

**14th and Alvo Road Conditional Annexation
and Zoning Agreement**

(As revised 2-26-08)

This 14th and Alvo Road Conditional Annexation and Zoning Agreement is made and entered into this ____ day of _____, 2008, by and between **LANCASTER COUNTY SCHOOL DISTRICT 001**, a political subdivision, commonly known as Lincoln Public Schools (hereinafter referred to as "LPS") and the **CITY OF LINCOLN, NEBRASKA**, a municipal corporation (hereinafter referred to as "City").

RECITALS

A. LPS is the owner of Lot 15, I. T., located in the NE 1/4 of Section 35, Township 11 North, Range 6 East of the 6th P.M., Lancaster County, Nebraska ("Lot 15"). Lot 15 is generally located southwest of the intersection of North 14th Street and Alvo Road. LPS intends to construct the proposed Kooser Elementary School on a portion of Lot 15 and sell the remaining portion to a residential housing developer ("Residential Developer").

B. LPS intends to open Kooser Elementary School by August 2009. In order to do so, it is necessary that LPS have access to City services. Therefore, LPS has requested the City to (1) annex Lot 15; (2) rezone Lot 15 from AG Agricultural District to R-3 Residential District (Change of Zone No. 07062); and (3) approve a preliminary plat of Lot 15 consisting of one lot for the proposed Kooser Elementary School and additional outlots for future development.

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

1. Annexation by the City. The City agrees to annex Lot 15.
2. Change of Zone. The City agrees to approve Change of Zone No. 07062.
3. Preliminary Plat. The City agrees to approve the preliminary plat of Lot 15.

4. Alvo Road Contribution. The Residential Developer shall pay for the following site related improvements to be constructed in 2009 by the City as part of the City and Lancaster County surfacing project for Alvo Road from North 1st Street to North 14th Street hereinafter “Alvo Road Project.”

Asphalt paved right- and left-turn lanes in Alvo Road at North 11th Street. The eastbound to southbound right-turn lane will be 12 feet wide and 250 feet long. The westbound to southbound left-turn lane will be 12-feet wide and 200 feet long. The contribution shall be paid to the City by December 31, 2009. (See Exhibit A)

5. North 14th Street Improvements. The Residential Developer shall construct the following improvements in North 14th Street which are needed to provide access to Lot 15 during the construction of the development through the City’s executive order construction process:

Asphalt paved northbound to westbound left-turn lane in North 14th Street at Julesburg Drive. The left-turn lane will be 12 feet wide and 200 feet long with a 300-foot taper north and south of the intersection. (See Exhibit B)

6. Street Dedications. The Residential Developer shall dedicate 66 feet of right-of-way adjacent to Alvo Road abutting Lot 15 expanding to 76 feet at North 11th and North 14th Street where there will be a right-hand turn lane. The Residential Developer shall also dedicate 60 feet of right-of-way adjacent to North 14th Street abutting Lot 15 expanding to 70 feet at North 14th Street and Julesburg Drive where there will be a right-hand turn lane. The Residential Developer will dedicate the right-of-way within 30 days of request by the City.

7. Traffic Signals. When warranted and recommended for installation, the Residential Developer shall pay the full cost of a temporary pedestrian signal to be located approximately 400 feet north of the intersection of North 14th Street and Julesburg Drive.

8. Sidewalks.

(a) Alvo Road. It is anticipated that the City will construct a temporary eight-foot wide and five-inch thick asphalt sidewalk along Alvo Road from North 7th Street to North 11th Street. The Residential Developer is responsible for the cost of 5 foot sidewalk along Alvo Road adjacent to any final platted lots. Prior to the opening of Kooser Elementary School, LPS agrees to build a permanent sidewalk system within Lot 1, Block 1 Kooser Addition leading from the future Kooser school to: (1) North 11th Street; (2) to Kooser Drive and; (3) to North 13th Street. Prior to the opening of Kooser Elementary School, the Developer agrees to build a permanent sidewalk system within Outlots A and D leading from the LPS sidewalk system to: (1) North 11th Street and Alvo Road; (2) to Alvo Road between 11th and 14th street and; (3) to North 14th Street and Julesburg Drive.

