



A84770

08R-38

Introduce: 2-4-08

RESOLUTION NO. A- 84770

1 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:
 2 That the agreement titled Second Amendment to Conditional Annexation and
 3 Zoning Agreement for Fallbrook, which is attached hereto, marked as Attachment "A"
 4 and made a part hereof by reference, between the City and NEBCO, Inc. (Owner)
 5 outlining certain conditions and understandings between the City and said Owner
 6 relating to the annexation and rezoning of approximately 318 acres of land generally
 7 located north of Highway 34, south of Alvo Road and west of North 1st Street, is
 8 approved.

9 BE IT FURTHER RESOLVED that the Mayor is authorized to execute the
 10 Second Amendment to Conditional Annexation and Zoning Agreement for Fallbrook on
 11 behalf of the City.

12 BE IT FURTHER RESOLVED that the City Clerk is directed to return one fully $\frac{3}{4}$
 13 executed copy of this Agreement to Rick Peo, Assistant City Attorney, for transmittal to
 14 the Owner.

15 BE IT FURTHER RESOLVED that the City Clerk is directed to record the
 16 Agreement with the Register of Deeds, filing fees to be paid by the Owner.

See further Council Proceedings on next page.

Introduced by:

Robin Eschel

AYES: Camp, Cook, Emery,
Eschliman, Marvin, Spatz, Svoboda;
NAYS: None.

Approved as to Form and Legality:

Wanda W. Papp
City Attorney

Approved this 13th day of March, 2008:
Chris Burt
 Mayor

ADOPTED

MAR 10 2008
BY CITY COUNCIL

08R-38

2/11/08 Council Proceedings:

COOK Moved to have continued Public Hearing with Action on March 3, 2008.
 Seconded by Emery & carried by the following vote: AYES: Camp, Cook, Emery,
 Eschliman, Marvin, Spatz, Svoboda; NAYS: None.

3/3/08 Council Proceedings:

COOK Moved to continue public hearing w/Action on March 10, 2008.
 Seconded by Emery & carried by the following vote: AYES: Camp, Cook, Emery,
 Eschliman, Marvin, Spatz; NAYS: None; ABSENT: Svoboda.

CITY OF LINCOLN

Request for: Ordinance
 Resolution

(Do Not Write in this Space)

Bill Control No. 08R-38 Date: 1/25

Docketing Date 2/4; PH: 2-11-08

(To Be Entered by City Clerk)

DATE January 24, 2008	REQUEST MADE BY Marvin S. Krout, Director	DEPARTMENT Planning
DESIRED DOCKET DATE: February 4, 2008	IF EMERGENCY, GIVE REASON (See Art. 6, Sec. 2 of Charter)	
Emergency Measure Required: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		

REASONS OR JUSTIFICATION FOR PROPOSED LEGISLATION

Request for Resolution for Council action on the **SECOND AMENDMENT TO THE FALLBROOK ANNEXATION AGREEMENT** between the City of Lincoln and NEBCO INC., regarding the improvement of Alvo Road generally from N. W. 12th Street to North 1st Street, and the future design of N. W. 12th from Alvo Road to Highway 34, requested by Lincoln/Lancaster County Planning Department

FILED

JAN 24 2008

CITY CLERK'S OFFICE
LINCOLN, NEBRASKA

ASSOCIATED REQUESTS: The following applications are associated requests and should be scheduled for hearing at the same time with action in the following sequence:

Interlocal Agreement between the City of Lincoln and Lancaster County regarding Alvo Road

Amendment to Ordinance #18863, Highway Allocation Bond Ordinance, to revise the project description for Alvo Road

REQUESTOR <input checked="" type="checkbox"/> DOES <input type="checkbox"/> DOES NOT	WISH TO REVIEW AND APPROVE THIS/ ORDINANCE PRIOR TO ITS INTRODUCTION	<i>Marvin S. Krout</i> DIRECTOR'S SIGNATURE	<i>Jan 24, 2008</i> DATE
---	---	--	-----------------------------

TO BE USED BY THE FINANCE DEPARTMENT

BUDGET REVIEW	DATE:	ACCOUNT NUMBER AND APPROPRIATE BALANCES	DATE:	FUND AVAILABILITY APPROVED	DATE:
				_____ DIRECTOR OF FINANCE SIGNATURE	

