



RESOLUTION NO. A- 93301

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

2 That the Conditional Annexation and Zoning Agreement for N. 56th Street and Arbor Road
3 which is attached hereto, marked as Attachment "A", and made a part hereof by reference, between
4 the City of Lincoln, and Industrial Salt Development, LLC, ("Developer") for annexing the
5 property generally located southwest of the intersection of Arbor Road and N. 56th Street and re-
6 zoning the property from AG Agricultural District to H-4 General Commercial District, as set forth
7 in the Agreement, in order to facilitate development of the property is hereby approved and the
8 Mayor is authorized to execute the Conditional Annexation and Zoning Agreement on behalf of
9 the City.

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

12 BE IT FURTHER RESOLVED that the City Clerk is directed to file the Conditional
13 Annexation and Zoning Agreement for N. 56th Street and Arbor Road with the Lancaster County
14 Register of Deeds with the recording fees to be paid in advance by the Developer.

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

Introduced by:

Bruce Stobe

Approved as to Form & Legality:

James Sieh
City Attorney

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

ADOPTED

APR 25 2022

BY CITY COUNCIL

Approved this 4th day of MAY, 2022:

Stevenson Gaylor Baird
Mayor

**CONDITIONAL ANNEXATION AND ZONING AGREEMENT
FOR
Annexation 21005
Change of Zone No. 21038 (N 56th Street and Arbor Road)**

This Conditional Zoning Agreement (“Agreement”) affecting a parcel of real property generally located at the southwest corner of the intersection of N. 56th Street and Arbor Road is made and entered into as of the date of execution by the last signatory hereto as indicated below by and between the **CITY OF LINCOLN, NEBRASKA**, a municipal corporation (“City”) and **INDUSTRIAL SALT DEVELOPMENT, LLC**, a Nebraska limited liability company (“**Industrial Salt Development**”).

RECITALS

1. Industrial Salt Development is the owner of a parcel of real estate legally described as a part of the remaining portion of Lot 2, Finigan Brothers Addition located in the Southeast Quarter of Section 29, Township 11 North, Range 7 East of the 6th Principal Meridian, Lancaster County, Nebraska and shown on Exhibit “A” (the “**Property**”). The Property is generally located southwest of the intersection of Arbor Road and N 56th Street, Lincoln, Nebraska. Industrial Salt Development has petitioned the City to annex that portion of the Property that remains outside the corporate limits of the City and to change the zoning designation for the Property from AG (Agricultural District) to H-4 (General Commercial).
2. Approval of the change of zoning designation from AG (Agricultural District) to H-4 General Commercial District will allow Industrial Salt Development to put the Property to a commercial use or a series of commercial uses that are consistent across the Property.
3. Industrial Salt Development has represented to the City that in consideration of the City annexing that portion of the Property outside the City’s corporate limits and re-zoning the

Property, Industrial Salt Development will enter into this agreement which will design and construct improvements in the adjacent right-of-way in order to minimize the impact of traffic in the general vicinity of the Property anticipated to result from the change in zoning designation and future development of the Property.

TERMS AND CONDITIONS

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

1. **City Approvals.** City agrees to approve Annexation #21005 and Change of Zone #21038 thereby changing the zoning designation for the Property from AG Agricultural District to H-4 General Commercial District for the Property located in the Southeast Quarter of Section 29, Township 11 North, Range 7 East of the 6th Principal Meridian, City of Lincoln, Lancaster County, Nebraska. The limits of Annexation #21005 are shown on Exhibit B, which is attached hereto, and the limits of Change of Zone #21038, as it relates to the Property, is legally described and shown on Exhibit C, which is attached hereto.
2. **Street Improvements.** Industrial Salt Development agrees, on behalf of itself, to the following undertakings and obligations:
 - a. Industrial Salt Development shall, at its own cost and expense, design and construct through the City's executive order construction process a southbound to westbound right turn lane in N 56th Street at Salt Bank Road prior to issuance of a certificate of occupancy for any improvements taking access from N. 56th Street at Salt Bank Road as shown on Exhibit D, which is attached hereto ("**Salt Bank Road Turn Lane**") subject to reimbursement from Arterial Street Impact Fees directly resulting

from the design and construction of improvements on the Property as described below. In the event the cost to construct the Salt Bank Road Turn Lane exceeds \$100,000.00, Industrial Salt Development shall publicly bid the construction of the Salt Bank Road Turn Lane through the City's Purchasing Division and shall select the lowest responsible bidder to complete the work.

