

## CERTIFICATE

The undersigned hereby certify that they are the Chairperson and Clerk of Sanitary and Improvement District Number 296 of Sarpy County, Nebraska, (the "District") and hereby further certify as follows:

1. Annexed to this certificate is a true and correct transcript of the proceedings of the Board of Trustees of the District relating to a meeting of said District held on the date and at the time reflected in the meeting minutes contained in said foregoing transcript (the "Meeting"). All of the proceedings of the District and of the Board of Trustees thereof which are set out in the annexed and foregoing transcript have been fully recorded in the journal of proceedings of the District and the undersigned District Clerk has carefully compared the annexed and foregoing transcript with said journal and with the records and files of the District which are in such Clerk's official custody and said transcript is a full, true and complete copy of said journal, records and files which are set out therein.

2. Advance notice for the Meeting was given by publication as set forth in the affidavit of publication contained in the foregoing transcript and was mailed to the Clerk of the municipality or county within whose zoning jurisdiction the District is located at least seven days prior to the date of the Meeting. Advance notice for the Meeting, including notice of agenda subjects, was given to all members of the Board of Trustees. All news media requesting notification of meetings of said body were provided with advance notice of the times and places of such meetings and the subjects to be discussed.

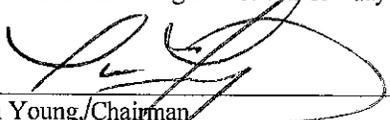
3. All of the subjects addressed at the Meeting were contained in the agenda for the Meeting, which agenda was kept continually current and readily available for public inspection at the address listed in the meeting notice for the Meeting and a copy of which is attached to this Certificate; such subjects were contained in said agenda for at least 24 hours prior to the Meeting and each agenda item was sufficiently descriptive to give the public reasonable notice of the matters to be considered at the Meeting.

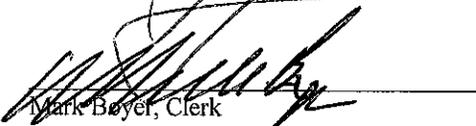
4. A current copy of the Nebraska Open Meetings Act was available and accessible to members of the public, posted during the Meeting in the room in which such Meeting was held and all in attendance at the Meeting were informed that such copy of the Nebraska Open Meetings Act was available for review and were informed of the location of such copy in the room in which such Meeting was being held. At least one copy of all resolutions and other reproducible written materials, for which actions are shown in said proceedings, was made available for examination and copying by members of the public at the Meeting.

5. The minutes of the Meeting were in written form and available for public inspection within ten (10) working days after the Meeting or prior to the next convened meeting, whichever occurred earlier, at the office of the District; within thirty (30) days after the date of the Meeting, a copy of the minutes of the Meeting was sent to the Clerk of the municipality or county within whose zoning jurisdiction the District is located.

6. No litigation is now pending or threatened to restrain or enjoin the District from the issuance and delivery of any warrants or other obligations issued by the District or the levy and collection of tax or other revenues or relating to any of the improvements for which any such warrants or other obligations were or are issued nor in any manner questioning the proceedings and authority under which any such warrants or other obligations were or are issued or affecting the validity thereof; neither the corporate existence or boundaries of the District nor the title of its present officers to their respective offices is being contested; no authority or proceedings for the issuance of any warrants or other obligations by the District have been repealed, revoked or rescinded as of the date hereof. All actions taken by the Board of Trustees referred to in said transcript were taken at a public meeting while open to the attendance of the public.

IN WITNESS WHEREOF, we have hereunto affixed our official signatures this 15<sup>th</sup> day of July, 2016.

  
Tim Young, Chairman

  
Mark Boyer, Clerk

**MINUTES OF THE MEETING OF THE BOARD OF TRUSTEES OF SANITARY AND IMPROVEMENT DISTRICT NO. 296 OF SARPY COUNTY, NEBRASKA HELD AT 10:00 A.M. ON JULY 15, 2016 AT 9719 GILES ROAD, LA VISTA, NEBRASKA**

The meeting of the Board of Trustees of Sanitary and Improvement District No. 296 of Sarpy County, Nebraska was convened in open and public session at 10:00 a.m. on July 15, 2016, at 9719 Giles Road, La Vista, Nebraska, 68128.

Present at the meeting were Trustees Mark Boyer, Tim Young and Denny VanMoorlegham. Also present were Larry A. Jobeun of Fullenkamp, Doyle & Jobeun, attorneys on behalf of the District; Mark Westergard of E & A Consulting Group, Inc., engineers on behalf of the District; and John Kuehl of D.A. Davidson & Co, underwriters on behalf of the District. Trustees Nick Boyer and Jerry Standerford were absent.

The Chairman then certified that a current copy of the Nebraska Open Meetings Act was available for review at the meeting in accordance with State Law.

Notice of the meeting was given in advance thereof by publication in The Bellevue Leader on June 29 and July 6, 2016, a copy of the Proof of Publication being attached to these minutes. Notice of the meeting was simultaneously given to all members of the Board of Trustees and a copy of their Acknowledgement of Receipt of Notice is attached to these minutes. Availability of the agenda was communicated in the published notice and in the notice of the Trustees of this meeting. All proceedings of the Board were taken while the convened meeting was open to the attendance of the public.

The Clerk then certified that notice of this meeting had been given to the City Clerk of Papillion, Nebraska at least seven days prior to the time set by the Board of Trustees for this meeting and filed his Certificate to that effect, said Certificate being attached to these minutes and made part hereof by this reference.

Trustees Timothy Young, Mark Boyer, Jerry Standerford and Denny VanMoorleghem then voted "aye" and passed and adopted the proposed Resolution of Advisability and Necessity for the District to enter into a Subdivision Agreement with the City of Bellevue for Phase II of Cedar Grove, and for the payment of Administrative and Community Parks Fees in the amount of \$11,960.00, as stipulated therein, being the same Resolution adopted in form at the meeting of

the Board of Trustees held on June 17, 2016, which Resolution is set forth in full in the Proof of Publication attached hereto; the Trustees then passed the following resolution:

BE IT RESOLVED by the Board of Trustees of Sanitary and Improvement District No. 296 Sarpy County, Nebraska that the Resolution of Necessity for the construction of the Sanitary Sewer, Storm Sewer and Paving System – Section II, be and hereby is approved as proposed at the meeting of the Board of Trustees held on May 24, 2016.

The Chairman next presented the following statements for payment from the Construction Fund Account of the District and directed the Clerk to attach copies of said statements to these minutes:

a)	City of Bellevue for Administrative and Community Parks Fees on Phase II of the development as stipulated in the Subdivision Agreement for Phase II.	\$11,196.00
b)	Fullenkamp, Doyle & Jobeun for legal services rendered in connection with item a) hereinabove (5%).	\$ 559.80
c)	Municipal Capital Advisors, LLC for municipal advisory fees on General Fund warrants issued at this meeting (1%).	\$ 117.56
d)	D.A. Davidson & Co. for underwriting services relating to General Fund warrants issued at this meeting (3%).	\$ 470.23
	<b>Total:</b>	<b>\$12,343.59</b>

The Clerk was then directed to attach copies of the above invoices and statements to these minutes and by this reference are incorporated herein.

