RESOLUTION APPROVING AND AUTHORIZING CHAIR TO SIGN THE DEVELOPMENT AGREEMENT BETWEEN SARPY COUNTY AND DIVINE SHEPHERD LUTHERAN CHURCH

(Divine Shepherd, Lots 1 - 2)

WHEREAS, pursuant to Neb. Rev. Stat. § 23-104, the County has the power to do all acts in relation to the concerns of the County necessary to the exercise of its corporate powers; and,

WHEREAS, pursuant to Neb. Rev. Stat. § 23-103, the powers of the County as a body are exercised by the County Board; and,

WHEREAS, pursuant to Neb. Rev. Stat. § 23-114, a County Board of Commissioners shall have the authority to adopt a Zoning Regulation, which shall have the force and effect of law; and,

WHEREAS, Divine Shepherd Lutheran Church plans to develop the property generally located northwest corner of 168th Street and Giles Road in Sarpy County; and,

WHEREAS, the County of Sarpy and Divine Shepherd Lutheran Church desire to enter into a Development Agreement, a copy of which is attached hereto, which governs the development of the Divine Shepherd Subdivision, Lots 1-2; and,

NOW, THEREFORE, BE IT RESOLVED BY THE SARPY COUNTY BOARD OF COMMISSIONERS THAT the Development Agreement between the County of Sarpy and Divine Shepherd Lutheran Church is hereby approved and the Chairperson and the Clerk are hereby authorized to execute the same, a copy of said Development Agreement is attached hereto.

The above Resolution was approved by a vote of the Sarpy County Board of Commissioners at a public meeting duly held in accordance with applicable law on the 24th day of April, 2018.

Attest

SEAL

Sarpy County Board Chairman

County Clerk
RESIDENTIAL SUBDIVISION AGREEMENT
DIVINE SHEPHERD (LOTS 1 & 2)

This Subdivision Agreement made as of the dates indicated at the signatures below by and between Divine Shepherd Lutheran Church, a Nebraska non-profit corporation (hereinafter “Developer”), and the County of Sarpy, State of Nebraska (hereinafter “County”). Collectively, Developer, and County are hereinafter sometimes referred to as the “Parties.”

WITNESSETH:

WHEREAS, Developer is the owner of or has been designated by the owner as agent for the development of the parcel of land or real property within the County’s zoning and platting jurisdiction shown on the plat attached hereto as Exhibit “A” (hereinafter defined as the “Development Area”), known as Divine Shepherd; and

WHEREAS, Developer has requested County to approve a specific platting of the Development Area; and

WHEREAS, the Development Area has significant infrastructure needs and the County, in the interest of maintaining the public health, safety, and welfare, desires to assure that the Development Area is developed substantially in accordance with the provisions of this Agreement, and therefore considers this Agreement to be in the best interests of the County; and,

WHEREAS, Developer and County wish to agree upon the manner, method and the extent to which funds may be expended in connection with the installation and construction of public improvements constructed within and/or serving the Development Area and desire to set forth in this Agreement, their respective understandings and agreements with regard to the public improvements; and,

WHEREAS, Developer wishes to connect to the sewer and water system to be constructed by Divine Shepherd within the Development Area to the sewer system of the City of Gretna; and

WHEREAS, Developer, and County agree that the terms and conditions hereof shall govern development of the entire Development Area.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

SECTION I.

For the purposes of this Agreement, the following words and phrases shall have the following meanings:

A. “County Board” shall mean the County Board of Commissioners of Sarpy County, Nebraska.

B. “Development Area” is the real property shown on Exhibit “A” and shall not include any future changes in boundaries unless agreed to in advance in writing by County.
C. “Future Developer” shall mean that entity or persons who improve, develop, or final plat any of the parcels of land surrounding the Development Area.

D. “Future West Development” shall mean that land generally located to the west of 170th Street, adjacent to the Development Area and within the S ½ SE ¼ Sec. 15, T14N, R11E of Sarpy County, Nebraska.

