



A93193

22R-13

Introduce: 1-10-22

SUBSTITUTE RESOLUTION NO. A- 93193

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

2 That the Annexation and Conditional Zoning Agreement for Central Lumber which is  
3 attached hereto, marked as Attachment "A", and made a part hereof by reference, between the City  
4 of Lincoln, and Central Land Investments II, LLC, ("Developer") for the development of the  
5 property generally located near North 66<sup>th</sup> and Arbor Road and re-zoning the property from AG  
6 Agricultural District to I-1 Industrial District, as set forth in the Agreement, is hereby approved  
7 and the Mayor is authorized to execute the Annexation and Conditional Zoning Agreement on  
8 behalf of the City.

9 BE IT RESOLVED that the City Clerk is directed to return one fully-executed copy of this  
10 Agreement to Abigail Littrell, Assistant City Attorney, for distribution to the Developer.

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

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

See further Council  
Proceedings on next page.

Introduced by:

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

Approved as to Form & Legality:

  
City Attorney

Approved this 8<sup>th</sup> day of February, 2022:  
  
Mayor

**ADOPTED**

JAN 31 2022

**BY CITY COUNCIL**

**22R-13**

1/31/22 Council Proceedings:

MEGINNIS Moved motion to amend No. 1 to amend Bill No. 22R-13 introduced on January 10, 2022, by adopting the Substitute Resolution and the Substitute Attachment "A" attached hereto.

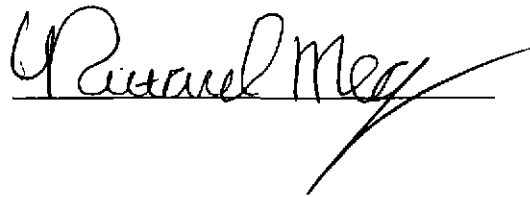
Seconded by Washington & carried by the following votes: AYES: Beckius, Bowers, Meginnis, Shobe, Ward, Washington; NAYS: None; ABSENT: Raybould.

22R-13

MOTION TO AMEND NO. 1

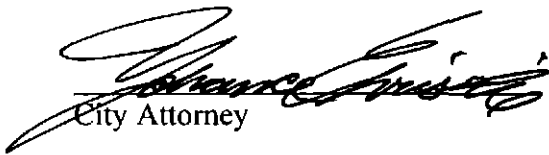
I hereby move to amend Bill No. 22R-13 introduced on January 10, 2022, by adopting the Substitute Resolution and the Substitute Attachment "A" attached hereto

Introduced by:



Approved as to Form and Legality:

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



City Attorney

Requested by: Law Department

Reason for Request: The entity responsible for the Central Lumber project is undergoing a name change from "Central Land Investments" to "Central Land Investments II."

**ADOPTED**  
JAN 31 2022  
**BY CITY COUNCIL**

**ANNEXATION AND CONDITIONAL ZONING AGREEMENT  
FOR CENTRAL LUMBER**

This Annexation Agreement ("Agreement") is made and entered into as of this 8 day of February, 2022 by and between the **CITY OF LINCOLN, NEBRASKA**, a municipal corporation ("City"), and **CENTRAL LAND INVESTMENTS II, LLC**, a Nebraska limited liability company (hereinafter referred to as the "Developer").

**RECITALS**

1. Developer controls and intends to acquire fee simple title to and to develop a tract of the real property generally located in the area near North 66<sup>th</sup> and Arbor Road, Lancaster County, Nebraska. The map and legal description of the Real Property is attached hereto as "Exhibit A" (the "Property"). Developer desires to cause the urban development of the Property.
2. The Property is shown as Tier 1, Priority B (2050) on the 2050 Priority Growth Areas map (Figure GF.c:2050 Priority Growth Areas) in the Lincoln City-Lancaster County Comprehensive Plan.
3. The City and Developer desire that the Property not presently within City of Lincoln boundaries be annexed pursuant to this Agreement. The Property to be annexed is legally described and shown on Exhibit "A" (AN21006).
4. Developer has also requested that the City rezone from AG Agricultural District to I-1 Industrial District the Property legally described and shown on Exhibit "A" (CZ21042).
5. AN21006 and CZ21042 are collectively the "Governmental Actions".
6. The City as a condition of approving the Governmental Actions desires an agreement with the Developer to be assured that the developed Property will have an access point at a certain location, a turn lane, adequate City provided sanitary sewer and water service, and a final plat.

