTED**

FEB 11 2019

**BY CITY COUNCIL**

**AMENDMENT NO. 2  
TO THE HIGHWAY 77 & WARLICK BOULEVARD  
CONDITIONAL ANNEXATION AND ZONING AGREEMENT**

This Amendment No. 2 to the Highway 77 & Warlick Boulevard Conditional Annexation and Zoning Agreement ("Amendment") is made and entered into this 14<sup>th</sup> day of February, 2019 by and between the **City of Lincoln, Nebraska**, a municipal corporation ("City"), and **LAGKK-GP, Inc.**, a Nebraska corporation ("LAGKK"), **Dial-Hwy 77, L.L.C.**, a Nebraska limited liability company ("Dial"), **Waverly Development Co., LLC**, a Nebraska limited liability company ("Waverly Development"), **Southport Ventures Company, L.L.C.**, a Nebraska limited liability company ("Southport"), **CDW Properties, LLC**, a Nebraska limited liability company ("CDW"), **LeGrande Excavating, Inc.**, a Nebraska corporation ("LeGrande"), and **Nebraska Horsemen's Benevolent & Protective Association, Inc.**, a Nebraska non-profit corporation ("Association"). The parties may hereinafter jointly be referred to as the "Parties" or individually as a "Party". LAGKK, Dial, Waverly Development, Southport, CDW, LeGrande and Association may hereinafter jointly be referred to as "Developer".

**RECITALS**

A. The Parties in Interest are the current owners of the Property identified in the Highway 77 & Warlick Boulevard Conditional Annexation and Zoning Agreement dated June 15, 2006, which was amended by Amendment No. 1 to the Highway 77 & Warlick Boulevard Conditional Annexation and Zoning Agreement dated September 26, 2012 (collectively the "Annexation Agreement").

B. Horsemen have requested the City approve the accompanying Amendment to the Southwest Village PUD Site Plan ("Site Plan").

C. The Parties in Interest and the City desire to amend the Annexation Agreement to clarify the requirements for construction of infrastructure improvements required to serve the Property.

D. Capitalized terms not defined herein shall have the meaning defined in the Annexation Agreement.

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

1. The City agrees to approve the amendment to the Site Plan.
2. Attachment "A-1" attached to the Annexation Agreement is hereby replaced with Attachment "A-2", which is attached hereto and incorporated herein by this reference.
3. Page 1 of Attachment "E-1" attached to the Annexation Agreement is hereby replaced with Attachment "E-2", which is attached hereto and incorporated herein by this reference.
4. Attachment "I-1" attached to the Annexation Agreement is hereby replaced with Attachment "I-2", which is attached hereto and incorporated herein by this reference.
5. Paragraph 4.A.IV. of the Annexation Agreement is hereby amended and restated as follows:

**IV. South 1<sup>st</sup> Street/Amaranth Lane.** The Interchange Project included the relocation of South 1<sup>st</sup> Street to connect into Relocated West Denton Road. South 1<sup>st</sup> Street is currently paved from Relocated West Denton Road through the entrance into the simulcast facility, and then extends to the south edge of the Property as a two lane gravel roadway. No improvements are proposed to South 1<sup>st</sup> Street from Yankee Hill Road to West Denton Road in the Lincoln City – Lancaster County Comprehensive Plan during the 25-year planning period.

As the Association develops and final plats Phase 3 of the AG Area shown on the PUD Site Plan, Association shall construct a northbound to westbound left turn lane in S. 1<sup>st</sup> Street at the intersection into the simulcast facility ("South 1<sup>st</sup> Street Extension").


6. Except as amended by this Amendment, all the terms and conditions of the Annexation Agreement applicable to the Property remain in full force and effect.
7. This Amendment shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, devisees, personal representatives, successors and assigns and shall inure to and run with the Property.
8. This Amendment or a memorandum thereof shall be filed in the Office of the Register of Deeds of Lancaster County, Nebraska at Developer's cost and expense.

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

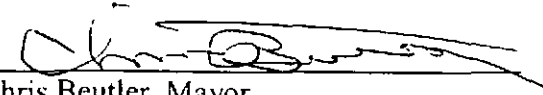
"CITY"

**CITY OF LINCOLN, NEBRASKA**  
a municipal corporation

ATTEST:

  
\_\_\_\_\_  
City Clerk



  
\_\_\_\_\_  
Chris Beutler, Mayor

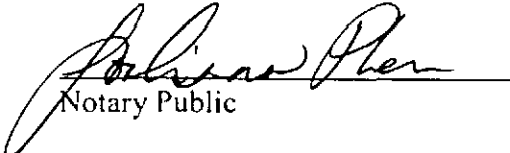
STATE OF NEBRASKA

) ss.

