

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF LANCASTER COUNTY, NEBRASKA

IN THE MATTER OF VACATING A PORTION)
OF A PUBLIC ROAD RIGHT-OF-WAY, MORE)
PARTICULARLY DESCRIBED IN) RESOLUTION NO. R-19-0008
EXHIBIT “A”, AND LOCATED IN)
LANCASTER COUNTY, NEBRASKA)

WHEREAS, the Board of County Commissioners of Lancaster County, Nebraska, (“the Board”), pursuant to Neb. Rev. Stat. § 39-1722, received a report from the Lancaster County Engineer and the Lincoln-Lancaster County Planning Department regarding the vacation of the west 10 feet of the unnamed right-of-way adjacent to Lot 6 IT, Walton, Nebraska, legally described as:

A portion of right-of-way located adjacent to Lots 7-9, Block 3, Gieren’s 1st Addition, Walton, Nebraska and Lots 6 & 17 in the south half of fractional Section 30, Township 10 North, Range 8 East of the 6th PM, Lancaster County, Nebraska (“the Right of Way”) as depicted in Exhibit “A” to this Resolution, which is attached hereto and is hereby incorporated by this reference;

WHEREAS, pursuant to Neb. Rev. Stat. § 23-108, the Board may acquire title to lands and may perform such duties concerning roads as may be prescribed by law;

WHEREAS, to maintain the 25-foot width of right-of-way, Grace Evangelical Lutheran Church (“Applicant”) shall convey in fee simple absolute to Lancaster County, Nebraska, (“the County”) the west 10 feet of Lots 7-9, Walton, Lancaster County, Nebraska, legally described as:

A portion of Lots 7-9, Block 3, Gieren’s 1st Addition, Walton, Nebraska, Section 30, Township 10 North, Range 8 East of the 6th PM, Lancaster County, Nebraska (“the Property”),

as depicted in Exhibit “A” to this Resolution, which is attached hereto and is hereby incorporated by this reference, and as provided in Section I.A;

WHEREAS, in the event the Applicant fails to convey in fee simple absolute to the County, this Resolution shall become a nullity and entirely void, and no legal relation whatever shall arise between the Applicant and the County, or between the County and any person or property concerning the subject matter of this Resolution;

WHEREAS, upon the exact fulfillment of the condition precedent in Section I.A., the Right of Way shall be vacated without qualification and shall be transferred to private ownership in the Applicant as provided in Section I.C;

WHEREAS, pursuant to Neb. Rev. Stat. §§ 23-108 and 39-1722, the Board could not vacate the road without prior approval of the City of Lincoln (the “City”) because the road to be vacated, although outside the corporate limits of the City, was within the three-mile zoning jurisdiction of the City;

WHEREAS, on December 17, 2018, the City Council of the City voted to approve the vacation of the west 10 feet of the unnamed right-of-way adjacent to Lot 6 IT by resolution (Exhibit “B”); and

WHEREAS, pursuant to Neb. Rev. Stat. § 39-1725, the Board conducted a public hearing on February 5, 2019, regarding said vacation and conveyance;

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of Lancaster County, Nebraska:

- I. That the provisions of this Resolution are subject to the following express condition precedent:

- A. On or before the thirtieth (30th) day following approval of this Resolution by the Lancaster County Board of County Commissioners, the Applicant must deliver to the County a warranty deed, in a form reasonably acceptable to the Lancaster County Attorney's Office, conveying the Property from the Applicant to the County in fee simple absolute ("the Warranty Deed").
- II. In the event of the nonoccurrence of the foregoing express condition precedent, which must be exactly fulfilled, then neither the County nor the Applicant, nor any of their officers, officials, employees, agents, agencies, departments, or offices, shall have any obligation to perform any of the duties, nor shall they have any power to enforce any of the provisions, of this Resolution. The foregoing express condition precedent may not be excused except by a separate written Resolution adopted by a lawful action of the Lancaster County Board of County Commissioners. If the foregoing condition fails, this Resolution shall become a nullity and entirely void, and no legal relation whatever shall arise between the Applicant and the County, or between the County and any person or property concerning the subject matter of this Resolution.
- III. In the event that the foregoing condition precedent is exactly fulfilled, then:
- A. the Right of Way, as depicted in Exhibit "A", shall be vacated without qualification, shall no longer retain its character as a public road, and shall be transferred to private ownership in the Applicant;
 - B. the County Clerk shall, within thirty (30) days after the Applicant has delivered the Warranty Deed to the County:
 - 1. record the Warranty Deed with the Lancaster County Register of Deeds ("Register of Deeds");

2. deliver to the Applicant a quitclaim deed conveying the County's interest, if any, in the Right of Way from the County to the Applicant; and
3. record a certified copy of this Resolution with the Register of Deeds to be indexed against all affected lots; and

IV. In the event the foregoing condition precedent is exactly fulfilled, and the Board vacates the Right of Way without qualification and determines it shall no longer retain its character as a public road, the vacated Right of Way shall be privately owned by the Applicant.

DATED this ____ day of _____, 20____, in the County-City Building, Lincoln, Lancaster County, Nebraska.

BY THE BOARD OF COUNTY
COMMISSIONERS OF
LANCASTER COUNTY, NEBRASKA

APPROVED AS TO FORM
this ____ day of
_____, 20____.

Deputy County Attorney

for PAT CONDON
Lancaster County Attorney

