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RESOLUTION NO. PC- 01498

SPECIAL PERMIT NO. 16004

1 WHEREAS, Triple S & L Developers, LLC has submitted an application  
2 designated as Special Permit No. 16004 for a soil, sand and gravel excavation operation for a  
3 period of three (3) years on property generally located at South 68<sup>th</sup> Street and Saltillo Road,  
4 and legally described as:

5 Lots 23 and 25 of Irregular Tracts and the Northwest Quarter of  
6 the Northeast Quarter all located in the Northeast Quarter of  
7 Section 4, Township 8 North, Range 7 East of the 6<sup>th</sup> P.M.,  
8 Lancaster County, Nebraska;

9 WHEREAS, the Lincoln City-Lancaster County Planning Commission has held a  
10 public hearing on said application; and

11 WHEREAS, the community as a whole, the surrounding neighborhood, and the  
12 real property adjacent to the area included within the site plan for this soil, sand and gravel  
13 excavation operation will not be adversely affected by granting such a permit; and

14 WHEREAS, said site plan together with the terms and conditions hereinafter set  
15 forth are consistent with the comprehensive plan of the City of Lincoln and with the intent and  
16 purpose of Title 27 of the Lincoln Municipal Code to promote the public health, safety, and  
17 general welfare.

18 NOW, THEREFORE, BE IT RESOLVED by the Lincoln City-Lancaster County  
19 Planning Commission of Lincoln, Nebraska:

*CP*  
*652 CD*

1                   That the application of Triple S & L Developers, LLC, hereinafter referred to as  
2 "Permittee," designated as Special Permit No. 16004 for a soil, sand and gravel excavation  
3 operation for a period of three (3) years be and the same is hereby granted under the provisions  
4 of Section 27.63.160 of the Lincoln Municipal Code upon condition that said operation be  
5 conducted in substantial compliance with said application, the site plan, and the following  
6 additional express terms, conditions, and requirements:

7                   1.       This permit approves mining for a soil, sand and gravel excavation  
8 operation for a period of three (3) years from the date of approval of this special permit.

9                   2.       Before initiating excavation operations:

10                  a.       The Permittee shall cause to be prepared and submitted to the  
11 Planning Department a revised and reproducible final plot plan including 3 copies with all  
12 required revisions as listed below:

- 13                           i.       Change "Limits of Special Permit" to "Limits of excavation  
14   area."
- 15                           ii.       Correct the legal description.
- 16                           iii.       Add a note that all erosion and sediment control NPDES  
17   requirements will be met and that no grading will  
18   commence until a city and state permit is issued.

19                  b.       The Permittee shall have:

- 20                           i.       Received review and permits, if required, for the Federal  
21   NPDES and 404 Permits.
- 22                           ii.       Posted a \$30,975 performance bond or escrow agreement  
23   in a form acceptable to the City Attorney prior to  
24   commencing operations, to assure compliance with the  
25   final reclamation plan, including but not limited to  
26   regrading, topsoil conditioning, and re-vegetation. A  
27   registered professional engineer must certify at closure of  
28   operations that grading and final reclamation has been  
29   completed in accordance with the approved plans before  
30   the bond may be released.
- 31                           iii.       Posted and maintained a 4 foot by 8 foot sign on the  
32   property at the entrance clearly visible and legible to the  
33   public showing the special permit number, the name of the  
34   Permittee and operator, and the telephone numbers where

1 the Permittee, operator, and the Building & Safety  
2 Department can be contacted.

3 iv. Completed all terms, conditions, and requirements of the  
4 special permit that are to be completed before beginning  
5 operations and shall have requested and received from the  
6 Director of Building and Safety a certificate of operation.  
7 Permittee shall not begin operation until it has received  
8 said certificate of operation.

9 v. Install any traffic signs required by the County or City  
10 Engineer to warn motorists of excavation or stone milling  
11 operations and truck traffic, as noted on site plan.

12 3. During the excavation operations, the Permittee shall:

13 a. Provide and maintain erosion controls, including retention and  
14 sediment basins, in conformance with state and federal standards and City land erosion and  
15 sediment control regulations to prevent a change in the character of runoff onto adjacent land.

16 b. Have no more than twenty (20) acres of the site open for  
17 operations at any one time. The surface shall be maintained in such a manner that surface  
18 waters do not collect and pond, unless specifically approved by the City. Underground drainage  
19 may be supplied if it connects to an existing drainage facility and is satisfactory to the City.

20 c. Collect and store topsoil for redistribution on the site at the  
21 termination of the operation or termination of each phase. The site of this storage must be  
22 revised to the satisfaction of Public Works and Utilities.

23 d. Conduct excavation in such a way as not to constitute a hazard to  
24 any person and the adjoining properties. Dust shall be controlled on-site to meet Lincoln-  
25 Lancaster County Air Pollution Control Program Regulations. In addition, the Health  
26 Department may require dust control on unpaved perimeter roads.

27 e. Limit operating hours to daylight hours, Monday through Saturday.

28 f. Post and maintain a sign at the entrance to the site. The sign  
29 shall be:

30 i. Clearly visible from the adjacent road;

- 1                                   ii.     At least 32 square feet in area;
- 2                                   iii.    Lettering shall be at least two inches in height, black, and  
3                                   on a white background;
- 4                                   iv.    The sign shall list:
  - 5                                   (a)    The approved Special Permit Number;
  - 6                                   (b)    The name, contact phone, and email address for  
7                                   the land owner;
  - 8                                   (c)    The name, contact phone, and email address for  
9                                   the operator/contractor;
  - 10                                  (d)    The Building and Safety Department contact  
11                                  number.