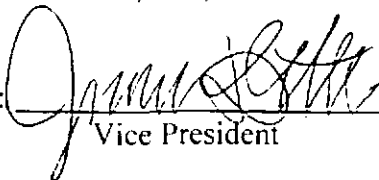
COUNTY OF LANCASTER )

The foregoing instrument was acknowledged before me this 14<sup>th</sup> day of February, 2019, by Chris Beutler, Mayor of the City of Lincoln, Nebraska, a municipal corporation.



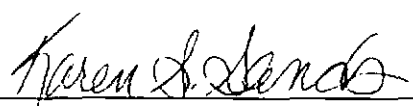
  
\_\_\_\_\_  
Notary Public

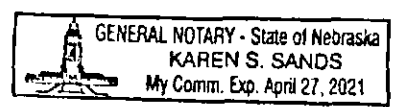
LAGKK-GP, Inc., a Nebraska corporation

By:   
Vice President

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF DOUGLAS        )

The foregoing instrument was acknowledged before me this 30<sup>th</sup> day of January, 2019, by Jeannine DeVetter, Vice President of LAGKK-GP, Inc., a Nebraska corporation, on behalf of the corporation.

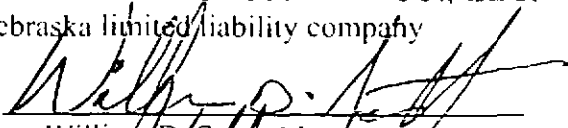
  
Notary Public

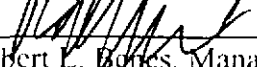






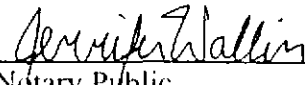
**WAVERLY DEVELOPMENT CO., LLC.**  
a Nebraska limited liability company

By:   
William D. Scott, Manager

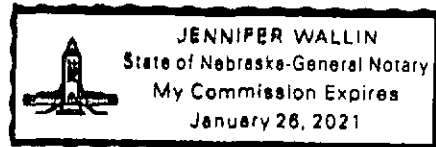
By:   
Robert L. Benes, Manager

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF LANCASTER        )


The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of January, 2019 by William D. Scott, Manager of **Waverly Development Co., LLC.** a Nebraska limited liability company, on behalf of the limited liability company.

  
Notary Public

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF LANCASTER        )



The foregoing instrument was acknowledged before me this 16 day of January, 2019 by Robert L. Benes, Manager of **Waverly Development Co., LLC.** a Nebraska limited liability company, on behalf of the limited liability company.

  
Notary Public

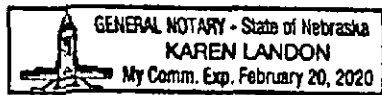


CDW PROPERTIES, LLC, a Nebraska  
limited liability company

By: \_\_\_\_\_  
Title: MANAGER

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF LANCASTER    )

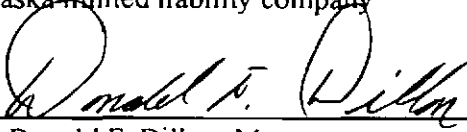
The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of February, 2019 by CHRIS WEAVER, Manager of CDW Properties, LLC, a Nebraska limited liability company, on behalf of the limited liability company.



Karen Landon  
Notary Public

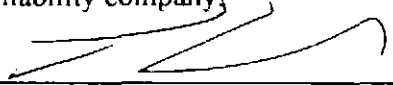


**SOUTHPORT VENTURES COMPANY, L.L.C.,**  
a Nebraska limited liability company

By:   
Donald F. Dillon, Manager

STATE OF FLORIDA                    )  
  ) ss.  
COUNTY OF COLLIER                )

