
City of Grand Island



Thursday, September 11, 2008
Special Meeting Packet

City Council:

Tom Brown
Larry Carney
John Gericke
Peg Gilbert
Joyce Haase
Robert Meyer
Mitchell Nickerson
Bob Niemann
Kirk Ramsey
Jose Zapata

Mayor:

Margaret Hornady

City Administrator:

Jeff Pederson

City Clerk:

RaNae Edwards

7:00:00 PM
Council Chambers - City Hall
100 East First Street

Call to Order

This is an open meeting of the Grand Island City Council. The City of Grand Island abides by the Open Meetings Act in conducting business. A copy of the Open Meetings Act is displayed in the back of this room as required by state law.

The City Council may vote to go into Closed Session on any agenda item as allowed by state law.

Pledge of Allegiance

Roll Call

A - SUBMITTAL OF REQUESTS FOR FUTURE ITEMS

Individuals who have appropriate items for City Council consideration should complete the Request for Future Agenda Items form located at the Information Booth. If the issue can be handled administratively without Council action, notification will be provided. If the item is scheduled for a meeting or study session, notification of the date will be given.

B - RESERVE TIME TO SPEAK ON AGENDA ITEMS

This is an opportunity for individuals wishing to provide input on any of tonight's agenda items to reserve time to speak. Please come forward, state your name and address, and the Agenda topic on which you will be speaking.

MAYOR COMMUNICATION

This is an opportunity for the Mayor to comment on current events, activities, and issues of interest to the community.



City of Grand Island

**Thursday, September 11, 2008
Special Meeting**

Item E1

**Public Hearing for Ground Lease with Hall County Livestock
Improvement Association (Fonner Park)**

Staff Contact: Jeff Pederson



City of Grand Island

**Thursday, September 11, 2008
Special Meeting**

Item I1

**#2008-256 - Consideration of Ground Lease with Hall County
Livestock Improvement Association (Fonner Park)**

Staff Contact: Jeff Pederson

GROUND LEASE

THIS GROUND LEASE ("Lease") is made and entered into September ____, 2008, by and between HALL COUNTY LIVESTOCK IMPROVEMENT ASSOCIATION, a Nebraska nonprofit corporation ("Fonner Park") and CITY OF GRAND ISLAND, NEBRASKA, a city of the first class of the State of Nebraska ("City").

WHEREAS, the Nebraska Unicameral has passed L.B. 1116, 100th Leg., 2d Sess. (Neb. 2008) ("LB 1116") and a purpose of which is that the Nebraska State Fair be permanently located within the City upon real property owned by Fonner Park (the "State Fair Project");

WHEREAS, the City and Fonner Park have determined that the City should have title to a multi-purpose agricultural and recreational exposition building and associated infrastructure improvements (the "Building") in order to issue certain funds in the amount of \$5,000,000 ("Building Funds") as part of the City's obligations under LB 1116;

WHEREAS, the City and Wells Fargo Brokerage Services, LLC ("Wells Fargo") have entered into a Lease Purchase Agreement dated September ____, 2008 ("Lease Purchase Agreement") regarding the Building in order to facilitate the issuance of the Building Funds; and

WHEREAS, the City and Fonner Park Exposition and Events Center, Inc. ("HEC") have entered into amended and restated Management Contract dated September ____, 2008 ("Management Contract") to establish the rights, privileges, duties, commitments and responsibilities of the City and HEC in connection with the Building.

NOW THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, the parties do hereby agree and contract as follows:

1. **Certain Definitions.** For purposes of this Lease, the following terms are defined:

(a) "Leased Premises" shall mean that certain real property located in Hall County, Nebraska, and reasonably identified by the Fonner Park upon completion of the plans and specifications for the State Fair Project between the Fonner Park and the Nebraska State Fair Board. The Leased Premises shall be suitable to construct the Building and shall be located outside the restricted security envelope of the State Racing Commission so as to be used throughout the year. When the exact location and legal description of the Leased Premises is determined, such legal description shall be attached hereto as Exhibit "A" and made a part hereof. As part of this Lease, the City shall be granted during the term of the lease proper ingress and egress across the land of Fonner Park and suitable parking, as is necessary for proper utilization of the Building.

(b) "Building" shall mean the building, structures, fixtures and improvements constructed or installed upon the Leased Premises and infrastructure improvements serving such building.

Certain other defined terms shall have the respective meanings assigned to them elsewhere in this Lease.

2. **Demise and Term.** Fonner Park hereby leases and rents to City, and City hereby leases and rents from Fonner Park, the Leased Premises for the period commencing with the date hereof and ending on December 31, 2048; provided, that this Lease shall terminate if the Management Contract is terminated by the City (the "Term"). Thereafter, the Term shall automatically continue for five (5) year successive terms unless terminated by either party upon ninety (90) days prior written notice.

3. **Use.** The Leased Premises shall be used for the construction and operation of the Building under the Management Contract in connection with the operations of the Fonner Park, including without limitation, the State Fair Project.

4. **Building.** Any improvements to the Leased Premises shall be made under the terms and conditions of the Management Contract.

5. **Rent.** City shall pay to Fonner Park as gross rent ("Rent") for the Term hereof the sum of \$10.00, payable in advance on the first day of the Term.

6. **Maintenance and Repair.** The maintenance, repairs and replacements of and to the Leased Premises and the Building shall be governed by the terms and conditions of the Management Contract.

7. **Insurance and Casualty.** During the Term of this Lease, the City shall, at its own expense, insure the Leased Premises and the Building against loss or damage by fire and extended perils coverage in an amount not less than the full replacement value thereof, with such insurance to be under policies issued by responsible insurers authorized to do business in the State of Nebraska. The insurance policy shall name the City and Fonner Park as insured as their respective interests may appear, but so long as the City is not in default of this Lease, any loss shall be adjusted by and paid to the City. Upon occurrence of any damage covered by the foregoing property insurance, the City shall repair, replace or reconstruct the Building. The parties agree that if the available proceeds of the property insurance are insufficient to fully restore the Building to the condition existing prior to the loss, the City shall provide funds for restoration beyond the funds available from such insurance; provided, however, the City shall not be obligated to make up any shortfall of insurance if the agreement between Fonner Park and the Nebraska State Fair Board does not require the same.

8. **Assignment and Subletting.** Except as may be provided in the Lease Purchase Agreement and the Management Contract, City may not assign this Lease or sublet, in whole or in part, the Leased Premises, by operation of law or otherwise.

9. **No Subordination.** Upon the prior written consent of Fonner Park, City shall have the right to grant a mortgage or deed of trust upon the leasehold interest evidenced hereby subject to and upon the condition that the mortgagee or beneficiary shall execute an acknowledgment in form acceptable to Fonner Park acknowledging and agreeing that: (a) any such mortgage or deed of trust shall be junior and inferior in all respects to the interest of Fonner Park in the Leased Premises, (b) upon any foreclosure, such mortgagee or beneficiary shall be subject to the terms and conditions of

this Lease, and (c) the expiration or termination of this Lease shall terminate any mortgage or deed of trust and such mortgagee or beneficiary shall cause the mortgage or deed of trust to be released and reconveyed upon any such termination. Fonner Park agrees that it will provide written notice of any default by City to the holder of any mortgage or deed of trust of which it has knowledge.

10. **Default.** In the event City shall fail to observe and perform the terms and provisions of this Lease, and such failure continues for a period of thirty (30) days after written notice from Fonner Park to City (provided, in the event the nature of such failure reasonably requires more than thirty (30) days to cure, such thirty (30) day period shall be extended for as long as it is reasonably necessary provided City commences to cure such failure within such thirty (30) day period and thereafter diligently pursues the same to completion), then Fonner Park may terminate this Lease, City shall forfeit all rights, titles and interests in and to the Leased Premises and City shall remove the Building within ninety (90) days of such termination and shall immediately vacate the Leased Premises.

11. **Surrender.** City shall, upon termination of this Lease, whether by lapse of time or otherwise, peaceably and promptly surrender the Leased Premises, shall forfeit all rights, titles and interests in and to the Leased Premises and City shall remove the Building within ninety (90) days of such termination and shall immediately vacate the Leased Premises. If City remains in possession after the termination of this Lease, without a written lease duly executed by the parties, City shall be deemed a tenant at will.

12. **Notices.** All notices, demands, requests, approvals, consents, offers, statements, and other instruments of communication required or permitted to be given pursuant to the provisions of this Lease, shall be in writing and shall be deemed to have been given when delivered in person, by Federal Express or other 24-hour delivery service, or three (3) business days after being deposited in the United States mail by certified mail, return receipt requested, postage prepaid, addressed to the other party at its address hereinbelow set forth:

City of Grand Island
Attn: Mayor
P.O. Box 1968
100 East First Street
Grand Island, NE 68802-1968
mayor@grand-island.com

Hall County Livestock Improvement Association
Attn: Registered Agent
P.O. Box 490
700 East Stolley Park Road
Grand Island, NE 68802
fonnerpark@aol.com

For the purposes of this paragraph, any party may substitute its address by giving fifteen (15) days notice to the other party in the manner provided above.

13. **Recordation.** Fonner Park and City each agree, upon the request of the other, to execute and record a short form notice of this Lease.

14. **Entire Agreement.** This Lease is intended by the parties as a final expression of their agreement with respect to such terms as are included herein and may not be contradicted by evidence of any prior or contemporaneous agreement.

16. **No Representations or Warranties.** Except as expressly set forth herein, neither Fonner Park nor Fonner Park's agents or attorneys have made any representations or warranties with respect to the Leased Premises or any Building, and no rights, easements or licenses are or shall be acquired by City by implication or otherwise.

18. **Governing Law.** This Lease shall be governed by and construed in accordance with the laws of the State of Nebraska.

CITY OF GRAND ISLAND, NEBRASKA

By: _____
Margaret Hornady, Mayor

Dale M. Shotkoski, City Attorney

By: _____
Larry Toner, President

[illegible]

The foregoing instrument was acknowledged before me this ____ day of _____, 2008, by Margaret Hornady, Mayor of the City of Grand Island, Nebraska, a city of the first class of the State of Nebraska, on behalf of such city.

Witness my hand and notarial seal, this ____ day of _____, 2008.

Notary Public

STATE OF NEBRASKA)
) SS:
COUNTY OF HALL)

The foregoing instrument was acknowledged before me this ____ day of _____, 2008, by Larry Toner, President of Hall County Livestock Improvement Association., a Nebraska nonprofit corporation, on behalf of the corporation.

Witness my hand and notarial seal, this ____ day of _____, 2008.

Notary Public

R E S O L U T I O N 2008-256

WHEREAS, the Nebraska State Unicameral passed Legislative Bill 1116 which allows for the relocation of the Nebraska State Fair from Lincoln, Lancaster County, to Grand Island, Hall County, on property known as Fonner Park; and

WHEREAS, the City Council, for the City of Grand Island, in consideration of LB 1116 has considered the impact of the State Fair upon the City of Grand Island; and

WHEREAS, the City of Grand Island wishes to participate with the relocation efforts; and

WHEREAS, for the City to participate, it intends to assist by the construction of a facility to be used for the Nebraska State Fair and also for a broader public purpose on land leased from the Hall County Livestock Improvement Association.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Mayor is hereby authorized to, on behalf of the City, execute the Lease agreement in accordance with the terms and conditions generally outlined in the Lease enclosed in the packet to allow for the construction of a fifty thousand (50,000) square foot building, with the project cost not to exceed five million dollars (\$5,000,000.00).

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Adopted by the City Council of the City of Grand Island, Nebraska, September 11, 2008.

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk



City of Grand Island

**Thursday, September 11, 2008
Special Meeting**

Item I2

#2008-257 - Consideration of Amended and Restated Management Agreement with Heartland Events Center, Inc.

Staff Contact: Jeff Pederson

AMENDED AND RESTATED MANAGEMENT CONTRACT

THIS AMENDED AND RESTATED MANAGEMENT CONTRACT ("Management Contract"), dated as of September ____, 2008, by the CITY OF GRAND ISLAND, NEBRASKA, a city of the first class of the State of Nebraska ("City") and FONNER PARK EXPOSITION AND EVENTS CENTER, INC., a Nebraska nonprofit corporation ("Heartland").

WHEREAS, the City and Heartland entered into that certain Management Contract dated December 1, 2004 ("Original Management Contract"); and

WHEREAS, the City and Heartland desire to amend and restate the Original Management Contract pursuant to the terms and conditions of this Management Contract.