DISTRIBUTION
Return two (2) copies to City Clerk for Docket Number

GENERAL FACT SHEET

BILL NUMBER 088-38

BRIEF TITLE	APPROVAL DEADLINE	REASON
2 nd Amendment to Fallbrook Annexation Agreement		Amend existing Fallbrook Annexation Agreement relating to constructing Alvo Road from N. W. 12 th Street to N. 1 st Street and the design of the N. W. 12 th Street from Alvo Road to Highway 34, focused on the design of the future Highway 34 overpass

DETAILS

POSITIONS/RECOMMENDATIONS

<p>In January 2007, the City Council approved Ordinance #18863 allocating \$750,000 to the Alvo Road project, among other road projects.</p> <p>The project was shown in 2007/08 - 2012/2013 Capital Improvement Program and approved in FY 2007-08 budget for an additional \$1,263,000 in Highway Allocation Bonds (budget Resolution 84483, approved August 2007).</p> <p>The total allocation to the Alvo Road project is \$1,986,000 of Highway Allocation Bonds.</p> <p>Alvo Road currently does not exist from N. W. 12th to N. 7th Street and from N. 14th to N. 16th Street – it is gravel road between 7th and 14th Street and west of N. W. 12th Street.</p> <p>This agreement is one part of a public-private partnership between the County, City and NEBCO Inc., that will provide over \$5 million for the improvement of over 2 miles of Alvo Road. By working together the entire road will be open to the public, rather than just the portion from N. W. 12th to N. 1st as originally conceived.</p>	Sponsor	Lincoln/ Lancaster County Planning Department, City of Lincoln Public Works and Utilities Department – Recommend Approval
	Program Departments, or Groups Affected	City of Lincoln Public Works and Utilities Department
	Applicants/ Proponents	<p>Applicant Marvin Krout, Planning Director</p> <p>City Department Lincoln/ Lancaster County Planning Department</p> <p>Other</p>
	Opponents	<p>Groups or Individuals No known opposition</p> <p>Basis of Opposition</p>
<p>Discussion (Including Relationship to other Council Actions)</p> <p>RELATED ACTIONS:</p> <p>Interlocal Agreement between the County and City to regarding the improvement of Alvo Road between N. W. 12th and North 16th Street, and including North 14th Street north and south of Alvo Road</p> <p>Amendment to Ordinance #18863, Highway Allocation Bond Ordinance, to revise the project description for Alvo Road to clarify that the funds will be used for Alvo Road between N. W. 12th and North 16th Street, and include North 14th Street north and south of Alvo Road</p>	Staff Recommendations	<p><input checked="" type="checkbox"/> For <input type="checkbox"/> Against Reason Against</p>
	Board or Commission Recommendation	<p>BY</p> <p><input type="checkbox"/> For <input type="checkbox"/> Against</p> <p><input type="checkbox"/> No Action Taken</p> <p><input type="checkbox"/> For with revisions or conditions (See Details column for conditions)</p>
	CITY COUNCIL ACTIONS (For Council Use Only)	<p><input type="checkbox"/> Pass</p> <p><input type="checkbox"/> Pass (As Amended)</p> <p><input type="checkbox"/> Council Sub.</p> <p><input type="checkbox"/> Without Recommendation</p> <p><input type="checkbox"/> Hold</p> <p><input type="checkbox"/> Do not Pass</p>

