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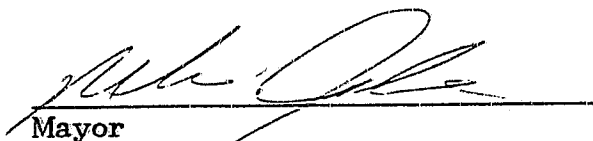
EXECUTIVE ORDER NO. 42460

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


The attached MoPac Trail Agreement #2 and Grant of  
Esements between Lincoln Branch, Inc. and the City of Lincoln is  
hereby approved and I have executed the same of behalf of the City.

The City Clerk is directed to return one fully executed  
copy to Rick Peo, Assistant City Attorney, for transmittal to Lincoln  
Branch, Inc.

DATED this 10 day of February, 1992.

  
Mayor

Approved as to Form and Legality:

  
Assistant City Attorney

Staff Review Completed:

  
Administrative Assistant

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E042460

**MOPAC TRAIL AGREEMENT #2  
AND  
GRANT OF EASEMENTS**

THIS MOPAC TRAIL AGREEMENT #2 AND GRANT OF EASEMENTS is made and entered into as of the 4th day of February, 1992, by and between LINCOLN BRANCH, INC., a Nebraska corporation, hereinafter referred to as "Owner", and the CITY OF LINCOLN, NEBRASKA, a municipal corporation, hereinafter referred to as "City".

**RECITALS**

A. Owner is the owner of the following described property. All right, title and interest in and to the right-of-way and appurtenant facilities located thereon, of that portion of the abandoned Lincoln Subdivision of the Missouri Pacific Railroad Company, said right-of-way being of varying widths that extends in a general easterly and southeasterly direction from the east line of 35th Street in the City of Lincoln, a straight line drawn at right angles to a point in the centerline of abandoned main track of said Lincoln Subdivision that is 564 feet distant southeasterly, measured along said centerline, from the west line of Section 26, Township 10 North, Range 7 East of the 6th Principal Meridian, all in Lancaster County, Nebraska, through the following legal subdivisions:

- 1 South Half of the Northeast Quarter of Section 19, Township 10 North, Range 7 East of the 6th Principal Meridian;
- 2 South Half of the North Half of Section 20, Township 10 North, Range 7 East of the 6th Principal Meridian;
- 1/1 South Half of the Northwest Quarter; the Northeast Quarter of the Southwest Quarter; and the Southeast Quarter of Section 21, Township 10 North, Range 7 East of the 6th Principal Meridian;
- 1 Southwest Quarter of Section 22, Township 10 North, Range 7 East of the 6th Principal Meridian;

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North Half of the Northwest Quarter; and the Northeast Quarter of Section 27, Township 10 North, Range 7 East of the 6th Principal Meridian;

West Half of the Northwest Quarter of Section 26, Township 10 North, Range 7 East of the 6th Principal Meridian,

all in Lancaster County, Nebraska, hereinafter referred to as Owner's Property.

B. City has acquired by condemnation a permanent public access easement to construct, reconstruct, inspect, repair, maintain, operate and replace a bike-path (trail) and appurtenances thereto belonging over, through and across a portion of the Owner's Property, from the east line of 35th Street to the east line of 84th Street, Lincoln, Nebraska. A particular description of the real property condemned is described on Attachment "A" to the City's Petition for the Appointment of Appraisers and Condemnation of Lands filed before the County Judge of Lancaster County, Nebraska, at Docket 119, Page 38.

C. City has completed construction of Phase I and Phase II of the bikepath (trail) generally within said easement area from the east right-of-way line of 35th Street to the west boundary line of the Northeast Quarter of Section 27, Township 10 North, Range 7 East. During such construction, it was necessary for the City to temporarily use land outside the permanent easement. Phase III of the bikepath (trail) from the west boundary line of the Northeast Quarter of Section 27, Township 10 North, Range 7 East to 84th Street will be constructed in the spring of 1992 and it will be necessary for the City to again use land outside the permanent easement in order to construct Phase III of the bikepath (trail).

D. City now desires to compensate Owner for its use of Owner's Property outside of the permanent easement for construction of Phase I and Phase II of the bikepath (hereinafter referred to as "Phase I and Phase II Temporary

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Construction Easement"). City further desires to acquire and compensate Owner for its use of a Phase III Temporary Construction Easement.

