

CITY OF LA VISTA
MAYOR AND CITY COUNCIL REPORT
JULY 15, 2014 AGENDA

Subject:	Type:	Submitted By:
APPLICATION FOR REZONING, FINAL PUD, FINAL PLAT & SUBDIVISION AGREEMENT, LOTS 42, 43A, 43B, 44A, 44B & 45, BROOK VALLEY BUSINESS PARK (N OF HARRY WATANABE DR. & W OF 108 TH ST.)	◆ RESOLUTION (3) ◆ ORDINANCE RECEIVE/FILE	ANN BIRCH COMMUNITY DEVELOPMENT DIRECTOR

SYNOPSIS

An ordinance has been prepared for a rezoning to add the Planned Unit Development (PUD) Overlay District, and three resolutions have been prepared to approve the Final PUD Plan, Final Plat and Subdivision Agreement for approximately 15.3 acres located north of Harry Watanabe Drive and west of 108th Street.

FISCAL IMPACT

None.

RECOMMENDATION

Approval, contingent on City Engineer review and approval of the final exhibits to the subdivision agreement.

BACKGROUND

An ordinance and three resolutions have been prepared to consider a rezoning to add the Planned Unit Development (PUD) Overlay District and for approval of the Final PUD Plan, Final Plat and Subdivision Agreement applications by BV 44, LLC, on approximately 15.3 acres currently platted as Lots 42, 43A, 43B, 44A, 44B and 45, Brook Valley Business Park, to be replatted as Lots 1 thru 5, Brook Valley Corporate Park), generally located north of Harry Watanabe Drive and west of 108th Street.

A public hearing was held at the May 20, 2014, Council meeting to consider the rezoning and for approval of the Preliminary PUD Plan and Preliminary Plat.

The property is currently zoned I-2 Heavy Industrial District. The applicant has requested a rezoning to I-2 PUD (Planned Unit Development) to allow for the development of an additional lot without frontage on a dedicated right-of-way. Approval of the Preliminary PUD Plan and Preliminary Plat by the City Council on May 20th allowed the applicant to proceed with the submittal of the Final PUD Plan, Final Plat (proposed Lots 1 thru 5, Brook Valley Corporate Park) and Subdivision Agreement. Approval of the rezoning to the PUD is also proposed to be finalized by ordinance at this time.

A detailed staff report is attached.

The Planning Commission held a public hearing on June 19, 2014, and unanimously recommended approval of the Final Plat to the City Council (the Planning Commission was not required to review the Final PUD Plan as it was consistent with the Preliminary PUD Plan).

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF LA VISTA, NEBRASKA, AMENDING THE ZONING DISTRICT MAP OF THE CITY OF LA VISTA, NEBRASKA; TO PROVIDE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT; AND TO PROVIDE FOR THE PUBLICATION OF THIS ORDINANCE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA:

Section 1. In accordance with Section 5.15 of the La Vista Zoning Ordinance, the I-2 (Zoning District) zoning on the following described real estate, to wit:

LOTS 42, 43A, 43B, 44A, 44B AND 45, BROOK VALLEY BUSINESS PARK, TO BE REPLATTED AT LOTS 1 THRU 5, BROOK VALLEY CORPORATE PARK, A SUBDIVISION LOCATED IN THE SOUTHEAST $\frac{1}{4}$ OF SECTION 17, TOWNSHIP 14 NORTH, RANGE 12 EAST OF THE 6TH P.M., SARPY COUNTY, NEBRASKA, GENERALLY LOCATED NW OF 108TH STREET AND HARRY WATANABE DRIVE

is hereby overlaid with a PUD (Planned Unit Development) zone as indicated in the plan previously approved by the La Vista Planning Commission, concerning such described real estate. Said overlay does not change the underlying I-2 zoning on said real estate as authorized in the PUD plan. The Final PUD development plan as submitted by the owner(s) is hereby approved and shall be filed in the office of the City Clerk.

Section 2. That this Ordinance shall be in full force and effect from and after its passage, approval, and publication as provided by law.

PASSED AND APPROVED THIS 15TH DAY OF JULY, 2014.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

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Brook Valley Corporate Park.Doc

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, DETERMINING CONDITIONS FOR APPROVAL OF THE FINAL PLANNED UNIT DEVELOPMENT (PUD) PLAN FOR LOTS 1 THRU 5, BROOK VALLEY CORPORATE PARK, A SUBDIVISION LOCATED IN THE SE 1/4 OF SECTION 17, T14N, R12E OF THE 6TH P.M., SARPY COUNTY, NEBRASKA.

WHEREAS, the owners of the above described piece of property have made application for approval of a final planned unit development plan for Lots 1 thru 5, Brook Valley Corporate Park; and

WHEREAS, the City Planner and the City Engineer have reviewed the final planned unit development plan; and

WHEREAS, the final planned unit development plan is consistent with the preliminary planned unit development plan approved by the City Council on May 20, 2014.

NOW THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of La Vista, Nebraska, that the final Planned Unit Development (PUD) plan for Lots 1 thru 5, Brook Valley Corporate Park, located in the SE 1/4 of Section 17, T14N, R12E of the 6th P.M., Sarpy County, Nebraska, generally located northwest of 108th Street and Harry Watanabe Drive be, and hereby is, approved.

PASSED AND APPROVED THIS 15TH DAY OF JULY, 2014.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, FOR APPROVAL OF THE FINAL PLAT FOR LOTS 42, 43A, 43B, 44A, 44B AND 45, BROOK VALLEY BUSINESS PARK, TO BE REPLATTED AS LOTS 1 THRU 5, BROOK VALLEY CORPORATE PARK, A SUBDIVISION LOCATED IN THE SOUTHEAST QUARTER OF SECTION 17, TOWNSHIP 14 NORTH, RANGE 12 EAST OF THE 6TH P.M., IN SARPY COUNTY, NEBRASKA.

WHEREAS, the owners of the above described piece of property have made application for approval of a final plat for Lots 42, 43A, 43B, 44A, 44B and 45, Brook Valley Business Park, to be replatted as Lots 1 thru 5, Brook Valley Corporate Park; and

WHEREAS, the City Engineer has reviewed the final plat; and

WHEREAS, on June 19, 2014 the La Vista Planning Commission held a public hearing and reviewed the final plat and recommended approval.

NOW THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of La Vista, Nebraska, that the final plat for Lots 42, 43A, 43B, 44A, 44B and 45, Brook Valley Business Park, to be replatted as Lots 1 thru 5, Brook Valley Corporate Park, a subdivision located in the Southeast $\frac{1}{4}$ of Section 17, Township 14 North, Range 12 East of the 6th P.M., Sarpy County, Nebraska, generally located northwest of 108th Street and Harry Watanabe Drive, be, and hereby is, approved.

PASSED AND APPROVED THIS 15TH DAY OF JULY, 2014.

CITY OF LA VISTA

ATTEST:

Douglas Kindig, Mayor

Pamela A. Buethe, CMC
City Clerk

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA APPROVING A SUBDIVISION AGREEMENT FOR LOTS 1 THRU 5, BROOK VALLEY CORPORATE PARK SUBDIVISION.

WHEREAS, the City Council did on July 15, 2014, approve the final plat for Lots 1 thru 5, Brook Valley Corporate Park Subdivision subject to certain conditions; and

WHEREAS, the Subdivider, BV 44, LLC, has agreed to execute a Subdivision Agreement satisfactory in form and content to the City; and

NOW THEREFORE, BE IT RESOLVED, that the Subdivision Agreement presented at the July 15, 2014, City Council meeting for the Brook Valley Corporate Park Subdivision be and hereby is approved and the Mayor and City Clerk be and hereby are authorized to execute same on behalf of the City, subject to the conditions of Council final plat approval and with such revisions that the City Administrator or City Engineer may determine necessary or advisable.

PASSED AND APPROVED THIS 15TH DAY OF JULY, 2014.

CITY OF LA VISTA

Douglas Kindig, Mayor

ATTEST:

Pamela A. Buethe, CMC
City Clerk



CITY OF LA VISTA
PLANNING DIVISION

RECOMMENDATION REPORT

CASE NUMBER: 2014-SUB-02

FOR HEARING OF: July 15, 2014

Report Prepared on: July 2, 2014

I. GENERAL INFORMATION

A. APPLICANT:

BV 44, LLC
105 N. 31st Avenue, 2nd Floor
Omaha, NE 68131

B. PROPERTY OWNER:

BV 44, LLC
105 N. 31st Avenue, 2nd Floor
Omaha, NE 68131

C. LOCATION: North of Harry Watanabe Drive, West of 108th Street

D. LEGAL DESCRIPTION: Lots 42, 43A, 43B, 44A, 44B, and 45
Brook Valley Business Park

E. REQUESTED ACTION(S): Rezoning to add the PUD Overlay
District, approval of the Final PUD Plan and Final Plat for Lots 42,
43A, 43B, 44A, 44B, and 45 Brook Valley Business Park.

F. EXISTING ZONING AND LAND USE: I-2 – Heavy Industrial;
abandoned golf range on Lots 43B and 44B Brook Valley Business
Park; Lots 42, 43A, 44A, and 45 Brook Valley Business Park are
vacant.

G. PURPOSE OF REQUEST: Proposed rezoning to add the PUD
Overlay District, approval of a Final PUD Plan and Final Plat.

H. SIZE OF SITE: 15.369 Acres

II. BACKGROUND INFORMATION

A. EXISTING CONDITION OF SITE: The property is relatively flat
with a steep incline along the north and east sides. An abandoned
golf range exists on Lots 43B and 44B Brook Valley Business Park.
The remaining property has a mix of trees and overgrowth.

B. GENERAL NEIGHBORHOOD/AREA LAND USES AND ZONING:

1. **North:** Mixed Industrial Uses, I-2 Heavy Industrial; Lot 2 Brook Valley Business Park Replat Four and Tax Lot 1A2 17-14-12
2. **East:** Brentwood Park Multi-Family Apartment Complex, R-3 Multi-Family Residential; Lot 233 Val Vista

3. **South:** Yahoo Inc., I-2 Heavy Industrial; Lot 1 Brook Valley Business Park Replat Three
4. **West:** Vacant/Agricultural, TA Transitional Agriculture; Tax Lot 1A1A1A & Tax Lot 2B2 17-14-12

C. RELEVANT CASE HISTORY:

1. The applicant has previously applied for a Preliminary Plat and Preliminary PUD Plan for this development. Both were approved by the City Council at their meeting on May 20, 2014.

D. APPLICABLE REGULATIONS:

1. Section 5.14 of the Zoning Regulations – I-2 Heavy Industrial District
2. Section 5.15 of the Zoning Regulations – PUD Planned Unit Development (Overlay District)
3. Sections 3.04 and 3.05 of the Subdivision Regulations – Final Plats

III. ANALYSIS

- A. **COMPREHENSIVE PLAN:** The Future Land Use Map of the Comprehensive Plan designates the area for industrial uses.
- B. **OTHER PLANS:** Not applicable.
- C. **TRAFFIC AND ACCESS:**
 1. The main access points for the properties will be via common access drive connections to Harry Watanabe Drive.
 2. It was determined by the City Engineer that the existing traffic study would not have to be amended for the proposed actions.
- D. **UTILITIES:**
 1. The properties have access to water, sanitary sewer, gas, power and communication utilities along Harry Watanabe Drive.

IV. REVIEW COMMENTS:

1. The Planning Commission previously reviewed and recommended approval of the Preliminary Plat and Preliminary PUD Plan for this development. Both documents were approved by the City Council at their meeting on May 20, 2014.
2. Chapter 154 of the City Municipal Code requires a Post Construction Storm Water Management Plan (PCWSMP) for any development in the subject area. A permit will be required through the Permix website that is utilized by all Papillion Creek Watershed Partnership communities. A PCSWMP and a draft Maintenance

Agreement has been provided in the draft Subdivision Agreement. The PCSWMP will be reviewed in detail as part of the review process through the Permix web site, but the concept of using an extended detention basin to serve both lots is acceptable.

3. Storm water management fees will be collected and remitted to the Papillion Creek Watershed Partnership at the time of building permits in accordance with the Interlocal Agreement with the Papillion Creek Watershed Partnership.

V. STAFF RECOMMENDATION – Rezoning and Final PUD Plan:

Approval of Rezoning from I-2 to I-2 PUD and Final PUD Plan for Lots 42, 43A, 43B, 44A, 44B, and 45 Brook Valley Business Park.

VI. PLANNING COMMISSION RECOMMENDATION – Rezoning and Final PUD Plan:

The Planning Commission held a public hearing on April 17, 2014 and unanimously recommended approval of the Rezoning and Preliminary PUD Plan to City Council, conditional on the satisfactory resolution of the issues noted in the review letter. The Planning Commission was not required to review the Final PUD as there have been no changes to the PUD Plan since the Preliminary PUD was presented to the Commission in April.

VII. STAFF RECOMMENDATION – Final Plat:

Approval of Brook Valley Corporate Park Final Plat, contingent on City Engineer review and approval of the final exhibits to the subdivision agreement.

VIII. PLANNING COMMISSION RECOMMENDATION – Final Plat:

The Planning Commission held a public hearing on June 19, 2014 and unanimously recommended approval of the Final Plat to City Council.

IX. ATTACHMENTS TO REPORT:

1. Vicinity Map
2. Final PUD Maps
3. Final Plat Map
4. Subdivision Agreement

X. COPIES OF REPORT SENT TO:

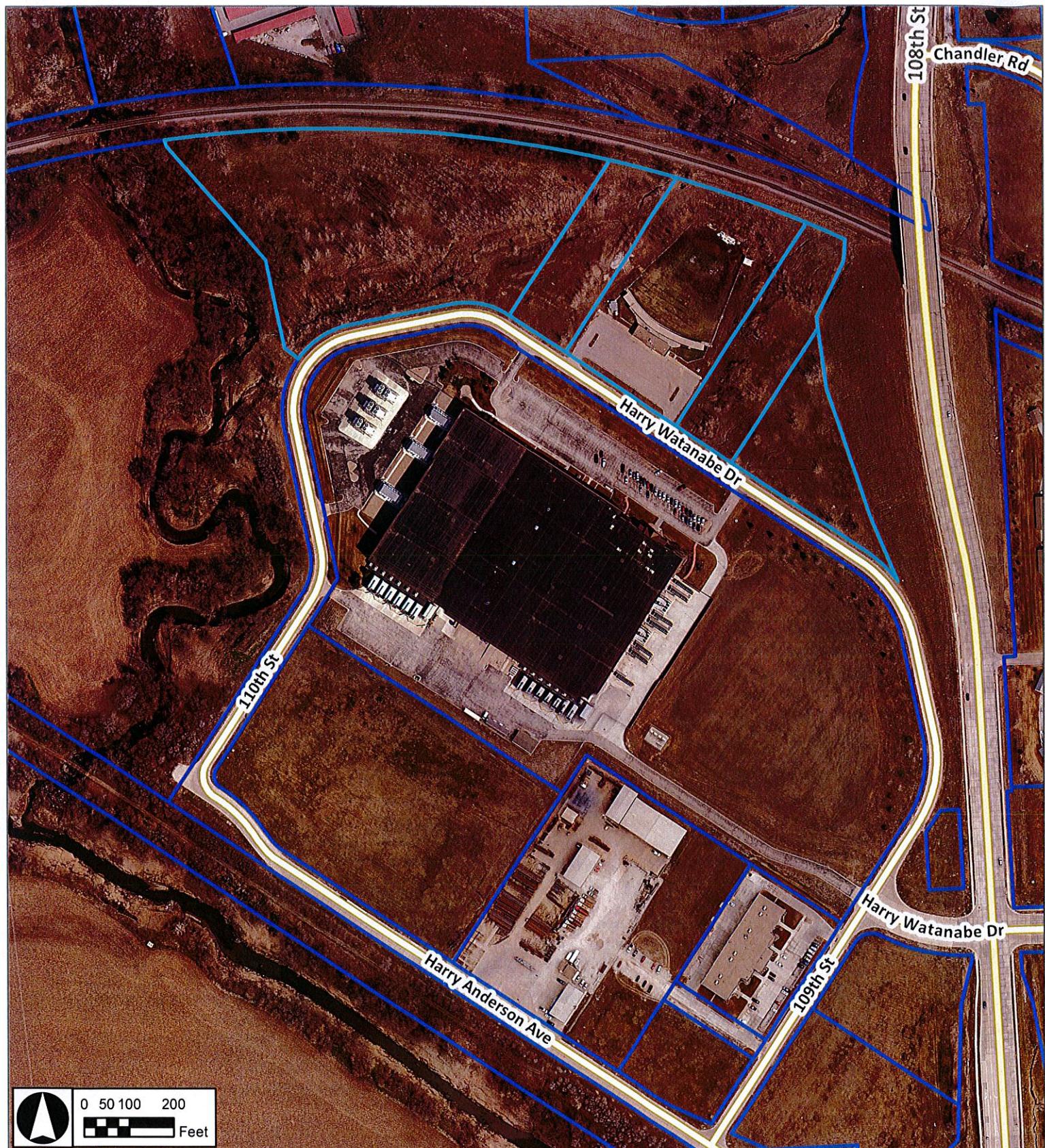
1. Dave Petrocchi, EAD Engineering
2. Neeraj Agarwal, White Lotus Group
3. Public Upon Request