DETAILS

POLICY/PROGRAM IMPACT

<p>In January 2000, the City and NEBCO entered into the Fallbrook Annexation Agreement for the area generally from Highway 34 to north of Alvo Road, between N. W. 12th Street and North 1st Street.</p>	<p>POLICY OR PROGRAM CHANGE</p>	<p><input checked="" type="checkbox"/> NO <input type="checkbox"/> YES</p> <p>_____</p> <p>_____</p> <p>_____</p>																					
<p>Previously, NEBCO and the City agreed to split the cost of a 4 lane Alvo Road from N. 1st to N. W. 12th Street. The City agreed to pay for 21/48 or approximately 44% of the cost of a four lane urban road. Previously, the City was planning on paying about \$2 million of this four lane road cost in 2008-09, however, City staff now anticipate that the full four lanes will not be needed for a considerable time.</p>	<p>OPERATIONAL IMPACT ASSESSMENT</p>	<p><u>City will maintain that portion of Alvo Road that is inside the city limits now or in the future. Currently the city limits includes Alvo Road from N. W. 12th to N. 1st Street and east of N. 14th Street. Parks and Recreation Department will maintain initial trail construction between N. 1st and N. 11th Street.</u></p>																					
<p>City staff, NEBCO and the County also agreed that Alvo Road would better serve the public if it was open from N. W. 12th to North 16th. The goal is to open the road by the fall of 2009. To reach this goal, the financial responsibilities will need to be altered. City staff and the County have worked out a separate Interlocal Agreement covering Alvo Road.</p>	<p>FINANCES</p>																						
<p>In order to allow the City to use some of the previously budgeted Alvo Road funds to help complete Alvo Road east of 1st Street, NEBCO agreed to pay 100% of the cost of grading and two lane paving of Alvo from 1st to Stonebrook Parkway. NEBCO also agreed to fund \$450,000 of the cost of two lane paving of Alvo from Stonebrook Parkway to Tallgrass Parkway, with the County continuing the existing gravel Alvo Road west of N. W. 12th to Tallgrass Parkway, as well as the County surfacing Alvo from 1st to 14th Street.</p>	<p>COST AND REVENUE PROJECTIONS</p>	<table border="0"> <tr> <td>COST of total project:</td> <td style="text-align: right;">\$5,000,000</td> </tr> <tr> <td>COST of this Ordinance/Resolution</td> <td style="text-align: right;">\$1,200,000</td> </tr> <tr> <td colspan="2"> </td> </tr> <tr> <td>RELATED annual operating Costs</td> <td style="text-align: right;">\$ unknown</td> </tr> <tr> <td colspan="2"> </td> </tr> <tr> <td>INCREASE REVENUE EXPECTED/YEAR</td> <td style="text-align: right;">\$ 0</td> </tr> </table>	COST of total project:	\$5,000,000	COST of this Ordinance/Resolution	\$1,200,000			RELATED annual operating Costs	\$ unknown			INCREASE REVENUE EXPECTED/YEAR	\$ 0									
COST of total project:	\$5,000,000																						
COST of this Ordinance/Resolution	\$1,200,000																						
RELATED annual operating Costs	\$ unknown																						
INCREASE REVENUE EXPECTED/YEAR	\$ 0																						
<p>Since NEBCO will pay nearly \$1.8 million in improvement costs and will build the improvement earlier than they had planned, NEBCO will not have any obligations for any future widening of Alvo Road.</p>	<p>SOURCE OF FUNDS</p>	<table border="0"> <tr> <td>CITY [Approximately]</td> <td></td> <td></td> </tr> <tr> <td><u>Highway Allocation Bonds</u></td> <td style="text-align: right;">\$1,986,000</td> <td></td> </tr> <tr> <td colspan="3"> </td> </tr> <tr> <td>NON CITY [Approximately]</td> <td></td> <td></td> </tr> <tr> <td>County</td> <td style="text-align: right;">\$ 1.2 million</td> <td style="text-align: right;">%</td> </tr> <tr> <td>Developer</td> <td style="text-align: right;">\$ 1.8 million</td> <td style="text-align: right;">%</td> </tr> <tr> <td></td> <td style="text-align: right;">\$</td> <td style="text-align: right;">%</td> </tr> </table>	CITY [Approximately]			<u>Highway Allocation Bonds</u>	\$1,986,000					NON CITY [Approximately]			County	\$ 1.2 million	%	Developer	\$ 1.8 million	%		\$	%
CITY [Approximately]																							
<u>Highway Allocation Bonds</u>	\$1,986,000																						
NON CITY [Approximately]																							
County	\$ 1.2 million	%																					
Developer	\$ 1.8 million	%																					
	\$	%																					
<p>This amendment also switches NEBCO's responsibilities regarding N. W. 12th Street, south of Alvo Road to Highway 34. Previously, NEBCO was to pay for 1/2 of a 33 foot wide rural paving of NW 12th or 1/2 of a two lane urban road. More recently, the City approved an agreement with the Highland View developer to the west for the paving of N. W. 12th to urban standards. So instead, NEBCO will pay for the design of the NW 12th overpass of Highway 34, which includes preliminary design work from Alvo Road to Fletcher.</p>	<p>BENEFIT COST</p> <p><input type="checkbox"/> Front Foot</p> <p><input type="checkbox"/> Square Foot</p>	<p style="text-align: right;">Average Assessment</p> <p>\$ _____ \$ _____</p>																					

