

Memorandum - Amended

Subject: Interlocal Agreement with Newport Hill Subdivision

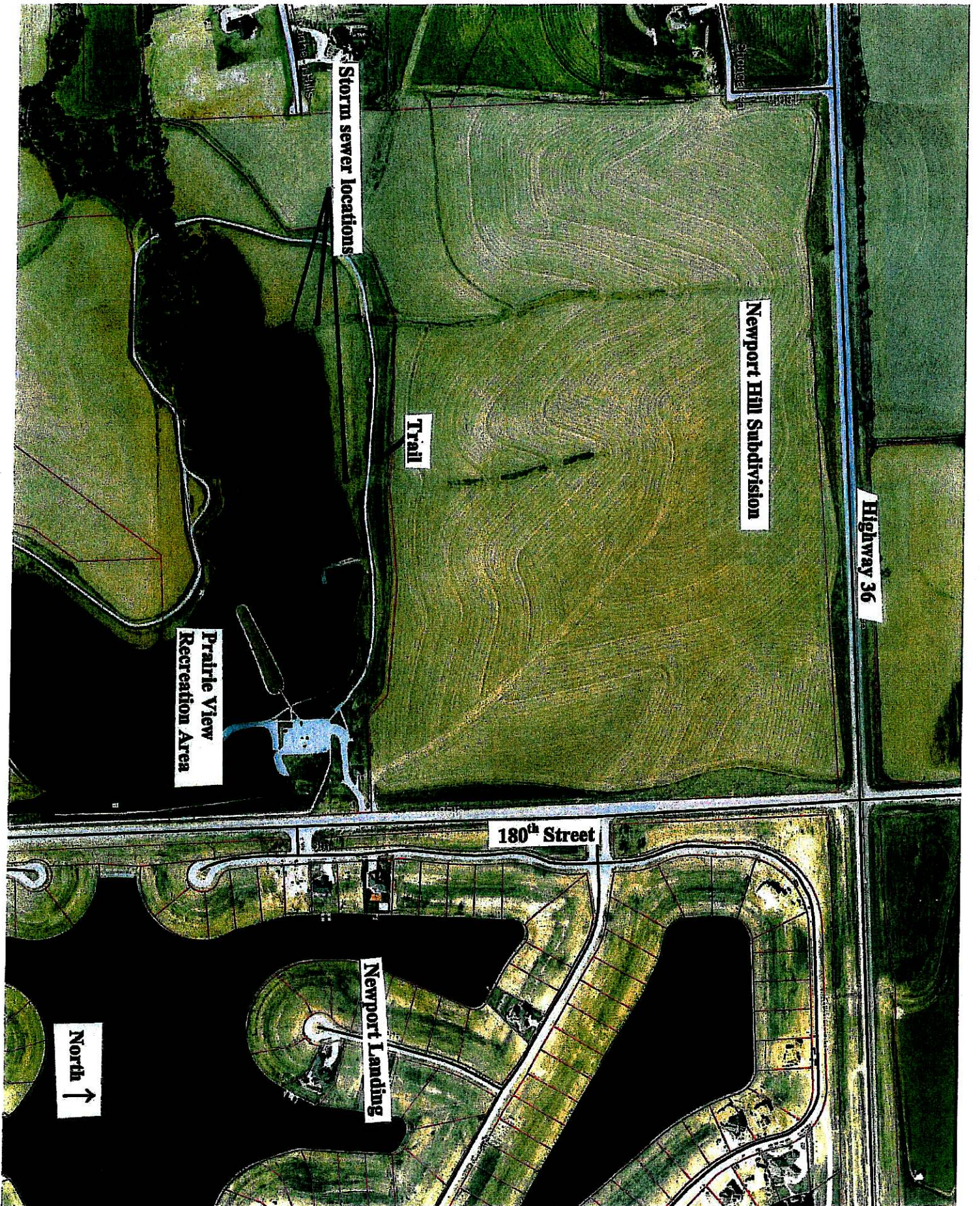
Date: July 6, 2007

From: Gerry Bowen

The District considered an interlocal agreement with the Newport Hill development in April (see attached minutes) and decided to delay action on it until Douglas County and NRD staffs had approved the low impact development best management practices planned by the developer.