E. By mutual agreement of the parties, the bikepath from 35th Street to approximately 300 feet east of 35th Street was constructed outside the City's easement area acquired by condemnation. City and Owner now desire to formalize the relocation of the bikepath at 35th Street.

F. Owner desires the City to relocate the bikepath outside the easement area on the east and west sides of Sycamore Street in order to create buildable lots on Sycamore Street, and the City is willing to relocate the bikepath in return for a revised permanent easement for the bikepath from the west boundary line of the Northeast Quarter of Section 27, Township 10 North, Range 7 East to the west right-of-way line of 84th Street.

G. City desires to acquire and Owner is willing to grant the City a permanent storm sewer easement in the area between the west boundary line of the Northeast Quarter of Section 27, Township 10 North, Range 7 East and the west right-of-way line of 84th Street.

H. City desires to buy and Owner is willing to sell Owner's fee interest in the former Missouri Pacific Railroad right-of-way on the east side of 84th Street.

I. City and Owner desire to settle all issues regarding ownership of and the responsibility for the removal of the bridge abutments at 35th Street and the bridge at 48th Street.

NOW, THEREFORE, in consideration of the mutual obligations of the parties hereto, each of them covenant and agree with each other as follows:

1. Grant of Permanent Bikepath Easement (35th Street). Owner hereby creates, establishes, grants, and conveys to City for its benefit and the benefit of the public a permanent public access easement (hereinafter "35th

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Street Bikepath Easement") over, through, and across a portion of Owner's Property to construct, reconstruct, inspect, repair, maintain, operate and replace a bikepath (trail) and appurtenances thereto belonging subject to the following conditions:

A. The easement area for the 35th Street Bikepath Easement shall be a strip of land 20.0 feet in width extending generally in an easterly direction from the east right-of-way line of 35th Street to the west right-of-way line of 40th Street and located in the Northeast Quarter of Section 19, Township 10 North, Range 7 East of the 6th Principal Meridian in the City of Lincoln, Lancaster County, Nebraska, whose centerline is more particularly described as follows:

Beginning at a point on the east line of 35th Street located 17.0 feet north of the south line of the former Missouri Pacific Railroad right-of-way; thence east along a line located 17.0 feet north of and parallel with the said south line, a distance of 140.0 feet to the point of tangency with a circular curve; thence northeasterly along the arc of said circular curve bearing to the left, whose central angle is 35 degrees 00 minutes, whose radius is 150.0 feet, and whose tangent length is 47.29 feet, a distance of 91.63 feet to the point of tangency with a straight line; thence northeasterly along the said straight line, a distance of 50.11 feet to the point of tangency with a circular curve; thence easterly along the arc of said circular curve bearing to the right, whose central angle is 35 degrees 00 minutes, whose radius of 150 feet, and whose tangent length is 47.29 feet, a distance of 91.63 feet to the point of tangency with a straight line; thence east along a line located 50.0 feet south of and parallel with the north line of the said former Missouri Pacific Railroad right-of-way, a distance of 1490.67 feet to a point terminating on the west line of 40th Street; containing an area of 37,280.8 square feet, more or less.

B. Owner shall have no right to enter or use the surface of the easement area of the 35th Street Bikepath Easement for any purpose which would involve a permanent fill, cut, or excavation above or below existing grade or which would involve the construction thereon of permanent buildings or structures without the prior written authorization of the City.

C. The 35th Street Bikepath Easement shall run with the land and shall be binding upon all persons having or acquiring any rights, title or interest therein or any portions thereof and upon their respective successors and assigns in interest.

D. Owner covenants that it is the owner of the 35th Street Bikepath Easement premises and has legal right, title and capacity to grant the 35th Street Bikepath Easement contained herein, subject to easements and restrictions of record.

2. Grant of Permanent Bikepath Easement. Owner hereby creates, establishes, grants, and conveys to City for its benefit and the benefit of the public a permanent public access easement (hereinafter "Bikepath Easement") over, through, and across a portion of Owner's Property from the west boundary line of the Northeast Quarter of Section 27, Township 10 North, Range 7 East of the 6th Principal Meridian, in the City of Lincoln, Lancaster County, Nebraska to construct, reconstruct, inspect, repair, maintain, operate and replace a bike path (trail) and appurtenances thereto belonging subject to the following conditions:

A. The easement area for the Bikepath Easement shall be:

A strip of land 20.0 feet in width through a portion of the former Missouri-Pacific Railroad right-of-way located in the Northeast Quarter of Section 27, Township 10 North, Range 7 East of the 6th Principal Meridian in the City of Lincoln, Lancaster County, Nebraska, whose centerline is more particularly described as follows:

Commencing at the intersection with the southwest corner of Lot 18, Block 6, Maple Village, and the northerly line of the said Missouri-Pacific Railroad right-of-way; thence south along the extension of the west line of said Lot 18, a distance of 85.0 feet to the Point of Beginning; thence west along a line located 15.0 feet north of and parallel with the south line of the said Missouri-Pacific Railroad right-of-way, a distance of 22.73 feet to the point of tangency with a circular curve; thence northwesterly along the arc of said circular curve bearing to the right, whose central angle is 2 degrees 24 minutes 05 seconds, whose

radius is 2200.91 feet and whose tangent length is 46.13 feet, a distance of 92.25 feet to the point of tangency with a circular curve; thence continuing northwesterly along the arc of said circular curve bearing to the right, whose central angle is 19 degrees 10 minutes 22 seconds, whose radius is 451.78 feet, and whose tangent length is 76.30 feet, a distance of 151.18 feet to the point of tangency with a circular curve; thence continuing northwesterly along the arc of said circular curve bearing to the left, whose central angle is 16 degrees 13 minutes 19 seconds, whose radius is 342.73 feet, and whose tangent length is 39.87 feet, a distance of 79.39 feet to the point of tangency with a circular curve; thence continuing northwesterly along the arc of said circular curve bearing to the right, whose central angle is 3 degrees 01 minutes 11 seconds, whose radius is 1867.99 feet and whose tangent length is 49.24 feet, a distance of 98.45 feet to the intersection with the west line of the said Northeast Quarter of Section 27; containing an area of 8,880.00 square feet, more or less.

**And Also**

A strip of land 30.0 feet in width through a portion of the former Missouri-Pacific Railroad right-of-way, located in the Northeast Quarter of Section 27, Township 10 North, Range 7 East of the 6th Principal Meridian in the City of Lincoln, Lancaster County, Nebraska, whose centerline is more particularly described as follows:

Commencing at the intersection with the southwest corner of Lot 18, Block 6, Maple Village, and the northerly line of the said Missouri-Pacific Railroad right-of-way; thence south along the extension of the west line of said Lot 18, a distance of 70.0 feet to the point of beginning; thence continuing south along the previously described line, a distance of 30.0 feet to the south line of the said Missouri-Pacific Railroad right-of-way; thence east along the said south line of the Missouri-Pacific Railroad right-of-way, a distance of 185.25 feet to the northeast corner of Lot 1, Block 2, Wedgewood Manor 1st Addition; said point being the point of intersection with a circular curve; thence northwesterly along the arc of said circular curve bearing to the left, whose initial tangent deflects 104 degrees 04 minutes 00 seconds left, whose central angle is 4 degrees 19 minutes 57 seconds, whose radius is 412.33 feet, and whose tangent length is 15.60 feet, a distance of 31.18 feet; thence west along a line located 30.0 feet north of and parallel with the south line of the said Missouri-Pacific Railroad right-of-way, a distance of 175.49 feet to the point of beginning; containing an area of 5,415.59 square feet.

**And Also**

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A strip of land 30.0 feet in width through a portion of the former Missouri-Pacific Railroad right-of-way, located in the Northeast Quarter of Section 27, Township 10 North, Range 7 East of the 6th Principal Meridian in the City of Lincoln, Lancaster County, Nebraska, whose centerline is more particularly described as follows:

Commencing at the intersection with the southwest corner of Lot 7, Block 7, Maple Village, and the northerly line of the said Missouri-Pacific Railroad right-of-way; thence south along the extension of the west line of said Lot 7, a distance of 70.0 feet to the point of beginning; thence continuing south along the previously described line, a distance of 30.0 feet to the south line of the said Missouri-Pacific Railroad right-of-way; thence west along the south line of the said Missouri-Pacific Railroad right-of-way, a distance of 148.70 feet to the northwest corner of Lot 9, Block 1, Wedgewood Manor 1st Addition, said point being the point of intersection with a circular curve; thence northwesterly along the arc of said circular curve bearing to the left, whose initial tangent deflects 78 degrees 18 minutes 28 seconds right, whose central angle is 5 degrees 57 minutes 17 seconds, whose radius is 297.96 feet and whose tangent length is 15.45 feet, a distance of 30.36 feet; thence east along a line located 30.0 feet north of and parallel with the south line of the said Missouri-Pacific Railroad right-of-way, a distance of 154.89 feet to the point of beginning; containing an area of 4,451.11 square feet, more or less.

