

51-419

AGREEMENT FOR SPECIAL ASSESSMENTS

This agreement, entered this 1 day of March, 1978, by and between Sanitary and Improvement District No. 76 of Sarpy County, Nebraska (hereinafter referred to as District), S & S Construction Co., a Nebraska corporation, and Robert J. Huck, Trustee (hereinafter collectively referred to as Developer), and the City of La Vista, a municipal corporation in the State of Nebraska (hereinafter referred to as City),

Witnesseth:

WHEREAS, the aforesaid parties were parties to an agreement dated September 25, 1974, captioned "Subdivision Agreement," relating to development and assessment of the cost of development of certain property located within the boundaries of District, and including all of the property described on Exhibit "A" attached hereto and incorporated herein by this reference, and

WHEREAS, S & S Construction Co. remains the beneficial owner, and Robert J. Huck, Trustee, remains the record holder of title to that property described in Exhibit "A", and

WHEREAS, Developer and District have undertaken and completed the installation of improvements pursuant to the aforesaid Subdivision Agreement and have proposed special assessments for the payment of the cost thereof as more fully set forth on Exhibits "B" to "E", attached hereto and incorporated herein by this reference, and have requested the City to waive the provisions of paragraph XIII-B of the aforesaid Subdivision Agreement, which requires the issuance of bonds of the District prior to such levy of special assessments, and the City is agreeable thereto upon the terms and conditions set forth below,

NOW, THEREFORE, it is agreed as follows:

1. City agrees to waive the provisions of paragraph XIII-B of the aforesaid Subdivision Agreement with respect to the improvements identified on Exhibits "B" to "E" attached hereto, and will permit the levy of such special assessments without prior issuance of bonds upon and in consideration of the following conditions and agreements of Developer and District.

2. Developer and District represent and warrant to City that the presently proposed special assessments identified on Exhibits "B" to "E" fully and completely discharge the entire

FILED FOR RECORD 6-30-78 AT 10:50 A. M. IN BOOK 51 OF Misc Recs.  
PAGE 419 Carl L. Hilleled REGISTER OF DEEDS, SARPY COUNTY, NEB. 88 let A A 05822 ✓

costs, either presently accrued or which may accrue in the future and which are required to be specially assessed pursuant to the terms of the Subdivision Agreement attached hereto as Exhibit "F", and incorporated herein by this reference.

3. In the event that it should, at any time, appear that any costs or obligations which have been or will be incurred by District in connection with the improvements subject to this levy, including financing or any other incidental costs covered by the Subdivision Agreement, and in the event such costs will not be fully funded and defrayed by the proceeds of the proposed levy of special assessments, District will promptly levy an additional or revised special assessment sufficient to defray such cost, such levy to be made and attach to the property described on Exhibit "A." District shall have an independent obligation to ascertain such costs and to promptly proceed with any additional or revised levy under the same conditions and notice requirements as provided for in the Subdivision Agreement, and it further agrees to give the City full access, upon demand, to all of its records, statements and accounts to the end that the City may also make its own independent determination of such costs.

4. District and Developer specifically acknowledge and agree with the City that levy of the presently proposed special assessments shall not in any way be deemed or construed as a final or complete assessment, but that the property described on Exhibit "A" shall be and remain subject to any such additional or revised levy of special assessments.

5. Developer and District furthermore warrant and agree, and the City's waiver of paragraph XIII-B of the Subdivision Agreement is further conditioned upon the accuracy of District's assertion that a sum in an amount of at least \$275,000 is presently held in escrow in connection with mortgage loans and sales of other lots within the boundaries of District, and such sum shall, within fifty days of May 1, 1978, be applied in payment of the presently proposed levy of special assessments.

6. Developer and District furthermore warrant and agree, and the City's waiver of paragraph XIII-B of the Subdivision Agreement is further conditioned upon the equalization and levy of the assessments identified on Exhibits "B" to "E" to all lots on a front footage or other equalized basis acceptable to the City without regard to ownership of such lots.

7. This agreement shall be binding upon and inure to the benefit of the heirs, executors, or assigns of each party and in particular, and not in limitation of the foregoing, shall constitute covenants of Developer running with the land.

8. The parties mutually agree that in addition to whatever other remedies are granted to the City herein, City may avail itself of all other rights and remedies City may have pursuant to any statute, law, rule of law or equity. By way of specification and not by way of limitation, the parties expressly reserve to City the right to specifically enforce full compliance by the District and Developer of the terms and conditions of this agreement by mandatory or prohibitory injunction.

9. The liability of Robert J. Huck, Trustee, and S & S Construction Co. as Developer herein shall be joint and several; provided, however, that the personal assets of Robert J. Huck, Trustee, shall not be subject to liability under this agreement, his liability hereunder being limited to the assets of the trust of which he is trustee.