NOW, THEREFORE, for good and valuable consideration receipt of which is hereby acknowledged, the City and Heartland hereby mutually agree as follows:

1. **STATEMENT OF PURPOSE.** The purpose of this Management Contract is to set forth the terms and conditions under which Heartland will manage an agricultural exposition and events center known as the Heartland Events Center which is the subject of a Lease Purchase Agreement dated October 9, 2001, as amended, by and between the City and Heartland (the "Heartland Agreement") and an approximately 50,000 square foot multi-purpose agricultural and recreation exposition building which is the subject of a Lease Purchase Agreement dated September ____, 2008 by and between the City and Wells Fargo Brokerage Services, LLC (the "Wells Fargo Agreement"). The Heartland Agreement and the Wells Fargo Agreement are collectively referred to as the "Agreements." The structures under the Heartland Agreement and the Wells Fargo Agreement shall be referred to as the "Project." Under the terms of the Agreement, the City is to receive possession of the Project upon issuance of a certificate of substantial completion and thereafter the City requires the services of a manager for the Project. Heartland has been formed for the purposes of serving the City and its inhabitants through, among other things, operating and managing the Project.

2. **PROJECT MANAGEMENT BY HEARTLAND; RIGHTS OF HEARTLAND.** Upon issuance of the certificate of occupancy for the Project in accordance with the Agreements and the City taking possession of the Project, Heartland agrees to act for the City as manager of the Project and as such manager shall have the following rights, duties and responsibilities in regard to the management of the Project:

- a. to provide the Project with such equipment, supplies and other goods (in addition to the fixtures and equipment included in the Project under the terms of the Heartland Agreement Construction Contract and any construction agreement under the Wells Fargo Agreement which fixtures and equipment as included in the Project are herein referred to as the "Project Equipment") necessary and prudent for the efficient and effective operation of the Project as a public multi-purpose agricultural exposition and events center at Heartland's expense, which

additional property shall not constitute a part of the Project or an addition to the Project and shall remain the sole and separate property of Heartland; the parties hereto acknowledge and agree that under the terms of the Agreement Heartland is selling and leasing to the City the Project, including the Project Equipment, and that Heartland shall use and manage both the Project Equipment and the equipment supplies and other goods (as separately acquired by Heartland under the terms of this Management Contract) in connection with its management of the Project.

- b. to enter into such agreements as necessary with Hall County Livestock Improvement Association, a Nebraska nonprofit corporation ("Fonner Park") for the use of property, facilities or grounds of Fonner Park during the term of this Management Contract in connection with the efficient and effective operation of the Project as a public multi-purpose agricultural exposition and events center at Heartland's expense, which property, facilities or grounds of Fonner Park shall remain the sole and separate property of Fonner Park subject to any rights therein of Heartland and the City under the Parking Rights and Access Agreement, and to enter into such agreements with Fonner Park for the use of the Project by Fonner Park during the term of this Management Contract as shall be consistent with the terms of this Management Contract;
- c. to manage and operate the Project efficiently and effectively and with proper economy with the goal of maximizing the use of the Project as a public multipurpose agricultural exposition and events center serving the recreational, cultural and economic needs of the City and its residents;
- d. to make any arrangements for the use of all or part of the Project by exhibitors, licensees, concessionaires and users of the Project in the ordinary course of business for such charges or payments as determined by Heartland; provided, however, that any such arrangements shall be cancelable consistent with the requirements of Rev. Proc. 82-26 and, specifically, the requirement that the City have the right to obtain unencumbered fee title to the Project (including additions thereto) and exclusive possession of the Project; in such connection, Heartland agrees, in the event that the City exercises its rights under the Agreement and the Indenture to defease all bonds outstanding under the Indenture, to immediately cancel all encumbrances on the Project, including leases, management contracts and other similar contracts relating the Project or the use of any portion thereof and further agrees to require the parties to any such encumbrances to vacate within not less than ninety (90) days;
- e. to receive all revenues from the general operations of the Project and retain or use such revenues for the general operation of the Project and the general operations of Heartland which are consistent with Heartland's corporate purposes and with the description of its activities set forth in Heartland's Determination Letter under Section 501(c)(3) of the Internal Revenue Code as issued by the Internal Revenue Service (the "Determination Letter");

- f. to receive such portion of the proceeds of any city occupation taxes from the City under Neb. Rev. Stat. § 16-205 which the City and Heartland have separately agreed to and retain or use such proceeds for the general operation of the Project and the general operations of Heartland consistent with Heartland's corporate purposes and the description of its activities set forth in the Determination Letter;
- g. to administer, supervise, staff and direct the general operations of the Project at Heartland's expense;
- h. to establish and enforce rules of conduct for supervisors, staff, exhibitors, licensees, concessions, patrons, and any other individual or group using the Project to protect and preserve the Project and the health, safety and welfare of individuals and the public at Heartland's expense;
- i. to provide maintenance, repair, janitorial and security services necessary and prudent to protect and preserve the Project and provide a clean orderly facility for users, exhibitors, patrons and others; provided, however, that any alterations, additions and improvements to the Project requested by the City shall be paid for by the City and shall become part of the Project subject to the terms of the Agreement;
- j. to pay all expenses for utility services and operational expenses for the Project on a timely basis excluding any local property taxes and special assessments against the Project, which taxes and special assessments shall be paid for by the City in accordance with the terms of the Agreements.
- k. to ensure that the Project, any administrator for the Project employed by Heartland, supervisors and staff and all users of the Project conform to all valid statutes, laws, ordinances, regulations, rules, orders, judgments and requirements of all federal, state, local and other governmental authorities, now or hereafter applicable to the Project;
- l. to provide the City and Trustee an annual accounting of all receipts and expenditures of the Project, from whatever source derived within sixty (60) days following the close of the fiscal year for Heartland; at the request of the City, such accounting shall include a balance sheet and a profit and loss statement prepared to government accounting standards and audited by a mutually agreeable certified public accounting firm with an office in the State of Nebraska; provided, however, that the cost of such accounting and audit shall be paid for by the City;
- m. to negotiate and administer such licensing, catering and concession contracts and naming, pouring and signage right contracts as Heartland deems appropriate; provided, however, that all such contracts shall comply with the requirements of Rev. Proc. 82-26 and, specifically, the requirement that the City have the right to obtain unencumbered fee title to the Project (including additions thereto) and

exclusive possession of the Project; in such connection, Heartland agrees, in the event that the City exercises its rights under the Agreement and the Indenture to defease all bonds outstanding under the Indenture, to immediately cancel all such contracts relating the Project or the use of any portion thereof and further agrees to require the parties to any such contracts to vacate or cease any usage of the Project within not less than ninety (90) days; and

- n. to make such alterations, additions and improvements to the Project requested by the City; provided, however, that the City shall pay for the costs of such alterations, additions and improvements and any such additions and improvements shall become part of the Project and shall be subject to the terms of the Agreement.

The City and Heartland each expect that the Project will provide substantial social, cultural, recreational and economic benefits to the citizens of the City but that the Project will at best operate on a break-even basis. Any net revenue from the operation of the Project shall belong to Heartland as its separate property and shall be used by Heartland in manner consistent with Heartland's corporate purposes and the description of its activities set forth in the Determination Letter. Such net revenues shall not inure to or be paid to the City under any circumstances during the term of the Agreement.

3. PROJECT MANAGEMENT; OBLIGATIONS OF HEARTLAND.

Heartland hereby agrees to manage the Project on behalf of the City as an agricultural exposition and events center in such a manner as will:

- (a) attract agricultural and horticultural fairs, expositions and exhibitions of livestock, farm equipment and farm products;
- (b) bring in for the enjoyment of the general public of the City cultural and entertainment events that appeal to the general public of the City, including but not limited to:
 - (i) music concerts;
 - (ii) plays and theatrical productions;
 - (iii) other artistic, cultural or educational performing groups; and
 - (iv) professional and amateur athletic events;
- (c) attract trade shows, meetings, expositions and conventions, including but not limited to:
 - (i) trade shows and meetings, expositions and exhibitions of an agricultural or horticultural nature;

- (ii) other trade shows and meetings, expositions and exhibitions;
 - (iii) meetings of businesses, nonprofit organizations and governmental entities;
and
 - (iv) other conventions; and
- (d) to promote, conduct and manage all types and kinds of artistic, scientific, athletic, agricultural, horticultural and educational expositions, events, exhibitions, trade shows, meetings and conventions for the development and advancement of the people of the City and its surrounding area.
- (e) Heartland and the City shall meet quarterly or as needed for the purpose of scheduling dates for use of the Project by the City and to negotiate such fees to be paid by the City for such use. The City acknowledges that Project Equipment shall not include any equipment necessary for the use of the Project by the City under this Paragraph.

All such activities shall be carried out in accordance with the corporate purposes of Heartland and the description of the activities of Heartland set forth in the Determination Letter. The City shall retain such supervisory control of the Project as may be necessary to insure that the Project is being operated in the public interest with reasonable charges relating to both the conducting and the attending of events. In connection with such management of the Project, Heartland is authorized to impose or agree to such schedule or schedules of rates and charges for use of the Project as Heartland shall in its reasonable discretion determine appropriate. Any such schedules shall be filed with the City Clerk upon request by the City and shall be deemed approved within thirty (3) days of the time of any such filing. The City shall have the right but not the obligation to review any such filing of schedules of rates and charges as it determines appropriate from time to time but any such review shall be conducted on the basis of the understanding between the City and Heartland as set forth in this Management Contract that Heartland, in undertaking to provide management services hereunder, shall have reasonable discretion to exercise its best business judgment for the operation of the Project for the benefit of the City and its inhabitants. It is further acknowledged and agreed by the parties hereto (i) that the purpose of hiring Heartland as manager is to lessen the burdens of government in connection with the operation and management of the Project; (ii) that Heartland shall have the right to make reasonable charges in connection with the operation and management of the Project, the approval of which shall not be unreasonably withheld by the City; (iii) that the charges which Heartland imposes for use of the Project shall be reasonable and that Heartland shall manage and operate the Project in the public interest. Notice of any contract with respect to the Project having a term in excess of three (3) years entered into by Heartland shall be given to the City. Any contracts entered into by Heartland shall not run with the land as to the Project or commit the City to making any payments thereunder. The contracts made by Heartland listed on Exhibit A hereto attached, without regard to length of term, are hereby approved by the City. Each contract entered into by Heartland after the date of this Management Contract with respect to the Project shall contain the following provision:

"Any rights hereunder shall in all events be subject to the requirements of that Lease Purchase Agreement dated October 9, 2001 (the "Original Agreement"), by and between the City and Heartland, as amended and supplemented by that Addendum to Lease Purchase Agreement dated August 26, 2003 (the "First Addendum") by and between said parties, as further amended and supplemented by that Second Addendum to Lease Purchase Agreement dated as of December 1, 2004 (the "Second Addendum" and collectively, with the Original Agreement and the First Addendum, the "Agreement"), including, but not limited to, requirements for cancellation under Rev. Proc. 82-26 and, specifically, the requirement that the City have the right to obtain unencumbered fee title to the Project (including additions thereto) and exclusive possession of the Project."

4. **LIABILITY INSURANCE.** During the term of this Management Contract, Heartland shall at its own expense maintain comprehensive general liability insurance on the Project and its operation in amounts not less than \$1,000,000 for bodily injury and property damage for each occurrence with an annual aggregate limitation of not less than \$2,000,000. During the term of this Management Contract, Heartland shall also maintain excess liability or umbrella liability insurance coverage on the Project and its operation in an amount not less than \$1,000,000 for bodily injury and property damage for each occurrence and with an annual aggregate limitation of not less than \$2,000,000. Any policy for liability insurance maintained under the terms of this paragraph 4 shall show the City as an additional named insured. Heartland shall provide evidence of such insurance upon request by the City as made from time to time. The City shall have the right to obtain such additional liability insurance with respect to the Project as it shall determine appropriate from time to time.

5. **USES TO CONFORM TO LAW.** During the term of this Management Contract, the parties shall promptly comply with all valid statutes, laws, ordinances, regulations, rules, orders, judgments and requirements of all federal, state, local and other governmental authorities, now or hereafter applicable to the Project as to the manner of use or condition of the Project. In the event compliance with any of the foregoing requires additions, improvements and/or modifications to the Project, Heartland agrees to plan, design and construct such additions, modifications and/or improvements and the City agrees to reimburse Heartland as additional rent under the Agreement for direct expenses of the Project including engineers, architects, contractors, supplies and materials. In connection with any such required additions, improvements and/or modifications, the cost thereof required to be paid by the City shall not include the cost of any services provided by Heartland or its officers or employees.