Prepared by:


Christopher Jolka
Community Development Director


7-9-14
Date

I:\Community Development\Planning Department\City Council\Staff Reports\2014\2014-PUD-02 - RR Brook Valley Corporate Park - Combined Final.Doc



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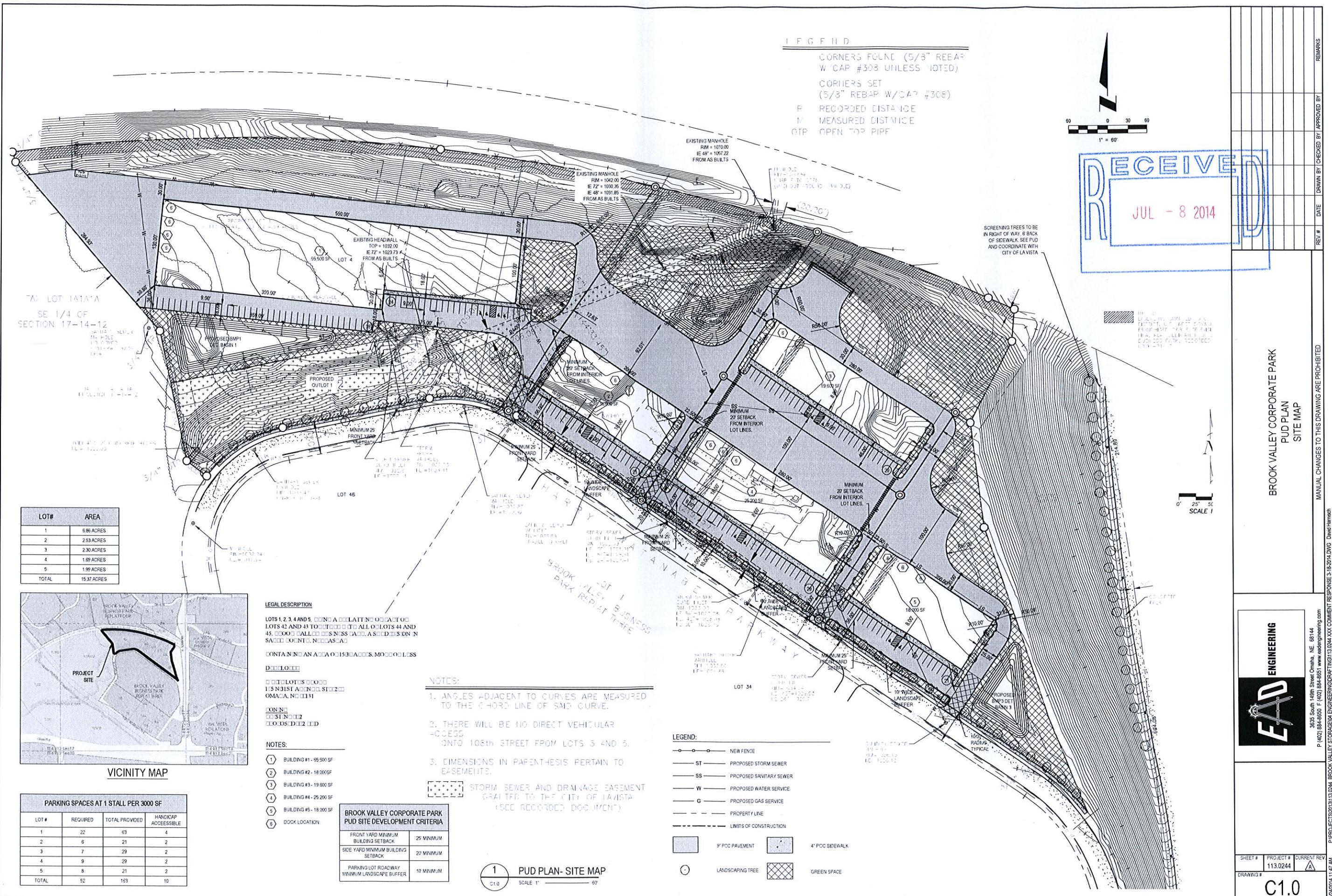
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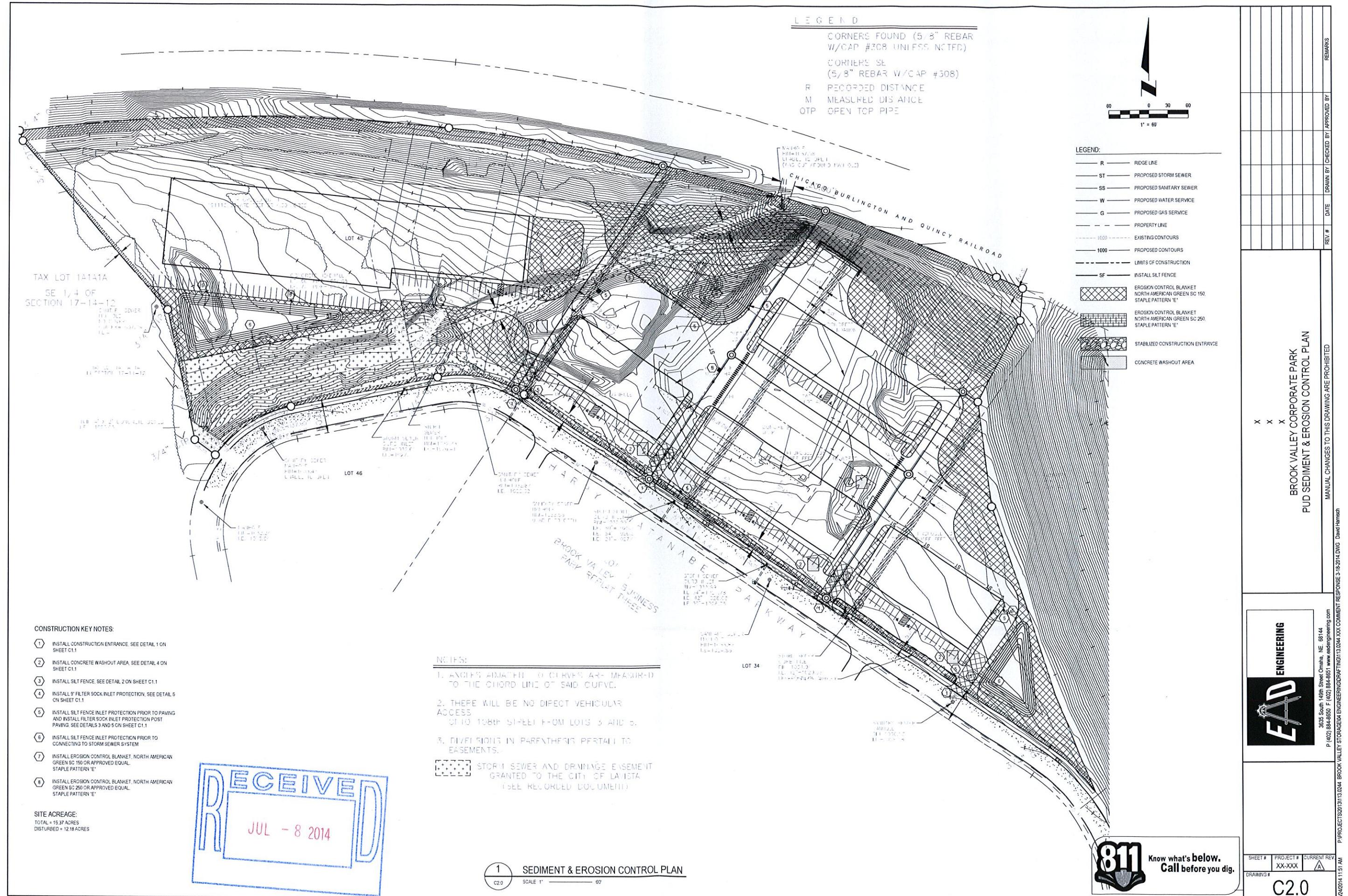
Vicinity Map

Brook Valley Corporate Park

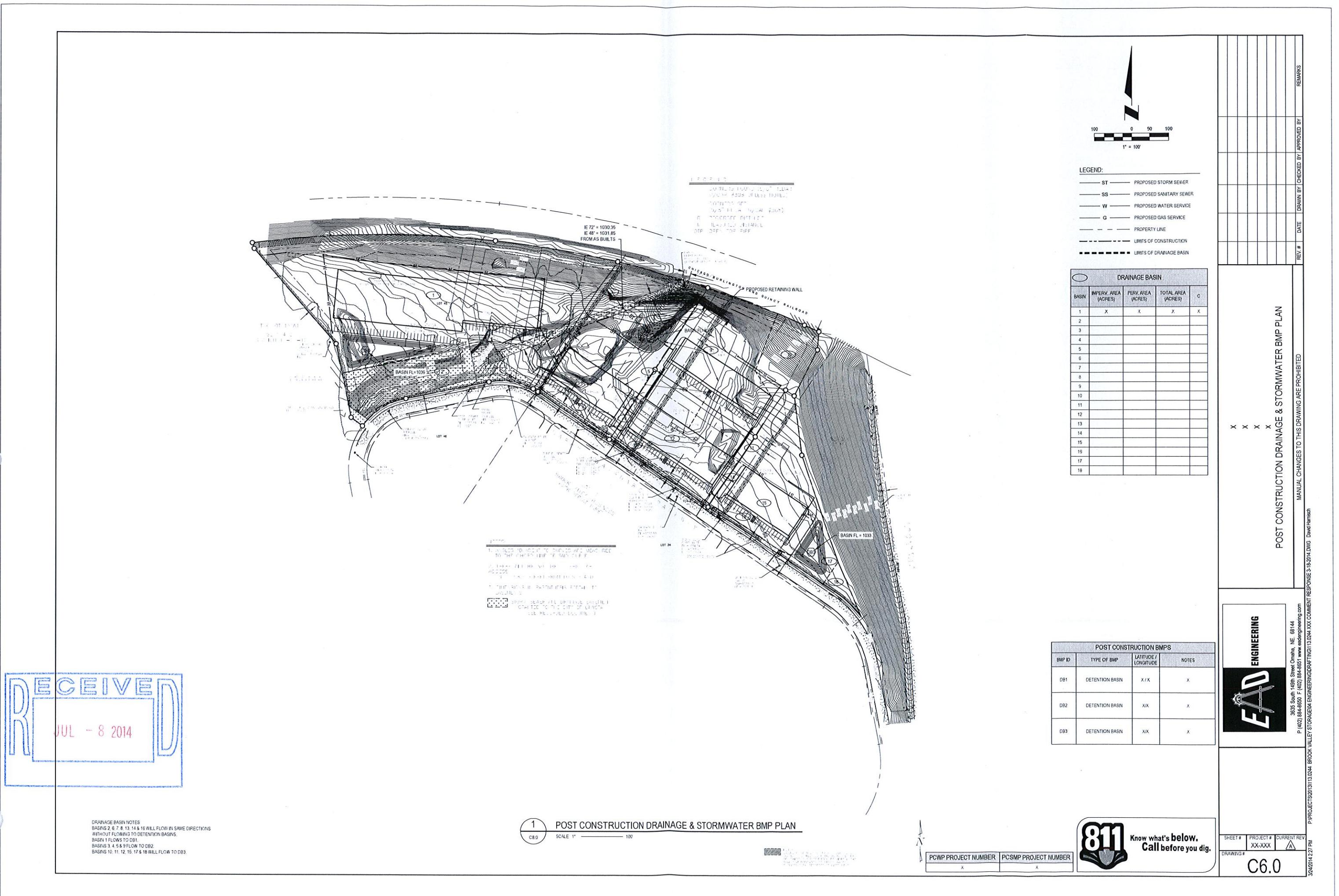
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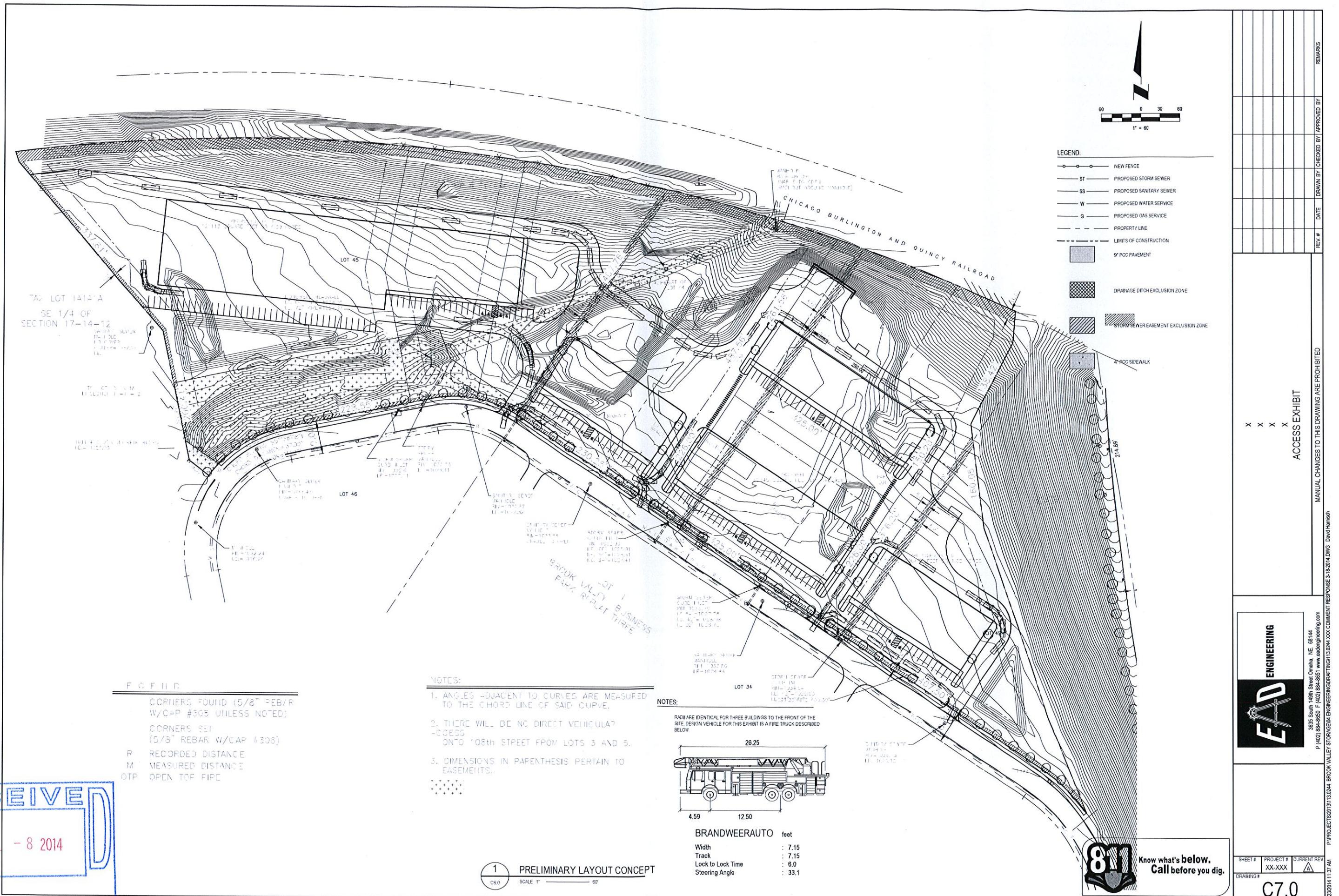