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

ATTEST: SANITARY AND IMPROVEMENT DISTRICT NO. 76 OF SARPY COUNTY, NEBRASKA ("District")

[Signature]  
Clerk of said District

BY [Signature]  
Chairman of Board of Trustees

ATTEST: [Signature]  
Secretary

S & S CONSTRUCTION CO.,  
a Nebraska corporation  
BY [Signature]  
President

[Signature]  
Robert J. Huck, Trustee  
("Developer")

ATTEST: [Signature]  
City Clerk

CITY OF LA VISTA, a municipal corporation in the State of Nebraska ("City")  
BY [Signature]  
Mayor

51-4193

STATE OF NEBRASKA ]  
] ss.  
COUNTY OF DOUGLAS ]

On this 1st day of May, 1978, before me, the undersigned, a notary public in and for said county, personally came Donald S. Demack, the President of S & S CONSTRUCTION CO., a Nebraska corporation, to me personally known to be the President of said corporation and the identical person whose name is affixed to the foregoing Agreement for Special Assessments, and he acknowledged the execution thereof to be his voluntary act and deed as such officer and the voluntary act and deed of said corporation.

WITNESS my hand and notarial seal the day and year last above written.

GENERAL NOTARY - State of Nebraska  
PHILIP H. KENNEDY  
My Comm. Exp. May 9, 1980

Philip H. Kennedy  
Notary Public

STATE OF NEBRASKA ]  
] ss.  
COUNTY OF DOUGLAS ]

On this 1st day of May, 1978, before me, the undersigned, a notary public in and for said county, personally came ROBERT J. HUCK, Trustee, to me personally known to be the identical person whose name is affixed to the foregoing Agreement for Special Assessments, and he acknowledged the execution thereof to be his voluntary act and deed as such trustee.

WITNESS my hand and notarial seal the day and year last above written.

GENERAL NOTARY - State of Nebraska  
NORMA L. SUNDBERG  
My Comm. Exp. Aug. 24, 1980

Norma L. Sundberg  
Notary Public

51-419D

S & S's Harvest Hill, a subdivision in  
Sarpy County, Nebraska, Lots:

1, 2, 5, 8, 10, 12, 13, 14, 15, 16, 17, 33, 35, 36,  
39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 51, 54,  
59, 60, 66, 69, 70, 72, 74, 75, 76, 78, 80, 82, 83,  
84, 85, 86, 87, 88, 90, 92, 93, 94, 95, 96, 98,  
100, 101, 103, 105, 106, 114, 117, 118, 119, 121,  
122, 123, 125, 127, 128, 138, 139, 140, 141, 142,  
146, 148, 149, 150.

EXHIBIT "A"

51-419 E

ELLIOTT & ASSOCIATES  
CONSULTING ENGINEERS  
100 8901 BLDG. - 8901 W CENTER RD.  
OMAHA, NE 68124 - (402) 393-7333

March 30, 1978

Chairman and Board of Trustees  
Sanitary & Improvement District No. 76  
Sarpy County, Nebraska  
c/o Mr. Robert Huck, Attorney  
2400 South 72nd Avenue  
Omaha, Nebraska 68124

Re: Statement of Costs  
Water System - Section I  
File No. 7226 (Assessments)

Gentlemen:

We are submitting herewith the following Statement of Costs in connection with the construction of a water distribution system and work necessary or incidental thereto, as constructed in Sanitary and Improvement District No. 76, Sarpy County, Nebraska, to-wit:

To Construction Cost	\$89,958.31
Bond Interest Differential	4,004.06
To Legal, Publication, Financing	
Interest, Adm. Fee and Misc. Costs	<u>35,577.46</u>
Total Project Cost	\$129,539.83

The total cost based on the Assessment Plat and Schedule was divided as follows:

To be paid by Special Assessment	\$126,526.97
To be paid by Sanitary & Improvement District at Large	<u>3,012.86</u>
Total Project Cost	\$129,539.83

(See attached Exhibit for calculation of general obligation to District)

Very truly yours,

Elliott & Associates

By S. R. Bales  
S. R. Bales, P.E.

51-419F

ELLIOTT & ASSOCIATES  
CONSULTING ENGINEERS  
100 BRIGI BLDG. - 8801 W CENTER RD.  
OMAHA, NE. 68124 - (402) 393-7333

March 30, 1978

Chairman and Board of Trustees  
Sanitary & Improvement District No. 76  
Sarpy County, Nebraska  
c/o Mr. Robert Huck, Attorney  
2400 South 72nd Avenue  
Omaha, Nebraska 68124

Re: Statement of Costs  
Sanitary Sewer System - Section I  
File No. 7226 (Assessments)

Gentlemen:

We are submitting herewith the following Statement of Costs in connection with the construction of Sanitary Sewer System - Section I and work necessary or incidental thereto, as constructed in Sanitary and Improvement District No. 76, Sarpy County, Nebraska, to-wit:

To Construction Cost	\$60,520.60
Bond Interest Differential	3,499.56
To Engineering, Design, Print Charges Supervision, Resident Inspection, Adm. Fees, Final Quantities & Testing	18,580.81
To Legal, Publication, Financing Interest and Miscellaneous Costs	<u>30,862.11</u>
<b>Total Project Cost</b>	<b>\$113,463.08</b>

The total cost based on the Assessment Plat and Schedule was divided as follows:

To be paid by Special Assessment	\$110,604.03
To be paid by Sanitary and Improvement District at Large	<u>2,859.05</u>
<b>TOTAL PROJECT COST</b>	<b>\$113,463.08</b>

(See attached Exhibit for calculation of general obligation to District)

Very truly yours,  
Elliott & Associates

By S. R. Bales  
S. R. Bales, P.E.