APPLICABLE DATES:

FACT SHEET PREPARED BY: Stephen Henrichsen, Principal Planner, Lincoln/ Lancaster County Planning Department

REVIEW BY: 

REFERENCE NUMBER

**SECOND AMENDMENT TO
CONDITIONAL ANNEXATION AND ZONING
AGREEMENT FOR FALLBROOK**

This Amendment No. 2 to the Conditional Annexation and Zoning Agreement for Fallbrook (North 1st Street and Highway 34) is made and entered into this 31st day of JAN, 2008, by and between the City of Lincoln, Nebraska, a municipal corporation, ("City") and NEBCO, Inc., a Nebraska corporation, ("Property Owner").

RECITALS

A. The City and Property Owner on February 1, 2000, entered into the Conditional Annexation and Zoning Agreement for Fallbrook (North 1st Street and Highway 34) ("Agreement").

B. The Agreement provided for an allocation of responsibilities between the parties for the construction of street improvements including the Alvo Road East Leg (Alvo Road between Stonebrook Parkway and North 1st Street); Alvo Road West Leg (Alvo Road between N. W. 12th Street and Stonebrook Parkway); N. W. 12th Street Leg (N. W. 12th Street between Alvo Road and U.S. Highway 34); and the construction of trails.

C. The definition of Governmental Permits in the Agreement included the approval of Use Permit No. 124 for 620,000 square feet of retail and office space, the Fallbrook Preliminary Plat, and Fallbrook Community Unit Plan.

D. The Agreement provided that the construction of municipal infrastructure improvements by Property Owner and the allocation of cost responsibilities for the Property and the Next Phase Property in no way limited the right of the City to require construction or contribution for additional municipal infrastructure improvements in conjunction with future annexation, zoning requests, plats, dedications, use permits, special permits, planned unit developments, or community unit plans incorporating the Property, Next Phase Property, or any portion thereof.

E. The City Council adopted an Impact Fee Ordinance on January 13, 2003. The ordinance provided for exemption from impact fees for development agreements approved prior to

June 1, 2002. Property Owner was granted a category exemption for the Property and Next Phase Property from Arterial Street Impact Fees since the Agreement was approved in 2000. An additional 60,000 square feet of office floor area was approved by Administrative Amendment No. 02103 to Use Permit No. 124 on January 22, 2003. Development of this additional 60,000 square feet of floor area is subject to Arterial Street Impact Fees, since the increase was approved after June 1, 2002.

F. In 2006, Owner requested City to annex the Next Phase Property and combine the existing Fallbrook Use Permit No. 124, Community Unit Plan and Preliminary Plat into a planned unit development under a change of zone.

G. On March 27, 2006, the City Council adopted Ordinance No. 18692 designating the Property and the Next Phase Property as an Overlay Planned Unit Development District. Ordinance No. 18692 further approved the Property Owner's Development Plan for Fallbrook Planned Unit Development including the approval of 680,000 square feet of commercial floor area.

H. The parties desire to clarify when development in the Fallbrook Planned Unit Development will be subject to payment of impact fees.

I. In order to meet the traffic demands associated with development in this area, there is a need to revise the timing of improvements in Alvo Road from North 1st Street to N. W. 12th Street, to adjust the description of the Alvo Road East Leg and the Alvo Road West Leg, and to adjust the responsibilities in order to meet that demand.

NOW, THEREFORE, in consideration of the above Recitals and mutual covenants established herein, the parties to this Amendment No. 2 do hereby agree as follows:

1. The term "Governmental Permits" now includes the Fallbrook Planned Unit Development as approved by Ordinance No. 18962.