E. “Privately Financed Public Improvements” shall mean those improvements or betterments within Section II and Section IV to be installed and constructed at the sole cost and expense of Developer.

F. “Street intersections” shall be construed to mean the area of the street between the returns of the various legs of the intersection, but in no case shall said area extend in any direction beyond a straight line drawn perpendicular from the centerline of the street to the adjacent lot corner.

G. “Wastewater” shall include, but not be limited to, wastewater and sewage.

H. “Wastewater sewer line” shall be deemed to include all wastewater lines and sanitary sewer lines.

I. “Wastewater sewer system” shall be deemed to include all wastewater systems and sanitary sewer systems.

SECTION II.

Developer shall install the public improvements and pay all of the associated fees listed below for the development of the Development Area. Developer represents and covenants that Developer shall, thirty (30) days prior to the start of construction, present to the County Clerk for the benefit of County, duly authorized and executed, binding contracts in full force and effect for the timely and orderly engineering, procurement, and installation of the public improvements hereinafter set forth, according to the terms of those contracts. Final plans and specifications for Subparagraphs A, B, C, and D of this Section II must have the approval of County and shall be submitted to County for review and approval at least thirty (30) days prior to award of contracts.

A. Grading of street right-of-way;

B. Construction of and concrete paving of all streets dedicated pursuant to the plat (see Exhibit “A”); all of said paving to be twenty-five feet in width. All interior streets shall be constructed within the right-of-way as shown on the attached plat and shall be constructed of Portland cement concrete with an integral curb and gutter system. Approval of this Agreement and the plat pertaining thereto shall not constitute the creation of a County Road or acceptance of such platted roads or streets for maintenance by County.
C. All sanitary sewer mains, manholes, and related appurtenances constructed in dedicated street rights-of-way and easements pursuant to the plat (see Exhibit “A”), shall be located as shown on the plans and specifications for said sanitary sewer improvements prepared by Lamp, Rynearson & Associates, Inc., a copy of which is attached hereto as Exhibit “B.”

D. Storm sewers, inlets, manholes, and related appurtenances constructed on and in dedicated street rights-of-way and easements pursuant to the plat (see Exhibit “A”) shall be located as shown on the plans and specifications for said storm sewer improvements prepared by Lamp, Rynearson & Associates, Inc., a copy of which is attached hereto as Exhibit “C.”

E. Water distribution mains located within dedicated street rights-of-way dedicated pursuant to the plat (see Exhibit “A”) shall be installed as shown on the water plan improvements prepared by Metropolitan Utilities District, a copy of which is attached hereto as Exhibit “D.”

F. Gas distribution mains located within dedicated street rights-of-way dedicated pursuant to the plat (see Exhibit “A”) shall be installed by Black Hills Energy.

G. Street lighting for public streets dedicated pursuant to the plat (see Exhibit “A”) to be installed by the Omaha Public Power District.

H. Underground electrical service to each of the lots within the Development Area, shall be installed by the Omaha Public Power District.

I. Developer shall install concrete sidewalks on both sides of a paved street within the dedicated street right-of-way in accordance with the phased road paving outlined in Section IV. H. of this Agreement, as shown on Exhibit E, attached hereto and incorporated by reference herein. All aspects of sidewalk construction, including minimum width, shall be governed by the existing County Zoning and Subdivision Regulations and any and all applicable resolutions of the Sarpy County Board of Commissioners. Such sidewalks shall include handicap ramps and detectable warning panels.

1. Sidewalks constructed and paved by Developer shall be maintained by the Developer during the time period which Developer is the owner of the Development Area. Upon the sale of any part of the Development Area, Developer shall require new purchaser to maintain sidewalks in the transfer, and, if sidewalks have not been installed, said transfer of land shall require purchaser to install sidewalks consistent with this Agreement. Sidewalks constructed and paved by any other developer shall be maintained by such other developer.

