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2005 MAY -3 P 12:09
LANCASTER COUNTY, NE

INST. NO 2005

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BLOCK
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EDITEDCITY OF LINCOLN
NEBRASKA
MAYOR COLEEN J. SENGEXECUTIVE
ORDERNO. 072894Smart # 05040005
04/04/05/law/tb

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

I have executed the attached Community Acknowledgment of Requests Involving Fill (MT1 - Form 3) related to the application of South Industrial Park, L.L.C., a Nebraska limited liability company, and Perry Properties, LP, a Nebraska limited partnership (hereinafter collectively "Applicant") for FEMA Letter of Map Revision on property legally described as: Outlot A, Horizon Business Center Addition; Lot 10, Block 1, Horizon Business Center Addition; Lot 17, Block 1, Horizon Business Center Addition; Lot 4, Horizon Business Center 2nd Addition; Outlot A, Horizon Business Center 6th Addition; Lot 2, Horizon Business Center 6th Addition; and Lot 11, Horizon Business Center Addition, Lincoln, Lancaster County, Nebraska.

I have also executed the two originals of the attached Agreement to Ensure Structures are Reasonably Safe From Flooding which provides restrictions on the development of the above-described properties in order to ensure that structures are reasonably safe from flooding.

The City Clerk is directed to file this Executive Order and an original of the Agreement to Ensure Structures are Reasonably Safe From Flooding with the Register of Deeds, recording fees to be paid in advance by the Applicant.

The City Clerk is further directed to return two copies of this Executive Order, two originals of the LOMR-f application including the Community Acknowledgment of Requests Involving Fill and one original of the Agreement to Ensure Future Structures are Reasonably Safe from Flooding to the Department of Building & Safety, Attn: John P. Callen, for its records and for transmittal to the Applicant.

Dated this 5 day of April, 2005.
Coleen J. Seng, Mayor

Approved as to Form & Legality:

Chief Asst. City Attorney

Teresa city clerk

**Agreement to Ensure Future Structures are Reasonably Safe from Flooding
in Horizon Business Center and Associated Additions**

THIS AGREEMENT is made and entered into by and between South Industrial Park LLC and Perry Properties LP, hereinafter collectively called "Owners," and the City of Lincoln, a municipal corporation, hereinafter called "City."

RECITALS

1. Owners are the owners of lots in Horizon Business Center and Horizon Business Center 2nd or 6th Additions to the City of Lincoln, Nebraska. (See Attachment 1 for legal descriptions).
2. Owners desire to make application to the Federal Emergency Management Agency (FEMA) for a Letter of Map Revision based on Fill (LOMR-F) that will modify determinations previously issued under Letter of Map Revision FEMA Case No. 00-07-670P and reissued under FEMA Case No. 03-07-118P.
3. In conjunction with these previously issued Letters of Map Revision, Olsson Associates Consulting Engineers provided the City with a grading and drainage plan specifying required lowest floor elevations for buildings to be constructed on lots within Horizon Business Center and Horizon Business Center 2nd and 6th Additions that were subject of these determinations. The City is not willing to certify to FEMA that construction of buildings on the lots will be reasonably safe from flooding under the proposed LOMR-F unless buildings are constructed with the lowest floor elevations in conformance to the grading and drainage plan prepared by Olsson Associates Consulting Engineers.

NOW, THEREFORE, in consideration of the above Recitals and the mutual covenants contained herein, Owners and City agree as follows:

1. Owners agree that all new construction and substantial improvements of structures located upon the lots shall have the lowest floor including basement elevated to the lowest floor elevation for that lot as specified in the grading and drainage plan prepared by Olsson Associates Consulting Engineers.

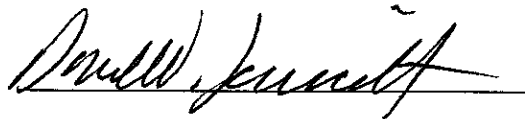
2. Owners agree that this Agreement shall be filed against each lot with the Register of Deeds of Lancaster County, filing fees to be paid by the Owner of said lot and that the agreements contained herein shall run with the land and shall be binding and obligatory upon the heirs, successors and assigns of the Owners.

3. Upon execution of this Agreement and its filing of record with the Register of Deeds for Lancaster County, Nebraska, the City agrees to provide FEMA with the City's assurance that if the property is removed from the special flood hazard area pursuant to the requested LOMR-F, all new construction and substantial improvements of existing buildings or structures on the lots will be reasonably safe from flooding.

Dated this 25 day of March, 2005.

South Industrial Park, LLC

OWNER



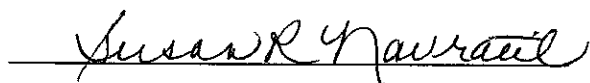
Don Linscott - Managing member

STATE OF NEBRASKA)

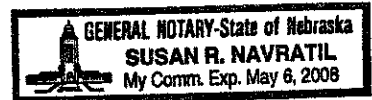
) ss.

COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 25 day of March, 2005, by Don Linscott, Managing Member of South Industrial Park LLC, a Nebraska limited liability company, on behalf of South Industrial Park LLC.



Notary Public



Dated this 30 day of March, 2005.

Perry Properties LP

OWNER



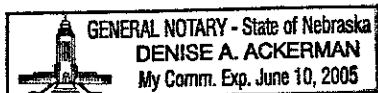
Richard Perry - Owner / *General Partner*

STATE OF NEBRASKA)

) ss.

COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 30th day of March, 2005, by Richard Perry, General Partner of Perry Properties LP, a Nebraska limited partnership, on behalf of Perry Properties LP..




Notary Public

By: Coleen J. Seng
Mayor

The foregoing instrument was acknowledged before me this 5th day of April, 2005, by Coleen J. Seng, Mayor of the City of Lincoln, Nebraska, a municipal corporation.




Notary Public

Attachment 1

Legal Descriptions of Properties Restricted by this Agreement

South Industrial Park, LLC

Horizon Business Center Addition, Outlot A

Horizon Business Center Addition, Block 1 Lot 10

Horizon Business Center Addition, Block 1 Lot 17

Horizon Business Center 2nd Addition, Lot 4

Horizon Business Center 6th Addition, Outlot A

Horizon Business Center 6th Addition, Lot 2

Perry Properties, LP

Horizon Business Center Addition, Lot 11


Block 1 →


CERTIFICATE

STATE OF NEBRASKA)
)
COUNTY OF LANCASTER) ss:
)
CITY OF LINCOLN)

I, Teresa J. Meier, Deputy City Clerk of the City of Lincoln, Nebraska, do hereby certify that the above and foregoing is a true and correct copy of E.O. 72894 - Executing the Building Restriction Agrmt. to Ensure Structures are Reasonably Safe from Flooding from South Industrial Park, LLC and Perry Properties, LP as it appears of record in my said office and is now in my charge remaining as City Clerk aforesaid.

IN WITNESS WHEREOF, I have hereunto set my hand officially and affixed the seal of the City of Lincoln, Nebraska, this 3rd day of May, 2005.


Deputy City Clerk



(Bldg Restriction Agrmt (FEMA) Cert.tjb)