Then, upon a motion duly made, seconded and upon a roll call vote of “aye” by the Trustees, the following Resolutions were unanimously adopted:

RESOLVED by the Board of Trustees of Sanitary and Improvement District No. 296 of Sarpy County, Nebraska that the Chairman and Clerk be and they hereby are authorized and directed to execute and deliver Warrant Nos. 641 through 646, inclusive, of the District, dated the date of this meeting, to the following payees, for the following services and in the following amounts, the General Fund Warrants to draw interest at the rate of 6% and Construction Fund Warrants to draw at the rate of 7%, per annum, said to be payable from the Construction Fund Account of the District (interest payable on February 10 annually) and to be

redeemed no later than five (5) years of the date hereof being July 15, 2021 (the "**Construction Fund Warrants**") subject to extension of said maturity date by order of the District Court of Sarpy County, Nebraska after notice is given as required by law; to-wit:

- a) Warrants No. 641 and 642 for \$5,000.00 each and Warrant No. 643 for \$1,196.00, all made payable to the City of Bellevue for Administrative and Parks Fees pursuant to the Subdivision Agreement for Phase II of the development. **CF**
- b) Warrant No. 644 for \$559.80 made payable to Fullenkamp, Doyle & Jobeun for legal services rendered in connection with item a.) hereinabove. **CF**
- c) Warrant No. 645 for \$117.56 made payable to Municipal Capital Advisors, LLC for municipal advisory fees on Construction Fund Warrants issued at this meeting (1%). **CF**
- d) Warrant No. 646 for \$470.23 made payable to D.A. Davidson & Co. for underwriting services on the Construction Fund Warrants issued at this meeting (3%). **CF**

BE IT FURTHER RESOLVED by the Board of Trustees of Sanitary and Improvement District No. 296 of Sarpy County, Nebraska, that the District hereby finds and determines and covenants, warrants and agrees as follows in connection with the issuance of the Construction Fund Warrants: (i) the improvements and/or facilities being financed by the Construction Fund Warrants are for essential governmental functions and are designed to serve members of the general public on an equal basis; (ii) all said improvements have from the time of their first acquisition and construction been owned, are owned and are to be owned by the District or another political subdivision; (iii) to the extent special assessments have been or are to be levied for any of said improvements, such special assessments have been or are to be levied under Nebraska law as a matter of general application to all property specially benefited by said improvements in the District; (iv) the development of the land in the District is for residential or commercial use and the development of the land in the District for sale and occupation by the general public has proceeded and is proceeding with reasonable speed; (v) other than any incidental use of said improvements by a developer during the initial period of development of said improvements, there have been, are and will be no persons with rights to use such improvements other than as members of the general public; (vi) none of the proceeds of said Construction Fund Warrants have been or will be loaned to any private person or entity; and (vii) and the District does not reasonably expect to sell or otherwise dispose of said improvements and/or facilities, in whole or in part, prior to the last maturity of the Construction Fund Warrants.

BE IT FURTHER RESOLVED by the Board of Trustees of Sanitary and Improvement District No. 296 of Sarpy County, Nebraska that the District covenants and agrees concerning the Construction Fund Warrants that: (i) it will comply with all applicable provisions of the Code, including Sections 103 and 141 through 150, necessary to maintain the exclusion from gross income for federal income tax purposes of the interest on the Construction Fund Warrants and (ii) it will not use or permit the use of any proceeds of the Construction Fund Warrants or any other funds of the District nor take or permit any other action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the interest on the Construction Fund Warrants. In addition, the District will adopt such other resolutions and take such other actions as may be necessary to comply with the Code and with all other applicable future laws, regulations, published rulings and judicial decisions, in order to ensure that the interest on the Construction Fund Warrants will remain excluded from federal gross income, to the extent any such actions can be taken by the District.

The District covenants and agrees that (i) it will comply with all requirements of Section 148 of the Code to the extent applicable to the Construction Fund Warrants, (ii) it will use the proceeds of the Construction Fund Warrants as soon as practicable and with all reasonable dispatch for the purposes for which the Construction Fund Warrants are issued, and (iii) it will not invest or directly or indirectly use or permit the use of any proceeds of the Construction Fund Warrants or any other funds of the District in any manner, or take or omit to take any action, that would cause the Construction Fund Warrants to be "arbitrage bonds" within the meaning of Section 148(a) of the Code.

The District covenants and agrees that it will pay or provide for the payment from time to time of all amounts required to be rebated to the United States pursuant to Section 148(f) of the Code and any Regulations applicable to the Construction Fund Warrants from time to time. This covenant shall survive payment in full of the Construction Fund Warrants. The District specifically covenants to pay or cause to be paid to the United States, the required amounts of rebatable arbitrage at the times and in the amounts as determined by reference to the Code and the Regulations. Pursuant to the "small issuer exception" set forth below, the District does not believe the Construction Fund Warrants will be subject to rebate.

The District covenants and agrees that (to the extent within its power or direction) it will not use any portion of the proceeds of the Construction Fund Warrants, including any investment income earned on such proceeds, directly or indirectly, in a manner that would cause any Construction Fund Warrant to be a "private activity bond".

The District makes the following representations in connection with the exception for small governmental units from the arbitrage rebate requirements under Section 148(f)(4)(D) of the Code:

(i) the District is a governmental unit under Nebraska law with general taxing powers;

(ii) none of the Construction Fund Warrants is a private activity bond as defined in Section 141 of the Code;

(iii) ninety-five percent or more of the net proceeds of the Construction Fund Warrants are to be used for local governmental activities of the District;

(iv) the aggregate face amount of all tax-exempt obligations (other than "private activity bonds," but including any tax-exempt lease-purchase agreements) to be issued by the District during the current calendar year is not reasonably expected to exceed \$5,000,000; and

(v) the District (including all subordinate entities thereof) will not issue in excess of \$5,000,000 of tax-exempt indebtedness (other than "private activity bonds," but including any tax-exempt lease-purchase agreements) during the current calendar year without first obtaining an opinion of nationally recognized counsel in the area of municipal finance that the excludability of the interest on the Construction Fund Warrants from gross income for federal tax purposes will not be adversely affected thereby.

BE IT FURTHER RESOLVED by the Board of Trustees of Sanitary and Improvement District No. 296 of Sarpy County, Nebraska that the District hereby covenants, warrants and agrees that to the extent that it may lawfully do so, the District hereby designates the Construction Fund Warrants as its "qualified tax exempt obligations" under Section 265(b)(3)(B)(i)(III) of the Code.

BE IT FURTHER RESOLVED by the Board of Trustees of Sanitary and Improvement District No. 296 of Sarpy County, Nebraska that this and the preceding Resolutions are hereby adopted as the Certificate with Respect to Arbitrage of the District pertaining to the Construction Fund Warrants and the District hereby further certifies, as of the date of the registration of the Construction Fund Warrants with Sarpy County, Nebraska as follows:

1. The District reasonably anticipates that a portion of the monies in its Bond Fund will be expended for payment of principal of and interest on the bonds and/or construction fund warrants of the District within 12 months after receipt of such monies. The District hereby establishes a reserve fund within its Bond Fund in connection with the issuance of the Construction Fund Warrants in the amount equal to the least of (i) 10% of the stated principal amount of the

Construction Fund Warrants, (ii) the maximum annual debt service due on the Construction Fund Warrants during any fiscal year, or (iii) 125% of the average annual debt service for the Construction Fund Warrants over the term of such warrants. That amount that is currently held in the District's Bond Fund which exceeds the amount to be expended for payment of principal and interest on the bonds and/or construction fund warrants of the District within 12 months after receipt of such monies, plus that amount arrived at pursuant to the immediately preceding sentence, will not be invested in any securities or any other investment obligations which bear a yield, as computed in accordance with the actuarial method, in excess of the yield on the Construction Fund Warrants.

2. To the best of their knowledge, information, and belief, the above expectations are reasonable.
3. The District has not been notified of any listing of it by the Internal Revenue Service as an issuer that may not certify its debt.
4. This Certificate is being passed, executed and delivered pursuant to Section 1.148-2 (b) (2) of the Income Tax Regulations under the Code (the "**Regulations**").

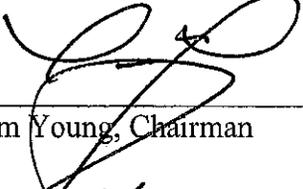
BE IT FURTHER RESOLVED by the Board of Trustees of Sanitary and Improvement District No. 296 of Sarpy County, Nebraska the District hereby authorizes and directs the Chair or Clerk to file or cause to be filed, when due, an information reporting form pursuant to Section 149(e) of the Internal Revenue Code of 1986, as amended (the "**Code**"), pertaining to the Construction Fund Warrants and the General Fund Warrants;

No opinion of nationally recognized counsel in the area of municipal finance has been delivered with respect to the treatment of interest on the General Fund Warrants. Purchasers of the General Fund Warrants are advised to consult their tax advisors as to the tax consequences of purchasing or holding the General Fund Warrants.