2. In the event Developer elects to construct and pave any sidewalk which does not directly abut Lots 1 or 2 of the Development Area, Developer shall maintain such non-abutting sidewalks only until such time as such other Future Developer has an approved building permit, a final plat filed with the Register of Deeds, or has otherwise developed or improved the real property situated on the on the west side of 170th Street and adjacent to the Development Area.
J. Landscaping plans consistent with the Sarpy County Zoning Regulations shall be required at the time of building permit applications for the Development Area. Landscaping consistent with an approved landscape plan will be installed as a condition of issuance of a Certificate of Occupancy. All entry sign features shall be landscaped upon the completion of said feature.

K. Street signs at all intersections per plat (see Exhibit “A”) shall comply with the “Manual of Uniform Traffic Control Devices.”

L. Sewer fees paid to the County.

M. Post Construction Stormwater Management Plans shall be required at the time of building permit applications for the Development Area. Post-construction stormwater management features or “BMPs” (Best Management Practices) shall be constructed in conformance with the “Omaha Regional Stormwater Design Manual” and installed prior to the issuance of a Certificate of Occupancy. Each individual lot is responsible for their own post-construction stormwater management design and cost thereof.

N. The Development Area shall be graded as shown on the Grading Exhibit prepared by Lamp, Rynearson & Associates, Inc., attached hereto as Exhibit “F”. All grading shall be in conformance with the Sarpy County Zoning Regulations, inclusive of payment of permit fees when a grading permit is required under said regulations.

O. Fire hydrants shall be installed in the Development Area prior to any construction within the Development Area.

P. Parties acknowledge that Development Area is within the area of coverage for the outdoor warning sirens shown on Exhibit “G.”

Q. Erosion control shall be performed by seeding the Development Area, controlling erosion of areas disturbed by grading operations, constructing temporary terraces on slopes, temporary silting basins and spillways, and any additional measures necessary to prevent erosion, damage and sedimentation to adjacent properties and public rights-of-way. All erosion control measures shall adhere to the Sarpy County Stormwater Regulations.

SECTION III.

(Intentionally Deleted)
SECTION IV.

Developer and County agree that the Privately Financed Public Improvements outlined below, which are required to be constructed by Developer, shall be installed in accordance with the terms and conditions of this Agreement. Developer and County agree as follows:

A. Developer shall cause all Privately Financed Public Improvements to be constructed and installed in accordance with the terms and conditions of this Agreement.

B. Developer shall abide by and incorporate into all of its construction contracts for Privately Financed Public Improvements the provisions required by the regulations of County pertaining to construction of public improvements in developments/subdivisions and testing procedures therefore.

C. At least thirty (30) working days before commencing any work in connection with the Privately Financed Public Improvements, Developer shall first:

1. Deliver to the appropriate department(s) of the County duly executed copies of any agreement(s) for work required for, or otherwise entered into in connection with the Privately Financed Public Improvements including required bonds and insurance certifications, and all plans for the Privately Financed Public Improvements. The specifications and technical terms of all such agreements and plans shall have been received and approved by County prior to the execution of any agreements for construction or installation of the Privately Financed Public Improvements by Developer.

2. The County and its departments agree to reasonably cooperate with the Developer, its agents and contractors for the timely and orderly installation of the Privately Financed Public Improvements following the execution of this Agreement and submittal of required documents.

D. Any contracts for the construction or installation of the Privately Financed Public Improvements entered into by Developer shall provide that the contractor or subcontractor constructing or installing the Privately Financed Public Improvements shall have no recourse against County for any claim or matter arising out of, or in any way whatsoever, including without limitation, the cost for Privately Financed Public Improvements, construction oversight of the Privately Financed Public Improvements, the design or preparation of plans and specifications for the Privately Financed Public Improvements, or the construction of the Privately Financed Public Improvements.

E. Developer shall obtain general liability insurance, as well as payment and performance bonds equivalent to the total constructions costs, for the Privately Financed Public Improvements within the Development Area, and shall show proof of such insurance and bonds to the County prior to the commencement of construction.