SRB:efe

EXHIBIT "C"

51-419 G

ELLIOTT & ASSOCIATES  
CONSULTING ENGINEERS  
103 F501 BLDG. - 8301 W CENTER RD.  
OMAHA, NE. 68124 - (402) 393-7333

March 30, 1978

Chairman and Board of Trustees  
Sanitary & Improvement District No. 76  
Sarpy County, Nebraska  
c/o Mr. Robert Huck, Attorney  
2400 South 72nd Avenue  
Omaha, Nebraska 68124

Re: Statement of Costs  
Concrete Pavement & Storm Sewer -  
Section I  
File No. 7226 (Assessments)

Gentlemen:

We are submitting herewith the following Statement of Costs in connection with the construction of Paved Streets and Storm Sewer System and work necessary or incidental thereto, as constructed in Sanitary and Improvement District No. 76, Sarpy County, Nebraska, to-wit:

To Construction Cost	\$209,270.44
Bond Interest Differential	9,011.50
To Engineering, Design, Print Charges, Supervision, Resident Inspection, Adm. fee, Final Quantities and Testing	32,580.46
To Legal, Publication, Financing Interest and Miscellaneous Costs	<u>93,658.43</u>
<b>Total Project Cost</b>	<b>\$344,520.83</b>

The total cost based on the Assessment Plat and Schedule was divided as follows:

To be paid by Special Assessment	\$284,843.18
To be paid by Sanitary and Improvement District at Large	<u>59,677.65</u>
<b>Total Project Cost</b>	<b>\$344,520.83</b>

(See attached Exhibit for calculation of  
general obligation to District)

Very truly yours,

ELLIOTT & ASSOCIATES

By S. R. Bales  
S. R. Bales, P.E.

SRB:efe

EXHIBIT "D"



51-419H

ELLIOTT & ASSOCIATES  
CONSULTING ENGINEERS  
120 8501 E. DG. - 8501 W. CENTER RD.  
OMAHA, NE. 68124 - (402) 393-7333

March 30, 1978

Chairman and Board of Trustees  
Sanitary & Improvement District No. 76  
Sarpy County, Nebraska  
c/o Mr. Robert Huck, Attorney  
2400 South 72nd Avenue  
Omaha, Nebraska 68124

Re: Statement of Costs  
Electrical Distribution System -  
Section I

File No. 7226 (Assessments)

Gentlemen:

We are submitting herewith the following Statement of Costs in connection with the construction of Underground Power and work necessary or incidental thereto, as constructed in Sanitary and Improvement District No. 76, Sarpy County, Nebraska, to-wit:

To Construction Cost	\$55,600.00
Bond Interest Differential	2,309.82
To Legal, Publication, Financing Interest, Adm. Fee, and Miscellaneous Costs	<u>20,895.16</u>
TOTAL PROJECT COST	\$78,804.98
Minus Refund from O.P.P.D.	<u>5,780.00</u>
Net Project Cost	\$73,024.98

The total cost based on the Assessment Plat and Schedule was divided as follows:

To be paid by Special Assessment	\$73,024.98
To be paid by Sanitary & Improvement District at Large	<u>0</u>
TOTAL PROJECT COST	\$73,024.98

Very truly yours,

ELLIOTT & ASSOCIATES

By S. R. Baies  
S. R. Baies, P.E.

SRB:efe

EXHIBIT "E"

51-419 I

SUBDIVISION AGREEMENT

THIS AGREEMENT, made this 25 day of September, 1974, by and between S & S CONSTRUCTION CO., a Nebraska corporation, and ROBERT J. HUCK, TRUSTEE (hereinafter collectively referred to as "DEVELOPER"), SANITARY AND IMPROVEMENT DISTRICT NO. 76 OF SARPY COUNTY, NEBRASKA (hereinafter referred to as "DISTRICT"), and the CITY OF LA VISTA, a municipal corporation in the State of Nebraska (hereinafter referred to as "CITY"),

WITNESSETH:

WHEREAS, S & S Construction Co. is the beneficial owner and Robert J. Huck, Trustee, is the record holder of title to the land included within the proposed plat attached hereto as Exhibit "A", which parcel of land, hereinafter referred to as the "area to be developed," is outside the corporate limits of the CITY but adjacent and contiguous thereto and within the CITY's zoning and platting jurisdiction; and