6. **CHOICE OF LAWS.** This Management Contract shall be governed by the laws of the United States and the State of Nebraska and the ordinances of the City.

7. **AMENDMENTS.** Any amendment to this Management Contract shall be made in writing, duly approved and executed by the City and Heartland, notwithstanding any verbal or informal understanding or commitment to the contrary.

8. **STATUS OF MANAGEMENT CONTRACT; SEVERABILITY OF PROVISIONS.** This Management Contract represents an independent agreement of Heartland

and the City. If any provisions of this Management Contract shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case, for any reason, such circumstance shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever. The invalidity or unenforceability of any one or more phrases, sentences, clauses or paragraphs in this Management Contract contained shall not affect the remaining portions of this Management Contract or any part hereof. Any determination as to the invalidity or unenforceability of this Management Contract or any part hereof shall not affect the validity or enforceability of any other agreements of the parties with respect to the Project, specifically including, without limitation, the Agreement, the Indenture and the Parking Rights and Access Agreement, all of which shall remain in full force and effect in accordance with their respective terms.

9. **HEADINGS.** The headings of paragraphs in this Management Contract are to be deemed informational only, shall not be used in construing and shall not be construed as terms, or conditions of this Management Contract.

10. **LEGAL NOTICE AND CORRECTION OF DEFAULT.** Either party to this Management Contract shall notify the other in writing if it deems there is a default in any of the provisions of this Management Contract or any related documents. Such notice may be delivered in hand, by first-class U.S. mail or using electronic media, without limitation. The party to whom notice is sent shall have thirty (30) days from the receipt of the notice to respond in writing establishing that there is no default or to correct the condition creating the default. If either party has created a default which is not removed in accordance with this paragraph and such other provisions of this Management Contract as applied, the non-defaulting party may exercise its rights in the manner provided in this Management Contract or as provided at law or in equity to enforce its rights under this Management Contract. The addresses to which notices are to be sent as of the date of approval and execution of this Management Contract are:

City of Grand Island
Attn: Mayor
P. O. Box 1968
100 East First Street
Grand Island, NE 68802-1968
mayor@grand-island.com

Fonner Park Exposition and Event Center, Inc.
Attn: Registered Agent
P. O. Box 490
700 East Stolley Park Road
Grand Island, NE 68802
fonnerpark@aol.com

11. **ASSIGNMENT.** Heartland agrees that it will not assign its rights under this Management Contract without the approval of the assignment by the City. Consent to any proposed assignment by Heartland shall not be unreasonably withheld by the City, provided that it shall not be deemed unreasonable for the City to require that any such assignment shall be to an organization exempt from taxation under Section 501(a) of the Internal Revenue Code of 1986, as amended, (the "Code") qualified for such exemption under Section 501(c)(3) of the Code.

Heartland covenants that it will not make an assignment of any interest in this Management Contract which would have the effect of causing the interest on the Building Bonds to be includable in gross income under the Code.

12. **TERM OF MANAGEMENT CONTRACT.** It is the expectation of the parties that this Management Contract will be renewed and continued periodically until all bonds outstanding under the Indenture have been paid in full or satisfied prior to final maturity in accordance with the terms of the Indenture. The term of this Management Contract shall be deemed to commence upon execution by the City and Heartland and shall extend for a period of one year. At the end of this initial one-year term, the term of this Management Agreement shall be automatically extended for additional consecutive one year periods, until terminated as hereinafter provided. Anything in this Management Contract to the contrary notwithstanding, the term of this Management Contract including any and all extensions shall automatically terminate in the event that the City exercises its right to obtain unencumbered fee title to the Project under the terms of the Indenture and the Agreement, in accordance with and under the requirements of Rev. Proc. 82-26. Heartland shall have the additional right to terminate this Management Contract at any time upon one hundred twenty (120) days' notice to the City.

13. **RELATIONSHIP OF PARTIES.** The relationship between the City and Heartland is that of beneficial owner (the City) and agent manager (Heartland) and nothing contained in this Management Contract is intended to or shall be deemed to create any other relationship.

14. **Tax Exemptions.** Heartland hereby covenants, represents and agrees as follows:

(a) Heartland (1) is a private nonprofit corporation duly organized and validly existing under the laws of the State of Nebraska not operated for private or corporate profit, (2) has lawful power and authority to enter into, execute and deliver this Management Contract and to carry out its obligations under this Management Contract and (3) by all necessary corporate action, has been duly authorized to execute and deliver this Management Contract, acting by and through its duly authorized officers.

(b) Heartland (1) has been determined to be and is a nonprofit organization, organized under the laws of the United States of America or any state, that is described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code") and is exempt from federal income taxes under Section 501(a) of the Code and (2) has not declared and has not been determined to have any "unrelated business taxable income" (as defined in Code § 512) which could have a material adverse effect on its status as a such a tax-exempt organization or which, if such income were subject to federal income taxation, could have a material adverse effect on the condition, financial or otherwise, of Heartland. Heartland received a letter from the Internal Revenue Service to the effect that it is a such a tax-exempt organization, a copy of which has been furnished to the City. Such letter has not been withdrawn, and no audit or investigation by the Internal Revenue Service of the tax-exempt status of Heartland is presently being conducted. There has been no change or threatened change in the status of Heartland as such a tax-exempt organization as of the date of this Management Contract. At all times during the term of this Management Contract, Heartland has and will maintain its status as such a tax-

exempt organization and will take no action or permit any action to be taken that could result in the alteration or loss of its status as such a tax-exempt organization.

(c) In order to maintain the exclusion of the interest payable by the City under the terms of the Agreements for the financing of Project from gross income for federal income tax purposes, Heartland (1) will take whatever action, and refrain from whatever action, is necessary to comply with the applicable requirements of the Code and (2) will not use, or permit the use of, any portion of the project as so financed in a manner that would violate applicable provisions of the Code with respect to the exempt status of such interest.

15. **EFFECTIVE DATE.** This Management Contract has been dated for convenience of reference as shown on the initial page hereof. This Management Contract has been actually executed on the date set forth below for each of the parties.

ATTEST:

CITY OF GRAND ISLAND, NEBRASKA

RaNae Edwards, City Clerk

By: _____
Margaret Hornady, Mayor

APPROVED AS TO FORM:

Dale M. Shotkoski, City Attorney

ATTEST:

FONNER PARK EXPOSITION &
EVENTS CENTER, INC.

Hugh Miner, Jr., Secretary

By: _____
Vince Dowding, President

STATE OF NEBRASKA)
) ss.
COUNTY OF HALL)

The foregoing instrument was acknowledged before me this ____ day of September, 2008, by Margaret Hornady, Mayor of the City of Grand Island, Nebraska, a city of the first class of the State of Nebraska, on behalf of such city.

Witness my hand and notarial seal this ____ day of September, 2008.

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF HALL)

The foregoing instrument was acknowledged before me this ____ day of September, 2008, by Vince Dowding, President of FONNER PARK EXPOSITION & EVENTs CENTER, INC., a Nebraska nonprofit corporation, on behalf of the corporation.

Witness my hand and notarial seal this ____ day of September, 2008.

Notary Public

EXHIBIT A

1. Agreement with Saint Francis Medical Center dated July 15, 2002
2. Agreement with Hall County Agricultural Society, Incorporated dated August 2, 2002
3. Agreement with the county of Hall, Nebraska dated May 25, 2004
4. Agreement with We Aim to Please, Inc. dated June 10, 2004
5. Agreement with the State of Nebraska Department of Economic Development dated July 5, 2004.
6. Agreement with KWS, Inc. dated August 16, 2004
7. Agreement with Hall County Livestock Improvement Association dated July 12, 2000
8. Agreement with The Pepsi Bottling Group dated December 5, 2001 (Pepsi Bottling Group)

W490501.01

RESOLUTION 2008-257

WHEREAS, the Nebraska State Unicameral passed Legislative Bill 1116 which allows for the relocation of the Nebraska State Fair from Lincoln, Lancaster County, to Grand Island, Hall County, on property known as Fonner Park; and

WHEREAS, the City Council, for the City of Grand Island, in consideration of LB 1116 has considered the impact of the State Fair upon the City of Grand Island; and

WHEREAS, the City of Grand Island to assist with the Nebraska State Fair desires to have constructed a fifty thousand (50,000) square foot facility, with a cost not to exceed five million dollars (\$5,000,000.00), located on land owned by the Hall County Livestock Improvement Association; and

WHEREAS, the Fonner Park Exposition and Events Center, Inc. currently has a Management Agreement for another facility owned by the City of Grand Island, the Heartland Events Center, and the City finds that it would be beneficial to have the same management agent for the fifty thousand (50,000.00) square foot facility; and

WHEREAS, Fonner Park Exposition and Events Center, Inc. should be positioned to most effectively fulfill the public purpose requirement of the lease purchase and furthermore coordinate the use of the facility as envisioned in LB 1116.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Mayor is hereby authorized to, on behalf of the City, execute the Amended and Restated Management Contract with the Fonner Park Exposition and Events Center, Inc. for the future management of the facility to be built by the Hall County Livestock Improvement Association to be used for the purposed outlined in LB 1116 and for the broader city public purposed.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, September 11, 2008.

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk

Approved as to Form	☐ _____
September 11, 2008	☐ City Attorney



City of Grand Island

**Thursday, September 11, 2008
Special Meeting**

Item I4

**#2008-255 - Consideration of Lease Purchase Agreement with
Wells Fargo Brokerage Services, LLC**

Staff Contact: Jeff Pederson

LEASE-PURCHASE AGREEMENT

Between

WELLS FARGO BROKERAGE SERVICES, LLC

As Lessor

and the

The City of Grand Island, Nebraska

As Lessee

Dated as of the ____ day of _____, 2008

LESSOR'S ORIGINAL

Prepared by:

Wells Fargo Brokerage Services, LLC
Public Finance Department
Your Address, Your MAC Code
Your City, Your State XXXXX

THIS LEASE-PURCHASE AGREEMENT dated as of the ____ day of _____, 20__ (the Lease), by and between WELLS FARGO BROKERAGE SERVICES, LLC, as lessor (Lessor), whose address is Public Finance Department, Your Address, Your MAC Code, Your City, Your State XXXXX, and the City of Grand Island, Nebraska, as lessee (Lessee) whose address is P.O. Box 1968, 100 East First Street, Grand Island, Nebraska 68802-1968.

WITNESSETH:

WHEREAS, Lessee is authorized by law to acquire such items of property as are needed to carry out its governmental functions, and to acquire such property by entering into lease-purchase agreements; and

WHEREAS, Lessee and Hall County Livestock Improvement Association (the "Association") have entered into a Lease dated as of _____, 2008 (the Ground Lease), whereby the Association has leased to Lessee certain land described in Exhibit A hereto (the Land); and

WHEREAS, Lessee has granted certain license and easement rights with respect to and under its rights provided for in the Ground Lease to Lessor under the terms of a License and Easement dated _____, 2008; and

WHEREAS, Lessor has agreed to lease certain improvements constructed on the Land (the Improvements) to Lessee, pursuant to this Lease; and

WHEREAS, Lessee has determined that it is necessary and desirable for it to finance under this Lease the acquisition of such Improvements upon the Land;

NOW THEREFORE, in the joint and mutual exercise of their powers, and in consideration of the mutual covenants herein contained, the parties hereto recite and agree as follows:

ARTICLE I

DEFINITIONS AND EXHIBITS

Section 1.1. Definitions. Unless the context otherwise requires, the terms defined in this Section shall, for all purposes of this Lease, have the meanings herein specified.

Closing Date: The date upon which the amount specified in Section 2.3 is deposited with the Escrow Agent.

Escrow Agent: Lessor, acting as escrow agent, pursuant to the terms and conditions of the Escrow Agreement, or any successor appointed and so acting under the terms of the Escrow Agreement.

Escrow Agreement: The Escrow Agreement dated as of the date hereof, by and between Lessee, and Lessor, acting as escrow agent, and any replacement thereof or supplement thereto.

Fiscal Year: The twelve month fiscal period of Lessee which commences on October 1 in every year and ends on the following September 30.

Ground Lease: The Ground Lease Agreement dated as of the date hereof, by and between the Association and Lessee, whereby the Association has leased the Land to Lessee.

Independent Counsel: An attorney duly admitted to the practice of law before the highest court of the State who is not a full-time employee of Lessor or Lessee.

Improvements: The improvements described on Exhibit A hereto, and all repairs, replacements, substitutions and modifications thereto.

Interest: The portion of any Rental Payment designated as and comprising interest as shown in the attached Exhibit B.

Land: The land described on Exhibit A hereto.