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

G. The construction cost of all Privately Financed Public Improvements shall be borne by and be at the sole expense of Developer. The professional services fees for all Privately Financed Public Improvement shall be one hundred percent (100%) borne by the developer.

H. In accordance with the terms set out below, Developer shall financially contribute to the public road improvements for those portions of 170th Street and Birch Avenue adjacent to the Development Area and identified as “Phase 1 Paving”, “Phase 2 Paving”, and “Future Paving” on Exhibit E.

1. **Phase 1 Paving:** The Phase 1 Paving improvements depicted on Exhibit E shall include design, grading, drainage, construction, and paving of two lanes of roadway. Phase 1 Paving shall also include design, grading, construction and paving of the sidewalks on the east and west sides of that segment of 170th Street located within the Phase 1 Paving area as shown on Exhibit E and on the north and south sides of that segment of Birch Avenue located within the Phase 1 Paving area as shown on Exhibit E. Notwithstanding the foregoing, Developer may delay the construction of the sidewalk located on the south side of that segment of Birch Avenue located within the Phase 1 Paving area until such time as Developer elects to develop Lot 2, provided that in the event Developer does not develop Lot 2 prior to the commencement of the Phase 2 Paving improvements listed below, the Developer shall construct such sidewalk at the time required for all Phase 2 Paving improvements. Developer shall complete the Phase 1 Paving improvements, with the exception of the south sidewalk on Birch Avenue, in conjunction with the development of Lot 1. Developer shall pay all of the Actual Total Costs associated with such Phase 1 improvements.

2. **Phase 2 Paving:** The Phase 2 Paving improvements depicted on Exhibit E shall include design, grading, drainage, construction, and paving of two lanes of roadway. Phase 2 Paving shall also include design, grading, construction and paving of the sidewalks on the north and south sides of that segment of Birch Avenue located within the Phase 2 Paving areas. The Phase 2 Paving will be constructed when a Future Developer submits a final plat, or otherwise improves or constructs the Future West Development. Developer shall pay for ½ of the Actual Total Cost of such Phase 2 Paving improvements within 30 days of receipt of an invoice.

   a. **Phase 2 Paving prior to Future West Development.** Notwithstanding the foregoing, Developer shall construct the Phase 2 Paving improvements at the time required by the applicable fire chief. If Developer, is required by the applicable fire chief, or at its discretion Developer elects, to construct the Phase 2 Paving prior to the final plat, development or construction of the Future West Development, Developer shall pay for 100% of the Actual Total Cost of said Phase 2 Paving but shall be entitled to reimbursement for ½ of the Actual Total Cost of the Phase 2 Paving by the Future Developer. Upon the development of the Future West Development, County will use its authority to cause such Future
Developer to enter into an agreement with Developer to provide for the reimbursement by such Future Developer for ½ of the Actual Total Costs of the Phase 2 Paving improvements. County does not guarantee any reimbursement to Developer for said Phase 2 Paving. Notwithstanding anything to the contrary herein, in the event Developer elects to construct Phase 2 Paving prior to the final plat, development or construction of the Future West Development, Developer may delay construction of the sidewalk on the south side of that segment of Birch Avenue located within the Phase II Paving area until such time as the Future Developer submits a final plat for the Future West Development.

