

**U.S. Hwy. 34 & West Fletcher Avenue  
Conditional Zoning Agreement**

This U.S. Hwy. 34 & West Fletcher Avenue Conditional Zoning Agreement ("Agreement") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2011, by and between the Par 5 Partners, LLC, a Nebraska limited liability company, hereinafter referred to as "Owner," and the City of Lincoln, Nebraska, a municipal corporation, hereinafter referred to as "City."

**RECITALS**

**I.**

Owner owns Lots 4 and 20 of Irregular Tracts, all located in the NE 1/4 of Section 3, Township 10 North, Range 6 East of the 6th P.M., Lancaster County, Nebraska, and the remaining portion of Lot 1, Block 1, Highland North, and Lot 57 of Irregular Tracts, all located in the NW 1/4 of Section 2, Township 10 North, Range 6 East of the 6th P.M., Lancaster County, Nebraska, hereinafter collectively referred to as the "Property."

**II.**

Owner has petitioned the City requesting Change of Zone #10028 changing zoning of the Property from R-3 Residential, O-2 Suburban Office, and AG Agricultural to I-2 Industrial Park.

**III.**

The change of zone to I-2 Industrial Park is generally in conformance with the Lincoln/Lancaster County Comprehensive Plan. The City desires to enter into an agreement with Owner to be assured that access to West Fletcher Avenue will be relinquished as such access is not needed as the Highland Office Park final plat granted a 60 foot wide ingress and egress easement from West Harvest Drive to serve the Property.

#### IV.

Owner, as an inducement for the City to approve the Change of Zone #10028, has represented to the City that Owner would enter into and comply with an agreement that requires Owner to relinquish direct vehicular access to West Fletcher Avenue.

#### V.

The City Planning Commission has recommended approval of the change of zone requested by Owner subject to a conditional zoning agreement relinquishing access to West Fletcher Avenue being entered by and between the City and Owner.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the parties agree as follows:

1. City agrees to approve Change of Zone Application #10028 thereby rezoning the Property to I-2 Industrial Park.
2. Owner agrees to execute the Relinquishment of Access attached hereto as Attachment "A" and incorporated herein by this reference. Said Relinquishment of Access relinquishes direct vehicular access for ingress and egress from the Property to West Fletcher Avenue.
3. Owner agrees that the obligation of the Owner under this Conditional Zoning Agreement shall constitute a covenant running with the land and shall be binding on Owner and Owner's heirs, administrators, successors, and assigns.
4. All aspects of this agreement shall be governed by the laws of the State of Nebraska.

5. Any uncertainty or ambiguity existing herein shall not be construed against either party because such party prepared any portion of this Agreement, but shall be interpreted according to the application of rules of interpretation of contracts generally.

6. Owner and City agree that the change of zone approved herein promotes public health, welfare, and safety generally so long as Owner fulfills all of the conditions and obligations set forth in this Agreement. In the event Owner defaults in fulfilling any of said conditions and obligations as set forth in this Agreement, the City may, in its legislative authority, rezone the Property to its previous designations or such other designations as the City deems appropriate to promote the public health, safety, and welfare under the circumstances. Further, the City reserves the right to take such remedies, legal or equitable, as it deems necessary to enforce this Agreement or to seek damages for its breach.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2011.

PAR 5 PARTNERS, LLC  
a Nebraska limited liability company,

By: \_\_\_\_\_  
Thomas J. Peed, Manager

ATTEST:

CITY OF LINCOLN, NEBRASKA,  
a municipal corporation,

\_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
Chris Beutler, Mayor of Lincoln

COUNTY OF LANCASTER        )  
  ) ss.  
STATE OF NEBRASKA         )

The foregoing Agreement was acknowledged before me this \_\_\_\_ day \_\_\_\_\_, 2011,  
by Thomas J. Peed, Manager of Par 5 Partners, LLC, a Nebraska limited liability company.

\_\_\_\_\_  
Notary Public

COUNTY OF LANCASTER        )  
  ) ss.  
STATE OF NEBRASKA         )

The foregoing Agreement was acknowledged before me this \_\_\_\_ day \_\_\_\_\_,  
2011, by Chris Beutler, Mayor, City of Lincoln, Nebraska, a municipal corporation.

\_\_\_\_\_  
Notary Public

**RELINQUISHMENT OF ACCESS**

Par 5 Partners, LLC, owner of Lots 4 and 20 of Irregular Tracts, all located in the NE 1/4 of Section 3, Township 10 North, Range 6 East of the 6th P.M., Lancaster County, Nebraska, and the remaining portion of Lot 1, Block 1, Highland North, and Lot 57 of Irregular Tracts, all located in the NW 1/4 of Section 2, Township 10 North, Range 6 East of the 6th P.M., Lancaster County, Nebraska, in consideration of One Dollar (\$1.00) and other valuable consideration, as set forth in the Conditional Zoning Agreement dated \_\_\_\_\_, 2011, entered into by and between Par 5 Partners, LLC and the City of Lincoln, Nebraska, does hereby relinquish direct vehicular access for ingress and egress from Lots 1 and 4 of Irregular Tracts, all located in the NE 1/4 of Section 3, Township 10 North, Range 6 East of the 6th P.M., Lancaster County, Nebraska, and the remaining portion of Lot 1, Block 1, Highland North, and Lot 57 of Irregular Tracts, all located in the NW 1/4 of Section 2, Township 10 North, Range 6 East of the 6th P.M., Lancaster County, Nebraska, to West Fletcher Avenue.

Executed by Owner this \_\_\_\_ day of \_\_\_\_\_, 2011.

**PAR 5 PARTNERS, LLC**  
a Nebraska limited liability company,

By: \_\_\_\_\_  
Thomas J. Peed, Manager

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF LANCASTER        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of 2011 by Thomas J. Peed, Manager of Par 5 Partners, LLC.

\_\_\_\_\_  
Notary Public