- b. Industrial Salt Development shall, at its own cost and expense, design and construct through the City's executive order construction process extension of the existing paving in Arbor Road to the west past N. 53rd Street before tapering back to a rural gravel roadway. The paved section shall be designed and constructed as a rural paved section with a westbound to southbound left turn lane and an eastbound to southbound right turn lane, as shown on Exhibit E, ("**N. 53rd and Arbor Road Improvements**") subject to reimbursement from Arterial Street Impact Fees directly resulting from the design and construction of improvements on the Property as described below. In the event the cost to construct the N. 53rd and Arbor Road Improvements exceeds \$100,000.00, Industrial Salt Development shall publicly bid the construction of the N. 53rd and Arbor Road Improvements through the City's Purchasing Division and shall select the lowest responsible bidder to complete the work.
- c. Industrial Salt Development, on behalf of itself, its successors and assigns, agrees and acknowledges that the N. 53rd and Arbor Road Improvements as indicated on the approved preliminary plat for the Property shall be required as part of the final plat for those lots south of the N. 53rd and Arbor Road intersection.

- d. The Salt Bank Road Turn Lane and the North 53rd and Arbor Road Improvements shall be collectively referred to hereinafter as “**Right-Of-Way Improvements**”.
3. **City Reimbursement from Arterial Street Impact Fee Facilities.** The Right-Of-Way Improvements described herein are determined by the City to be arterial street impact fee facilities. The City agrees to segregate arterial street impact fees collected by the City from development of the Property. Arterial street impact fees collected from the Property shall be used to reimburse Industrial Salt Development for the actual costs of designing and constructing the Right-Of-Way Improvements. The arterial street impact fees collected from the Property shall be paid to Industrial Salt Development on a quarterly basis by the City until Industrial Salt Development has been fully reimbursed the costs of designing and constructing the Right-Of-Way Improvements.
4. **Dedication of Right-Of-Way.** At the time of final platting or upon the earlier request by the City, Industrial Salt Development agrees to dedicate or convey, at no cost to the City, any additional right-of-way necessary to accommodate Right-Of-Way Improvements as well as any roadway improvements to be constructed at the intersection of N. 56th Street and Arbor Road.
5. **Salt Bank Road Signal.** Prior to obtaining an executive order from the City to construct the Salt Bank Turn Lane, Industrial Salt Development shall contribute Two Hundred Thousand and No/100 Dollars (\$200,000) to the City (“Traffic Signal Contribution”), which represents one-half the estimated cost of designing and installing a traffic signal at the intersection of N. 56th Street and Salt Bank Road (“Salt Bank Road Signal”). The City shall be responsible for installing the Salt Bank Road Signal at such time as it is warranted and recommended for installation by the City. The Salt Bank Road Signal is not an arterial

street impact fee facility, and Industrial Salt Bank Development shall not be entitled to any reimbursement for the Traffic Signal Contribution.

6. **Notice.** Any notices required to be forwarded to a party hereto shall be deemed appropriately given or delivered if sent by registered or certified United States Mail, postage prepaid, return receipt requested, addressed or delivered personally as follows:

(1) If to the City:

Mayor
555 South 10th Street
Lincoln, Nebraska 68508

with a copy to:

City Attorney
555 South 10th Street
Lincoln, Nebraska 68508

(2) If to Industrial Salt Development:

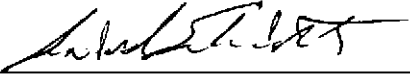
Any party hereto may change its address for notification purposes by written notice to all parties hereto in the manner and method set forth within this paragraph.

7. **Binding Effect.** This Agreement shall run with the Property and be binding upon and inure to the benefit and burden of successors and assigns of the respective parties.
8. **Amendments.** This Agreement may only be amended or modified in writing signed by the parties hereto.
9. **Governing Law.** All aspects of this Agreement shall be governed by the laws of the State of Nebraska.

