

RESOLUTION NO. A- 81655

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

2 That the agreement titled Prairie Village Conditional Annexation and Zoning Agreement  
3 (Annexation Agreement), which is attached hereto, marked as Attachment "A" and made a part  
4 hereof by reference, between the City of Lincoln and Prairie Homes Builders, Inc. (Owner), outlining  
5 certain conditions and understandings between the City and said Owner relating to the annexation  
6 of approximately 113.05 acres of property generally located at the southeast corner of North 84th  
7 Street and Adams Street is approved.

8 BE IT FURTHER RESOLVED that the Mayor is authorized to execute the Annexation  
9 Agreement on behalf of the City.

10 <sup>8/30</sup> BE IT FURTHER RESOLVED that the City Clerk is directed to return one fully executed  
11 copy of this Agreement to Rick Peo, Chief Assistant City Attorney, for distribution to the Owner.

12 BE IT FURTHER RESOLVED that the City Clerk is directed to record the Annexation  
13 Agreement or a summary memorandum thereof with the Register of Deeds, filing fees to be paid  
14 by the Owner.

See further Council Proceedings  
on next page.

Introduced by:

Coleen J Seng

AYES: Camp, Cook, Friendt,  
McRoy, Seng, Svoboda, Werner,  
NAYS: None.

Approved as to Form and Legality:

Root Rick Peo  
City Attorney

**ADOPTED**

AUG 19 2002

By City Council

Approved this 26 day of July, 2002:  
Don Weseley  
Mayor

#130 50

*Dan Jaltz*

REGISTER OF DEEDS

INST NO 2002

2002 SEP -3 P 2:06

058562

LANCASTER COUNTY, NE



A-81655

### PRAIRIE VILLAGE CONDITIONAL ANNEXATION AND ZONING AGREEMENT

This Prairie Village Conditional Annexation and Zoning Agreement ("Agreement") is made and entered into this 19 day of August, 2002, by and between **Prairie Home Builders, Inc.**, a Nebraska corporation; **Jonathan M. Welles and Victoria E. Welles**, husband and wife; and **Faith Evangelical Lutheran Church, Lincoln, Nebraska**, a Nebraska nonprofit corporation, collectively hereinafter referred to as "Owners," and the **City of Lincoln, Nebraska**, a municipal corporation, hereinafter referred to as "City."

#### RECITALS

A. Owners have requested the City to annex approximately 113.05 acres more or less of land generally located at North 84th Street and Adams Street. The approximately 113.05 acres is hereinafter referred to as the "Property" and is legally described as Lots 14, 90, 96, 97, 98 and 99, of Irregular Tracts located in the North 1/2 of Section 14, Township 10 North, Range 7 East of the 6th P.M., Lincoln, Lancaster County, Nebraska.

*nw 1/4*

B. Owners have requested the City to approve Owners' application to preliminarily plat the Property as Prairie Village.

C. Owners have requested the City to rezone 92.20 acres of the Property from AG Agriculture District to R-3 Residential District.

D. Prairie Home Builders, Inc. has requested the City to approve Special Permit No. 1959 (Prairie Village Community Unit Plan consisting of 474 dwelling units (174 single-family and 300 multi-family)) for the R-3 designated property.

E. Owners are the legal owners of the Property.

F. The City is considering adopting an Impact Fee Ordinance based upon an Impact Fee Study prepared by Duncan Associates dated June, 2002, that would enable the City to impose a proportionate share of the cost of improvements to the water and wastewater

*Return to*

systems arterial streets and neighborhood parks and trails necessitated by and attributable to new development.

G. Pursuant to the Conditional Annexation and Zoning Agreement for Regent Heights 1st Addition and Northern Lights Addition ("Regent Heights Agreement"), the City and the developers of Regent Heights 1st Addition and Northern Lights Addition constructed certain sanitary sewer trunk lines (herein-after "Sewer A" and "Sewer B") to sewer 254 acres of land within the preliminary plats of Regent Heights 1st Addition and Northern Lights Addition. Said Sewer A and Sewer B can also sewer 746 acres of land outside of the boundaries of the preliminary plats for Regent Heights 1st Addition and Northern Lights Addition, including the Owners' Property.

H. In the Regent Heights Agreement, the City agreed to charge owners of land outside the boundaries of the preliminary plats for Regent Heights 1st Addition and Northern Lights Addition who benefit not from maintenance of Sewer A and Sewer B, but from the extension of Sewer A and Sewer B into an entirely new area, including the Owners' Property, a fair share of the cost of Sewer A and Sewer B based upon a per-acre formula or some other fair share formula approved by the City.

I. Resolution No. A-79736, adopted by the City Council on September 20, 1999, established a one-time connection fee of \$1,570 per acre for property owners whose land is included within the approximately 746 acres of land outside the preliminary plats for Regent Heights 1st Addition and Northern Lights Addition and is sewerable by Sewer A and Sewer B.

J. The City is willing to annex the Property, rezone a portion of the Property from AG Agricultural District to R-3 Residential District, and conditionally approve the preliminary plat, and special permit for the Property as requested by Owners prior to the adoption of the Impact Fee Ordinance, provided Owners agree to (1) make certain improvements and contributions to the public street system, water system, and sanitary sewer system which are

necessary in order to serve the Property; (2) contribute \$177,567 as the Owners' fair share of the cost to construct Sewer A and Sewer B which sewers the Property based upon a cost of \$1,570 per acre times the 113.05 acres being annexed; and (3) agree to pay any future impact fee imposed by the City necessitated by and attributable to the proposed development of the Property.

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

1. **Annexation by the City.** The City agrees to annex the Property.
2. **Rezoning.** The City agrees to rezone 92.20 acres of the Property from AG Agricultural District to R-3 Residential District.
3. **Preliminary Plat and Special Permit.** The City agrees to conditionally approve the Prairie Village Preliminary Plat and Special Permit No. 1959 (Prairie Village Community Unit Plan).
4. **Public Water Mains.** Owners agree at Owners' own cost and expense as part of the platting process to construct the following water mains by executive order construction. Owners further understand and agree that the proposed water service is only deemed adequate to provide water service to the residential development and that the water supply will need to be re-evaluated before the future commercial area may be rezoned and developed.

A. **Adams Street.** A 16-inch water main approximately 2,660 lineal feet in length in Adams Street from 84th Street east to the east boundary line of the Property. The Owners shall be responsible for 100% of the cost of constructing a typical 8-inch water line abutting a commercial area (1,000 lineal feet) and 100% of the cost of constructing a typical 6-inch water line abutting a residential area (1,660 lineal feet). The City shall be responsible for all costs attributable to oversizing the water main with pipe, valves, fittings, and all other accessories that are larger than eight inches abutting a commercial area and larger than six

inches abutting a residential area. Notwithstanding the above, the City understands and acknowledges that the 16-inch water main will also serve the property abutting along the north side of Adams Street. Therefore, at such time as the adjacent land owner desires to connect to the water main, the City agrees to use its best efforts to charge said adjacent land owner a connection fee equal to the cost of constructing one-half of a typical 8-inch water line abutting a commercial area and one-half the cost of constructing a typical 6-inch water main abutting a residential area and to pay the amount of any connection fees so collected to Owners. Notwithstanding the above, Owners understand and agree that the City cannot contract away its police powers and legislative discretion and thus the duty of the City to use its best efforts to charge the owners of the Other Property their fair share of the cost of constructing one-half of a typical 8-inch water line abutting a commercial area and one-half the cost of constructing a typical 6-inch water line abutting a residential area does not require the City Council for the City to adopt nor restrict the Council from adopting ordinances affecting the City's ability to charge property owners for the right to connect to the City's water system.

