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LINCOLN, ILLINOIS

**ANNEXATION AGREEMENT  
BETWEEN B & D PACKAGING  
AND THE CITY OF LINCOLN, IL**

201400084351  
Filed for Record in  
LOGAN COUNTY, ILLINOIS  
SALLY J TURNER  
10-16-2014 At 04:17 PM.  
ANNEX AGRM 37.00

THIS AGREEMENT ("AGREEMENT"), is made and entered into this 6<sup>th</sup> day of October, 2014, by and between the CITY OF LINCOLN, an Illinois municipal corporation ("LINCOLN"), and B & D Packaging ("HERITAGE PACKAGING"), both hereinafter referred to as the "PARTIES."

WHEREAS, HERITAGE PACKAGING is the owner of record of the property legally described in Exhibit "A" attached hereto and by this reference, incorporated herein (the "SUBJECT REALTY"), and,

WHEREAS, the SUBJECT REALTY consists of approximately 2.999 acres, and is presently situated within the unincorporated areas of Logan County; and,

WHEREAS, the SUBJECT REALTY is not within the corporate limits of any municipality, but is contiguous to the corporate limits of LINCOLN; and,

WHEREAS, pursuant to 65 ILCS 5/11-15.1-1 et seq., as amended, the PARTIES have the authority to enter into this AGREEMENT and desire to do so; and,

WHEREAS, the SUBJECT REALTY is presently zoned M-1 under the Logan County Zoning Ordinance; and,

WHEREAS, HERITAGE PACKAGING is desirous of annexing the SUBJECT REALTY to LINCOLN pursuant to the terms and conditions of this AGREEMENT; and,

WHEREAS, it is the desire of LINCOLN and HERITAGE PACKAGING that the use and further development of the SUBJECT REALTY proceed as soon as practicable subject to this AGREEMENT and all other ordinances and codes of LINCOLN, except as the same may be modified herein; and,

WHEREAS, pursuant to the provisions of 65 ILCS 5/11-15.1-1 et seq. and 65 ILCS 5/7-1-1 et seq., a proposed form of annexation agreement in substance and in form substantially the same as this AGREEMENT was submitted to LINCOLN; and,

WHEREAS, notice has been or will be served on the Board of the Lincoln Rural Fire Protection District, pursuant to the provisions of 65 ILCS 5/7-1-1, as amended; and,

WHEREAS, the corporate authorities of LINCOLN, after due and careful consideration, have concluded that the annexation of the SUBJECT REALTY, upon the terms and conditions set forth in this AGREEMENT, will be compatible with the planning objectives of LINCOLN and that the annexation of the SUBJECT REALTY will extend the corporate limits and jurisdiction of LINCOLN; will permit orderly growth, planning, and development of LINCOLN; will increase the tax base of LINCOLN; will promote the general welfare of LINCOLN; and will enable LINCOLN to control the further development of the area and serve the best interests of LINCOLN; and,

WHEREAS, HERITAGE PACKAGING, in furtherance of the development of the SUBJECT REALTY, seeks assurances from LINCOLN of certain terms and conditions and the continuation thereof for a definite period of time; and,

WHEREAS, this AGREEMENT has been approved by a favorable vote of at least two-thirds (2/3) of the City Council members of LINCOLN then holding office.

NOW, THEREFORE, in consideration of the foregoing premises and in further consideration of the mutual covenants, conditions, and agreements herein contained, the PARTIES hereto agree as follows:

#### ARTICLE I AUTHORITY

This AGREEMENT is made and entered into by the PARTIES pursuant to and in accordance with the provisions of 65 ILCS 5/11-15.1-1 et seq., as amended.

#### ARTICLE II MUTUAL ASSISTANCE

The PARTIES shall do all things necessary or appropriate to carry out the terms and provisions of this AGREEMENT and to aid and assist each other in furthering the objectives of this AGREEMENT and the intent of the PARTIES as reflected by the terms of this AGREEMENT, including, without limitations, the giving of such notices, the holding of such public hearings, and the enactment by LINCOLN of such resolutions and ordinances, the execution of such permits, applications and agreements and the taking of such other actions as may be necessary to enable the PARTIES' compliance with the terms and provisions of this AGREEMENT and as may be necessary to give effect to the objectives of this AGREEMENT and the intentions of the PARTIES as reflected by the terms of this AGREEMENT.

#### ARTICLE III ANNEXATION

HERITAGE PACKAGING shall provide LINCOLN with a petition of annexation that includes a survey of the SUBJECT REALTY. Subject to the provisions of 65 ILCS 5/7-1-8, as amended, the PARTIES respectively agree to do all things necessary or appropriate to cause the SUBJECT REALTY to be duly and validly annexed to LINCOLN no later than April 30, 2015 following the execution of this AGREEMENT, including but not limited to LINCOLN'S passage and approval of an Ordinance providing for the annexation of the SUBJECT REALTY. The PARTIES shall equally share the cost of all mailings (i.e., postage) and publications required to effectuate the annexation.