License and Easement. The License and Easement providing certain rights for Lessor with respect to Lessee's interest in the Land under the Ground Lease.

Net Proceeds: Any insurance proceeds or condemnation award, paid with respect to the Project, remaining after payment therefrom of all expenses incurred in the collection thereof.

Payment Date: The date upon which any Rental Payment is due and payable as provided in Exhibit B.

Permitted Encumbrances: As of any particular time: (i) liens for taxes and assessments not then delinquent, or which Lessee may, pursuant to provisions of Section 7.3 hereof, permit to remain unpaid, (ii) this Lease, the Ground Lease and amendments thereto, (iii) Lessor's interest in the Project, and (iv) any construction, mechanic's, laborer's, materialmen's, supplier's or vendor's lien or right not filed or perfected in the manner prescribed by law, other than any lien arising through a Contractor or which Lessee may, pursuant to Article VIII hereof, permit to remain unpaid.

Principal: The portion of any Rental Payment designated as principal in the attached Exhibit B.

Project: The Land and the Improvements.

Purchase Option Price: With respect to the Project, as of the Payment Dates specified in the attached Exhibit B, the amount so designated and set forth opposite such date.

Rental Payment: The payment due from Lessee to Lessor on each Payment Date during the Term of this Lease, as shown on Exhibit B.

State: The State of Nebraska.

State and Federal Law or Laws: The Constitution and any law of the State and any rule or regulation of any agency or political subdivision of the State; and any law of the United States, and any rule or regulation of any federal agency.

Term of this Lease or Lease Term: The period during which this Lease is in effect as specified in Section 4.1.

Section 1.2. Exhibits.

The following Exhibits are attached to and by reference made a part of this Lease:

Exhibit A: A description of the Land and Improvements subject to this Lease.

Exhibit B: A schedule indicating the date and amount of each Rental Payment coming due during the Lease Term, the amount of each Rental Payment comprising Principal and Interest, and the price at which Lessee may exercise its option to purchase Lessor's interest in the Project in accordance with Article X.

Exhibit C: A certificate of officers of Lessee as to certain matters relating to the Lease, the Ground Lease and the Escrow Agreement.

Exhibit D: A form of opinion of counsel to Lessee.

ARTICLE II

REPRESENTATIONS, COVENANTS AND WARRANTIES

Section 2.1. Representations, Covenants and Warranties of Lessee. Lessee represents, covenants and warrants as follows:

(a) Lessee is a duly formed and validly existing political subdivision of the State, governed by the Constitution and laws of the State.

(b) Lessee is authorized under the Constitution and laws of the State (specifically Section 19-2421, R.R.S. Neb. 1997, referred to herein as the Act) to enter into this Lease and the Escrow Agreement and the transactions contemplated thereby, and to perform all of its obligations thereunder.

(c) The officers of Lessee executing this Lease, the Ground Lease and the Escrow Agreement have been duly authorized to execute and deliver such documents under the terms and provisions of a resolution of Lessee's governing body, or by other appropriate official action.

(d) In authorizing and executing this Lease, Lessee has complied with all public bidding and other State and Federal Laws applicable to this Lease and the acquisition of the Improvements by Lessee.

(e) Lessee will not pledge, mortgage or assign this Lease, or its duties and obligations hereunder to any other person, firm or corporation except as provided under the terms of this Lease.

(f) Lessee will use the Project during the Lease Term only to perform essential governmental functions or governmental and proprietary functions relating to and supporting the Nebraska State Fair.

(g) Lessee will take no action that would cause the Interest portion of the Rental Payments to become includable in gross income of the recipient for federal income tax purposes under the Internal Revenue Code of 1986, as amended (the Code), and Treasury Regulations promulgated thereunder (the Regulations), and Lessee will take and will cause its officers, employees and agents to take all affirmative actions legally within its power necessary to ensure that the Interest portion of the Rental Payments does not become includable in gross income of the recipient for federal income tax purposes under the Code and Regulations.

(h) Lessee has funds available and properly appropriated or subject to appropriation to pay Rental Payments until the end of the current Fiscal Year. Lessee has never terminated, or threatened to terminate, a lease-purchase or similar agreement for failure of its governing body to appropriate funds sufficient to perform its obligations thereunder for any fiscal year.

(i) Lessee will execute and deliver on the Closing Date a certificate substantially in the form of Exhibit C hereto, and Lessee will cause its legal counsel to provide a legal opinion to Lessor substantially in the form of Exhibit D hereto, dated as of the Closing Date.

Section 2.2. Representations, Covenants and Warranties of Lessor. Lessor represents, covenants and warrants as follows:

(a) Lessor is a limited liability company duly organized, existing and in good standing; has power to enter into this Lease, the Ground Lease and the Escrow Agreement; is possessed of full power to own and hold real and personal property, and to lease the same; and has duly authorized the execution and delivery of this Lease, the Ground Lease and the Escrow Agreement.

(b) Neither the execution and delivery of this Lease, the Ground Lease and the Escrow Agreement, nor the fulfillment of or compliance with the terms and conditions thereof, nor the consummation of the transactions contemplated thereby, conflicts with or results in a breach of the terms, conditions or provisions of any restriction or any agreement or instrument to which Lessor is now a party or by which Lessor is bound, constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of Lessor, or upon the Project except Permitted Encumbrances.

Section 2.3. Deposit of Funds. Upon execution of this Lease and the Ground Lease, Lessor shall deposit the sum of \$5,000,000 into escrow pursuant to the terms and conditions of the Escrow Agreement which amount shall be disbursed by the Escrow Agent in payment of the costs of the Improvements in accordance with this Lease and the Escrow Agreement.

ARTICLE III

LEASE OF PROJECT

Section 3.1. Lease. (a) Lessor hereby leases the Improvements to Lessee, and Lessee hereby leases the Improvements from Lessor, upon the terms and conditions set forth in this Lease. Lessee hereby covenants and warrants that it has full right, title and authority to grant the license and easement rights granted and/or confirmed in this Section 3.1 and further covenants and warrants that it will defend such rights in Lessor against the claims of all persons whomsoever. Lessee (as easement grantor) hereby grants to Lessor (in the separate capacity of easement grantee) a license and easement with respect to the tracts of real estate located in the City of Grand Island, Hall County, Nebraska, which are described as the site for the Improvements on Exhibit A hereto attached and incorporated by reference herein, for the location, construction, acquisition, installation, operation and maintenance of improvements, structures, goods which are to become fixtures, fixtures and equipment constituting the Improvements, being all of property constituting the Improvements, which are to be leased and sold by Lessor to the Lessee pursuant to this Lease. Such license and easement shall include full access and use by Lessor (as grantee and its licensees and invitees and shall permit all actions necessary or incidental to the location, construction, acquisition, installation, operation and maintenance of the Improvements. The Improvements as financed pursuant hereto are hereby acknowledged to be the separate property of the Lessor, subject to the rights provided for Lessee under the terms of this Lease. This license and easement shall continue until _____, 20__ unless all of the Rental Payments provided for in this Lease have been paid in full.

(b) Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, upon and subject to the terms and conditions hereinafter set forth, the Improvements, as and to the extent constructed and acquired under the terms of this Lease. Lessor shall lease the Improvements to Lessee (as and to the extent constructed or acquired) for a term beginning on date hereof and ending on _____, 20__. Until payment in full of all Rental Payments due hereunder the Improvements shall remain the property of the Lessor and shall not become a part of the real estate described on Exhibit A hereto attached. Upon the final payment of all rental obligations under this Lease the Improvements shall be conveyed to Lessee by the Lessor by quitclaim deed and bill of sale to be executed and delivered by Lessor upon the written request of Lessee.

(c) Lessor and Lessee agree that, as and to the extent that this Lease may be regarded as relating to goods, goods which may become fixtures, fixtures, furniture or equipment, this Lease shall constitute a "finance lease" within the meaning of such term as used in Article 2A of the Nebraska Uniform Commercial Code. In such connection Lessee acknowledges (a) that neither Lessor nor the Trustee has selected, manufactured or supplied any goods constituting the Improvements, (b) that Lessor is acquiring the Improvements in connection with this Lease and (c) that Lessee has received a copy of the contract with the contractor constructing the Improvements prior to the execution of this Lease. Lessee further acknowledges that Lessee has been informed in writing before the execution of this Lease that Lessee is entitled under said Article 2A to the promises and warranties provided by such contractor and any other person supplying the Improvements or items incorporated therein and that Lessee may communicate with any such

person and obtain a complete and accurate statement of any such promises and warranties, including any disclaimers and limitations of them or of remedies.

Section 3.2. Possession and Enjoyment. Lessor hereby covenants to provide Lessee during the Term of this Lease with the quiet use and enjoyment of the Project, and Lessee shall during the Term of this Lease peaceably and quietly have and hold and enjoy the Project, without suit, trouble or hindrance from Lessor, except as expressly set forth in this Lease. Lessor will, at the request of Lessee and at Lessee's cost, join in any legal action in which Lessee asserts its right to such possession and enjoyment to the extent Lessor lawfully may do so.

Section 3.3. Lessor Access to Project. Lessee agrees that Lessor shall have the right at all reasonable times to examine and inspect the Project. Lessee further agrees that Lessor shall have such rights of access to the Project as may be reasonably necessary to cause the proper maintenance of the Project in the event of failure by Lessee to perform its obligations hereunder.

ARTICLE IV

TERM OF LEASE

Section 4.1. Lease Term. This Lease shall be in effect for a Term commencing upon its date of execution and ending as provided in Section 4.5.

Section 4.2. Agreement Concerning Rental Payments. Lessee covenants that the Rental Payments do not exceed any limitation imposed by law. Until all Rental Payments have been made in full, Lessee covenants and agrees to make and continue to make for so long as permitted by law an annual levy on the taxable property within its geographical area pursuant to Section 16-702, R.R.S. Neb. 1997, as amended which will be sufficient, along with any other funds available for the purpose, specifically including amounts collected any occupation taxes designated for such purpose, to enable Lessee to make all of the Rental Payments and to perform all other obligations of Lessee under this Lease and to take all action required to provide funds to make the Rental Payments and perform such obligations as herein required. Lessee covenants and agrees that throughout the term of this Lease it will observe all budget, tax and spending limitations now or hereafter imposed by law in such a manner that a sufficient portion of its tax levy or other monies shall be lawfully available to make all the Rental Payments and perform all other obligations of Lessee hereunder. Lessee agrees that commencing with its budget for the next-ensuing fiscal year it will include amounts sufficient to make the Rental Payments as the same fall due in its annual budget and appropriations. Lessee covenants and agrees that it shall neither take any action nor omit to take such action which such action or omission would have the affect of causing interest on due under the terms of this Lease and identified as such herein to be no longer excludable from gross income under the Internal Revenue Code of 1986, as amended, (the Code) .

Section 4.3. Intent to Continue Lease Term; Appropriations. Lessee presently intends to continue this Lease for its entire Term and to pay all Rental Payments specified in Exhibit B. The officer of Lessee responsible for budget preparation will include in the budget request for each Fiscal Year the Rental Payments to become due in such Fiscal Year, and will use all reasonable and lawful means available to secure the appropriation of money for such Fiscal Year sufficient to pay the Rental Payments coming due therein.

Section 4.4. Termination of Lease Term. The Term of this Lease will terminate upon the occurrence of the first of the following events:

(a) the exercise by Lessee of its option to purchase Lessor's interest in the Project pursuant to Article X;

(c) a default by Lessee and Lessor's election to terminate this Lease pursuant to Article XII; or

(d) the payment by Lessee of all Rental Payments and other amounts authorized or required to be paid by Lessee hereunder.

ARTICLE V

RENTAL PAYMENTS

Section 5.1. Rental Payments. Lessee agrees to pay Rental Payments during the Term of this Lease, in the amounts and on the dates specified in Exhibit B. All Rental Payments shall be paid to Lessor at its offices at the address specified in the first paragraph of this Lease, or to such other person or entity to which Lessor has assigned such Rental Payments as specified in Article XI, at such place as such assignee may from time to time designate by written notice to Lessee. Lessee shall pay the Rental Payments exclusively from moneys legally available therefor, in lawful money of the United States of America, to Lessor or, in the event of assignment of the right to receive Rental Payments by Lessor, to its assignee. Interest shall accrue from the time of the deposit into escrow of funds by the Lessor.

Section 5.2. Current Expense. The obligations of Lessee under this Lease, including its obligation to pay the Rental Payments due with respect to the Project, in any Fiscal Year for which this Lease is in effect and shall constitute a current expense of Lessee for such Fiscal Year.