*[Remainder of page intentionally left blank]*

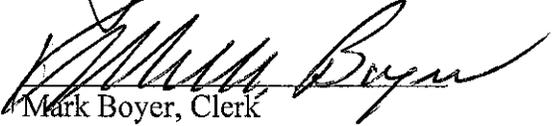
**MINUTES SIGNATURE PAGE FROM THE MEETING OF  
SANITARY AND IMPROVEMENT DISTRICT NO. 296 OF  
SARPY COUNTY, NEBRASKA, HELD ON JULY 15, 2016**

There being no further business to come before the meeting, the meeting was adjourned.



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Tim Young, Chairman



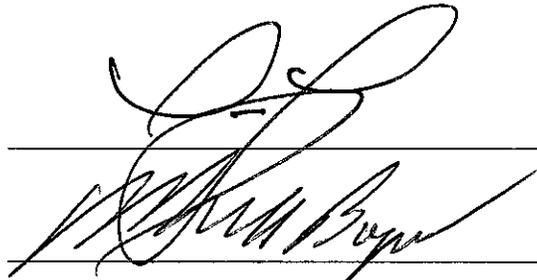
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Mark Boyer, Clerk

**ACKNOWLEDGMENT OF  
RECEIPT OF NOTICE OF MEETING**

The undersigned Trustees of Sanitary and Improvement District No. 296 of Sarpy County, Nebraska do hereby acknowledge receipt of advance notice of a meeting of the Board of Trustees of said District and that the agenda for such meeting, held at 10:00 a.m. on July 15, 2016, at 9719 Giles Road, La Vista, Nebraska 68128, is kept continuously current at the office of the District's counsel at 11440 W. Center Road, Omaha, Nebraska.

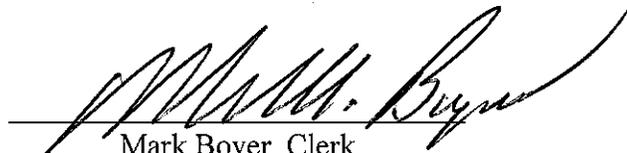
DATED this 15 day of July, 2016.

  
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\_\_\_\_\_  
\_\_\_\_\_

**CERTIFICATE**

The undersigned being Clerk of Sanitary and Improvement District No. 296 of Sarpy County, Nebraska hereby certifies that Notice of meeting of the Board of Trustees of said District held on July 15, 2016, was delivered to the Sarpy County Clerk, via facsimile and/or electronic mail transmittal, at least seven (7) days prior to the date of said meeting.

The undersigned further certifies that the agenda for the meeting of the Board of Trustees of said District was prepared and available for public inspection at the address designated in the notice of meeting given in advance thereof by publication in The Bellevue Leader on June 29 and July 6, 2016, and that no items were added to the agenda after the commencement of the meeting; and further, that the minutes for the meeting were available for public inspection within ten (10) days of the date of said meeting and that a copy of the minutes of this meeting were sent to the Sarpy County Clerk, Papillion, Nebraska within thirty (30) days from the date of this meeting.

  
Mark Boyer, Clerk

**AFFIDAVIT OF PUBLICATION**

STATE OF NEBRASKA }  
 } SS.  
County of Sarpy }

Being duly sworn, upon oath, Shon Barenklau deposes and says that he is the Publisher or Ron Petak deposes and says that he is the Executive Editor of the **Bellevue Leader, Papillion Times, Gretna Breeze and Springfield Monitor**, legal newspapers of general circulation in Sarpy County, Nebraska, and published therein; that said newspaper has been established for more than one year last past; that it has a bona-fide paid subscription list of more than three hundred; that to this personal knowledge, the advertisement, a copy of which is hereto attached, was printed in the said newspaper once each week, the first insertion having been on:

Wednesday, June 29, 2016 Papillion Times  
Thereafter, Wednesday, July 6, 2016 Papillion Times

And that said newspaper is a legal newspaper under the statutes of the State of Nebraska. The above facts are within my personal knowledge.

Shon Barenklau OR Ron Petak  
Publisher Executive Editor

FULLENKAMP, DOYLE & JOBEUN, LLP  
11440 WEST CENTER ROAD  
OMAHA, NEBRASKA 68144

SANITARY AND IMPROVEMENT  
DISTRICT NO. 296  
OF SARPY COUNTY, NEBRASKA

**NOTICE**

NOTICE IS HEREBY GIVEN that a meeting of the Board of Trustees of Sanitary and Improvement District No. 296 of Sarpy County, Nebraska will be held at 10:00 A.M. on July 15, 2016 at 9719 Giles Road, La Vista, Nebraska, which meeting will be open to the public. The agenda for such meeting, kept continuously current, is available for public inspection at 11440 West Center Road, Omaha, Nebraska and includes the payment of bills of the District and the consideration and passing or amending and passing the following Resolution, to-wit:

BE IT RESOLVED that the Board of Trustees of Sanitary and Improvement District No. 296 of Sarpy County, Nebraska find and determine that it is advisable and necessary for the District to enter into a Subdivision Agreement with the City of Bellevue, Nebraska and the Developer, wherein the manner by which public funds are to be utilized for the installation of various public improvements and to be in accordance with the terms and conditions thereof, as approved by the City of Bellevue's City Council on June 13, 2016; further acknowledged by the City Clerk and its Attorney.

BE IT FURTHER RESOLVED that any and all fees contemplated in the Subdivision Agreement, including but not limited to review and administrative fees, are hereby agreed to be paid out of the Construction Fund of the District in amount not to exceed \$11,196.00, exclusive of soft costs and administrative fees.

The outer boundaries of the area which may become subject to special assessments for said Improvements are proposed to be the same as the outer boundaries of Sanitary and Improvement District No. 296 of Sarpy County, Nebraska.

Said agreement has been reviewed by E & A Consulting Group, Inc., engineers for the District and said engineers have filed with the Clerk of the District, prior to the first publication of this Resolution, an estimate of the total costs relating to the fees to be paid to the City of Bellevue, including engineering fees, legal fees, fiscal fees, interest and other miscellaneous costs, which estimate is in the sum of \$20,000.00.

To pay the cost of said improvement the Board of Trustees shall have the power to issue negotiable bonds of the District after such improvements have been completed and accepted; said bonds to be called "Sanitary and Improvement District Bonds" and shall be payable and bear interest as provided by the Statutes of the State of Nebraska.

The Board of Trustees shall assess to the extent of special benefits, the cost of such improvements upon properties

specially benefitted thereby. All special assessments which may be levied upon the properties specially benefitted by such improvements shall, when collected, be set aside and constitute a sinking fund for the payment of interest and principal of said bonds. The District shall also cause to be levied annually a tax upon the assessed value of all of the taxable property in the District except intangible property, which together with said sinking fund derived from special assessments shall be sufficient to meet payment of the interest and principal of said bonds as the same become due; said tax shall be known as the Sanitary and Improvement District Tax and shall be payable annually in money.

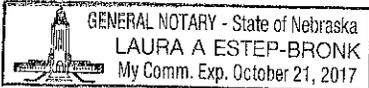
If a petition opposing this Resolution, signed by property owners representing a majority of the front footage which may become subject to assessment for the cost of the improvements as set forth herein, is filed with the Clerk of the District within three (3) days before the date of the hearing on this Resolution, this Resolution shall not be passed.

