

A-89551

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Lancaster County, NE Assessor/Register of Deeds  
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**VINTAGE HEIGHTS CUP PUMP STATION  
AND FORCE MAIN AGREEMENT**

This Vintage Heights CUP-Pump Station and Force Main Agreement and Use Restriction ("Agreement and Use Restriction") is made and entered into as of this 22 day of FEBRUARY, 2016, by and between Pine Lake Development, LLC, a Nebraska limited liability company ("Developer") and the City of Lincoln, Nebraska, a municipal corporation ("City").

**RECITALS**

A. Developer is the owner of a tract of land legally described as Outlot "B", Vintage Heights 11<sup>th</sup> Addition, Outlot "C", Vintage Heights 20<sup>th</sup> Addition, Outlot "A", Vintage Heights 23<sup>rd</sup> Addition, Outlot "A", Vintage Heights 25<sup>th</sup> Addition, and Outlot "A", Vintage Heights 26<sup>th</sup> Addition, all located in the East Half of Section 14, Township 9 North, Range 7 East of the 6<sup>th</sup> P.M., Lincoln, Lancaster County, Nebraska, said tract contains 1,350,112.86 square feet, or 30.99 acres, more or less ("Property"). The Property is highlighted in yellow on the attached map marked as Attachment "A".

B. The Property was annexed in 1999 as part of a larger annexation of 340.23 acres more or less. The annexation was associated with the Developer's request to develop the annexed 340.23 acres under a special permit designated as Special Permit No. 1762 - Vintage Heights Community Unit Plan ("Vintage Heights CUP") consisting of 392 multiple family dwelling units, 170 two-family dwelling units, 24 three-family dwelling units, 15 acreage family dwellings and 360 single family lots. Since the lots (which included the Property) for the 15 acreage family dwelling units could not be serviced by the City's gravity flow sanitary sewer system the conditions of approval for the Vintage Heights CUP prohibited those lots from being final platted into smaller lots until gravity flow sewer was available.

C. In 2004 the Developer submitted an application designated as Special Permit 1762B to amend the Vintage Heights CUP which included a request to replace the 15 acreage lots along South 98<sup>th</sup> Street with urban sized lots, the majority of which (including the Property) could not be serviced with gravity flow sanitary sewer. The Developer proposed to serve the non-gravity flow lots through the use of a pump station and force main which would need to be operated for a period of 20 or more years, (i.e. estimated length of time before gravity sanitary sewer would be extended by the City to serve these lots). The Developer's request to serve these lots, including the Property with the pump station and force main was denied, however the condition requiring the Property to be serviced by gravity flow sanitary sewer was amended to provide that "all lots that cannot be serviced by gravity sanitary sewer shall not be final platted

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until such time that gravity sanitary sewer is available or the City adopts a policy that allows this pump station.” (*emphasis added*). The phrase “this pump station” is a reference to the Developer’s proposed pump station which would need to be operated for 20 or more years.

D. Although on December 6, 2004 the City Council for the City of Lincoln, Nebraska approved Resolution No. A-83112 adopting the City’s Policy on Temporary Pump Stations and Force Mains this Policy did not allow the Property to be served by a pump station to be operated for 20 or more years.

E. The City of Lincoln currently has long range plans to construct a large Stevens Creek gravity flow trunk sewer line to serve the Tier 1, Priority A areas located on the west side of the Stevens Creek Basin, including the Property. The City’s plans also include construction of an extension trunk sewer line running from the large Stevens Creek trunk sewer line generally southwesterly to serve the area within Vintage Heights proposed to be served by the pump station and force main, together with land lying generally easterly of the Vintage Heights CUP. The construction of these trunk sewers (“Trunk Sewers”) is not in the current Capital Improvements Program, and no determination has been made as to when such Trunk Sewers will be included or when they will be constructed. However, it is anticipated that it will be a minimum of thirty years before the Trunk Sewers will be in place to serve the Tier 1, Priority A areas, including the Property by gravity sewer.

