

July 22, 2019

City of La Vista  
c/o Mr. John Kottmann  
City Engineer  
9900 Portal Road  
La Vista, NE 68128

RE: Brook Valley Business Park Replat 5  
TD<sup>2</sup> File No. 1542-120.9

Mr. Kottmann:

Following the completion of the work for Storm Sewer Repair and Extension project in Brook Valley Business Park Replat 5, Redz, LLC hereby requests reimbursement from the City of La Vista in the amount of \$105,000 for the cost of said work, pursuant to the Storm Sewer Repair Agreement.

Submitted by,



Zach Daub  
Member of Redz, LLC.

O.K. to pay  
JMK 9-6-2019  
subject to receipt  
of \$105,000 from  
Sarpy County

Consent Agenda 9/17/19 (12)

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**AGREEMENT**  
**(Brook Valley Business Park Replat Five)**

THIS AGREEMENT is made this 19th day of December, 2017, among Redz, LLC, a Nebraska limited liability company, ("Redz"), a Nebraska limited liability company, and the City of La Vista, a Municipal Corporation in the State of Nebraska (hereinafter referred to as "City").

**WITNESSETH:**

WHEREAS, Redz owns the property contained within the platting of Brook Valley Business Park Replat Five, attached hereto as Exhibit "A" (hereinafter referred to as the "final plat" or the "Final Plat"; and

WHEREAS, City owns 108<sup>th</sup> Street and adjacent right of way abutting the east boundary of the property; and

WHEREAS, Redz has agreed to enter into a subdivision agreement with the City setting forth terms and conditions to develop and construct certain public and private infrastructure improvements, including without limitation, public storm sewer improvements to repair erosion damage caused by storm water at a public storm sewer discharge from 108<sup>th</sup> Street ("Repair Work") as illustrated on Exhibit "B"; and

WHEREAS, the Repair Work will repair and prevent further erosion of the embankment and potential risks to 108<sup>th</sup> Street and the traveling public; and

WHEREAS, the City and Sarpy County, intend to enter into an interlocal agreement that will provide County funds for some of the Repair Work benefiting 108<sup>th</sup> Street. This Agreement is contingent upon City and Sarpy County entering an interlocal agreement in form and content satisfactory to each of them ("Interlocal Agreement").

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

1. Easements. Redz, at no additional cost or expense, will grant a permanent sewer and drainage easement to the City as shown on the final plat (Exhibit "A"). The instrument granting such permanent easement shall be recorded with the Sarpy County Register of Deeds prior to obtaining approval of the plans for the Repair Work.
2. Plans and Permits. Redz shall obtain environmental permits required for the proposed Repair Work and shall provide drainage calculations and construction plans for review and approval by the City Engineer prior to construction. Because of the substantial benefits of the Repair Work to the City and its property, administrative review and permit fees shall not apply with respect to the Repair Work.

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3. Construction Certification. Redz shall cause the Repair Work to be observed by a professional engineer licensed in Nebraska and shall have the professional engineer issue to the City a Certificate of Compliance with the approved plans, satisfactory to the City Engineer, prior to obtaining payment or reimbursement pursuant to this Agreement.
  4. Construction Bond. Redz shall obtain bids, select the lowest responsible bidder, and require the contractor engaged to perform the Repair Work to provide a performance bond including a minimum two-year warranty period which shall run in favor of Redz and the City.
  5. Compensation for Repair Work. Redz has proposed to install an extension to the public storm sewer discharge from 108<sup>th</sup> Street as shown on the plan for Repair Work (Exhibit "B"). The portion of the Repair Work required to stabilize the storm sewer outlet shall be paid or reimbursed as follows:
    - (A) City, using funds provided by the County pursuant to the Interlocal Agreement, will make payment in the amount of \$105,000.00 to reimburse Redz costs of the Repair Work, subject to receipt of this amount from Sarpy County under the terms of the Interlocal Agreement.
    - (B) The sewer tract connection fees for Lot 1 and Lot 2 of Brook Valley Business Park Replat Five in the amounts of \$15,186.30 and \$14,169.42, respectively, shall be applied to pay costs of the Repair Work. If the Repair Work is completed prior to obtaining a building permit for a lot, then the fee applicable to such lot will not be payable to the City. If the Repair Work is not completed at the time of application for a building permit, then Redz will deliver to the City a certified check in the amount of the applicable fee that will be held by the City until satisfactory completion of the Repair Work, after which the certified check will be returned Redz.
  6. City Engineer to be Determiner. The City Engineer shall have the right, but not any obligation, to inspect any work on, or relating to, the improvements described in this Agreement. If the City Engineer exercises such right, the work shall be completed to the City Engineer's satisfaction. All specifications and contracts relating to the Repair Work shall be subject to prior review and approval of the City Engineer.
  7. Exhibit Summary. The Exhibits attached hereto and incorporated herein by this reference and made a part hereof, are as follows:
 

Exhibit "A":	Final Plat of Brook Valley Business Park Replat Five
Exhibit "B":	Repair Work
  8. Right to Enforce. Provisions of this Agreement may be enforced at law, or in equity by the owners of land within the Final Plat 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.

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9. Incorporation of Recitals. Recitals at the beginning of this Agreement are incorporated into this Agreement by reference.
  10. 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.
  11. Assignment. This Agreement may not be assigned by any party without the express written consent of all parties.
  12. 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, except for the subdivision agreement between the parties, provided, however, that this Agreement shall control if there is any conflict between terms and conditions of this Agreement and the subdivision agreement. The Agreement only may be amended by a written amendment executed by all parties.
  13. 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.

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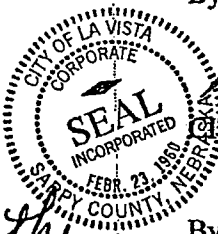
IN WITNESS WHEREOF, we, the parties hereto, by our respective duly authorized agents, hereto affix our signatures the day and year first above written.

Redz, LLC a Nebraska limited liability company

By: [Signature]  
Zachary Daub, Manager

ATTEST:

[Signature]  
City Clerk



By: [Signature]  
Mayor

ACKNOWLEDGEMENT OF NOTARY

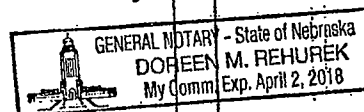
STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DOUGLAS )

The foregoing instrument was acknowledged before me this 9<sup>th</sup> day of January, 2017, by Zachary Daub, Manager of Redz, LLC a Nebraska limited liability company. 2018

[Signature]  
Notary Public

ACKNOWLEDGEMENT OF NOTARY

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )



On this day of \_\_\_\_\_ day of \_\_\_\_\_, 2017, 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 be 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