2. That subparagraph A.4. under Article III, Transportation Improvements, be revised to read as follows:

“4. Alvo Road East Leg (Alvo Road between North 1st Street and Tallgrass Parkway). The Property Owner, at its own cost and expense, through the City’s executive order construction process shall do a full design of the south two lanes and intersections and a preliminary design (second submittal level in accordance with Engineering Services Guiding Principles & Practices) of the north two lanes. The design shall include the establishment of street grades in order for utilities to be installed. In addition, Property Owner at its own cost and expense, through the City’s executive order process shall grade Alvo Road between the east line of North 1st Street and the west end of Tallgrass Parkway Roundabout as a four-lane urban cross section arterial street and shall construct that portion of Alvo Road from the east line of North 1st Street to the west end of the Tallgrass Parkway Roundabout as a two-lane urban cross section arterial street, including street lights, storm sewer, and concrete pavement, together with a ten-foot bike trail on the south side of Alvo Road from North 1st Street to the north-south trail west of Stonebrook Parkway. The bike trail from the west side of Stonebrook Parkway to the west side of the school property shall be constructed (with contribution by Property Owner) by Lincoln Public Schools. The bike trail shall be designed and constructed in accordance with AASHTO Guidelines for Bicycle Facilities and paved with five-inch thick concrete. The Property Owner further agrees to construct the Stonebrook Parkway Roundabout, the Tallgrass Parkway Roundabout, and any other approved roundabout as part of this work. The Property Owner agrees to complete the design and grading of the Alvo Road East Leg between North 1st Street and Tallgrass Parkway in the

City's fiscal year 2007-2008; and have the street open to traffic by August 31, 2009 with complete construction by December 31, 2009.

The Property Owner agrees to dedicate a minimum of 120 feet of right-of-way for the Alvo Road East Leg between North 1st Street and Tallgrass Parkway expanding to 130 feet of right-of-way for right turn lanes at intersections plus an additional six feet for the bike trail between North 1st Street and the north-south trail west of Stonebrook Parkway when requested by the City. If the City is required to acquire the necessary right-of-way from third parties, the Property Owner agrees to reimburse the City for the City's cost of acquisition pursuant to paragraph 9 below. The City agrees to reimburse the Property Owner for the Property Owner's actual cost of designing the Alvo Road East Leg between North 1st Street and Tallgrass Parkway as set forth above. Said reimbursement shall not be due and payable until the date Property Owner completes said design work. The City agrees that the uniform procedure for the selection of professional consultants set forth in Executive Order No. 80199 dated October 9, 2007, need not be utilized to select Property Owner's engineer to design Alvo Road between North 1st Street and Tallgrass Parkway. The Property Owner's engineer has performed preliminary design work and continuing utilization of the Property Owner's engineer will avoid delay, inefficiencies, lack of coordination, and duplication of effort. The City agrees to reimburse the Property Owner for the cost to construct Alvo Road from the west end of the Stonebrook Parkway Roundabout to the west end of the Tallgrass Parkway Roundabout. Said reimbursement shall be paid as follows: The City will pay Property Owner \$327,000 within 30 days of

completion of the work and receipt of billing therefor. A second installment of up to \$450,000 will be paid to Property Owner within 30 days after the County of Lancaster reimburses the City for the paving of Alvo Road from North 1st Street to North 14th Street. The County reimbursement is currently proposed to be paid by December 31, 2010. Since there are no directed impact fees involved, if the cost to pave Alvo Road from the west end of the Stonebrook Parkway Roundabout to the west end of the Tallgrass Parkway Roundabout is in excess of \$777,000, then any amount over \$777,000, the City agrees to use its best efforts to reimburse Property Owner for said cost within three years, but in the event funds are not available, no later than eleven years following completion of the paving of Alvo Road from the west end of the Stonebrook Parkway Roundabout to the west end of the Tallgrass Parkway Roundabout.