Section 5.3. Interest Component. A portion of each Rental Payment is paid as and represents the payment of Interest. Exhibit B sets forth the Interest component of each Rental Payment.

Section 5.4. Rental Payments to be Unconditional. In accordance with the terms of the Act, the obligation of the Lessee to make Rental Payments shall be binding upon the Lessee from year to year. The obligation of Lessee to make Rental Payments or any other payments required hereunder shall be absolute and unconditional in all events. Notwithstanding any dispute between Lessee and Lessor or any other person, Lessee shall make all Rental Payments and other payments required hereunder when due and shall not withhold any Rental Payment or other payment pending final resolution of such dispute nor shall Lessee assert any right of set-off or counterclaim against its obligation to make such Rental Payments or other payments required under this Lease. Lessee's obligation to make Rental Payments or other payments during the Lease Term shall not be abated through accident or unforeseen circumstances (including, without limitation, the occurrence of any environmental liability). However, nothing herein shall be construed to release Lessor from the performance of its obligations hereunder; and if Lessor should fail to perform any such obligation, Lessee may institute such legal action against Lessor as Lessee may deem necessary to compel the performance of such obligation or to recover damages therefor.

ARTICLE VI

INSURANCE AND NEGLIGENCE

Section 6.1. Liability Insurance. Upon receipt of possession of the Project, Lessee shall take such measures as may be necessary to insure that any liability for injuries to or death of any person or damage to or loss of property arising out of or in any way relating to the condition or the operation of the Project or any part thereof, is covered by a blanket or other general liability insurance policy maintained by Lessee. The Net Proceeds of all such insurance shall be applied toward extinguishment or satisfaction of the liability with respect to which any Net Proceeds may be paid.

Section 6.2. Property Insurance. Lessee shall have and assume the risk of loss with respect to the Project. Lessee shall procure and maintain continuously in effect during the Term of this Lease, all-risk insurance, subject only to the standard exclusions contained in the policy, in such amount as will be at least sufficient so that a claim may be made for the full replacement cost of any part of the Project damaged or destroyed and to pay the applicable Purchase Option Price of the Project. Such insurance may be provided by a rider to an existing policy or under a separate policy. Such insurance may be written with customary deductible amounts and need not cover land and building foundations. The Net Proceeds of insurance required by this Section shall be applied to the prompt repair, restoration or replacement of the Project, or to the purchase of the Project, as provided in Section 6.6. Any Net Proceeds not needed for those purposes shall be paid to Lessee.

Section 6.3. Worker's Compensation Insurance. If required by State law, Lessee shall carry worker's compensation insurance covering all employees on, in, near or about the Project, and upon request, shall furnish to Lessor certificates evidencing such coverage throughout the Term of this Lease.

Section 6.4. Requirements For All Insurance. All insurance policies (or riders) required by this Article shall be taken out and maintained with responsible insurance companies organized under the laws of one of the states of the United States and qualified to do business in the State; and shall contain a provision that the insurer shall not cancel or revise coverage thereunder without giving written notice to the insured parties at least ten (10) days before the cancellation or revision becomes effective. All insurance policies or riders required by Sections 6.1 and 6.2 shall name Lessee and Lessor as insured parties, and any insurance policy or rider required by Section 6.3 shall name Lessee as insured party. Lessee shall deposit with Lessor policies (and riders) evidencing any such insurance procured by it, or a certificate or certificates of the respective insurers stating that such insurance is in full force and effect. Before the expiration of any such policy (or rider), Lessee shall furnish to Lessor evidence that the policy has been renewed or replaced by another policy conforming to the provisions of this Article, unless such insurance is no longer obtainable in which event Lessee shall notify Lessor of this fact.

Section 6.5. Lessee's Negligence. Lessee assumes all risks and liabilities, whether or not covered by insurance, for loss or damage to the Project and for injury to or death of any person or damage to any property, whether such injury or death be with respect to agents or employees of Lessee or of third parties, and whether such property damage be to Lessee's property or the property of others, which is proximately caused by the negligent conduct of Lessee, its officers, employees and agents. Lessee hereby assumes responsibility for and agrees to reimburse Lessor for all liabilities, obligations, losses, damages, penalties, claims, actions, costs and expenses (including reasonable attorney's fees, to the extent permitted by law) of whatsoever kind and nature, imposed on, incurred by or asserted against Lessor that in any way relate to or arise out of a claim, suit or proceeding based in whole or in part upon the negligent conduct of Lessee, its officers, employees and agents, to the maximum extent permitted by law.

Section 6.6. Damage to or Destruction of Project. If all or any part of the Project is lost, stolen, destroyed or damaged beyond repair, Lessee shall as soon as practicable after such event replace the same at Lessee's sole cost and expense with property of equal or greater value to the Project immediately prior to the time of the loss occurrence, such replacement to be subject to Lessor's reasonable approval, whereupon such replacement shall be substituted in this Lease by appropriate endorsement. The Net Proceeds of all insurance payable with respect to the Project shall be available to Lessee and shall be used to discharge Lessee's obligation under this Section.

ARTICLE VII

OTHER OBLIGATIONS OF LESSEE

Section 7.1. Use; Permits. Lessee shall exercise due care in the use, operation and maintenance of the Project, and shall not use, operate or maintain the Project improperly, carelessly, in violation of any State and Federal Law or for a purpose or in a manner contrary to that contemplated by this Lease. Lessee shall obtain all permits and licenses necessary for the installation, operation, possession and use of the Project. Lessee shall comply with all State and Federal Laws applicable to the installation, use, possession and operation of the Project, and if compliance with any such State and Federal Law requires changes or additions to be made to the Project, such changes or additions shall be made by Lessee at its expense.

Section 7.2. Maintenance of Project by Lessee. Lessee shall, at its own expense, maintain, preserve and keep the Project in good repair, working order and condition, and shall from time to time make all repairs and replacements necessary to keep the Project in such condition. Lessor shall have no responsibility for any of these repairs or replacements.

Section 7.3. Taxes, Other Governmental Charges and Utility Charges. Except as expressly limited by this Section, Lessee shall pay all taxes and other charges of any kind which are at any time lawfully assessed or levied against or with respect to the Project, the Rental Payments or any part thereof, or which become due during the Term of this Lease, whether assessed against Lessee or Lessor. Lessee shall also pay when due all gas, water, steam, electricity, heat, power, telephone, and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Project, and all special assessments and charges lawfully made by any governmental body for public improvements that may be secured by a lien on the Project; provided that with respect to special assessments or other governmental charges that may lawfully be paid in installments over a period of years, Lessee shall be obligated to pay only such installments as are required to be paid during the Term of this Lease as and when the same become due. Lessee shall not be required to pay any federal, state or local income, inheritance, estate, succession, transfer, gift, franchise, gross receipts, profit, excess profit, capital stock, corporate, or other similar tax payable by Lessor, its successors or assigns, unless such tax is made in lieu of or as a substitute for any tax, assessment or charge which is the obligation of Lessee under this Section.

Lessee may, at its own expense and in its own name, in good faith contest any such taxes, assessments, utility and other charges and, in the event of any such contest, may permit the taxes, assessments, utility or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom unless Lessor shall notify Lessee that, in the opinion of Independent Counsel, by nonpayment of any such items the interest of Lessor in the Project will be materially endangered or the Project or any part thereof will be subject to loss or forfeiture, in which event Lessee shall promptly pay such taxes, assessments, utility or other charges or provide Lessor with full security against any loss which may result from nonpayment, in form satisfactory to Lessor.

Section 7.4. Advances. If Lessee shall fail to perform any of its obligations under this Article, Lessor may, but shall not be obligated to, take such action as may be necessary to cure such failure, including the advancement of money, and Lessee shall be obligated to repay all such advances on demand, with interest at the rate of 12% per annum or the maximum rate permitted by law, whichever is less, from the date of the advance to the date of repayment.

ARTICLE VIII

TITLE

Section 8.1. Title. During the Term of this Lease, legal title to the Improvements and any and all repairs, replacements, substitutions and modifications thereto shall be in Lessor. Legal title to the Land shall remain in the Association, subject to Lessee's interest under the Ground Lease and Lessor's rights under the License and Easement. Upon the payment by Lessee of all Rental Payments as indicated in Exhibit B, or the exercise by Lessee of its option to purchase the Project pursuant to Article X, full and unencumbered legal title to the Project shall pass to Lessee, and Lessor shall have no further interest therein; and Lessor shall execute and deliver to Lessee such documents as Lessee may request to evidence the passage of legal title to the Project to Lessee and the termination of Lessor's interest therein. Nothing herein shall require Lessor to remove any lien, charge or encumbrance upon legal title to the Project not arising through Lessor.

Section 8.2. Liens. During the Term of this Lease, Lessee shall not, directly or indirectly, create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, encumbrance or claim on or with respect to the Project, other than the respective rights of Lessor and Lessee as herein provided and Permitted Encumbrances. Except as expressly provided in Section 7.3 and this Article, Lessee shall promptly, at its own expense, take such action as may be necessary duly to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim if the same shall arise at any time. Lessee shall reimburse Lessor for any expense incurred by Lessor in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim.

Section 8.3. Installation of Lessee's Equipment. Lessee may at any time and from time to time, in its sole discretion and at its own expense, install items of equipment in or upon the Project, which items shall be identified by tags or other symbols affixed thereto as property of Lessee. All such items so identified shall remain the sole property of Lessee, in which Lessor shall have no interest, and may be modified or removed by Lessee at any time provided that Lessee shall repair and restore any and all damage to the Project resulting from the installation, modification or removal of any such items. Nothing in this Lease shall prevent Lessee from purchasing items to be installed pursuant to this Section under a conditional sale or lease with option to purchase contract, or subject to a vendor's lien or security agreement, as security for the unpaid portion of the purchase price thereof, provided that no such lien or security interest shall attach to any part of the Project.

Section 8.4. Modification of Project. Lessee shall, at its own expense, have the right to make repairs to the Project, and to make repairs, replacements, substitutions and modifications to all or any of the parts thereof. All such work and any part or component used or installed to make a repair or as a replacement, substitution or modification, shall thereafter comprise part of the Project and be subject to the provisions of this Lease. Such work shall not in any way damage the Project or cause it to be used for purposes other than those authorized under the provisions of State and Federal Law or those contemplated by this Lease; and the

Project, upon completion of any such work, shall be of a value which is not less than the value of the Project immediately prior to the commencement of such work. Any property for which a replacement or substitution is made pursuant to this Section may be disposed of by Lessee in such manner and on such terms as are determined by Lessee. Lessee will not permit any construction, mechanic's or other lien to be established or remain against the Project for labor or materials furnished in connection with any repair, addition, modification or improvement made by Lessee pursuant to this Section; provided that if any such lien is established and Lessee shall first notify Lessor of Lessee's intention to do so, Lessee may in good faith contest any lien filed or established against the Project, and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom unless Lessor shall notify Lessee that, in the opinion of Independent Counsel, by nonpayment of any such item the interest of Lessor in the Project will be materially endangered or the Project or any part thereof will be subject to loss or forfeiture, in which event Lessee shall promptly pay and cause to be satisfied and discharged all such unpaid items or provide Lessor with full security against any such loss or forfeiture, in form satisfactory to Lessor. Lessor will cooperate fully with Lessee in any such contest, upon the request and at the expense of Lessee.

Section 8.5. Management Contract. Lessee shall have the right to contract for management services with respect to the Project in its discretion so long as the effect and operation under such contract does not affect the tax-exempt status of the interest component of the Rental Payments.

ARTICLE IX
WARRANTIES

Section 9.1. Selection, Design and Construction of Improvements. The Improvements have been or will be selected, designed and constructed by Lessee, and Lessor shall have no responsibility in connection with the selection, design or construction of the Improvements or their suitability for the use intended by Lessee.

Section 9.2. Maintenance of Project. Lessor shall have no obligation to test, inspect, service or maintain the Project under any circumstances, but such actions shall be the obligation of Lessee.

Section 9.3. Contractor's Warranties. Lessor hereby assigns to Lessee for and during the Term of this Lease, all of its interest in all contractor's warranties and guarantees, if any, express or implied, issued on or applicable to the Improvements or any portion thereof, and Lessor hereby authorizes Lessee to obtain the customary services furnished in connection with such warranties and guarantees at Lessee's expense.

Section 9.4. Patent Infringement. Lessor hereby assigns to Lessee for and during the Term of this Lease all of its interest in patent indemnity protection provided by any contractor with respect to the Improvements. Such assignment of patent indemnity protection by Lessor to Lessee shall constitute the entire liability of Lessor for any patent infringement by Improvements furnished pursuant to this Lease.

