

Memorandum

To: Board of Directors
From: Paul Woodward, Water Resources Engineer
Date: February 28, 2008
Re: Proposed Purchase of Property for West Papio Regional Detention Basin 5

In June 2007, the Board considered the purchase of an 11.86 acre parcel for the West Papillion Creek Regional Detention Basin 5 (WP-RB5) from Pink Family Investments LLC. At that time, the District Board decided not to pursue a purchase agreement, in the amount of \$418,600 (\$35,000/acre), for the parcel.

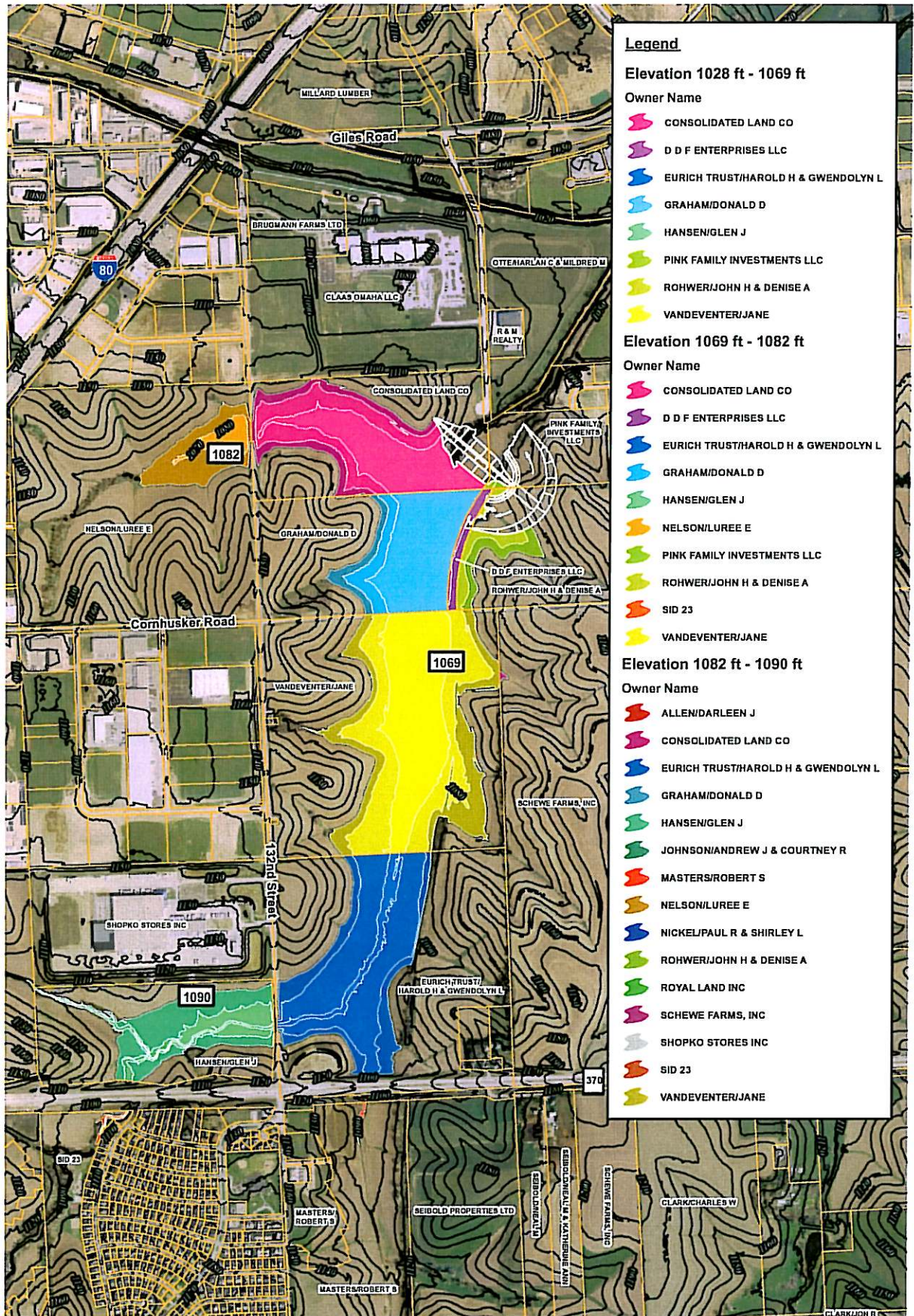
The original proposed preliminary plat for Pink Industrial Park 2, located west of 120th Street and south of Giles Road in Sarpy County (see site map), would have impacted the emergency spillway of the conceptual regional stormwater detention basin (WP-RB 5) and possibly prevented its future construction. Due to this fact, District staff recommended that the impacted area be set aside on the preliminary plat. The developer complied with this request and legally described the 11.86 acre parcel as Outlot A on the Final Plat as approved by the City of Papillion on December 14, 2007, see attached.