3. **Future Paving:** The Future Paving improvements depicted on Exhibit E shall include design, grading, drainage, and paving of two lanes of roadway. The Future Paving improvements shall also include the designing grading, construction, and paving of the sidewalks on both sides of those segments of Birch Avenue and 170th Street located within the Future Paving area as shown on Exhibit E. The Future Developer of the Future West Development shall complete the Future Paving improvements upon the development of the Future West Development. Developer shall pay ½ of the Actual Total Costs of the Future Paving improvements. Notwithstanding the foregoing, Developer may elect at its discretion to complete the Future Paving prior to the development of the Future West Development. In such event, Developer shall pay for 100% of the Actual Total Cost of said Future Paving but shall be entitled to reimbursement for ½ of the Actual Total Cost of the Future Paving by the Future Developer. County will use its authority to cause such Future Developer to enter into an agreement with Developer to reimburse Developer for ½ of the Actual Total Costs of the Future Paving. County does not guarantee any reimbursement to Developer for said Future Paving. Notwithstanding anything to the contrary herein, in the event Developer elects to construct the Future Paving prior to the final plat, development or construction of the Future West Development, Developer may delay construction of the sidewalk on the sides of those segments of Birch Avenue and 170th Street located within the Future Paving area which abut the Future West Development until such time as the Future Developer submits a final plat for the Future West Development.

I. In accordance with the terms set out below, Developer shall also financially contribute to the following public road improvements:

1. The construction and installation of a traffic signal located at the intersection of Briar Street and 168th Street.
   a. A traffic signal at the intersection of Briar Street and 168th Street may be installed based upon safety concerns or if the intersection meets warrants based upon traffic count. Developer shall share in the Actual Total Cost of the signal and pay for 1/3 of the construction and installation costs within thirty (30) days of receipt of an invoice for said costs.

2. The road improvements to that portion of 168th Street adjacent to the Development Area.
a. When County or another political subdivision causes 168\textsuperscript{th} Street to be improved, Developer shall pay for the Actual Total Costs of the design, grading, drainage, and paving associated with one (1) lane of road improvements to that portion of 168\textsuperscript{th} Street adjacent to the Development Area.

J. The term “Actual Total Cost” as used in this Section IV shall include engineering, property acquisition, testing expenses, design, grading, drainage, paving, construction, construction management, and related fees and expenses. Actual Total Cost shall not include any costs of financing or acquiring financing incurred by any Party.

K. One hundred percent (100\%) of the entire cost of sanitary sewers, including manholes and other appurtenances, shall be paid by the Developer.

L. One hundred percent (100\%) of the entire cost of all storm sewers, including manholes, inlets, easements and related appurtenances, shall be paid by the Developer.

M. One hundred percent (100\%) of the entire cost of the water distribution system serving the Development Area and one hundred percent (100\%) of the entire cost of the water approach mains and any interior pioneer water main fees shall be paid by the Developer. Developer may seek reimbursement from the Future Developer for half of the Actual Total Cost of the interior pioneer water mains within that portion of 170\textsuperscript{th} Street and Birch Avenue identified as Future Paving. County does not guarantee any reimbursement for such interior pioneer water mains.

N. One hundred percent (100\%) of the entire cost of the gas distribution system serving the Development Area shall be paid by the Developer.

O. One hundred percent (100\%) of the cost of the monthly contract charges paid to Omaha Public Power District for furnishing the lighting of public streets shall be paid by Developer.

P. Fire hydrants shall be provided by Developer at Developer’s cost within the Development Area. The type of hydrants and control valves and the location of the hydrants must be approved by the applicable fire chief. Fire hydrants shall be installed in the subdivision, prior to the commencement of construction on any structure within the subdivision.

Q. One hundred percent (100\%) of the entire cost of the original street signs shall be borne by the Developer. All street signs shall conform to County standards. Decorative, ornamental, or any other signs as allowed in the “Manual of Uniform Traffic Control Devices” shall not be installed unless prior written approval by the County Board is received. The County’s written approval for decorative or other signs as allowed in the “Manual of Uniform Traffic Control
“Devices” shall only be required while the Development Area is within the zoning jurisdiction of the County or as otherwise required by law.

S. Silt ponds/basin: The initial construction cost of grading and piping for temporary sediment and erosion control facilities shall be paid for by the Developer. Removal of sediment and erosion control measures shall be paid by the Developer. All silt ponds/basins are to remain in place until seventy-five percent (75%) of the drainage sub-basin serviced by erosion control measures are fully developed. Developer shall maintain silt pond/basin as described in subparagraph 2 below.