WHEREAS, DEVELOPER has requested CITY to approve a platting of the area to be developed, as more fully shown on Exhibit "A" hereto; and

WHEREAS, DEVELOPER and DISTRICT have requested the CITY to forbear from annexing the area to be developed upon final approval and filing of DEVELOPER's plat (Exhibit "A") and to defer any annexation thereof by CITY until after December 1, 1974, and thereby afford DEVELOPER an opportunity to let initial contracts for public improvements through the DISTRICT, the DISTRICT being a sanitary and improvement district created and controlled by DEVELOPER, which is the sole owner of all the lands within the boundaries thereof; and

WHEREAS, DEVELOPER and DISTRICT wish to connect the system of sanitary sewers to be constructed by DISTRICT within the area to be developed to the sewer system of the CITY; and

WHEREAS, the parties wish to agree upon the manner and the extent to which public funds may be expended in connection with public improvements to be constructed within the area to be developed or serving the area to be developed and the extent to which the contemplated public improvements specially benefit property in the area to be developed and to what extent the cost of the same shall be specially assessed against the property of DEVELOPER;

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

51-419J

I.

DEVELOPER, DISTRICT and CITY agree that the credit of the DISTRICT shall be used for the construction of the following public improvements within the area to be developed:

- A. Concrete paving of all streets dedicated per plat (Exhibit "A"), all said paving to be 25 feet in width, except Park View Boulevard, which shall be 35 feet in width, the plans and specifications for which paving shall be approved by CITY prior to advertising for bids.
- B. All sanitary sewer mains, manholes and related appurtenances constructed in dedicated street right of way per plat (Exhibit "A"), same to be located as shown on "Preliminary Plat" prepared by Elliott & Black, dated November 1972, a copy of which is attached hereto as Exhibit "B", plans and specifications for said sewer improvements to be approved by CITY prior to advertising for bids.
- C. Storm sewers, inlets, manholes and related appurtenances constructed in street right of way per plat (Exhibit "A"), plans and specifications for said sewer improvements to be approved by CITY prior to advertising for bids and said improvements to be located as shown on "Preliminary Plat" prepared by Elliott & Black, dated November 1972, a copy of which is attached hereto as Exhibit "B".
- D. The following storm sewerage to be constructed on easements and locations shown on Exhibit "B":
  - (1) 24-inch storm sewer to run southerly from the north edge of the area to be developed approximately 135 feet to its point of connection with storm sewerage in Autumn Lane, said storm sewer to be situated on permanent easement between Lots 75 and 76;
  - (2) 30-inch storm sewer to run northerly from the south boundary of the area to be developed approximately 145 feet to its point of connection with storm sewerage in Park View Boulevard, said storm sewer to be situated on permanent easement between Lots 1 and 2.
- E. Water distribution mains located within dedicated street right of way dedicated per plat (Exhibit "A") to be installed by Metropolitan Utilities District, the exact location and dimensions of which shall be

approved by CITY and the LaVista Fire Department prior to execution of contract for installation.

- F. Contract with Omaha Public Power District for street lighting for public streets dedicated per plat (Exhibit "A"). The location of street lighting shall be approved by CITY prior to execution of contract for installation.
- G. Contract charges to be paid to Omaha Public Power District for underground electrical service to each of the lots in the area to be developed, said charges to be:
- (1) the basic lot charge, not to exceed \$60.00 (hereinafter referred to as the basic underground electrical service charge); and
  - (2) any additional charge or deposit required by Omaha Public Power District in addition to the afore-mentioned basic charge as a condition of providing underground electrical service, which additional charge is hereinafter referred to as the refundable underground electrical service charge, and which charge DEVELOPER warrants will not, except for Lot 151, exceed \$340.00 per lot.
- H. DISTRICT's purchase of Lot 151 for a park site, the purchase price of same to be DEVELOPER's out-of-pocket cost, which shall be the total of the following:
- (1) The actual purchase price DEVELOPER paid for said tract of approximately three acres, which shall be computed by determining the actual per acre purchase price paid by DEVELOPER for the entire 40-acre tract and multiplying said per acre price by the number of acres in said Lot 151. In this connection, DISTRICT and DEVELOPER warrant and represent that DEVELOPER paid \$200,000.00 for the entire 40-acre tract and that there are 2.21 acres of land within Lot 151.
  - (2) The cost of grading said park site, the plans for grading work to be approved by CITY prior to commencement thereof.