**And Also**

A strip of land 20.0 feet in width through a portion of the former Missouri-Pacific Railroad right-of-way located in the Northeast Quarter of Section 27, Township 10 North, Range 7 East of the 6th Principal Meridian in the City of Lincoln, Lancaster County, Nebraska, whose centerline is more particularly described as follows:

Commencing at the intersection with the north line of the said Missouri-Pacific Railroad right-of-way, and the southwest corner of Lot 7, Block 7, Maple Village; thence south along a line perpendicular to the said north line of the Missouri-Pacific Railroad right-of-way, a distance of 85.0 feet to the point of beginning; thence east along a line located 15.0 feet north of and parallel with the south line of the said Missouri-Pacific Railroad right-of-way, a distance of 13.93 feet to the point of tangency with a circular curve; thence northeasterly along the arc of said circular curve bearing to the left, whose central angle is 27 degrees 57 minutes 10 seconds, whose radius of 150.0 feet and whose tangent length is 37.33 feet, a distance of 73.18 feet to the point of tangency with a circular curve; thence easterly along the arc of said circular curve bearing to the



right, whose central angle is 27 degrees 57 minutes 10 seconds, whose radius is 150.0 feet and whose tangent length is 37.33 feet, a distance of 73.18 feet to the point of tangency with a circular curve, also being the centerline of the said Missouri-Pacific Railroad right-of-way; thence southeasterly along the arc of said circular curve bearing to the right, whose central angle is 29 degrees 58 minutes 20 seconds, whose radius is 1,906.03 feet, and whose tangent length is 510.23 feet, a distance of 997.08 feet to the point of tangency with a straight line; thence continuing southeasterly along the said straight line a distance of 632.55 feet to a point terminating 168.8 feet west of as measured perpendicular to the centerline of 84th Street; containing an area of 35,956.32 square feet, more or less.

**And Also**

A strip of land 20.0 feet in width through a portion of the Missouri-Pacific Railroad right-of-way whose centerline is located 50.0 feet southwesterly of and parallel with the northeasterly line of the said Missouri-Pacific Railroad right-of-way and lying between a line located 168.8 feet west of and parallel with the centerline of 84th Street and a line located 50.0 feet west of and parallel with the centerline of 84th Street; located in the Northeast Quarter of Section 27, Township 10 North, Range 7 East of the 6th Principal Meridian in the City of Lincoln, Lancaster County, Nebraska; containing an area of 2,840.0 square feet, more or less.

B. Owner shall have no right to enter or use the surface of the easement area of the Bikepath Easement for any purpose which would involve a permanent fill, cut, or excavation above or below existing grade or which would involve the construction thereon of permanent buildings or structures without the prior written authorization of the City.

C. The Bikepath Easement shall run with the land and shall be binding upon all persons having or acquiring any rights, title or interest therein or any portions thereof and upon their respective successors and assigns in interest.

D. Owner covenants that it is the owner of the Bikepath Easement premises and has legal right, title and capacity to grant the Bikepath Easement contained herein, subject to easements and restrictions of record.

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3. Grant of Phase III Temporary Construction Easement. Owner hereby creates, establishes, grants, and conveys to City for its benefit a Phase III Temporary Construction Easement over, through, and across a portion of Owner's Property for the accommodation of construction equipment, materials and excavated earth subject to the following conditions:

A. The easement area for the Phase III Temporary Construction Easement shall be all of Owner's Property extending generally in an easterly direction from the west boundary line of the Northeast Quarter of Section 27, Township 10 North, Range 7 East to the west right-of-way line of 84th Street, Lincoln, Nebraska.

B. That the right, privilege and easement granted for temporary construction shall cease and terminate October 31, 1992, or immediately following the completion of construction, final inspection and acceptance of (1) the bikepath (trail) hereinabove mentioned from the west boundary line of the Northeast Quarter of Section 27, Township 10 North, Range 7 East to the west right-of-way line of 84th Street, and (2) the storm sewer referred to in paragraph 9, infra, from approximately the west boundary line of the Northeast Quarter of Section 27, Township 10 North, Range 7 East to the west right-of-way line of 84th Street, whichever occurs first.