10. **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.
11. **Authority.** The City and Industrial Salt Development 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 this Agreement constitutes a valid and binding agreement of the parties, enforceable in accordance with its terms.
12. **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.
13. **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, Property 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.
14. **Recording.** This Agreement shall be recorded against the Property by the City with the Register of Deeds of Lancaster County, filing fees therefor to be paid in advance by Industrial Salt Development.
15. **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.

[SIGNATURE PAGES TO FOLLOW]

**INDUSTRIAL SALT DEVELOPMENT,
LLC, a Nebraska limited liability company**

By: 
David Schmidt, Co-Manager

By: 
Aaron C. Fenton, Co-Manager

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

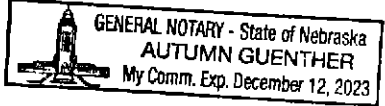
The foregoing was acknowledged before me this 30th day of MARCH, 2022, by David Schmidt, Co-Manager of Industrial Salt Development, LLC, a Nebraska limited liability company, on behalf of the limited liability company.




Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing was acknowledged before me this 30th day of MARCH, 2022, by Aaron C. Fenton, Co-Manager of Industrial Salt Development, LLC, a Nebraska limited liability company, on behalf of the limited liability company.




Notary Public

EXHIBIT A

The Property

A part of the remaining portion of Lot 2 Finigan Brothers Addition, located in the Southeast Quarter of Section 29, Township 11 North, Range 7 East, of the 6th Principal Meridian, Lancaster County, Nebraska and more particularly described as follows:

Commencing at the Southwest Corner of said SE 1/4 of Section 29; Thence on the West line of said Southeast Quarter of Section 29, North 00 degrees 13 minutes 28 seconds West, a distance of 2,585.79 feet to a point on the South right-of-way line of Arbor Road, 50.00 feet South of the North line of said Southeast Quarter of Section 29; Thence on the south right-of-way line of Arbor Road, South 89 degrees 29 minutes 21 seconds East, a distance of 1,120.06 feet to the POINT OF BEGINNING; Thence continuing on the South right-of-way line of Arbor Road, South 89 degrees 29 minutes 21 seconds E, a distance of 530.37 feet; Thence South 00 degrees 02 minutes 47 seconds East, a distance of 709.79 feet; Thence South 89 degrees 27 minutes 10 seconds East, a distance of 898.65 feet to a point on the West right-of-way line of North 56th Street; Thence on the West right-of-way line South 00 degrees 54 minutes 35 seconds East, a distance of 549.84 feet; Thence continuing on the west right-of-way line South 00 degrees 42 minutes 23 seconds West, a distance of 824.15 feet; Thence North 89 degrees 37 minutes 24 seconds West, a distance of 556.54 feet; Thence North 00 degrees 22 minutes 36 seconds East, a distance of 123.60 feet; Thence South 54 degrees 15 minutes 01 seconds West, a distance of 818.86 feet; Thence South 00 degrees 06 minutes 20 seconds East, a distance of 100.33 feet; Thence North 89 degrees 37 minutes 24 seconds West, a distance of 197.99 feet; Thence North 00 degrees 13 minutes 31 seconds West, a distance of 1,034.46 feet; Thence North 13 degrees 44 minutes 12 seconds West, a distance of 60.00 feet to a circular curve to the right, having a radius of 270.00 feet, a central angle of 26 degrees 05 minutes 57 seconds and whose chord (121.93 feet) bears South 89 degrees 18 minutes 47 seconds West; Thence on the arc of said circular curve 122.99 feet; Thence North 29 degrees 46 minutes 29 seconds East, a distance of 189.00 feet; Thence North 22 degrees 17 minutes 55 seconds East, a distance of 85.43 feet; Thence North 05 degrees 52 minutes 29 seconds East, a distance of 82.05 feet; Thence North 00 degrees 13 minutes 31 seconds West, a distance of 1,131.17 feet to the POINT OF BEGINNING. Said tract containing an area of 2,527,816.80 square feet or 58.03 acres, more or less.

