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FILED SARPY COUNTY NEBRASKA INSTRUMENT NUMBER

2016-13968

06/15/2016 2:51:00 PM

REGISTER OF DEEDS

# THIS PAGE ADDED FOR RECORDING INFORMATION.

# DOCUMENT STARTS ON NEXT PAGE.

# LLOYD J. DOWDING

SARPY COUNTY REGISTER OF DEEDS Steven J. Stastny, Deputy 1210 GOLDEN GATE DRIVE, # 1230 PAPILLION, NE 68046-2842 402-593-5773

Rick Anderson 2120 S.72nd St. # 1200 Omaha Nebraska 68124

## GARY AND DEBBIE PINK NO. 3 SEWER CONNECTION AGREEMENT

(Sanitary Sewer System)

THIS AGREEMENT ("Agreement"), made and entered into in La Vista, Nebraska, on
nis <u>/</u> Sday of <u>March</u> , 2016, by and between the City of La Vista, a
Municipal corporation in the State of Nebraska (hereinafter referred to as "City"), and Gary L.
Pink and Deborah A. Pink, husband and wife, and Pink Investments, LLC, a Nebraska limited
ability company authorized to do business in Nebraska its successors and assigns
hereinafter collectively and individually referred to as "Owner") (City and Owner are sometimes
ereinafter referred to individually as a "Party" and collectively as the "Parties");
WITNESSETH:

WHEREAS, the Owner has constructed or is contemplating constructing sanitary sewers within Lots 1-4, Gary and Debbie Pink No. 3, as depicted on Exhibit "B" hereto;

WHEREAS, Owner desires to provide for the flow, transportation and handling of sewage collected in or flowing into the sanitary sewer system constructed or to be constructed by it, and has requested the City to permit flowage thereof into the City's sewerage system, and to provide for the processing of such sewage, from the properties identified in Exhibit "A".

NOW, THEREFORE, in consideration of the mutual agreements and covenants of the Parties hereto, it is agreed by and between the Parties as follows:

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For the purposes of this Agreement, the term "sewer system of the Owner" shall include, whether now in existence or hereafter constructed, all sanitary sewers, sanitary sewer systems and appurtenances thereto which are:

A. Shown on Exhibit "B" attached hereto.

and

For the purposes of this Agreement, the following, whether now in existence or hereafter constructed, shall be deemed a part of the "sewer system of the City":

- A. Any sanitary sewer or system of sanitary sewers owned by the City;
- B. Any sanitary sewer or system of sanitary sewers not a part of the sewer system of the Owner and not owned by City, but through which City has an easement, license or other right or other license to transport sanitary sewage;

Subject to the conditions and provisions hereinafter specified, the City hereby grants permission to the Owner to connect the sanitary sewer system of the Owner to the sanitary sewer system of the City in such manner and at such place or places as designated on plans submitted by the Owner and approved by the City. Owner shall have the right to connect to the existing public sanitary sewer located in Lot 1 and/or Lot 2, Gary and Debbie Pink No. 2, subject to the conditions of a Permanent Sanitary Sewer Easement recorded as Instrument Number 2005-29577 of the Sarpy County records of the Sarpy County Register of Deeds.

Ш

Owner expressly promises, warrants, covenants and agrees:

- A. That the sewer system of the Owner will be constructed and, as required, reconstructed in strict accordance with the plans and specifications and location approved in writing by the City and in strict accordance with the minimum standards and requirements of construction adopted by City.
- B. That the sewer system of the Owner shall be designed and constructed, and as required reconstructed, at the expense of Owner and the property therein, and at no expense to the City.
- C. The sewer system of the Owner shall comply with all applicable Federal and State laws and regulations in general and with all applicable laws and regulations of the City, with reference to use, operation and maintenance of the system.
- D. The sewer system of the Owner shall at all times be properly maintained and kept in good operating order and repair at no cost to City. The Owner's obligation in this connection shall survive the term of this Agreement to the extent provided in Paragraph IV, infra.
- E. In the event that City's engineers find that there is anything in the construction, maintenance or operation of the sewer system of the Owner which will, in the reasonable opinion of City's engineers, be detrimental to the proper operation of the sewer system of City, or any part thereof, the Owner will, upon written notice thereof, promptly correct said defect.
- F. That in the event the Owner for any reason fails in any respect as to its covenants contained in this Paragraph III, then City may, at its option, perform such maintenance and repair or correct such defects and the Owner, upon written demand by City, shall promptly reimburse City for the reasonable cost of all work, services, materials and other expenses reasonably incurred or expended by City in connection therewith.
- G. At all times all sewage flowing into, passing through or from the sewer system of the Owner shall be in conformity with the ordinances, regulations and conditions applicable to sewage and sewers within the City, as they may change from time to time. In no event shall Owner, without prior written consent of City, permit or suffer any type of sewage to flow into, pass through or from the sewer system of the Owner, in violation of such ordinances, regulations and conditions.

The Owner shall allow any duly authorized representative of City to enter upon such property at reasonable times for the purpose of inspection, observation, measurements, sampling and testing of sewage.

- H. The Owner shall not cause, suffer or permit to be connected to the sewer system of the Owner any sewer lines or sewers serving, directly or indirectly, any area outside its boundaries.
- I. That the Owner will indemnify and save harmless the City, its officers, employees and agents, from all construction costs, loss, damage, claims and liability of whatsoever kind or character due to or arising out of any acts, conduct, omissions or negligence of the Owner, its officers, agents, employees, contractors, subcontractors and anyone acting under the direction of the Owner, in doing any work or construction of the sewer system of the Owner, or by or in consequence of any performance of this contract.
- J. That Owner shall promptly file all reports, pay all connection fees and perform all other obligations of the Owner provided for in this Agreement or otherwise required by state statutes or the City's ordinances as amended and supplemented from time to time.
- K. That, subject to the provisions of Paragraph V, infra, the Owner is and shall be bound to and by any provisions of any ordinance, rule or regulation relating to sewer use fees provided for under said Paragraph V, infra, hereinafter made and adopted by City or Sarpy County.
- L. Any water distribution system serving the Owner shall be constructed and operated by the Metropolitan Utilities District, however, Owner may utilize wells for irrigation purposes.

IV

The herein granted easements and licenses to City and the herein contained covenants of perpetual maintenance and repair by the Owner shall be perpetual, notwithstanding the fact that this Agreement is for a term of years.

V

Owner agrees that no connection shall be made to the sewer system of the City until a permit therefore shall have been obtained from City and the appropriate connection fee paid to City. Owner shall:

- 1. pay to City the applicable sewer connection fees as prescribed by the ordinances of the City in effect at the time of the connection;
- 2. obtain from the City a permit to so connect, as may be required by the ordinances of the City in effect at the time of the connection.
- 3. make all connections to the sewer system of the City in accordance with applicable ordinances, regulations and specifications.

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4. upon written notice by City, immediately disconnect any connection to the sewer system of the City which has been made by the Owner without the required permit from the City or which is in contravention of the ordinances, regulations or specifications of the City pertaining to sewer connections.

Notwithstanding any provision in this Agreement to the contrary, no connection fees shall be due in connection with the connection of the sewer system of Owner, as shown on Exhibit B, to the sewer system of the City. The connection fees shall be paid by the individual lot owner (Lots 1-4) in the Gary and Debbie Pink No. 3 Subdivision upon obtaining a building permit for improvement on such individual lots.

VΙ

The Owner shall facilitate collection of sewer service and sewer use fees as may be prescribed by City ordinance. Except as may be otherwise provided by City, such fees shall be based upon water consumption with chargeable water flow computed in the manner employed by Metropolitan Utilities District, which shall collect sewer service or use fees in conjunction with its collection of charges for water use.

