

FIRST AMENDMENT TO THE
SUBDIVISION AGREEMENT

PARTIES:

THIS FIRST AMENDMENT TO THE SUBDIVISION AGREEMENT made this 5th day of August, 2008 by and between SANITARY AND IMPROVEMENT DISTRICT NO. 272 (hereinafter referred to as "District") and PAPILLION DEVELOPMENT SETTLERS CREEK, L.L.C. (hereinafter referred to as "Developer"); and the CITY OF PAPILLION, a municipal corporation (hereinafter referred to as "City") amending and modifying the Subdivision Agreement entered into by the parties on February 21, 2006.

WHEREAS, DEVELOPER desires to replat and develop Lot 81 into Lot 2 Settlers Creek Replat 2 and Lots 1 through 6, inclusive, and Outlot A, Settlers Creek Replat 3 (hereinafter referred to as the "Property"); and

WHEREAS, the parties hereto desire to modify the Subdivision Agreement to allow for the replatting and development of the Property as set forth herein.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual promises and covenants hereinafter contained, the parties hereto agree as follows:

1. Definitions: Unless otherwise defined in this First Amendment, all capitalized terms used in this Second Amendment shall have the same meaning set forth for such terms in the Subdivision Agreement.

2. Amendments to Subdivision Agreement. The following provisions of the Subdivision Agreement shall be modified with respect to the development of the Property as follows:

A. Recitals. The first paragraph of the Recitals shall be amended as follows:

Exhibit A is hereby amended to reflect the final plat of the Property as shown on Exhibit A-1 attached hereto (Settlers Creek Replat 2) and Exhibit A-2 attached hereto (Settlers Creek Replat 3).

B. Exhibit F is hereby repealed in its entirety and the attached Exhibit F-1 is hereby substituted in its place with respect to the Permitted Uses.

C. Article VIII is hereby repealed in its entirety and replaced as follows:

Lot 2, Settlers Creek Replat 2 and Lots 1-6, inclusive, and Outlot A, Settlers Creek Replat 3 of the development were rezoned from Agricultural (AG) to a Mixed Used (MU) district.. According to the provisions of Article XXII of the City Zoning Ordinance and for purposes of that portion rezoned MU, the parties agree as follows:

A. Definitions

For the purposes of this Agreement, the definitions in Article II of the Papillion Zoning Ordinance shall apply. In addition, the phrase "site improvement" shall mean any building, parking, landscaping, signage, fencing or other regulated structure.

B. Development

Except as otherwise permitted in this Agreement, the project shall be developed in accordance with the City of Papillion Comprehensive Plan, the City of Papillion Zoning and Subdivision regulations, and the terms and conditions of this Agreement. Prior to the issuance of any building permit on Lot 2, Settlers Creek Replat 2 and Lots 1-6, inclusive, and Outlot A, Settlers Creek Replat 3, the Developer shall submit for approval by the City Council, a Mixed Use Agreement in accordance with Article XXII of the City Zoning Ordinance.

C. Permitted Uses

Except as otherwise allowed by this Agreement, Settlers Creek Mixed Use District shall be developed in accordance with the applicable permitted uses set forth in Exhibit "F". The permitted uses will be incorporated into the Mixed Use Agreement, and will be subject to further review and amendment.

D. Traffic impact

To avoid excessive traffic loading on Sixth Street west of 72nd Street, no more than 250,000 square feet of gross floor area may be devoted to commercial/retail uses with the following use restrictions on high traffic generators:

1. Restaurants with drive-thru lanes are permitted (See #5)
2. Banks with drive-thru lanes are permitted (See #5)
3. Fuel and Convenience Food Sales are not permitted
4. Freestanding restaurants of 6,000 square feet of gross floor area are permitted.(See #5)
5. A maximum of four of the uses described in 1, 2, and 4 above are permitted and of those four not more than two of any single use is permitted.