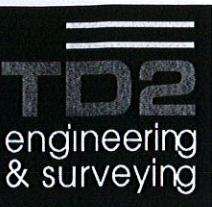
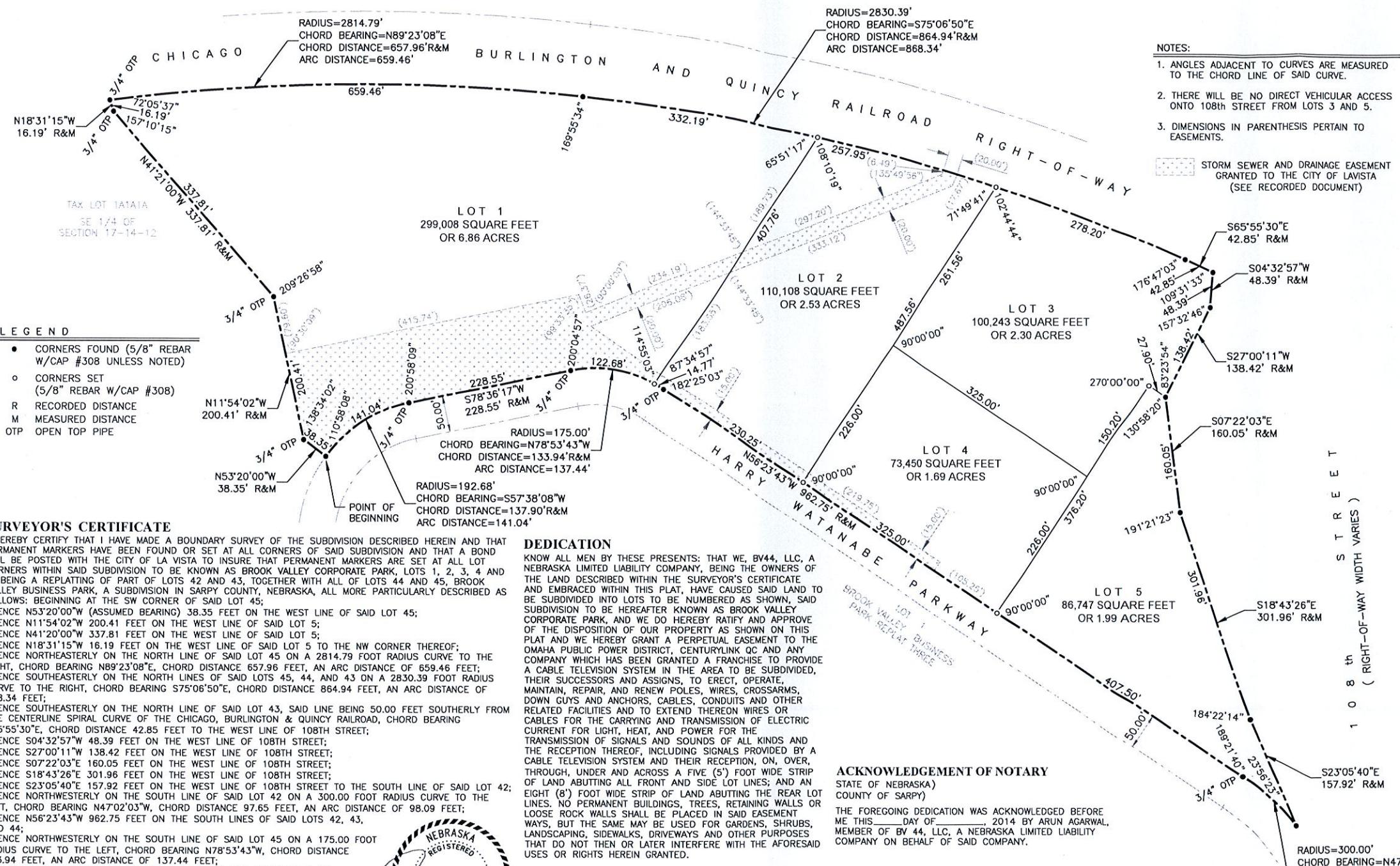




BROOK VALLEY CORPORATE PARK

LOTS 1, 2, 3, 4 AND 5

ON A LATTIN O AT O LOTS 42 AND 43 TO T ALL O LOTS 44 AND 45,
ALL S IN SS A, A S D S ON IN SA O O NT, N AS A



thompson, dreessen & dorner, inc.
10836 Old Mill Rd
Omaha, NE 68154
p.402.330.8860 f.402.330.5866
td2co.com

BROOK VALLEY CORPORATE PARK
LOTS 1, 2, 3, 4 AND 5



Revision Dates		
No.	Description	MM-DD-YY
1	REVISED OWNERS	03/24/2014
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Job No.: A1570-103-1A
Drawn By: RJR
Reviewed By: JDW
Date: MARCH 17, 2014
Book: 08-24
Pages: 7-15

Sheet Title

CITY OF LA VISTA
FINAL PLAT

Sheet Number

SHEET 1 OF 1

SUBDIVISION AGREEMENT
(Brook Valley Corporate Park)

**(Replat of Lots 42A, 43A, 43B, 44A, 44B, and 45, which shall henceforth be
replatted as Lots 1-5, Brook Valley Corporate Park)**

THIS AGREEMENT, made this _____ day of _____, 2014, among BV 44, LLC, a Nebraska limited liability company, (hereinafter referred to as "Subdivider"), DANA Partnership, LLP, a Nebraska limited liability partnership, d/b/a White Lotus Group, (hereinafter referred to as the "Developer"), the Brook Valley Corporate Park Owners Association (hereinafter referred to as "Association"), and the City of La Vista, a Municipal Corporation in the State of Nebraska (hereinafter referred to as "City").

WITNESSETH:

WHEREAS, Subdivider is the owner of the land depicted or described in Exhibit "A" ("Property") and included within the proposed plat attached hereto as Exhibit "B" (hereinafter referred to as the "Replat or the Replatted Area". The Replat as finally approved by the City Council shall be referred to herein as the "final plat" or "Final Plat"); and,

WHEREAS, Subdivider will develop and construct buildings and other private improvements on the property in the Replatted Area in accordance with the Brook Valley Corporate Park PUD Plan attached as Exhibit "C" and related exhibits ("Private Improvements"); and

WHEREAS, the Subdivider wishes to connect the system of sanitary sewers to be constructed within the Replatted Area to the sewer system of the City; and,

WHEREAS, the Subdivider will create the Brook Valley Corporate Park Owners Association, Inc. ("Association"), the members of which will be comprised of the Subdivider and Subdivider's successors and assigns to ownership of any of Lots 1-5, Brook Valley Corporate Park, being a replat of Lots 42A, 43A, 43B, 44A, 44B, and 45 of Brook Valley Business Park, City of La Vista.

NOW, THEREFORE, IT IS AGREED by Subdivider, Developer and City as follows:

1. Replattings. Subject to the terms of this Agreement, Lots 42A, 43A, 43B, 44A, 44B, and 45 of Brook Valley Business Park shall be replatted as Lots 1 – 5, Brook Valley Corporate Park, as more fully shown on Exhibit "B" (hereinafter the "Replat" or "Replatted Area"; and as finally approved by the City Council shall be referred to as the "final plat" or "Final Plat").
2. Drainage Calculations and Map. Developer shall provide drainage calculations and a drainage map for the Replatted Area for review and approval by the City's Engineer prior to execution of the final plat to the Subdivider demonstrating

easements required to convey major storm sewer events (hundred year flood) over the surface of the property, in a form satisfactory to the City's Engineer. The City's release of the final plat shall be conditioned on Subdivider executing and delivering required easements in form and content satisfactory to the City's Engineer, which easements Subdivider will record with the final plat.

3. Perimeter Sidewalks. Subdivider, no later than five (5) years from the date of the filing of the final plat with the Sarpy County Register of Deeds, shall install sidewalks in accordance with City sidewalk policies as they may from time to time exist, at the Subdivider's sole cost.
4. Storm Water Management Plan: Subdivider, at its sole cost, will comply with applicable requirements regarding storm water quality, storm water management, and weed and erosion control to the satisfaction of the City Engineer. Not in limitation of the foregoing sentence, post-construction storm water management features and related appurtenances shall be constructed on the Property, as shown on the Post Construction Storm Water Management Plan attached hereto as "Exhibit D." Plans and specifications for such storm water management improvements shall be prepared by Subdivider's engineer at Subdivider's sole cost and must be approved by the Public Works Department of City (City Engineer) prior to starting construction of such improvements.
5. Storm Water Management Plan Maintenance Agreement: A Post-Construction Storm Water Management Plan Maintenance Agreement ("Maintenance Agreement") in the form attached hereto as "Exhibit E" shall be entered into between Subdivider and City prior to starting construction of such improvements described in Section 4, after City has approved the Exhibits to be attached thereto, including but not limited to the exhibit setting forth the BMP maintenance requirements, subject to any modifications to said Maintenance Agreement or Exhibits that the City Engineer determines necessary or advisable. It is understood and agreed by City and Subdivider that the final version of the Maintenance Agreement shall:
 - (A) identify that maintenance actions shall be private, and provide that all maintenance actions so identified shall be performed by the Subdivider at its expense,
 - (B) include provisions to control when post-construction storm water features are to be constructed,
 - (C) differentiate between the requirements of construction site storm water runoff controls and post-construction controls,
 - (D) provide that post-construction storm water features shall not be installed until such time as they will not be negatively impacted by construction site runoff, and
 - (E) provide that permanent storm water detention ponds, riser structures and discharge pipes may be constructed during grading operations.

Such provisions shall run with the land and become the joint and several responsibility of all successors, assigns and future owners of the Replatted Area or any part thereof.

Watershed Management Fees: The Subdivider shall make payment to City for Watershed Fees. This fee for the Property shown on "Exhibit A" shall be computed in accordance with applicable provisions of the Master Fee Schedule set forth in the Master Fee Ordinance, as amended from time to time. Payment must be made to City's Permits & Inspections Division before a building permit will be issued to construct improvements on any lot and before the commencement of construction of any such improvements. Payment shall be based on the City's adopted fee rate that is in effect at the time the payment is made.

6. Site Approval Precondition to Building Permit. Nothing herein shall be deemed a waiver or lessening of any of City's requirements for City approved site plan for any building prior to the issuance of a building permit therefor.
7. Public Access Roads or Driveways. Direct vehicular access to abutting streets shall be limited as indicated on the Replat, as finally approved by the City in the final plat. Roads and driveways identified in Exhibit "F" for use of the public shall be constructed to City approved specifications and shall not be less than seven inches (7") P.C. concrete paving. The City shall have access to and over such roadways and driveways for any purpose it deems appropriate in the exercise of its general governmental powers, including but not limited to, inspection, police, fire and rescue and other public safety purposes, and the exercise of all rights granted to City by the terms of the Subdivision Agreement.
8. Staking Bond. Developer shall provide the City a staking bond satisfactory to City Engineer prior to City's release of the final plat of the Replatted Area.
9. Tract Sewer Connection Fees. Developer agrees that the terms and conditions for the benefit of the City that are contained in the Subdivision Agreement between the City, Brook Valley Ltd. Partnership, and Sanitary and Improvement District No. 59 of Sarpy County, Nebraska, dated September 21, 1994, and the separate Sewer Connection Agreement referred to within Exhibit "G" as pertaining to the sanitary sewer system, shall be incorporated into this Agreement to the same extent as if fully set forth herein and equally applicable to the private sanitary sewer provided for herein and enforceable by City in respect thereto to the same extent as though the private sewer had originally been incorporated and made a part of said agreements. Tract sanitary sewer connection fees shall be due and payable to the City in the following amounts prior to the issuance of a building permit for a particular lot:

Lot 1, Heavy Industrial	6.76 ± AC @ \$5,973/AC	\$40,337.48
Lot 2, Heavy Industrial	2.47 ± AC @ \$5,973/AC	\$14,753.31
Lot 3, Heavy Industrial	2.85 ± AC @ \$5,973/AC	\$17,023.05

Lot 4, Heavy Industrial	1.27 ± AC @ \$5,973/AC	\$7,585.71
Lot 5, Heavy Industrial	2.02 ± AC @ \$5,973/AC	<u>\$12,065.46</u>

Total \$91,765.01

The aforestated fee of \$5,973 per acre is the rate now in effect and is subject to increase. The rate in effect at time of connection to the sanitary sewer system will be the rate paid.

10. Infrastructure to be at Private Expense. The cost of all infrastructure, improvements and easements within and serving the Replatted Area, including but not limited to parking and internal street improvements, ingress and egress, sanitary sewer, storm sewer, power, CATV, gas, water and cost of connection to external infrastructure shall be constructed and maintained at private expense and the sole cost and expense of Subdivider and any successor or assign of Subdivider to ownership of any lot within the Replatted Area, and no part thereof shall be the responsibility of or at the expense of the City.
11. Easements. All proposed easements by the Subdivider, and easements required by the City, as set forth in Exhibit "H," for existing, proposed, or relocated public or private or shared improvements (sewers, utilities, roads or other infrastructure) shall be granted by instruments separate from the final plat, in form and content satisfactory to the City Engineer ("Easements"). Release of the final plat for recording shall be conditioned on execution and delivery of Easements for recording. The Easement documents shall outline rights, obligations and terms of the easements. Easements shall be recorded at the time of recording the final plat and copies of recorded Easements shall be provided to the City. Any proposed modification of any Easements shall be by written instrument subject to approval of, and in form and content satisfactory to, the City Engineer, and recording of the modification by Subdivider immediately after said approval is provided.
12. Common Improvements/Maintenance. Subdivider, and all successors and assigns of Subdivider to any lots within the Replatted Area, at its sole cost and expense, shall design, construct, operate, repair, replace and maintain all Common Area Improvements. For purposes hereof, the following provisions shall be applicable:
 - a. Common Area Improvement Defined. The term Common Area Improvement shall mean all infrastructure and improvements constructed on, or to be constructed within or benefiting any two or more lots, or combination of lots, within the Replatted Area. Said Common Area Improvements shall include, but not be limited to, ingress and egress, roads, parking, storm drainage, sanitary sewer, public utility infrastructure or services and other infrastructure needs for or benefiting more than a

single lot, and related operation, maintenance, replacements and repairs. Subdivider shall maintain all Common Area Improvements in neat, clean, good and working order, condition and repair. Common Area Improvements are identified in Exhibit "I", attached hereto, and shall include facilities, plantings, structures or other requirements relating to the Post Construction Storm Water Management Plan.

- b. Common Area Expense Defined. Common Area Expense means all costs and expenses arising out of or relating to Common Area Improvements, which shall include, without limitation, all costs and expenses of design, engineering, construction, reconstruction, modification, repair, maintenance (including clean up and clean out) and replacement of any such Common Area Improvements, together with the City's costs, if any, of engineering, inspection, review, design or work. Subdivider shall pay all Common Area Expense.
- c. Sharing of Common Area Expense. As between Subdivider and any successor or assign of Subdivider to ownership of any lot within the Replatted Area, the owners of lots within the Replatted Area shall be obligated to pay a share of Common Area Expense. Common Area Expense shall be shared as follows:
 - c-1. Initial Cost Sharing Ratio. The owners, their successors and assigns, of the lots in the Replatted Area shall be responsible for and defray the Common Area Expense in the same ratio that each of their replatted lots bears to the total land area of lots served by the improvement, to wit:

Replat Lot No.	Acres	Percent of Common Area Expense
1	6.76	43.98%
2	2.47	16.07%
3	2.85	18.54%
4	1.27	8.27%
5	2.02	13.14%
TOTAL	15.37	100.00%

(each referred to as a "Share"). The foregoing percentages of Common Area Expense shall prevail unless adjusted pursuant to subparagraph 13.c-2 hereof.