SANITARY AND IMPROVEMENT  
DISTRICT NO. 296  
OF SARPY COUNTY, NEBRASKA  
By: Tim Young, Chairman  
Mark Boyer, Clerk

1959455; 6/29, 7/6

Today's Date 7.6.16  
Signed in my presence and sworn to before me:

Notary Public



Printer's Fee \$ 83.93  
Customer Number: 40972  
Order Number: 0001959455

**SUBDIVISION AGREEMENT**

THIS SUBDIVISION AGREEMENT ("Agreement") is made this \_\_\_\_ day of \_\_\_\_\_, 2016 ("Effective Date"), by and among CLEARWATER FALLS, LLC a Nebraska limited liability company ("DEVELOPER"), SANITARY AND IMPROVEMENT DISTRICT NO. 296 OF SARPY COUNTY, NEBRASKA, a Nebraska political subdivision ("DISTRICT"), and THE CITY OF BELLEVUE, a municipal corporation of the first class ("CITY").

WITNESSETH:

WHEREAS, DEVELOPER is owner of the real property situated within the Development Area (as defined in Section 1); and

WHEREAS, DISTRICT and DEVELOPER desire to construct, install and locate certain improvements within the Development Area; and

WHEREAS, the Development Area is outside the incorporated limits of the CITY but within the CITY's zoning and platting jurisdiction thereby necessitating CITY's review and approval of the desired improvements.

NOW, THEREFORE, in consideration of the premises, the PARTIES agree as follows:

**SECTION 1**

**DEFINITIONS**

For the purpose of this Agreement, unless the context otherwise requires, the following words and phrases shall have the following meanings:

(a) "Benefited Property" shall mean any parcel or lot within the Development Area which, as of the Effective Date, may actually be used as a buildable lot.

(b) "Cost" shall mean all construction costs, engineering fees, design fees, attorneys' fees, testing expenses, publication costs, financing costs (which shall include all fiscal agent's warrant fees and bond fees, and interest on warrants to date of levy of special assessments), the administrative costs incurred by DISTRICT by application of Section 5(c) and all other related or miscellaneous costs or expenses directly incurred by DEVELOPER or DISTRICT in connection with Public Improvements.

(c) "Dedicated Street(s)" shall mean those concrete or paved area(s), including curbing, to be constructed, modified or improved within that portion of the Development Area designated as Dedicated Street right-of-way on Exhibit B.

(d) "Development Area" shall mean the real property situated within the area identified or depicted on Exhibit A.

(e) "General Obligation" shall mean any indebtedness for Public Improvements which is not required by law or this Agreement to be specially assessed against Benefited Property.

(f) "Party" shall mean CITY, DEVELOPER or DISTRICT, individually, and "Parties" shall mean the CITY, DEVELOPER and DISTRICT, collectively.

(h) "Plat" shall mean the Final Plat of Cedar Grove Lots 76 thru 133, inclusive and Outlot "E" approved by the City Council for the CITY on \_\_\_\_\_, 2016, subject to any conditions expressly provided for at such time or in this Agreement.

(i) "Public Improvements" shall mean:

(i) All Dedicated Streets (including that portion of any "T" intersection abutting any buildable lot or parcel and Street Intersections) identified on Exhibit B.

(ii) All concrete sidewalks to be constructed, modified or improved along any Dedicated Streets and lying within the boundaries of any Dedicated Street right-of-way.

(iii) All Dedicated Street signage required by, and meeting the standards of, the "Manual of Uniform Traffic Control Devices" but only if first approved in writing by the CITY's Public Works Department and only if located at a Street Intersection.

(iv) All "Wastewater Sewers" constructed within the Development Area as identified in the sanitary sewer layout (Exhibit C) prepared by E & A Consulting Group ("Engineer"). Wastewater Sewers shall include all necessary sanitary and wastewater sewer mains, manholes, lines, pipes, lift stations and related appurtenances.

(v) All "Storm Sewers" to be constructed in the Development Area identified on the storm sewer plan (Exhibit B-1) prepared by the Engineer, including all necessary storm sewers, inlets, manholes, lines, pipes and related appurtenances.

(vi) The "Water Distribution System" to be constructed and installed by Metropolitan Utilities District within the boundaries of any Dedicated Street right-of-way within the Development Area or other areas specifically approved by the CITY.

(vii) The "Gas Distribution System" to be constructed and installed by Metropolitan Utilities District within any Dedicated Street right-of-way within the Development Area or other areas specifically approved by the CITY.

(viii) The "Lighting System" for any Dedicated Streets to be constructed and installed by the Omaha Public Power District within the boundaries of any Dedicated Street right-of-way within the Development Area, including any decorative, ornamental or other lighting not conforming to CITY standards but which has been specifically approved by the CITY.

(ix) The "Electrical Power Service" to be constructed and installed by the Omaha Public Power District within the boundaries of any Dedicated Street right-of-way within the Development Area. The Electrical Power Service shall include all

electrical utility lines and other devices, other than the Lighting System, so constructed and installed for the benefit of the Development Area.

(j) "Sewer System" shall mean, collectively, all sewer systems within the DISTRICT and the Development Area, and shall also include all existing wastewater systems, Wastewater Sewers, existing storm sewer systems, the Storm Sewers and existing sanitary sewer systems located within the DISTRICT or the Development Area.

(k) "Street Improvements" shall mean those Public Improvements described in Sections 1(i)(i), (ii), (iii), (viii), and (ix) other than the Street Intersections.

(l) "Street Intersections" shall mean those portions of the Dedicated Streets (other than that portion of any "T" intersection abutting any buildable lot or parcel) designated as intersections on Exhibit B.

(m) "Weeds" shall include, but not be limited to, bindweed (*Convolvus arvensis*), puncture vine (*Tribulus terrestris*), leafy spurge (*Euphorbia esula*), Canada thistle (*Cirsium arvense*), perennial peppergrass (*Lepidium draba*), Russian knapweed (*Centuarea pieris*), Johnson grass (*Sorghum halepense*), nodding or musk thistle, quack grass (*Agropyron repens*), perennial sow thistle (*Sonchus arvensis*), horse nettle (*Solanum carolinense*), bull thistle (*Cirsium lanceolatum*), buckthorn (*Rhamnus*) (toun), hemp plant (*Cannabis sativa*), and ragweed (*Ambrosiaceae*).

(n) "Urban Design Standards" shall mean public concrete streets of various width and thicknesses including curbs, guttering, and related storm sewer systems, meeting the design, surface and other specifications of CITY, the plans for which shall be first approved by CITY in accordance with Section 2(b)(i).

## SECTION 2

### AUTHORITY AND DOCUMENTATION

(a) The DISTRICT and the DEVELOPER shall cause all Public Improvements to be constructed and installed in accordance with the terms and conditions of this Agreement.

(b) Subject to the remaining terms and conditions of this Agreement, CITY hereby approves construction and installation of the Public Improvements substantially in accordance with the Plat; provided, however, that at least thirty (30) working days before commencing any work in connection with the Public Improvements, the DISTRICT and DEVELOPER shall first:

(i) Deliver to the appropriate department(s) of the CITY duly executed copies of any agreement(s) for work required for, or otherwise entered into in connection with the Public Improvements, and all plans for the manner and means of any additional connections required by or for the Wastewater Sewers or Storm Sewers. The specifications and technical terms of all such agreements and plans shall be subject to review and approval of CITY. All agreements and plans shall require the timely and orderly engineering, design, procurement, construction, installation and testing of Public Improvements and that all work therefore shall be performed in a

good and workmanlike manner, using quality materials, in accordance with industry standards, in compliance with all applicable laws, rules, regulations, standards and specifications of any governmental agency with jurisdiction over any such work or over the Public Improvements and as otherwise may be reasonably required by the CITY. All such agreements shall require the contractor to procure and maintain throughout the term of any such agreement, policies of insurance as follows: (1) workers' compensation insurance and employer's liability insurance in the statutory amount; (2) commercial general liability insurance covering bodily injury, including death, and property damage coverage; (3) broad form contractual liability coverage for all obligations and liabilities undertaken by the agreement and product and completed operations; (4) comprehensive automobile liability and coverage providing bodily injury and property damage coverage covering all motor vehicles including hired and non-owned autos as well as mobile equipment to the extent that may be excluded from the general liability insurance. All such insurance shall have a combined single limit of at least \$1,000,000 per person, and an aggregate limit of at least \$2,000,000 per occurrence; umbrella liability coverage for all of the above with policy limits of \$2,000,000. The CITY and DISTRICT shall be named additional insured for purposes of all policies. Certificates of insurance shall be presented to the CITY upon request. No policy of insurance shall be cancelable, except upon thirty (30) days notice to CITY and DISTRICT. All insurance shall be procured from and maintained by a reputable and financially responsible insurance company authorized to transact business in the State of Nebraska. The CITY shall endeavor to review and approve or require modification to any such agreement within fifteen (15) working days after delivery; provided, however, that unless the CITY notifies the DISTRICT of its objection to any such agreement at least seven (7) working days prior to the date scheduled for commencement of such work, the CITY shall be deemed to have approved such agreement.

