

## DEVELOPMENT AND CONDITIONAL ZONING AGREEMENT

This Development and Conditional Zoning Agreement ("Agreement") is hereby made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by and between A.B.C. Electric Company, Inc., a Nebraska corporation ("ABC"), and the City of Lincoln, Nebraska, a municipal corporation, hereinafter referred to as "City."

### RECITALS

#### I.

ABC, as owner of the below described property, has requested that the City, as part of Change of Zone 17028 ("CZ 17028") change the zoning description for below described property from R-4 Residential District (R-4) to H-3 Highway Commercial District (H-3). Said property is located at 1020 North 24<sup>th</sup> Street, 2405 Y Street, 2411 Y Street, 2415 Y Street, 2427 Y Street, and 2435 Y Street. The six properties are legally described as:

Lots 2-6, Block 3, Tresters Addition;

1020 North 24<sup>th</sup> Street, 2405 Y Street, 2411 Y Street, 2415 Y Street, 2427 Y Street, and 2435 Y Street are hereinafter collectively the "Property".

#### II.

Approval of CZ 17028, including changing the designation for the Property from R-4 to H-3, would allow ABC to use the Property for a range of uses which would not be compatible with the surrounding neighborhood.

#### III.

ABC has represented to the City that, in consideration of the City re-zoning the Property to H-3, ABC will enter into an agreement with the City to address screening at the boundaries of the Property to reduce the impact of potential uses of the property on the surrounding neighborhood, as provided in paragraph 2 below.

#### IV.

The City desires an Agreement to be assured that ABC will develop the Property as represented should the Property be rezoned to H-3.

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

1. The City hereby agrees to grant ABC's request to change the zoning map from R-4 Residential District to H-3 Highway Commercial District on the Property.

2. In consideration for the City rezoning the Property to H-3 Highway Commercial District, ABC agrees to:

- a. Establish and maintain a twenty (20) feet wide setback measured from the edge of the Y Street and North 24<sup>th</sup> Street rights-of-way for the purpose of installing landscaping to include, but not limited to, trees spaced no more than thirty-five (35) feet apart and turf. The installation of landscaping and trees in the setback area shall not be required until ABC commences construction of improvements on the Property or makes use of the Property as something other than the current use.
- b. Install and maintain a six (6) feet tall opaque fence at the edge of the 20 feet landscaping area opposite the rights-of-way. The requirement to install fencing shall coincide with ABC's obligation to install landscaping and trees as described above in subparagraph 2.a.
- c. Continue to recognize and abide by the established setback from the south edge of Y Street for Lots 1 and 2, Whitmer Addition, Lincoln, Lancaster County, Nebraska, but not limited to, maintaining and replacing when necessary the turf, trees, and six feet tall opaque fence located in the setback area.

3. ABC agrees that there shall be no new development or redevelopment of existing improvements on the Property until the conditions in paragraph 2 above have been satisfied and if required a use permit has been granted by the City.

4. This Agreement shall run with the Property and shall be binding upon ABC and their respective successors and assigns.

5. This Agreement, when executed by the parties hereto, shall be recorded by the City in the office of the Register of Deeds of Lancaster County, Nebraska, filling fees to be paid by ABC.

IN WITNESS WHEREOF, the parties herein have executed this Agreement on the day and year set forth above.

**City of Lincoln, Nebraska,**  
a municipal corporation

\_\_\_\_\_  
Chris Beutler, Mayor

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF LANCASTER        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by Chris Beutler, Mayor of the City of Lincoln.

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

**A.B.C. Electric Company, Inc.,**  
a Nebraska corporation

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

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF LANCASTER        )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2018, by \_\_\_\_\_, President of A.B.C. Electric Company, Inc.

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