

FILED SARPY CO. NE.

INSTRUMENT NUMBER

2004-00891

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Lloyd J. Dowding

REGISTER OF DEEDS

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LLOYD J. DOWDING

SARPY COUNTY REGISTER OF DEEDS

1210 GOLDEN GATE DRIVE, STE 1109

PAPILLION, NE 68046-2895

402-593-5773

RTR 1 of 15

THOMPSON, DREESSEN & DORNER, INC.
Consulting Engineers & Land Surveyors
10836 OLD MILL ROAD OMAHA, NEBRASKA 68154

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SEWER AND WATER CONNECTION AGREEMENT

THIS AGREEMENT made this 2nd day of December, 2003 by and between SANITARY AND IMPROVEMENT DISTRICT NO. 246 (hereinafter referred to as "District") and TITAN SPRINGS, L.L.C. (hereinafter referred to as "Developer"); and the CITY OF PAPILLION, a municipal corporation (hereinafter referred to as "City").

WITNESSETH:

WHEREAS, said District does hereby represent and warrant: That it is a duly organized and existing body corporate and politic in accordance with and under the laws of the State of Nebraska, being in compliance with all applicable laws of the State of Nebraska and particularly with Article VII of Chapter 3 of the Revised Statutes of Nebraska, 1943, and any applicable amendments thereto.

WHEREAS, the District has constructed or is contemplating constructing sanitary sewers and water mains within the boundaries of the District and desires to provide for the flow and treatment 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, therefore, into the City's sewage system, and to process said sewage to and through any existing or, hereafter, constructed sewage treatment plant of plans of the City, insofar as the City may be processing its own sewage or causing any other public corporation to process its own sewage and desires to connect to the water system of the City.

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

I.

For the purpose of this Agreement, the term "sewer system of the District and water system of the District" shall include, whether now in existence or hereafter constructed, all sanitary sewers, sanitary sewer systems, water systems and appurtenances thereto.

- A. Situated within the boundaries of District (whether or not owned by the District).
- B. Owned by District, whether within or without the boundaries of the District.
- C. Serving as an outfall sewer or other connecting sewer from the boundaries of the District to the point of connection with the sewer system of the City, or any part thereof.

Sewer service lines constructed on private property for the purpose of providing sewer service directly to any residence or to any other buildings shall be excluded from the meaning of the term "sewer system of the District" whenever such term is used in this Agreement.

II.

The City hereby grants permission to the District to connect the sanitary sewer system and water system of the District to the sanitary sewer system and water system of the City in such manner at such place or places as designated on plans submitted by the District and approved by the City and to accept and process the sanitary sewage of the District and supply water to the District.

III.

In consideration of the City's entering into this Agreement, District, on the terms herein provided:

- A. Shall, and by these presents does, grant and convey onto City and its successors and assigns:
 - (1) A perpetual easement and license to transmit through the sewer system of District sanitary sewage from any area now or thereafter serviced, directly or indirectly, by the sewer system of the City or any part thereof, as well as transmit water through the water system of the District as required.

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- (2) A perpetual easement and license to the City, its employees, representatives and agents, to enter upon and into the property, streets, roads, and public ways and easements of District for the purpose of inspecting, maintaining, repairing and reconstructing the sewer system and water system of the District through which City has been given an easement by District, as aforesaid.
 - (3) A perpetual license to connect the sewer system and water system of the City, or any part thereof, to the sewer system and water system of the District, for which connection or connections City shall not be required to pay any connection fee or connection charge.

B. The herein granted easements and licenses to City and the herein contained covenants of perpetual maintenance and repair by District shall be perpetual, notwithstanding the fact that this Agreement is for a term of years; provided, however, in the event that City shall by annexation or otherwise acquire any portion of the sewer system and water system of District, then District's obligation to maintain and repair shall thereafter terminate as to such portion of the sewer system and water system of the District and shall have been acquired by City.

IV.

District further expressly promises, warrants, covenants and agrees that no connection shall be made to the sewer system and water system of the District until a permit therefore shall have been obtained from City and the appropriate connection fee paid to City.

City shall have the right to enter upon the property of the District to disconnect any connection to the sewer system or water system of the District which has been made without the required permit regulations or specifications of the City of Papillion pertaining to sewer or water connections.

V.

As compensation for the treatment and disposal of sanitary sewage contributed to the sewer system of City and payment for supplying water from the water system of the City from connections to properties within District to the sewer system and water system of the District, District agrees to pay to City, or agrees to a direct billing with the users thereof, a sum which shall be determined under the rules or ordinances of the City, but which shall not exceed twice the aggregate sewer use fee and water fees City would charge for similar number, type and classification of connections directly to the sewer system and water system of the City, assuming same were on an individual basis and within the City's corporate limits, and may be prescribed by the ordinances of the City of Papillion and any future amendments, modifications or revisions thereof.

VI.

Without prior specific written approval by City, the District shall not permit any sewer lines or system of sewers or water lines outside its boundaries or directly or indirectly serving areas outside its boundaries to be connected with the sewer system or water system of the District. Upon the written request of City or the joint written request of City and (a) another Sanitary and Improvement District; (b) a sewer district; (c) other person or entity, for permissions to connect to the sewer system or water system of District, the District shall allow such connection to be made without charge.

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VII.

The term of this Agreement shall be twenty years from the after date hereof, provided, however, that unless one of the parties hereto shall advise the other party in writing of its desire not to do so, this Agreement shall be automatically renewed on the same terms of twenty years each. Said written advice shall be given at least six (6) months prior to the end of the original term or additional terms as the case may be, which said party giving such notice desires to be the final term of this Agreement.

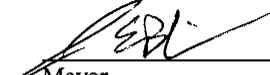
VIII.

In consideration of the additional investment being made by SID 246 for the construction of a portion of the Primary Water Distribution System of the City, consisting of a 12-inch water main from Beechwood Avenue and Highway 370 east along Highway 370 to 66th Street, a 16-inch water main from Highway 370 and 66th Street north along 66th Street to Cedardale Road to Beechwood Avenue. Said mains described above are necessary to adequately provide service to Titan Springs, as well as other abutting properties. The City agrees to SID 246 constructing said mains and use the Capital Facilities charges normally collected for the lots in Titan Springs to defray the costs of the Primary Distribution System Water Mains described above in lieu of payment of said Capital Facilities charges to the City. The actual costs of the construction of said Primary Distribution System Mains to be funded by the Capital Facilities charges shall be limited to the actual Capital Facilities charges normally collected by the City for the lots and outlots in Titan Springs. Upon completion of the Primary Distribution System Mains, SID 246 will relinquish title to said mains to the City at no additional cost. SID 246 understands and agrees, however, that it must still levy special assessments equal to one-half of the usual and customary Capital Facilities charges against the lots.

✓ T * Lots 1 thru 222 and outlots A thru F in Titan Springs.

IN WITNESS WHEREOF, we, the parties hereto, by our respective duly authorized agents, hereto affix our signatures and seals at Papillion, Nebraska, the date and year first above written.

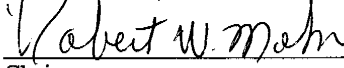
CITY OF PAPILLION, A Nebraska Municipal Corporation


Mayor


ATTEST:


City Clerk

SANITARY AND IMPROVEMENT DISTRICT NO. 246
OF SARPY COUNTY, NEBRASKA

By: 
Chairman

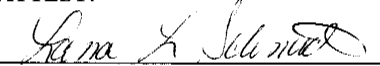
ATTEST:


Clerk

TITAN SPRINGS, L.L.C.

By: 
Authorized Corporate Representative

ATTEST:


Corporate Secretary