



20R-70

Introduce: 2-24-20

RESOLUTION A- 92024

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

2 WHEREAS, Amendment No. 1 to the Conditional Annexation and Zoning Agreement for  
3 S. 84<sup>th</sup> & Highway 2 was approved on March 24, 2010 as City Council Resolution No. A-85787  
4 and the Conditional Annexation and Zoning Agreement for S. 84<sup>th</sup> & Highway 2 was approved on  
5 November 13, 2001 as City Council Ordinance No. 81204 to develop property located at South  
6 84<sup>th</sup> Street and Highway 2.

7 WHEREAS, Amendment No. 2, attached hereto as Attachment "A", to the Conditional  
8 Annexation and Zoning Agreement for S. 84<sup>th</sup> and Highway 2 between the City of Lincoln,  
9 Andermatt, LLC, and Eiger Corp. ("Property Owners") to delete Article VI, Section B Trips and  
10 Square Footage and amend Article X Future Costs Responsibilities of the Annexation Agreement,  
11 is hereby approved and the Mayor is authorized to execute Amendment No. 2 on behalf of the  
12 City.

AMENDED, 3/2/2020

13 BE IT RESOLVED that the City Clerk is directed to return one fully-executed copy of this  
14 Agreement to Abigail Littrell, Assistant City Attorney, for distribution to the Property Owners.

15 ~~BE IT FURTHER RESOLVED that the City Clerk is directed to record Amendment No.~~  
16 ~~2 to the Conditional Annexation and Zoning Agreement for S. 84<sup>th</sup> and Highway 2 with the~~  
17 ~~Register of Deeds for Lancaster County, Nebraska to be indexed against the properties listed in~~  
18 ~~Amendment No. 2, filing fees to be paid by the Property Owners.~~

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

See further Council  
Proceedings on next page.

Introduced by:



Approved as to Form & Legality:

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

  
City Attorney

Approved this 10<sup>th</sup> day of March, 2020:  
  
Mayor

**ADOPTED**

**MAR 02 2020**

**BY CITY COUNCIL**

**20R-70**

3/2/2020 Council Proceedings:

CHRISTENSEN Moved Motion to Amend No. 1 to amend Bill No. 20R-70 in the following manner:

1. On page 1, remove lines 15-18, removing instructions for the Clerk to record the Agreement with the Register of Deeds.

Seconded by Washington & carried by the following vote: AYES: Bowers, Christensen, Raybould, Shobe, Ward, Washington; NAYS: None; ABSENT: Meginnis.

20R-70

MOTION TO AMEND NO. 1

I hereby move to amend Bill No. 20R-70 in following manner:

1. On page 1, remove lines 15-18, removing instructions for the Clerk to record the Agreement with the Register of Deeds.

Introduced by:



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

Approved as to Form and Legality:

  
City Attorney

Requested by:

Law Department

Reason for Request:

To remove the instructions to file the Agreement with the Register of Deeds.

**ADOPTED**

MAR 02 2020

**BY CITY COUNCIL**

**AMENDMENT NO. 2  
TO THE  
CONDITIONAL ANNEXATION AND ZONING AGREEMENT  
FOR S. 84TH & HIGHWAY 2**

This Amendment No. 2 to the Conditional Annexation and Zoning Agreement for S. 84th & Highway 2 is made and entered into this 17<sup>th</sup> day of February, 2020, by and between the **City of Lincoln, Nebraska**, a municipal corporation (“City”), and **Andermatt, L.L.C.**, a Nebraska limited liability company, and **Eiger Corp.**, a Nebraska corporation, (collectively “Property Owners”).

**RECITALS**

**I.**

The parties, along with Westcor, LLC, David S. Olson, and Realty Trust Group, whose properties were subsequently acquired by the Property Owners, entered into the Conditional Annexation and Zoning Agreement for S. 84th & Highway 2 dated November 13, 2001 (Resolution A-81204), which was subsequently amended by Amendment No. 1 to the Conditional Annexation and Zoning Agreement for S. 84<sup>th</sup> & Highway 2 dated March 24, 2010 (Resolution A-85787) (collectively “Annexation Agreement”). Capitalized terms not defined herein shall have the meaning set forth in the Annexation Agreement.

**II.**

The Property Owners and City entered into the Satisfaction and Release of Infrastructure Obligations (Conditional Annexation and Zoning Agreement for S. 84<sup>th</sup> & Highway 2)(Executive Order 87033) dated March 26, 2014, whereby the City acknowledged the Property Owners’ satisfaction of their obligations contained in Sections IV, V, VI and VII of the Annexation Agreement, including, but not limited to, obligations relating to construction of or contribution to the cost of constructing and dedication of easements and right-of-way for Sanitary Sewer, Water, Street, and other necessary municipal infrastructure improvements, and released the Property Owners from any and all obligations contained in said Sections of the Annexation Agreement.

### III.

Due to the development of mixed uses within the Property with lower traffic intensity than originally anticipated and the complexity of tracking P.M. peak hour trips generated by the myriad of uses, the City and Property Owners desire to remove the trip and square footage restrictions contained in the Annexation Agreement.

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

1. Section B **Trips and Square Footage** of Article VI of the Annexation Agreement is hereby deleted.

2. Article X of the Annexation Agreement is hereby amended and restated as follows:

#### X.

#### FUTURE COST RESPONSIBILITIES

The Property Owners shall have no further responsibility in the future to construct or pay for any infrastructure improvements, impact fees, special assessments or charges for infrastructure improvements associated with a request for annexation, zoning, plats and dedications, use permits, special permits, planned unit developments, community unit plans or incorporating therein the Property, and the City agrees not to transfer or require the Property Owners to assume any infrastructure costs that the City is required to pay for or construct under this Agreement as a requirement or condition of approval for any future plats and dedications, use permits, special permits, planned unit developments, or community unit plans incorporating therein any portion of the Property. However, the Property Owners recognize they are still responsible to construct the internal road and internal utility improvements, including, but not limited to, storm sewer, sanitary sewer, water, paving, grading, drainage, sidewalk and ornamental lighting necessary to service the Property pursuant to the City's land subdivision ordinance design standards and practices.



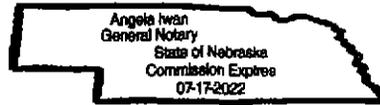
Executed by Andermatt, L.L.C. this 17<sup>th</sup> day of February, 2020.

ANDERMATT, L.L.C., a Nebraska limited liability company

By: [Signature]  
Kelvin Korver, Managing Member

By: [Signature]  
Greg Sutton, Managing Member

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF LANCASTER )



The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of February, 2020, Kelvin Korver, Managing Member of Andermatt, L.L.C., a Nebraska limited liability company, on behalf of the limited liability company

[Signature]  
Notary Public

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF LANCASTER )



The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of February, 2020, Gregory Sutton, Managing Member of Andermatt, L.L.C., a Nebraska limited liability company, on behalf of the limited liability company

[Signature]  
Notary Public

Executed by Eiger Corp. this 17<sup>th</sup> day of February, 2020.

**EIGER CORP.**, a Nebraska corporation

By:   
Gregory Sutton, President

STATE OF NEBRASKA            )  
  ) SS.  
COUNTY OF LANCASTER        )



The foregoing instrument was acknowledged before me this 17<sup>th</sup> day of February, 2020, by Gregory Sutton, President of Eiger Corp., a Nebraska corporation, on behalf of the corporation.

  
Notary Public