C. The Phase III Temporary Construction Easement shall run with the land and shall be binding upon all persons having or acquiring any rights, title or interest therein or any portions thereof and upon their respective successors and assigns in interest. All parties having any interest in the area covered by the Phase III Temporary Construction Easement including Owner hereby agree to cooperate with each other so that the bikepath and storm sewer can be constructed in an unimpeded manner while other construction which may occur on the

property covered by the Phase III Temporary Construction Easement can also be accommodated at the same time, if necessary.

D. Owner covenants that it is the owner of the Phase III Temporary Construction Easement premises and has legal right, title and capacity to grant the Phase III Temporary Construction Easement referred to herein, subject to easements and restrictions of record.

4. Release of Prior Easements. City hereby releases that portion of the bikepath easement which was condemned in the Petition for Appointment of Appraisers and Condemnation of Lands filed before the County Judge of Lancaster County, at Docket 119, Page 38, from the east right-of-way line of 35th Street to the west right-of-way line of 40th Street and which was condemned from the west boundary line of the Northeast Quarter of Section 27, Township 10 North, Range 7 East of the 6th Principal Meridian to the west right-of-way line of 84th Street to the extent that said condemned easement is inconsistent with the 35th Street Bikepath Easement and the Bikepath Easement granted in this MoPac Trail Agreement #2 and Grant of Easements.

5. Determination of Damages from Condemnation. Owner and City agree that in determining Owner's damages in Lincoln Branch, Inc. v. City of Lincoln, Docket 448, Page 79, the after value of Owner's property from the east right-of-way line of 35th Street to the west right-of-way line of 40th Street (or damages to the remainder) and the after value of Owner's property from the west boundary line of the Northeast Quarter of Section 27, Township 10 North, Range 7 East of the 6th Principal Meridian to the west right-of-way line of 84th Street shall be determined based upon the permanent easements for the bikepath (trail) as provided in this Agreement and not upon the originally condemned easement for said bikepath (trail).

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6. Compensation for Temporary Construction Easements.

A. As compensation for the Phase I Temporary Construction Easement (35th to 66th Streets), the City agrees to pay Owner an amount equal to the 1989, 1990, and 1991 special assessments, plus accrued interest thereon, assessed against Owner by the City for weed cuttings within the former Missouri Pacific Railroad Company right-of-way from 35th to 84th Streets, and Owner agrees to accept such payment as Owner's total compensation for the Phase I Temporary Construction Easement. Owner further agrees to use said compensation to pay the 1989, 1990, and 1991 weed assessments. The parties understand and agree that as of January 15, 1992, the 1989, 1990, and 1991 special assessments and accrued interest amount to a total of \$10,675.86. Interest continues to accrue at the rate of 14% per annum from the date of delinquency to date of payment.

B. As compensation for the Phase II Temporary Construction Easement (66th Street to the west boundary line of the Northeast Quarter of Section 27, Township 10 North, Range 7 East of the 6th P.M., Lincoln, Lancaster County, Nebraska) and the Phase III Temporary Construction Easement (west line of the Northeast Quarter of Section 27, Township 10 North, Range 7 East to 84th Street), the City agrees to pay Owner an amount equal to all weed cutting charges billed to and not specially assessed against Owner in 1991 for weed cuttings made within the former Missouri Pacific Railroad Company right-of-way from 66th to 84th Streets from January 1, 1991, until completion of construction of the bikepath from 66th Street to 84th Street and Owner agrees to accept such payment as Owner's total compensation for the Phase II and Phase III Temporary Construction Easements.

7. 35th Street Bridge Abutments. Owner agrees to pay the City \$3,000 and to give to City without additional compensation the fill dirt which the City removed from Owner's property at 35th Street and which was valued by Owner at

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30¢ per yard. This payment and donation is in exchange for the City not charging Owner for the cost of removing the bridge abutments at 35th Street.

8. 48th Street Bridge. The City agrees to assume the cost of the bridge removal at 48th Street without assessment against Owner. In return, Owner agrees not to claim any compensation for the salvage value of the 48th Street bridge or for any other damages caused by the removal of the 48th Street bridge. Owner further agrees not to claim any compensation or damages for the 48th Street bridge abutments which the City left in place and on which the City has placed its bikepath bridge across 48th Street.