Since that time, the Douglas County Board has approved the interlocal agreement between Douglas County and the City of Bennington, indicating their approval of the best management practices planned in the development.

NRD staff had some additional issues that the developer's engineer was asked to address concerning the design of the best management practices and their impacts to Prairie View Recreation Area. The developers' engineer provided some information, but staff did not have adequate time for review prior to the meeting.



Highway 36

Newport Hill Subdivision

Trail

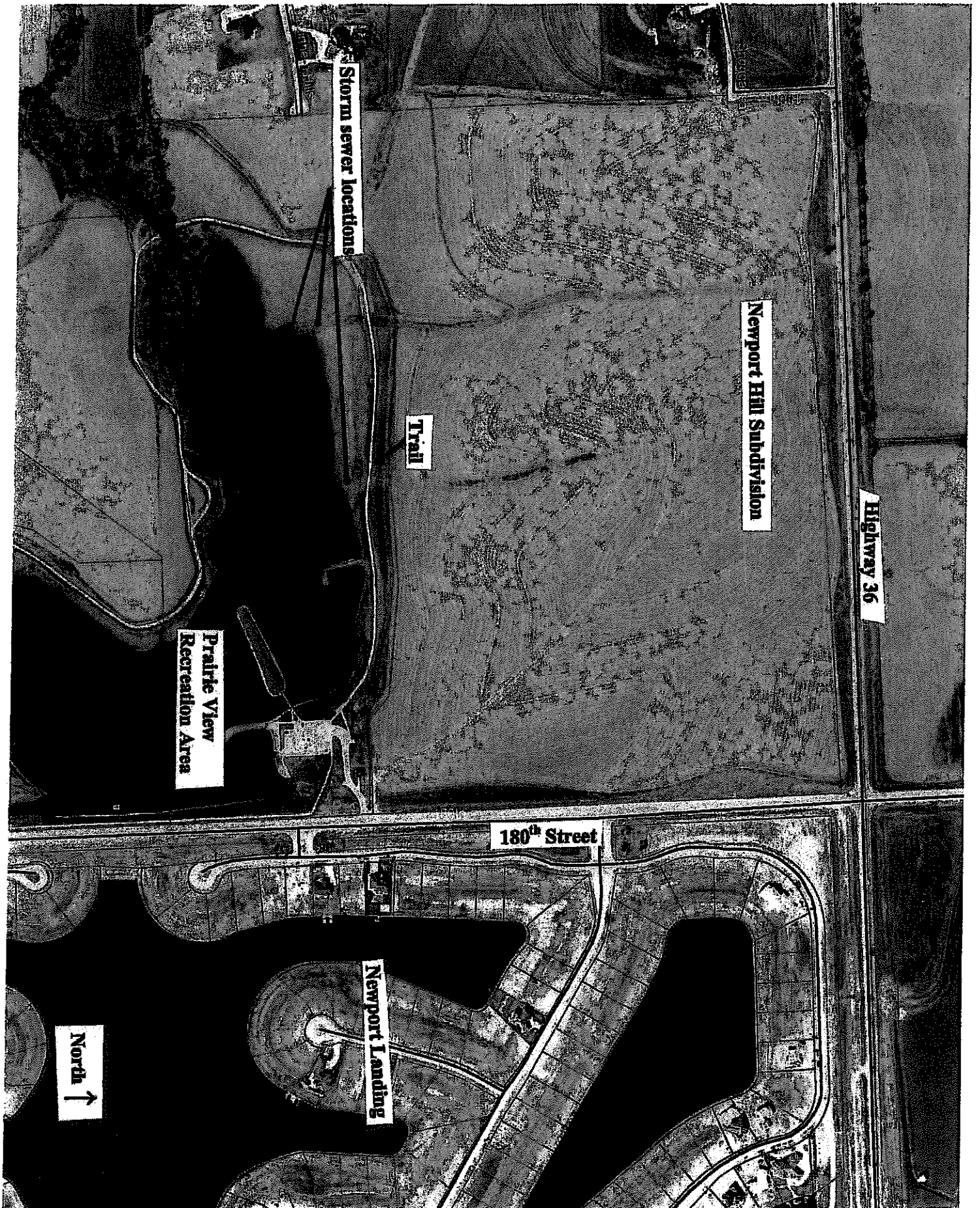
Prairie View
Recreation Area

Storm sewer locations

180th Street

Newport Landing

North ↑



Storm sewer locations

Newport Hill Subdivision

Highway 36

Trail

Prairie View
Recreation Area

180th Street

Newport Landing

North ↑

- .. **MOTION NO. 4** It was moved by Director Tesar that the following recommendation be adopted:

PPO Recommendation #2 Recreation Area Development – City of Omaha Standing Bear Lake Trail Project – Recommendation that the Board approve the City of Omaha’s request to utilize District funds previously allocated to the City to pay for moving a trail bridge to Standing Bear Lake and Recreation Area, for other trail construction work at such facility.

Roll call vote was held on the motion. The motion carried unanimously.

Voting Yea	-	Conley (Fred), Connealy, Fowler, Klug, Kolowski, Lanphier, Patterson, Schwope, Tesar, Thompson
Voting Nay	-	None
Abstaining	-	None
Excused Absence	-	John Conley
Absent	-	John Conley

- .. **MOTION NO. 5** It was moved by Director Tesar that the following recommendation be adopted:

PPO Recommendation #3 Interlocal Agreement with Newport Hill (SID 544) for Trail and Storm Sewer Connections to Prairie View – Recommendation that the General Manager be authorized to execute an interlocal agreement with Douglas County SID 544 (Newport Hill) providing for the installation by SID 544 of a trail and storm sewer outlets in the Prairie View Recreation Area, subject to changes deemed necessary by the General Manager and approved as to form by District Legal Counsel.

The following individual addressed the Board:

➤ Mike Ryan 11130 Jackson St., Omaha, NE