Section 9.5. Disclaimer of Warranties. THE IMPROVEMENTS ARE DELIVERED AS IS, AND LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY LESSEE OF THE IMPROVEMENTS, OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE IMPROVEMENTS.

ARTICLE X
OPTION TO PURCHASE

Section 10.1. When Available. Lessee shall have the option to purchase Lessor's interest in the Project on the Payment Dates for the Purchase Option Prices as set forth in Exhibit B, but only if Lessee is not in default under this Lease, and only in the manner provided in this Article.

Section 10.2. Exercise of Option. Lessee shall give notice to Lessor of its intention to exercise its option not less than sixty (60) days prior to the Payment Date on which the option is to be exercised and shall deposit with Lessor on the date of exercise an amount equal to all Rental Payments and any other amounts then due or past due (including the Rental Payment due on such Payment Date) and the Purchase Option Price. The closing shall be on the applicable Payment Date at the office of Lessor.

Section 10.3. Release of Lessor's Interest. Upon exercise of the Purchase Option by Lessee, Lessor shall convey or release to Lessee, all of its right, title and/or interest in and to the Project by delivering to Lessee such documents as Lessee deems necessary for this purpose.

ARTICLE XI

ASSIGNMENT, SUBLEASING, MORTGAGING AND SELLING

Section 11.1. Assignment by Lessor. Lessor shall not assign its obligations under this Lease, and no purported assignment thereof shall be effective. All of Lessor's rights, title and/or interest in and to this Lease, the Rental Payments and other amounts due hereunder and the Project may be assigned and reassigned in whole or in part to one or more assignees or subassignees by Lessor, but only upon the written consent of Lessee. Lessee shall pay all Rental Payments due hereunder to or at the direction of Lessor or the assignee named in the most recent assignment, if any. During the Lease Term Lessee shall keep a complete and accurate record of all such assignments, if any. Transfer of the Lessor's rights under this Lease shall be made only upon presentation of the Lessor's original of this Lease to the Lessee's Treasurer for notation of assignment and transfer on such original.

Section 11.2. Assignment and Subleasing by Lessee. Neither this Lease nor Lessee's interest in the Project may be assigned by Lessee without the written consent of Lessor. However, the Project may be subleased by Lessee, in whole or in part, without the consent of Lessor, subject, however, to each of the following conditions:

- (i) This Lease and the obligation of Lessee to make Rental Payments hereunder, shall remain obligations of Lessee.
- (ii) The sublessee shall assume the obligations of Lessee hereunder to the extent of the interest subleased.
- (iii) Lessee shall, within thirty (30) days after the delivery thereof, furnish or cause to be furnished to Lessor a true and complete copy of such sublease.
- (iv) No sublease by Lessee shall cause the Project to be used for a purpose other than a governmental function authorized under the provisions of the Constitution and laws of the State.
- (v) No sublease shall cause the Interest component of the Rental Payments due with respect to the Project to become includable in gross income of the recipient for federal income tax purposes.

Section 11.3. Restriction on Mortgage or Sale of Project by Lessee. Except as provided in Section 11.2, Lessee will not mortgage, sell, assign, transfer or convey the Project or any portion thereof during the Term of this Lease, without the written consent of Lessor.

ARTICLE XII

EVENTS OF DEFAULT AND REMEDIES

Section 12.1. Events of Default Defined. The following shall be "events of default" under this Lease and the terms "events of default" and "default" shall mean, whenever they are used in this Lease, any one or more of the following events:

(i) Failure by Lessee to pay any Rental Payment or other payment required to be paid under this Lease at the time specified herein and the continuation of said failure for a period of ten (10) business days after telephonic or telegraphic notice given by Lessor that the payment referred to in such notice has not been received, such telephonic or telegraphic notice to be subsequently confirmed in writing, or after written notice.

(ii) Failure by Lessee to observe and perform any covenant, condition or agreement on its part to be observed or performed, other than as referred to in Clause (i) of this Section, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied has been given to Lessee by Lessor, unless Lessor shall agree in writing to an extension of such time prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, Lessor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Lessee within the applicable period and diligently pursued until the default is corrected.

(iii) The filing by Lessee of a voluntary petition in bankruptcy, or failure by Lessee promptly to lift any execution, garnishment or attachment of such consequence as would impair the ability of Lessee to carry on its governmental or proprietary function or adjudication of Lessee as a bankrupt, or assignment by Lessee for the benefit of creditors, or the entry by Lessee into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to Lessee in any proceedings instituted under the provisions of the Federal Bankruptcy Statute, as amended, or under any similar acts which may hereafter be enacted.

The provisions of this Section 12.1 and Section 12.2 are subject to the following limitation: if by reason of force majeure Lessee is unable in whole or in part to carry out its obligations under this Lease, other than its obligation to pay Rental Payments with respect thereto which shall be paid when due notwithstanding the provisions of this paragraph, Lessee shall not be deemed in default during the continuance of such inability. The term "force majeure" as used herein shall mean, without limitation, the following: acts of God; strikes, lockouts or other labor disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States of America or the State or their respective departments, agencies or officials, or any civil or military authority; insurrections; riots; landslides; earthquakes; fires; storms; droughts; floods;

explosions; breakage or accident to machinery, transmission pipes or canals; or any other cause or event not reasonably within the control of Lessee and not resulting from its negligence. Lessee agrees, however, to remedy with all reasonable dispatch the cause or causes preventing Lessee from carrying out its obligations under this Lease; provided that the settlement of strikes, lockouts and other labor disturbances shall be entirely within the discretion of Lessee and Lessee shall not be required to make settlement of strikes, lockouts and other labor disturbances by acceding to the demands of the opposing party or parties when such course is in the judgment of Lessee unfavorable to Lessee.

Section 12.2. Remedies on Default. Whenever any event of default referred to in Section 12.1 hereof shall have happened and be continuing with respect to the Project, Lessor shall have the right, at its option and without any further demand or notice, to take one or any combination of the following remedial steps:

(i) Lessor, with or without terminating this Lease, may declare all Rental Payments due or to become due during the Fiscal Year in effect when the default occurs to be immediately due and payable by Lessee, whereupon such Rental Payments shall be immediately due and payable.

(ii) Lessor, with or without terminating this Lease, may repossess the Project by giving Lessee written notice to surrender the Project to Lessor for the remaining term of the Ground Lease, whereupon Lessee shall do so in the manner provided in Section 12.3. If the Project or any portion of it has been destroyed or damaged beyond repair, Lessee shall pay the applicable Purchase Option Price of the Project, as set forth in Exhibit B (less credit for Net Proceeds), to Lessor. Notwithstanding the fact that Lessor has taken possession of the Project, Lessee shall continue to be responsible for the Rental Payments due during the Fiscal Year then in effect. If this Lease has not been terminated, Lessor shall return possession of the Project to Lessee at Lessee's expense when the event of default is cured.

(iii) If Lessor terminates this Lease and takes possession of the Project, Lessor shall thereafter use its best efforts to sell or lease its interest in the Project or any portion thereof in a commercially reasonable manner in accordance with applicable State laws. Lessor shall apply the proceeds of such sale or lease to pay the following items in the following order: (a) all costs incurred in securing possession of the Project; (b) all expenses incurred in completing the sale or lease; (c) the applicable Purchase Option Price of the Project; and (d) the balance of any Rental Payments owed by Lessee during the Fiscal Year then in effect. Any sale proceeds remaining after the requirements of Clauses (a), (b), (c) and (d) have been shall be the property of Lessee.

(iv) If the proceeds of sale or lease of the Project are not sufficient to pay the balance of any Rental Payments owed by Lessee during the Fiscal Year then in effect, Lessor may take any other remedy available at law or in equity to

require Lessee to perform any of its obligations hereunder and to enforce the Ground Lease.

Section 12.3. Surrender of Project. Upon the expiration or termination of this Lease prior to the payment of all Rental Payments in accordance with Exhibit B, Lessee shall surrender the Project to Lessor in the condition, repair, appearance and working order required in Section 7.2. If Lessee refuses to surrender the Project in the manner designated, Lessor may repossess the Project and charge to Lessee the costs of such repossession or pursue any remedy described in Section 12.2.

Section 12.4. No Remedy Exclusive. No remedy conferred upon or reserved to Lessor by this Article is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof but any such right and power may be exercised from time to time and as often as may be deemed expedient by Lessor or its assignee.

ARTICLE XIII

ADMINISTRATIVE PROVISIONS

Section 13.1. Notices. All notices, certificates, legal opinions or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or deposited in the United States mail in registered form with postage fully prepaid to the addresses specified on the first page hereof; provided that Lessor and Lessee, by notice given hereunder, may designate different addresses to which subsequent notices, certificates, legal opinions or other communications will be sent.

Section 13.2. Financial Information. During the Term of this Lease, Lessee annually will provide Lessor with current financial statements, budgets, proof of appropriation for the ensuing Fiscal Year and such other financial information relating to the ability of Lessee to continue this Lease as may be requested by Lessor or its assignee.

Section 13.3. Binding Effect. This Lease shall inure to the benefit of and shall be binding upon Lessor and Lessee and their respective successors and assigns.

Section 13.4. Severability. In the event any provision of this Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 13.5. Amendments, Changes and Modifications. This Lease may be amended or any of its terms modified only by written document duly authorized, executed and delivered by Lessor and Lessee.

Section 13.6. Captions. The captions or headings in this Lease are for convenience only and in no way define, limit or describe the scope or intent of any provision, Article, Section or Clause of this Lease.

Section 13.7. Further Assurances and Corrective Instruments. Lessor and Lessee agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Project hereby leased or intended so to be, or for otherwise carrying out the expressed intention of this Lease.

Section 13.8. Execution in Counterparts. This Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 13.9. Applicable Law. This Lease shall be governed by and construed in accordance with the laws of the State.

IN WITNESS WHEREOF, Lessor has caused this Lease to be executed in its corporate name by its duly authorized officer; and Lessee has caused this Lease to be executed in its name by its duly authorized officers, as of the date first above written.

WELLS FARGO BROKERAGE SERVICES, LLC,
as Lessor

By _____
Its _____

CITY OF GRAND ISLAND, NEBRASKA
as Lessee

By _____
Its _____

ATTEST:

By _____
Its _____

SIGNATURE PAGE TO LEASE-PURCHASE AGREEMENT
DATED AS OF _____, 20__

STATE OF _____)
) ss.
COUNTY OF _____)

On this _____ day of _____, 20____, before me, a Notary Public in and for said County, personally appeared _____, the _____ of Wells Fargo Brokerage Services, LLC, known to me to be the person whose name is subscribed to within the Lease-Purchase Agreement, and acknowledged to me that he/she executed the same.

Notary Public
My Commission Expires: _____

(SEAL)

STATE OF NEBRASKA)
) ss.
COUNTY OF HALL)

The foregoing instrument was acknowledged before me this _____ day of _____, 2008, by _____, Mayor of the City of Grand Island, Nebraska, on behalf of said city.