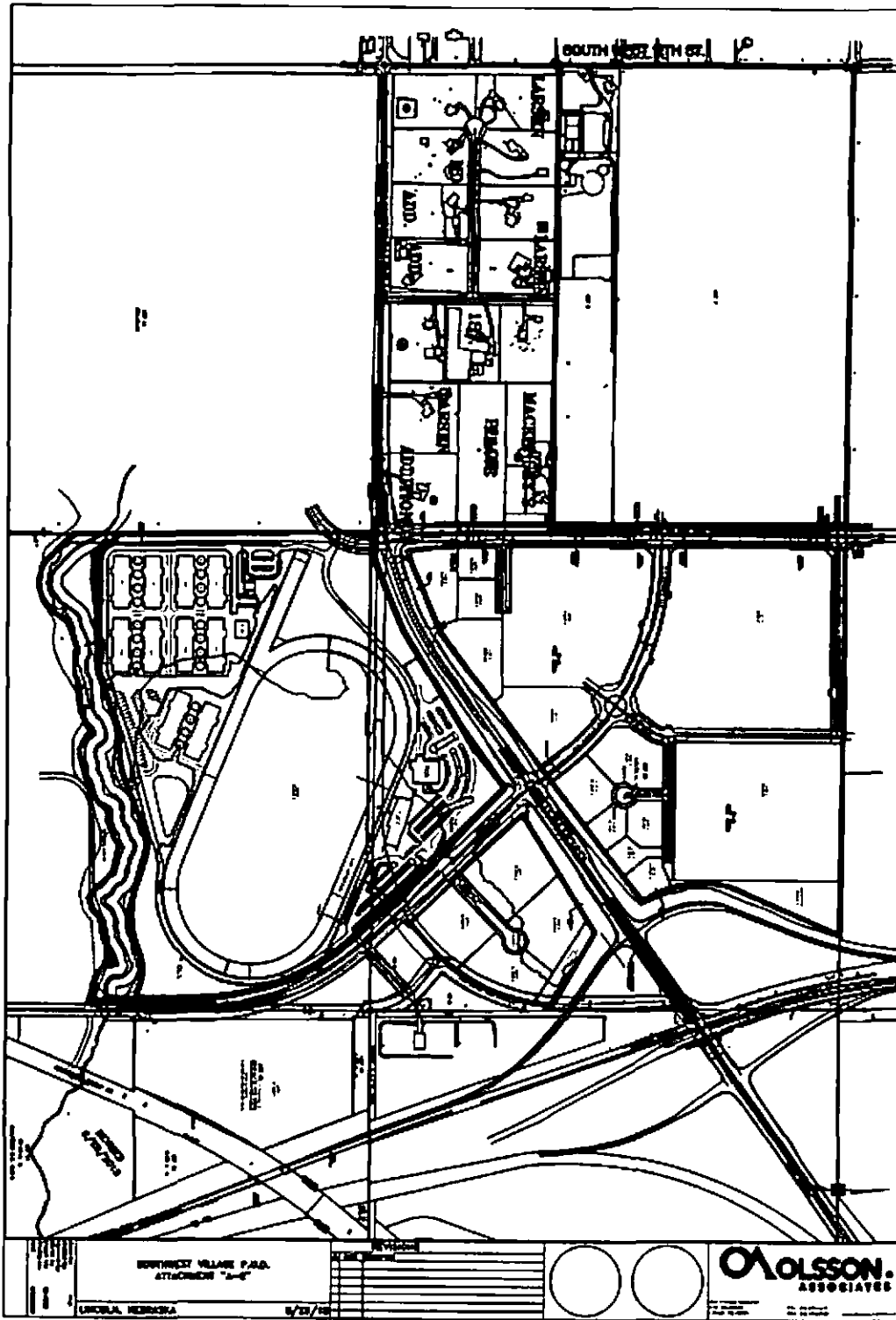
The foregoing instrument was acknowledged before me this 22 day of Jan.,  
2019 by Donald F. Dillon, Manager of **Southport Ventures Company, L.L.C.**, a Nebraska  
limited liability company, on behalf of the limited liability company,

  
Notary Public

 Ken Conidaris  
State of Florida  
My Commission Expires 01/10/2021  
Commission No. GG 46551



ATTACHMENT "A-2"