1. Sediment removal shall be paid by the Developer.

2. Developer shall maintain the silt pond/basin such that the silt pond/basin does not become a nuisance or hazard to the community. If at any time County determines that the silt pond/basin is a hazard or a nuisance, County will send a notice to the Developer with a recommendation to either (i) remedy said hazard or nuisance or (ii) remove the silt pond/basin. Removal of the silt pond/basin may be recommended even prior to the time when seventy-five percent (75%) of the drainage sub-basin serviced by erosion control measures are fully developed. Developer shall comply with County’s recommended action in the notice letter. If after thirty (30) days Developer does not comply with County’s recommended action as provided in the notice letter, at County’s discretion, County may fix the nuisance or hazard (up to and including silt pond/basin removal) and Developer shall be financially responsible and pay for any and all costs of said remedy or removal. County shall submit an invoice to Developer and Developer shall pay County within thirty (30) days. Interest at a rate of fourteen percent (14%) per annum shall apply to all payments made after thirty (30) days.

T. Developer acknowledges that, in the sole discretion of the Sarpy County Public Works Department or other political subdivision with jurisdiction over 168th Street, the intersection of Birch Avenue and 168th Street may become a right-in right-out turn only.

SECTION V.

Developer may make certain payments in connection with the extension of water and gas to the boundary of the Development Area with the costs to be defrayed as follows:

A. Payment to the utility for such extension shall be made only to the extent the utility by policy of practice does not absorb the cost of such extension.

B. If the extension main is primarily designed and sized to serve the Development Area and no oversizing for service to areas outside the Development Area is involved, then all payments to the utility and related costs shall be one hundred percent (100%) the Developer’s cost.

SECTION VI.
Credits or funds of Developer shall be used to pay for any improvements specified and authorized in the Agreement.

SECTION VII.

The wastewater system for the Development Area shall be subject to the conditions and provisions hereinafter specified.

A. The Developer sanitary sewer system is shown on Exhibit B and connects to the wastewater system of Gretna. County hereby grants permission to Developer to connect the Development Area wastewater sewer system to the wastewater sewer system within the zoning jurisdiction of County in such manner and at such place or places designated on plans submitted by Developer, all as approved in writing by County. County shall have the right to collect applicable fees and charges for any connections to County’s system. Development Area’s connection to the wastewater system of Gretna shall be in compliance with any rules or regulations required by Gretna.

B. Title to the wastewater sewer, the outfall, as well as any associated easements, all as shown on Exhibit “B,” shall remain the property of the Developer, and shall be maintained in good working order by Developer to adequately serve all users of said outfall.

C. Developer shall not permit any connection to the outfall, or to any sewer which drains into the outfall, all as shown on Exhibit “B”, without prior written approval by County or Gretna according to any laws, rules or regulation that may be applicable.

D. At all times all wastewater from and through the Development Area into County’s wastewater sewer system shall be in conformity with the ordinances, regulations, and conditions applicable to sewers and wastewater within the zoning jurisdiction of County as now existing and as from time to time amended.

E. Before any connection from any premises to the wastewater sewer system of the Development Area can be made, a permit shall be obtained for said premises, and its connection from the proper department of County. Said permit shall be obtained pursuant to the terms, conditions, fees, and requirements of County for connection to the wastewater sewer system within the zoning jurisdiction of County. It being expressly understood that County reserves the right to collect all connection charges and fees as required by County regulations, ordinances or rules now or hereafter in force. All such connections shall comply with minimum standards prescribed by County.

F. Upon the signing of this Agreement, Developer shall pay to the County all of the City of Gretna Sewer Capital Facility (Special Connection) fees in accordance with the City of Gretna’s existing fee schedule. County shall remit said fees to the City of Gretna.

G. Notwithstanding any other provision of this Agreement, County retains the right to disconnect the wastewater sewer of any industry or other sewer user within the Development Area which
is discharging into the wastewater sewer system in violation of an applicable ordinance, statute, rule, or regulation, whether local, state, or federal.

