



A91650

19R-119

Introduce: 6-03-19

RESOLUTION NO. A- 91650

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

2 That the Conditional 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 Tudans  
4 Enpete Properties, LLC, for the development and annexation of approximately 4.5 acres on  
5 property generally located at 6301 North 7<sup>th</sup> Street and legally described as Lot 17, Cumberland  
6 Heights, located in the Southwest Quarter of Section 35, Township 11, Range 6 East of the 6<sup>th</sup>  
7 P.M., Lincoln, Lancaster County, Nebraska and re-zoning the property from AG Agricultural  
8 District to R-1 Residential District, as set out in the Agreement is hereby approved and the Mayor  
9 is authorized to execute the Conditional Annexation and Zoning Agreement on behalf of the City.

10 BE IT FURTHER RESOLVED that the City Clerk is directed to file the Conditional  
11 Annexation and Zoning Agreement with the Lancaster County Register of Deeds with the  
12 recording fees to be paid in advance by the owner.

Introduced by:

AYES: Bowers, Christensen, Meginnis, Shobe,  
Ward, Washington; NAYS: None; ABSENT:  
Raybould.

Approved as to Form & Legality:

City Attorney

Approved this 21<sup>st</sup> day of June, 2019:  
  
Mayor

ADOPTED

JUN 17 2019

BY CITY COUNCIL

**CONDITIONAL ANNEXATION AND ZONING AGREEMENT**  
**(6301 N. 7<sup>th</sup> Street)**

This Conditional Annexation and Zoning Agreement is made and entered into this 21<sup>st</sup> day of June, 2019, by and among Tudans Enpete Properties, LLC, a Nebraska limited liability company ("Owner"), and the City of Lincoln, Nebraska, a municipal corporation ("City").

**RECITALS**

**I.**

Owner owns Lot 17 Cumberland Heights, Lancaster County, Nebraska ("Property"). The Property is generally located at 6301 N. 7<sup>th</sup> Street, Lincoln, Nebraska.

**II.**

Owner requested the City to (a) annex the Property (Annexation 19003) and to change the zoning designation for the Property from AG – Agricultural to R1 – Residential (Change of Zone 19011). Collectively, Annexation 19003 and Change of Zone 19011 are known as the "Governmental Actions".

**III.**

The City as a condition of approving the Governmental Action desires an agreement with Owner to be assured that the obligations of the City and Owner with respect to installation of city water and sanitary sewer service for the Property are made clear. Further, Owner agrees to dedicate the necessary right of way to facilitate public infrastructure, including but not limited to sanitary sewer, public roads, and bicycle/pedestrian trails over and across the Property.

#### IV.

Owner has represented to the City that, in consideration of the City approving the Governmental Action, Owner would enter into an agreement with the City to develop the Property subject to the terms and conditions listed below.

NOW, THEREFORE, in consideration of the above recitals and the following terms and conditions, the parties agree as follows:

1. **Governmental Actions.** City agrees to approve the Governmental Actions including annexing the Property and rezoning the Property to R-1 Residential.

2. **Conditions of Development.** As a condition of City approving the Governmental Actions described herein, Owner agrees:

- a. To dedicate, at no cost to the City, additional right of way for North 7<sup>th</sup> Street to the extent necessary for the City to hold title to sufficient right of way along the west side of North 7<sup>th</sup> Street to facilitate construction of necessary roadway improvements in said right-of-way. Such dedication shall occur as part of a new final plat for the Property
- b. And hereby acknowledges that the Property is not currently served by sanitary sewer or city water and that the City shall not, by entering into this agreement, commit to nor obligate itself in any way to extending either sanitary sewer or city water to serve the Property.
- c. Not to protest the creation or implementation of any future water, sanitary sewer, and/or paving assessment districts that benefit the Property and therefore result in an assessment against the Property.

3. **Contribution for Rural Fire District.** Owner understands and acknowledges that the City's annexation of the Property lying within the boundaries of the Raymond 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 the Property upon its being annexed. The parties anticipate that the amount will be \$0. However, in the event said amount is in excess of \$0 Owner agrees to pay the City whatever amount which must be paid by the City to Raymond Rural Fire District in order for the annexation to be complete.

4. **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.

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

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

7. **Authority.** This Agreement has been 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.

8. **Interpretations.** Any uncertainty or ambiguity existing herein shall not be interpreted against any 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.

9. **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.

10. **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, Owner, 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.

11. **Assignment.** In the case of the assignment of this Agreement by Owner, prompt written notice shall be given to the City 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 City or unless otherwise stated herein.

12. **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

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

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



