

15R-4



A88744

Introduce: 1-5-15

RESOLUTION NO. A- 88744

1 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:

2 That the Annexation and Zoning Agreement which is attached hereto, marked
3 as Attachment "A" and made a part hereof by reference, between the City of Lincoln and
4 Noel and Gloria Chadd, regarding to the annexation of approximately 22 acres of property
5 generally located at West Vine Street between N.W. 27th Street and N.W. 40th Street, to
6 set out development restrictions relating to the lack of City water and wastewater systems
7 and the need to maintain West Vine Street for a rock crusher operation, as set out in the
8 Agreement is hereby approved and the Mayor is authorized to execute the Annexation and
9 Zoning Agreement on behalf of the City.

10 BE IT FURTHER RESOLVED that the City Clerk is directed to return one fully
11 executed copy of the Annexation and Zoning Agreement to Tom Cajka, Planning
12 Department, for distribution to the Owners.

13 BE IT FURTHER RESOLVED that the City Clerk is directed to record the
14 Annexation and Zoning Agreement with the Register of Deeds to be indexed against Lot
15 60 of Irregular Tracts, located in the Southwest Quarter of Section 20, Township 10 North,
16 Range 6 East of the 6th P.M., Lincoln, Lancaster County, Nebraska.

17 BE IT FURTHER RESOLVED that the City Clerk is directed to forward a copy
18 of this Agreement to Michaela Dugan, Impact Fee Administrator.

Introduced by:

AYES: Camp, Cook, Emery,
Eskridge, Fellers, Gaylor Baird;
NAYS: None; ABSENT:
Christensen.

Approved as to Form and Legality:

Jeffrey R. Kitzhaber
City Attorney

Approved this 5th day of Jan., 2015:
[Signature]
Mayor

ADOPTED

JAN 26 2015

BY CITY COUNCIL

CONDITIONAL ANNEXATION AND ZONING AGREEMENT

THIS CONDITIONAL ANNEXATION AND ZONING AGREEMENT

("Agreement") is made and entered into this 13 day of DECEMBER 2014, by and between the NOEL and GLORIA CHADD, husband and wife, hereinafter collectively referred to as "Owner," and the CITY OF LINCOLN, NEBRASKA, a municipal corporation, hereinafter referred to as "City."

RECITALS

A. Owner is the owner of Lot 60 I.T. located in the Southwest Quarter of Section 20, Township 10 North, Range 6 East of the 6th Principal Meridian, Lancaster County, Nebraska ("Lot 60 I.T.").

B. Lot 60 I.T. is located outside of the corporate limits of the City of Lincoln and is zoned AG Agricultural District.

C. Owner is requesting the City to annex Lot 60 I.T.; re-zone Lot 60 I.T. from AG Agricultural District to I-1 Industrial District; and grant Owner a special permit to use Lot 60 I.T. for a rock crusher operation in anticipation of Owner selling Lot 60 I.T. to Land Excavating and Demolition, LLC.

D. It is a policy of the City to not re-zone AG Agricultural District zoned land until such land is annexed into the corporate limits.

E. Lot 60 I.T. cannot currently be served by the City's public wastewater system and water system and the City does not currently have sufficient funds or plans for the extension of such systems to serve Lot 60 I.T.

F. Owner has represented to the City that Owner does not desire nor need the City's public wastewater system or water system to be extended to serve Lot 60 I.T. if Lot 60 I.T. is

rezoned to I-1 Industrial District and a special permit granted to allow Lot 60 I.T. to be used for a rock crusher operation.

G. Since the rock crusher operation and other potential industrial uses under I-1 zoning may entail heavy truck traffic on West Vine Street, the City is only willing to annex Lot 60 I.T. and approve the Change of Zone to I-1 Industrial District upon condition that Owner enters into a Road Restriction and Maintenance Agreement with the City and/or County restricting hauling operations to and from Lot 60 I.T. and providing for the maintenance of West Vine Street.

H. Lot 60 I.T. is located within the Southeast Rural Fire Protection district. *Neb. Rev. Stat. § 35-514*, dealing with the City's annexation of territory from rural fire protection districts, provides in part that: "(7) Areas duly incorporated within the boundaries of a municipality shall be automatically annexed from the boundaries of the district notwithstanding the provisions of § 31-766 and shall not be subject to further tax levy or other charges by the district, except that before the annexation is complete, the municipality shall assume and pay that portion of all outstanding obligations of the district which would otherwise constitute an obligation of the area annexed or incorporated." The City is willing to annex Lot 60 I.T. as requested by Owner provided Owner agrees to pay all costs needed for the City to assume and pay that portion of all outstanding obligations of the district which would otherwise constitute an obligation of Lot 60 I.T. being annexed.