Developer represents to the City that, in consideration of the City approving the Governmental Actions, the Developer will enter into an agreement with the City to develop the Property subject to the terms and conditions listed below.

**ARTICLE I  
TERMS AND CONDITIONS**

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

1. City agrees to approve the Governmental Actions.
2. Developer agrees:
  - a. To design and construct one access point to the Property at Arbor Road, west of 70<sup>th</sup> Street near the east boundary of the Property as described and shown on the attached Exhibit B.
  - b. To design and construct a right turn lane at the access point described in Subsection a. above in conformance with the attached Exhibit B. Design and construction of right turn lane improvements as shown on Exhibit B shall include modifications to the existing culvert to allow for the right turn lane and safety slope to the satisfaction of Lincoln Transportation and Utilities.
  - c. To design and construct a west bound through lane on Arbor Road consistent with Exhibit B.
  - d. To submit and receive City approval of a final plat which conforms to CLS Addition Preliminary Plat #21004.
3. Developer also agrees to design and construct utility infrastructure, to the satisfaction of Lincoln Transportation and Utilities, to connect to the City of Lincoln Water and Sanitary Sewer services.

4. Developer and City agree that any portion of the grading and drainage improvements required for the construction of the Arbor Road improvements identified in Subsections 2.a., b. and c. above that conform with the City's grade study for Arbor Road shall qualify as "Grading Arterial Street Impact Fee Facility Improvements" and shall be subject to reimbursement as set forth in Paragraph 5 below.
5. The City does not currently have funding to pay for the Grading Arterial Street Impact Fee Facility Improvements to Arbor Road. Consequently, the City agrees to segregate arterial street impact fees collected by the City from development of the Property after the date of this Agreement ("Segregated Arterial Street Impact Fees") and utilize said Segregated Arterial Street Impact Fees to reimburse the costs of the Grading Arterial Street Impact Fee Facility Improvements associated with the Arbor Road improvements identified in Subsections 2.a., b. and c. above paid by Developer. Said costs shall be reimbursed to Developer by the City when Segregated Arterial Impact Fees become available. If required, the Grading Arterial Street Impact Fee Facility Improvements shall be publicly bid and awarded as provided by law.
6. Developer agrees and acknowledges that City will not issue building permits for the Property until all conditions in Section 2. above are satisfied. The parties agree that for purposes of issuing a building permit, Developer shall have satisfied the conditions for the Arbor Road improvements identified in Subsections 2.a., b. and c. above if Developer has an approved Executive Order in place with a surety for said improvements.
7. Developer understands and acknowledges that the City's annexation of the Property or any portion thereof lying within the boundaries of the Waverly Rural Fire Protection District ("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

Property or portion thereof being annexed. As of the date of execution of this Agreement, no contribution to the District is expected.

8. At the time of final platting or upon the earlier request by the City, the Developer agrees to dedicate or convey, at no cost to the City, the additional right-of-way as needed along Arbor Road.

## ARTICLE II.

### MISCELLANEOUS

**A. Exhibits.** All of the Exhibits attached to this Agreement are incorporated herein by this reference.

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

**C. Further Assurances.** Developer and the City will use their 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 party 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.

**D. 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.

**E. 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.

**F. 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.

**G. Relationship of Parties.** Nothing contained in this Agreement, or any acts of any party shall be deemed or construed by the City, Developer, 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.

**H. Assignment.** In the case of the assignment of this Agreement by the Developer, 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.

**I. Default.** Time is agreed to be of the essence. In the event the Developer default in fulfilling any of their covenants and responsibilities as set forth in this Agreement, then the City may take such other remedies, legal or equitable, which the City may have to enforce this Agreement or to obtain damages for its breach. In the event the City defaults in fulfilling any of its covenants and responsibilities as set forth in this Agreement, then the Developer may take such remedies, legal or equitable, to enforce this Agreement or to obtain damages for its breach. No delay or omission of any party in exercising any remedies or power accruing upon any event of default shall impair any remedies or power or shall be construed to be a waiver of any event of default or any acquiescence therein.