3. That subparagraph A.5. of Article III be amended to read as follows:

“5. Alvo Road West Leg (Alvo Road between N. W. 12th Street and Tallgrass Parkway). As part of the design of the Alvo Road East Leg between the east line of North 1st Street and the west end of the Tallgrass Parkway Roundabout, the Property Owner shall do a full design of the south two lanes and a preliminary design (second submittal level in accordance with Engineering Service Guiding Principles and Practices) of the north two lanes of that portion of Alvo Road between N. W. 12th Street and Tallgrass Parkway including the intersection of N. W. 12th Street and Alvo Road (“Alvo Road West Leg”) as a four-lane, urban arterial street. The City agrees to contribute 100% of the actual cost of design of the Alvo Road West Leg. Said contribution and reimbursement shall not be due and

payable until the date Property Owner completes said design work. Property Owner agrees to dedicate for the Alvo Road West Leg a minimum of 120 feet of right-of-way expanding to 130 feet of right-of-way at intersections where right-turn lanes are required or the amount of right-of-way shown on the Anticipated Right-of-Way for Street and Road Project Implementation Map in the Comprehensive Plan. Said dedication to be granted to the City by December 31, 2008. The City agrees to grade Alvo Road between Tallgrass Parkway and N. W. 12th and to construct that portion of Alvo Road between the west end of the Tallgrass Roundabout and N. W. 12th Street as a two-lane urban cross section arterial street including street lights, storm sewer, and concrete pavement and the intersection at N. W. 12th Street and Alvo Road. Subject to approval of funding by the City Council the City agrees to construct the road when requested by the Property Owner. In the event the Property Owner needs the road constructed prior to funding by the City Council, the Property Owner is granted the option of grading and constructing this portion of Alvo Road at Property Owner's own cost and expense through the City's executive order construction process, except that since there are not any directed impact fees involved, the City agrees to use its best efforts to reimburse Property Owner for said cost within three years, but in the event funds are not available, no later than eleven (11) years following construction of said road improvements. The construction work shall be bid and awarded only after competitive bidding in accordance with City procedures.

4. That subparagraph A.6. of Article III be amended to read as follows:

“6. N. W. 12th Street Leg (N.W. 12th Street between Alvo Road and U.S. Highway 34). The Property Owner agrees at its own cost and expense to preliminarily engineer (second submittal level in accordance with Engineering Services Guiding Principles and Practices) the vertical and horizontal alignment of N. W. 12th Street between Alvo Road and Fletcher Avenue south of U.S. Highway 34, including the overpass over Highway 34 (“N. W. 12th Street Leg”), to the satisfaction of the City as a future four-lane urban cross section arterial street with a ten- (10-) foot trail on the east side of N. W. 12th Street. The preliminary engineering for the bridge shall include a Type, Size and Locational Analysis acceptable to the Nebraska Department of Roads. The Property Owner agrees to dedicate one-half of the 120-foot right-of-way (expanding to 130 feet of right-of-way at intersections where right-turn lanes are required) which abuts Highland View Addition and all of the right-of-way where the alignment curves eastward on the Property Owners’ property plus an additional six feet for the trail. Said dedication is to be granted when and as requested by the City.” Said preliminary engineering shall be completed by January 1, 2010 or prior to any development or rezoning of the property north of Highway 34 between Fallbrook Boulevard and N. W. 12th Street, whichever occurs first. Notwithstanding the above, the preliminary engineering shall be completed within six (6) months following receipt of a request from the City that the preliminary engineering is needed to enable N.W. 12th Street to be constructed.

5. The parties agree that subparagraph A.8 of Article III be amended to read as follows:

"8. Right-of-Way and Easement Dedication. The Property Owner shall dedicate and convey all right-of-way and temporary and permanent nonexclusive drainage easements needed from the Property and Next Phase Property for the construction of the street improvements described in Section 1 through 7, inclusively, above (collectively "Transportation Improvements"), without additional cost or consideration; provided that the total right-of-way for the said Transportation Improvements shall not exceed the width as shown on the Governmental Permits, except as otherwise provided in this Agreement. The City and the Property Owner agree that any drainage easements shall be only for the smallest space reasonably feasible."

6. The parties agree that subparagraphs B.3 and B.4 of Article IV be amended to read as follows:

"3. Phase II Water Lines. Subject to the approval of future funding by the City Council through its normal budgetary procedures in fiscal year 2008-2009 to pay for the difference in the cost between the pipe size required for a larger feeder main network and the size of pipe required to serve this subdivision of Fallbrook per design standards, it is the intention of the parties that the 16-inch water line shown as Phase III on Attachment "G" shall be constructed by the Property Owner, at its cost, under the authority of an executive order issued by the Mayor of the City in the location shown on the Governmental Permits at the time of paving. If such funding is approved, Property Owner agrees that due to the amount of the City subsidy being provided, the design and installation of the Phase

III lines shall be bid and awarded only after competitive bidding in accordance with City procedures.