EXHIBIT B

Annexation Area

A part of the remaining portion of Lot 2 Finigan Brothers Addition, located in the Southeast Quarter of Section 29, Township 11 North, Range 7 East, of the 6th Principal Meridian, Lancaster County, Nebraska and more particularly described as follows:

Commencing at the Southwest Corner of said SE 1/4 of Section 29; Thence on the West line of said Southeast Quarter of Section 29, North 00 degrees 13 minutes 28 seconds West, a distance of 2,585.79 feet to a point on the South right-of-way line of Arbor Road, 50.00 feet South of the North line of said Southeast Quarter of Section 29; Thence on the south right-of-way line of Arbor Road, South 89 degrees 29 minutes 21 seconds East, a distance of 1,120.06 feet to the POINT OF BEGINNING; Thence continuing on the South right-of-way line of Arbor Road, South 89 degrees 29 minutes 21 seconds E, a distance of 530.37 feet; Thence South 00 degrees 02 minutes 47 seconds East, a distance of 709.79 feet; Thence South 89 degrees 27 minutes 10 seconds East, a distance of 748.60'; THENCE South 00 degrees 54 minutes 35 seconds East, a distance of 551.56'; THENCE South 00 degrees 42 minutes 23 seconds West, a distance of 822.88'; THENCE North 89 degrees 37 minutes 24 seconds West, a distance of 406.54 feet; Thence North 00 degrees 22 minutes 36 seconds East, a distance of 123.60 feet; Thence South 54 degrees 15 minutes 01 seconds West, a distance of 818.86 feet; Thence South 00 degrees 06 minutes 20 seconds East, a distance of 100.33 feet; Thence North 89 degrees 37 minutes 24 seconds West, a distance of 197.99 feet; Thence North 00 degrees 13 minutes 31 seconds West, a distance of 1,034.46 feet; Thence North 13 degrees 44 minutes 12 seconds West, a distance of 60.00 feet to a circular curve to the right, having a radius of 270.00 feet, a central angle of 26 degrees 05 minutes 57 seconds and whose chord (121.93 feet) bears South 89 degrees 18 minutes 47 seconds West; Thence on the arc of said circular curve 122.99 feet; Thence North 29 degrees 46 minutes 29 seconds East, a distance of 189.00 feet; Thence North 22 degrees 17 minutes 55 seconds East, a distance of 85.43 feet; Thence North 05 degrees 52 minutes 29 seconds East, a distance of 82.05 feet; Thence North 00 degrees 13 minutes 31 seconds West, a distance of 1,131.17 feet to the POINT OF BEGINNING. Said tract containing an area of 2,321,684.60 square feet or 53.30 acres, more or less.

EXHIBIT C

Change of Zone Area

A part of the remaining portion of Lot 2 Finigan Brothers Addition, located in the Southeast Quarter of Section 29, Township 11 North, Range 7 East, of the 6th Principal Meridian, Lancaster County, Nebraska and more particularly described as follows:

Commencing at the Southwest Corner of said SE 1/4 of Section 29; Thence on the West line of said Southeast Quarter of Section 29, North 00 degrees 13 minutes 28 seconds West, a distance of 2,585.79 feet to a point on the South right-of-way line of Arbor Road, 50.00 feet South of the North line of said Southeast Quarter of Section 29; Thence on the south right-of-way line of Arbor Road, South 89 degrees 29 minutes 21 seconds East, a distance of 1,120.06 feet to the POINT OF BEGINNING; Thence continuing on the South right-of-way line of Arbor Road, South 89 degrees 29 minutes 21 seconds E, a distance of 530.37 feet; Thence South 00 degrees 02 minutes 47 seconds East, a distance of 709.79 feet; Thence South 89 degrees 27 minutes 10 seconds East, a distance of 898.65 feet to a point on the West right-of-way line of North 56th Street; Thence on the West right-of-way line South 00 degrees 54 minutes 35 seconds East, a distance of 549.84 feet; Thence continuing on the west right-of-way line South 00 degrees 42 minutes 23 seconds West, a distance of 824.15 feet; Thence North 89 degrees 37 minutes 24 seconds West, a distance of 556.54 feet; Thence North 00 degrees 22 minutes 36 seconds East, a distance of 123.60 feet; Thence South 54 degrees 15 minutes 01 seconds West, a distance of 818.86 feet; Thence South 00 degrees 06 minutes 20 seconds East, a distance of 100.33 feet; Thence North 89 degrees 37 minutes 24 seconds West, a distance of 197.99 feet; Thence North 00 degrees 13 minutes 31 seconds West, a distance of 1,034.46 feet; Thence North 13 degrees 44 minutes 12 seconds West, a distance of 60.00 feet to a circular curve to the right, having a radius of 270.00 feet, a central angle of 26 degrees 05 minutes 57 seconds and whose chord (121.93 feet) bears South 89 degrees 18 minutes 47 seconds West; Thence on the arc of said circular curve 122.99 feet; Thence North 29 degrees 46 minutes 29 seconds East, a distance of 189.00 feet; Thence North 22 degrees 17 minutes 55 seconds East, a distance of 85.43 feet; Thence North 05 degrees 52 minutes 29 seconds East, a distance of 82.05 feet; Thence North 00 degrees 13 minutes 31 seconds West, a distance of 1,131.17 feet to the POINT OF BEGINNING. Said tract containing an area of 2,527,816.80 square feet or 58.03 acres, more or less.