On January 30, 2007 District legal counsel forwarded a communication to the District that Pink Family Investments' attorney, Rick Anderson, had spoken to him about the 11.86 acre parcel (Outlot A). He advised Mr. Peters that his client wants to know the NRD's intentions with respect to the acquisition of Pink's parcel, the subject of previous negotiations. Mr. Anderson said that his client wants to either sell the property or obtain a green light to fill and develop it in accordance with his original grading plan.

The West Papio Regional Detention Basin 5, as shown on the attached map, is a priority site because recent FEMA floodplain remapping indicates that the required 3-foot of freeboard for the West Papio levees had been compromised under existing and full build-out conditions. Further technical analysis has shown that regional detention structures, like this one, on the South Papillion and West Papillion Creek tributaries between Highway 370 and Giles Rd in Sarpy County provide the greatest reduction in peak flows on the lower portion of the creek from Papillion to Bellevue, and along with bridge raises may restore the 100-yr protection of the levee.

Management therefore believes that it is in the Districts best interest to again consider the purchase of the 11.86 parcel (Outlot A) for the regional detention basin WP-RB5 project. The proposed filing or development of the parcel by the Pink Family would increase the future land rights and construction cost for the project. The attached proposed purchase agreement with Pink Family Investments, LLC contains the same purchase price and general terms as previously negotiated, except that the provision for "right of first refusal" for the Pink family to buy the property back has been eliminated.

Management recommends that the subcommittee recommend to the board that the resolution as stated in the enclosed memorandum from Paul Peters dated February 29, 2008 be adopted.



- Legend**
- Elevation 1028 ft - 1069 ft**
 Owner Name
- CONSOLIDATED LAND CO
 - D D F ENTERPRISES LLC
 - EURICH TRUST/HAROLD H & GWENDOLYN L
 - GRAHAM/DONALD D
 - HANSEN/GLEN J
 - PINK FAMILY INVESTMENTS LLC
 - ROHWER/JOHN H & DENISE A
 - VANDEVENTER/JANE
- Elevation 1069 ft - 1082 ft**
 Owner Name
- CONSOLIDATED LAND CO
 - D D F ENTERPRISES LLC
 - EURICH TRUST/HAROLD H & GWENDOLYN L
 - GRAHAM/DONALD D
 - HANSEN/GLEN J
 - NELSON/LUREE E
 - PINK FAMILY INVESTMENTS LLC
 - ROHWER/JOHN H & DENISE A
 - SID 23
 - VANDEVENTER/JANE
- Elevation 1082 ft - 1090 ft**
 Owner Name
- ALLEN/DARLEEN J
 - CONSOLIDATED LAND CO
 - EURICH TRUST/HAROLD H & GWENDOLYN L
 - GRAHAM/DONALD D
 - HANSEN/GLEN J
 - JOHNSON/ANDREW J & COURTNEY R
 - MASTERS/ROBERT S
 - NELSON/LUREE E
 - NICKEL/PAUL R & SHIRLEY L
 - ROHWER/JOHN H & DENISE A
 - ROYAL LAND INC
 - SCHEWE FARMS, INC
 - SHOPKO STORES INC
 - SID 23
 - VANDEVENTER/JANE

Source: MAPA 2004 Orthophotography and Topographic Data, ArcMap 9.0



SPT Site - Pool Areas by Property Owner

PAPIO MISSOURI RIVER
 NATURAL RESOURCES DISTRICT
 OMAHA, NE

Unnamed South Papillion Creek Tributary Detention Evaluation
 Papio-Missouri River Natural Resources District

| | |
|--------|---------------|
| DATE | February 2006 |
| FIGURE | 4 |

Paul F. Peters, P.C., L.L.O.
Suite 640 Omaha Tower, 2120 South 72nd Street
Omaha, NE 68124
(402) 391-3712 FAX (402) 391-3714
E-mail: paul.peters@mindspring.com

To: John Winkler, General Manager
Papio-Missouri River Natural Resources District

Date: February 29, 2008

Subject: Pink Family Investments, LLC; negotiations for land rights

The NRD recently contacted Pink Family Investments LLC ("Pink") and re-negotiated a revised proposed purchase agreement for the NRD's purchase of Outlot A of Pink Industrial Park 2 (consisting of 11.88 acres) and several easements needed over other portions of Pink Industrial Park 2.