The estimated cost of the 16-inch water main (2,660 lineal feet) is \$133,000. The estimated cost for the typical 8-inch water line abutting a commercial area (1,000 lineal feet) is \$27,000. The estimated typical cost of constructing the 6-inch water main abutting a residential district (1,660 lineal feet) is \$41,500. The City's estimated subsidy for oversizing the 8- and 6-inch water mains is \$64,500. Because of the amount of City subsidy being provided, the parties agree that the contract for construction of these water mains shall be awarded only after competitive bidding in accordance with City procedures.

B. Leighton Avenue. A 16-inch water main approximately 975 lineal feet in length and a 12-inch water main approximately 400 lineal feet in length in Leighton Avenue from 84th Street east to the east boundary line of the Property. The Owners shall be responsible for 100% of the cost of constructing a typical 6-inch water line abutting a residential area (1,375 lineal feet). The City shall be responsible for all costs attributable to oversizing the 16-

inch and 12-inch water mains with pipe, valves, fittings, and all other accessories that are larger than six inches. Notwithstanding the above, the City understands and acknowledges that the 16-inch and 12-inch water mains will also serve the property abutting along the south side of Leighton Avenue. Therefore, at such time as the adjacent land owner desires to connect to the water main or mains, the City agrees to use its best efforts to charge said owner a connection fee equal to the typical cost of constructing one-half of an 8-inch water main and to pay the Owners from said amount an amount equal to one-half of the cost of constructing a typical 6-inch water main. Notwithstanding the above, Owners understand and agree that the City cannot contract away its police powers and legislative discretion and thus the duty of the City to use its best efforts to charge the owners of the Other Property their fair share of the cost of constructing one-half of a typical 8-inch water line abutting a commercial area and one-half the cost of constructing a typical 6-inch water line abutting a residential area does not require the City Council for the City to adopt nor restrict the Council from adopting ordinances affecting the City's ability to charge property owners for the right to connect to the City's water system.

The estimated cost of the 16-inch water main (975 lineal feet) is \$48,750. The estimated cost of the 12-inch water main (400 lineal feet) is \$12,000. The estimated cost of the typical 6-inch water main abutting a residential district (1,375 lineal feet) is \$34,375. The City's estimated subsidy for oversizing the 16-inch and 12-inch water mains is \$26,375. Because of the amount of City subsidy being provided, the parties agree that the contract for construction of these water mains shall be awarded only after competitive bidding in accordance with City procedures.

C. North 87th Street. A 16-inch water main approximately 2,980 lineal feet in length in North 87th Street from Adams Street south to Leighton Avenue. The City shall be responsible for all costs attributable to oversizing the water main with pipe, valves, fittings, and all other accessories that are larger than an 8-inch water main for the 1,040 lineal feet

abutting a commercial area and that are larger than a 6-inch water main for the 1,940 lineal feet abutting a residential area.

The total cost of the 16-inch water main (2,980 lineal feet) is estimated to be \$149,000. The estimated cost of a typical 8-inch water main (1,040 lineal feet) is \$28,080. The estimated cost of the of the typical 6-inch water main (1,940 lineal feet) is \$48,500. The City's subsidy is estimated to be \$72,420. Because of the amount of City subsidy being provided, the parties agree that the contract for construction of these water mains shall be awarded only after competitive bidding in accordance with City procedures.

D. Tallgrass Lane & 91st Street. A 12-inch water main approximately 1,650 lineal feet in Tallgrass Lane and North 91st Street. Prairie Home Builders, Inc. shall be responsible for 100% of the cost of constructing a typical 6-inch water main and the City shall be responsible for all costs attributable to oversizing the water main with pipe, valves, fittings and other accessories that are larger than six inches. The total cost of the 12-inch water main is estimated to be \$49,500. The estimated cost of the typical 6-inch water main is \$41,250 and the City's estimated contribution is \$8,250.

5. **Street Improvements**. Owners agree that Owners shall be responsible to pay the following street contributions and to construct at Owners' own cost and expense the following street improvements by executive order construction:

A. Adams Street.

1. Suburban Cross Section. Owners agree to pay for 50% of the estimated cost for the design and construction of Adams Street as a three-lane "suburban" cross section from 84th Street east to the east property line, together with 50 mph design tapers back to the existing two-lane cross section east of the eastern edge of the property. Said design and construction of Adams Street shall include utility relocation, paving, inspection, sidewalks, grading, signal modifications, storm sewer, and other incidental work. The suburban cross section improvements shall also include associated work on the west leg of the 84th and

Adams intersection. The Owners' estimated share of the cost of such work is \$500,000 and said payment shall be made to the City within thirty days following written notice from the City that the City of Lincoln has awarded a bid and entered into a contract for construction of said improvements. Said obligations shall cease and terminate if said work is not included in year one of a six-year capital improvements program and funded for on or before the City's fiscal year 2010-2011. The conceptual plan for the future "suburban" cross section is shown on the Paving Exhibit for Prairie Village prepared by Engineering Design Consultants (EDC), attached hereto marked as Attachment A. Final design plans for the "suburban" cross section shall be in accordance with City design standards and subject to the approval of the City.

2. Temporary Improvements. Owners agree that Owners' shall at their own cost and expense design, grade and pave with temporary asphalt surfacing (utilizing the existing Adams Street asphalt surface) Adams Street from 84th Street east to the east end of a 150-foot westbound left turn lane at 87th Street, together with 50 mph design tapers back to the existing two-lane cross section and install left-turn lanes at the intersections of 84th Street and Adams Street and 87th Street and Adams Street abutting the preliminary plat of Prairie Village. It is understood that the left-turn lanes at the intersections of 84th Street and Adams Street and 87th and Adams Street may be installed without construction of a raised median, with the left-turn lanes being painted on the asphalt surface. The 84th Street and Adams Street intersection improvements shall also include associated lane alignment work on the west leg of 84th Street and Adams Street. Owners further agree to install at their own cost and expense a left-turn lane at the intersection of Adams Street and Tallgrass Lane upon reaching left-turn warrants at that intersection as shown on Figure 6.1, attached hereto marked as Attachment B, or one left-turn related vehicle crash, whichever occurs first.

Notwithstanding the above, the obligation to construct the left-turn lane at Adams and Tallgrass and to insure said construction as required under paragraph 8 shall terminate and be released if said left-turn lane is not required to be constructed prior to the



time that the construction of Adams Street as a three-lane suburban cross section is included in year one of a six-year City capital improvements program. This obligation shall not terminate if the City fails to include the three-lane suburban cross section for construction in the first year of a capital improvements program by fiscal year 2010-2011.

The conceptual plan for the temporary street improvements described above are shown on the Paving Exhibit for Prairie Village (Attachment A) labeled as Proposed Interim Pavement and Interim Improvements. Final design plans for the temporary street improvements shall be in accordance with City design standards and subject to the approval of the City.

B. Leighton Avenue. Prairie Home Builders, Inc. agrees to petition for and participate in a paving district for the construction of Leighton Avenue, provided the City agrees to annex and include land on the south side of Leighton as a part of the district. The paving width shall be 33 feet with no median, provided that proper alignment can be achieved on Leighton Avenue through the 84th Street intersection. Prairie Home Builders, Inc. further agrees that any nonassessable cost attributed to extra paving width for the construction of Leighton Avenue as an urban collector street and any costs associated with the achievement of proper alignment on Leighton Avenue through the 84th Street intersection shall be paid by Prairie Home Builders Inc., not to exceed Twenty Thousand Dollars (\$20,000.00). The paving district must be ordered constructed before the City will approve any final plat of Prairie Village with single-family buildable lots that abut Leighton Avenue. In the alternative, Prairie Home Builders, Inc. may elect to not construct Leighton Avenue as an urban collector street in the manner described above provided Prairie Home Builders, Inc. agrees that there will be no single-family or multi-family access to Leighton Avenue and no single-family buildable lots will be created abutting Leighton Avenue until such time as Leighton Avenue is paved to City standards. Under this alternative, Prairie Home Builders, Inc. agrees that development as shown on the phasing plan of the Prairie Village Community Unit Plan and the approval of

final plats for residential lots, whether single family or multi family, located south of Wagon Drive shall be restricted to no more than 1,000 vehicle trips per day. Prairie Home Builders, Inc. further agrees to construct a right-turn lane in 84th Street at Windmill Drive at its own cost and expense when Windmill Drive connects to 84th Street. The conceptual plans for the cross section of Leighton Avenue from 84th Street to the east line of the Property including the alignment through the 84th Street intersection is shown on the Paving Exhibit for Prairie Village (Attachment A). Final design plans for the Leighton Avenue improvements shall be in accordance with City design standards and subject to the approval of the City.