- c-2. Adjustment of Common Area Cost Sharing Ratios. The method of sharing Common Area Expense as set forth in subparagraph 13.c-1 above may be modified by the owners of all lots within the Replatted Area agreeing to a different cost sharing as among themselves and filing with the City an application executed by all property owners within the Replatted Area to allow sharing in the designated different ratio, which shall be subject to approval of the City Administrator, in consultation with the City Engineer. If approved, the property owners, at their expense, shall file the

modification with the appropriate written approval of the City Administrator and City Engineer endorsed thereon.

c-3 As a condition of City's releasing the final plat for recording, Subdivider will:

(i) file with the Nebraska Secretary of State Articles of Incorporation creating the Association and adopt Bylaws that, together with the Covenants described in Section 16 below, will facilitate carrying out this Section 13 as among the Subdivider and any successors or assigns of Subdivider to ownership of any lot within the Replatted Area, with respect to operation, maintenance, replacement and repair of the Common Area Improvements after they have been constructed, and sharing of Common Area Expense (other than costs related to initial construction) among said owners. Membership of the Association will be comprised of owners of the lots within the Replatted Area. The Subdivider as the owner of all land within the Replatted Area will be the initial sole member of the Association. Thereafter, any persons upon acquiring ownership of a lot within the Replatted Area automatically shall become a member of the Association with respect to said lot; and any person upon disposing of ownership of a lot within the Replatted Area shall no longer be a member of the Association with respect to said lot; and

(ii) record an instrument with the Sarpy County Register of Deeds in which the Association agrees to be bound by this Subdivision Agreement.

Articles of Incorporation, Bylaws and any other documents or instruments to carry out this Section 13 shall be in form and content satisfactory to the City Engineer in consultation with the City Attorney. Not in limitation of the foregoing, Subdivider, before the final plat is released for recording, shall provide the City, and thereafter shall maintain in effect, a surety bond for the timely installation and maintenance of the Common Area Improvements, which bond shall be in form and content satisfactory to the City Engineer and by its terms shall be enforceable by the City.

C-4 Notwithstanding anything in this Agreement, the Covenants or the Articles or Bylaws of the Association to the contrary, Subdivider and any successors or assigns of Subdivider to ownership of any lot within the Replatted Area hereby guaranty and shall be jointly and severally liable for the performance of all applicable requirements with respect to Common Area Improvements, the Post Construction Storm Water Management Plan, Common Area Expenses and other related costs and expenses, including without limitation, with respect to any lot in the Replatted Area for which a Share or other

required performance is not paid or provided ("Nonperforming Lot"). Provided, however, any payment or performance of Subdivider or any other owner with respect to a Nonperforming Lot will not constitute a waiver of any right or remedy with respect to payment from the owner of the Nonperforming Lot for reimbursement, contribution or otherwise.

- d. Filing of Record. The Subdivider, at its expense when recording the final plat, shall record this Agreement in the land records of the Office of the Register of Deeds of Sarpy and shall cause a recorded copy thereof to be transmitted to the City Administrator. Any adjustment under subparagraph 13.c-2 above shall be similarly recorded and transmitted at Subdivider's expense. Such recordings shall include lot specific recorded notice.
- e. City Engineer to be Determiner. The City Engineer shall be the determiner of which improvements are required and which are Common Area Expense and which are not Common Area Expense, and shall have the right, but not any obligation, to inspect any work on or relating to the improvements, and to require modification, replacement, maintenance or repair of any work or improvements the City Engineer determines are defective, unsatisfactory or in need of repair, maintenance or replacement, and Subdivider shall comply with said requirements. All specifications and contracts relating to work on the improvements shall be subject to prior review and approval of the City Engineer.
- f. City Access/Repair, Etc. The City, its employees and agents, shall have right of entry and full access to any and all areas and improvements within the Replatted Area for purposes of inspection. In the event City determines construction, replacement, repair or maintenance is defective or not progressing or not being performed satisfactorily or in a timely manner, City may, at its sole option and without obligation to do so, decide to undertake construction, replacement, repair and/or maintenance of any such Common Area Improvements and to assess against the Subdivider and the property in the Replatted Area the cost, including engineering costs and legal costs, together with interest at the rate of twelve percent (12%) per annum until paid, and City shall have a lien for the cost therefor, which lien City may file of record against the lots benefited. If said lien amount is not timely paid in full, the City may foreclose the lien for said amount with interest thereon and reasonable attorneys fees incurred by City in such foreclosure.
- g. City's Exercise of Rights Discretionary. City's and/or City Engineer's exercise of any or all of the authority herein given shall be at City's sole and absolute discretion and for the sole benefit of the City and City's interests and not for the benefit or interests of Subdivider, Developer or any other party, and City, City Engineer and City agents shall have no responsibility or liability by reason of either the nonexercise or the exercise of any such authority.

13. Special Assessments. The lots within the Replatted Area are subject to special assessments that have been levied. Prior to delivery of the plat to Developer, Developer shall have either (1) paid all installments and accrued interest on such special assessments in full, or (2) have paid the principal and all accrued interest to date on delinquent installments and shall have reapportioned the remaining principal and interest thereon to the lots as configured by the final plat. Such reapportionment shall be computed in a manner acceptable to the City Engineer. Such written reapportionment agreement and recording thereof with the County Treasurer's written acceptance thereof shall be provided to City by Subdivider at Subdivider's expense.
14. Ownership Representation. BV 44, LLC, by signing below and the Final Plat of Brook Valley Corporate Park, does warrant and represent that it has executed the Final Plat by and through an authorized person, and that it is and shall continue to be the sole owner of 100% of the Replatted Area at date of execution of this Agreement and at date of recording the final plat.
15. Restrictive Covenants. Subdivider submitted proposed Declaration of Covenants, Conditions and Restrictions for Brook Valley Corporate Park, which are attached as Exhibit "J" ("Covenants"). As a condition of releasing the final plat to Subdivider for recording, the Covenants, with such modifications as the City Engineer determines necessary or advisable, shall be executed and recorded by Subdivider as Declarant and sole owner of property in the Replatted Area. The Covenants, in addition to provisions expressly set forth therein, shall be deemed to include covenants of required compliance with all federal, state, county and city ordinances and regulations applicable to the property within the Replatted Area, this Agreement and other applicable requirements ensuring maintenance of infrastructure improvements. If Subdivider fails to timely and fully perform any of the Covenants regarding maintenance of the Replatted Area, the City, at its option but without any duty, may itself take such curative or remedial action as it determines appropriate, or cause such action to be taken, and assess any cost thereof against the Subdivider and applicable property.
16. Covenants Running With the Land. The final plat, Brook Valley Corporate Park Planned Unit Development, this Agreement and the obligations, understandings and agreements contained or incorporated herein constitute perpetual covenants running with the land, shall be recorded with the Register of Deeds of Sarpy County, Nebraska, and shall be binding, jointly and severally, upon the Subdivider, Developer and Association, and all of their respective successors, assigns, lenders, mortgagees or others gaining or claiming any interest or lien in, to or against any property within the Replatted Area. The covenants herein shall be cumulative to, and not in lieu of, prior covenants running with the land, except to the extent this Agreement requires additional, greater or a higher standard of performance by Subdivider, Developer or Association. City shall have the right, but not the obligation, to enforce any and all covenants. It is further agreed that after City releases the final plat, Brook Valley Corporate Park Planned Unit Development and this Agreement for recording, Subdivider promptly will record

the same, along with any other documents or instruments required to be recorded, with the Register of Deeds of Sarpy County, Nebraska. It is expressly agreed, however, that City shall not release the final plat, Brook Valley Corporate Park Planned Unit Development or this Agreement for recording until City is satisfied that Subdivider and Developer have concluded (closed), or made arrangements satisfactory to the City to conclude (close), their respective transactions requiring the actual construction of Private Improvements within the Replatted Area. City acknowledges and agrees that Subdivider providing the City a surety bond for the timely installation and maintenance of the Common Area Improvements pursuant to Section 12(c)-(3)(ii) shall satisfy the abovementioned requirement of an arrangements satisfactory to the City. It is further expressly agreed that, if the condition described in the immediately preceding sentence has not occurred within twelve (12) months after the date of this Subdivision Agreement, neither Subdivider nor Developer shall be entitled without the written consent of the City and any amendments of this Agreement, the Replat or Brook Valley Corporate Park Planned Unit Development as the City Engineer determines necessary, to move forward with the project. Provided, however, the City Administrator periodically may extend the time for performance under this Section 16.

17. Planned Unit Development. Subdivider has made application to City for approval of a Planned Unit Development on Lots 1-5 of the Replat. Subdivider specifically has requested Planned Unit Development zoning for the Replatted Area under Section 5.15 of the La Vista Zoning Ordinance No. 848, and Subdivider's applications and City approvals shall be thereunder, and all grading, installation of infrastructure, development and buildout shall be in strict accord with the provisions of said Section and the approved Brook Valley Corporate Park Planned Unit Development, except as shall be amended by the City Council in the required manner. The application for the Planned Unit Development, ("Application") as on file with the City Clerk is incorporated herein by this reference, and said Application, as well as the underlying I-2 zoning district regulations, shall continue to be applicable and govern within the Replatted Area, except as provided for in the approved Brook Valley Corporate Park Planned Unit Development, this Agreement or conditions of Planning Commission or City Council approval. Subject to applicable requirements of City ordinance, rules and regulations:
 - a. Construction of buildings, structures and other improvements of Phase One of the Replatted Area will commence within 12 months after the date of City Council approval of the Brook Valley Corporate Park Planned Unit Development and will be completed within 24 months thereafter; and
 - b. Construction of subsequent phases will begin as described in the Application or as economics and demand otherwise warrant, and be constructed in accordance with a schedule approved by the City and timeframe provided in Section 5.15.04.01 of the La Vista Zoning Ordinance. Construction of any subsequent phase will be completed within 24 months after construction of the phase commences.

18. **Building Design.**
 - a. Architectural design and style are not restricted; however, architectural style should be consistent throughout the PUD District.
 - b. Building materials shall be selected for suitability to the type of buildings and the design in which they are used.
 - c. Buildings within the PUD District shall use harmonious colors and shall use only compatible accents. Monotony of design in single or multiple building projects shall be avoided.
 - d. Building fixtures shall be of a design and size compatible with the building and the adjacent areas. Lighting shall be designed to a standard that does not impact adjoining properties, especially residential areas.
19. **Exhibit Summary.** The Exhibits proposed by EAD Engineering, LLC, engineers for the Developer, attached hereto and incorporated herein by this reference and made a part hereof, are as follows:

Exhibit "A":	Land survey certificate showing boundary area to be replatted. Drawing and legal description.
Exhibit "B":	Replat of the area to be developed.
Exhibit "C":	Planned Unit Development (PUD)
Exhibit "D":	Post Construction Storm Water Management Plan
Exhibit "E"	Post-Construction Storm Water Management Plan Maintenance Agreement
Exhibit "F"	Publicly Used Roads and Driveways
Exhibit "G"	Sewer Connection Agreement dated _____
Exhibit "H"	Easements
Exhibit "I"	Common Area Improvements
Exhibit "J"	Declaration of Covenants, Conditions and Restrictions for Brook Valley Corporate Park
20. **Right to Enforce.** Provisions of this Agreement may be enforced at law or in equity by the owners of land within the Replatted Area and may be enforced by the City at law, in equity or such other remedy as City determines appropriate. All rights and remedies of a party, whether specified in this Agreement or otherwise provided, are cumulative.
21. **Incorporation of Recitals.** Recitals at the beginning of this Agreement are incorporated into this Agreement by reference.
22. **Nondiscrimination.** Notwithstanding anything in this Agreement to the contrary, (i) each party agrees that neither it nor any subcontractor of the party shall discriminate against any employee or applicant for employment to be employed in the performance of this Agreement, with respect to the employee's or applicant's hire, tenure, terms, conditions or privileges of employment, because of race, color, religion, age, sex, disability, or national origin; and (ii) the City is a recipient of federal funds, and as a result all required contractual provisions

related to such federal funds shall be deemed incorporated into this Agreement by this reference and binding upon the parties.

23. Assignment. This Agreement may not be assigned by any party without the express written consent of all parties.
24. Entire Agreement. This Agreement represents the entire agreement and understanding, and supersedes all prior understandings and agreements, written or oral, of the parties with respect to the matters contained herein. The Agreement only may be amended by a written amendment executed by all parties.
25. Severability. If any part of this Agreement is held by a court of competent jurisdiction to be illegal or unenforceable, the illegality or unenforceability shall not affect the remainder of this Agreement, and this Agreement shall be construed as if such illegal or unenforceable provision had never been included herein.

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

BV 44, LLC., a Nebraska LLC

By: DANA Partnership, LLP

Its: Sole Member

By: _____
Arun Agarwal, General Partner of DANA
Partnership, LLP,

DANA Partnership, LLP, d/b/a White
Lotus Group

By: _____
Arun Agarwal, General Partner of DANA
Partnership, LLP

ATTEST:

CITY OF LA VISTA

City Clerk
ACKNOWLEDGMENT OF NOTARY

By _____
Mayor

STATE OF NEBRASKA)
) ss.
COUNTY OF _____)

On this _____ day of _____, 2014, before me a Notary Public, duly commissioned and qualified in and for said County, appeared Arun Agarwal, General Partner of DANA Partnership, LLP ("Partnership"), which Partnership is the sole member of BV 44, LLC ("Company"), personally known by me to be the identical person whose name is affixed to the foregoing Subdivision Agreement, and acknowledged the execution thereof to be his voluntary act and deed, and the voluntary acts and deeds of said Partnership and Company.

WITNESS my hand and Notarial Seal the day and year last above written.

Notary Public

ACKNOWLEDGMENT OF NOTARY

STATE OF NEBRASKA)
) SS.
COUNTY OF)

On this _____ day of _____, 2014, before me a Notary Public, duly commissioned and qualified in and for said County, appeared Arun Agarwal, personally known by me to be the General Partner of DANA Partnership, LLP ("Partnership"), and to be the identical person whose name is affixed to the foregoing Subdivision Agreement, and acknowledged the execution thereof to be his voluntary act and deed, and the voluntary act and deed of said Partnership.

WITNESS my hand and Notarial Seal the day and year last above written.

Notary Public

ACKNOWLEDGMENT OF NOTARY

STATE OF NEBRASKA)
COUNTY OF _____)
) SS.

On this _____ day of _____, 2014, before me a Notary Public, duly commissioned and qualified in and for said County, appeared _____, personally known by me to be the Mayor of the City of La Vista and _____, to me personally known to be the City Clerk of the City of La Vista, and the identical persons whose names are affixed to the foregoing Subdivision Agreement, and acknowledged the execution thereof to be their voluntary act and deed, and the voluntary act and deed of said City.

WITNESS my hand and Notarial Seal the day and year last above written.

Notary Public

Brook Valley Corporate Park Owners Association Agreement

By signing below, the Brook Valley Corporate Park Owners Association ("Association"), jointly and severally with Subdivider and Developer, shall be bound by and subject to the Subdivision Agreement (Brook Valley Corporate Park) (Replat of Lots 42A, 43A, 43B, 44B, and 45, which shall henceforth be replatted as lots 1-5, _____), Brook Valley Corporate Park, dated _____.