## II.

DEVELOPER and DISTRICT agree that the credit or funds of the DISTRICT shall not be used for the planning, construction, acquisition or financing of any project, improvement, utility installation or connection, or for any facility except to the extent specifically authorized by paragraph I hereof, supra, or except as may be authorized by paragraph IX hereof, infra. By way of specification and not by way of limitation, DEVELOPER and DISTRICT agree that DISTRICT shall not incur any indebtedness

or otherwise involve its credit or expend any of its funds in the planning, construction, acquisition, installation or financing of:

- A. Any swimming pool, golf course, park, playground, or other recreational facility except as may be authorized in accordance with subparagraph I-H, supra, or paragraph IX, infra.
- B. The advancement or payment of any fee, deposit, surcharge, demand charge or similar charge, whether or not refundable, imposed by any utility or other entity providing or contemplating providing utility-type service to the area to be developed, except for the underground electrical service charge specifically authorized under paragraph I-G, supra.
- C. Any grading costs, except:
  - (1) grading in street rights of way dedicated per plat (Exhibit "A");
  - (2) grading on Lot 151 as may be approved by CITY.
- D. The construction of sidewalks.
- E. Any sodding, seeding or other landscaping, including that contemplated on street right of way.
- F. The payment of any sewer connection, sewer use or treatment fees for lots or properties within the area to be developed.

III.

DEVELOPER, DISTRICT and CITY agree that the cost of all public improvements constructed by the DISTRICT within the area to be developed (Exhibit "A"), as authorized by paragraph I, supra, shall be defrayed as follows:

- A. 100% of the entire cost of all paving shall be paid by special assessment against the property benefited within the area to be developed, except the following costs:
  - (1) the cost of the ten feet of extra-width concrete paving on Park View Boulevard;
  - (2) the cost of paving the intersection of Park View Boulevard and Plum Dale Road;
  - (3) that portion of T-intersections which does not abut property, as more specifically shown on the typical T-intersection diagram attached hereto as Exhibit "C";
  - (4) one-half of the cost of paving of Harvest Hill Drive in front of Lot 151.

51-419 M

B. 100% of the entire cost of all sanitary sewers, including manholes and other appurtenances, shall be paid by special assessment against property benefited within the area to be developed. No portion of the cost of the sanitary sewer system shall be borne by general obligation of the DISTRICT, except one-half of the cost of sanitary sewer main situated in Harvest Hill Drive in front of Lot 151 may be general obligation of the DISTRICT.

C. The cost of storm sewerage shall be defrayed as follows:

- (1) The cost of constructing the two storm sewers authorized by paragraph I-D, supra, shall be general obligation of the DISTRICT.
- (2) The entire cost of all other portions of the storm sewer system constructed by DISTRICT shall be paid by special assessment against property benefited within the area to be developed, except that portion of the following storm sewer, to wit:

The 30-inch and 36-inch storm sewer main in Autumn Lane commencing in front of Lot 84 and flowing easterly to the intersection of Autumn Lane and Harvest Hill Drive, thence southerly in Harvest Hill Drive to its intersection with Park View Boulevard,

which represents oversizing costs over 24 inches in diameter shall be borne by general obligation of the DISTRICT; provided, however, said portion to be general obligation shall in no event exceed \$7.50 per lineal foot of storm sewer.

All storm sewerage costs not hereinbefore specifically authorized to be defrayed by general obligation of the DISTRICT shall be specially assessed against property benefited within the area to be developed.

D. 100% of the entire cost of water distribution system serving the area to be developed shall be specially assessed against property benefited within the area to be developed, except that one-half of the cost of that portion of the water main situated in Autumn Lane in front of Lot 151 may be general obligation of the DISTRICT.

E. 100% of the entire cost of monthly contract charges paid to Omaha Public Power District for furnishing lighting of public streets shall be general obligation of the DISTRICT.

F. All contract charges authorized to be paid by DISTRICT to the Omaha Public Power District by the provisions of paragraph I-G, supra, including both the basic charge and refundable charge, together with such other charges as fall within the definition of "entire cost," as defined in paragraph IV-A, infra, and are allocable to such contract charges, shall be specially assessed against property within the area to be developed; provided, however, such contract charges, if any, incurred in connection with underground wiring for Lot 151 shall be general obligation.

Any refund of the refundable portion of the underground electrical service charge for a particular lot which shall be made by Omaha Public Power District to the DISTRICT, or its successor, shall be credited as follows:

- (1) If refunded prior to the levy of special assessments for underground electrical service, said refund shall be credited as a reduction in the total cost of the underground electrical service to be levied against said lot.
- (2) If refunded after the date of levy of special assessments for underground electrical service, said refund shall be credited as a payment on the balance owing on the special assessments levied against said lot in connection with underground electrical service for said lot.

G. The cost of park ground acquisition and grading as authorized in paragraph I-H, supra, shall be general obligation of the DISTRICT.

EXCEPT TO THE EXTENT SPECIFICALLY PROVIDED FOR IN THIS AGREEMENT TO THE CONTRARY, ANY AND ALL COSTS OR OBLIGATIONS WHICH THE DISTRICT SHALL INCUR IN CONNECTION WITH ANY IMPROVEMENT, FACILITY, CONSTRUCTION, UTILITY INSTALLATION OR FINANCING SHALL BE 100% SPECIALLY ASSESSED.

IV.