C. Traffic Signal at 84th and Leighton. Prairie Home Builders, Inc. agrees to pay 25% of the cost of a traffic signal at the intersection of 84th Street and Leighton Avenue at such time as warrants one and/or seven are met and the traffic signal is recommended for installation by the City Traffic Engineer.

D. Street Dedications. Owners agree to dedicate permanent easements at no cost to the City over a 25-foot right-of-way triangle area at the corners of 84th Street and Leighton Avenue, 84th Street and Windmill Drive, and 87th Street and Adams Street for traffic signals and appurtenances thereto and for sidewalks.

E. Adams Street Right-of-Way Dedication. Owners agree to dedicate at no cost to the City, right-of-way on Adams Street to provide 65 feet as measured from the centerline of Adams Street or the section line, whichever is greater, from 84th Street east 1,000 feet and to dedicate right-of-way for the remaining portion of Adams Street adjacent to the development to provide 60 feet from the centerline of the roadway or section line, whichever is greater.

F. Leighton Avenue Right-of-Way Dedication. Prairie Home Builders, Inc. agrees to dedicate at no cost to the City 36 feet of right-of-way as measured from the center of the roadway or section line whichever is greater from 84th Street east to the east line of the Property for the Leighton Avenue improvements.

6. **Sewer Main Extension.** Owners understand and acknowledge that the Property was made sewerable by the construction of Sewer A and Sewer B pursuant to the Regent Heights Agreement and that the Owners did not participate in, nor contribute the Owners' fair share of the cost of the construction of Sewer A and Sewer B to serve the Property. The Owners desire to be connected to Sewer A and Sewer B and therefore agree to pay a connection fee of One Thousand Five Hundred Seventy Dollars (\$1,570.00) per acre times 113.05 acres for a total connection fee of \$177,448.50. Said \$1,570 per acre fee shall be paid by each Owner at the time of final platting of all or any portion of the Property owned by said Owner based upon the number of acres final platted. The 113.05 acres are presently divided as follows: Prairie Home Builders, Inc. (Lots 14, 96, 98 and 99), 88.19 acres; Jonathan and Victoria Welles (Lot 90), 4.810 acres; and Faith Evangelical Lutheran Church (Lot 97), 20.01 acres.

7. **Additional Contributions.** In addition to the contributions provided for in paragraphs 5A and 5C above, Owners agree to:

A. Pay all costs attributable to Owners for the off/on-site roadway improvements identified in a traffic impact study for the commercial development in Prairie Village. The study limits will include all roadways in, adjacent and within two miles of the Prairie Village development.

B. Pay 100% of the costs associated with the design and installation of a traffic signal at 84th Street and Windmill Drive and a traffic signal at Adams Street and 87th Street when warranted and the signals at these locations are recommended for installation by the City Traffic Engineer.

8. **Security.**

A. Owners shall provide the City a bond, escrow, or other security agreement, approved by the City Attorney, to insure Owners' share of the cost of the public water mains

described in paragraph 4 of this Agreement as part of the executive order construction process or at the time of final platting of the Property, whichever occurs first.

B. Owners shall provide the City a bond, escrow, or other security agreement, approved by the City Attorney, in the amount of Five Hundred Thousand Dollars (\$500,000) to insure Owners' obligation to pay for 50% of the cost for the design and construction of Adams Street as a three-lane "suburban" cross section as described in paragraph 5A above at the time that any portion of the Property located west of North 87th Street and north of Windmill Drive and proposed for future commercial development is final platted, or at the time either proposed Phase 4 or Phase 5 of the residential development of the Property is final platted, or within sixty (60) days following notice from the City that said improvements have been included in year two of a six-year capital improvements program, whichever occurs first. Said locations are shown on the Prairie Village Phasing Exhibit prepared by Engineering Design Consultants (EDC), attached hereto marked as Attachment C.

C. Owners shall provide the City a bond, escrow, or other security agreement, approved by the City Attorney, in the amount of One Hundred Thousand Dollars (\$100,000) to insure Owners' obligation to construct a temporary asphalt surfacing in Adams Street; and in the amount of Forty Thousand Dollars (\$40,000) to guarantee Owners' obligation to construct the left-turn lane at Adams and Tallgrass as described in paragraph 5B above prior to the first final plat of the Property.

D. Owners shall provide the City a bond, escrow, or other security agreement, approved by the City Attorney, in the amount of Thirty Thousand Dollars (\$30,000) to insure Owners' obligation to pay for 25% of the cost of the traffic signal at the intersection of 84th Street and Leighton Avenue as described in paragraph 5C above at the time that any portion of the Property located west of North 87th Street and south of Windmill Drive and proposed for future multi-family development is final platted.

E. Owners shall provide the City a bond, escrow, or other security agreement, approved by the City Attorney, in the amount of Two Hundred Forty Thousand Dollars (\$240,000) to insure Owners' obligation to pay for 100% of the cost of the traffic signal at the intersection of 84th Street and Windmill Drive and the traffic signal at the intersection of 87th Street and Adams Street as described in paragraph 7B above at the time any portion of the Property located west of North 87th Street and north of Windmill Drive and proposed for future commercial development is final platted.

**9. Future Cost Responsibilities.** Owners understand and acknowledge that the street right-of-way dedications to be made by Owners, the street and traffic signal contributions to be paid by Owners, and the public street improvements and the public sanitary sewer and water main improvements to be constructed by the Owners under this Agreement do not reflect all the impacts the proposed development of the Property would have on the City's public facilities as set forth in the Impact Fee Study prepared by Duncan Associates dated June, 2002. Owners agree that by making the dedications, contributions, and improvements outlined in this Agreement, Owners shall not be relieved of any future obligation to pay any impact fee imposed on this proposed development of the Property which are required to be paid pursuant to the provisions of any impact fee ordinance adopted by the City Council for the City.

Owners further agree that, by making the dedications, contributions and improvements outlined in this Agreement, Owners shall not be relieved of any future obligation to dedicate land for, contribute to the cost of construction of, or to construct public facilities or improvements which are attributable to proposed changes in land use, zoning, or intensity of development which have the effect of causing the need for addition public improvements in the immediate area of such development.

**10. Credit Against Future Impact Fees.**

A. Street Impact Fee Credit. The contribution paid by Owners pursuant to paragraphs 5.A., 5.C. and 7.B. above shall be available as a credit against any street impact

fee imposed against the entire development of the Property. However, in no event shall the credit exceed the impact fees that would otherwise be due from the entire development of the Property. Nor shall Owner be entitled to any refund of said contribution in excess of the impact fee. Owner shall not be entitled to any credit for the cost to construct temporary widening of the existing Adams Street rural cross section to provide left turn lanes at those intersections at a length and width determined by the City as required by paragraph 5.B. above.

B. **Water Impact Fee Credit.** Credit against any water impact fee shall be granted equal to any amounts which have not been reimbursed to Owner pursuant to paragraphs 4.A. and 4.B. above to construct the public water mains for the benefit of the owners of Other Property described in paragraph 4.A. and 4.B. above.