The NRD's 2007 negotiations with Pink resulted in a proposed purchase agreement under which Pink would sell Outlot A to the NRD for \$35,000/acre (\$415,100), and the easements for an additional \$3,500, for a total of \$418,600.

The re-negotiations have resulted in the revised proposed purchase agreement between Pink and the NRD, attached hereto.

In the revised purchase agreement, the purchase price is the same as negotiated in 2007, Pink has abandoned its right of first refusal (option to repurchase), and the remainder of the agreement is substantially the same as negotiated in 2007. For all amendments see the attached redline versions of the Purchase Agreement and Cross-Easements Agreement.

If the Board determines to go ahead with this purchase, adoption of the following resolution is recommended:

BE IT RESOLVED that the General Manager be and is hereby authorized to execute the proposed purchase agreement presented to this meeting calling for the purchase by the District from Pink Family Investments, L.L.C., of 11.86 acres of land (Outlot A) in Pink Industrial Park 2, necessary for the emergency spillway for the proposed South Papillion Creek detention structure, and for the purchase of necessary easements, for the total purchase price of \$418,600.

BE IT FURTHER RESOLVED that the General Manager be and is hereby authorized to execute the proposed Cross-Easement Agreement attached to the proposed purchase agreement, and such other and further documents, approved as to form by the District's legal counsel, he determines necessary or convenient to effectuate the transaction.

BE IT FURTHER RESOLVED that the Board of Directors hereby determines that the South Papillion Creek detention structure will be of predominantly general benefit to the District, with only an incidental special benefit.

PURCHASE AGREEMENT
BETWEEN
PINK FAMILY INVESTMENTS, L.L.C.
AND
PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT

THIS PURCHASE AGREEMENT (“**this Agreement**”) is made as of this _____ day of _____, 2008, by and between **PINK FAMILY INVESTMENTS, L.L.C.**, a Nebraska Limited Liability Company (hereinafter referred to as “**SELLER**”) and the **PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT** (hereinafter referred to as “**PURCHASER**”).

For valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and subject to the terms, conditions, representations and warranties set forth in this Agreement, the parties agree as follows:

1. **Sale.** In return for a payment by PURCHASER to SELLER of FOUR HUNDRED EIGHTEEN THOUSAND SIX HUNDRED DOLLARS (\$418,600.00) (“the **Gross Purchase Price**”), being computed as hereinafter described in this paragraph, SELLER agrees to convey and grant to PURCHASER the real estate and easements in Sarpy County hereinafter described, as follows, to-wit:

a) In consideration of FOUR HUNDRED FIFTEEN THOUSAND ONE HUNDRED DOLLARS (\$415,100.00) SELLER agrees to sell to PURCHASER and PURCHASER agrees to purchase from SELLER, Outlot A in Pink Industrial Park 2; and,

b) In consideration of a net payment of THIRTY FIVE HUNDRED DOLLARS (\$3,500.00) by PURCHASER to SELLER, the parties agree to execute and deliver to each other the Cross Easements

Agreement (“the **Cross-Easements Agreement**”) the form of which is attached hereto as **Exhibit “A”** and incorporated herein by reference.

2. **Payment.** The Gross Purchase Price shall be paid by PURCHASER to SELLER by PURCHASER’S bank draft at the closing of this transaction (“the **Closing**”).

3. **The Closing.** The Closing shall occur at the office of the PURCHASER at 8901 S. 154th Street, Omaha, NE 68138, at 3:00 o’clock, P.M. DST, on April 29, 2008, or on such other date or at such other time or place as may be agreed upon in writing by PURCHASER and SELLER. At the Closing:

a) The SELLER shall execute and deliver to PURCHASER a full warranty deed conveying to the PURCHASER the insurable, marketable fee-simple title to Outlot A, free and clear of all liens, encumbrances, limitations, covenants, reservations, conditions, restrictions and easements, except such covenants, reservations, restrictions or easements as contemplated by or permitted in accordance with this Agreement. Such conveyance shall also convey to PURCHASER, its successors, assigns or nominees, any and all interest of SELLER in any existing easements or licenses that benefit Outlot A; and,

b) The parties shall execute and deliver to each other duplicate original Cross-Easements Agreements in the form as attached hereto as Exhibit “A,” the parties therein granting easements to each other in, on, over and across the parcels of land described therein, free and clear of all liens, encumbrances, limitations, covenants, reservations, conditions, restrictions and easements, except such covenants, reservations, restrictions or easements as contemplated by or permitted in accordance with this Agreement.