9. Grant of Permanent Storm Sewer Easement. Owner, without additional compensation, hereby creates, establishes, grants, and conveys to City for its benefit and the benefit of the public a permanent easement (hereinafter "Storm Sewer Easement") over, through, and across a portion of Owner's Property from approximately the west boundary line of the Northeast Quarter of Section 27, Township 10 North, Range 7 East of the 6th Principal Meridian in the City of Lincoln, Lancaster County, Nebraska to construct, reconstruct, inspect, repair, maintain, operate and replace a storm sewer and appurtenances thereto belonging subject to the following conditions:

A. The easement area for the Storm Sewer Easement shall be:

A strip of land 20.0 feet in width through a portion of the former Missouri-Pacific Railroad right-of-way located in the Northeast Quarter of Section 27, Township 10 North, Range 7 East of the 6th Principal Meridian in the City of Lincoln, Lancaster County, Nebraska, whose centerline is more particularly described as follows:

Commencing at the intersection with the southwest corner of Lot 18, Block 6, Maple Village, and the northerly line of the said Missouri-Pacific Railroad right-of-way; thence south along the extension of the west line of said Lot 18, a distance of 85.0 feet to the Point of Beginning; thence west along a line located 15.0 feet north of and parallel with the south line of the said Missouri-Pacific Railroad right-of-way, a distance of 22.73 feet to the point of tangency with a circular curve; thence northwesterly along

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the arc of said circular curve bearing to the right, whose central angle is 2 degrees 24 minutes 05 seconds, whose radius is 2200.91 feet and whose tangent length is 46.13 feet, a distance of 92.25 feet to the point of tangency with a circular curve; thence continuing northwesterly along the arc of said circular curve bearing to the right, whose central angle is 41 degrees 28 minutes 46 seconds, whose radius is 449.99 feet, and whose tangent length is 170.39 feet, a distance of 325.77 feet to the point of termination; containing an area of 8,815.60 square feet, more or less.

**And Also**

A strip of land 30.0 feet in width through a portion of the former Missouri-Pacific Railroad right-of-way, located in the Northeast Quarter of Section 27, Township 10 North, Range 7 East of the 6th Principal Meridian in the City of Lincoln, Lancaster County, Nebraska, whose centerline is more particularly described as follows:

Commencing at the intersection with the southwest corner of Lot 18, Block 6, Maple Village, and the northerly line of the said Missouri-Pacific Railroad right-of-way; thence south along the extension of the west line of said Lot 18, a distance of 70.0 feet to the point of beginning; thence continuing south along the previously described line, a distance of 30.0 feet to the south line of the said Missouri-Pacific Railroad right-of-way; thence east along the said south line of the Missouri-Pacific Railroad right-of-way, a distance of 185.25 feet to the northeast corner of Lot 1, Block 2, Wedgewood Manor 1st Addition; said point being the point of intersection with a circular curve; thence northwesterly along the arc of said circular curve bearing to the left, whose initial tangent deflects 104 degrees 04 minutes 00 seconds left, whose central angle is 4 degrees 19 minutes 57 seconds, whose radius of 412.33 feet, and whose tangent length is 15.60 feet, a distance of 31.18 feet; thence west along a line located 30.0 feet north of and parallel with the south line of the said Missouri-Pacific Railroad right-of-way, a distance of 175.49 feet to the point of beginning; containing an area of 5,415.59 square feet.

**And Also**

A strip of land 30.0 feet in width through a portion of the former Missouri-Pacific Railroad right-of-way, located in the Northeast Quarter of Section 27, Township 10 North, Range 7 East of the 6th Principal Meridian in the City of Lincoln, Lancaster County, Nebraska, whose centerline is more particularly described as follows:

Commencing at the intersection with the southwest corner of Lot 7, Block 7, Maple Village, and the northerly line of the

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said Missouri-Pacific Railroad right-of-way; thence south along the extension of the west line of said Lot 7, a distance of 70.0 feet to the point of beginning; thence continuing south along the previously described line, a distance of 30.0 feet to the south line of the said Missouri-Pacific Railroad right-of-way; thence west along the south line of the said Missouri-Pacific Railroad right-of-way, a distance of 148.70 feet to the northwest corner of Lot 9, Block 1, Wedgewood Manor 1st Addition, said point being the point of intersection with a circular curve; thence northwesterly along the arc of said circular curve bearing to the left, whose initial tangent deflects 78 degrees 18 minutes 28 seconds right, whose central angle is 5 degrees 57 minutes 17 seconds, whose radius is 297.96 feet and whose tangent length is 15.45 feet, a distance of 30.36 feet; thence east along a line located 30.0 feet north of and parallel with the south line of the said Missouri-Pacific Railroad right-of-way, a distance of 154.89 feet to the point of beginning; containing an area of 4,451.11 square feet, more or less.