Brook Valley Corporate Park Owners
Association
By: Arun Agarwal
Title: Director

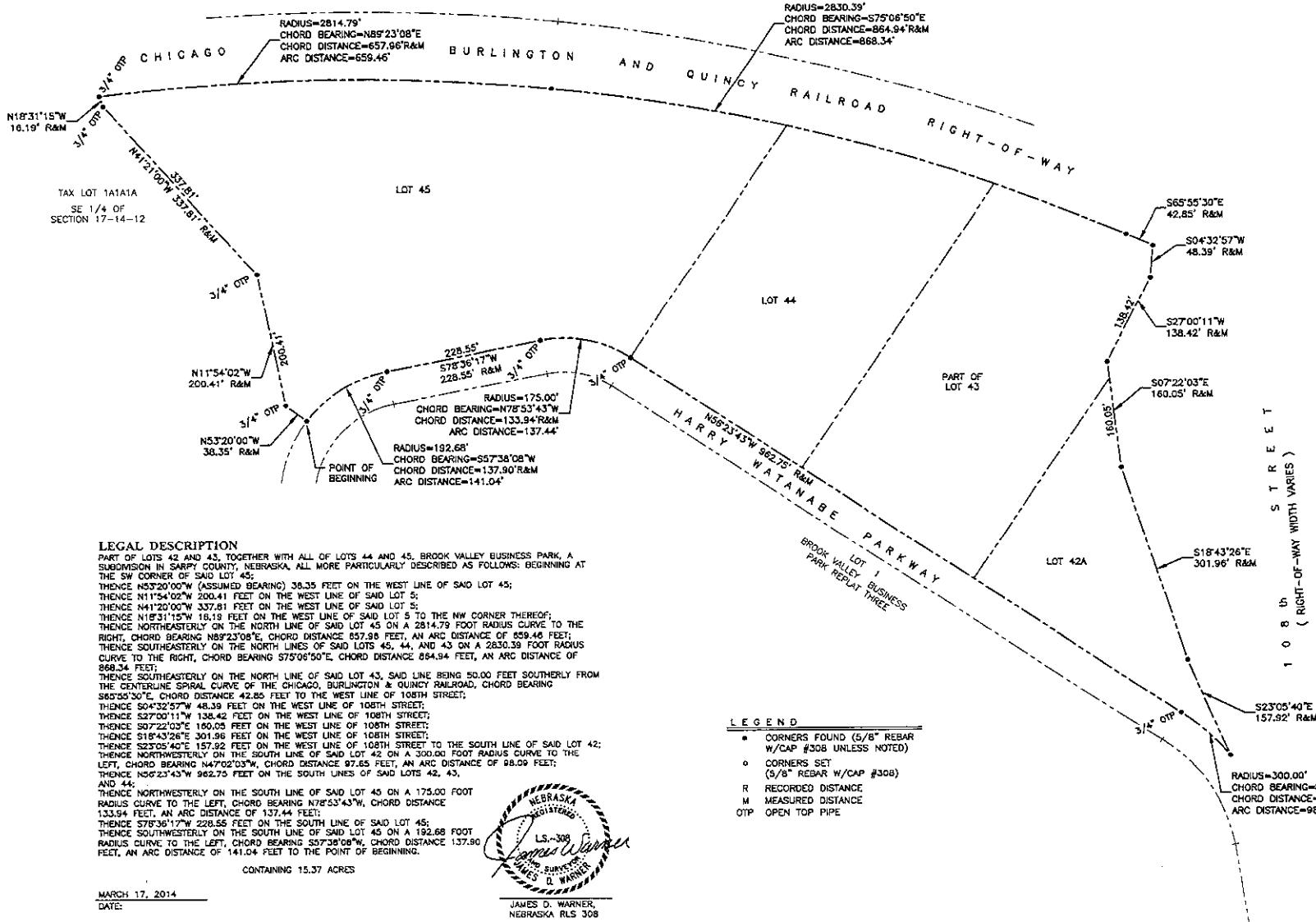
ACKNOWLEDGMENT OF NOTARY

STATE OF NEBRASKA)
) ss.
COUNTY OF _____)

On this _____ day of _____, 2014, before me a Notary Public, duly commissioned and qualified in and for said County, appeared Arun Agarwal, Director of Brook Valley Corporate Park Owners Association, Inc., ("Association") personally known by me to be the identical person whose name is affixed to the foregoing Subdivision Agreement, and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said Association.

WITNESS my hand and Notarial Seal the day and year last above written.

Notary Public



JAMES D. WARNER,
NEBRASKA BLS 308

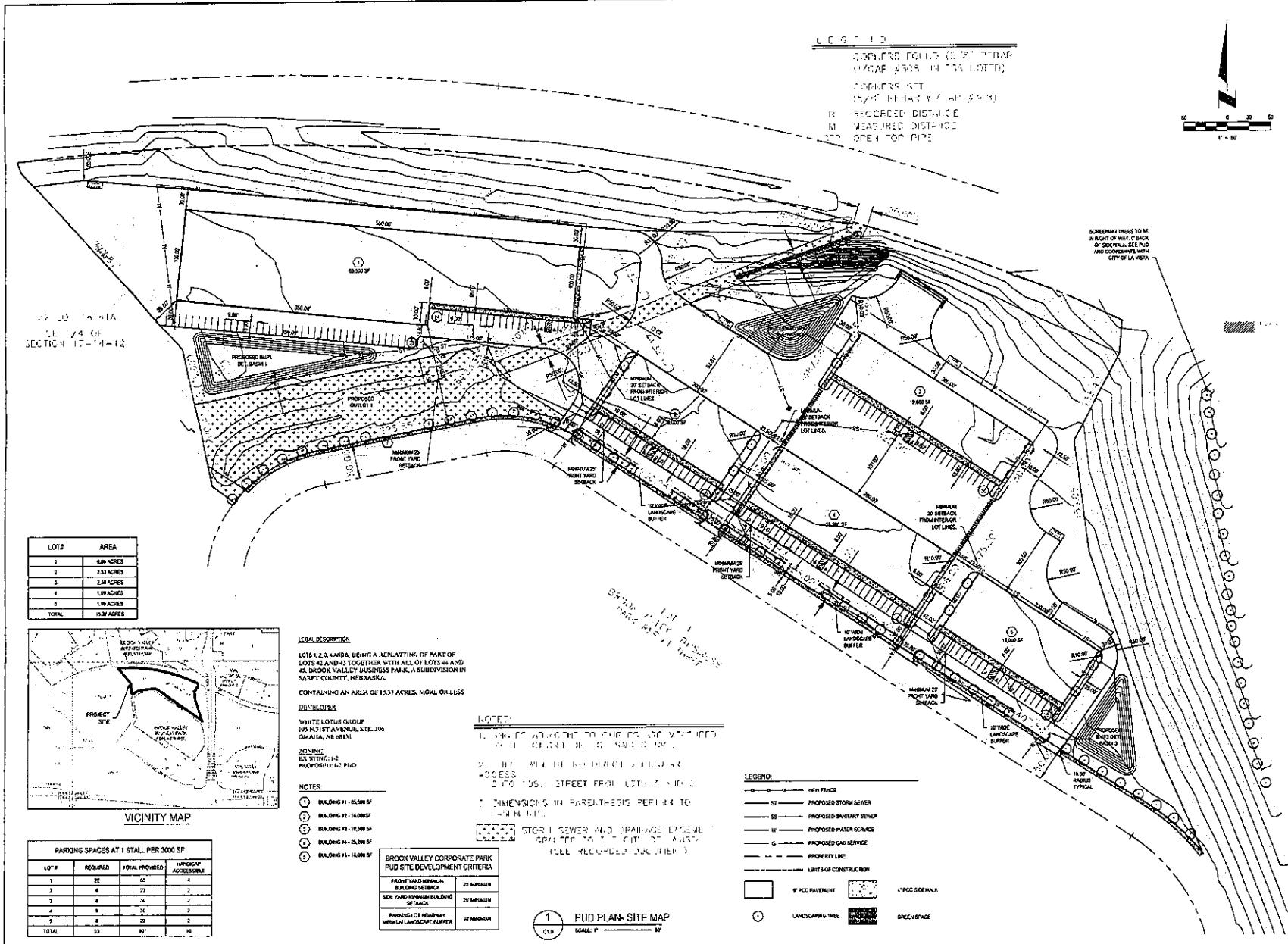
MARCH 17, 2014

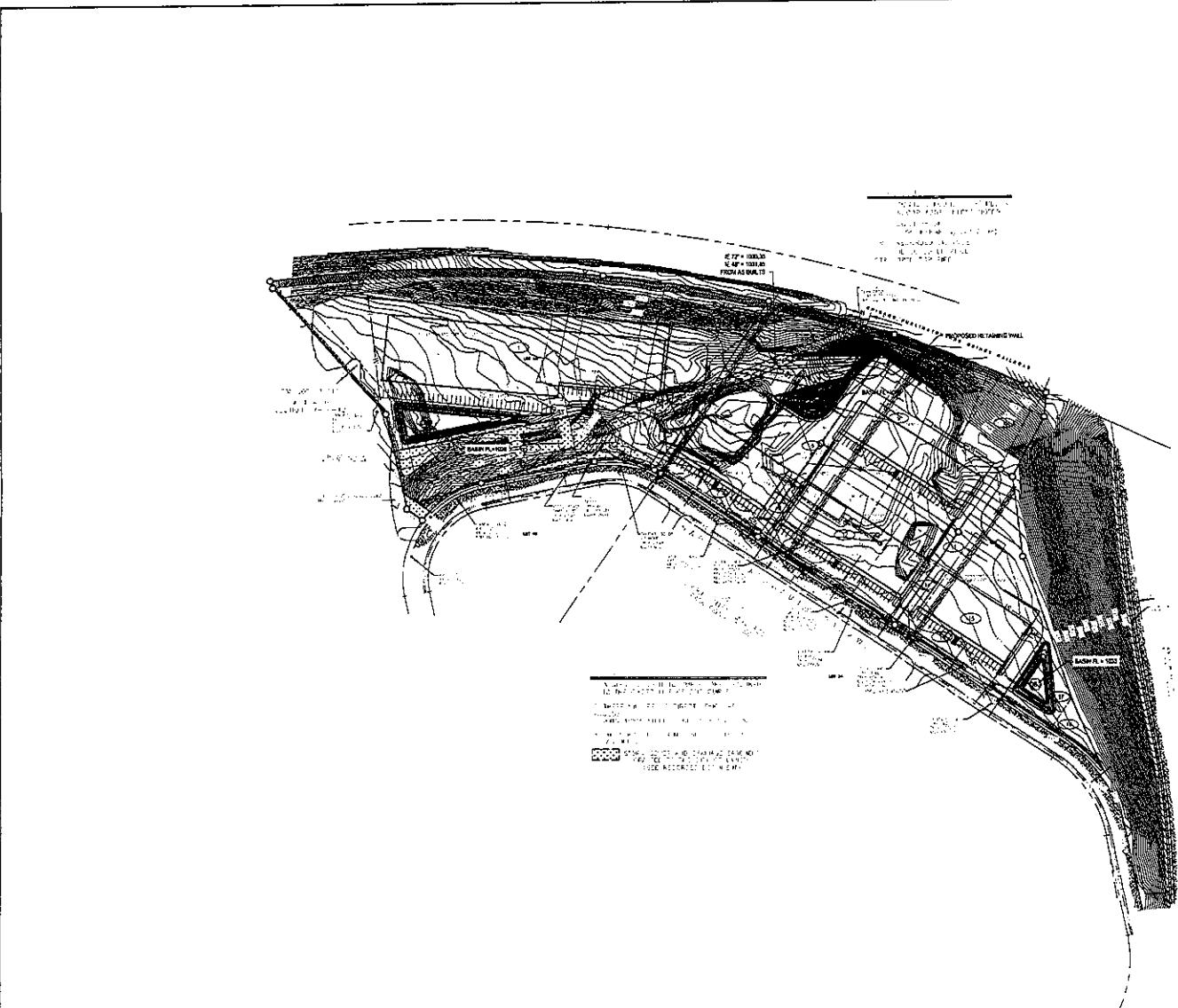
**CITY OF LA VISTA
NEBRASKA**

SHEET 1 OF 1

Sheet Number

SHEET 1 OF 1





POST CONSTRUCTION DRAINAGE & STORMWATER BMP PLAN

DRAINAGE BASIN MOTION:
BASINS 2, 6, 7, 8, 13, 14 & 16 WILL FLOW IN SAME DIRECTIONS
WITHOUT FLOWING TO DETERMINATION BASIN.
BASIN 1 FLOWS TO DB1.
BASINS 3, 4, 5 & 9 FLOW TO DB2.
BASINS 10, 11, 12, 15, 17 & 18 FLOW TO DB3.

PCWP PROJECT NUMBER PCSMP PROJECT NUMBER



Know what's below.
Call before you dig.

POST CONSTRUCTION BMPS			
BMP ID	TYPE OF BMP	LATITUDE / LONGITUDE	NOTES
BMP1	DETENTION BASIN	A11X	A
BMP2	DETENTION BASIN	A11Y	A
BMP3	DETENTION BASIN	A11Z	A

21

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WILLY AND CHANCES TO THIS DR

MANUAL CHARGES TO THIS DRAWING ARE PROHIBITED

REF #	DATE	DRIVEN BY	CHECKED BY	APPROVED BY	REMARKS

POST CONSTRUCTION STORMWATER MANAGEMENT PLAN MAINTENANCE AGREEMENT AND EASEMENT

WHEREAS, BV 44, LLC, (hereinafter referred to as "Property Owner") recognizes that stormwater management facilities (hereinafter referred to as "the facility" or "facilities") must be maintained for the development located at approximately 10818 Harry Watanabe Drive, La Vista, NE 68128, in the zoning jurisdiction of the City of La Vista, Sarpy County, Nebraska; and,

WHEREAS, the Property Owner is the owner of the property described on Exhibit "A" attached hereto (hereinafter referred to as "the Property"), and,

WHEREAS, the City of La Vista (hereinafter referred to as "the City") requires and the Property Owner, and its administrators, executors, successors, heirs, tenants or assigns, agree that the health, safety and welfare of the citizens of the City require that the facilities be constructed and maintained on the property, and,

WHEREAS, the Post Construction Stormwater Management Plan, (hereinafter referred to as "PCSMP"), shall be constructed and maintained by the Property Owner, its administrators, executors, successors, heirs, or assigns.

NOW, THEREFORE, in consideration of the foregoing premises, the covenants contained herein, and the following terms and conditions, the Property Owner agrees as follows:

1. The facility or facilities shall be constructed by the Property Owner in accordance with the PCSMP, which has been reviewed and accepted by the City of La Vista or its designee.
2. The Property Owner must develop and provide the "BMP Maintenance Requirements", attached here to as Exhibit "B", which have been reviewed and accepted by the City of La Vista or its designee. The BMP Maintenance Requirements shall describe the specific maintenance practices to be performed for the facilities and include a schedule for implementation of these practices. The BMP Maintenance Requirements shall indicate that the facility or facilities shall be inspected by a professional qualified in stormwater BMP function and maintenance at least annually to ensure that it is operating properly. A written record of inspection results and any maintenance work shall be maintained and available for review by the City. Records shall be maintained for a period of three years.
3. The Property Owner, its administrators, executors, successors, heirs, or assigns, shall construct and perpetually operate and maintain, at its sole expense, the facilities in strict accordance with the attached BMP Maintenance Requirements accepted by the City of La Vista or its designee.
4. The Property Owner, its administrators, executors, successors, heirs, tenants or assigns hereby grants permission to the City, its authorized agents and employees, to enter upon the property and to inspect the facilities whenever the City deems necessary. The City shall provide the Owner copies of the

inspection findings and a directive to commence with the repairs if necessary. The City will require the Property Owner to provide, within 7 calendar days from the date of City's written directive, a written response addressing what actions will be taken to correct any deficiencies and provide a schedule of repairs within a reasonable time frame. Whenever possible, the City shall provide notice prior to entry. The City shall indemnify and hold the Property Owner harmless from any damage by reason of the City's negligent or intentional acts during such entry upon the property.

5. The Property Owner its administrators, executors, successors, heirs, tenants or assigns, agrees that should it fail to correct any defects in the facility or facilities within reasonable time frame agreed to in the response by the Property Owner for corrective actions, or shall fail to maintain the structure in accordance with the attached BMP Maintenance Requirements and with the law and applicable executive regulation or, in the event of an emergency as determined by the City or its designee in its sole discretion, the City or its designee is authorized to enter the property to make all repairs, and to perform all maintenance, construction and reconstruction as the City or its designee deems necessary. Notwithstanding the foregoing, the City shall indemnify and hold the Property Owner harmless from any damage by reason of the City's negligent or intentional acts during such entry upon the property.