Provision shall be made for the installation of traffic calming devices on Sixth Street. The City has estimated the cost of such devices to be Three Hundred Thirty-Five Thousand and no/100 Dollars (\$335,000.00), of which the Developer shall be responsible for not more than eighty percent (80%). Papillion Development Settlers Creek LLC shall cause to be placed in trust with the City the sum of Two Hundred Sixty-Eight Thousand and no/100 Dollars (\$268,000.00), which shall be held by the City in an interest bearing account to be disbursed by the City pursuant to a construction contract to be let by the City pursuant to the draft traffic calming concept plans and concept level cost estimates prepared by the City, which are attached to this Agreement as Exhibit "D." The City may amend the concept illustrated in Exhibit "D" as necessary.

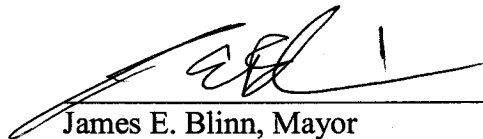
3. Miscellaneous.

A. Counterparts. This First Amendment may be executed in counterparts each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

B. No Other Amendment. Except as specifically set forth herein, the Subdivision Agreement shall remain in full force and effect.

Dated this 12 day of August, 2008.

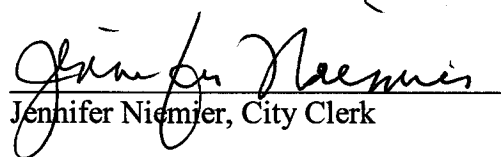
CITY OF PAPILLION, A Nebraska Municipal Corporation



James E. Blinn, Mayor

ATTEST:

CITY SEAL:



Jennifer Niemier, City Clerk



SANITARY & IMPROVEMENT DISTRICT
NO. 272 OF SARPY COUNTY, NEBRASKA

Date: 8/13/08

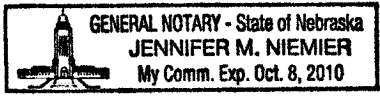
By: [Signature]

Its: CHAIRMAN

STATE OF NEBRASKA)
)ss.
COUNTY OF SARPY)

Before me, a notary public, in and for said county and state, personally came Michael F. Rogers of Sanitary & Improvement District No. 272, known to me to be the identical person who executed the above instrument and acknowledged the execution thereof to be his or her voluntary act and deed on behalf of such corporation.

Witness my hand and Notarial Seal this 13 day of August, 2008.



Jennifer M. Niemier
Notary Public

PAPILLION DEVELOPMENT SETTLERS CREEK,
L.L.C., a Nebraska limited liability company,

Date: 8-12-08

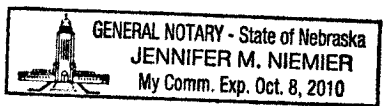
By: [Signature]