VII

In the event of the Owner's breach of any of the terms and conditions hereof or any warranty or covenant herein made by the Owner, then:

- A. In the case of a breach of any term or condition, warranty or covenant, pertaining to the actual construction, reconstruction, repair, maintenance or operation of the sewer system of the Owner, Owner shall, within five (5) days from receipt of City's written notice of such breach, commence to take corrective measures or such measures as may be reasonably requested by the City, and the Owner shall pursue with due diligence such corrective measures to completion as soon thereafter as possible to the reasonable satisfaction of City.
- B. In the case of any other type of breach by the Owner, the Owner shall cure said breach to the reasonable satisfaction of City within thirty (30) days from receipt of City's written notice of such breach; provided however, that if the nature of Owner's breach is such that more than thirty (30) days are reasonably required for its cure, then the Owner shall not be deemed to be in breach if the Owner commenced such cure within thirty (30) day period and thereafter diligently prosecutes such cure to completion.
- C. In the event the Owner shall fail to cure any breach within the applicable time and manner afore-prescribed, City may:
  - 1. Upon giving the Owner sixty (60) days written notice of City's intent to do so, City may require the Owner to disconnect the sewer system of the Owner from the sewer system of the City, or the City may itself cause such disconnection to be made, if at the expiration of said sixty (60) day

period the breach is not cured to the reasonable satisfaction of City. Any such disconnection shall be made at the expense of the Owner.

- 2. In the event the breach pertains to the actual construction, reconstruction, repair, maintenance or operation of the sewer system of the Owner, City shall have the absolute right, at its option, to itself perform the work reasonably necessary for the requested corrective measures, or to reasonably complete the corrective measures commenced by the Owner, as the case may be, in either of which events the Owner agrees to immediately reimburse City for any and all reasonable expenses incurred by City in connection therewith.
- 3. In addition to whatever other remedies are granted to City herein, City may avail itself of all other rights and remedies that City may have pursuant to any statute, law, or rule of law or equity, including, but not limited to the right to specifically enforce full compliance by the Owner of the terms and conditions of this Agreement, including all warranties and covenants and agreements herein made by the Owner, by both mandatory and prohibitory injunction.

#### VIII

The term of this Agreement shall be twenty (20) years from and after date hereof; provided, however, that unless Owner shall advise the City in writing of its desire not to do so, this Agreement shall be automatically renewed on the same terms and conditions as herein set forth for additional successive terms of twenty (20) years each. Said written advice shall be given at least six (6) months prior to the end of the original term or additional term which said Party giving such notice desires to be the final term of this Agreement. At the end of the final term of this agreement, whether same be at the end of the original term or at the end of a renewal term, Owner shall, at its own expense disconnect, reconstruct, remove or modify such sewer mains and sewer main connections as City shall deem necessary to prohibit the flow of Owner's sewage into the sewer system of City and to assure the City's continued use of the perpetual easements and licenses granted to it in Paragraph IV, supra.

IX

The failure of either Party to exercise its rights upon any default by the other shall not constitute a waiver of such rights as to any subsequent default.

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A listing of the Schedule of Exhibits hereto is as follows:

Exhibit "A": Lots 1-4, Gary and Debbie Pink No. 3 (Properties to be

Connected)

Exhibit "B": Preliminary Sanitary Sewer Plan

#### ΧI

If any provisions of this Agreement are held invalid or unconstitutional, such invalidity or unconstitutionality shall not affect other provisions of this Agreement which can be given effect without the invalid or unconstitutional provision and to this end, each paragraph, sentence and clause of this Agreement shall be deemed severable; provided, however, that, if in the sole opinion of City, the removal or inoperative effect of any such provision so declared invalid or unconstitutional shall materially affect City's rights hereunder, then City may terminate this Agreement, effective as of the date of City's written notice; whereupon the Owner shall:

- A. Pay all sums due under the terms of this Agreement to City at the time of termination, including all connection fees and sewer use fees accrued as of said date.
- B. At Owner's own expense, disconnect, reconstruct, remove or modify such sewer mains and sewer main connections as City shall deem necessary to prohibit the flow of the Owner's sewage into the sewer system of the City.

#### XII

Both Parties acknowledge and agree that this written Agreement, including all Exhibits hereto, constitutes the entire agreement of the Parties and that there are no warranties, representations, terms or conditions other than those set forth herein.

