

**AMENDMENT NO. 1  
TO THE  
CONDITIONAL ANNEXATION AND ZONING AGREEMENT  
FOR S. 84TH & HIGHWAY 2**

This Amendment No. 1 to the Conditional Annexation and Zoning Agreement for S. 84th & Highway 2 is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2010, 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 previously entered into the Conditional Annexation and Zoning Agreement for S. 84th & Highway 2 ("Annexation Agreement") dated November 13, 2001. The Property Owners acquired the property previously owned by Westcor L.L.C., David S. Olson, and Realty Trust Group.

**II.**

Under the Annexation Agreement, the Property Owners agreed to grade the 98th Street North Section (98th Street from Pine Lake Road through Widgeon Lane Intersection) and the 98th Street South Section (from Widgeon Lane to approximately 400 feet north of Highway 2) as a four lane cross section with twenty-eight (28) feet wide medians to Urban Standards, and to

design and pave the two internal through lanes to Urban Standards, including left turn lanes at intersections.

### III.

To defray the cost of the 98th Street North Section and 98th Street South Section, the City agreed to contribute all the cost of certain left turn lanes as well as seventy-five percent (75%) of the actual costs of the remaining improvements to the North and South Sections. The Property Owners agreed to use their best efforts to complete the 98th Street North Section in 2002 and the 98th Street South Section in 2007.

### IV.

Due to changed circumstances, the parties now desire to revise the timing of the construction of the 98th Street North Section and the 98th Street South Section, the required improvements thereof, and the method for the Property Owners' contribution to said improvements.

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

1. That paragraph A.9 of Article VI of the Annexation Agreement be amended to read as follows:

9. South 98th Street from Pine Lake Road through Widgeon Lane Intersection ("98th Street North Section"). The Property Owners shall be responsible, at their cost, under the authority of an executive order issued by the Mayor of the City to grade and install cross drainage and sediment and erosion control for the west two through lanes plus right turn lanes of 98th Street North Section to match City profiles for ultimate construction of the 98th Street North Section to Urban Standards, as a four lane

cross section with twenty-eight (28) feet wide medians, and the City shall be responsible, at its cost, to pave the west two through lanes with concrete paving, curb and gutter, storm sewer, and right turn lanes at intersections on the west side of the 98th Street North Section, as conceptually shown on Attachment "M1" which is attached hereto and incorporated herein by this reference. The Property Owners agree to use their best efforts to complete the grading of the 98<sup>th</sup> Street North Section by June 1, 2010. The City agrees to use its best efforts to complete the paving of the 98<sup>th</sup> Street North Section in 2010.

2. That paragraph A.10 of Article VI of the Annexation Agreement be amended to read as follows:

10. South 98th Street from Widgeon Lane to Approximately 400 Feet North of Highway 2 ("98th Street South Section"). The Property Owners shall be responsible, at their cost, under the authority of an executive order issued by the Mayor of the City to grade and install cross drainage and sediment and erosion control for the west two through lanes plus right turn lanes of the 98th Street South Section to match City profiles for ultimate construction of the 98th Street South Section to Urban Standards, as a four lane cross section with twenty-eight (28) feet wide medians, and the City shall be responsible, at its cost, to pave the west two through lanes with concrete paving, curb and gutter, and storm sewer and right turn lanes at intersections on the west side of the 98th Street South Section, as conceptually shown on Attachment "M1". The Property Owners agree to use their best efforts to complete the grading of the 98<sup>th</sup> Street South Section by June 1, 2010. The City agrees to use its best efforts to complete the paving of the 98th Street South Section in 2010.

3. That Attachment "M1" attached hereto be substituted for Attachment "M" attached to the Annexation Agreement.

Executed by City this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

ATTEST:

**CITY OF LINCOLN, NEBRASKA,**  
a municipal corporation

\_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
Chris Beutler, Mayor of Lincoln

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF LANCASTER        )

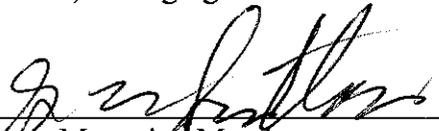
The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 2010, by Chris Beutler, Mayor of the City of Lincoln, Nebraska. on behalf of the City.

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

Executed by Andermatt, L.L.C. this 22<sup>nd</sup> day of December, 2009.

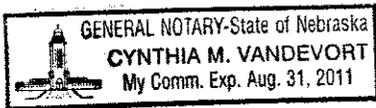
ANDERMATT, L.L.C., a Nebraska limited liability company

By:   
Kelvin Korver, Managing Member

By:   
Greg Sutton, Managing Member

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF LANCASTER        )

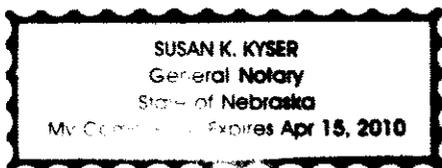
The foregoing instrument was acknowledged before me this 18<sup>th</sup> day of December, 2009, Kelvin Korver, Managing Member of Andermatt, L.L.C., a Nebraska limited liability company, on behalf of the limited liability company

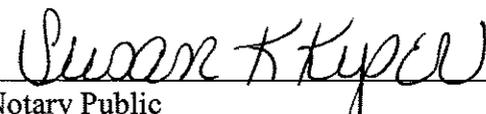


  
Notary Public

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF LANCASTER        )

The foregoing instrument was acknowledged before me this 22<sup>nd</sup> day of December, 2009, Greg Sutton, Managing Member of Andermatt, L.L.C., a Nebraska limited liability company, on behalf of the limited liability company



  
Notary Public

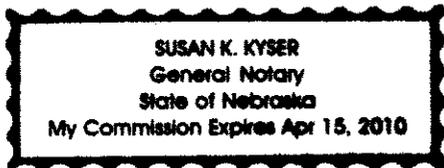
Executed by Eiger Corp. this 22<sup>nd</sup> day of December, 2009.