(ii) Deliver to the Finance Director of the CITY duly executed copies of any written agreement(s) between the DISTRICT and its fiscal agent for the placement of the warrants or bonds of the DISTRICT used for the payment of the Costs of the Public Improvements.

(iii) Deliver to the Public Works Director of the CITY duly executed copies of an agreement between the DISTRICT and the City of Omaha for wastewater treatment for any wastewater or sewage flowing out of the Development Area.

(iv) Deliver to the Public Works Director of the CITY copies of all performance, labor and material payment or other bonds required by law or the Public Works Director.

(c) At least thirty (30) working days prior to any meeting of the Board of Trustees for the DISTRICT when the Board will consider the levy of special assessments in connection with Public Improvements, the DISTRICT and DEVELOPER shall deliver to the CITY:

(i) A full and detailed statement of the Cost of each Public Improvement, which statement or statements shall separately identify and itemize:

1. The amount and date paid to each contractor, together with releases, lien waivers and other documentation necessary to show that all obligations of the DISTRICT in connection with the Public Improvements have been discharged; and
2. All other direct or indirect Costs of the DISTRICT or any other person which have been or will be expended or otherwise incurred in connection with the Public Improvement including, but not limited to, all engineering fees, attorneys' fees, testing expenses, publication costs, and financing costs including, but not limited to, interest on all warrants to date of levy of special assessments.
  - (ii) A detailed schedule of each proposed special assessment together with the amount of any General Obligation incurred or to be paid by the DISTRICT for the Public Improvement;
  - (iii) A plat of all real property to be assessed; and
  - (iv) Information as may be necessary to evidence that the Public Improvement has been completed in compliance with all applicable laws, rules, regulations, standards and specifications of any governmental agency with jurisdiction over any such work or the Public Improvements and as otherwise has been required by the CITY together with any other information reasonably requested by the CITY.

(d) The DISTRICT shall also provide the Finance Director of the CITY with at least thirty (30) days prior written notice of any meeting whenever the issues of levying special assessments or equalizing or apportioning any debt in connection with the Public Improvements are being considered or discussed by any political or governmental body or agency of competent jurisdiction.

### SECTION 3

#### COSTS OF PUBLIC IMPROVEMENTS

(a) The Costs of Public Improvements shall be paid for by the DISTRICT but shall be defrayed as required by law. All such Costs, other than General Obligations, shall be privately financed or specially assessed against Benefitted Property on an equitable basis.

(i) If not previously paid for, all special assessments for Public Improvements shall be assessed pursuant to applicable provisions of Nebraska Revised Statutes Chapter 31, as amended from time to time, and DISTRICT shall take all necessary actions to see that such assessments are paid in the manner and time required by Chapter 31.

(ii) The DEVELOPER and DISTRICT shall, upon request of the CITY, evidence to the CITY's satisfaction that any lot or parcel to be assessed is a buildable lot. If any lot, parcel, or other area within the Development Area is not a buildable lot for any reason whatsoever, (e.g. by reason of sufficient size,

dimensions, easements or similar burdens or for any other reason), then such lot or parcel shall not be considered to be Benefited Property and no portion of the Cost of the Public Improvements shall be levied against such lot or parcel.

(b) The following Costs of Public Improvements shall constitute General Obligations to the extent permitted by law:

(i) The Cost of any extra width paving for any Dedicated Streets exceeding twenty-five feet (25').

(ii) The Cost of Street Intersections.

(iii) The Cost of the original street signs for Dedicated Streets, other than the Cost of any decorative, ornamental or other signs not conforming to the "Manual of Uniform Traffic Control Devices" which (and notwithstanding any provision in Section 3(b) to the contrary) shall be the obligation of the DEVELOPER to be paid for at the time of installation.

(iv) The Cost of the Lighting System, other than the Cost of any decorative, ornamental or other Dedicated Street, Street Intersection or other lighting not conforming to CITY standards which (and notwithstanding any provision in Section 3(b) to the contrary) shall be the obligation of the DEVELOPER to be paid for at the time of installation.

(v) The Cost of Storm Sewers.

(vi) The difference in Cost between piping eight inches (8") in diameter and the size actually required for piping for the Wastewater Sewers, if greater than eight inches (8") in diameter.

(vii) The Cost of any outfall line of the Wastewater Sewers which is designed to serve a drainage area beyond the Development Area, but only if actually constructed and installed outside of the Development Area.

(viii) Charges paid to connect the DISTRICT's Wastewater Sewer System (but not merely the Wastewater Sewers) to another sanitary and improvement district.

(ix) The Cost of any sewage treatment plant or lift station for the Wastewater Sewers which is designed to serve the entire DISTRICT.

(x) The Cost of that portion of the Water Distribution System which is designed to benefit areas of the DISTRICT beyond the Development Area.

(xi) The Cost of that portion of the Gas Distribution System which is designed to benefit areas of the DISTRICT beyond the Development Area.

(xii) The Cost of the installation of Electrical Power Service other than that portion of the Cost equal to the estimated refundable charge from Omaha Public

4-22-2016

Power District (which shall be a General Obligation; provided that the refund to the DISTRICT shall be credited to the Bond Construction Account of the DISTRICT) shall be specially assessed against the Benefited Property.

- (xiii) The Cost of the acquisition and installation of Recreational Facilities in accordance with the Park Plan, subject to the restrictions and limitations of Section 7-23 of the Subdivision Regulations and also any park development fees paid to the City of Bellevue.
- (xiv) Payments for previous improvements made to 48<sup>th</sup> Street.
- (xv) The Cost of installation of any additional improvements to 48<sup>th</sup> Street including lane widening, left turn lanes, deceleration lanes, and traffic signalization and pedestrian trails.
- (xvi) The cost of culverts or channel improvements necessary to improve the drainage characteristics of the Development Area and/or downstream areas.
- (xvii) The cost of construction of permanent detention basin improvements and post construction stormwater management facilities.
- (xviii) No more than 30% of the City of Bellevue plan review fees.
- (xix) Traffic calming devices including speed tables or speed bumps.
- (xx) The cost sediment removal from permanent detention basins during infrastructure construction.
- (xxi) The cost of land acquisition for Outlot "E", Post Construction Stormwater Management Facility.
- (xxii) The cost of the concrete trail / sidewalk along Birchwood Drive.

(c) One hundred percent (100%) of the entire cost of all sidewalk and construction by the DISTRICT per the sidewalk plan (Exhibit \_\_\_\_), may be a general obligation of the DISTRICT. All sidewalks constructed on other lots shall be privately installed and at the cost of the owner of said lots. In the event sidewalks on any of the other lots have not been constructed within six (6) years of the recording of the subdivision plat, the DISTRICT shall construct sidewalks and shall be paid by special assessment against the property benefitted.

(d) Notwithstanding any provisions in Subsection 3(a)(i) related to DEVELOPER's payment obligations in connection with special assessments, to the extent the Water Distribution System or Gas Distribution System is financed in accordance with MUD policies, the payment of special assessments for such Public Improvements shall be undertaken in accordance with such policies.