#### XIII

The provisions of this Agreement shall be binding upon the Parties hereto and their successors and assigns. Owner shall refer to the successors and assigns of original Owner upon transfers of the respective individual lots.

IN WITNESS WHEREOF, we, the Parties hereto, by our respective duly authorized agents, hereto affix our signatures at La Vista, Nebraska, the day and year first above written.

ATTEST:

CITY OF LA VISTA, a municipal corporation in the State of Nebraska

GARY PINK DEB

DEBORAHA PINK

Pink Investments, L.L.C., A Nebraska limited liability company

Ву:

GARY L. PINK, MANAGER

Date: 6-7-16

ACKNOWLEDGMENT OF N	IOTARY		
STATE OF NEBRASKA		)	
COUNTY OF SARPY		) ss. )	
Notary Public, duly commiss appeared	sioned and qualif	ied in and for sai _ personally knov ka limited liability ng Agreement, ar	vn by me to be an Authorized company, and the identical acknowledged the execution
WITNESS my hand a	and Notarial Sea	I the day and yea	ar last above written.
		Notary Public	
ACKNOWLEDGEMENT OF	NOTARY		
STATE OF NEBRASKA		)	
COUNTY OF DOUGLAS		) ss. )	
			ne this <u>7<sup>46</sup></u> day of nvestments, LLC a Nebraska
GENERAL NOTARY - State of COLLEEN A. MOS My Comm. Exp. Sept. (	22, 2016	<u> </u>	a Museman

ACKNOWLEDGEMENT OF NOTARY	
STATE OF NEBRASKA	)
COUNTY OF DOUGLAS	) ss. )
The foregoing instrument was ackr	nowledged before me this day of
, 2016, by Gary L. Pink	
	2
GENERAL NOTARY - State of Nebraska COLLEEN A. MOSEMAN	Colleen a Moseman
My Comm. Exp. Sept. 22, 2016	Notary Public
:	
ACKNOWLEDGEMENT OF NOTARY	
STATE OF NEBRASKA	)
COUNTY OF DOUGLAS	) ss. )
The foregoing instrument was ackr	nowledged before me this $7^{49}$ day of
, 2016, by Deborah A. I	
A GENERAL NOTARY - State of Nebraska COLLEEN A. MOSEMAN My Comp. Evo. Scat. 20, 204.2	Collier a Moseman
My Comm. Exp. Sept. 22, 2016	Notary Public
)	

#### GARY & DEBBIE PINK NO. 3

LOTS 1, 2, 3 AND 4

BEING A REPLATTING OF LOT 2, GARY & DEBBIE PINK NO. 2, A SUBDIVISION IN SARPY COUNTY, NEBRASKA, AND A PLATTING OF TAX LOT 14 IN THE NORTH 1/2 OF THE NE 1/4 OF SECTION 19, T14N, R12E OF THE 6TH P.M., SAID SARPY COUNTY AND A PLATTING OF TAX LOT 8 IN THE SOUTH 1/2 OF THE SE 1/4 OF SECTION 18, T14N, R12E OF THE 6TH P.M., SAID SARPY COUNTY

1. DIMENSIONS AND ANGLES IN PARENTHESIS PERTAIN TO EASEMENTS. 2. ANGLES SHOWN ADJACENT TO CURVES ARE MEASURED TO THE CHORD LINE.