**J. Copy of Notice of Default to Mortgagee.** Whenever a party shall deliver any notice or demand to a defaulting party with respect to any breach or default by defaulting party of its obligations or covenants in this Agreement, the party delivering such notice or demand shall at



the same time forward a copy of such notice or demand to each holder of any mortgage, deed of trust or similar method of encumbrance (collectively "Mortgage") at the last address of such Mortgage holder as shown in the records of the Register of Deeds of Lancaster County as provided in such Mortgage of the defaulting party.

**K. Mortgage Holder's Option to Cure Defaults.** If fourteen (14) days after any notice or demand with respect to any breach or default as referred to in Article II, Paragraph J such breach or default remains uncured, each such Mortgage holder shall have the right, at its option, to cure or remedy such breach or default and to add the cost thereof to the mortgage debt and the lien of its Mortgage.

**L. 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 Property.

**M. Recordation.** This Agreement shall be filed in the Office of the Register of Deeds of Lancaster County, Nebraska at the Developer's cost and expense.

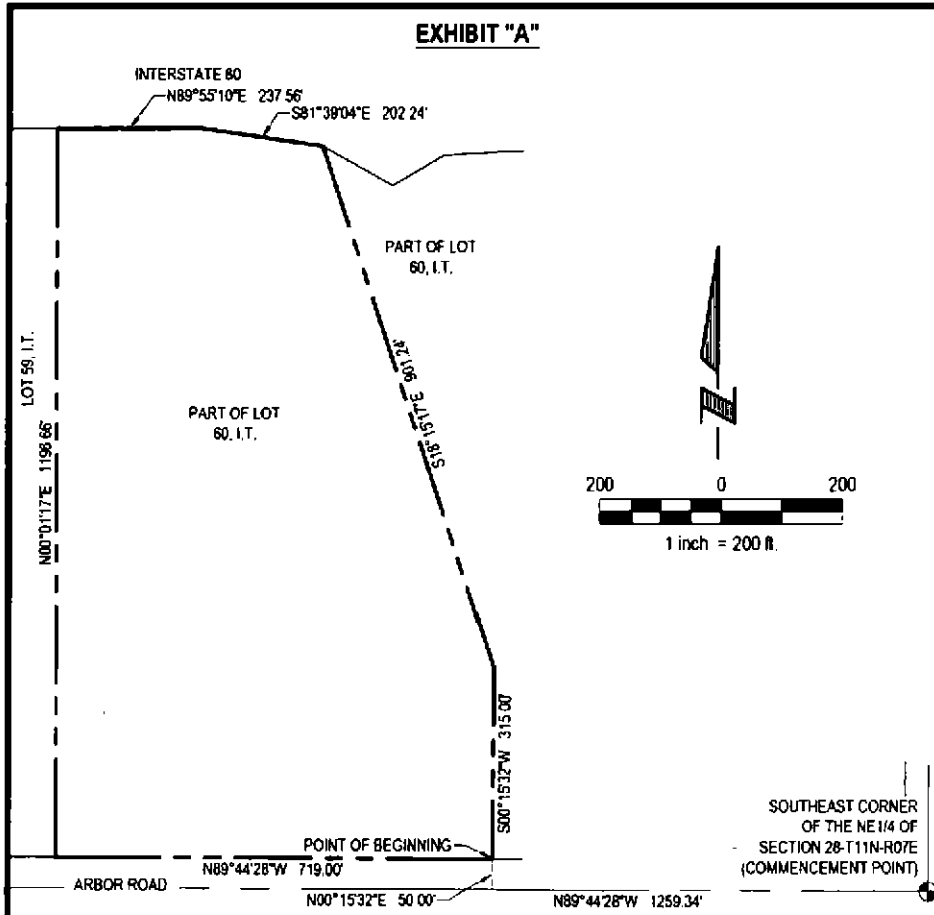
**N. Cooperation.** Each undersigned party will, whenever it shall be necessary to do so by any other party, promptly execute, acknowledge, and deliver, or cause to be executed, acknowledged, or delivered, documents as may be necessary or proper to effectuate the covenants and agreements herein provided.

