



A86757

13

12R-54

Introduce: 3-26-12

RESOLUTION NO. A- 86757

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

2 That the agreement titled Amendment No. 3 to The Woodlands at Yankee Hill

3 Conditional Annexation and Zoning Agreement, which is attached hereto, marked as Attachment

4 "A" and made a part hereof by reference, between 3AP-SE, LLC, Midwest Net Lease Investors-SE,

5 LLC, R.C. Krueger Development Company, Double D Land Company, LLC and Calruby, LLC,

6 collectively as Owner, and the City of Lincoln, Nebraska, to defer the completion of certain Yankee

7 Hill Road improvements from December 31, 2012 to December 31, 2014 relating to the annexation

8 of property generally located southeast of the intersection of South 70th Street and Yankee Hill

9 Road, is approved and the Mayor is authorized to execute the Amendment No. 3 to The Woodlands

10 at Yankee Hill Conditional Annexation and Zoning Agreement on behalf of the City.

11 4/11 BE IT FURTHER RESOLVED that the City Clerk is directed to return one fully executed

12 copy of this Agreement to Rick Peo, Chief Assistant City Attorney, for distribution to the Owner.

13 4/11 BE IT FURTHER RESOLVED that the City Clerk is directed to forward a copy of this

14 Agreement to Michaela Dugan, Impact Fee Administrator.

Introduced by:

D. Donald R. Schumels

AYES: Camp, Carroll, Cook,
 Emery, Hornung, Schimek; NAYS:
 None; ABSENT: Eskridge

Approved as to Form and Legality:

Rick Peo
 City Attorney

Approved this 11th day of April, 2012:

[Signature]
 Mayor

ADOPTED

APR 09 2012

BY CITY COUNCIL

CITY OF LINCOLN

Request for: Ordinance
 Resolution

(Do Not Write in this Space)

Bill Control No. 12R-54 Date: 3/16

Docketing Date 3/26 P.H. 4-2-12

(To Be Entered by City Clerk)

| | | |
|---|---|-------------------------|
| DATE March 15, 2012 | REQUEST MADE BY Rick Peo | DEPARTMENT Law Dept. |
| DESIRED DOCKET DATE: March 26, 2012 | IF EMERGENCY, GIVE REASON (See Art. 6, Sec. 2 of Charter) | |
| Emergency Measure Required: <input type="checkbox"/> Yes <input type="checkbox"/> No | | |

REASONS OR JUSTIFICATION FOR PROPOSED LEGISLATION

Approving Amendment No. 3 to the Woodlands at Yankee Hill Conditional Annexation and Zoning Agreement between Lewis-Starostka, Inc., 3AP-SE, L.L.C., Midwest Net Lease Investors-SE, L.L.C., R.C. Krueger Development Company, Double D Land Company, LLC, Calruby, L.L.C., and the City of Lincoln, Nebraska to defer the timing of construction of the Yankee Hill Road Arterial Street Impact Fee Facility Improvements on property generally located at South 84th Street and Yankee Hill Road.

FILED
 CITY CLERK'S OFFICE
 2012 MAR 15 PM 2 49
 CITY OF LINCOLN
 NEBRASKA

| | | |
|--|--|--------------------------|
| REQUESTOR <input type="checkbox"/> DOES <input type="checkbox"/> DOES NOT WISH TO REVIEW AND APPROVE THIS ORDINANCE PRIOR TO ITS INTRODUCTION |  DIRECTOR'S SIGNATURE | <u>3-15-2012</u> 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

**AMENDMENT NO. 3 TO
THE WOODLANDS AT YANKEE HILL
CONDITIONAL ANNEXATION AND ZONING AGREEMENT**

This Amendment No. 3 to The Woodlands at Yankee Hill Conditional Annexation and Zoning Agreement ("Agreement") is entered into this 11th day of April, 2012, by and between **Lewis-Starostka, Inc.**, a Nebraska corporation; **3AP-SE, L.L.C.**, a Nebraska limited liability company; **Midwest Net Lease Investors-SE, L.L.C.**, a Nebraska limited liability company; **R.C. Krueger Development Company**, a Nebraska corporation; **Double D Land Company, LLC**, a Nebraska limited liability company; and **Calruby, L.L.C.**, a Nebraska limited liability company, (collectively, "Owner") and the **City of Lincoln, Nebraska**, a municipal corporation ("City").

RECITALS

A. The parties, collectively known as Owner or their predecessors in interest, entered into the Woodlands at Yankee Hill Conditional Annexation and Zoning Agreement ("Annexation Agreement") dated August 11, 2007.

B. Under the Annexation Agreement the Owner agreed to construct the Yankee Hill Road Arterial Street Impact Fee Facility Improvements subject to reimbursement from the City on or before December 31, 2009.

C. Subsequently the parties collectively known as Owner or their predecessors in interest, entered into Amendment No. 1 to the Annexation Agreement dated May 6, 2009.

D. Under Amendment No. 1 to the Annexation Agreement, the City and Owner agreed to extend construction of the Yankee Hill Road Arterial Street Impact Fee Facility Improvements subject to reimbursement from the City until December 31, 2012.

NOW, THEREFORE, in consideration of the above Recitals and mutual covenants contained herein, the Owner and City agree as follows:

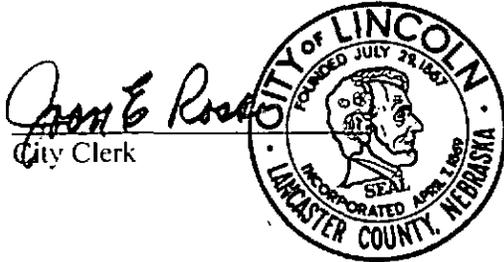
1. That subparagraph A, Arterial Street Construction, of paragraph 4. Yankee Hill Road (70th - 84th) Improvements, be amended to change the completion date for construction of said Improvements from December 31, 2012 to December 31, 2014.

2. That this Amendment No. 3 be filed of record against the Phase I Property at Owner's cost and expense.

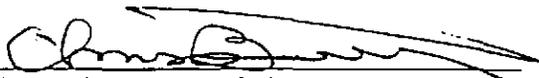
3. That all other terms and conditions of The Woodlands at Yankee Hill Conditional Annexation and Zoning Agreement (as amended by Amendment No. 1 and Amendment No. 2) shall remain in full force and effect.

ATTEST:

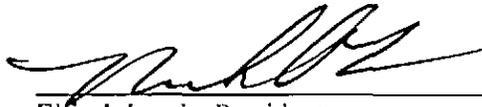
THE CITY OF LINCOLN, NEBRASKA
a municipal corporation



By:


Chris Beutler, Mayor of Lincoln

LEWIS-STAROSTKA, INC.
a Nebraska corporation


Marie J. Lewis, President
MARIE A. Lewis U.P.

3AP-SE, L.L.C.,
a Nebraska limited liability company

By:


Richard C. Krueger, Manager

MIDWEST NET LEASE INVESTORS-SE,
a Nebraska limited liability company

By: Richard C. Krueger *MANAGER*
Managing Member

R.C. KRUEGER DEVELOPMENT COMPANY
a Nebraska corporation

By: Richard C. Krueger
President

DOUBLE D LAND COMPANY, L.L.C.
a Nebraska limited liability company

By: Richard C. Krueger
Richard C. Krueger, Member

By: Michael D. Weatherl
Michael D. Weatherl, Member

CALRUBY, LLC,
a Nebraska limited liability company

By: Richard C. Krueger
Managing Member