**11. Payment of Owners' Contributions and Cost of Executive Order Construction.**

The City and Owners agree that for those costs identified in the Engineers Opinion of Probable Development Cost prepared by Engineering Design Consultants (EDC), attached hereto marked as Attachment D, the Owners' obligations to pay for the executive order construction of the public water mains and street improvements described in paragraphs 4 and 5 above and to pay for the street and traffic signal contributions described in paragraphs 5 and 7 above shall be allocated to each of said Owners based upon the percentages set forth in Attachment D.

**12. Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, devisees, personal representatives, successors and assigns and shall inure to and run with the Preliminary Plat Property.

**13. Amendments.** This Agreement may only be amended or modified in writing signed by the parties to this Agreement.

**14. Further Assurances.** Each party will use its best and reasonable efforts to successfully carry out and complete each task, covenant, and obligation as stated herein. Each

of the parties shall cooperate in good faith with the other and shall do any and all acts and execute, acknowledge, and deliver any and all documents so requested in order to satisfy the conditions set forth herein and carry out the intent and purposes of this Agreement.

15. **Governing Law.** All aspects of this Agreement shall be governed by the laws of the State of Nebraska. The invalidity of any portion of this Agreement shall not invalidate the remaining provisions.

16. **Interpretations.** Any uncertainty or ambiguity existing herein shall not be interpreted 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.

17. **Construction.** Whenever used herein, including acknowledgments, the singular shall be construed to include the plural, the plural the singular, and the use of any gender shall be construed to include and be applicable to all genders as the context shall warrant.

18. **Relationship of Parties.** Neither the method of computation of funding or any other provisions contained in this Agreement or any acts of any party shall be deemed or construed by the City, Owners, or by any third person to create the relationship of partnership or of joint venture or of any association between the parties other than the contractual relationship stated in this Agreement.

19. **Assignment.** In the case of the assignment of this Agreement by any of the parties, prompt written notice shall be given to the other parties who shall at the time of such notice be furnished with a duplicate of such assignment by such assignor. Any such assignment shall not terminate the liability of the assignor to perform its obligations hereunder, unless a specific release in writing is given and signed by the other parties to this Agreement.

20. **Default.** Owners and City agree that the annexation, change of zone, preliminary plat, and community unit plan promote the public health, safety, and welfare so

long as Owners fulfill all of the conditions and responsibilities set forth in this Agreement. In the event Owners default in fulfilling any of their covenants and responsibilities as set forth in this Agreement, the City may in its legislative authority rezone the Rezoned Property to its previous designations or such other designations as the City may deem appropriate under the then existing circumstances, or take such other remedies, legal or equitable, which the City may have to enforce this Agreement or to obtain damages for its breach.

**21. Cost Defined.** For purposes of this Agreement, the words and phrases "cost" or "entire cost" of a type of improvement shall be deemed to include all design and engineering fees, testing expenses, construction costs, publication costs, financing costs, and related miscellaneous costs. Notwithstanding anything to the contrary, the above Owners shall be responsible to pay 100% of the City's fixed fee for Engineering Services pertaining to executive order construction work in addition to Owners' share of the cost for such work.

**22. Fair Share.** Owners and City agree that the City has a legitimate interest in the public health, safety and welfare and in providing for the safe and efficient movement of vehicles on the public streets and the provision of adequate sanitary sewer and water service which is promoted by requiring Owners to pay their fair share of the cost to construct the sanitary sewer, water, and street improvements and that an essential nexus exists between the City's legitimate interests and the conditions placed upon Owners under this Agreement. In addition, City and Owners have made an individualized determination and agree that the conditions placed upon Owners under this Agreement including the obligation to pay future impact fees which are imposed pursuant to the provisions of any impact fee ordinance, or to dedicate land for, contribute to the cost of the construction of, or to construct public facilities or improvements relating to future changes to development of the Property under this Agreement are related both in nature and extent and are in rough proportionality to the projected adverse effects full development of the Property under Change of Zone from AG



Agricultural District to R-3 Residential District and Special Permit No. 1959 would have on the City's sanitary sewer and water system, arterial streets, and parks and trails.

**23. Recordation.** This Agreement or a memorandum thereof shall be filed in the Office of the Register of Deeds of Lancaster County, Nebraska at Owners' cost and expense.

*(The remainder of this page is intentionally left blank)*

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

ATTEST:

Jean E. [Signature]  
City Clerk



**THE CITY OF LINCOLN, NEBRASKA**  
a municipal corporation

By: [Signature: Don Wesely]  
Don Wesely, Mayor

**PRAIRIE HOME BUILDERS, INC.**  
a Nebraska corporation

By: [Signature: Stan M. Ochs]  
President

[Signature: Jonathan M. Welles]  
**JONATHAN M. WELLES**

[Signature: Victoria Welles]  
**VICTORIA E. WELLES**

**FAITH EVANGELICAL LUTHERAN CHURCH, LINCOLN, NEBRASKA,**  
a Nebraska nonprofit corporation

By: \_\_\_\_\_  
President

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF LANCASTER )

The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of August, 2002, by Don Wesely, Mayor of the City of Lincoln, Nebraska on behalf of the City.



[Signature: Glenna S. Graupmann]  
Notary Public

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF LANCASTER )

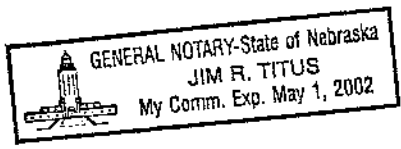
The foregoing instrument was acknowledged before me this 19 day of August, 2002, by Steven M. Clausen President of Prairie Home Builders, Inc., a Nebraska corporation, on behalf of said corporation.

[Signature]  
Notary Public

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF LANCASTER )

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of August, 2002, by Jonathan M. Welles.

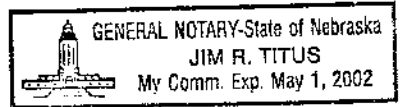
[Signature]  
Notary Public



STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF LANCASTER )

The foregoing instrument was acknowledged before me this 15<sup>th</sup> day of August, 2002, by Victoria E. Welles.

[Signature]  
Notary Public



STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF LANCASTER )

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2002, by \_\_\_\_\_, President of Faith Evangelical Lutheran Church, Lincoln, Nebraska, a Nebraska nonprofit corporation, on behalf of said corporation.

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

[code]agr/Prairie Village Annexation 7-24-02]

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

ATTEST:

Jan E  
City Clerk



**THE CITY OF LINCOLN, NEBRASKA**  
a municipal corporation

By: Don Wesely  
Don Wesely, Mayor

**PRAIRIE HOME BUILDERS, INC.**  
a Nebraska corporation

By: \_\_\_\_\_  
President

\_\_\_\_\_  
**JONATHAN M. WELLES**

\_\_\_\_\_  
**VICTORIA E. WELLES**

**FAITH EVANGELICAL LUTHERAN  
CHURCH, LINCOLN, NEBRASKA,**  
a Nebraska nonprofit corporation

By: Fredrick J Valverde  
President

STATE OF NEBRASKA        )  
  ) ss.  
COUNTY OF LANCASTER    )

The foregoing instrument was acknowledged before me this 26<sup>th</sup> day of August, 2002, by Don Wesely, Mayor of the City of Lincoln, Nebraska on behalf of the City.



Glenna S. Graupmann  
Notary Public

STATE OF NEBRASKA        )  
  ) ss.  
COUNTY OF LANCASTER    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2002, by \_\_\_\_\_, President of Prairie Home Builders, Inc., a Nebraska corporation, on behalf of said corporation.

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

STATE OF NEBRASKA        )  
  ) ss.  
COUNTY OF LANCASTER    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2002, by Jonathan M. Welles.

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

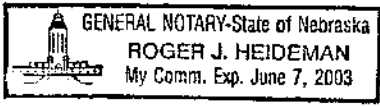
STATE OF NEBRASKA        )  
  ) ss.  
COUNTY OF LANCASTER    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2002, by Victoria E. Welles.