Should any person having proper standing to do so bring a cause of action before any court of competent jurisdiction challenging LINCOLN's lawful authority to annex the SUBJECT REALTY or challenge the method or procedures by or through which the PARTIES purported to cause the SUBJECT REALTY to be annexed to LINCOLN, the PARTIES agree that they shall fully cooperate, as provided in ARTICLE II above, to defend such cause of action.

Should a court of competent jurisdiction finally determine that annexation of the SUBJECT REALTY was defective because of the failure of the PARTIES to follow a procedural requirement constituting a valid precondition to proper annexation of the SUBJECT REALTY,

the PARTIES, including the successors and assigns of HERITAGE PACKAGING, agree to promptly cause the SUBJECT REALTY to be re-annexed to LINCOLN in a manner which satisfies all procedural requirements.

#### ARTICLE IV ZONING

Upon the passage and approval of an Ordinance annexing the property, the SUBJECT REALTY will be classified on the LINCOLN Zoning Map as I-1 pursuant to Section 11-3-4 of the LINCOLN City Code.

#### ARTICLE V SEWER

From and after the execution of this AGREEMENT, and provided that HERITAGE PACKAGING is in full compliance with their obligations under this AGREEMENT, HERITAGE PACKAGING shall have the right to connect the SUBJECT REALTY to LINCOLN's sewer system. HERITAGE PACKAGING shall bear all initial costs and expenses relating to such connections. In light of the additional property taxes generated by the SUBJECT REALTY, LINCOLN agrees to waive the applicable sewer tap fee that would otherwise be imposed on the SUBJECT REALTY for its connection to LINCOLN's sewer system and reimburse HERITAGE PACKAGING for up to \$35,000 (thirty five thousand dollars) of the costs and expenses to connect to LINCOLN's sewer system.

LINCOLN represents that at the present time its sewage system has capacity sufficient to provide service to HERITAGE PACKAGING, and HERITAGE PACKAGING will be able to connect the SUBJECT REALTY to said systems. LINCOLN makes no specific representation or warranty as to the continued availability of waste water treatment capacity beyond that LINCOLN shall make all reasonable efforts to continue to own and operate its utilities in a manner intended to provide adequate future treatment capacity subject to the availability of sufficient funds for such utility operations regulatory restraints or conditions on service and such other matters generally considered to be in the nature of "force majeure." The inability of LINCOLN to serve the full waste water treatment requirements of HERITAGE PACKAGING, their successors or assigns, shall not give rise to any cause of action on behalf of any such parties for specific enforcement, damages, or other relief at law or in equity.

#### ARTICLE VI APPLICABLE MUNICIPAL STANDARDS

Unless otherwise provided, upon the annexation of the SUBJECT REALTY, all zoning, subdivision, building, and development of the RESULTING PARCEL shall be undertaken in conformity with the requirements of the City Code and all other applicable LINCOLN codes, ordinances, rules, regulations and standards generally in force, from time to time, within Lincoln (the "APPLICABLE CODES"), except to the extent that the same are superseded by more restrictive standards imposed by other regulatory authorities having jurisdiction and, further, as the same may be specifically modified by the terms of this AGREEMENT. In the event of any conflict between standards in the APPLICABLE CODES and/or in the standards imposed by other regulatory authorities having jurisdiction, the most restrictive provision shall apply.

ARTICLE VII  
RECORDATION

The PARTIES agree to do all things necessary to cause this AGREEMENT to be recorded in the Office of the Logan County Clerk and Recorder, Logan County, Illinois.

ARTICLE VIII  
MISCELLANEOUS PROVISIONS

A. NOTICES: All notices hereunder shall be in writing and must be served either personally or be registered or certified mail, postage prepaid to:

LINCOLN at: City of Lincoln  
Keith Snyder, Mayor  
700 Broadway  
Lincoln, IL 62656

HERITAGE PACKAGING at: Greg Basford  
9 Raspberry Rd.  
Bloomington, IL 61704

To any such other person or place which any PARTY hereto, by its prior written notice, shall designate for notice to it from the other PARTIES hereto.

B. BINDING EFFECT, TERM AND AMENDMENT: Except as otherwise provided herein, this AGREEMENT shall be binding upon and inure to the benefit of the PARTIES hereto, successor owners of record of the SUBJECT REALTY, their assigns, lessees and upon any successor municipal authority of LINCOLN, for a period of twenty (20) years from the date set forth in the first paragraph of this AGREEMENT.

It is hereby understood and agreed that this AGREEMENT is a covenant running with the land and is binding thereon. All persons who take title to any part of the SUBJECT REALTY shall comply with the provisions of this AGREEMENT. This AGREEMENT may be amended from time to time with the consent of the PARTIES hereto, pursuant to statute in such case made and provided.

C. NON-CONTESTABILITY OF ASSESSMENT: HERITAGE PACKAGING agrees to not contest any real estate assessment on the SUBJECT REALTY for at least seven (7) years following the execution of this AGREEMENT. If HERITAGE PACKAGING feels that: (1) a quadrennial re-assessment of the SUBJECT REALTY by the office of the Logan County Supervisor of Assessments grossly overstates that value of the property, or (2) the additional property taxes paid by HERITAGE PACKAGING following its annexation to LINCOLN has more than compensated LINCOLN for its costs incurred under this AGREEMENT, HERITAGE PACKAGING may contact LINCOLN and ask for an amendment to this AGREEMENT to delete this section.