4. **Phase IV Water Lines.** Subject to the approval of future funding by the City Council through its normal budgetary procedures to pay for the difference in the cost between the pipe size required for a larger feeder main network and the size of pipe required to serve this subdivision of Fallbrook per design standards, it is the intention of the parties that the 16-inch water line shown as Phase IV on Attachment "G" shall be constructed by the Property Owner, at its cost, under the authority of an executive order issued by the Mayor of the City in the location shown on the Governmental Permits at the same time as Alvo Road between Stonebrook Parkway and Tallgrass Parkway is paved. If such funding is approved, Property Owner agrees that due to the amount of the City subsidy being provided, the design and installation of the Phase IV lines shall be bid and awarded only after competitive bidding in accordance with City procedures."

7. The parties agree that the first paragraph of subparagraph C, Trails, under Article V, Other Necessary Municipal Improvements, be amended to read as follows:

"C. **Trails.** The Governmental Permits show a ten (10) feet wide hiker/biker trail abutting certain public streets in the street right-of-way and said trail replaces the normal four (4) feet wide sidewalk. The Property Owner, except as provided in subparagraphs A.4. and A.5. under Article III agrees to construct said trail according to AASHTO Guidelines for Bicycle Facilities and pave said trail with five (5) inch thick concrete in lieu of the four (4) feet wide sidewalks. The parties acknowledge that except for the

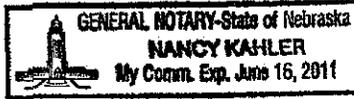
trails required under subparagraph A.4. and A.5. of Article III that Property Owner is constructing an additional six (6) feet of pavement for the hiker/biker trail above the four (4) feet required for sidewalks of its own accord and further acknowledge that this construction reflects an intention on the part of the Property Owner to make a charitable contribution to the City for the value of the six (6) feet of addition pavement.”

8. The parties agree that Article XIII, Future Cost Responsibilities, be amended by adding a second paragraph to read as follows:

Impact Fees. The current Fallbrook Planned Unit Development is approved for a total of 680,000 square feet of commercial space. Any commercial space developed over 620,000 square feet within the boundaries of the Fallbrook Planned Unit Development, including any future amendments or area added to the Planned Unit Development, shall be subject to Arterial Street Impact Fees. Property Owner agrees that in the next amendment to the Fallbrook Planned Unit Development after the approval of this Second Amendment to the Conditional Annexation and Zoning Agreement for Fallbrook, the Property Owner agrees to identify those lot or lots to be developed with commercial space beyond the 620,000 square feet and which will be subject to Arterial Street Impact Fees. However, the Property Owner shall also have the option to redesignate which lot or lots are subject to the Arterial Street Impact Fees in the future amendments to the Fallbrook Planned Unit Development as lots are sold or subdivided. The lot or lots designated to be subject to Arterial Street Impact Fees shall be owned by Property Owner and may not include unbuilt space owned by third parties. In the event that future

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 31 day of January, 2008, by Robert Nordquist, President of NEBCO, Inc., a Nebraska corporation.



Nancy Kahler
Notary Public

08-11



"Pat Eiche"
<Pat-Eiche-05@neb.rr.com>
03/02/2008 10:03 AM

To <council@lincoln.ne.gov>
cc
bcc

Subject Glenn's Hardware Store

As I watched the Council Meeting Last Monday and listened to Steve Glenn all I could think of was "Why did you open a hardware store at the location when you knew there was not adequate parking without infringing on his neighbor to the south "Synder Physical Therapy?" And then to think he wants to take space for a tent. I drive past that location several times a week and to have all that equipment stored behind that fence it is very unsightly. He should have considered all of that when he moved there, but it is obvious he really doesn't care if he infringes on his neighbors so long as customers can get to his store. I was appalled by his attitude and lack of consideration of his neighbors. Please consider all of this and vote "NO." When I heard he was moving from 70th and "A" to that location, with such little parking space, I couldn't believe it.

Sincerely, Pat Eiche
1591 West Manor Drive
Lincoln, NE 68506
402-488-9414