F. In order to allow development of the Property, prior to extension of the Trunk Sewers, Developer has submitted an application designated as Special Permit No. 1762E to amend the existing special permit for the Vintage Heights CUP to permit for an indefinite period of time the use of a sanitary sewer pump station and force main to sewer 85 dwelling units within the existing Vintage Heights CUP on the Property that cannot be served by gravity sewer flow.

Specifically Developer has requested that Note #24 from the existing approved site plan for the Vintage Heights CUP be deleted. Note #24 states: “All lots that cannot be served by gravity sanitary sewer shall not be final platted until such time that gravity sewer is available or the City adopts a policy that allows this pump station.”

G. Notwithstanding the restriction in Section 2.1 of the Sanitary Sewer Design Standards and the fact that the Developer’s application does not comply with all of the requirements in the Policy on Temporary Pump Stations and Force Mains, the City is willing to approve the Developer’s request to amend the Vintage Heights CUP to allow use of a pump station and force main to sewer the 85 dwelling units which cannot be served by gravity sanitary sewer until such time as the above described gravity flow Trunk Sewers are extended to serve the Property; provided that Developer assumes full responsibility for the total cost to (i) provide the pump station and force main sanitary sewer service to the Property, (ii) operate, repair and maintain the pump station and force main until such time as the Trunk Sewers are extended to serve the Property, (iii) abandon and decommission the pump station and force main after the Trunk Sewers are extended, and (iv) construct any extension main from the Property east to connect to the Trunk Sewers.

H. Developer desires to and is willing to enter into this agreement as an inducement for and in consideration of the City approving Special Permit No. 1762E-Vintage Heights CUP.

NOW THEREFORE in consideration of the above Recitals which are made a part hereof and the mutual covenants contained herein the parties agree as follows:

1. Approval of Special Permit No. 1762E. The City hereby agrees to approve Special Permit No. 1762E and the deletion of Note #24 from the approved site plan to allow the construction of 85 dwelling units on the Property as shown on the approved site plan for Special Permit No. 1762E to be served by the pump station and force main.

2. Location of Pump Station and Force Main. The Developer agrees at its own cost and expense to acquire or provide suitable land and related improvements for the pump station, including any access drives without any reimbursement from the City. The pump station may not be located in the public right-of-way. The force main may be located in street right-of-way, if space is available. Otherwise, the Developer at its own cost and expense shall obtain suitable land and easements for the force main. It is anticipated that the pump station will be located in the southeast portion of Outlot "C", Vintage Heights 20<sup>th</sup> Addition, and that the force main will be located in Forest Glen Drive as shown on the Site Plan attached hereto, marked as Attachment B.

3. Design and Construction of Pump Station and Force Main. The Developer agrees at its own cost and expense to design and construct the pump station and force main. The pump station and force main will only be designed to serve the Property. Construction plans shall be approved by the Director of Public Works and Utilities Department and be per city standards.

4. Ownership and Operation of Pump Station and Force Main. Once inspections have been completed and the facilities are found acceptable, the Developer will (i) convey at no cost to the City the pump station and force main (including salvage rights), (ii) grant the City a permanent easement on the land the pump station and force main are located upon to operate, repair, and maintain the pump station and force main and (iii) grant the City any associated easements.

5. Advance Payment of City's Costs. The Developer agrees at its own cost and expense to pay the City the lump sum of \$364,253.85 which the parties agree is the present day value of the costs necessary to cover the City's costs, including personnel costs for (i) operating and maintaining the pump station and force main during the 30 to 40 years the facility is expected to be in use and (ii) properly abandoning the pump station and force main, including any costs for restoring all property damaged thereby and constructing any extension sewer main necessary to connect the Property to the Trunk Sewers. Developer understands and agrees that no building permit shall be issued for construction of any of the 85 dwelling units allowed to be constructed on the Property and sewered by the pump station and force main under Special Permit No. 1762E until a final plat for the Property has been submitted to and approved by the City of Lincoln and Developer has paid the City the sum of \$364,253.85.