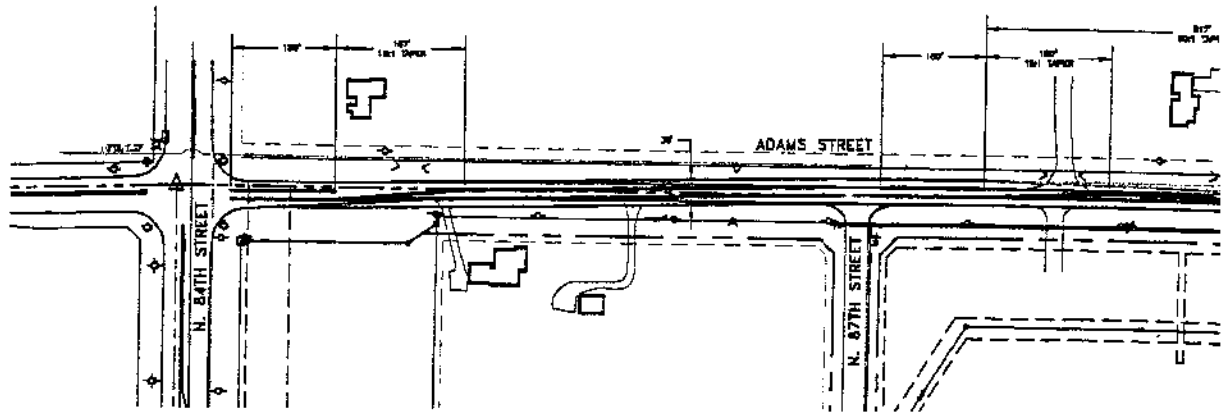
\_\_\_\_\_  
Notary Public

STATE OF NEBRASKA        )  
  ) ss.  
COUNTY OF LANCASTER    )

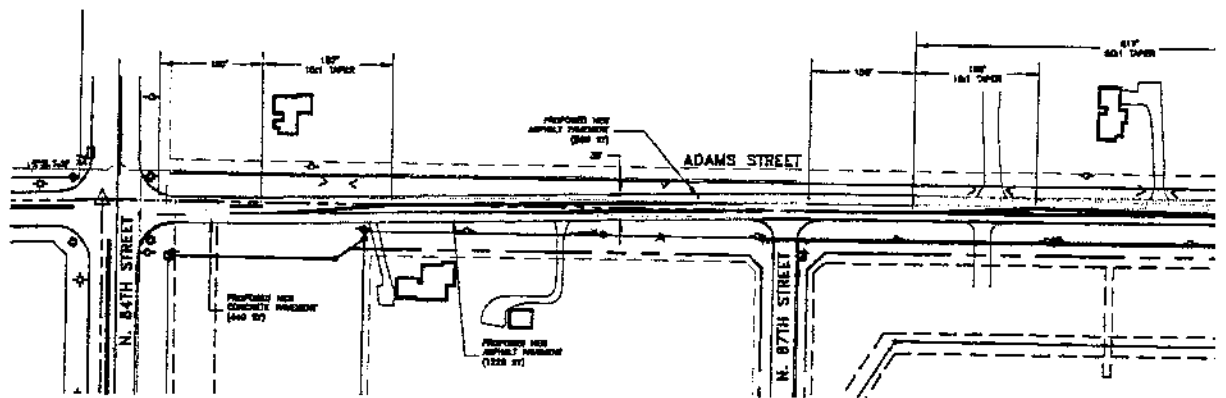
The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of August, 2002, by Frederick T. Valverde President of Faith Evangelical Lutheran Church, Lincoln, Nebraska, a Nebraska nonprofit corporation, on behalf of said corporation.



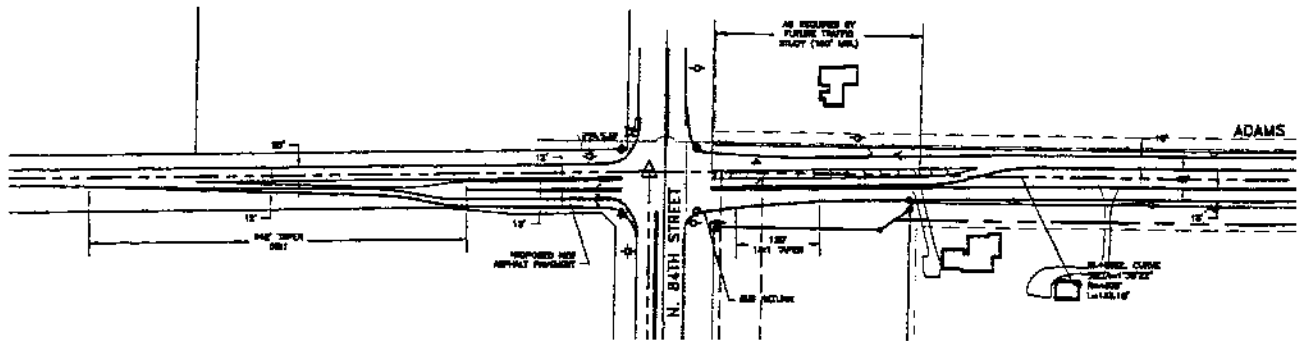
[Signature]  
\_\_\_\_\_  
Notary Public



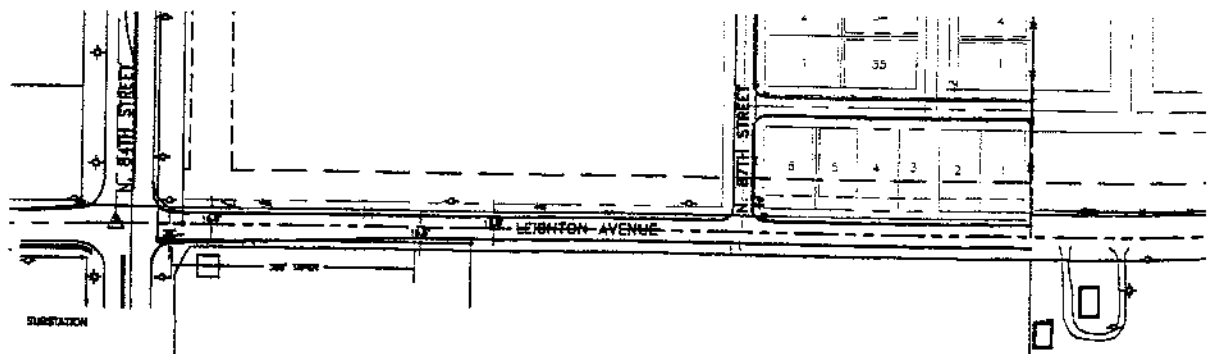
**PROPOSED INTERIM PAVING**  
SCALE 1"=100'