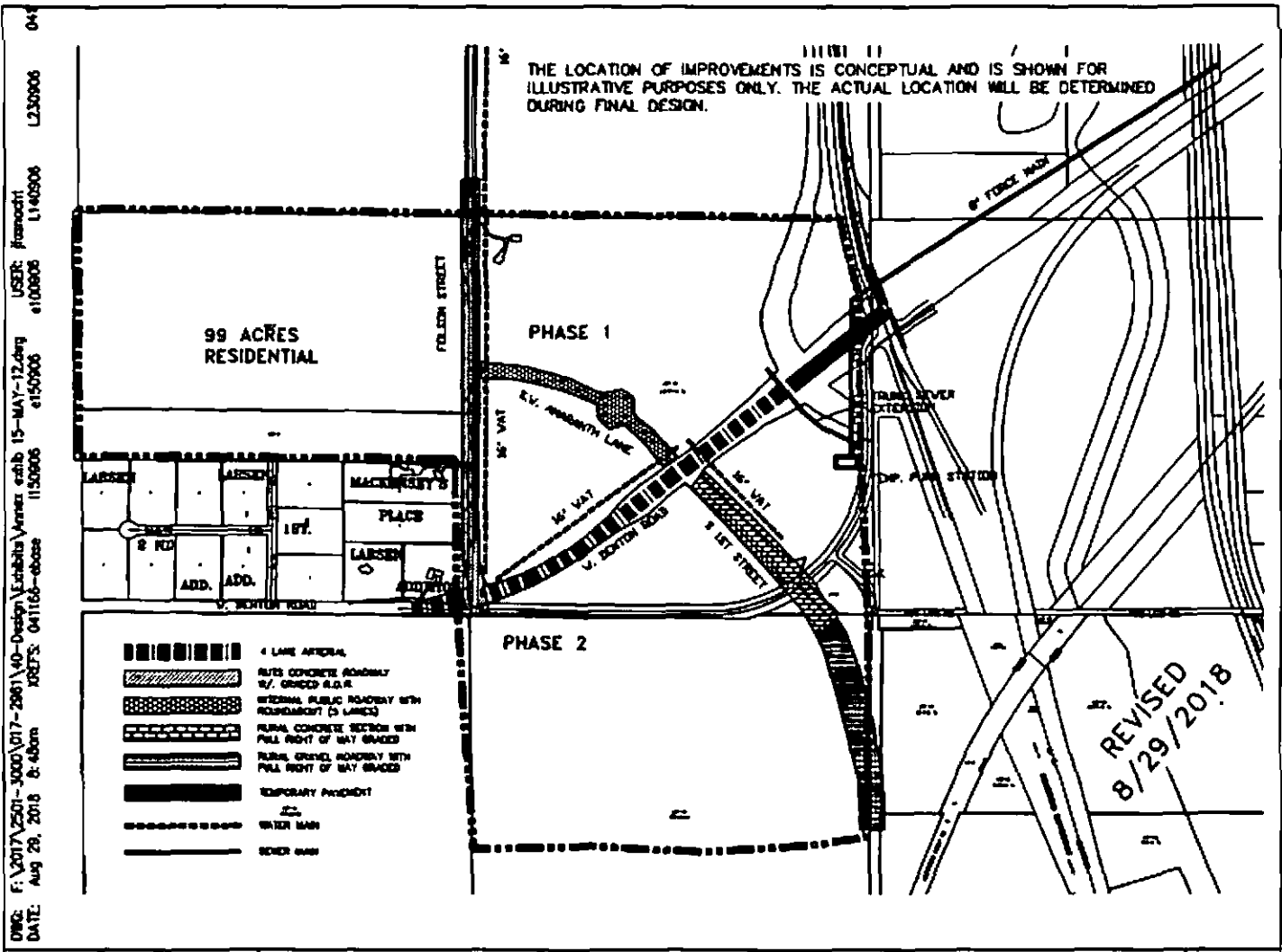
NORTHWEST VILLAGE P.O.D.  
ATTACHMENT "A-2"

LINDA HERRICK

8/22/18

**MOLSSON.**  
ASSOCIATES

ATTACHMENT "E-2"