For the purposes of this agreement, the following words and phrases shall have the following meanings:

- A. The "cost" or "entire cost" of a type of improvement shall be deemed to include all construction costs, engineering fees, attorneys' fees, testing expenses, publication costs, financing costs and miscellaneous costs. In this connection, financing costs shall include all fiscal agent's warrant fees and bond fees, interest on warrants to date of funding by issuance of bonds, and the "estimated differential between bond



interest costs and special assessment interest income," as defined in paragraph IV-D, infra. Miscellaneous costs of the improvement shall include the pro-rata share of the general unallocated costs of the DISTRICT, which unallocated costs shall be prorated on the basis that the entire cost of each improvement bears to the entire cost of all improvements constructed by the DISTRICT.

- B. "Property benefited" shall mean property within DEVELOPER's subdivision (Exhibit "A") which constitutes building sites. Lots or parcels having been or to be acquired or deeded for park or recreational purposes shall be deemed not to be building sites within the meaning of this definition.
- C. "Street intersections" shall be construed to mean the area of the street between the returns of the various legs of the intersection, but in no case shall said area extend in any direction beyond a straight line drawn perpendicular from the centerline of the street to the adjacent lot corner.
- D. The "estimated differential between bond interest costs and special assessment interest income" shall be an amount estimated at the time of determining total costs of an improvement for purposes of computing special assessments, which shall be the difference between the interest costs to the DISTRICT (or its successors) on the bonds issued to fund warrants and the realizable interest income on special assessments levied by the DISTRICT (or its successors). In computing realizable interest income on special assessments, it shall be assumed that 20% of special assessments will be paid in each year following the levy thereof and that the DISTRICT (or CITY as its successor), pending the arrival of the date upon which the bonds may be redeemed without penalty, will reinvest such payments at the average interest rate which CITY is receiving on its bond sinking fund investments at the date of the computation.

V.

DEVELOPER and DISTRICT warrant, covenant and agree that, notwithstanding any other provisions of this agreement to the contrary, the amount of general obligation of the DISTRICT arising from the DISTRICT's activities and expenditures in connection with the construction of all improvements within the boundaries of the area to be developed (Exhibit "A") shall not in the aggregate, in any event, exceed the lesser of:



51-419 P

- A. The costs authorized by paragraph III hereof to be defrayed by general obligation of the DISTRICT, or
- B. \$ 90,000.00 .

The term "general obligation of the DISTRICT," for the purpose of this paragraph, shall mean the amount by which the total indebtedness of the DISTRICT, including all accrued interest thereon, exceeds the amount of special assessments levied by the DISTRICT, exclusive of that amount included in said special assessments for "estimated differential between bond interest costs and special assessment interest income." To the extent such general obligation of the DISTRICT would have otherwise exceeded \$ 90,000.00 at date of levy of special assessments, the general obligation of the DISTRICT shall be reduced and the amount specially assessed for paving, storm sewer and sanitary sewer improvements shall be increased. Any amounts expended by the DISTRICT for the purposes mentioned in paragraph IX hereof, infra, shall not be deemed to constitute a part of such \$ 90,000.00 maximum general obligation amount.

VI.

CITY covenants and agrees:

- A. That should CITY, by reason of its annexation of the DISTRICT, or any area thereof, prior to DISTRICT's levy of special assessments for the improvements authorized in paragraph I hereof, supra, thereby succeed to said DISTRICT's power to levy special assessments, that CITY will levy same in accordance with paragraph III hereof, supra.
- B. That the area to be developed may be connected to the sanitary sewer system of the CITY pursuant to the terms and conditions of a certain sewer connection agreement between the CITY and the DISTRICT, subject, of course, to the usual prior State approval.
- C. That CITY will forbear from commencing annexation proceedings immediately upon DEVELOPER's filing of a plat of the area to be developed and will defer CITY's annexation, if any, of the area to be developed until after December 1, 1974. Nothing in this agreement shall be construed so as to oblige the CITY to annex the area to be developed, or any part thereof.

VII.

DEVELOPER and DISTRICT covenant and agree that the DISTRICT created by DEVELOPER will:

51-419 Q

- A. Abide by and incorporate into all of its construction contracts the provisions required by the regulations of the CITY pertaining to construction of public improvements in subdivisions and testing procedures therefor.
- B. Prior to commencement of construction of improvements, DISTRICT will obtain and file of record 30-ft. temporary construction easements and 20-ft. permanent easements for all sanitary and storm sewer lines authorized by paragraph I hereof, supra, which are not situated on dedicated street right of way. Said easements shall be granted by DEVELOPER at no cost to DISTRICT or CITY and shall be in form satisfactory to CITY's Attorney and CITY's Engineer.
- C. Except as may otherwise be agreed to by CITY, all said DISTRICT's levy of special assessments shall be made in such a manner so as to assure that the entire burden of the levy is borne, on a front footage basis, by lots or parcels which are truly residential building sites. If any lot, parcel or other area within the area to be developed is not a building site by reason of insufficient size or dimensions or by reason of its having been acquired or dedicated for park or recreational purposes, or by reason of easements or similar burdens, or for any other reason, then no portion of the total amount to be levied for special assessments shall be levied against said unbuildable lot, parcel or other area, and, except as may otherwise specifically be authorized herein in connection with:
  - (1) one-half of the cost of paving, sanitary sewer and water improvements in Harvest Hill Drive on the west side of Lot 151, and
  - (2) the Omaha Public Power District contract charges, if any, payable for underground wiring serving Lot 151,the amount that otherwise would have been levied against same shall be spread and levied against the lots within the area to be developed which are buildable sites. The CITY's Engineer will determine which sites, if any, are not buildable sites.
- D. Will, at least twenty days prior to the date of any hearing of DISTRICT to be held for the purpose of equalizing or levying special assessments against property benefited by any improvements constructed by DISTRICT, submit to CITY:
  - (1) a detailed schedule of the proposed special assessments;
  - (2) a plat of the area to be assessed;
  - (3) a full and detailed statement of the entire cost of each type of improvement, which statement or statements shall separately show:

- (a) the amount paid to contractor;
- (b) a special itemization of all other costs of the project, including, but not limited to, all engineering fees, attorneys' fees, testing expenses, publication costs, financing costs, including, but not limited to, interest on all warrants to date of funding by issuance of bonds, estimated fiscal agent's warrant fees and bond fees, and estimated differential between bond interest costs and special assessment interest income, as defined in paragraph IV-D, supra.
- (c) a special itemization of all unallocated and unpaid costs of the DISTRICT as defined in paragraph IV-A, supra.

#### VIII.

The parties mutually agree that in the event CITY shall annex any part of the area shown on Exhibit "A" hereto and said annexation shall not include the then entire territory of the DISTRICT, then a division of assets and liabilities of the DISTRICT in connection with such partial annexation of the DISTRICT shall be made strictly on the basis of assets and liabilities of the DISTRICT attributable to the area annexed by the CITY, and CITY shall not be required to assume, in connection with such partial annexation, any indebtedness of the DISTRICT which is attributable to improvements in or expenses incurred in connection with areas other than the area so annexed by the CITY.

#### IX.

DEVELOPER and DISTRICT agree that DISTRICT, subject to approval of DISTRICT's fiscal agent, will, upon request of CITY:

- A. Participate in a joint financing arrangement with CITY to finance the construction of larger or replacement sanitary sewer outfalls and mains comprising a part of the LaVista sewerage system and which may be necessitated as a result of the sewerage that will emanate from Harvest Hill Addition and other new developments in the LaVista area. The exact provisions of any agreement pertaining to the foregoing shall be subject to the approval of both the DISTRICT's attorney and the CITY's attorney.
- B. Install such improvements on the park property (Lot 151) as may be requested by the CITY.

Any expenditure by the DISTRICT pursuant to this paragraph shall be general obligation of the DISTRICT.

51-4195

X.

DEVELOPER covenants and agrees that the area to be developed (together with all areas within the boundaries of the DISTRICT created by the DEVELOPER not yet annexed by the CITY but which will be served by the CITY's sewerage treatment plant) shall be served by a water distribution system constructed, maintained and operated by the water utility regulated and franchised by the CITY to produce, distribute and sell water to the CITY and its inhabitants, and that the water rates established under said franchise granted by CITY shall from the outset be applicable to and charged within the area to be developed, notwithstanding the fact that the area to be developed may not have yet been annexed by CITY at the time of commencement of water usage by residents thereof.

XI.

DISTRICT and DEVELOPER further agree that, as to all improvements constructed by or on behalf of the DISTRICT or under its control or direction within the area to be developed, that:

- A. All such improvements will be constructed in strict accordance with plans and specifications and locations approved in writing by CITY's Engineer and in strict accordance with the minimum standards and requirements of construction adopted by the CITY and in effect at time of construction of said improvements, and that upon completion of construction thereof, DISTRICT shall furnish to CITY a certificate from its Consulting Engineers so certifying.
- B. DISTRICT shall cause "As Built Plans," in reproducible form, and specifications for all such improvements that DISTRICT shall have heretofore or hereafter constructed within the area to be developed to be furnished to CITY, in triplicate, promptly and without cost to the CITY. All such plans shall be submitted on reproducible linens, except where the CITY agrees otherwise. The engineering costs attributable to the production of said "As Built Plans" shall be an engineering cost within the meaning of paragraph IV-A, supra. DISTRICT shall, prior to the DISTRICT's advertising for bids for any improvement within the area to be developed, require DISTRICT's Engineers to file with CITY said Engineers' separate written assurance and agreement that said "As Built Plans" will be prepared and filed with the CITY upon the completion of each improvement.
- C. All such improvements shall comply with all applicable federal and state laws and regulations in general and

with all applicable laws and regulations of the CITY in reference to construction, use, operation and maintenance.