Its: MEMBER

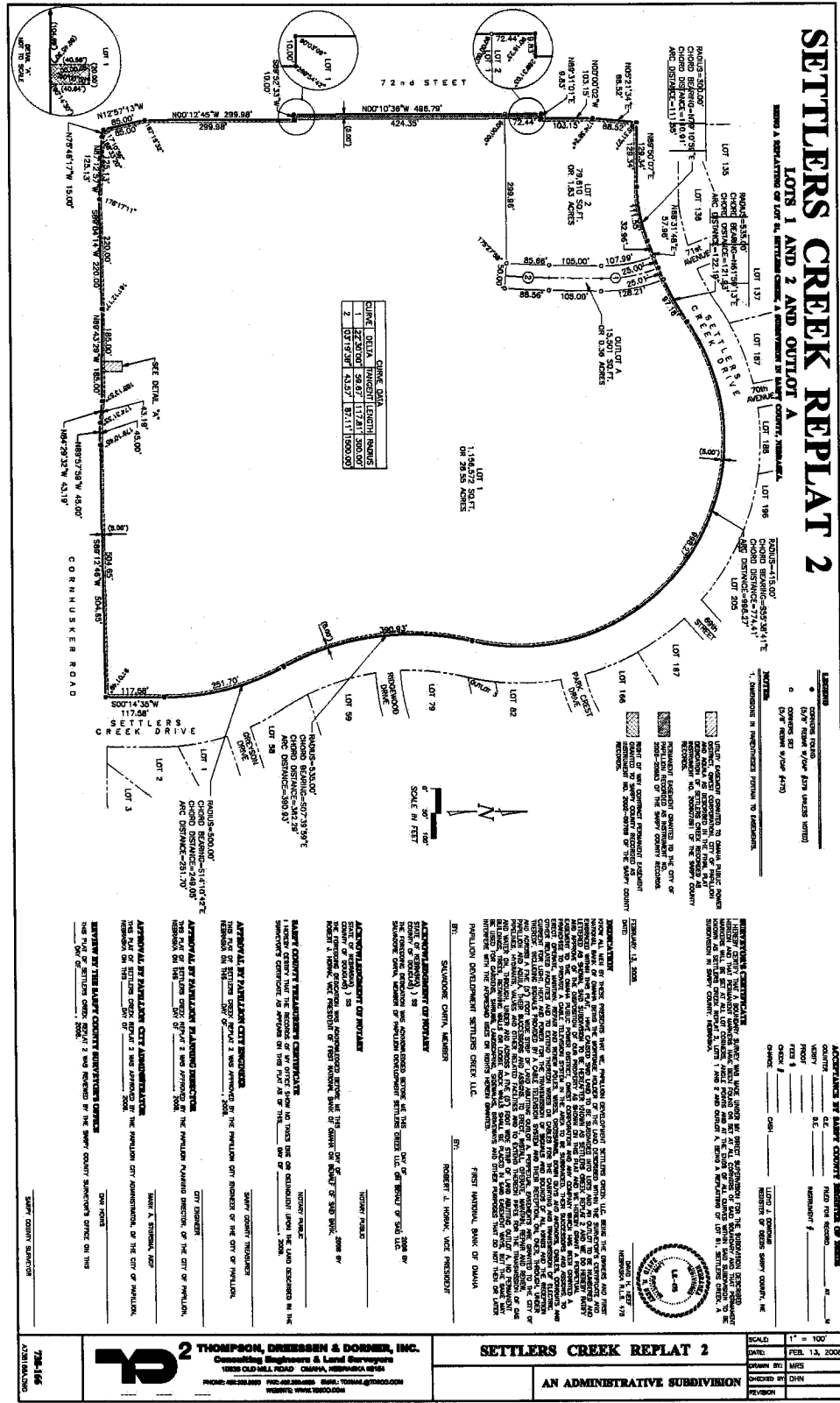
STATE OF NEBRASKA)
)ss.
COUNTY OF SARPY)

Before me, a notary public, in and for said county and state, personally came Jay Lerner of Papillion Development Settlers Creek, LLC, known to me to be the identical person who executed the above instrument and acknowledged the execution thereof to be his or her voluntary act and deed on behalf of such corporation.

Witness my hand and Notarial Seal this 12 day of August, 2008.