**And Also**

A strip of land 100.0 feet in width through a portion of the former Missouri-Pacific Railroad right-of-way, located in the Northeast Quarter of Section 27, Township 10 North, Range 7 East of the 6th Principal Meridian in the City of Lincoln, Lancaster County, Nebraska, whose centerline is more particularly described as follows:

Beginning at the intersection with the southwesterly line of the said Missouri-Pacific Railroad right-of-way and the northerly most corner of Lot 10, Block 1, Wedgewood Manor 2nd Addition; thence northeasterly along a line perpendicular to the said southwesterly line of the Missouri-Pacific Railroad right-of-way, a distance of 100.0 feet to a point terminating on the northeasterly line of the said Missouri-Pacific Railroad right-of-way, containing an area of 10,000.0 square feet, more or less.

**And Also**

A strip of land 20.0 feet in width through a portion of the former Missouri-Pacific Railroad right-of-way located in the Northeast Quarter of Section 27, Township 10 North, Range 7 East of the 6th Principal Meridian in the City of Lincoln, Lancaster County, Nebraska, whose centerline is more particularly described as follows:

Commencing at the intersection with the north line of the said Missouri-Pacific Railroad right-of-way, and the southwest corner of Lot 7, Block 7, Maple Village; thence south along a line perpendicular to the said north line of the Missouri-Pacific Railroad right-of-way, a distance of 85.0

feet to the point of beginning; thence east along a line located 15.0 feet north of and parallel with the south line of the said Missouri-Pacific Railroad right-of-way, a distance of 13.93 feet to the point of tangency with a circular curve; thence northeasterly along the arc of said circular curve bearing to the left, whose central angle is 27 degrees 57 minutes 10 seconds, whose radius of 150.0 feet and whose tangent length is 37.33 feet, a distance of 73.18 feet to the point of tangency with a circular curve; thence easterly along the arc of said circular curve bearing to the right, whose central angle is 27 degrees 57 minutes 10 seconds, whose radius is 150.0 feet and whose tangent length is 37.33 feet, a distance of 73.18 feet to the point of tangency with a circular curve, also being the centerline of the said Missouri-Pacific Railroad right-of-way; thence southeasterly along the arc of said circular curve bearing to the right, whose central angle is 29 degrees 58 minutes 20 seconds, whose radius is 1,906.03 feet, and whose tangent length is 510.23 feet, a distance of 997.08 feet to the point of tangency with a straight line; thence continuing southeasterly along the said straight line a distance of 632.55 feet to the point terminating 168.8 feet west of as measured perpendicular to the centerline of 84th Street; containing an area of 35,956.32 square feet, more or less.

**And Also**

A strip of land 20.0 feet in width through a portion of the Missouri-Pacific Railroad right-of-way whose centerline is located 50.0 feet southwesterly of and parallel with the northeasterly line of the said Missouri-Pacific Railroad right-of-way and lying between a line located 168.8 feet west of and parallel with the centerline of 84th Street and a line located 50.0 feet west of and parallel with the centerline of 84th Street; located in the Northeast Quarter of Section 27, Township 10 North, Range 7 East of the 6th Principal Meridian in the City of Lincoln, Lancaster County, Nebraska; containing an area of 2,840.0 square feet, more or less.

B. Owner shall have no right to enter or use the surface of the easement area of the Storm Sewer Easement for any purpose which would involve a permanent or temporary cut or excavation greater than two feet below existing grade at the time of this instrument or which would involve a permanent or temporary fill greater than five feet above existing grade, or which would involve the construction thereon of permanent buildings or structures without the prior written authorization of the City.



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C. The Storm Sewer Easement shall run with the land and shall be binding upon all persons having or acquiring any rights, title or interest therein or any portions thereof and upon their respective successors and assigns in interest.

D. Owner covenants that it is the owner of the Storm Sewer Easement premises and has legal right, title and capacity to grant the Storm Sewer Easement contained herein, subject to easements and restrictions of record.