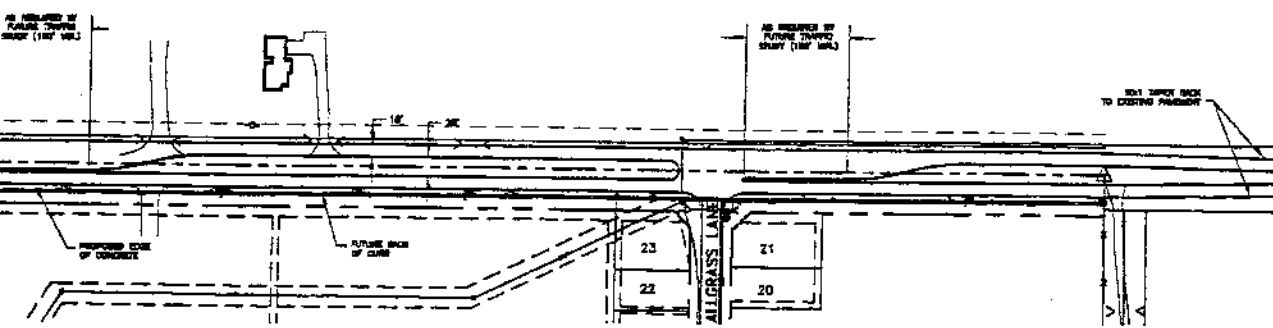
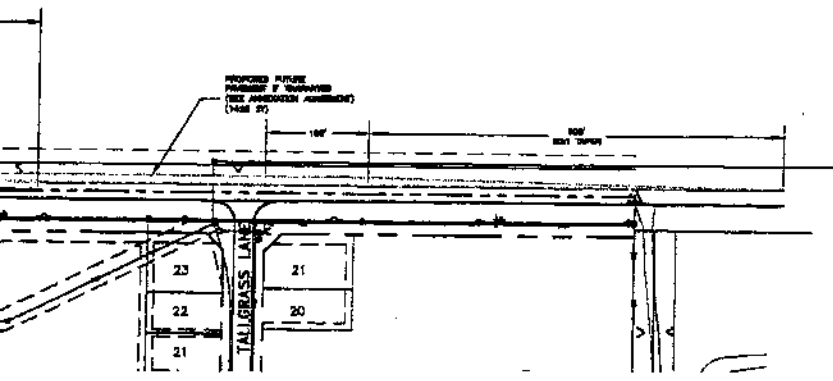
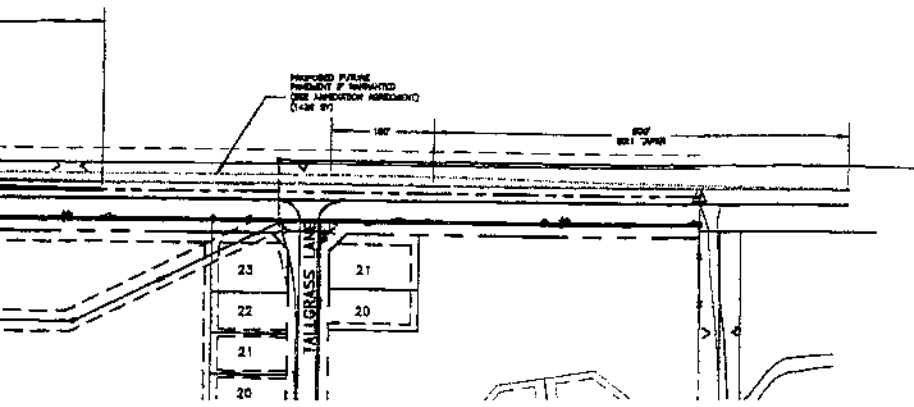
**INTERIM IMPROVEMENTS**  
SCALE 1"=100'



**FUTURE SUBURBAN SECTION**  
SCALE 1"=100'



**PROPOSED LEIGHTON AVENUE PAVING**  
SCALE 1"=100'

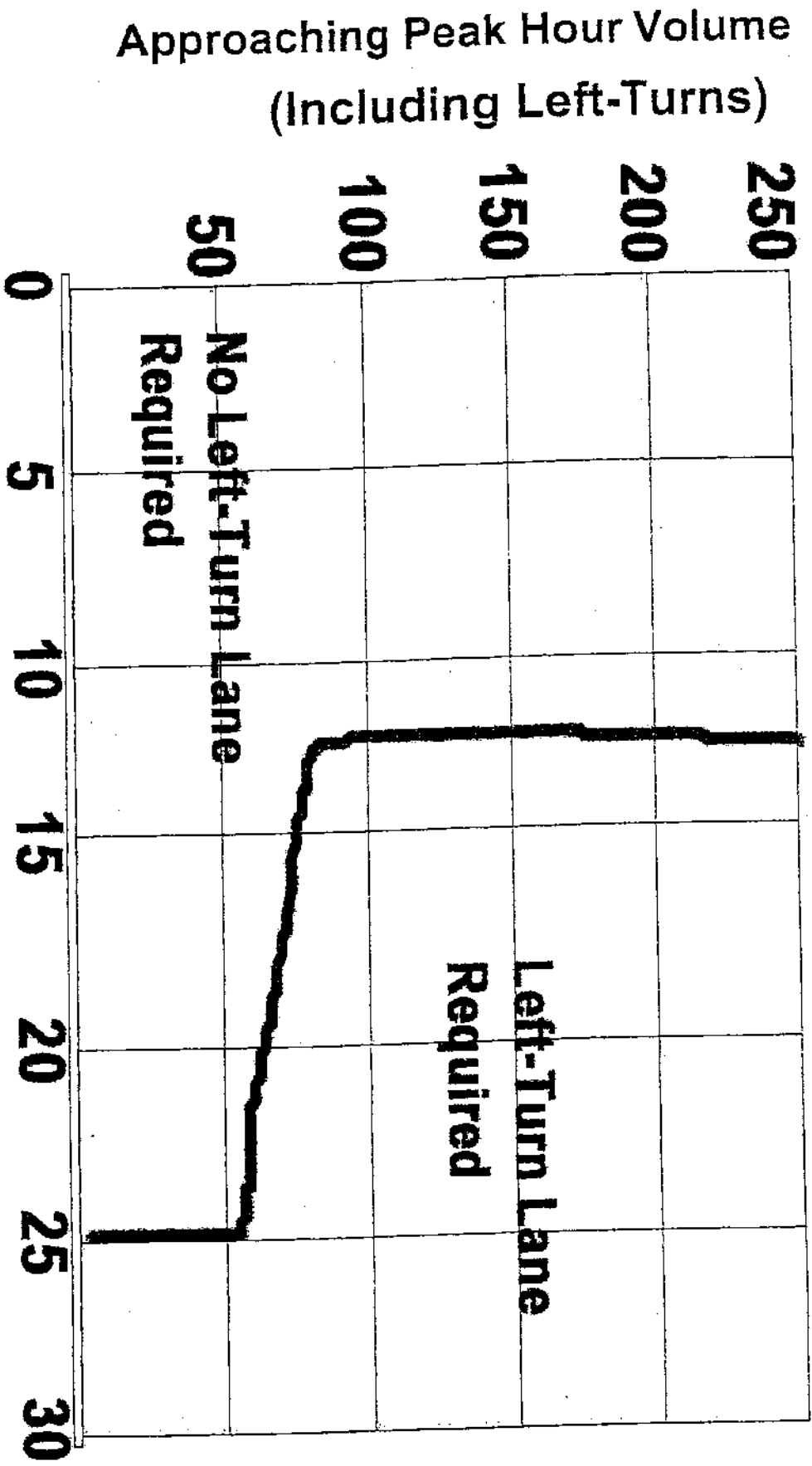


Project #: 01-008  
 Designer: E.C. Per...  
 Date: 7/29/02  
 Drawn By: [Name]  
 Checked By: [Name]

Preliminary Plat, Public Improvements - Paving  
**Prairie Village**  
**PROPOSED PAVING EXHIBIT**  
 Lincoln, Nebraska