6. Upon satisfaction of Developer's responsibility as provided herein the City agrees to operate, repair and maintain the pump station and force main until such time as the Trunk Sewers are extended to serve the Property. At such time as the Trunk Sewers are extended to

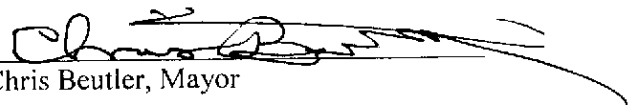
serve the property, the City agrees to decommission the pump station, abandon the force main, construct sewer line connection to the Trunk Sewers and release the permanent easement and any associated easements for the pump station and force main.

7. **Binding Effect.** This Agreement shall run with the Property and be binding upon the Developer, its successors and assigns.

8. **Recording.** This Agreement shall be recorded by the City with the Register of Deeds of Lancaster County, Nebraska, filing fees therefor to be paid in advance by the Developer.

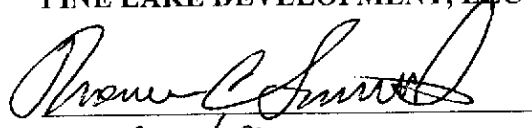
Executed by the City of Lincoln this 16<sup>th</sup> day of March, 2016.

**CITY OF LINCOLN, NEBRASKA**

By:   
Chris Beutler, Mayor

Executed by Pine Lake Development, LLC this 16<sup>th</sup> day of March, 2016.

**PINE LAKE DEVELOPMENT, LLC**

By:   
Title: member

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF LANCASTER )

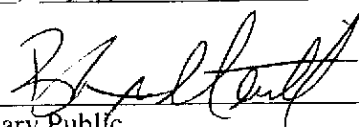
The foregoing instrument was acknowledged before me this 16<sup>th</sup> day of March, 2016, by Chris Beutler, Mayor of the City of Lincoln.