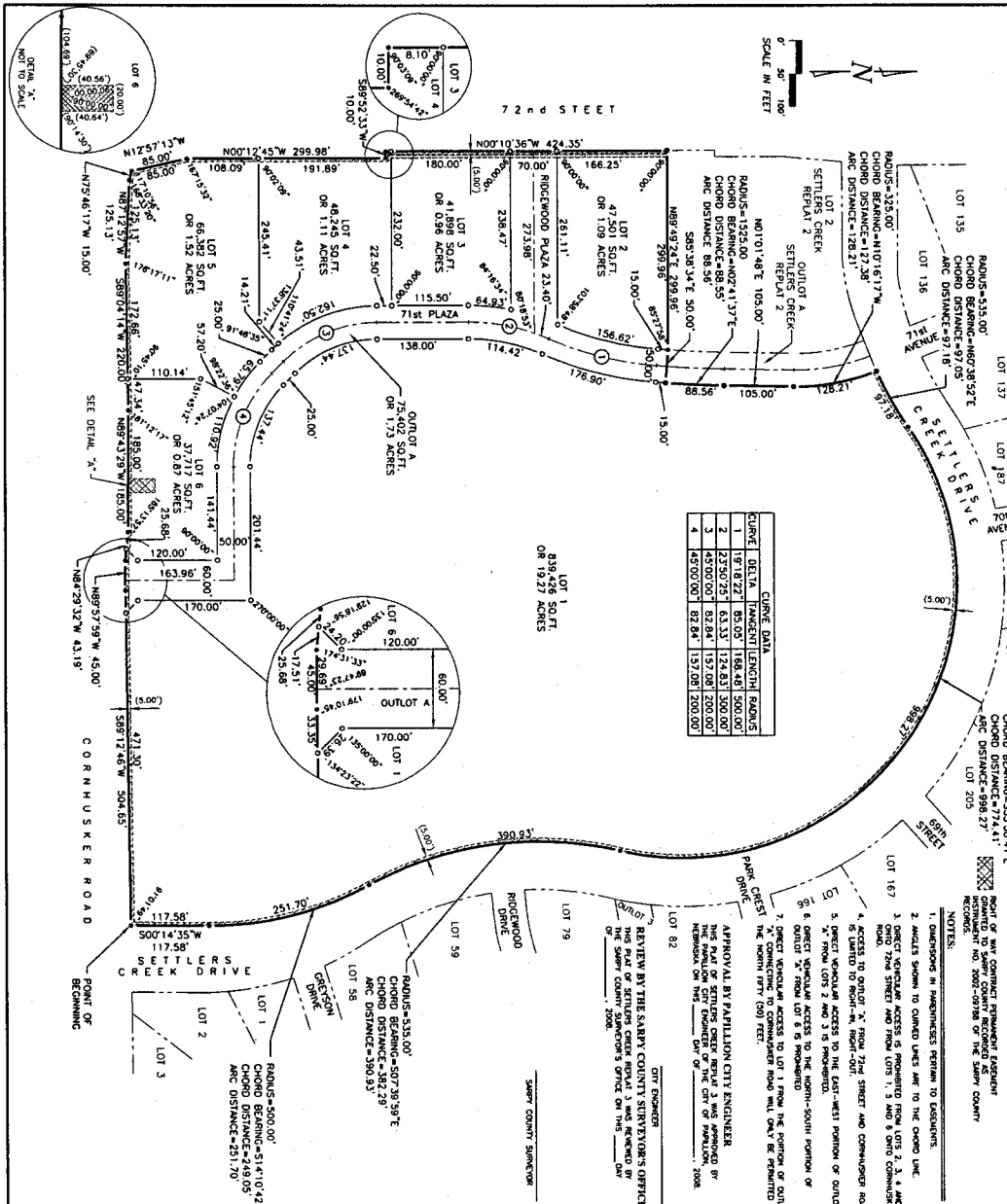
Jennifer M. Niemier
Notary Public



SETTLERS CREEK REPLAT 3

LOTS 1 THROUGH 6 AND OUTLOT A

BEING A REPLAT OF LOT 1, SETTLERS CREEK REPLAT 2, A SUBDIVISION IN SHERIDAN COUNTY, NEBRASKA.



CLINE	AREA	PERCENT	LENGTH	RADIUS
1	157,122	85.05	168.48	500.00
2	2,250,235	63.33	124.83	300.00
3	4,500,000	82.84	157.08	200.00
4	47,000.00	82.84	157.08	200.00

UNITED STATES GOVERNMENT TO OMAHA PUBLIC POWER AND LIGHT COMPANY, CITY OF PAVILLION, NEBRASKA, RECORD NO. 2008-0131 OF THE SHERIDAN COUNTY RECORDS.

REPLATMENT LEGALLY OWNED TO THE CITY OF PAVILLION, NEBRASKA, RECORD NO. 2008-0131 OF THE SHERIDAN COUNTY RECORDS.