SHEET  
 1 OF 1

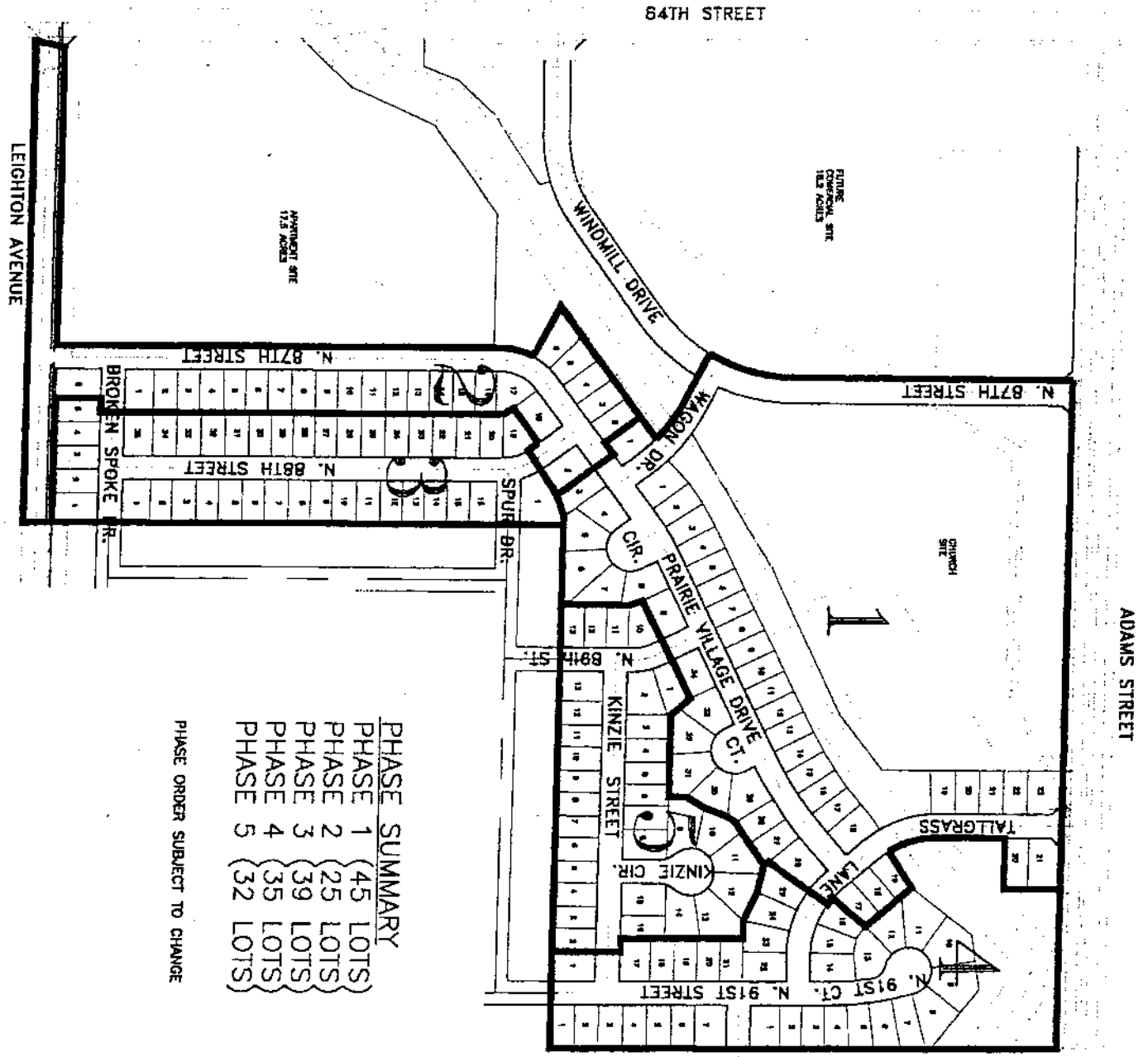
# Left-Turn Lane Warrants



Peak Hour Volume Turning Left  
Posted Speed 45 mph or Greater

Figure 6.1





PHASE SUMMARY

PHASE 1	(45 LOTS)
PHASE 2	(25 LOTS)
PHASE 3	(39 LOTS)
PHASE 4	(35 LOTS)
PHASE 5	(32 LOTS)

PHASE ORDER SUBJECT TO CHANGE

C:\projects\44444444\dwg\EDC\HBT\DWG\_918.dwg, 07/18/02 04:28:18 PM

SHEET  
1 OF 1

Drawn By: RPO  
Dwg.: wat\_sys  
Date: 7/18/02  
Job#: 01-059

**Prairie Village  
PHASING EXHIBIT**  
Lincoln, Nebraska

**EDC**  
ENGINEERING DESIGN CONSULTANTS  
200 N. Outer Blvd., Ste. 100 Lincoln, NE 68504-4941

Engineers Opinion of Probable Development Costs

Infrastructure Costs Associated with Prairie Village Development

By Land Owner

July 26, 2002

Item	Quantity	Unit	Unit Cost	Total Cost	City Obligation		Developer Obliga	
					Unit Cost	Extended Cost	Unit Cost	Extens
<b>Adams Street Water</b>								
16" Water Main, 84th to 87th	1000	LF	\$ 50.00	\$ 50,000	\$ 23.00	\$ 23,000	\$ 27.00	\$
16" Water Main, 87th to East Boundary	1660	LF	\$ 50.00	\$ 83,000	\$ 25.00	\$ 41,500	\$ 25.00	\$
Subtotal				\$ 133,000		\$ 64,500		\$
<b>North 87th Street Water</b>								
16" Water Main, Adams to Windmill	1040	LF	\$ 50.00	\$ 52,000	\$ 23.00	\$ 23,920	\$ 27.00	\$
16" Water Main, Windmill to Leighton	1940	LF	\$ 50.00	\$ 97,000	\$ 25.00	\$ 48,500	\$ 25.00	\$
Subtotal				\$ 149,000		\$ 72,420		\$
<b>Leighton Avenue Water</b>								
16" Water Main, 84th to 87th	975	LF	\$ 50.00	\$ 48,750	\$ 25.00	\$ 24,375	\$ 25.00	\$
12" Water Main, 87th to East Boundary	400	LF	\$ 30.00	\$ 12,000	\$ 5.00	\$ 2,000	\$ 25.00	\$
Subtotal				\$ 60,750		\$ 26,375		\$
<b>Adams Street Paving</b>								
Interim Improvements (see spreadsheet for breakdown)	1	LS	\$ 90,000.00	\$ 90,000	-	\$ -	\$ 90,000.00	\$
Suburban Section 84th to East Boundary w/transistion	2610	LF	\$ 337.50	\$ 880,875	-	\$ -	\$ 337.50	\$
Landscaping/Street Trees	41	EA	\$ 220.00	\$ 9,020	-	\$ -	\$ 220.00	\$
Subtotal				\$ 979,895		\$ -		\$
<b>North 87th Street Paving</b>								
33' wide, 8" thick PCC Pavement w/integral curb	970	LF	\$ 110.00	\$ 106,700	-	\$ -	\$ 110.00	\$
Storm Sewer	1	LS	\$ 57,000.00	\$ 57,000	-	\$ -	\$ 57,000.00	\$
Sidewalk	970	LF	\$ 20.00	\$ 19,400	-	\$ -	\$ 20.00	\$
Landscaping/Street Trees	39	EA	\$ 220.00	\$ 8,580	-	\$ -	\$ 220.00	\$
Street Lighting	5	EA	\$ 1,600.00	\$ 8,000	-	\$ -	\$ 1,600.00	\$
Subtotal				\$ 189,680		\$ -		\$
<b>Wagon Drive Paving</b>								
27' wide, 6" thick PCC Pavement w/integral curb	345	LF	\$ 80.00	\$ 27,600	-	\$ -	\$ 80.00	\$
Storm Sewer	1	LS	\$ 7,500.00	\$ 7,500	-	\$ -	\$ 7,500.00	\$
Sidewalk	345	LF	\$ 20.00	\$ 6,900	-	\$ -	\$ 20.00	\$
Landscaping/Street Trees	6	EA	\$ 220.00	\$ 1,320	-	\$ -	\$ 220.00	\$
Street Lighting	1	EA	\$ 1,600.00	\$ 1,600	-	\$ -	\$ 1,600.00	\$
Subtotal				\$ 44,920		\$ -		\$
<b>Leighton Avenue Paving</b>								
41' wide, 8" thick PCC Pavement w/integral curb	1240	LF	\$ 115.00	\$ 142,600	-	\$ -	\$ 115.00	\$
Storm Sewer	1	LS	\$ 32,000.00	\$ 32,000	-	\$ -	\$ 32,000.00	\$
Grading	10000	CY	\$ 1.00	\$ 10,000	-	\$ -	\$ 1.00	\$
Sidewalk	1240	LF	\$ 10.00	\$ 12,400	-	\$ -	\$ 10.00	\$
Landscaping/Street Trees	31	EA	\$ 220.00	\$ 6,820	-	\$ -	\$ 220.00	\$
Street Lighting	6	EA	\$ 1,600.00	\$ 9,600	-	\$ -	\$ 1,600.00	\$
Subtotal				\$ 213,420		\$ -		\$
<b>Traffic Signals</b>								
Reconfigure Signal at 84th & Adams	1	EA	\$ 60,000.00	\$ 60,000	-	\$ -	\$ 60,000.00	\$
New Signal at 84th & Windmill	1	EA	\$ 120,000.00	\$ 120,000	-	\$ -	\$ 120,000.00	\$ 1
New Signal at 87th & Adams	1	EA	\$ 120,000.00	\$ 120,000	-	\$ -	\$ 120,000.00	\$ 1
New Signal at 84th Leighton	1	EA	\$ 120,000.00	\$ 120,000	\$ 60,000.00	\$ 60,000	\$ 60,000.00	\$ 3
Subtotal				\$ 420,000		\$ 60,000		\$ 3
<b>Total</b>				<b>\$ 2,200,665</b>		<b>\$ 223,295</b>		<b>\$ 1.9</b>