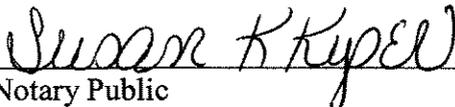
**EIGER CORP.**, a Nebraska corporation

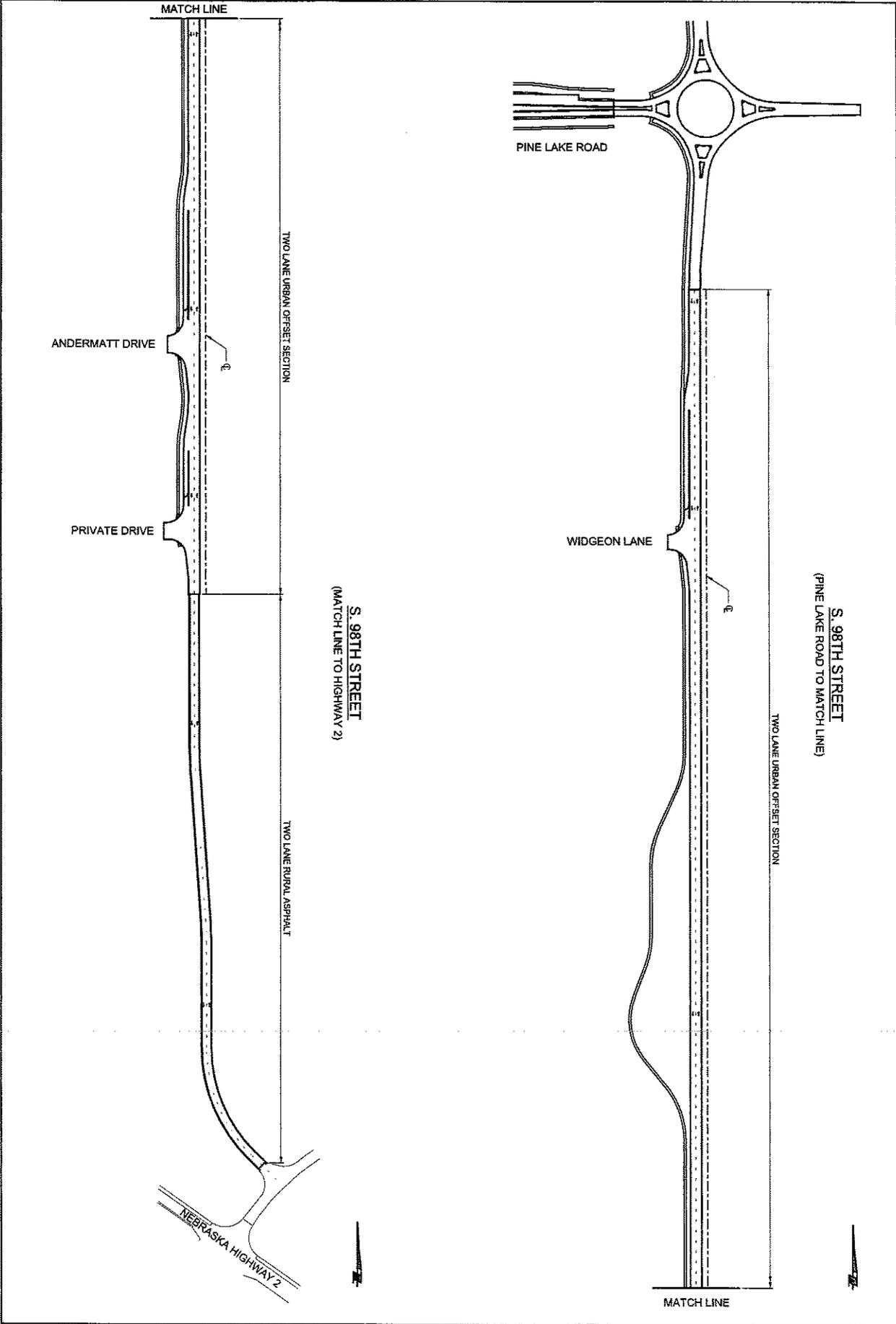
By:   
Greg Sutton, President

STATE OF NEBRASKA            )  
  ) ss.  
COUNTY OF LANCASTER        )

The foregoing instrument was acknowledged before me this 22<sup>nd</sup> day of December, 2009, by Greg Sutton, President of Eiger Corp., a Nebraska corporation, on behalf of the corporation.



  
Notary Public



1		LINDOLN OFFICE 820 J St., Box 90918 Lincoln, NE 68591 (402) 479-2200 www.hws.com
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**S. 98TH STREET PROPOSED ROADWAY AND INTERSECTION IMPROVEMENTS**