There was discussion. It was noted that the conceptual plan had not yet been approved by Douglas County and that the District should work with Douglas County to ensure that appropriate low impact conservation development strategies are included in the plan.

- .. **MOTION NO. 6** It was moved by Director Lanphier and seconded by Director Kolowski that the approval of the interlocal agreement with Douglas County SID 544 (Newport Hill) be laid over until Douglas County is satisfied with the developer’s detention facilities and staff has approved the plan.

Roll call vote was held on the motion. The motion carried on a vote of 9-yea and 1-nay.

Boyer Young pioneers rain gardens at Newport Hill

Post-Expo 11c
by Mary Lou Rodgers 6-26-07

A new housing development west of Bennington fits right in with the concept Douglas County has adopted for water control.

Both water quality and stormwater drainage have become issues as metro areas grow, more land is covered with cement, and federal standards are raised.

Boyer Young, in planning one of its newest residential subdivisions, Newport Hill, is incorporating several environmentally friendly methods of addressing potential water problems. Newport Hill, just south of Highway 36 at 180th Street, will have rain gardens built into the back yards and outlets.

"They are the first of their kind in the area," Tim Young said. "The rain gardens are indentations in the ground that have gravel and special plants that essentially slow down water and filter it before it gets into waterways."

Newport Hill will also have a detention basin for the water to run into. Boyer Young plans to make that into an amenity by creating an attractive pond of an acre or more in size. Ponds, a feature Boyer Young has used in other developments as well, have their own wells to keep the water fresh and clean, and usually have a fountain.

"Imagine going out on your back deck or patio and being able to enjoy a water feature," Young said.

Besides being very popular in other Boyer Young subdivisions, the ponds control the stormwater so that mud isn't washed into creeks. At Newport Hill, controlling the runoff will directly benefit the NRD lake just south of the property. Young said it is important to con-

trol the runoff from the Newport Hill land, which was a corn field, to avoid putting sediment into the lake.

"The water quality in the lake will be better," he said.