Notary Public
My Commission Expires: _____

(SEAL)

EXHIBIT A

LAND

IMPROVEMENTS

EXHIBIT B

SCHEDULE OF RENTAL PAYMENTS

Costs Funded \$5,062,500.00	Payment Rate 3.73%	13 Payments 2 per year 3.730% Rate	Level Payment \$474,747.89 Fctr=.093777	Closing Fees \$0.00	Average Life 3.86 years 46.3 months
		Commencement: Oct 1, 2008			
		Closing Date: Oct 1, 2008			

Pmt	Total Payment Due	Interest Payment Due	Principal Payment Due	After Payment Principal Balance	After Payment Termination Value	Payment Due Date
	\$0.00		\$0.00	\$5,062,500.00		Oct 1, 2008
1	\$94,415.63	\$94,415.63	\$0.00	\$5,062,500.00	\$5,062,500.00	Apr 1, 2009
2	\$474,747.89	\$94,415.63	\$380,332.26	\$4,682,167.74	\$4,682,167.74	Oct 1, 2009
3	\$474,747.89	\$87,322.43	\$387,425.46	\$4,294,742.28	\$4,294,742.28	Apr 1, 2010
4	\$474,747.89	\$80,096.94	\$394,650.94	\$3,900,091.34	\$3,900,091.34	Oct 1, 2010
5	\$474,747.89	\$72,736.70	\$402,011.18	\$3,498,080.16	\$3,498,080.16	Apr 1, 2011
6	\$474,747.89	\$65,239.19	\$409,508.69	\$3,088,571.46	\$3,088,571.46	Oct 1, 2011
7	\$474,747.89	\$57,601.86	\$417,146.03	\$2,671,425.44	\$2,671,425.44	Apr 1, 2012
8	\$474,747.89	\$49,822.08	\$424,925.80	\$2,246,499.63	\$2,246,499.63	Oct 1, 2012
9	\$474,747.89	\$41,897.22	\$432,850.67	\$1,813,648.97	\$1,813,648.97	Apr 1, 2013
10	\$474,747.89	\$33,824.55	\$440,923.33	\$1,372,725.63	\$1,372,725.63	Oct 1, 2013
11	\$474,747.89	\$25,601.33	\$449,146.55	\$923,579.08	\$923,579.08	Apr 1, 2014
12	\$474,747.89	\$17,224.75	\$457,523.14	\$466,055.94	\$466,055.94	Oct 1, 2014
13	\$474,747.89	\$8,691.94	\$466,055.94	\$0.00	\$1.00	Apr 1, 2015

EXHIBIT C

OFFICERS' CERTIFICATE

We, the undersigned, hereby certify that we are the duly qualified and acting _____ and _____ of _____ (the Lessee), and with respect to the Lease-Purchase Agreement dated _____, 2008 (the Lease), by and between the Lessee and Wells Fargo Brokerage Services, LLC (the Lessor), that:

1. In our capacities as such officers we have executed the Lease, a Lease dated as of _____, 2008 (the Ground Lease), by and between the Lessee and Hall County Livestock Improvement Association, the License and Easement and an Escrow Agreement dated as of _____, 2008 (the Escrow Agreement), by and between the Lessee and Lessee, acting as Escrow Agent.

2. The Rental Payments provided for in Exhibit B to the Lease shall commence and be due and payable on _____, 2008, and thereafter during the Term of the Lease (as that term is defined in the Lease) as shown in Exhibit B. Lessee has appropriated and/or taken all other lawful actions necessary to provide moneys sufficient to pay all Rental Payments required to be paid under the Lease in Lessee's current fiscal year, and such moneys will be applied in payment of such Rental Payments.

3. There is no litigation, action, suit or proceeding pending or before any court, administrative agency, arbitrator or governmental body, that challenges the organization or existence of the Lessee; the authority of its officers; the proper authorization, approval and execution of the Ground Lease, the Lease, the License and Easement, the Escrow Agreement, and other documents contemplated thereby; the appropriation of money to pay the Rental Payments due under the Lease; or the ability of the Lessee otherwise to perform its obligations under the Ground Lease, the Lease, the Escrow Agreement, and the other documents and the transactions contemplated thereby.

[4. The Lessee is exempt from sales and/or use taxes with respect to the Project subject to the Lease and the Rental Payments.]

5. Lessee has obtained from a reputable insurance company qualified to do business in the State of _____ insurance with respect to all risks required to be covered thereby pursuant to Article VI of the Lease.

Dated: _____, 20__.

CITY OF GRAND ISLAND, NEBRASKA

By _____
Its _____

By _____
Its _____

EXHIBIT D

OPINION

(may be provided by separate counsel for the City as to different matters set forth)

(Lessee) _____

Wells Fargo Brokerage Services, LLC
Public Finance Department
Your Address, Your MAC Code
Your City, Your State XXXXX

Re: Lease-Purchase Agreement dated as of _____, 20__, by and between
Wells Fargo Brokerage Services, LLC (Lessor) and _____
(Lessee)

Ladies and Gentlemen:

I have acted as counsel to Lessee with respect to the Lease-Purchase Agreement described above (the Lease) and various related matters, and in this capacity have reviewed a duplicate original or certified copy of the Lease, the Ground Lease Agreement dated as of _____, 20__ (the Ground Lease) by and between Lessor and Lessee, and the Escrow Agreement dated as of _____, 20__ (the Escrow Agreement) between Lessee and Lessor, acting as escrow agent, and the Exhibits attached thereto. Based upon the examination of these and such other documents as I deem relevant, it is my opinion that:

1. Lessee is a political subdivision of the state of _____ (the State), duly organized, existing and operating under the Constitution and laws of the State.
2. Lessee is authorized and has power under applicable law to enter into the Lease, the Ground Lease, the License and Easement and the Escrow Agreement and to carry out its obligations thereunder and the transactions contemplated thereby.
3. The Lease, the Ground Lease, the License and Easement and the Escrow Agreement have been duly authorized, approved, executed and delivered by and on behalf of Lessee, and are valid and binding contracts of Lessee enforceable in accordance with their terms, except to the

extent limited by State and Federal laws affecting remedies and by bankruptcy, reorganization or other laws of general application relating to or affecting the enforcement of creditors' rights.

4. The authorization, approval and execution of the Lease and all other proceedings of Lessee relating to the transactions contemplated thereby have been performed in accordance with all applicable open meeting, public bidding and all other laws, rules and regulations of the State.

5. The execution of the Lease and the appropriation of moneys to pay the Rental Payments coming due thereunder do not result in the violation of any constitutional, statutory or other limitation relating to the manner, form or amount of indebtedness which may be incurred by Lessee.

6. There is no litigation, action, suit or proceeding pending or before any court, administrative agency, arbitrator or governmental body, that challenges the organization or existence of Lessee; the authority of Lessee or its officers or its employees to enter into the Lease, the Ground Lease and the Escrow Agreement; the proper authorization, approval and/or execution of the Lease, the Ground Lease and the Escrow Agreement, Exhibits thereto and other documents contemplated thereby; the appropriation of moneys to make Rental Payments under the Lease for the current fiscal year of Lessee; or the ability of Lessee otherwise to perform its obligations under the Lease, the Ground Lease and the Escrow Agreement and the transactions contemplated thereby.

(Subject to qualifications determined appropriate by each opining counsel and acceptable to Lessor)

Dated _____, 20__.

Very truly yours,

DOCS/874039.2

LICENSE AND EASEMENT

The City of Grand Island, Nebraska, ("Grantor") hereby grants a license and easement to Wells Fargo Brokerage Services, LLC, ("Grantee") with respect to the tract of real estate located in Hall County, Nebraska, which is described on Exhibit A hereto attached and incorporated by reference herein, for the location, construction, acquisition, installation, operation and maintenance of a 50,000 square foot building for purposes of providing indoor space to meet the recreational, entertainment and congregate needs of the Grantor's citizens and for use in connection with the Nebraska State Fair, including improvements, structures, goods which are to become fixtures, fixtures and equipment (collectively, the Project"), on such tract, all of which property is to be sold by Grantee to the Grantor pursuant to a Lease Purchase Agreement dated as of _____, 2008 (the "Lease"). Such license and easement shall include full access and use thereof by Grantee and its licensees and invitees and shall permit all actions necessary or incidental to the construction, acquisition, installation, operation and maintenance of such Project. The Project, including such building, improvements, structures, goods which are to become fixtures, fixtures and equipment upon said real estate, as financed pursuant to the Lease, is hereby acknowledged to be the separate property of the Grantee and not part of said real estate, as and to the extent provided for in the Lease. This license and easement shall continue until _____, 20__.

Grantor hereby covenants and warrants that it has full right, title and authority to grant the license and easement rights herein granted and further covenants and warrants that it will defend such rights in Grantee against the claims of all persons whomsoever. Grantor's rights with respect to the real estate described on Exhibit A arise from and are provided for under the terms of a Lease dated _____, 2008 by and between Grantor and the Hall County Livestock Improvement Association.

This License and Easement is intended to ratify and confirm and hereby ratifies and confirms any and all grants of easement provided for in the Lease, whether or not recorded before or after the recording of this instrument.

Executed this _____ day of _____, 2008

CITY OF GRAND ISLAND, NEBRASKA

By: _____
Mayor

STATE OF NEBRASKA)
) ss
COUNTY OF HALL)

The foregoing instrument was acknowledged before me this _____ day of _____, 2008, by _____, Mayor of the City of Grand Island, Nebraska, on behalf of said city.

(SEAL)

Notary Public
My Commission Expires:

Exhibit A

Description of Real Estate:

(to be determined under ground lease)

DOCS/874114.1

RESOLUTION 2008-255

WHEREAS, the Nebraska State Unicameral passed Legislative Bill 1116 which allows for the relocation of the Nebraska State Fair from Lincoln, Lancaster County, to Grand Island, Hall County, on property known as Fonner Park; and

WHEREAS, the City Council, for the City of Grand Island, in consideration of LB 1116 has considered the impact of the State Fair upon the City of Grand Island; and

WHEREAS, the City of Grand Island wishes to assist in the efforts to relocate the Nebraska State Fair by constructing a building, which building will be financed through a Lease Purchase Agreement with Wells Fargo Bank, N.A.; and

WHEREAS, the Lease Purchase Agreement is allowed by Nebraska State Law for the purposes of constructing a public building.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Mayor is hereby authorized to, on behalf of the City, execute the Lease Purchase Agreement and related documents, and amendments necessary for tax purposes.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, September 11, 2008.

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk



City of Grand Island

**Thursday, September 11, 2008
Special Meeting**

Item I5

**#2008-258 - Consideration of Escrow Agreement with Wells Fargo
Brokerage Services, LLC**

Staff Contact: Jeff Pederson

ESCROW AGREEMENT

THIS ESCROW AGREEMENT, made and entered into as of _____, 2008, by and between WELLS FARGO BROKERAGE SERVICES, LLC, Public Finance Department, 608 Second Avenue South – 10th Floor, MAC: N9303-105, Minneapolis, MN 55479, as escrow agent (Escrow Agent), and the City of Grand Island, Nebraska, a political subdivision of the State of Nebraska (Lessee):

WITNESSETH THAT, in the joint and mutual exercise of their powers, and in consideration of the mutual covenants herein contained, the parties hereto recite and agree as follows:

Section 1. Recitals; Definitions.

1.1 Wells Fargo Brokerage Services, LLC, and Lessee have entered into a License and Easement dated _____, 2008 (the License and Easement), under which Lessee has granted certain rights to real property described therein (the Land) to Wells Fargo Brokerage Services, LLC for a term as expressed therein.

1.2 Wells Fargo Brokerage Services, LLC (Lessor) and Lessee have entered into a Lease-Purchase Agreement dated as of the date hereof (the Lease), whereby certain improvements (the Improvements) are to be constructed upon the Land, and Lessor has agreed to sublease and/or lease the Land and the Improvements to Lessee, and Lessee has agreed to sublease and/or lease the Land and the Improvements (collectively the Project) from Lessor, in the manner and on the terms set forth in the Lease.

1.3 This Agreement is not intended to alter or change in any way the rights and obligations of Lessor and Lessee under the Lease and the License and Easement, but is entirely supplemental thereto.

1.4 The terms capitalized in this Agreement but not defined herein shall have the meanings given to them in the Lease.

1.5 Under the Lease, there is required to be deposited with Escrow Agent the amount of \$ _____, which amount shall be credited to the Project Acquisition Fund established in Section 2 hereof and used to pay costs of the Project.

1.6 Under the Lease, Lessee will cause to be designed, constructed and installed the Improvements on the Land. The Project costs are estimated to comprise the types and amounts of costs set forth in the attached Exhibit A, and the Project costs are to be paid from moneys on hand in the Project Acquisition Fund, in accordance with the Lease and this Agreement.

1.7 Lessee desires to employ Escrow Agent to receive, hold, invest and disburse the moneys to be held hereunder as described in Section 1.5 and to perform the other specified functions; all as hereinafter provided.

1.8 Escrow Agent shall not be obligated to assume or perform any obligation of Lessor or Lessee under the Lease or the Ground Lease by reason of anything contained in this Agreement.

1.9 Each of the parties has authority to enter into this Agreement, and has taken all actions necessary to authorize the execution of this Agreement by the officers whose signatures are affixed hereto.

Section 2. Project Acquisition Fund.

2.1 Escrow Agent shall establish a special escrow fund designated as the "Project Acquisition Fund" (the Project Acquisition Fund), shall keep such Project Acquisition Fund separate and apart from all other funds and moneys held by it, and shall administer such Fund as provided in this Section and Section 3 hereof.

2.2 There shall be credited to the Project Acquisition Fund the amount specified in Section 1.5 hereof. Escrow Agent shall use the moneys in the Project Acquisition Fund to pay Project costs (other than any Project costs paid directly by the Lessee), upon receipt of a request for payment in the form attached hereto as Exhibit B (Payment Request Form), executed by Lessee fully completed and with all supporting documents described therein attached thereto and compliance with the requirements of Section 2.5 hereof. Upon receipt of a Payment Request Form with respect to any component of the Project, an amount equal to the Project costs as shown therein shall be paid directly to the person or entity entitled to payment as specified therein.