- D. In the event that CITY's Engineers determine that there is anything in the construction, maintenance or operation of any such improvements which will, in the opinion of CITY's Engineers, be detrimental to any other improvement or utility constructed or to be constructed in the same street right of way, DISTRICT will, on notice thereof, promptly correct said defect.
- E. DISTRICT shall require each contractor to furnish a performance and maintenance bond, with DISTRICT and CITY as joint and several obligees thereon, which bond shall be satisfactory to the CITY as to surety, form and terms.

XII.

DEVELOPER and DISTRICT agree that, in addition to whatever inspection and testing that DISTRICT shall perform or cause to be performed, CITY shall cause CITY's own inspection to be made of all construction of public improvements constructed within the area to be developed, and DISTRICT agrees that it will pay to CITY an amount equal to one and one-half per cent of the construction cost of all improvements constructed by or for the DISTRICT within the area to be developed, as reimbursement to CITY for engineering and administrative expenses incurred in connection with review and inspection. Said amount so paid to CITY by DISTRICT shall be an engineering cost within the meaning of paragraph IV-A, supra. The cost of any paving core tests, sewer televising or other testing required by CITY or its Engineers shall be paid directly by DISTRICT to the party performing the testing procedures.

XIII.

It is further agreed:

- A. That the DISTRICT shall levy an annual mill levy sufficient to fully comply with the Nebraska Budget Act and, in all events, sufficient to pay all general operating expenses of the DISTRICT, including street lighting and interest on that portion of any bonded indebtedness that exceeds the total amount of special assessments of the DISTRICT outstanding.
- B. That in respect to each of the several stages of development of the subdivision, DISTRICT will, unless otherwise agreed to by CITY, issue its bonds and fund

all outstanding warrants for each such phase prior to levy of special assessments; provided, however, that in considering any request by DISTRICT to grant an exception to this provision, the CITY shall consider the advice of DISTRICT's fiscal agent.

XIV.

The parties mutually agree that in addition to whatever other remedies are granted to CITY herein, CITY may avail itself of all other rights and remedies CITY may have pursuant to any statute, law, rule of law or equity. By way of specification and not by way of limitation, the parties expressly reserve to the CITY the right to specifically enforce full compliance by the DISTRICT and DEVELOPER of the terms and conditions of this agreement by mandatory or prohibitory injunction.

XV.

The covenants herein of DEVELOPER shall constitute covenants running with the land.

XVI.

The liability of Robert J. Huck, Trustee, and S & S Construction Co. as DEVELOPER herein shall be joint and several; provided, however, the personal assets of Robert J. Huck, Trustee, shall not be subject to liability under this agreement, his liability hereunder being limited to the assets of the trust of which he is trustee.

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

ATTEST:

Robert E. [Signature]  
Secretary

S & S CONSTRUCTION CO.,  
a Nebraska corporation

By: Ronald [Signature]  
President

Robert J. Huck, Trustee  
Robert J. Huck, Trustee  
"DEVELOPER"

ATTEST:

[Signature]  
Clerk of said District

SANITARY AND IMPROVEMENT DISTRICT  
NO. 76 OF SARPY COUNTY, NEBRASKA

By: Ronald [Signature]  
Chairman of Board of Trustees  
"DISTRICT"



51-419 V

ATTEST:

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

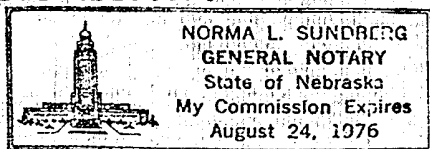
[Signature]  
City Clerk

By: [Signature]  
"CITY" Mayor

STATE OF NEBRASKA }  
COUNTY OF } ss.

On this 2nd day of September, 1974, before me, the undersigned, a notary public in and for said county, personally came DONALD L. SEMPEK, the President of S & S CONSTRUCTION CO., a Nebraska corporation, to me personally known to be the President of said corporation and the identical person whose name is affixed to the foregoing Subdivision Agreement, and he acknowledged the execution thereof to be his voluntary act and deed as such officer and the voluntary act and deed of said corporation.

WITNESS my hand and notarial seal the day and year last above written.

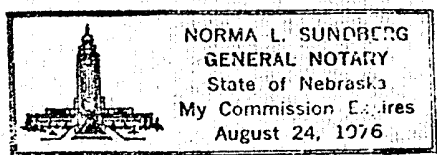


[Signature]  
Notary Public

STATE OF NEBRASKA }  
COUNTY OF } ss.

On this 2nd day of September, 1974, before me, the undersigned, a notary public in and for said county, personally came ROBERT J. HUCK, Trustee, to me personally known to be the identical person whose name is affixed to the foregoing Subdivision Agreement, and he acknowledged the execution thereof to be his voluntary act and deed as such trustee.

WITNESS my hand and notarial seal the day and year last above written.



[Signature]  
Notary Public