H. Developer warrants that it has not employed or retained any company or person, other than a bona fide employee working for Developer, to solicit or secure this Agreement and that it has not paid or agreed to pay any company or person other than a bona fide employee working for Developer any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, County shall have the right to annul this Agreement without liability to Developer. Developer shall require the same warranty from each contractor with whom it contracts in any way pertaining to its wastewater sewer system. The Prohibition provided for herein shall not apply to the retention of any attorney or other agent for the purpose of negotiating any provision of this Agreement where the existence of such agency has been disclosed to County.

I. Subletting, assignment, or transfer of all or part of any interest of Developer hereunder is prohibited.

J. Developer and Development Area is i) bound by and to any provisions of any ordinances, rules, and regulations made, amended or hereafter made and adopted by County applicable to sanitary and improvement districts whose wastewater sewers connect directly or indirectly with or into any part of the wastewater sewer system within the zoning of County; and ii) bound by any terms, provisions, or fees which by ordinance, resolution, regulation or rules of County now in existence, amended, or hereafter adopted or provided as applicable to or required in contracts with sanitary and improvement districts or in order to permit or continue the discharge of any wastewater from a sanitary and improvement district to flow into or through any part of the wastewater sewer system within the zoning jurisdiction of County.

SECTION VIII.

Developer covenants and agrees that Developer shall:

A. Abide by and incorporate into all of its construction contracts the provisions required by the regulations of County pertaining to construction of public improvements in subdivisions and testing procedures therefore.

B. Developer certifies that to the best of its knowledge all lots and parcels shown on the plat of the Development Area (Exhibit “A” hereto) are buildable sites. At County’s discretion, County may require Developer to prove to the satisfaction of County that a certain lot or parcel is a buildable site.

C. Prior to commencement of the construction of improvements, Developer shall obtain and record all permanent easements with the Sarpy County Register of Deeds Office to include all utility, cable, sanitary, water, and storm sewer lines. Said easements shall be in form satisfactory to the County’s attorney and the County’s engineer and/or surveyor.
D. Be responsible for securing all local and state permits necessary for construction, and to construct all systems in accordance with existing environmental, health, safety and welfare rules, regulations, and standards as may be in place at the time of construction.

E. If the Development Area is situated within the Future Growth and Development area of a municipality as determined under the Industrial Sewer Act (LB 1139, Laws Nebraska, 1994), then the Developer agrees to abide, and to generally assist County in its compliance with, the terms of such Act and the Interlocal Cooperation Agreement under such act to which the County may be a party.

SECTION IX.

Developer and County acknowledge that County has entered into an Interlocal Cooperation Act Agreement for the Continuation of the Papillion Creek Watershed Partnership, hereinafter “Watershed Partnership Agreement” as from time to time amended. The Watershed Partnership Agreement contains provisions applicable to the Development Area. Specifically, the Parties recognize the County’s right to collect Watershed Fees at the time of the issuance of a building permit. County shall collect said Watershed Fees in accordance with the County’s existing Watershed Fee Schedule at the time of the building permit application.

SECTION X.

County has adopted a Master Fee Schedule and an Arterial Street Improvement Program. Developer agrees to pay all fees as required under the Master Fee Schedule and Arterial Street Improvement Program.

SECTION XI.

It is mutually agreed that Developer shall pay a fee to County to cover engineering, legal and other miscellaneous expenses incurred by County in connection with any necessary review of plans and specifications in connection with the construction projects performed by Developer. Said fee shall be the greater of Five Thousand Dollars ($5,000.00) or one percent (1%) of the estimated public improvement construction costs (excluding electrical construction costs) at the time the proposed public improvements are to be constructed. The fee shall be paid by the Developer and shall be paid within 30 days of the Sarpy County Board of Commissioner’s approval of this Agreement.

SECTION XII.
The Development Area created by Developer is shown on Exhibit “A” attached hereto and incorporated herein. The improvements cited herein or depicted on the plat attached hereto are understood to be the minimum acceptable to County.