**O. Authority.** The City and Developer each represent and warrant that said party has the authority to enter into this Agreement and perform the party's obligations hereunder and has taken all steps to legally exercise that authority. All necessary actions to duly approve the execution, delivery, and performance of this Agreement has been undertaken by each party and





# EXHIBIT A Map and Legal Description



### LEGAL DESCRIPTION

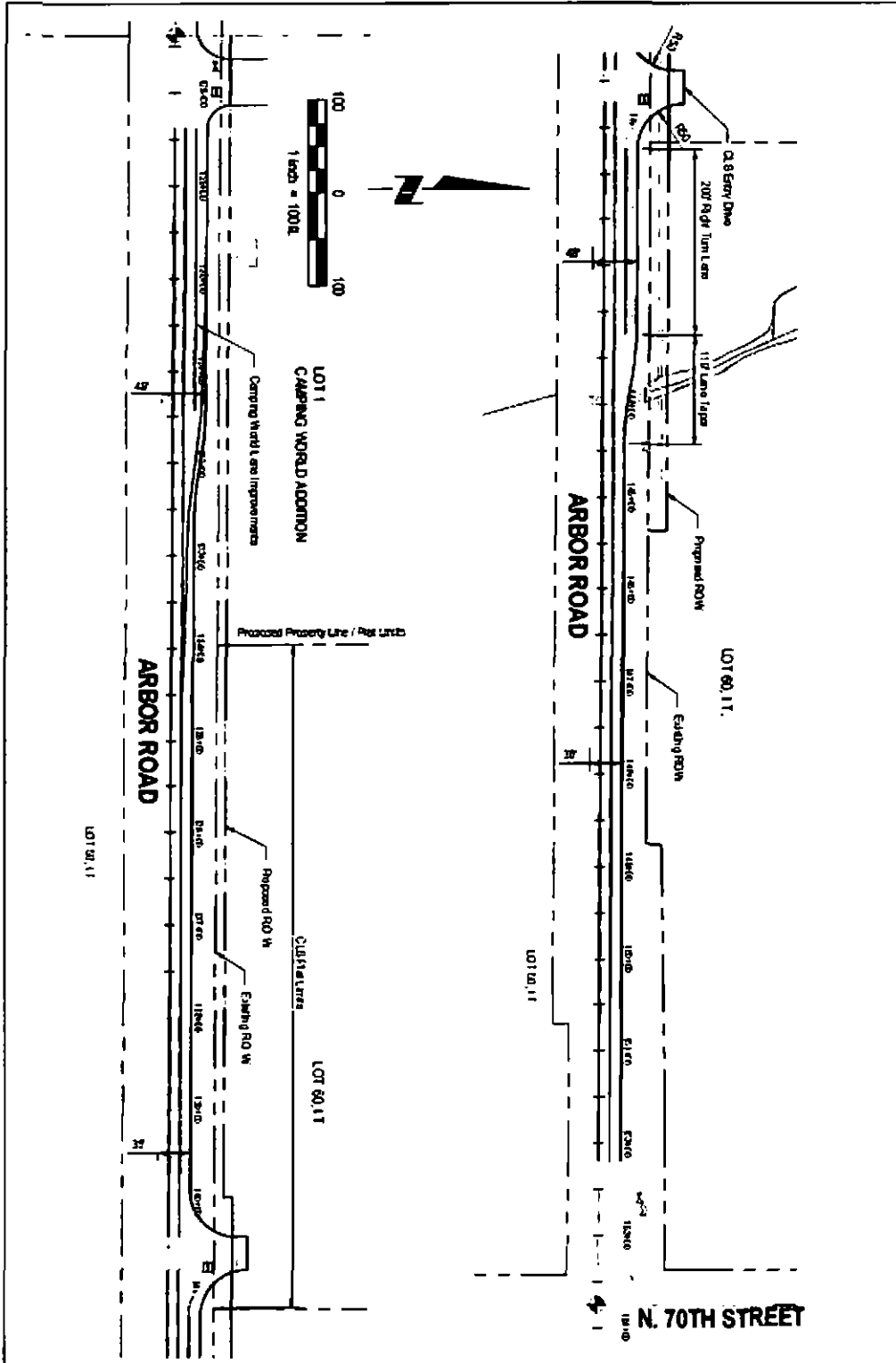
A TRACT OF LAND LOCATED IN PART OF LOT 60, I.T., AN IRREGULAR TRACT LOCATED IN PART OF THE NE 1/4 OF SECTION 28, TOWNSHIP 11 NORTH, RANGE 07 EAST OF THE 6TH P.M., LANCASTER COUNTY, NEBRASKA. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID NE 1/4 OF SECTION 28, THENCE N89°44'28"W (ASSUMED BEARING) ALONG THE SOUTHERLY LINE OF SAID NE 1/4 OF SECTION 28, A DISTANCE OF 1,259.34 FEET; THENCE N00°15'32"E, A DISTANCE OF 50.00 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID LOT 60, I.T., SAID LINE ALSO BEING THE NORTHERLY RIGHT-OF-WAY LINE OF ARBOR ROAD, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE N89°44'28"W ALONG SAID SOUTHERLY LINE OF LOT 60, I.T., SAID LINE ALSO BEING SAID NORTHERLY RIGHT-OF-WAY LINE OF ARBOR ROAD, A DISTANCE OF 719.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 60, I.T., SAID POINT ALSO BEING THE SOUTHEAST CORNER OF LOT 59, I.T., THENCE N00°01'17"E ALONG THE WESTERLY LINE OF SAID LOT 60, I.T., SAID LINE ALSO BEING THE EASTERLY LINE OF SAID LOT 59, I.T., A DISTANCE OF 1,198.66 FEET