APPROVAL BY THE LA VISTA THENCE NB7-17'05'E (ASSUMED BEARING) 634.93 FEET ON THE NORTH LINE OF SAID LOT 2 TO THE SOUTHWEST CORNER OF SAID TAX LOT 14: PAWELA A. BUETHE, CITY CLERK THENCE N30"02"16"E 155.72 FEET ON THE NORTHWEST LINE OF SAID TAX LOT 8; STADON WANTA STIDNEND ALTHUR THENCE N59'29'30"E 88 38 FEET ON THE NORTHWEST LINE OF SAID TAX LOT 8; THENCE SS957"44"E 459.46 FEET ON THE NORTHEAST LINE OF SAID TAX LDT 8 TO THE NORTHERLY RIGHT--OF-WAY LINE OF THE BURLINGTON NORTHERN RAILROAD COMPANY; THENCE SOUTHWESTERLY ON THE NORTHERLY RICHT-OF-WAY LINE OF THE BURLINGTON NORTHERN RALROAD COMPANY ON A 5827.09 FOOT RADIUS CURVE TO THE RICHT, CHORD BEARING SS9'21'05'W, CHORD DISTANCE 421.63 FEET AN ARC DISTANCE OF 421.73 FEET. ETTETE 70.00 FOOT WOE DRAINIGE EASEMENT TO BE GRANTED BY SEPARATE DOCUMENT. COMMON DRIVE EASEMENT TO BE GRANTED BY SEPARATE THENCE NOZ'42'55'W 223.08 FEET ON THE WEST LINE OF SAID LOT 2 TO THE POINT OF REGINNING 10 FOOT MIDE DRAINAGE EASEMENT TO BE GRANTED BY N50729"30"€ 88.38 CONTAINING 19.19 ACRES MORE OR LESS LOT 3 DECEMBER 28, 2015 DEDICATION NOW ALL WIN BY INICS PRESSONS THAT WE, GARY L. PINK AND DEDOMAN A PRICK HISSAND AND WEE AND PINK INVESTIGATING, LLC. A MERINSON LIMITED UNDELT COMPANY, HISSAND AND WEE AND PINK INVESTIGATING, LLC. A MERINSON LIMITED UNDELT COMPANY, HISSAND AND WEEL AND ADDRESS AND AN WEST CILES (a.787 EASEMENT DETAIL "B" SCALE: 1" = 100' (10.22) LOT 4 187,311 SQUARE FEET OR 4.30 ACRES EASEMENT DETAIL "A" SCALE: 1" = 100" PINK INVESTMENTS, LLC, A NEBRASKA LIMITED LIABILITY COMPANY GARY L. PINK, PRESIDENT ACKNOWLEDGEMENT OF NOTARY GILES ROAD N87 17'05'E 634.93' 219.72 LOT 2 77.568 SQUARE FEET 20.00) OR 1.78 ACRES (RADIUS-25.00) ACKNOWLEDGEMENT OF NOTARY STATE OF NEBASKA ) LOT 1 LOT 4
PAPAD VALLEY BUSINESS PAPA SARPY COUNTY TREASURER'S CERTIFICATE LOT 3 LOT 5 PARK
PAPIO VALLEY BUSINESS PARK TREASURER'S SEAL



Omaha, NE 68154 p.402.330.8860 f.402.330.5866 td2co.com

 $^{\circ}$ . 0 4 PINK AND шε 2, <u>B</u>  $\overline{\mathbf{a}}$  $\overline{\Box}$ 5



Job No.: A1042-120A Drawn By: RJR Reviewed By: DHN Date: DECEMBER 28, 2015 Book: PINK GRADING INC Pages: 1 THRU 7

MOTARY PURITO

CITY OF LA VISTA, NEBRASKA FINAL PLAT

SHEET 1 OF 1 EXHIBIT "A"



### GARY & DEBBIE PINK NO. 3

BEING A REPLATING OF LOT 2, GARY AND DEBRIE POIK NO. 2 TOGETHER WITH A PLATING OF TAX LOT 14 LYING IN THE NORTH 1/2 OF THE NB 1/4 OF SECTION 19, TI4M, REZE AND TAX LOT 8 LYING IN THE SOUTH 1/2 OF THE SE 1/4 OF SECTION 18, TI4M, REZE OF THE OTH P.M., SARPY COUNTY, NEBRASKA.

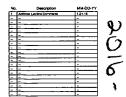




thompson, dreessen & dorner, inc 10836 Old Mill Rd Omaha, NE 68154 p.402.330.8860 www.td2co.com

Gary and Debbie Pink No. 3

Pink Investments, LLC



(v 0

30mm Tabu Sanitary Sewer Plan

Exhibit "B