D. SEVERABILITY: This AGREEMENT is entered into pursuant to the provisions of 65 ILCS 5/11-15.1-1 et seq., as amended. In the event any part of portion of this AGREEMENT, or any provision, clause, wording or designation contained within this AGREEMENT is held to be invalid by any court of competent jurisdiction, such part, portion, provision, clause, wording or

designation shall be deemed to be excised from this AGREEMENT and the invalidity thereof shall not affect the remaining portions hereof.

E. ENFORCEABILITY: This AGREEMENT shall be enforceable in any court of competent jurisdiction by any of the PARTIES hereto by any appropriate action at law or in equity, including, without limitation, the right of any PARTY hereto to seek specific performance of the terms hereof.

F. SURVIVAL OR REPRESENTATIONS: Each of the PARTIES hereto, for themselves, their successors, assigns, heirs, devisees and personal representatives, agrees that the warranties and recitals set forth in the preambles hereto are material to this AGREEMENT, and the PARTIES hereby confirm and admit their truth and validity and hereby incorporate such representations, warranties and recitals into this AGREEMENT, and the same shall continue during the term of this AGREEMENT. The provisions of this AGREEMENT shall survive the annexation and zoning of the SUBJECT REALTY by LINCOLN, and shall not be merged or expunged by such annexation and zoning.

G. CAPTIONS AND PARAGRAPH HEADINGS: The captions and paragraph headings incorporated herein are for reference only and are not part of this AGREEMENT.

H. CHANGES IN REGULATIONS: It is understood and agreed, except as otherwise provided herein, that the various requirements of the APPLICABLE CODES, including all fees and charges provided for therein, shall not be frozen during the term of this AGREEMENT and may, from time to time, be amended, and as amended, shall apply to the SUBJECT REALTY and the ADDITIONAL PROPERTY.

IN WITNESS WHEREOF, the PARTIES hereto have executed this AGREEMENT as of the date first above written.

CITY OF LINCOLN, an Illinois  
Municipal Corporation,

By: *Keith Snyder*  
Keith Snyder, Mayor

  
ATTEST  
*Susan K. Behlrad*  
City Clerk

BY: *Greg Basford*  
Greg Basford  
B & D PACKAGING

ATTEST  
*Carol J. [Signature]*

**Exhibit A**

## Legal Description of Subject Realty

Part of the South half of the NW  $\frac{1}{4}$  of the NE  $\frac{1}{4}$  of Section 35, Township 20 North, Range 3 West of the Third Meridian, described more particularly as follows:

South 387' of Lot 3 and South 387' of East 125 feet of Lot 4, Lincoln Industrial Park Subdivision containing 1.999 acres more or less.

A part of Lots 3 and 4 of Lincoln Industrial Park, Inc. Subdivision First Plat, Lincoln, IL, being a part of the Southwest Quarter of Section 26 and the Northwest Quarter of Section 35, Township 20 North, Range 3 West of the Third Principal Meridian, Logan County, Illinois, more particularly described as follows:

Commencing at an existing iron pin marking the Southwest corner of the Northeast Quarter of the Northwest Quarter of said Section 26; thence North 0 degrees, 2 minutes, 8 seconds West upon the West line of the Northeast Quarter of said Northwest Quarter a distance of 38.55 feet to an existing iron pin located upon the North right of way line of Fifth Street; thence 89 degrees, 6 minutes, 30 seconds East upon said North right of way line a distance of 532.00 feet to an existing iron pin marking the Southeast corner of said Lot 3; thence North 0 degrees, 36 minutes, 41 seconds East upon the East line of said Lot 3 a distance of 168.70 feet to a set iron pin; thence North 89 degrees, 22 minutes, 52 seconds West a distance of 259.88 feet to a set iron pin located upon the centerline of a proposed 66 feet wide roadway; thence South 0 degrees, 2 minutes, 8 seconds East upon said roadway centerline a distance of 168.71 feet to a set iron pin; thence South 89 degrees, 22 minutes, 52 seconds East a distance 257.98 feet to the true point of beginning; said last call also running along the north boundary line of the parcel of land described in a certain deed from Lincoln Industrial Park, Inc. as grantor, to Alan Prisk and Nancy Prisk, as grantees, dated July 12, 1977 and recorded on Card No. D1-3780 in the office of the Logan County, Illinois Recorder of Deeds on July 29, 1977, as Document No. 285574; the tract hereby conveyed being subject to reservation by and for Grantor and its assigns of an easement for ingress and egress roadway thirty-three feet (33') in width along the full west side of the above described parcel of land and also subject to the written easement and roadway agreement of the parties hereto dated 03/03/2011, and all other easements and restrictions of record, if any; said parcel containing 1.00 acres, more or less.