Boyer Young created a pond and fountain at Savannah Shores in Sarpy County that feeds into Walnut Creek Lake. They've done a similar feature in Manchester Park. At West Bay Woods at 180th and F, they have a 13-acre pond that drains into Zorinsky Lake, and at nearby West Bay Springs, there are smaller ponds, and water flows into the West Bay woods.

Douglas County Commissioners recently adopted stormwater management policies for the county that are based on Best Management Practices (BMPs). The idea is to encourage low impact development that will control stormwater with ponds, rain gardens, open spaces and other means rather than building dams with permanent pools.

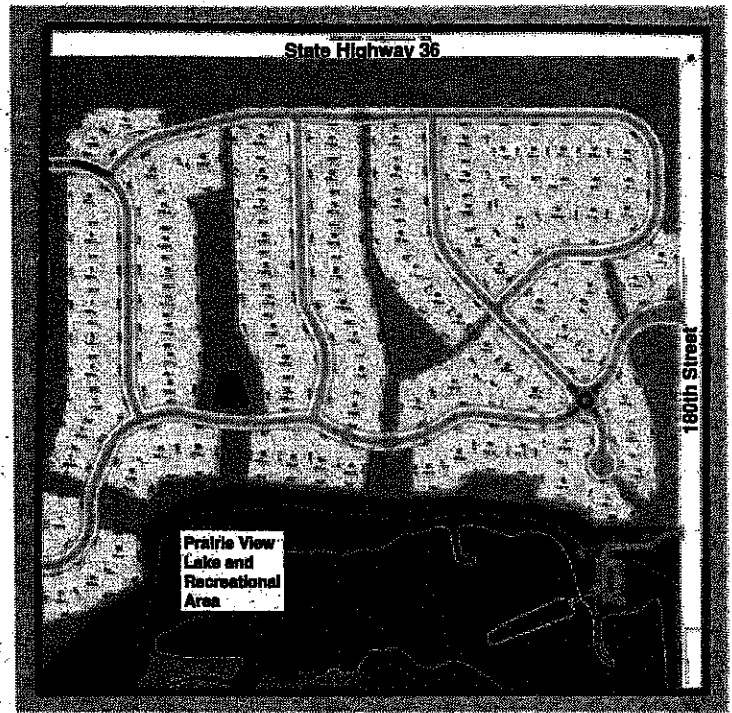
"The County is very proactive on this," Young noted. "Where they're headed is exactly where we want to go as well. "The product we've been turning out has been magnificent."

Young said the Hamptons development was the Street of Dreams last year, and now they are building the South Hamptons, where they kept 95 percent of the tree canopy.

Tim Young and his partner, Mark Boyer, started taking this approach to development a few years ago.

"We looked at the situation," he said. "We have national stormwater quality standards, then state, then cities. It is a problem - more paving, more runoff. So we, as a development company, looked at it eight years ago."

Rather than viewing the need to



Newport Hill, at the southwest corner of 180th and Highway 36, is north of Prairie View lake. Lots will have rain gardens, and open spaces and ponds will help control stormwater runoff.

control water as a negative, they decided to turn it into a positive with the use of ponds.

Young expects Newport Hill to be a very appealing place to live. There are 91 lots on 110 acres, with each lots about 3/4 of an acre in size, or about 150 x 250 feet.

"Research told us that three acres is too much to take care of," Young said. "This seems to be the perfect size for a home site. There is room between homes, setbacks and more room for outbuildings."

Newport Hill will have full utilities with MUD water and gas, paved streets, storm sewers and curbs. Buyers will choose their own build-

ers, and homes are expected to be in the range of \$300,000 to \$700,000. All the sites are graded so that the water flow is directed properly. The majority of the homes will have walkout basements.

Newport Hill sits higher than its neighbor to the east, Newport Landing, so residents will have a view of the lake.

"It's a very nice country feeling with open spaces, large home sites and city amenities," Young said.

The land is already graded and he expects sanitary and storm sewers to be done by the end of the summer. The land is going on the market this month.