TO THE NORTHWEST CORNER OF SAID LOT 60, I.T., SAID POINT ALSO BEING THE NORTHEAST CORNER OF SAID LOT 59, I.T., SAID POINT ALSO BEING ON THE SOUTHERLY RIGHT-OF-WAY LINE OF INTERSTATE 80; THENCE ALONG THE NORTHERLY LINE OF SAID LOT 60, I.T., SAID LINE ALSO BEING SAID SOUTHERLY RIGHT-OF-WAY LINE OF INTERSTATE 80 THE FOLLOWING TWO (2) DESCRIBED COURSES: (1) THENCE N89°55'10"E, A DISTANCE OF 237.56 FEET, (2) THENCE S81°39'04"E, A DISTANCE OF 202.24 FEET, THENCE S18°15'17"E, A DISTANCE OF 90.124 FEET, THENCE S00°15'32"W, A DISTANCE OF 315.00 FEET TO THE POINT OF BEGINNING

SAID TRACT OF LAND CONTAINS 730.934 SQUARE FEET OR 16.780 ACRES, MORE OR LESS.

 <small>E &amp; A CONSULTING GROUP, INC. Engineering • Planning • Environmental &amp; Field Services</small>	<b>E &amp; A CONSULTING GROUP, INC.</b> <small>Engineering • Planning • Environmental &amp; Field Services</small> <small>13300 883 Valley Road, Suite 100 • Omaha, NE 68134 Phone: 402.695.4171 • Fax: 402.695.3519</small>	<b>ANNEXATION LEGAL DESCRIPTION</b> PART OF LOT 60, LT. <small>LANCASTER COUNTY, NEBRASKA</small>
<small>Engineering license</small>	Drawn by: <u>RLS</u> Check by: _____    Date: <u>09/10/2021</u> Job No.: 2021.053.001	

# EXHIBIT B Arbor Road Improvements



<b>ARBOR ROAD IMPROVEMENTS</b>	<b>CLS ADDITION ANNEXATION AGREEMENT</b>		<b>E &amp; A CONSULTING GROUP, INC.</b> <small>Consulting • Planning • Construction &amp; Public Services</small> <small>8100 Main Road 2, Lincoln, NE 68502</small>
--------------------------------	--	--	--