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1. OUTLOT A IS PROPOSED TO BE ADJACENT TO LOT 1.
2. ACCESS TO THE NORTH-SOUTH PORTION OF OUTLOT A IS LIMITED TO NORTH-WEST, NORTH-SOUTH, AND SOUTH-EAST.
3. DIRECT VEHICULAR ACCESS TO THE NORTH-SOUTH PORTION OF OUTLOT A IS LIMITED TO NORTH-WEST, NORTH-SOUTH, AND SOUTH-EAST.
4. ACCESS TO THE NORTH-SOUTH PORTION OF OUTLOT A IS LIMITED TO NORTH-WEST, NORTH-SOUTH, AND SOUTH-EAST.
5. DIRECT VEHICULAR ACCESS TO THE NORTH-SOUTH PORTION OF OUTLOT A IS LIMITED TO NORTH-WEST, NORTH-SOUTH, AND SOUTH-EAST.
6. DIRECT VEHICULAR ACCESS TO THE NORTH-SOUTH PORTION OF OUTLOT A IS LIMITED TO NORTH-WEST, NORTH-SOUTH, AND SOUTH-EAST.

APPROVAL BY PAVILLION CITY ENGINEER

THE PAID OF SETTLERS CREEK REPLAT 3 WAS APPROVED BY THE CITY OF PAVILLION, NEBRASKA, RECORD NO. 2008-0131 OF THE SHERIDAN COUNTY RECORDS.

REVIEW BY THE SHERIDAN COUNTY SURVEYOR'S OFFICE

THIS PAID OF SETTLERS CREEK REPLAT 3 WAS RECEIVED BY THE SHERIDAN COUNTY SURVEYOR'S OFFICE ON THIS DAY OF 2008.

ACKNOWLEDGMENT OF NOTARY

I, the undersigned, a Notary Public in and for the State of Nebraska, do hereby certify that the foregoing was acknowledged before me this 28th day of June, 2008, by SALVADORE CARLA, MEMBER OF THE BOARD OF DIRECTORS OF THE CITY OF PAVILLION, NEBRASKA, and ROBERT J. HOBK, VICE PRESIDENT OF THE CITY OF PAVILLION, NEBRASKA, who are the duly authorized officers of the City of Pavillion, Nebraska, and who are acting in their official capacity as such officers.

WITNESSED my hand and the seal of my office this 28th day of June, 2008, at Omaha, Nebraska.

NOTARY PUBLIC
ROBERT J. HOBK

ACKNOWLEDGMENT OF NOTARY

I, the undersigned, a Notary Public in and for the State of Nebraska, do hereby certify that the foregoing was acknowledged before me this 28th day of June, 2008, by SALVADORE CARLA, MEMBER OF THE BOARD OF DIRECTORS OF THE CITY OF PAVILLION, NEBRASKA, and ROBERT J. HOBK, VICE PRESIDENT OF THE CITY OF PAVILLION, NEBRASKA, who are the duly authorized officers of the City of Pavillion, Nebraska, and who are acting in their official capacity as such officers.

WITNESSED my hand and the seal of my office this 28th day of June, 2008, at Omaha, Nebraska.

NOTARY PUBLIC
ROBERT J. HOBK

APPROVAL BY PAVILLION CITY PLANNING COMMISSION

THE PAID OF SETTLERS CREEK REPLAT 3 WAS APPROVED BY THE CITY OF PAVILLION, NEBRASKA, RECORD NO. 2008-0131 OF THE SHERIDAN COUNTY RECORDS.

APPROVAL BY PAVILLION CITY COUNCIL

THE PAID OF SETTLERS CREEK REPLAT 3 WAS APPROVED AND ACCEPTED BY THE PAVILLION CITY COUNCIL, OF THE CITY OF PAVILLION, NEBRASKA, RECORD NO. 2008-0131 OF THE SHERIDAN COUNTY RECORDS.