2.3 Escrow Agent shall only be responsible for the safekeeping and investment of the moneys held in the Project Acquisition Fund, and the disbursement thereof in accordance with this Section, and shall not be responsible for the authenticity or accuracy of such certifications or documents, the application of amounts paid pursuant to such certifications by the persons or entities to which they are paid, or the sufficiency of the moneys credited to the Project Acquisition Fund to make the payments of Project costs herein required.

2.4 Any moneys credited to the Project Acquisition Fund representing interest earned on the amounts originally deposited therein shall be transferred to Lessee upon the written request of Lessee and used to pay the Rental Payments next owing under the Lease. No such transfer shall be requested if the amount remaining in the Project Acquisition Fund after such transfer will not be sufficient to pay all remaining Project costs. Any portion of the original deposit remaining in the Project Acquisition Fund after payment of all Project costs may be expended on any capital expense directly related to the Project as directed by Lessee, upon receipt by Escrow Agent of an opinion of an attorney or firm of attorneys nationally recognized as bond counsel to the effect that the planned expenditure will not cause the interest component of the Rental Payments to become includable in gross income for federal income tax purposes or may be used to pay the principal portion of Rental Payments coming due under the Lease. In any event, any moneys remaining on hand in the Project Acquisition Fund which have not been so used within three years of the date of execution of this Agreement shall be applied to pay the principal portion of the Rental Payments as they next become due.

2.5 Upon request by Lessor, no amounts shall be disbursed from the Project Acquisition Account unless or until there has been provided to Lessor:

- (a) the contract between Lessor and the Project architect, together with the plans and specifications for the Improvements, prepared by the Project architect, and an assignment of such contract for the benefit of Lessor;
- (b) a fixed price or guaranteed maximum price contract for the construction and installation of the Improvements, and an assignment of such contract for the benefit of Lessor;
- (c) a sworn construction cost statement from the contractor; and
- (d) evidence that the contractor has obtained builder's risk, liability and workers compensation insurance reasonably satisfactory to Lessor and has provided payment and performance bonds with respect to the Project naming Lessor as a dual obligee.

Section 3. Moneys in Funds; Investment.

3.1 The moneys and investments held by Escrow Agent under this Agreement are irrevocably held in trust for the benefit of Lessee and Lessor, and such moneys, together with any income or interest earned thereon, shall be expended only as provided in this Agreement and shall not be subject to levy or attachment or lien by or for the benefit of any creditor of either Lessee or Lessor.

3.2 Moneys held by Escrow Agent hereunder shall be invested and reinvested by Escrow Agent upon written order or telephonic order confirmed immediately thereafter in writing of Lessee only in Qualified Investments (as defined below) and in accordance with investment instructions given to Escrow Agent by Lessee. Escrow Agent shall be entitled to rely on such order of Lessee that an investment is a Qualified Investment. Such investments shall be registered in the name of Escrow Agent and held by Escrow Agent. With the approval of Lessee, Escrow Agent may purchase or sell to itself or any affiliate, as principal or agent, investments authorized by this Section. Such investments and reinvestments shall be valued at the lower of cost or fair market value and shall be made giving full consideration for the time at which funds are required to be available.

Qualified Investments shall include any obligation which is authorized by law as an eligible investment for funds of Lessee.

3.3 Escrow Agent shall, without further direction from Lessee, sell such investments as and when required to make any payment from the Fund for which such investments are held. Any income received on such investments shall be credited to the respective Fund for which it is held.

3.4 Upon request, Escrow Agent shall furnish to Lessee an accounting of all investments. Escrow Agent shall not be responsible or liable for any loss suffered in connection with any investment of moneys made by it in accordance with this Section.

Section 4. Escrow Agent's Authority; Indemnification.

4.1 Escrow Agent may act in reliance upon any writing or instrument or signature which it, in good faith, believes to be genuine, may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument, and may assume that any person purporting to give any writing, notice, advice or instructions in connection with the provisions hereof has been duly authorized to do so. Escrow Agent shall not be liable in any manner for the sufficiency or correctness as to form, manner and execution, or validity of any instrument deposited with it, nor as to the identity, authority or right of any person executing the same; and its duties hereunder shall be limited to those specifically provided herein.

4.2 Unless Escrow Agent is guilty of [gross] negligence with regard to its duties hereunder, Lessee hereby agrees to indemnify Escrow Agent and hold it harmless from any and all claims, liabilities, losses, actions, suits or proceedings at law or in equity, or any other expense, fees or charges of any character or nature, which it may incur or with which it may be threatened by reason of its acting as Escrow Agent under this Agreement; and in connection therewith, to indemnify Escrow Agent against any and all expenses, including reasonable attorneys' fees and the cost of defending any action, suit or proceeding or resisting any claim. Escrow Agent shall be vested with a lien on all funds and accounts deposited hereunder, for indemnification, for reasonable attorneys' fees, court costs, for any suit, interpleader or otherwise, or any other expense, fees or charges of any character or nature, which may be incurred by Escrow Agent by reason of disputes arising between Lessee and Lessor as to the correct interpretation of the Lease, the Ground Lease, the License and Easement or this Agreement and instructions given to Escrow Agent hereunder, or otherwise, with the right of Escrow Agent, regardless of the instructions aforesaid, to hold the said funds and accounts until and unless said additional expenses, fees and charges shall be fully paid.

4.3 If the parties shall be in disagreement about the interpretation of the Lease, the Ground Lease or this Agreement, or about the rights and obligations, or the propriety of any action contemplated by Escrow Agent hereunder, Escrow Agent may, but shall not be required to, file an appropriate civil action to resolve the disagreement. Escrow Agent shall be indemnified by Lessee for all costs, including reasonable attorneys' fees, in connection with such civil action, and shall be fully protected in suspending all or part of its activities under this Agreement until a final judgment in such action is received.

4.4 Escrow Agent may consult with counsel of its own choice and shall have full and complete authorization and protection with the opinion of such counsel. Escrow Agent shall otherwise not be liable for any mistakes of facts or errors of judgment, or for any acts or omissions of any kind unless caused by its [gross] negligence or willful misconduct.

4.5 Escrow Agent in its sole discretion may engage an agent to perform any of the obligations of Escrow Agent hereunder, provided that Escrow Agent shall remain primarily liable for performance of all obligations imposed upon it by this Agreement.

Section 5. Default and Nonappropriation; Notice; Exercise of Rights and Agreement.

5.1 If an Event of Default occurs under the Lease, or if Lessee fails to appropriate moneys to pay the Rental Payments in any subsequent Fiscal Year of Lessee, any amounts remaining in the Project Acquisition Fund shall be paid to Lessor upon Lessor's written request therefor.

5.2 Escrow Agent shall have no obligation to determine whether an Event of Default has occurred under the Lease, to determine whether the Lease has been terminated pursuant to Section 6.4 thereof, to take any action to collect any Rental Payment not paid when due, or to exercise on behalf of Lessor or any assignee of Lessor their rights under the Lease and the Ground Lease.

Section 6. Escrow Agent's Compensation. Upon execution of this Agreement, Escrow Agent shall be entitled to payment from Lessee in the amount of \$_____. Lessee shall thereafter be responsible for and pay all fees, charges and expenses of Escrow Agent. Such compensation does not include compensation for actions taken by Escrow Agent subsequent to a default by Lessee under the Lease or termination of the Lease under the terms thereof, which shall be paid by Lessor or any assignee of Lessor unless determined to be recoverable from Lessee.

Section 7. Change of Escrow Agent.

7.1 Lessor shall have the right to substitute a state or national banking association, authorized to do business in the State of Nebraska and qualified as a depository of public funds, to act as Escrow Agent under this Agreement. Such substitution shall not be deemed to affect the rights or obligations of the parties. Upon any such substitution, Escrow Agent agrees to assign to such substitute Escrow Agent its rights under this Agreement.

7.2 Escrow Agent or any successor may at any time resign by giving mailed notice to Lessee and Lessor of its intention to resign and of the proposed date of resignation, which shall be a date not less than 30 days after such notice is deposited in the United States mail with postage fully prepaid, unless an earlier resignation date and the appointment of a successor Escrow Agent shall have been or are approved by Lessor. The resignation shall not be effective until the appointment of a successor institution to act as Escrow Agent.

Section 8. Administrative Provisions.

8.1 Escrow Agent shall keep complete and accurate records of all moneys received and disbursed under this Agreement, which shall be available for inspection by Lessee or Lessor, or the agent of either of them, at any time during regular business hours.

8.2 All written notices to be given under this Agreement shall be given by mail to the party entitled thereto at its address set forth in the first paragraph hereof, or at such address as the party may provide to the other parties hereto in writing from time to time. Any such notice shall be deemed to have been received 48 hours after deposit in the United States mail in registered form, with postage fully prepaid.

8.3 This Agreement shall be construed and governed in accordance with the laws of the State of Nebraska.

8.4 Any provision of this Agreement found to be prohibited by law shall be ineffective only to the extent to such prohibition, and shall not invalidate the remainder of this Agreement.

8.5 This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns. Specifically, as used herein the term "Lessor" as used herein means any person or entity to whom Lessor has assigned its right to receive Rental Payments under the Lease and any payments due to Lessor hereunder.

8.6 This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same Agreement.

8.7 This Agreement shall terminate upon disbursement by Escrow Agent of all moneys held by it hereunder.

8.8 Upon execution of this Agreement, Lessee shall execute and deliver to Lessor a certificate with respect to the tax status of the interest component of the Rental Payments in form and substance satisfactory to the Lessee's counsel providing an opinion and to the Lessor.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

WELLS FARGO BROKERAGE SERVICES, LLC,
Escrow Agent

By _____
Its _____

CITY OF GRAND ISLAND,
Lessee

By _____
Its _____

ATTEST:

By _____
Its _____

EXHIBIT A

ESTIMATED PROJECT COSTS

EXHIBIT B

Payment Request Form

Wells Fargo Brokerage Services, LLP, Escrow Agent under an Escrow Agreement dated as of _____, 2008, by and among the said Escrow Agent, and _____ (Lessee), is hereby requested to pay, from the Project Acquisition Fund held under said Escrow Agreement, to the persons, firms or corporations designated below as payee, the amount set forth opposite each such person's, firm's or corporation's name, in payment of the Project costs of the component of the Project described on the attached page(s) designated opposite such Payee's name and account.

The undersigned hereby certifies that: (a) attached hereto is a duplicate original or certified copy of the following documents relating to the services described in the attached pages: (1) if this is the last Payment Request Form submitted for construction costs, a Certificate of Completion in form satisfactory to Escrow Agent; (2) an invoice; (3) lien waivers duly executed by the Contractor, or any subcontractor; (4) if this is the first Payment Request Form submitted for construction costs, evidence of all performance bonds and insurance required by the Escrow Agreement; and (5) all documents required by the Construction Contract, a sworn construction cost statement from the Contractor, all lien waivers required by the title insurance company issuing the policy with respect to the Project and a disbursement endorsement from such title insurance company with respect to any draw to pay construction costs, and (b) that the amount requested for payment is for Project costs previously paid or incurred, is now due and owing, and has not been included in any earlier Payment Request Form.

Dated: _____, 20__.

CITY OF GRAND ISLAND, NEBRASKA,
Lessee

By _____
Its _____

APPROVED:

Project Architect

By _____
Its _____
Date _____

RESOLUTION 2008-258

WHEREAS, the Nebraska State Unicameral passed Legislative Bill 1116 which allows for the relocation of the Nebraska State Fair from Lincoln, Lancaster County, to Grand Island, Hall County, on property known as Fonner Park; and

WHEREAS, the City Council, for the City of Grand Island, in consideration of LB 1116 has considered the impact of the State Fair upon the City of Grand Island; and

WHEREAS, the City of Grand Island wishes to assist in the efforts to relocate the Nebraska State Fair by constructing a building, which building will be financed through a Lease Purchase Agreement with Wells Fargo Bank, N.A.;

WHEREAS, the Lease Purchase Agreement is allowed by Nebraska State Law for the purposes of constructing a public building; and

WHEREAS, the Lease Purchase Agreement includes the requirement for an Escrow Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GRAND ISLAND, NEBRASKA, that the Mayor is hereby authorized to, on behalf of the City, execute the Escrow Agreement and related documents.

- - -

Adopted by the City Council of the City of Grand Island, Nebraska, September 11, 2008.

Margaret Hornady, Mayor

Attest:

RaNae Edwards, City Clerk