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

I. Annexation by the City. The City agrees to annex Lot 60 I.T.

2. **Change of Zone.** The City agrees to re-zone Lot 60 I.T. from AG Agriculture District to I-1 Industrial District.

3. **Special Permit.** The City agrees to grant a special permit to use Lot 60 I.T. for a rock crusher operation.

4. **Public Sanitary Sewer and Water.** Owner understands and agrees that Lot 60 I.T. cannot be served by the City's wastewater system and water system. Owner understands and acknowledges that the cost to design and construct extensions of the City's wastewater system and water system is not shown in the City's current Capital Improvement Program. Notwithstanding the lack of public sewer and water Owner desires that Lot 60 I.T. be immediately annexed into the City of Lincoln. Therefore, as an inducement for the City to annex Lot 60 I.T., Owner agrees that Owner shall not request the City to provide Owner with public sewer and water earlier than contemplated in the Lincoln/Lancaster County 2040 Comprehensive Plan as the same may be amended. As a further inducement for such annexation, Owner certifies that Owner does not desire nor need the City's public wastewater system and water system to be extended to serve Lot 60 I.T. for its proposed use as a rock crusher under a special permit in the I-1 Industrial District. Owner further certifies that Owner shall not convert nor request to convert the use of Lot 60 I.T. to a use which requires City public wastewater and public water service to Lot 60 I.T. until such time as the City's public wastewater system and water system are extended to serve Lot 60 I.T.

5. **Fire Protection Services.** Owner understands and acknowledges that until such time as the public water system is extended to serve Lot 60 I.T. City fire protection services available to Lot 60 I.T. will not have fire hydrants and the Fire Department will have to use water from less desirable alternative means.

6. On-site Wastewater and Individual Water Wells. City and Owner acknowledge that the wastewater and water service needs for Lot 60 I.T. shall be served by an on-site wastewater treatment system and individual water wells until such time as the City's public wastewater system and water system, respectively, is within 300 feet and available to serve Lot 60 I.T. Said on-site wastewater system and individual water wells shall comply with Lincoln/Lancaster County Health Department Standards and Regulations.

7. Road Maintenance Agreement. Owner agrees to enter into a Road Restriction and Maintenance Agreement with the County and/or City in which Owner shall agree to restrict hauling operations to and from Lot 60 I.T. as required by the County and/or City and to maintain West Vine Street at no cost to the County or City from wear and tear as a result of heavy truck traffic under Owner's use of Lot 60 I.T. under I-1 zoning.

8. Contribution for Rural Fire District. Owner understands and acknowledges that the City's annexation of Lot 60 I.T. lying within the boundaries of the Southeast Rural Fire District shall not be complete except upon the City assuming and paying that portion of all outstanding obligations of the District which would otherwise constitute an obligation of Lot 60 I.T. being annexed. The parties anticipate that the amount will be less than \$50.00. However, in the event said amount is in excess of \$50.00, Owner agrees to pay the City whatever amount which must be paid by the City to Southeast Rural Fire District in order for the annexation to be complete.

9. Binding Effect. This Agreement shall run with the land and be binding upon and inure to the benefit and burden of successors and assigns of the respective parties.

10 Amendments. This Agreement may only be amended or modified in writing signed by the parties hereto.

11. **Governing Law.** All aspects of this Agreement shall be governed by the laws of the State of Nebraska.

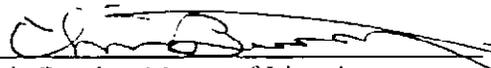
12. **Authority.** This Agreement has duly executed and delivered by the parties and constitutes a legal, valid and binding obligation of each party, enforceable against the same in accordance with its terms.

13. **Recording.** This Agreement or summary memorandum thereof shall be recorded by the City with the Register of Deeds of Lancaster County, filing fees therefor to be paid in advance by the Owner.

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

CITY OF LINCOLN, NEBRASKA
a municipal corporation

By:

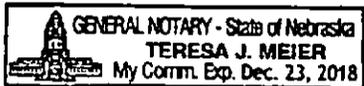

Chris Beutler, Mayor of Lincoln


Noel Chadd, Husband


Gloria Chadd, Wife

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

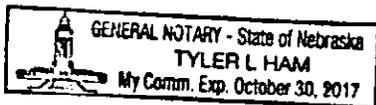
The foregoing instrument was acknowledged before me this 29th day of Jan., 2014, by Chris Beutler, Mayor of the City of Lincoln, Nebraska, a municipal corporation.



Teresa J. Meier
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

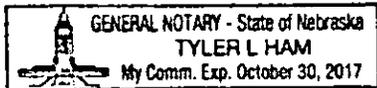
The foregoing instrument was acknowledged before me this 13th day of December, 2014, by Noel Chadd, Husband.



Tyler L. Ham
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 13th day of December, 2014, by Gloria Chadd, Wife.



Tyler L. Ham
Notary Public