PROJECT NO: 2004-1166  
 DRAWN BY: MCP  
 DATE: 8/29/18

HIGHWAY 77 & WARLICK BLVD.  
 INFRASTRUCTURE IMPROVEMENTS

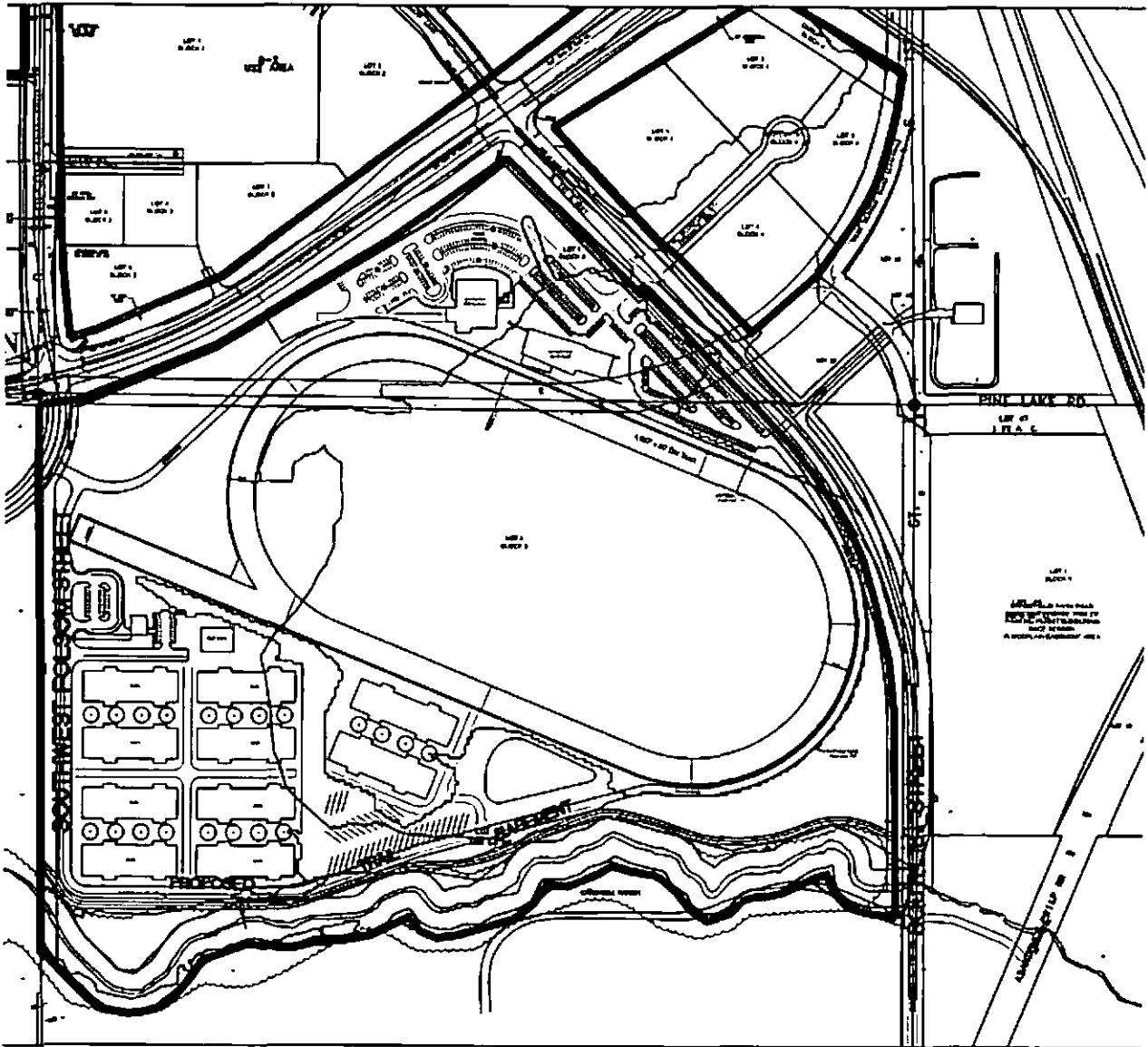
**OLSSON ASSOCIATES**  
 ENGINEERS - PLANNERS - SCIENTISTS - SURVEYORS  
 1000 W. 12th Street - Lincoln, Nebraska 68502  
 PH: 402-476-1211 - FAX: 402-476-1212

EXHIBIT  
 E-2

DWG: F:\2017\2501-3000\017-2981\40-Design\Submittal\Vendor\exhib 15-MAY-12.dwg  
 DATE: Aug 29, 2018 8:46am  
 USER: jramoschi  
 L2309006  
 L1409006  
 e1008006  
 e1509006  
 11309006  
 041



ATTACHMENT "I-2"



**ANNEXED PROPERTY  
B-2, I-3 AND AG AREAS**

Outlots C and E, Southwest Village Addition, Lincoln, Lancaster County, Nebraska

Outlots A and B, Southwest Village 1<sup>st</sup> Addition, Lincoln, Lancaster County, Nebraska

Lot 21, Irregular Tract located in the Southeast Quarter of Section 15, Township 9 North, Range 6 East of the 6<sup>th</sup> P.M., Lincoln, Lancaster County, Nebraska

Lots 20, 29, 30 and 36, Irregular Tracts located in Southeast Quarter of Section 15, Township 9 North, Range 6 East of the 6<sup>th</sup> P.M., Lincoln, Lancaster County, Nebraska

Lots 24, 25, and 27, Irregular Tracts located in the Northeast Quarter of Section 22, Township 9 North, Range 6 East of the 6<sup>th</sup> P.M., Lincoln, Lancaster County, Nebraska

Lot 59 Irregular Tracts located in the Northwest Quarter of Section 23, Township 9 North, Range 6 East of the 6<sup>th</sup> P.M., Lincoln, Lancaster County, Nebraska

Part of Lots 26, Irregular Tract located in the Northeast Quarter of Section 22, Township 9 North, Range 6 East of the 6<sup>th</sup> P.M., Lincoln, Lancaster County, Nebraska, lying north of creek inside Lincoln City limits.