INTERLOCAL COOPERATION ACT AGREEMENT AND EASEMENTS

**SANITARY AND IMPROVEMENT DISTRICT NO. 544 OF DOUGLAS
COUNTY, NEBRASKA and PAPIO-MISSOURI RIVER NATURAL
RESOURCES DISTRICT**

**NEWPORT HILL TRAIL CONNECTION AND STORM SEWERS AT PRAIRIE
VIEW RECREATION AREA**

THIS AGREEMENT (hereinafter referred to as "**THIS AGREEMENT**") is entered into by and between **SANITARY AND IMPROVEMENT DISTRICT NO. 544 OF DOUGLAS COUNTY, NEBRASKA** (hereinafter referred to as "**the SID**") and the **PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT** (hereinafter referred to as "**the NRD**"), and is made pursuant to the authority provided in the Nebraska Interlocal Cooperation Act (§§13-801, R.R.S., 1997, et seq.)

WHEREAS, the SID intends to construct, operate and maintain public bicycle and pedestrian trails in the Newport Hill subdivision ("**the NEWPORT HILL TRAILS**"); and,

WHEREAS, the SID desires to construct a segment of the **NEWPORT HILL TRAILS** ("**the CONNECTOR TRAIL**") on a parcel of NRD land described or depicted in the document attached hereto and incorporated herein by reference as Exhibit "A," comprising part of the NRD'S **PRAIRIE VIEW RECREATION AREA** ("**the RECREATION AREA**"), for the purpose of connecting the **NEWPORT HILL TRAILS**

to the public bicycle and pedestrian trails constructed, operated and maintained by the NRD in the RECREATION AREA.

WHEREAS, the SID desires to construct three storm sewer conduits ("the **STORM SEWERS**") on parcels of NRD land described or depicted in the documents attached hereto and incorporated herein by reference as Exhibits "B," "C," and "D," respectively, comprising additional parts of the RECREATION AREA.

NOW, THEREFORE, for and in consideration of the foregoing recitals and the mutual covenants of the parties hereinafter expressed, the parties agree as follows:

1. GENERAL BENEFIT. The parties do hereby find and determine that SID construction, operation and maintenance of the CONNECTOR TRAIL and the STORM SEWERS will be of general benefit to the SID and the NRD, with only an incidental special benefit.

2. PLANS. Plans and specifications for the CONNECTOR TRAIL and the STORM SEWERS shall be drawn by the engineers for the SID, without NRD cost or expense, in accordance with written criteria provided by the SID; and, the preliminary and final plans and specifications for the CONNECTOR TRAIL and the STORM SEWERS shall be subject to the written approval by the NRD, which approval shall not be withheld or delayed unreasonably.

3. RIGHTS-OF-WAY ACQUISITION. Lands, easements and rights-of-way, additional to the tracts of land described in Exhibits "A," "B," "C," and "D," and all other necessary local, state and federal permits, utility relocations, and other pre-requisites that the SID determines are necessary for construction, operation and maintenance of the CONNECTOR TRAIL and/or the STORM SEWERS, shall be obtained and held by the SID, without NRD cost or expense.

4. CONSTRUCTION. Following the approval(s) by the NRD of the final plans and specifications for construction of the CONNECTOR TRAIL and the STORM SEWERS, such approval(s) to not be withheld or delayed unreasonably, the SID shall construct the CONNECTOR TRAIL and the STORM SEWERS in accordance therewith, without NRD cost or expense.

5. OPERATION AND MAINTENANCE. After completion of construction of the CONNECTOR TRAIL and the STORM SEWERS, and SID acceptance of the same from the SID'S contractor(s), the SID, without additional NRD cost or expense, may permanently operate, maintain, and repair the CONNECTOR TRAIL and the STORM SEWERS, in such manner and at such times as the SID in its sole discretion determines necessary and feasible, in accordance with applicable and generally-accepted engineering practices, in accordance with rules and regulations adopted by the NRD for the NRD'S trails in the RECREATION AREA, and in accordance with the aforesaid NRD-approved plans and specifications. The SID shall construct and maintain signs on the CONNECTOR TRAIL, as approved by the NRD, informing the public of the NRD'S trail rules and regulations.

