



MISC 2009097010



SEP 03 2009 10:56 P 4

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Received - DIANE L. BATTIATO
Register of Deeds, Douglas County, NE
9/3/2009 10:56:27.34



2009097010

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PAGE DOWN FOR BALANCE OF INSTRUMENT

Return To: Jed Grace
14921 Industrial Road
Omaha NE 68144

Check Number
31713

©

**INDEMNIFICATION AGREEMENT
100-YR. FLOOD DRAINAGE PIPE
ALTECH BUSINESS PARK**

WHEREAS, Ted Grace Development, LLC (hereinafter referred to as Property Owner) is the owner of Property described in Exhibit "A", and,

WHEREAS, Property Owner wishes to fill portions of the Property to the future draft flood elevation, which is situated within the 100-yr flood plain as determined by the Papio Missouri River Natural Resources District and the City of Omaha, Douglas County, Nebraska for the purposes of construction of three office buildings, and

WHEREAS, a drainage swale now exists along the lot line between Lot 14 and Lot 2, Altech Business Park Replat Nine for the purpose of draining 147th Street in the event of a 100-yr flood, and

WHEREAS, Property Owner proposes to engineer, by E&A Consulting Group, (hereinafter referred to as Engineer), an underground structure of inlets and pipes (the "Structure") to relieve 147th Street of drainage in the event of a 100-yr flood, and

WHEREAS, the City of Omaha (hereinafter referred to as "the City") requires the Property Owner to construct and maintain the Structure on the property, and,

WHEREAS, the City of Omaha will review and approve plans for the Structure in its normal course of public works plan review and approval but requires an indemnification by Property Owner in the event of claims arising out of the construction and maintenance of the Structure.

NOW, THEREFORE, in consideration of the foregoing premises, the Property Owner agrees as follows:

1. The Property Owner indemnifies and holds harmless the City and its authorized agents and employees harmless from any claims that may arise out of the construction, presence, existence or maintenance of the Structure. In the event a claim is asserted against the City, its authorized agents or employees, the City shall promptly notify the Property Owner and the Property Owner shall defend at its own expense any suit based on such claim unless due solely to the negligent or intentional act of the City in which event the City shall be required to defend any such suit at its own expense. Notwithstanding the

foregoing, if any claims are made against both the City and the Property Owner, each will be required to defend any such suit or claim against it at its own expense. Each shall be responsible for payment of any recovery to the extent determined in such suit.

2. This Agreement shall not in any way diminish, limit, or restrict the right of the City to enforce any of its ordinances as authorized by law.
3. This Agreement shall be recorded with the Register of Deeds of Douglas County, Nebraska and shall constitute a covenant running with the land and shall be binding on the Property Owner and any successor in interest.

IN WITNESS WHEREOF, the Property Owner has executed this agreement this day of June, 2009.

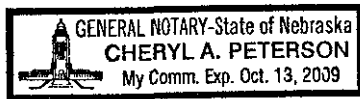
TED GRACE DEVELOPMENT, LLC

By: *Ted V. Grace*
Ted V. Grace, Its Manager

ACKNOWLEDGMENT

STATE OF NEBRASKA)
)ss
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me, a Notary Public, on June 15, 2009, by Ted V. Grace, Manager of Ted Grace Development, LLC.



Cheryl A. Peterson
Notary Public

(seal)

Exhibit "A"

Lot 13, Lot 14 and Lot 2, Replat 9, Altech Business Park, a Subdivision as platted and recorded in Douglas County, Nebraska.

*Now known AS Lot 1 Replat 10, Altech
Business Park.*