The City or its designee shall have the right to recover from the Property Owner any and all reasonable costs the City expends to maintain or repair the facility or facilities or to correct any operational deficiencies subject to the provisions of the immediately preceding sentence relating to negligence or intentional acts of the City. Failure to pay the City or its designee all of its expended costs, after forty-five days written notice, shall constitute a breach of the agreement. The City or its designee shall thereafter be entitled to bring an action against the Property Owner to pay, or foreclose upon the lien hereby authorized by this agreement against the property, or both. Interest, collection costs, and reasonable attorney fees shall be added to the recovery to the successful party.

6. The Property Owner shall not obligate the City to maintain or repair the facility or facilities, and the City shall not be liable to any person for the condition or operation of the facility or facilities.
7. The Property Owner, its administrators, executors, successors, heirs, or assigns, hereby indemnifies and holds harmless the City and its authorized agents and employees for any and all damages, accidents, casualties, occurrences or claims that may arise or be asserted against the City from the construction, presence, existence or maintenance of the facility or facilities by the Property Owner. In the event a claim is asserted against the City, its authorized agents or employees, the City shall promptly notify the Property Owner and the Property Owner shall defend at its own expense any suit based on such claim unless due solely to the negligence of the City in which event the City shall be required to defend any such suit at its own expense. Notwithstanding the foregoing, if any claims are made against both the City and the Property Owner, each will be required to defend any such suit or claim against it at its own expense. Each shall be responsible for payment of any recovery to the extent determined in such suit. If any judgment or claims

against the City, its authorized agents or employees shall be allowed, the Property Owner shall pay for all costs and expenses in connection herewith except to the extent of the negligence or intentional act of the City.

8. The Property Owner shall not in any way diminish, limit, or restrict the right of the City to enforce any of its ordinances as authorized by law.
9. This Agreement shall be recorded with the Register of Deeds of Sarpy County, Nebraska and shall constitute a covenant running with the land and shall be binding on the Property Owner, its administrators, executors, successors, heirs, or assigns, including any homeowners or business association and any other successors in interest.

IN WITNESS WHEREOF, the Property Owner (s) has/ have executed this agreement this day of _____, 20____.

INDIVIDUAL, PARTNERSHIP and/or CORPORATION

<u>BV 44, LLC</u>	
Name of Individual, Partnership and/or Corporation	
<u>Arun Agarwal</u>	
Name	
<u>General Partner, DANA Partnership, LLP, sole member</u>	
Title	
<hr/> <u>Signature</u>	

<hr/> Name of Individual, Partnership and/or Corporation <hr/>	
Name	<hr/>
Title	<hr/>
<hr/> Signature <hr/>	

Name of Individual, Partnership and/or Corporation
<hr/>
Name
<hr/>
Title
<hr/>
Signature
<hr/>

Name of Individual, Partnership and/or Corporation
Name
Title
Signature

ACKNOWLEDGMENT

_____)
State _____

_____)
County _____

On this _____ day of _____, 20 _____ before me, a Notary Public, in and for said County, personally came: Arun Agarwal, General Partner of DANA Partnership, LLP, sole member of BV 44, LLC, who is (are) personally known to me to be the identical person(s) whose name(s) is (are) affixed to the above instrument and acknowledged the instrument to be his, her (their) voluntary act and deed for the purpose therein stated.

WITNESS my hand and Notarial Seal the day and year last above written.

Notary Public

Notary Seal

EXHIBIT B
BMP Maintenance Requirements

Name & Location

Project Name: Brook Valley Corporate Park

Address: 10818 Harry Watanabe Drive, La Vista, NE 68128

PCWP Project Number: _____

PWD Grading Permit #: _____

Site Data

Total Site Area: 15.37 acres

Total Disturbed Area:

Total Undisturbed Area: 15.37 acres

Impervious Area Before Construction:

Impervious Area After Construction:

BMP Information

The designer shall provide, on the PCSMP plan set, the following information on post-construction stormwater BMPs:

BMP ID	TYPE OF BMP	State Plane Coordinates (N/E)	Longitude/Latitude

Note: Use the same naming convention for the BMPs that are used on the accepted plans and add rows if needed. Use either state plane coordinates or longitude/latitude.

Routine Maintenance and Tasks Schedule

The following tables outline recommended maintenance tasks and suggested frequencies for example BMPs. Delete the lists and tables that are not needed according to the types of BMPs within the development and edit the table according to your site specific conditions. BMPs may be added as well.

Inspection Reports should be completed and kept on file with the Inspector or Owner.

Bioretention Maintenance Tasks and Schedule	
Task	Schedule
Remove trash and debris	Monthly
Check and repair any eroded areas	Monthly
Remulch any void areas	Monthly
Check vegetation and replace any damaged plant materials	Monthly
Inspect for ponding, washed out areas, soil conditions	Monthly
Perimeter mowing	Monthly
Inspect collection system for proper functioning	Quarterly
Apply new mulch	Annually
Weeding and Pruning	Annually
Replace poorly draining soil	As needed
Reseed grass swale or border	As needed
Repair broken pipes	As needed
Replace filtration rip rap that is choked with sediment	As needed
Remove sediment	As needed
Replace mulch	Every three years

Wet Pond Maintenance Tasks and Schedule	
Task	Schedule
Remove debris from side slopes and trash rack	Monthly
Check and clear orifice of any obstructions	Monthly
Outlet/inlet inspection and cleanout	Monthly
Check pond side slopes and repair eroded areas	Monthly
Forebay inspection and cleanout	Monthly - remove sediment every 7 years or when 50% of storage volume has been lost
Basin inspection and cleanout	Annually- remove sediment every 20 years or when 25% of permanent pool volume has been lost
Inspect/Exercise all mechanical devices	Annually
Inspect for structural damage/leaks	Annually
Replace broken pipes	As needed
Replace filtration riprap that has been choked with sediment	As needed
Remove sediment	As needed
Pest control	As needed
Security	As needed

Dry Detention Basin/Pond Maintenance Tasks and Schedule	
Task	Schedule
Remove debris and trash from trash rack and side slopes	Monthly
Outlet/inlet inspection and cleanout	Monthly
Bank mowing and inspection/stabilization of eroded areas	Monthly
Forebay inspection and cleanout	Monthly - remove sediment every 7 years or when 50% of storage volume has been lost
Basin inspection and cleanout	Annually - remove sediment when 25% of storage volume has been lost
Remove woody vegetation along embankment	Annually
Inspect for structural damage	Annually
Inspect, exercise all mechanical devices	Annually
Repair broken pipes	As needed
Replace filtration riprap that has been choked with sediment	As needed
Security	As needed

Stormwater Wetland Maintenance Tasks and Schedule	
Task	Schedule
Remove debris from trash rack and side slopes	Remove debris from trash rack and side slopes Monthly
Inlet/outlet inspection and cleanout	Inlet/outlet inspection and cleanout Monthly
Bank mowing and stabilization of eroded areas	Monthly
Removal of cattails and invasive species, replant as necessary	Semi-Annually
Forebay inspection and cleanout	Monthly - remove sediment every 7 years or when 50% of storage volume has been lost
Wetland inspection and cleanout	Annually - remove sediment every 20 years or when plants are being impacted
Inspect for structural damage	Annually
Repair broken pipes	As needed
Replace filtration riprap that has been choked with sediment	As needed
Pest control	As needed
Security	As needed

Sand Filter Maintenance Tasks and Schedule	
Task	Schedule
Remove trash	Monthly
Inspect outlet for obstructions	Monthly
Inspect for clogging	Monthly
Skim sand media	Annually
Pump oil and grit separator	Annually
Replace sand media	As needed

Infiltration Trench Maintenance Tasks and Schedule	
Task	Schedule
Remove trash and debris	Monthly
Check observation well for standing water	Monthly
Remove unwanted vegetation	Monthly
Maintain stone or mulch top surface	Annually
Inspect and and remove accumulated sediment	Monthly - as needed

Grassed Swale/Channel Maintenance Tasks and Schedule	
Task	Schedule
Trash/debris removal	Monthly
Mowing	Monthly
Inspect for erosion and vegetative failure	Monthly, reseed as needed
Inspect check dams and diversion devices	Monthly
Inspect and and remove accumulated sediment	Monthly - as needed
Repair any damaged or displaced riprap	As needed

Filter Strip Maintenance Tasks and Schedule	
Task	Schedule
Trash debris and removal	Monthly
Stabilization of eroded areas	Monthly
Mowing	Monthly
Check outlet pipes (if present) for clogging	Monthly
Repair flow dispersion device to avoid formation of channels	Monthly
Inspect and and remove accumulated sediment	Monthly - as needed
Reseed	Semi-Annually - as needed

Greenroof/Roof Runoff Management Maintenance Tasks and Schedule

Task	Schedule
Remove debris and trash	Monthly
Weeding and pruning	Monthly
Remove debris and litter from the rooftop drainage system	Monthly
Irrigate and fertilize	As needed
Replace dying/diseased plants	As needed

Level Spreader Maintenance Tasks and Schedule

Task	Schedule
Remove trash and debris	Monthly
Inspect for any undercutting	Monthly
Inspect for any settlement	Monthly
Mowing	Monthly
Inspect and replace degraded or eroded riprap or stone	Monthly - as needed
Inspect and repair erosion and channeling	Monthly - as needed
Inspect and repair all concentrated flows	Monthly - as needed

Permeable Pavers or Pavement Maintenance Tasks and Schedule

Task	Schedule
Inspect and remove sediment from pavement surface	Monthly - as needed
Inspect and clean pavement of oil and grease	Monthly - as needed
Spray weeds and moss with herbicides	Monthly - as needed during growing season
Vacuum sweep surface	Annually
Replace open space gravel in pavers	Annually
Inspect for deterioration	Annually
Verify surface infiltration after storms	Annually

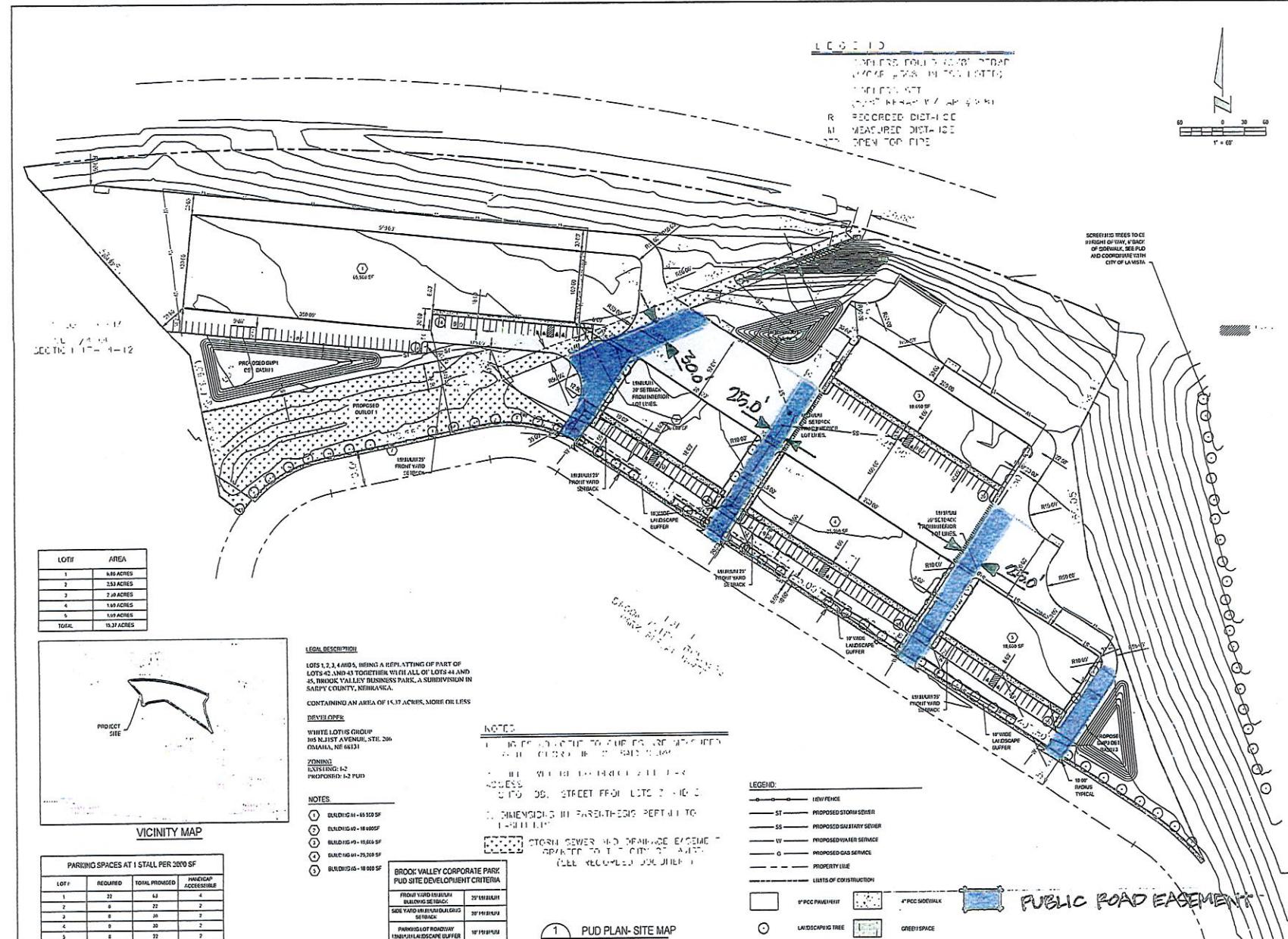


EXHIBIT F

PUBLIC ROAD EASEMENT

BROOK VALLEY CORPORATE PARK
PUD PLAN
SITES 11-12

SITE MAP

PRACTICAL CONSIDERATIONS IN THE MANAGEMENT OF CHRONIC PAIN 139

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PROJECTS IN INSTITUTE

BROOK VALLEY CORPORATE PARK
SEWER CONNECTION AGREEMENT
(Sanitary Sewer System)

THIS AGREEMENT, made and entered into in La Vista, Nebraska, on this 23 day of JUNE, 2014, by and between the City of La Vista, a Municipal corporation in the State of Nebraska (hereinafter referred to as "City"), and BV 44, LLC, a Nebraska Limited Liability Company (hereinafter referred to as "Owner");

WITNESSETH:

WHEREAS, the Owner has constructed or is contemplating constructing sanitary sewers within Brook Valley Corporate Park, Lots 1 through 5, Inclusive, a subdivision, shown on Exhibit "A" hereto; and

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

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

1

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

A. Shown on Exhibit "B" attached hereto.

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

A. Any sanitary sewer or system of sanitary sewers owned by the City;

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

II

Subject to the conditions and provisions hereinafter specified, the City hereby grants permission to the Owner to connect the sanitary sewer system of the Owner to the sanitary sewer system of the City in such manner and at such place or places as designated on plans submitted by the Owner and approved by the City.

III

Owner expressly promises, warrants, covenants and agrees:

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

In respect to any industrial use or connection to the sewer system of the Owner, the City may condition such approval upon such terms as it deems necessary to protect the sewer systems of the Owner and the City.

In furtherance of the foregoing, the Owner shall, whenever necessary, provide at their expense such preliminary treatment as may be necessary to meet the applicable ordinance, regulation or condition. Such preliminary treatment facilities shall be maintained continuously in satisfactory and effective operation at no expense to the City.

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

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

IV

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

V

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

- A. Require the person, firm or entity to whose property the connection is being made to:
 - 1. pay to City the applicable sewer connection fees as prescribed by the ordinances of the City of La Vista in effect at the time of the connection;
 - 2. obtain from the City a permit to so connect, as may be required by the ordinances of the City of La Vista in effect at the time of the connection.
- B. Enter into agreements as shall be necessary to:
 - 1. assure the said obtaining of a permit from City and payment of connection fees to City;
 - 2. require the disconnection of any connection made to the sewer system of the City which shall have been made without the proper permit from the City and payment of connection fees to City;
 - 3. assure that all connections to the sewer system of the City will be made in accordance with applicable ordinances, regulations and specifications.
- C. Upon the demand of City, the Owner shall pay to City the amount of any connection fee owing City for any connection to the sewer system of the Owner or of the City which shall not have been previously paid to the City by the person, firm or entity to whose property the connection shall have been made.
- D. Upon notice by City, the Owner shall immediately cause to be disconnected any connection to the sewer system which has been made without the required permit from the City or which is in contravention of the ordinances, regulations or specifications of the City of La Vista pertaining to sewer connections.