6. RISK OF LOSS. The SID shall have and bear the sole risk of loss of or damage to the CONNECTOR TRAIL and the STORM SEWERS, whether such loss or damage results from flood or other casualty whatsoever.

7. INDEMNIFICATION. Except as otherwise specifically provided in THIS AGREEMENT, the SID shall defend and indemnify the NRD and hold and save the NRD harmless (1) from and against any and all costs of construction, operation, maintenance, repair, replacement, management or regulation of the CONNECTOR TRAIL and the STORM SEWERS; and, (2) from and against any and all claims, demands, causes of action, costs and expenses, including court costs and attorneys fees, for personal injuries or property damages in whole or in part caused by or arising out of the SID'S design, construction, operation, maintenance or repair of the CONNECTOR TRAIL and the STORM SEWERS; or caused by the negligence or other actions or inactions of the SID, its employees, officers, contractors or agents, in the design, construction, operation, maintenance, repair, replacement, management or regulation of the CONNECTOR TRAIL and the STORM SEWERS (except as proximately caused by the sole negligence of the NRD or its employees, officers, contractors or agents).

8. RELOCATION. The CONNECTOR TRAIL and the STORM SEWERS shall exist and be used by the SID and the public at the pleasure of the Board of Directors of the NRD. In the event the Board of Directors of the NRD, in its sole

discretion, determines that it is necessary that the CONNECTOR TRAIL or the STORM SEWERS, or portions thereof, be closed, relocated, damaged or destroyed in order to permit the NRD to feasibly perform necessary construction, maintenance, repair, replacement, modifications, management or regulation of NRD'S improvements in the parcel described in Exhibit "A," or of the RECREATION AREA or NRD improvements thereto, the NRD may take any such actions that it finds necessary, without liability to the SID for costs of reconstruction, loss of use, or other damages to such CONNECTOR TRAIL or STORM SEWERS.

9. NRD APPROVALS. Except as otherwise specifically provided in THIS AGREEMENT, approvals and other NRD actions contemplated by THIS AGREEMENT are authorized to be provided by the General Manager of the NRD, in his sole discretion.

10. ENTIRE AGREEMENT. THIS AGREEMENT contains the entire agreement between the parties, and the SID agrees that neither the NRD, nor any of its officers, agents, or employees have made any representation or promise with respect to the CONNECTOR TRAIL and/or and the STORM SEWERS not expressly contained herein.

11. TIME. Time is of the essence of THIS AGREEMENT.

12. DEFAULT. If the SID shall default hereunder in any material respect, the NRD may terminate THIS AGREEMENT, obtain specific performance thereof, or exercise any such other remedies as may be available at law or in equity.

13. EFFECTIVE DATE. THIS AGREEMENT shall be in force and effect from and after its execution by both parties hereto and shall have permanent duration.

14. CAPTIONS. Captions used in THIS AGREEMENT are for convenience and not for use in the construction of THIS AGREEMENT.

IN WITNESS WHEREOF, the parties have executed THIS AGREEMENT on the dates hereinafter indicated pursuant to authorizing resolutions duly adopted at regularly-called meetings of their governing bodies.

The SID has executed THIS AGREEMENT on _____, 2007.

**SANITARY AND IMPROVEMENT DISTRICT NO. 544
OF DOUGLAS COUNTY, NEBRASKA**

By _____

Name _____
Chairperson

Attest:

SID Clerk

The NRD has executed THIS AGREEMENT on _____, 2007.

**PAPIO-MISSOURI RIVER NATURAL RESOURCES
DISTRICT**

By _____
JOHN WINKLER, General Manager

State of Nebraska)
) ss.
County of Douglas)

On this _____ day of _____, 2007, before me, a Notary Public, personally came **JOHN WINKLER**, to me personally known to be the General Manager of the **PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT**, whose name is affixed to the above and foregoing instrument, and he acknowledged the same to be his voluntary act and deed and the voluntary act and deed of such district.

WITNESS my hand and Notarial Seal the date last aforesaid.

NOTARY PUBLIC