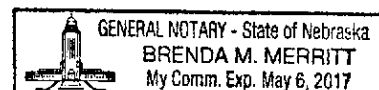


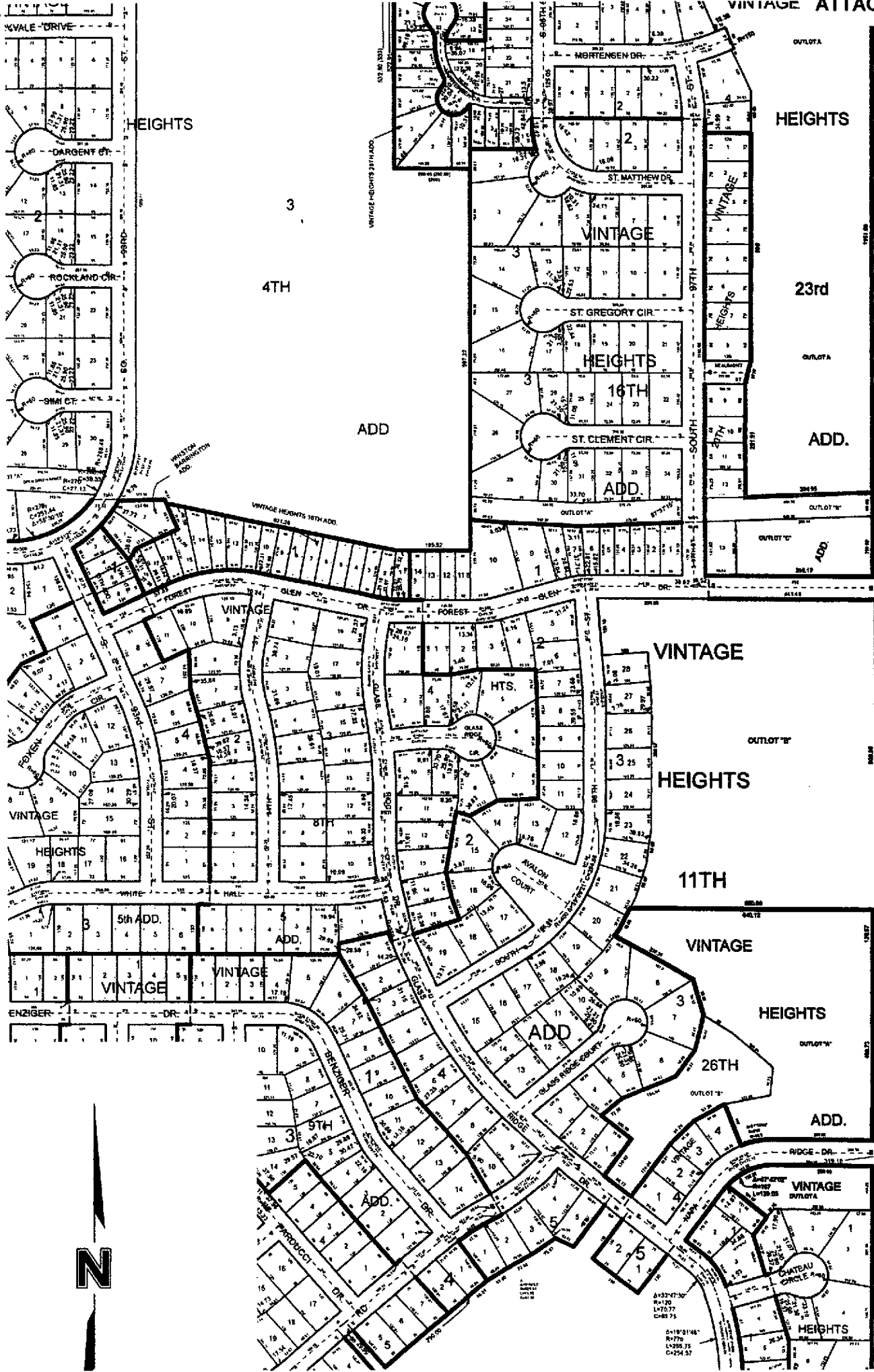
  
Notary Public

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF LANCASTER )

The foregoing instrument was acknowledged before me this 22<sup>nd</sup> day of February, 2016, by Thomas C. Smith, Member of Pine Lake Development, LLC.

  
Notary Public





OUTLOTA  
 HEIGHTS  
 23rd  
 OUTLOTA  
 ADD.  
 OUTLOT "A"  
 ADD  
 OUTLOT "B"  
 HEIGHTS  
 11TH  
 VINTAGE  
 HEIGHTS  
 26TH  
 ADD.  
 VINTAGE  
 OUTLOTA  
 HEIGHTS



6118' 3146"  
 R=120  
 L=7077'  
 C=481.75'

2633.4 2638.0  
 1176.55  
 560.00  
 561.28  
 5277.0



# CERTIFICATE

STATE OF NEBRASKA            )  
  )  
COUNTY OF LANCASTER        ) ss:  
  )  
CITY OF LINCOLN                )

I, Teresa J. Meier, City Clerk of the City of Lincoln, Nebraska, do certify that the above and foregoing is a true and correct copy of the Vintage Heights CUP Pump Station and Force Main Agreement between the City of Lincoln and Pine Lake Development, LLC associated with Special Permit No. 1762E regarding the pump station and force main to be conveyed to and operated by the City to sewer 85 additional dwelling units within the existing Vintage Heights CUP, as the original appears of record in my office, and is now in my charge remaining as City Clerk aforesaid.

IN WITNESS WHEREOF, I have hereunto set my hand officially & affixed the seal of the City of Lincoln, Nebraska, this 16<sup>th</sup> day of March, 2016.

*Teresa J. Meier*  
City Clerk