VI

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

VII

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

- A. In the case of a breach of any term or condition, warranty or covenant, pertaining to the actual construction, reconstruction, repair, maintenance or operation of the sewer system of the Owner, Owner shall, within five (5) days from receipt of City's notice of such breach, commence to take corrective measures or such measures as may be reasonably requested by the City, and the Owner shall pursue with due diligence such corrective measures to completion as soon thereafter as possible to the reasonable satisfaction of City.
- B. In the case of any other type of breach by the Owner, the Owner shall cure said breach to the reasonable satisfaction of City within thirty (30) days from receipt of City's notice of such breach; provided however, that if the nature of Owner's breach is such that more than thirty (30) days are reasonably required for its cure, then the Owner shall not be deemed to be in breach if the Owner commenced such cure within thirty (30) day period and thereafter diligently prosecutes such cure to completion.
- C. In the event the Owner shall fail to cure any breach within the applicable time and manner afore-prescribed, City may:
 - 1. Upon giving the Owner sixty (60) days notice of City's intent to do so, City may require the Owner to disconnect the sewer system of the Owner from the sewer system of the City, or the City may itself cause such disconnection to be made, if at the expiration of said sixty (60) day period the breach is not cured to the reasonable satisfaction of City. Any such disconnection shall be made at the expense of the Owner.
 - 2. In the event the breach pertains to the actual construction, reconstruction, repair, maintenance or operation of the sewer system of the Owner, City shall have the absolute right, at its option, to itself perform the work necessary for the requested corrective measures, or to complete the corrective measures commenced by the Owner, as the case may be, in either of which events the Owner agrees:
 - (a) Owner shall immediately reimburse City for any and all expense incurred by City in connection therewith.
 - (b) Owner shall indemnify and hold harmless City, its officers, employees and agents, from any expenses, costs, claim, action, cause of action, or demand arising out of City's taking or completing said corrective measures.
 - 3. In addition to whatever other remedies are granted to City herein, City may avail itself of all other rights and remedies that City may have pursuant to any statute, law, or rule of law or equity, including, but not limited to the right to specifically enforce full compliance by the Owner of the terms and conditions of this Agreement, including all warranties and covenants and agreements herein made by the Owner, by both mandatory and prohibitory injunction.

VIII

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

IX

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

X

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

Exhibit "A": Final Plat of Brook Valley Corporate Park

Exhibit "B": Illustration of Sewer system of the Owner

XI

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

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

XII

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

XIII

The provisions of this Agreement shall be binding upon the parties hereto and their successors.

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

ATTEST:

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

CITY CLERK

BY:

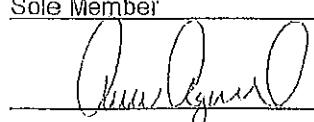
MAYOR

BV 44, LLC., a Nebraska limited liability company

By: DANA Partnership, LLP

Its: Sole Member

By:



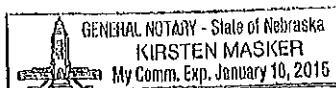
Arun Agarwal, General Partner of
DANA Partnership, LLP

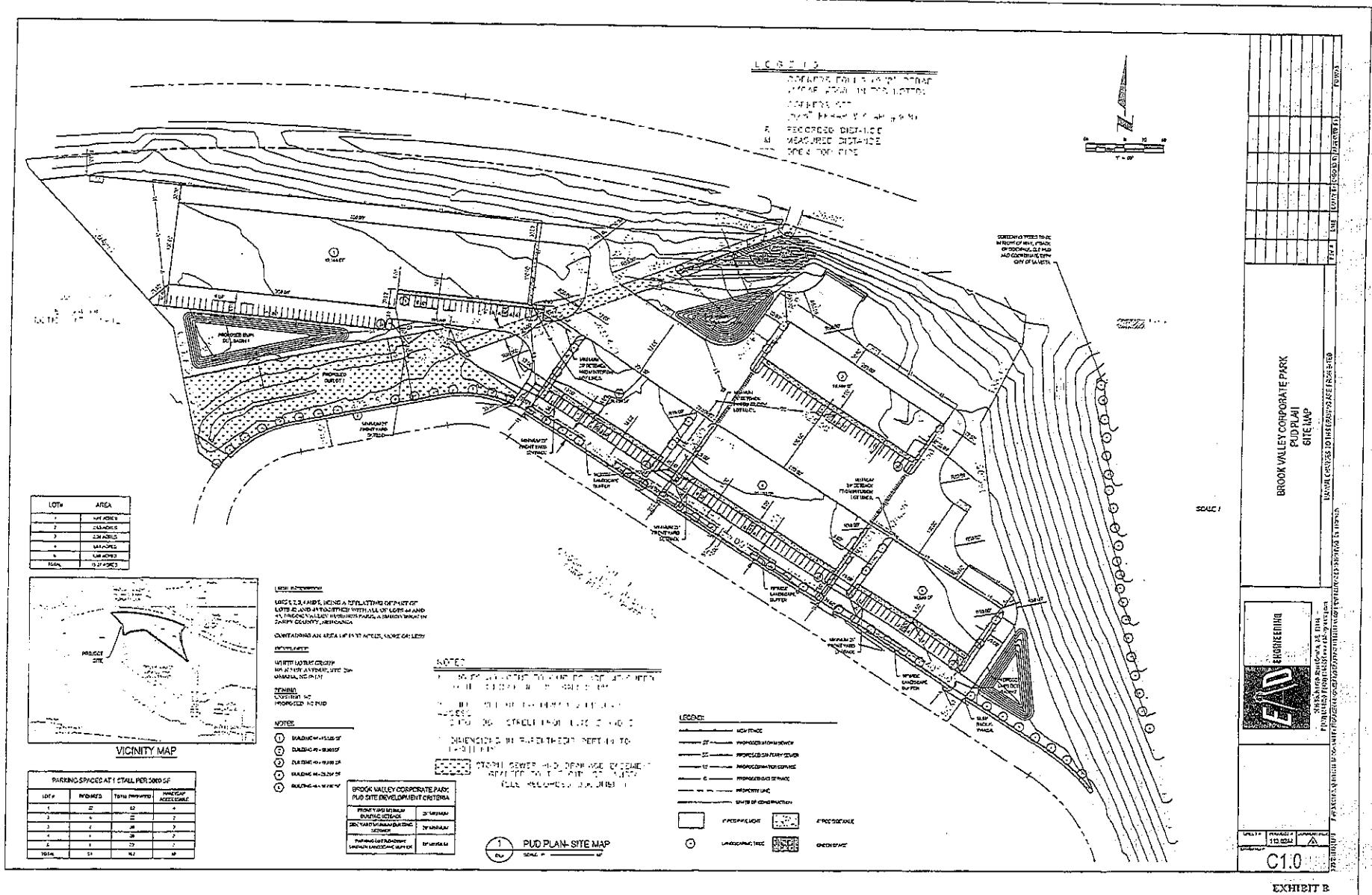
STATE OF NEBRASKA)
COUNTY OF Douglas)
ss.)

On this 23 day of June, 2014, before me a Notary Public, duly commissioned and qualified in and for said County, appeared ARVIND AGARWAL, of DANA PARTNERSHIP, LLP personally known by me to be the SOLE MEMBER and the identical person whose name is affixed to the foregoing Subdivision Agreement, and acknowledged the execution thereof to be his voluntary act and deed, and the voluntary act and deed of said Company.

WITNESS my hand and Notarial Seal the day and year last above written.

 Kite Meier
Notary Public





PERMANENT SEWER & DRAINAGE EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That BV44, LLC, a Nebraska Limited Liability Company (hereinafter referred to as "Grantor") for and consideration of the sum of Ten and No/100ths Dollars (\$10.00) and other valuable consideration, the receipt of which is hereby acknowledged, does hereby grant and convey to the City of La Vista, a municipal corporation in the State of Nebraska (hereinafter referred to as "Grantee"), and to its successors and assigns, a permanent non-exclusive easement to, over, under, across and through the area depicted and legally described on Exhibit "A" attached hereto (the "Easement Area"), for the purpose of constructing, maintaining and operating a storm sewer, drainage structure, and/or drainageway, and appurtenances thereto.

TO HAVE AND TO HOLD unto GRANTEE, its successors and assigns, together with the right of ingress and egress to the Easement Area for the purpose of constructing, inspecting, maintaining, operating, repairing or replacing said sewer, drainage structure, and/or drainageway at the will of the Grantee. The Grantor may continue to use the surface of the easement strip conveyed hereby for other purposes, except for open drainageway portions, subject to the right of the Grantee to use the same for the purposes herein expressed and provided such use by Grantor shall not unreasonably interfere with the use and purpose of this Easement.

It is further agreed as follows:

- 1) That no building, improvements, or other structures, nor any grading, fill or fill material, shall be placed in, on, over, or across said Easement Area by Grantor, their successors and assigns. Include landscaping, irrigation systems, private utility lines, road surfaces, and parking area surfacing. These improvements and any trees, grass, shrubbery placed on said easement shall be maintained by Grantor, their successors and assigns.

- 2) The Grantee will replace or rebuild any and all damage to improvements caused by Grantee exercising its rights of inspecting, maintaining or operating said sewer, except that damage to, or loss of trees and shrubbery will not be compensated for by Grantee.
- 3) This permanent sewer easement is also for the benefit of any contractor, agent, employee, or representative of the Grantee performing work on behalf of the Grantee.
- 4) That said Grantor for itself and its successors and assigns does confirm with Grantee and its successors and assigns, that the Grantor is seized in fee of the Easement Area, and that Grantor has the right to grant and convey this Easement in the manner and form aforesaid, and that Grantor will warrant and defend this Easement and the Grantee and its successors and assigns from the lawful claims and demands of all persons. This permanent easement shall run with the land.
- 5) That this instrument contains the entire agreement of the parties; that there are no other or different agreements or understandings between Grantor and Grantee; and that the Grantor, in executing and delivering this instrument, has not relied upon any promises, inducements, or representations of the Grantee or its agents or employees, except as are set forth herein.

IN WITNESS WHEREOF, the said party of the first part has hereunto (caused Its Corporate Seal to be affixed) (stated that the said Corporation has no Corporate Seal) and these presents to be signed by its respective officers this

12th day of June 2014.

BV44, LLC, A NEBRASKA LIMITED LIABILITY COMPANY

46-0654590

PRESIDENT or AUTHORIZED OFFICER:

(Name and Title)

ATTEST: *George J. Ladd* (Name and Title) (Federal I.D. No.) *Attorney*

(Corporate Seal)

CORPORATE ACKNOWLEDGMENT

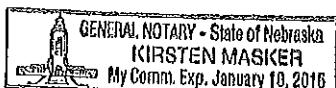
STATE OF NEBRASKA)
) ss
COUNTY OF SARPY)

On this 23 day of JUNE, 2014 before me, a Notary Public in and for said County, personally came ARUN AGARWAL,
general partner of Banda Properties, LLP,
SOLE MEMBER, of BV44, LLC, a Nebraska Limited Liability Company,
(title)

of said Company, to me personally known to be the officer of said Company and the identical person whose name is affixed to the foregoing instrument, and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said Company.

WITNESS my hand and Notarial Seal the day and year last above written.


K. A. Mohr
NOTARY PUBLIC



Notary Seal

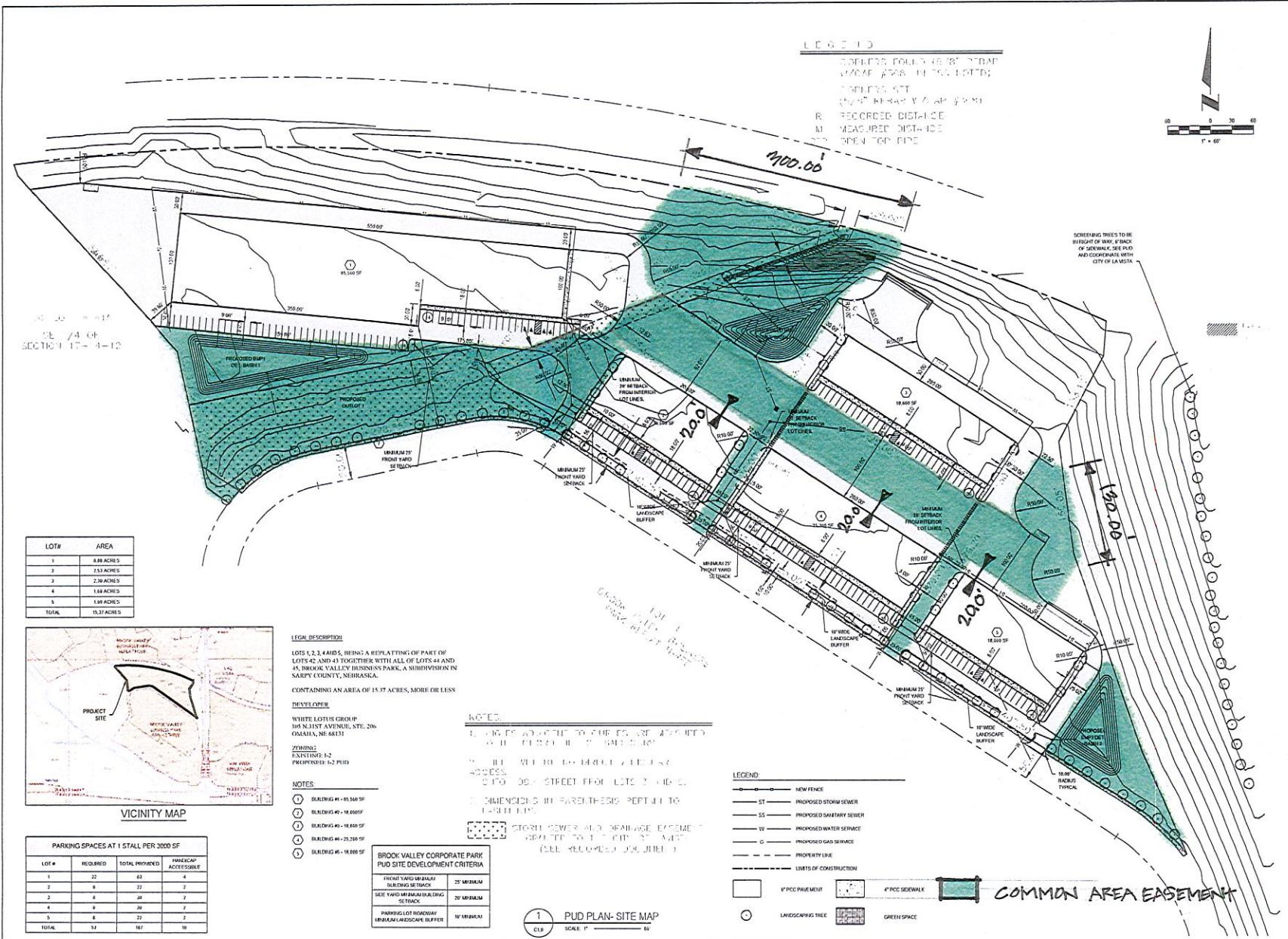


EXHIBIT I

COMMON AREA EASEMENT

BROOK VALLEY CORPORATE PARK
PUD PLAN
SITE MAP

NO CHANGES TO THIS DRAWING ARE PROHIBITED

STORAGE ENGINEER DRAFTING 113 0214 JAX CODE

DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR
BROOK VALLEY CORPORATE PARK

THIS DECLARATION, made on the date hereinafter set forth by BV 44, LLC, a Nebraska limited liability company, hereinafter referred to as the "Declarant".