10. Conveyance of Owner's Property East of 84th Street.

A. Owner agrees to sell and City agrees to buy all that portion of the abandoned Lincoln Subdivision of the Missouri Pacific Railroad Company right-of-way that extends in an easterly direction from the east right-of-way line of 84th Street east a distance of 564 feet (hereinafter "84th Street Property") for the sum of Fifty Thousand and No/100ths Dollars (\$50,000.00) to be paid at closing.

B. The 84th Street Property is legally described as follows:

All of a strip of land 200 feet in width beginning at the west line of Section 26, Township 10 North, Range 7 East of the 6th P.M., all in Lancaster County, Nebraska and proceeding southeasterly along the centerline of the former Missouri Pacific Railroad main track a distance of 564 feet and containing in all 2.43 acres, more or less, located in Lancaster County, Nebraska.

C. Owner shall furnish City with a commitment for title insurance in favor of the City insuring marketability to the 84th Street Property which shall only be subject to conditions and stipulations acceptable to the City.

D. If a commitment for title insurance acceptable to the City is provided, the City shall accept title to the 84th Street Property by Quit Claim Deed.

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11. Successors and Assigns. This MoPac Trail Agreement #2 and Grant of Easements shall inure to the benefit of and be binding upon the successors and assigns of Owner and City.

12. Interpretation. The headings used herein are for the convenience of the parties and are not intended to be used in the interpretation of the MoPac Trail Agreement #2 and Grant of Easements. Any uncertainty or ambiguity shall not be interpreted against either party because such party prepared that portion, but shall be construed according to the rules of interpretation of contracts generally.

13. Authorization. The undersigned parties hereby warrant and represent to each other that all necessary action to duly approve the execution, delivery and performance of this MoPac Trail Agreement #2 and Grant of Easements have been taken, and this Agreement constitutes a valid and binding agreement of the parties enforceable in accordance with its terms.

IN WITNESS WHEREOF the parties have signed this MoPac Trail Agreement #2 and Grant of Easements as of the day and year first above written.

LINCOLN BRANCH, INC.  
A Nebraska Corporation, Owner

BY: James D. Gerking  
James Gerking, President

ATTEST:

CITY OF LINCOLN, NEBRASKA,  
A Municipal Corporation, City

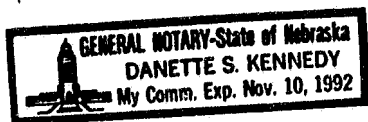
[Signature]  
City Clerk

BY: Mike Johanns  
Mike Johanns, Mayor

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STATE OF NEBRASKA )  
COUNTY OF LANCASTER ) ss.

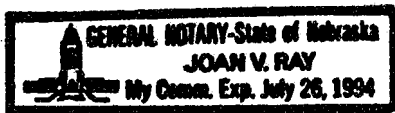
The foregoing instrument was acknowledged before me this 4<sup>th</sup> day of February, 1992, by James Gerking, President of Lincoln Branch, Inc., a Nebraska corporation, on behalf of the corporation.



Danette S. Kennedy  
Notary Public

STATE OF NEBRASKA )  
COUNTY OF LANCASTER ) ss.

The foregoing instrument was acknowledged before me this 10<sup>th</sup> day of February, 1992, by Mike Johanns, Mayor of the City of Lincoln, Nebraska, a municipal corporation, on behalf of the City.



Joan V. Ray  
Notary Public

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CERTIFICATE

STATE OF NEBRASKA )  
 )  
COUNTY OF LANCASTER ) SS.  
 )  
CITY OF LINCOLN )

I Paul A. Malzer, Jr. City Clerk of the City of Lincoln, Nebraska, do hereby certify that the above and foregoing is a true and correct copy of Executive Order No. 42460 and the MoPac Trail Agreement #2 and Grant of Easements

as the original 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 26th day of May, A.D., 19 92.

*Paul A. Malzer, Jr.*  
Paul Malzer, Jr. City Clerk

LANCASTER COUNTY, NEB  
*Don Miller*  
REGISTER OF DEEDS

MAR 27 3 49 PM '92

INST. NO. 92 /3093

LINCOLN

LLL7-8 B103 - NO BIK

LL11-2 B103 - NO BIK

INDEX

CODE

CHECKED

FILED

#105<sup>00</sup>  
6945

*Return to City Clerk*