#### SECTION 4

## REPRESENTATIONS

- (a) DEVELOPER covenants and represents to the CITY as follows:
- (i) DEVELOPER is the owner of record of the Development Area and has full right and authority to make decisions affecting the Development Area and to enter into this Agreement.
  - (ii) DEVELOPER is duly organized, validly existing and in good standing under the laws of the State of Nebraska and is currently authorized to do business in the State of Nebraska.
  - (iii) DEVELOPER has full power and authority to enter into, deliver and perform its obligations under this Agreement and each of the documents related thereto.
  - (iv) DEVELOPER has taken all necessary action to authorize DEVELOPER's execution, and delivery of, and its performance under, this Agreement and as such, this Agreement constitutes DEVELOPER's valid and binding obligation, enforceable against DEVELOPER in accordance with its terms.
  - (v) No consent, order, authorization, waiver, approval or any other action, or registration, declaration or filing with any person, board or body, public or private is required to be obtained by the DEVELOPER in connection with the execution, delivery or performance of this Agreement or the consummation of the transactions contemplated thereby, except as may be described or contemplated by this Agreement.
  - (vi) DEVELOPER shall cause all Public Improvements to be constructed and installed in accordance with the terms and conditions of this Agreement.
  - (vii) DEVELOPER shall take all steps reasonably necessary to cause all phases of the Public Improvements to be constructed and installed by the DISTRICT no later than July 1, 2017. To the extent not provided by the DISTRICT, DEVELOPER shall provide CITY with quarterly progress reports during the redevelopment and allow CITY reasonable access to any relevant financial or other records pertaining to the Public Improvements.
  - (viii) INTENTIONALLY LEFT BLANK
  - (ix) INTENTIONALLY LEFT BLANK.
  - (x) DEVELOPER shall comply with (i) the terms of this Agreement and (ii) the provisions of any agreement submitted to the CITY pursuant to this Agreement, which agreements shall not be amended or assigned without prior written approval of the CITY.
  - (xi) DEVELOPER shall not permit any private wastewater/sewage disposal systems to be constructed, installed or used on, under or in the vicinity of the Development Area, except as permitted by this Agreement.

(xii) DEVELOPER shall not permit any discharge into the Wastewater/Sewage System to be constructed, installed or used on, under or in the vicinity of the Development Area, in violation of an applicable law, ordinance, statute, rule or regulation.

(xiii) DEVELOPER has not employed or retained any company or person, other than a bona fide employee of DEVELOPER to solicit or secure this Agreement and has not paid or agreed to pay any entity or person other than a bona fide employee working for the DEVELOPER any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from the award or making of this Agreement.

(xiv) All documents, contracts and instruments submitted to CITY now, or at any time in the future, or otherwise entered into by or on behalf of DEVELOPER shall in all material respects be fully authorized, and in all material respects shall be valid, binding and enforceable in accordance with their terms.

(b) DISTRICT covenants and represents as follows:

(i) It is duly organized, is in good standing and is currently authorized to do business in the State of Nebraska; that this Agreement and the Interlocal Agreement has been duly executed and constitutes its valid and binding obligation, each enforceable in accordance with their respective terms.

(ii) No consent, order, authorization, waiver, approval or any other action, or registration, declaration or filing with any person, board or body, public or private is required to be obtained by the DISTRICT in connection with the execution, delivery or performance of this Agreement or the consummation of the transactions contemplated thereby, except as may be described or contemplated by this Agreement.

(iii) It shall abide and be bound by the terms of this Agreement and the provisions of any agreement submitted to the CITY pursuant to this Agreement, which agreements shall not be amended or assigned without written approval of the CITY.

(iv) The performance of DISTRICT contemplated by this Agreement is within its lawful power and authority and has been duly authorized under, pursuant to and in accordance with its constituent documents and the laws of the State of Nebraska. The DISTRICT shall not incur any General Obligation other than those expressly contemplated by this Agreement for, or in connection with, Public Improvements for any purpose without prior approval from the CITY which may be withheld in the absolute discretion of the CITY.

(v) It shall not permit any private wastewater/sewage disposal systems to be constructed, installed or used in the Development Area.

(vi) It shall not permit any discharge into the Sewer System in violation of an applicable law, ordinance, statute, rule or regulation.

(vii) To maintain all Public Improvements in a good and functional state of repair.

(viii) DISTRICT shall cause CITY to be named as an additional insured under any policy of insurance, including all payment and performance bonds obtained by DEVELOPER (whether or not required by this Agreement) or any other person, including DISTRICT and Sarpy County, in connection with the construction or operation of the Public Improvements.

(ix) Other than DISTRICT's Agreement with its fiscal agent or this Agreement, there are no agreements to which DISTRICT is a party or by which DISTRICT is bound concerning the construction or installation, or the repair, replacement or maintenance of any of the Public Improvements. DISTRICT shall not modify any such agreement nor otherwise undertake or assume any such obligation or liability therefor without the express prior written approval of the Bellevue City Council, which approval may be withheld in its absolute discretion.

(x) DISTRICT shall not issue any debt, bonds, warrants or enter into any other form of financing arrangement in furtherance of any other improvement lying, in whole or in part, outside the boundaries of the DISTRICT, without first obtaining an unqualified favorable opinion from competent bond counsel of DISTRICT's choice, including, among other appropriate matters, that such financing is within its lawful power and authority and has been duly authorized under, pursuant to, and in accordance with its constituent documents and the laws of the State of Nebraska. Such opinion shall be made to those parties deemed appropriate by DISTRICT and to the City of Bellevue, its elected officials and officers.

~~(xi) DISTRICT shall contribute \$21,509 to the Park Development Fund. Calculated as 25.3 acres x \$850 per acre.~~

(c) DISTRICT and DEVELOPER acknowledge that the CITY makes no representation or warranty as to the validity or effect of (i) any expenditure, bond or indebtedness contemplated to be incurred by DISTRICT or DEVELOPER in furtherance of this Agreement, the Interlocal Agreement or otherwise to be incurred or actually incurred by DISTRICT in furtherance of the Public Improvements, (ii) CITY's approval of the plat or this Agreement, (iii) any future act of CITY in respect to DISTRICT or DEVELOPER's performance, under the Agreement or otherwise, in developing the Development Area; provided further that to the extent CITY has, or may, undertake any act in respect to any of the foregoing now or at a time in the future, both DISTRICT and DEVELOPER are proceeding at their own risk. The DEVELOPER and DISTRICT do hereby waive and release the CITY from any right, remedy or recourse against it or its elected officials, officers and employees in connection with any provision of this Agreement; provided, however, that such waiver shall not be construed to preclude DISTRICT from enforcing CITY's performance obligations in this Agreement.

#### SECTION 5 OTHER OBLIGATIONS

(a) DEVELOPER shall undertake such acts, responsibilities and obligations as may be necessary or appropriate to prevent and control any adverse impact on any real estate or property

beyond the Development Area directly or indirectly caused by, or attributable or related to construction and installation of the Public Improvements. Such acts shall include seeding the Development Area disturbed by grading operations, construction of temporary terraces on slopes, temporary silting basins, swales and spillways, and other acts which may be necessary to prevent erosion, damage and sedimentation to adjacent properties and public rights-of-way.

(b) Following the construction and installation of such Public Improvements, the DISTRICT shall pay for the Cost of (i) maintaining street signs, other than decorative, ornamental or other signs not conforming to the "Manual of Uniform Traffic Control Devices" (which shall be the sole obligation of the owner of the real estate and not the DISTRICT) and (ii) for monthly charges paid to Omaha Public Power District for the Lighting System for Dedicated Streets out of the operating fund of the DISTRICT, to the extent permitted by law.

(c) DISTRICT shall pay to the CITY \$ 9,308.00 (1% of the estimated public improvement costs) concurrent with the CITY's approval of the plans and specifications for the Public Improvements, as reimbursement for any costs incurred by the CITY for review of this Agreement and all actions undertaken by the CITY in connection with the adoption of this Agreement and the development contemplated thereby; provided, however, DISTRICT shall not be permitted by any provision of Section 3 to generally obligate, in the aggregate, an amount exceeding thirty percent (30%) of the fee paid pursuant to this Section 5(c).