WITNESSETH:

WHEREAS, the Declarant is the owner of the following described real property: Lots 1-5, a replatting of part of lots 42 and 43 with all of lots 44 and 45, Brook Valley Business Park, a subdivision in Sarpy County, inclusive, (collectively "Properties" and individually "Property") in Brook Valley Corporate Park, an area surveyed, platted and recorded in the City of La Vista, Sarpy County, Nebraska, and

WHEREAS, the Declarant will convey said Properties, subject to certain easements, rights, protective covenants, conditions, restrictions, reservations, liens, and charges as hereinafter set forth, for the mutual and reciprocal benefit and burden of the Properties and the current and future owners of the Properties,

NOW, THEREFORE, the Declarant hereby declares for itself and its successors and assigns that all of the Properties described below shall be permanently and perpetually held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of said Properties. These easements, covenants, restrictions, and conditions, shall run with said real property, and shall be binding upon the Properties and all parties having or acquiring any right, title or interest in the above described Properties, or any part thereof, and they shall inure to the benefit of each Owner thereof. The Brook Valley Corporate Park Owners Association by signing below agrees to be bound by this Declaration.

ARTICLE I
DEFINITIONS

- A. "Association" shall mean and refer to the Brook Valley Corporate Park Owners Association, Inc., a Nebraska non-profit corporation, and its successors and assigns.
- B. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Brook Valley Corporate Park Lot which is a part of the Properties, but excluding those having such interest merely as security for the performance of an obligation, including contract sellers.
- C. "Properties" shall mean and refer to Lots 1-5, a replatting of part of lots 42 and 43 with all of lots 44 and 45, Brook Valley Business Park, a subdivision in Sarpy County.
- D. "Brook Valley Corporate Park Lot" or "Lot" shall mean and refer to Lots 1-5, a replatting of part of lots 42 and 43 with all of lots 44 and 45, Brook Valley Business Park, a subdivision in Sarpy County.
- E. "Declarant" shall mean and refer to BV 44, LLC, a Nebraska limited liability company, and its successors and assigns. BV 44, LLC, may also alternatively be referred to as "Subdivider".
- F. Intentionally omitted.
- G. "Brook Valley Corporate Park Lot Owners" or "Lot Owners" shall mean the Declarant as the initial owner of all lots within Brook Valley Corporate Park, and all subsequent owners of any such lots.
- H. "Subdivision Agreement" shall mean the Subdivision Agreement between BV 44, LLC, DANA

Partnership, LLP, d/b/a White Lotus Group and the City of La Vista, Nebraska dated

H. "Common Area Improvement" shall have the meaning set forth in the Subdivision Agreement.

I. "Common Area Maintenance" shall mean all performance under the Subdivision Agreement with respect to Common Area Improvements, with the exception of initial construction and installation of Common Area Improvements

J. "Common Area Maintenance Expense" shall mean all costs arising out of or related to performance under the Subdivision Agreement with respect to Common Area Improvements, with the exception of costs of initial construction and installation of Common Area Improvements.

ARTICLE II PAYMENT AND MAINTENANCE

- A. By the Subdivider. The Subdivider shall be solely responsible, at its sole cost and expense, for the initial construction and installation of Common Area Improvements. After the initial construction and installation, the Subdivider shall transfer ownership of the Common Area Improvements to the Association to perform Common Area Maintenance, including without limitation, any repair, maintenance, operation, insurance, replacement, or restoration of any of the Common Area Improvements, or the addition of any other new facilities, all of which shall be the continuing obligation and liability of the Association, in accordance with the provisions of this Declaration, Subdivision Agreement and applicable laws, rules, regulations and other requirements.
- B. By the Association. The Association shall own, administer, insure, operate, manage, control, maintain, repair, rebuild and restore all of Common Area Improvements for the benefit of the Association and the benefit of the adjoining Brook Valley Corporate Park Lots and surrounding properties, and so that the improvements stay clean, safe, in good and operating condition, repair and order, and consistent with the overall quality as constructed or otherwise required by applicable requirements. In addition to, and not in limitation of, the foregoing, the Association also shall be responsible for those maintenance duties set forth in the Post-Construction Stormwater Maintenance Agreement (hereinafter "PCSM Duties"), incorporated by reference herein. The Association's Common Area Maintenance and PCSM Duties shall include without limitation the following:
 - (i) Maintenance activities including routine mowing, landscaping, vegetation removal or control, private amenities and other features not specifically necessary to retain, detain, convey or treat stormwater runoff.
 - (ii) Maintenance of adjacent sidewalks.
 - (iii) Maintenance of private utility lines.
 - (iv) Maintenance of pavement.

The Association shall also be responsible for carrying out the Declarant's responsibility for the care and operation, maintenance, replacement and repair of all Common Area Improvements. Not in limitation of the foregoing sentence, the Association shall insure the continuity, care, conservation, and maintenance of the Common Area Improvements. The Common Area Maintenance Expense and cost of said work shall be allocated and paid pro rata by Brook Valley Corporate Park Lot Owners, in the same ratio that each of their respective Lots bears to the total land area of all of the Brook Valley Corporate Park Lots.

In the event the Association and owners fail to care and maintain for the Common Area Improvements as required, the Association and the Brook Valley Corporate Park Lot Owners agree that the City Council of La Vista or its authorized agents, in addition to any other rights or remedies available under this Declaration, the Subdivision Agreement or other applicable documents, instruments or laws, may (but shall not be obligated to) take all actions necessary to maintain the Common Area Improvements and that the Association shall reimburse the City of La Vista for expenses incurred in taking such actions.

C. The Common Area Improvements shall be used and enjoyed by each Owner of each Brook Valley Corporate Park Lot and its permittees in such manner as to not unreasonably interfere with, obstruct or delay the business or affairs of any other Owner or permittee.

D. Declarant grants and conveys to the Association, Owners and City of La Vista, Nebraska a permanent, non-exclusive easement over, under, across, upon and through the Properties for the purposes related to this Declaration.

ARTICLE III **BROOK VALLEY OWNERS ASSOCIATION**

- A. **Membership.** Every Owner may be admitted a member of the Association in accordance with procedures set forth in the bylaws. Memberships shall be appurtenant to and may not be separated from ownership of the Brook Valley Corporate Park Lots. Ownership of a Brook Valley Corporate Park Lot(s) or a portion of a Brook Valley Corporate Park Lot shall be the sole qualification for membership. The foregoing is not intended to include persons or entities who hold any interest merely as security for the performance of an obligation, though security interests shall be subject and subordinate to this Declaration.
- B. **Voting Rights.** Members shall be entitled to vote with respect to each Brook Valley Corporate Park Lot owned as provided in the Bylaws of the Association. When more than one person holds an interest in any Brook Valley Corporate Park Lot or a portion of a Lot, all such persons shall be members. The vote for such Brook Valley Corporate Park Lot shall be exercised as they among themselves determine, but in no event shall more votes be cast than allowed under the Bylaws with respect to any one (1) Lot. In the event Owners attempt to vote more than allowed under the Bylaws, the directors of the Association shall have the discretion to count only the first vote cast for the Brook Valley Corporate Park Lot or to disallow all votes cast for that Lot. An action of the Association may occur by simple majority vote, unless otherwise stated in this Agreement or in the Subdivision Agreement or bylaws.
- C. **Right of First Refusal.** In the event that an Owner desires to sell (or otherwise transfer) the Owner's ownership interest in a Brook Valley Corporate Park Lot (a "Transferring Owner"), and has received a bona fide offer in writing from an unaffiliated third party to buy the Owner's Property (a "Transfer"), the Transferring Owner shall first notify the Association and each of the other Owners in writing of the proposed sale (the "Transfer Notice"). Each Transfer Notice shall contain all material terms of the proposed Transfer, including, without limitation, a copy of the written offer received, the name and address of the prospective purchaser (or transferee), the purchase price and terms of payment, and the date and place of the proposed Transfer.

The other Owners shall have an option for a period of ten (10) days from the date the Transfer Notice is given to elect to purchase the Transferring Owner's Property at the same price and subject to the same material terms and conditions as described in the Transfer Notice (or terms and conditions as similar as reasonably possible). The other Owners may exercise such purchase option and, thereby, purchase the Transferring Owner's Property by notifying the Transferring Owner in writing before expiration of such ten (10) day period of their wish to purchase. If another Owner gives the Transferring Owner notice that it desires to purchase such shares, then payment for the Property shall be by check or wire transfer,

against transfer of the Property to be purchased at a place agreed upon between the parties and at the time of the scheduled closing therefore, which shall be no later than the later of (i) thirty (30) days after the date the Transfer Notice is given or (ii) the date contemplated in the Transfer Notice for the closing with the prospective third party transferee(s).

D. Covenants For Maintenance Assessments.

1. **Creation of Lien and Personal Obligation of Assessments.** The Declarant, for each Brook Valley Corporate Park Lot owned by the Declarant, and each Owner of any Brook Valley Corporate Park Lot, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, hereby covenants and agrees to pay to the Association all assessments or charges which shall be established and collected, both as herein provided. These assessments and charges, together with interest, costs, and attorney's fees, shall be a charge on the Brook Valley Lots and the personal liability of the Owners, and shall be a continuing lien on the Brook Valley Corporate Park Lot against which each assessment is made. Any such lien that exists on any Lot to be sold and shall be paid in full by seller or buyer at or before closing as a condition of conveying and obtaining good and marketable title. **ALL SUBSEQUENT PURCHASERS OR OTHER TRANSFEREES, SUCCESSORS OR ASSIGNS SHALL TAKE TITLE TO THE BROOK VALLEY CORPORATE PARK LOT SUBJECT TO ANY SAID LIEN AND SHALL BE BOUND TO INQUIRE OF THE ASSOCIATION AS TO THE AMOUNT OF ANY UNPAID ASSESSMENTS.** Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of all person(s) who were an Owner of such Brook Valley Corporate Park Lot at the time when the assessment fell due, and the Owner's successors and assigns.
2. **Purpose of Assessments.** The assessments by the Association shall be used exclusively for Common Area Maintenance Expenses, including without limitation, the following purposes: (a) to administer, insure, operate, manage, control, maintain, repair, replace and inspect the Common Area Improvements and the grounds thereof; (b) to pay the costs and expenses of enforcing the provisions of these Covenants, Conditions, and Restrictions, including the fees of attorneys hired to represent the Association, court costs, witness fees, and related costs; and to carry out such other purposes as the Association shall from time to time determine to be in the best interests of its members and consistent with the provisions of this Declaration, the Subdivision Agreement and applicable laws, rules and regulations.
3. **Annual Assessment.** Before each fiscal year, the Board of Directors of the Association, hereinafter referred to as "the Board", shall adopt and fix in reasonably itemized detail an annual budget for the anticipated expenses and costs for that year, and shall levy and collect assessments from each Brook Valley Corporate Park Lot which, considering other sources of income, if any, shall be sufficient to fund the budget for said fiscal year. The regular assessment with respect to all Brook Valley Corporate Park Lots shall be uniform in amount.
4. **Date of Commencement of Annual Assessments: Due Dates.** The annual assessments provided for herein shall commence at a time to be determined by the Board.
 - a. **When Assessed and Notice to Owners.** The Board shall fix the amount of the annual assessments to be assessed against each Brook Valley Corporate Park Lot at least thirty (30) calendar days prior to the commencement of the first full fiscal year of the Association. Written notice of the annual assessment shall be sent to each Owner subject thereto at least twenty (20) calendar days prior to the due date of the assessment, or the first installment thereof, including the due dates and amounts thereof. The failure of the Board to so notify each Owner in advance shall not, however, relieve any Owner of the duty and obligation to

pay such assessment or any installment thereof. The Board shall have the authority, in its discretion, to require that all Owners pay the annual assessment in one payment or in installments becoming due at such time or times during the assessment year and payable in such manner as determined by the Board. The annual assessments shall be and become a lien as of the date of the annual assessments.

- b. Certificate Furnished Re: Payment of Assessment. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specific Brook Valley Corporate Park Lot have been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.
- 6. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within the thirty (30) calendar days after the due date shall bear interest from the due date at the rate of eleven per cent (11%) per annum. The Association may bring an action at law against an Owner personally obligated to pay the same or may foreclose the lien against the property in the same manner as provided by law for the foreclosure of mortgages. No Owner may waive or otherwise escape liability for the assessments provided herein by non-use or abandonment of his Brook Valley Corporate Park Lot.

ARTICLE IV **GENERAL PROVISIONS**

- A. The Declarant, or its assigns, or the Association, or any Owner of a Brook Valley Lot, shall have the right to enforce by proceeding at law or in equity, all easements, rights, restrictions, conditions, covenants, and reservations, now or hereafter imposed by the provisions of this Declaration, either to assert or prevent or restrain any violation of same, or to recover damages or other dues for such violation. Failure by the Declarant, by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.
- B. All easements, rights, covenants, conditions and restrictions of this Declaration shall run with and bind the land for perpetuity from the date this Declaration is recorded and may be amended as shown in this article.
- C. All covenants, conditions and restrictions of this Declaration may be amended in writing as follows:
 - 1. By the Declarant in any manner it shall determine in its full and absolute discretion for a period of five (5) years from the date this Declaration is recorded, provided the Declarant owns Lots representing more than 50% of the total square footage of all Lots within Brook Valley Corporate Park.
 - 2. By an instrument signed by the Owners of not less than seventy-five percent (75%) of the Brook Valley Lots.

Provided, however, any amendment of this Declaration, to be effective, requires the prior written consent of the City of La Vista, Nebraska.

- D. The Association will have a major role in causing the Brook Valley Corporate Park to be a clean, well-maintained and reputable area. Therefore, the power of the Association herein shall be liberally and broadly interpreted to carry out said objective.
- E. Invalidation of any one of these covenants by judgment or court order shall in no way effect any of the other provisions hereof which shall remain in full force and effect.

F. The recitals at the beginning of this Declaration, and any agreement, document or instrument referred to in this Declaration, are incorporated herein by reference.

G. This Declaration and the authority, duties and other terms and conditions expressed herein shall be subject to and carried out in accordance with the Subdivision Agreement, Articles and Bylaws of the Association, and all applicable laws, rules and regulations.

H. The City of La Vista will have the rights, upon demand, to inspect all books and records of the Association, and to enforce this Declaration with respect to the Association or any Owner.

IN WITNESS WHEREOF, the Declarant caused these present to be executed this _____ day of _____, 20_____.

BV 44, LLC,
A Nebraska limited liability company

By: Arun K. Agarwal
General Partner and Managing Agent of DANA PARTNERSHIP, LLP,
A Nebraska limited liability partnership,
Sole member of BV 44, LLC

BY: BROOK VALLEY CORPORATE PARK OWNERS ASSOCIATION, INC., a Nebraska non-profit corporation, BY: _____
Arun K. Agarwal
Director

BY: BROOK VALLEY CORPORATE PARK OWNERS ASSOCIATION, INC., a Nebraska non-profit corporation, BY: _____
Ashley Kuhn
Director

BY: BROOK VALLEY CORPORATE PARK OWNERS ASSOCIATION, INC., a Nebraska non-profit corporation, BY: _____
Brad Brooks
Director

ATTEST:

STATE OF NEBRASKA
COUNTY OF DOUGLAS

)
ss.

On this ____th day of _____, 20_____, before me, a Notary Public in and for said County and State, personally appeared Arun Agarwal, General Partner and Managing Agent of DANA Partnership, LLP

("Partnership"), the sole member of BV 44, LLC ("Company"), who executed the above and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said Partnership and Company.

NOTARY PUBLIC

My Commission expires _____

On this ____th day of _____, 20____, before me, a Notary Public in and for said County and State, personally appeared Arun Agarwal, Director of Brook Valley Corporate Park Owners Association, Inc. ("Association"), who executed the above and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said Association.

NOTARY PUBLIC

My Commission expires _____

On this ____th day of _____, 20____, before me, a Notary Public in and for said County and State, personally appeared Ashley Kuhn, Director of Brook Valley Corporate Park Owners Association, Inc. ("Association"), who executed the above and acknowledged the execution thereof to be her voluntary act and deed and the voluntary act and deed of said Association.

NOTARY PUBLIC

My Commission expires _____

On this ____th day of _____, 20____, before me, a Notary Public in and for said County and State, personally appeared Brad Brooks, Director of Brook Valley Corporate Park Owners Association, Inc. ("Association"), who executed the above and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said Association.

NOTARY PUBLIC

My Commission expires _____