(b) North 14th Street. The Residential Developer is responsible for the cost of 5 foot sidewalk along North 14th Street adjacent to any final platted lots. The Residential Developer shall also pay for the cost of constructing a sidewalk on both sides of the street leading to the temporary pedestrian signal approximately 400 feet north of North 14th Street and Julesburg Drive. (As shown in Exhibit B)

9. Future Development of Annexed Property. The City, the Residential Developer, and LPS agree that improvements and contributions identified in paragraphs 4, 5, 6, 7, and 8, above include all the improvements and contributions necessary to serve Kooser Elementary School and the future residential development of the remaining portion of Lot 15.

10. Contribution for Rural Fire District. LPS understands and acknowledges that the City may not annex the property lying within the boundaries of the Raymond Rural Fire District except by the City assuming and paying that portion of all outstanding obligations of the District which would otherwise constitute an obligation of Lot 15 being annexed. LPS desires to be annexed by the City and therefore agrees to pay the amount which must be paid to the Raymond Rural Fire Protection District in order for the annexation to be complete. The parties anticipate that payment to be \$150.00.

11. Lot 15 Sales Agreement. LPS agrees that LPS's sale of the remaining portion of Lot 15 reserved for future development to the Residential Developer ("Lot 15 Sales Agreement") shall specifically require the Residential Developer to assume and perform all of the Residential Developer's obligations under this Agreement. LPS further agrees that the City shall be expressly designated as a third party beneficiary of the Lot 15 Sales Agreement entitled to fully enforce the terms thereof.

12. Binding Effect. This Agreement shall be binding upon the parties and their respective successors in interest and shall run with Lot 15. Notwithstanding the above, the City understands that the remaining portion of Lot 15 has not yet been sold by LPS to a Residential Developer and that in the event any of the Residential Developer's obligations under this Agreement arise prior to the completion of such sale, LPS agrees to perform or pay for such obligations until it can recover the costs for same when it does complete such sale. Notwithstanding the above, LPS agrees that in the event any of the Residential Developer's obligations under this Agreement are not incorporated into the Lot 15 Sales Agreement, LPS agrees to perform or pay for such obligations.

13. Amendments. This Agreement may only be amended in writing signed by the parties.

14. Further Assurances. The parties shall use their best reasonable efforts to successfully perform this Agreement. The parties shall cooperate in good faith and shall perform any and all acts and execute, acknowledge, and deliver any and all documents reasonably requested in order to satisfy the conditions and carry out the intent and purposes of this Agreement.

15. Governing Law. 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.

16. Interpretations. No uncertainty or ambiguity shall be interpreted against either 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.

17. 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.

18. 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, the Residential Developer, LPS, 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.

19. Default. The Residential Developer, LPS and City agree that the annexation, Change of Zone, and preliminary plat approval promote the public health, safety, and welfare so

long as the Residential Developer or LPS fulfills all of the conditions and responsibilities set forth in this Agreement. In the event the Residential Developer or LPS defaults in fulfilling any of the covenants and responsibilities as set forth in this Agreement, the City may in its legislative authority rescind the Change of Zone or pursue such other remedies, legal or equitable, which the City may have to enforce this Agreement or to obtain damages for its breach.

20. Definitions. For purposes of this Agreement, the words and phrases “cost” or “entire cost” of a type of improvement shall be deemed to include all design and engineering fees, testing expenses, construction costs, publication costs, financing costs, and related miscellaneous costs, including any fees charged by the City.

21. Recordation. This Agreement or a memorandum or notice thereof shall be filed in the Office of the Register of Deeds of Lancaster County, Nebraska at LPS’s expense.

Dated: _____, 2008.

ATTEST:

THE CITY OF LINCOLN, NEBRASKA
a municipal corporation

City Clerk

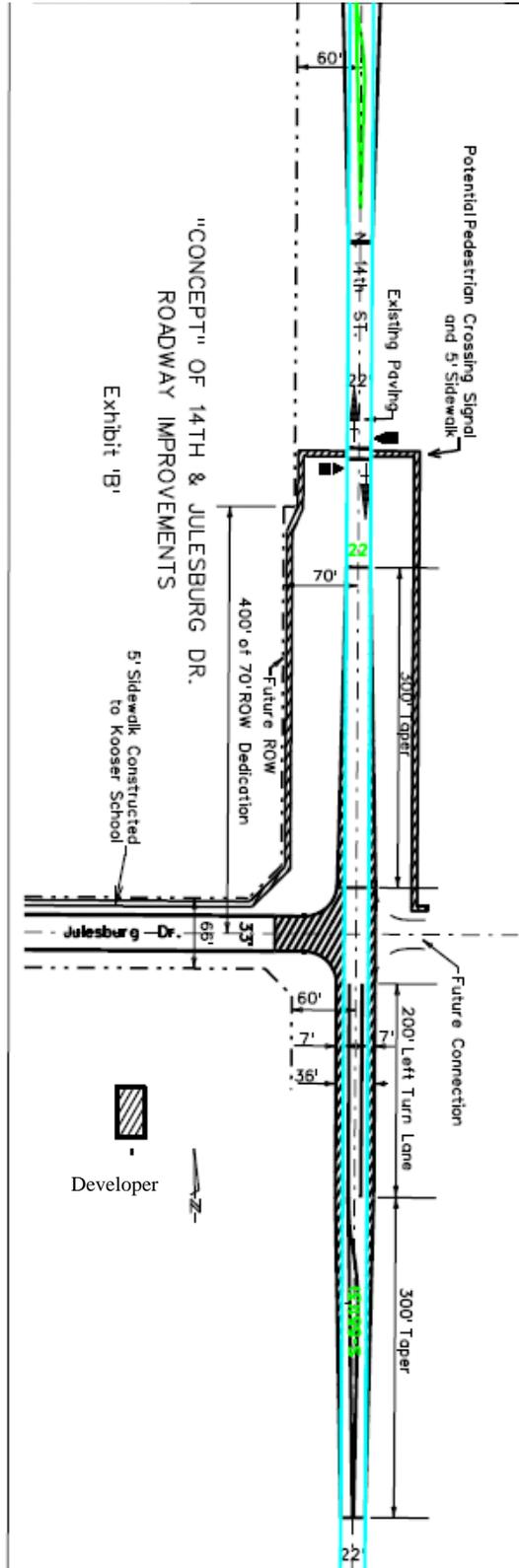
By: _____
Chris Beutler, Mayor of Lincoln

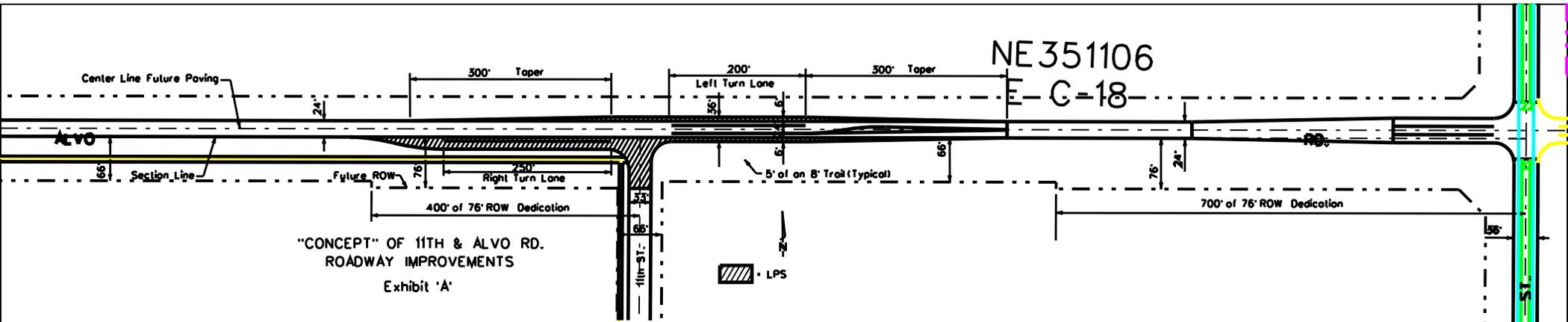
LANCASTER COUNTY SCHOOL
DISTRICT 001, a/k/a Lincoln Public
Schools

By: _____
Dennis Van Horn, Associate Superintendent
of Business Affairs

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Exhibit B





"CONCEPT" OF 11TH & ALVO RD.
ROADWAY IMPROVEMENTS
Exhibit 'A'