12                           g.     Take appropriate measures, such as street sweeping or “rumble  
13 bars” as specified by the County or City Engineer to minimize mud or dirt tracking onto streets  
14 and roads on a continuing (daily) basis during operation.

15                           4.     Operations shall commence within one year from the date the special  
16 permit is approved or the special permit will automatically terminate and be considered null and  
17 void. In such event all existing certificates of operation shall automatically terminate on the  
18 same date.

19                           5.     Within nine months after the completion of excavation on any portion of  
20 the site, all cuts shall be returned to a slope of less than three to one, the topography and soils  
21 shall be restored and stabilized, and the land shall be graded, seeded, and sodded so as to  
22 prevent erosion and siltation, and to protect the health, safety, and general welfare of the public.

23                           6.     Permittee shall prepare and submit an annual report to the Director of  
24 Building and Safety addressing the status and extent of operations and each condition of the  
25 special permit. Failure to submit the annual report shall constitute just cause for the City  
26 Council to revoke the special permit.

27                           7.     Permittee shall be subject to an annual site inspection by the Director of  
28 Building and Safety. The cost of such inspection shall be paid for by the Permittee. Cost shall

1 be based upon the Department of Building and Safety's hourly rate in effect on the date of the  
2 application. Building and Safety shall:

3 a. Inspect the site to determine whether terms, special conditions,  
4 and requirements imposed by the City in the approval of the special permit have been met and  
5 complied with; and

6 b. Review all complaints from public and other departments/agencies  
7 and report its findings to the Planning Director.

8 8. The construction plans shall generally comply with the approved plans.

9 9. At the conclusion of the operation, the Permittee shall provide to the  
10 Building & Safety Department a certificate from an engineer stating that the final grading  
11 substantially reflects the finish contours shown on the approved site plan and request a release  
12 of the performance bond.

13 10. Before starting the operation all development and construction shall  
14 substantially comply with the approved plans.

15 11. The physical location of all setbacks and yards, buildings, parking and  
16 circulation elements, and similar matters must be in substantial compliance with the location of  
17 said items as shown on the approved site plan.

18 12. The terms, conditions, and requirements of this resolution shall run with  
19 the land and be binding upon the Permittee, its successors, and assigns.

20 13. The Permittee shall sign and return the letter of acceptance to the City  
21 Clerk. This step should be completed within 60 days following the approval of the special  
22 permit. The City Clerk shall file a copy of the resolution approving the special permit and the  
23 letter of acceptance with the Register of Deeds, filling fees therefore to be paid in advance by  
24 the Permittee. Building permits will not be issued unless the letter of acceptance has been filed.

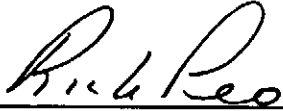
25 The foregoing Resolution was approved by the Lincoln City-Lancaster County Planning  
26 Commission on this 25<sup>th</sup> day of May, 2016.

ATTEST:



Chair

Approved as to Form & Legality:



Chief Assistant City Attorney

LETTER OF ACCEPTANCE

City of Lincoln  
Lincoln, Nebraska

RE: **Special Permit No. 16004** - Allow soil excavation  
(South 68<sup>th</sup> Street and Saltillo Road)

TO THE CITY CLERK:

The undersigned, "Permittee" under Waiver No. 16002, granted by **Resolution No. PC-01498**, adopted by the Lincoln City-Lancaster County Planning Commission on May 25, 2016, hereby files this Letter of Acceptance and certifies to the City of Lincoln that the Permittee is fully aware of and understands all the conditions of said Resolution and that Permittee consents to and agrees to comply with the same.

Permittee further certifies that the person whose signature appears below has the authority to bind Permittee to the terms and conditions of this Letter of Acceptance, including Permittee's financial obligations under said Special Permit.

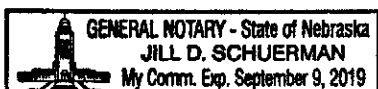
DATED the 21<sup>st</sup> day of June, 2016.

Triple S & L Developers, LLC, Permittee

BY Robert E. Schultz  
Title: Managing Partner

STATE OF Nebraska )  
COUNTY OF Lancaster ) ss.

The foregoing Instrument was acknowledged before me this 21<sup>st</sup> day of June, 2016 by Robert E. Schultz, the Managing Member of Triple S & L Developers, LLC, as permittee.



Jill D. Schuerman  
Notary Public


# CERTIFICATE

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

I, Teresa J. Meier, City Clerk of the City of Lincoln, Nebraska, do hereby certify that the above and foregoing is a true and correct copy of **Special Permit 16004** as adopted and approved by **Resolution No. PC-01498** of the Lincoln City-Lancaster County Planning Commission at its meeting held **May 25, 2016** as the original appears of record in my office, and is now in my charge remaining as City Clerk.

IN WITNESS WHEREOF, I have hereunto set my hand officially and affixed the seal of the City of Lincoln, Nebraska, this 14<sup>th</sup> day of June, 2016.

*Teresa J. Meier*  
City Clerk

The seal of the City of Lincoln, Nebraska, is circular. It features a central profile of Abraham Lincoln facing right. The text around the seal reads "CITY OF LINCOLN" at the top, "FOUNDED JULY 23 1857" on the right, "INCORPORATED APRIL 1 1859" at the bottom, and "LANCASTER COUNTY, NEBRASKA" on the left. A small "SEAL" is written below the profile.