\* Per Dedicated Access Easement agreement; North 87th Street paving not assessed to Wells property.  
 \*\* Waiver to be requested for construction of sidewalk along the west side of 87th Street from Adams Street to Wagon Drive - sidewalk would be required with Use Per  
 \*\*\* Assumes Leighton Avenue Paving by Assessment District.



Developer Obligation		Prairie Homes		Faith Lutheran Church		Weiles		Future Reimbursement		Comments
Unit Cost	Extended Cost	Percent	Amount	Percent	Amount	Percent	Amount	Unit Cost	Extended Cost	
27.00	\$ 27,000	39%	\$ 10,530	0%	\$ -	61%	\$ 16,470	\$ (13.50)	\$ (13,500)	Percentages based on frontage
25.00	\$ 41,500	42%	\$ 17,430	58%	\$ 24,070	0%	\$ -	\$ (12.50)	\$ (20,750)	Percentages based on frontage
	\$ 68,500		\$ 27,960		\$ 24,070		\$ 16,470		\$ (34,250)	
27.00	\$ 28,080	31%	\$ 8,705	50%	\$ 14,040	19%	\$ 5,335	\$ -	\$ -	Percentages based on frontage
25.00	\$ 48,500	97%	\$ 47,045	3%	\$ 1,455	0%	\$ -	\$ -	\$ -	Percentages based on frontage
	\$ 76,580		\$ 55,750		\$ 15,495		\$ 5,335		\$ -	
25.00	\$ 24,375	100%	\$ 24,375	0%	\$ -	0%	\$ -	\$ (12.50)	\$ (12,188)	Percentages based on frontage
25.00	\$ 10,000	100%	\$ 10,000	0%	\$ -	0%	\$ -	\$ (12.50)	\$ (5,000)	Percentages based on frontage
	\$ 34,375		\$ 34,375		\$ -		\$ -		\$ (17,188)	
0,000.00	\$ 90,000	50%	\$ 45,000	50%	\$ 45,000	0.0%	\$ -	\$ -	\$ -	Tailgrass flyby not included
337.50	\$ 880,875	73.2%	\$ 844,801	20.5%	\$ 180,579	6.3%	\$ 55,495	\$ (168.75)	\$ (440,438)	Percentages based on area in north 1/2 of 1
220.00	\$ 9,020	37%	\$ 3,300	39%	\$ 3,520	24%	\$ 2,200	\$ -	\$ -	Percentages based on frontage
	\$ 979,895		\$ 693,101		\$ 229,099		\$ 57,695		\$ (440,438)	
110.00	\$ 106,700	50%	\$ 53,350	50%	\$ 53,350	0%	\$ -	\$ -	\$ -	Percentages based on frontage*
7,000.00	\$ 57,000	50%	\$ 28,500	50%	\$ 28,500	0%	\$ -	\$ -	\$ -	Percentages based on frontage*
20.00	\$ 19,400	50%	\$ 9,700	50%	\$ 9,700	0%	\$ -	\$ -	\$ -	Percentages based on frontage, 4' walk both
220.00	\$ 8,580	50%	\$ 4,290	50%	\$ 4,290	0%	\$ -	\$ -	\$ -	Percentages based on frontage*
1,600.00	\$ 8,000	50%	\$ 4,000	50%	\$ 4,000	0%	\$ -	\$ -	\$ -	Percentages based on frontage*
	\$ 199,680		\$ 99,840		\$ 99,840		\$ -		\$ -	
80.00	\$ 27,600	80%	\$ 22,080	20%	\$ 5,520	0%	\$ -	\$ -	\$ -	Percentages based on frontage
7,500.00	\$ 7,500	80%	\$ 6,000	20%	\$ 1,500	0%	\$ -	\$ -	\$ -	Percentages based on frontage
20.00	\$ 6,900	80%	\$ 5,520	20%	\$ 1,380	0%	\$ -	\$ -	\$ -	Percentages based on frontage, 4' walk both
220.00	\$ 1,320	75%	\$ 990	25%	\$ 330	0%	\$ -	\$ -	\$ -	Percentages based on frontage (rounded to
1,600.00	\$ 1,600	75%	\$ 1,200	25%	\$ 400	0%	\$ -	\$ -	\$ -	Percentages based on frontage
	\$ 44,920		\$ 35,790		\$ 9,130		\$ -		\$ -	
115.00	\$ 142,600	50%	\$ 71,300	0%	\$ -	0%	\$ -	\$ -	\$ -	Percentages based on frontage***
1,000.00	\$ 32,000	50%	\$ 16,000	0%	\$ -	0%	\$ -	\$ -	\$ -	Percentages based on frontage***
1.00	\$ 10,000	50%	\$ 5,000	0%	\$ -	0%	\$ -	\$ -	\$ -	Percentages based on frontage***
10.00	\$ 12,400	100%	\$ 12,400	0%	\$ -	0%	\$ -	\$ -	\$ -	4' walk - north side only
220.00	\$ 6,820	100%	\$ 6,820	0%	\$ -	0%	\$ -	\$ -	\$ -	Only includes trees on north side of street
1,600.00	\$ 9,800	50%	\$ 4,800	0%	\$ -	0%	\$ -	\$ -	\$ -	Percentages based on frontage***
	\$ 213,420		\$ 116,320		\$ -		\$ -		\$ -	
0,000.00	\$ 60,000	80%	\$ 48,000	8%	\$ 4,800	12%	\$ 7,200	\$ -	\$ -	Based on weighted land use & area
0,000.00	\$ 120,000	83%	\$ 99,600	0%	\$ -	17%	\$ 20,400	\$ -	\$ -	Based on weighted land use & area
0,000.00	\$ 120,000	71%	\$ 85,200	16%	\$ 18,000	14%	\$ 16,800	\$ -	\$ -	Based on weighted land use & area
0,000.00	\$ 60,000	50%	\$ 30,000	0%	\$ -	0%	\$ -	\$ -	\$ -	City contribution from previous development 1
	\$ 360,000		\$ 262,800		\$ 22,800		\$ 44,400		\$ -	
	\$ 1,977,370		\$ 1,325,935		\$ 400,434		\$ 123,900		\$ (491,875)	

red with Use Permit for commercial area.

*Return to City Clerk*