(d) DEVELOPER shall comply with all applicable state statutes and CITY ordinances. DEVELOPER shall further adopt such regulations so as to require strict compliance by the owner, agent, occupant, or any person acquiring possession, charge or control of any lot or ground within the Development Area, or any part of any lot within the Development Area with the following:

(i) All state statutes and CITY ordinances, including Nebraska Revised Statute Section 16-230 and CITY ordinances enacted pursuant thereto.

(ii) That all such persons cut and clear any part of any lot within the Development Area in its possession, charge or control of all weeds, grass and worthless vegetation which has reached a height of twelve inches (12") or more.

(iii) That such weeds, grass and worthless vegetation be cut as close to ground level as possible and be maintained so that at any time the same does not exceed twelve inches (12") or more above the ground.

(iv) That the cuttings be raked and removed from such premises.

(v) That if any such person fails to comply with these requirements, DEVELOPER shall cause such weeds, grass and worthless vegetation to be cut and assess the costs thereof upon the owner of the affected real estate.

(vi) The name and telephone number of the person designated by the DISTRICT or the DEVELOPER to be contacted in the event that such violation occurs, with such name and telephone number being kept current at all times.

(e) DEVELOPER shall make a contribution to the Park Development Fund in the aggregate amount of Forty Eight Thousand Seven Hundred Fifty Two and 20/100 Dollars (\$48,752.20), which amount shall be paid prior to filing of the Plat.

(h) Sidewalks along both sides of all public streets shall be constructed by the DEVELOPER, the DISTRICT, or the lot owners in accordance with the following schedule:

1. Sidewalks shall be constructed immediately abutting built-upon lots as soon as weather permits. No final Certificate of Occupancy shall be issued until such sidewalks are completed.
2. All sidewalks along outlots shall be constructed with the installation of adjacent streets unless such outlot is required for a water quality basin, then such sidewalks along such a situated outlot shall be installed upon the later of the water quality basin being completed or installation of the streets.
3. In any event, all sidewalks shall be constructed upon both sides of all public streets within six (6) years of the recording of the subdivision plat.
4. ADA compliant sidewalk ramps shall be constructed at all intersections per the plat (Exhibit \_\_\_\_ ) by the lot owners in conjunction with the construction of the house on each lot and by the DISTRICT on outlots once all other internal public improvements have been completed.

(i) Except when otherwise specifically prohibited by law, the DISTRICT agrees to annually levy a minimum ad valorem property tax rate of eighty-eight cents (\$0.88) per one hundred dollars (\$100.00) of taxable valuation for all tax collection years through the year that all DISTRICT warrants can be paid on a cash basis and/or are converted to bonded debt. If the levy of such a minimum ad valorem property tax rate is specifically prohibited by law, then the DISTRICT agrees to levy the maximum ad valorem property tax rate allowed by law for all tax collection years through the year that all DISTRICT warrants can be paid on a cash basis and/or are converted to bonded debt.

## **SECTION 6 USE OF SEWER SYSTEM**

(a) DISTRICT shall connect its Sewer System to the wastewater sewer systems operated by the CITY pursuant to plans approved by CITY. Additional connections necessary for the Wastewater Sewers or Storm Sewers, or otherwise required by the Public Improvements shall be made in such a manner and by such means as shall be approved by the CITY.

(b) In no event shall the DISTRICT permit any person (i) to connect to or otherwise use the Sewer System; (ii) to connect any part of the Sewer System to any other sewer system (including to the CITY's sewer system or to any outfall sewer or any wastewater or sewage treatment plant lying within the zoning jurisdiction of the CITY), except as may be currently existing (and then only to the extent as may be currently existing) or as may be specifically permitted by this Agreement or the subsequent express written consent of the CITY; or (iii) to make or allow any unlawful or improper discharge into the CITY's sewer system.

(c) At the request of the CITY the DISTRICT shall permit any person to connect to the Sewer System unless then prohibited by the City of Omaha, provided, however, that the DISTRICT shall use reasonable efforts to obtain consent from the City of Omaha for such purposes. Except as provided in Section 6(d), the DISTRICT shall not be required to permit such connection except upon the payment of a duly levied connection fee calculated after giving due consideration to the Costs, maintenance and other investment of the DISTRICT to date in the

Sewer System (including a proportionate share of any unrecovered costs, plus accrued interest) and additional design, engineering or maintenance costs, for the outfall line. Such proportionate share shall be determined on a pro rata basis of the contributing design flows to the total outfall design flow, which flows and fees shall be reviewed and approved by the CITY prior to levying said fees.

(d) Notwithstanding any provision in Section 6(c), the DISTRICT shall not charge the CITY nor the owner of such real estate nor place any lien or encumbrance upon any real estate for any connections permitted by CITY to, or any persons use of, the Sewer System as may be necessary in order to permit the discharge of wastewater, sewage or storm water from any areas within the then incorporated limits of the CITY for which the CITY shall, nevertheless, have the right to collect its own fees and charges.

(e) No Sewer System, or connection thereto, allowable pursuant to this Section 6 shall be made unless an appropriate permit is first issued by and obtained from the CITY. The construction, installation and other work related to such connection or Sewer System shall be made in compliance with applicable engineering, design, construction, installation and testing rules, regulations, standards, laws and specifications of any governmental agency with jurisdiction over any such work and as otherwise may be reasonably required by the CITY.

(f) Notwithstanding any other provision of this Agreement, the CITY retains the right to immediately require the DISTRICT to disconnect the Sewer System from the CITY's sewer system or to disconnect any user from the Sewer System for any discharge in violation of any rules, regulations, standards, laws and specifications of any governmental agency with jurisdiction over the same or as may otherwise be prohibited by the CITY.

## SECTION 7 MISCELLANEOUS

(a) TERMINATION OF AGREEMENT.

(i) This Agreement shall not be terminated except (1) by the written agreement among DEVELOPER, DISTRICT and CITY; (2) by CITY for any material breach or default by any other PARTY which remains uncured thirty (30) days following notice to the respective PARTY specifying such breach or default ("Notice to Cure"), to be effective as of the date specified in a written Notice of Termination provided, however, that no such Notice to Cure shall be required whenever the breach or default shall recur within 180 days of a Notice to Cure, in which event termination shall be effective as of the date specified in a written Notice of Termination; or (3) upon annexation of the DISTRICT by CITY. No termination shall relieve the DISTRICT or the DEVELOPER of any unperformed obligation required as of the effective date of termination nor any liability which may have then accrued, each of which shall survive such termination.

(ii) The provisions of this Section 7 shall survive the expiration or termination of this Agreement.

(b) INDEMNITY. DEVELOPER shall defend, indemnify and hold CITY, its officers, elected officials, employees, agents and assigns harmless from and against any and all third party or CITY claims, judgments, actions, loss, liability, damage or injury of any nature whatsoever,

whether under theory of tort, contract or otherwise ("Damages"), which may arise or result from, out of or in connection with (i) any material misrepresentation made by DISTRICT or DEVELOPER in this Agreement, (ii) any breach of any representation or covenant made by DEVELOPER or DISTRICT in this Agreement, (iii) any negligent or other act, error or omission of DEVELOPER or DISTRICT (including any of their respective employees, agents, contractors, subcontractors or other representatives) in furtherance of this Agreement or any other agreement contemplated by this Agreement to be entered into by DEVELOPER or DISTRICT, including the failure to perform or properly perform as may be so required, and (iv) any default in or breach of any provision of this Agreement, including any obligation or responsibility of DEVELOPER or DISTRICT in this Agreement. Notwithstanding the preceding sentence, DEVELOPER's indemnity and related obligations under (ii), (iii) and (iv) thereof in respect to Damages related to DISTRICT's conduct shall apply only in the event that the occurrence giving rise to such obligation shall occur during any period that DEVELOPER, its officers, directors or affiliates shall have, in the aggregate, sufficient voting power to elect a majority of DISTRICT's Board of Trustees; otherwise, between DEVELOPER and DISTRICT, DISTRICT shall be responsible and liable for any such indemnity or related obligation in respect to such Damages, to the extent the same shall arise from, out of, or in connection with DISTRICT's conduct.