SECTION XIII.

Prior to the commencement of the construction of the improvements contemplated by this Agreement, Developer shall submit (1) all plans and specifications to the Sarpy County Building Inspector or designated representative for review and approval and (2) copies of all subsidiary and/or ancillary agreements with utility companies and others providing service for the public improvements contemplated by this Agreement as signed. “As built” plans shall be filed by Developer's engineer within sixty (60) days of Developer's acceptance of work. Such As-Built drawings shall be provided to County as both PDF and AutoCAD files no later than sixty days following acceptance of construction.

SECTION XIV.

Developer shall not discriminate against any parties on account of race, national origin, sex, age, political or religious affiliations, or disabilities in violation of federal, state, or local ordinances.

SECTION XV.

Developer shall, without cost to County, conform to the requirements of the applicable County regulations and ordinances and any change in those regulations and ordinances.

SECTION XVI.

Each party agrees to provide the other Parties with as much advance notice as is reasonably possible when this Agreement calls for the approval of a Party before an action can be taken. The Parties agree to cooperate in the undertakings contemplated by this Agreement and shall share and exchange necessary reports and other documents as required and when reasonably requested by other Parties to this Agreement. Any notice required under this Agreement shall be in writing and shall be sent by certified mail, return receipt requested, to the addresses as noted below. Any party to this Agreement may change its address for notice specified hereunder by sending written confirmation of such change by certified mail, return receipt requested, to the other Parties to this Agreement. The addresses for the purpose of notice and other communications are as follows:

For Developer:
Divine Shepherd Lutheran Church
Reverend Jim Rasmussen  
15005 Q Street 
Omaha, NE 68737 

For County:  
County Clerk, County of Sarpy  
1210 Golden Gate Dr., #1250  
Papillion, NE 68046 

and 

Planning and Building Department, County of Sarpy  
1210 Golden Gate Dr.  
Papillion, NE 68046 

SECTION XVII. 

This Agreement shall be binding upon the Parties, their respective successors and assigns. The covenants, warranties, and other obligations of this Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective heirs, personal representatives, successors, and assigns. The Parties agree that a Party’s obligation to perform pursuant to this Agreement may only be released to the extent said obligation is assumed, by written agreement or by operation of law, by the respective heirs, personal representatives, successors, and assigns. 

SECTION XVIII. 

The laws of the State of Nebraska shall govern as to the interpretation, validity, and effect of this Agreement. 

SECTION XIX. 

This Agreement constitutes the entire agreement between the Parties hereto with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral and written, between the Parties with respect to the subject matter of this Agreement. This Agreement may not be amended, modified, or altered unless by written agreement signed by all Parties to this Agreement. 

SECTION XX.
Every representation, covenant, warranty, or other obligation within this Agreement shall carry with it an obligation of good faith in its performance or enforcement.

SECTION XXI.

Developer represents, covenants, and warrants that the making and execution of this Agreement, and all other documents and instruments required hereunder, have been duly authorized by the necessary corporate action of Developer and are valid, binding, and enforceable obligations of Developer in accordance with their respective terms.

SECTION XXII.

This Agreement may be recorded at the option of any party hereto at the expense of the recording party.

[Remainder of page left intentionally blank.]

[Signature pages to follow.]
IN WITNESS WHEREOF, we, the contracting Parties, by our respective duly authorized agents, hereby enter into this Agreement, effective on the day and year affixed hereon. Executed in triplicate on the dates indicated with the signatures below.

Executed by Sarpy County this 24th day of April, 2018

SARPY COUNTY, NEBRASKA,
A Political Subdivision

Chairperson, Board of Commissioners

Attest:

Approved as to form:

Sarpy County Clerk

Sarpy County Attorney
Executed by Developer this 9th day of April, 2018

Developer:
Divine Shepherd Lutheran Church

By: [Signature]
Kevin Lammers, Congregation President