EXHIBIT D SALT BANK ROAD TURN LANE

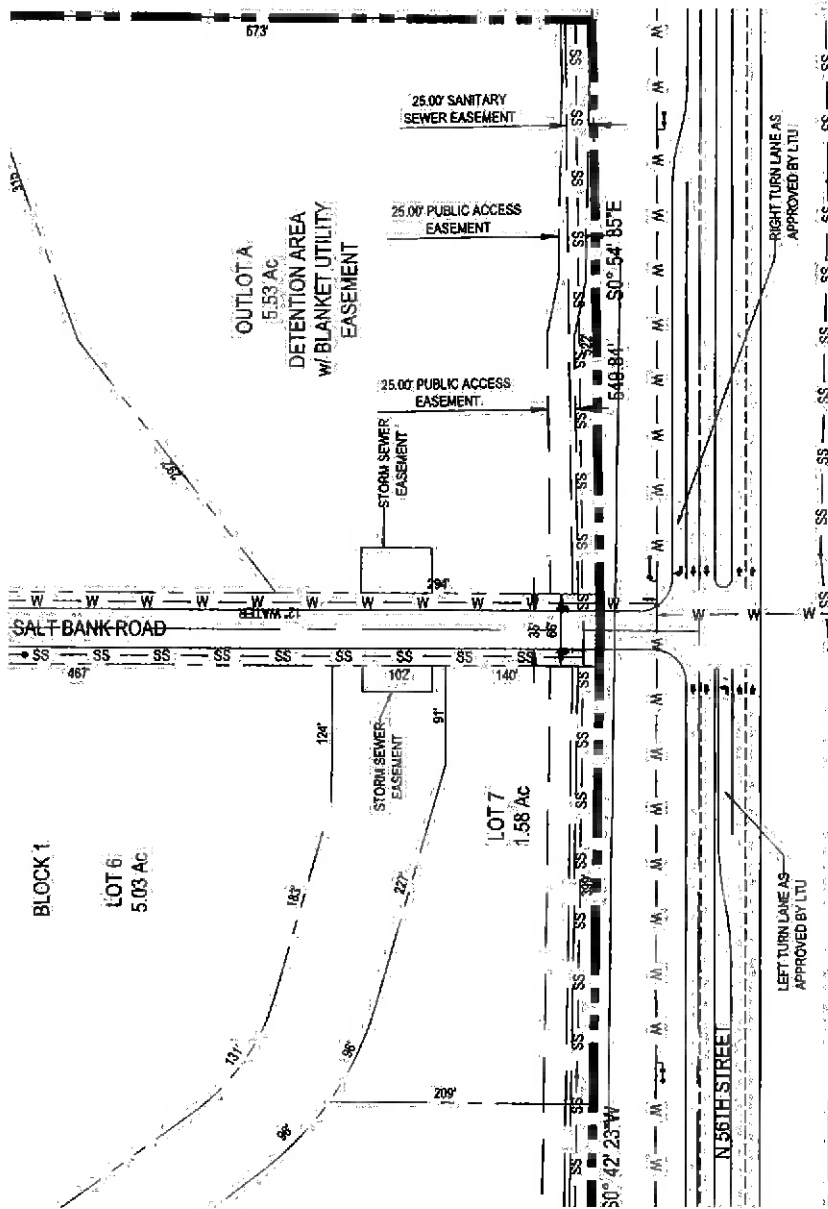


EXHIBIT E
N. 53RD & ARBOR ROAD IMPROVEMENTS