(c) ASSIGNMENT. Neither this Agreement nor any obligations hereunder shall be assigned without the express written consent of CITY which may be withheld in CITY's sole discretion.

(d) WAIVER. A waiver by any Party of any default, breach or failure of another shall not be construed as a continuing waiver of the same or of any subsequent or different default, breach or failure.

(e) GOVERNING LAW. This Agreement shall be governed exclusively by its provisions and by the laws of the State of Nebraska except to the extent such provisions may be superseded by applicable federal law regulation, in which case the latter shall apply.

(f) ENTIRE AGREEMENT.

(i) This Agreement, and the Exhibits and documents referenced in this Agreement (which are intended to be and hereby are specifically made a part of this Agreement whether or not so stated) express the entire understanding and all agreements of the PARTIES. Specifically, this Agreement supersedes any prior written or oral agreement or understanding between any of the PARTIES, whether individually or collectively concerning the subject matter hereof.

(ii) This Agreement may be modified only by a written agreement, executed by all PARTIES; provided that the PARTIES agree, without cost to the CITY, to conform this Agreement and all performance obligations hereunder to the requirements of any applicable laws, rules, regulations, standards and specifications of any governmental agency with jurisdiction over any such matter, including any amendment or change thereto.

(iii) This Agreement shall not be construed to be a joint venture or a lease among any of the Parties. Notwithstanding the preceding sentence, whenever any provision of this Agreement has reference to a performance obligation or requirement of the DISTRICT and the DEVELOPER, such performance obligation or requirement shall be the joint and several obligation or

requirement of the DISTRICT and the DEVELOPER, whether or not so stated, unless otherwise specifically stated.

(g) NOTICES, CONSENTS AND APPROVAL. All payments, notices, statements, demands, requests, consents, approval, authorizations or other submissions required to be made by the PARTIES shall be in writing, whether or not so stated, and shall be deemed sufficient and served upon the other only if sent by United States registered mail, return receipt requested, postage prepaid and addressed as follows [Editor's Note: Please update.]:

For DEVELOPER: Boyer Young Development  
9805 Giles Road  
LaVista, NE 68128

With Copy To: Mark Westergard, P.E.  
10909 Mill Valley Road  
Omaha, NE 68154

For DISTRICT: Larry Jobeun  
11440 West Center Road  
Omaha, NE 68144

For CITY: City Clerk  
City of Bellevue  
210 West Mission Avenue  
Bellevue, Nebraska 68005  
AND  
Public Works Director  
City of Bellevue  
~~210 West Mission Avenue~~  
1510 Wall Street  
Bellevue, Nebraska 68005

Such address may be changed from time to time by notice to all other PARTIES.

(h) NON-DISCRIMINATION. In performing under this Agreement, no PARTY shall discriminate against any persons on account of disability, race, national origin, sex, age, and political or religious affiliations in violation of any applicable laws, rules and regulations of any governmental agency with jurisdiction over any such matter.

(i) MISCELLANEOUS. Unless otherwise specified, all references in this Agreement to Exhibits, numbered paragraphs or Sections shall mean those Exhibits attached to this Agreement, which are incorporated into this Agreement as if fully set out herein, and those numbered paragraphs and Sections of this Agreement.

(j) CAD DRAWINGS. DEVELOPER shall provide to the City Engineer along with the final plat, a complete copy of the CAD Drawings of the area to be developed, showing all lots, blocks, and water and sewer system improvements. Such CAD Drawings shall be in AutoCAD.

IN WITNESS WHEREOF, the PARTIES have executed this Agreement as of the date and year first above written.

ATTEST:

CITY OF BELLEVUE

\_\_\_\_\_

By \_\_\_\_\_

City Clerk

Mayor

Date

APPROVED AS TO FORM:

\_\_\_\_\_  
Attorney for City of Bellevue

ATTEST:

SANITARY & IMPROVEMENT DISTRICT  
NO. 296 OF SARPY COUNTY, NEBRASKA

\_\_\_\_\_

By: \_\_\_\_\_

Clerk

Chairman

Date

APPROVED AS TO FORM:

\_\_\_\_\_  
Attorney for Sanitary and Improvement  
District No. 296 of Sarpy County, Nebraska

Clearwater Falls, LLC  
A Nebraska limited liability company

\_\_\_\_\_  
By: Timothy Young, Managing Member

\_\_\_\_\_ Date

APPROVED AS TO FORM:

\_\_\_\_\_  
Attorney for Developer

June 23, 2016

Sanitary and Improvement District No. 296 of Sarpy County, Nebraska

Fullenkamp, Doyle & Jobeun, LLP  
Attn: Larry Jobeun  
11440 W. Center Road  
Omaha, NE 68144

Re: MSRB Rule G-42 Disclosure Notice

Dear Mr. Jobeun

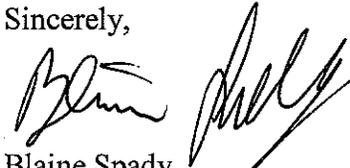
As you may know, The Municipal Securities Rulemaking Board's ("MSRB") Rule G-42 becomes effective on June 23, 2016. MSRB Rule G-42 requires that, among other things, municipal advisors disclose all material conflicts related to the advisory relationship as defined under the rule. Accordingly, Municipal Capital Advisors LLC ("MCA") has performed a review pursuant to the rule to identify any material conflicts of interest.

MCA believes that there are no material conflicts of interest as defined under MSRB Rule G-42 that require disclosure at this time. Please refer to MCA's current Form MA and the applicable Form MA-I that may be found on the United States Securities and Exchange Commission's ("SEC") EDGAR website (<https://www.sec.gov/cgi-bin/browse-edgar?company=municipal+capital+advisors&owner=exclude&action=getcompany>) or regulatory registration information as well as disclosure of any legal or regulatory events. Please be advised that you may continue to refer to the SEC's EDGAR website and our Form MA and the applicable Form MA-I to remain current with the Firm's regulatory disclosure information.

Notwithstanding the forgoing, employees of MCA may maintain outside employment at unaffiliated financial institutions that may potentially be involved in capital markets activities related to the municipal securities products that you may issue or repurchase. During such employment, however, our employees are not directly involved in any activities relating to the financial products that you may issue or repurchase.

Thank you for your time and please feel free to contact me with any questions or concern at 402-339-3135 or via email at [bspady@municipalcapitaladvisors.com](mailto:bspady@municipalcapitaladvisors.com).

Sincerely,



Blaine Spady  
Chief Executive Officer  
Municipal Capital Advisors, LLC

## AGENDA

Sanitary and Improvement District No. 296 of Sarpy County, Nebraska; Meeting to be held June 17, 2016, held at 10:00 a.m. at 9719 Giles Road, La Vista, Nebraska.

1. Present Nebraska Open Meetings Act; roll call of Trustees.
2. Vote on and approve the Resolution of Necessity for the District to enter into a Subdivision Agreement with the City of Bellevue for Phase II of the development, and to pay the Administrative and Community Parks Fees related thereto, in the amount \$11,196.00, the same having been presented in form at the June 17, 2016 meeting of the District.
3. Present statements, vote on and approve payment from the Construction Fund Account of the District for the following:

a)	City of Bellevue for Administrative and Community Parks Fees on Phase II of the development as stipulated in the Subdivision Agreement for Phase II.	\$11,196.00
b)	Fullenkamp, Doyle & Jobeun for legal services rendered in connection with item a) hereinabove (5%).	\$ 559.80
c)	Municipal Capital Advisors, LLC for municipal advisory fees on General Fund warrants issued at this meeting (1%).	\$ 117.56
d)	D.A. Davidson & Co. for underwriting services relating to General Fund warrants issued at this meeting (3%).	\$ 470.23
4. Any and all business before the Board as deemed necessary; meeting adjourned.