4. **Title Insurance Commitment.** Within ten (10) days after execution of this Agreement, SELLER shall deliver to PURCHASER a

commitment (“the **Commitment**”) from a duly authorized title insurance company, for a policy of title insurance to be issued at the Closing. The Commitment shall be irrevocable for a period of six (6) months, and shall commit the insurer to insure the title to Outlot A and the easements in favor of the PURCHASER set out in the Cross-Easements Agreement in the condition required herein for the benefit of PURCHASER and its assigns or nominees, for an amount equal to the Gross Purchase Price.

5. **Objections to Title.** Within ten (10) days after delivery of the Commitment, PURCHASER may notify SELLER of any conditions disclosed in the Commitment that are objectionable to PURCHASER. Following such notice, SELLER shall promptly and diligently undertake such steps as are reasonably necessary to cure, satisfy, or remove such conditions. In the event SELLER shall fail to correct, satisfy or resolve any such condition to the reasonable satisfaction of PURCHASER within thirty (30) days after the date of PURCHASER’S delivery of written objections to SELLER, PURCHASER shall have the right to terminate this Agreement.

6. **New Liens or Conditions.** So long as this Agreement is in effect, SELLER shall not transfer, convey or otherwise dispose of any right, title or interest in Outlot A, except subject to the terms of this Agreement, or with written consent of PURCHASER. SELLER further agrees not to consent to, or allow, any new lien, encumbrance, condition reservation, easement, lease, restriction or covenant against Outlot A, other than the lien for current real estate taxes due but not yet delinquent.

7. **Right of Entry.** PURCHASER, and its duly authorized agents, shall have the right prior to the Closing, to enter into and upon Outlot A in order to make, at PURCHASER’S expense, all surveys, measurements, soil tests, environmental studies and other tests as PURCHASER shall deem necessary. PURCHASER agrees to restore any resulting damage to Outlot A and to

indemnify, hold harmless and defend SELLER from any and all claims by third persons of any nature whatsoever arising from PURCHASER'S exercise of such right of entry hereunder, including all actions, suits, proceedings, demands, assessments, costs, expenses and attorney fees.

8. **Leases and Other Interests.** At the Closing, no portion of Outlot A will be subject to any Agreement or right of first refusal (except as provided herein) and no portion of Outlot A will be subject to any lease or other undisclosed and/or unrecorded interest, right or restriction. SELLER certifies that there will have been no labor performed and no materials furnished to Outlot A by any person or entity who or which has not been paid in full, for at least one hundred twenty (120) days prior to the Closing. SELLER hereby agrees to indemnify and hold PURCHASER harmless from any such claims.

9. **Hazardous Materials.** SELLER represents and warrants that SELLER has not used, generated, stored or disposed of, above, in, on, under or around Outlot A, any "hazardous materials" as hereinafter defined, and that SELLER has no actual knowledge that there are any hazardous materials above, in, on, under, or around Outlot A. The term "hazardous materials" means any material or substance which is listed in the United States Department of Transportation Hazardous Materials' Table (49 CFR 172.101) as of the date of this Agreement, that is or has been kept, used or disposed of in or on Outlot A in a manner and in quantities which do not comply with applicable laws and regulations pertaining to said materials or substances. Further, SELLER and PURCHASER agree that they will not use, generate, store or dispose of, or permit the use, generation, storage, or disposal of any hazardous materials as hereinabove described over, in, on, under or around Outlot A at any time prior to the Closing. SELLER agrees to indemnify, and hold PURCHASER harmless from and against all claims, demands, causes of action, costs and expenses, including without limitation costs of investigations, court costs and attorneys fees, arising from the introduction or presence in or on any portion of Outlot A of asbestos or

any form thereof, or any material or substance listed, defined, designated or otherwise regulated as hazardous, toxic, radioactive or dangerous under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Sections 9601-9675, or under any other federal, state or local law, rule, regulation, ordinance, code or order now in effect or hereafter enacted to protect the environment; and, from and against any and all costs and expenses of clean-up and response with respect to any such materials or substances in or on any portion of Outlot A, including, without limitation, costs of any studies and investigations necessary to determine an appropriate response to any contamination in or on any portion of Outlot A (except costs and expenses relating to any such substances or materials introduced by the PURCHASER or its employees, officers, contractors or agents).

10. **Tests.** Not later than five (5) days after execution of this Agreement, SELLER agrees to provide to PURCHASER all soil tests, engineering reports, wetland studies, or other similar drawings and technical information relating to Outlot A that SELLER has in its possession, at no additional cost to PURCHASER.

11. **Conditions Precedent.** The obligation of PURCHASER to consummate the transactions contemplated herein is expressly subject to satisfaction as determined by PURCHASER, in its absolute discretion, of the conditions listed below.

a) **Title.** This Agreement is contingent upon condition of title to Outlot A being established in accordance with this Agreement, subject only to exceptions waived or agreed to by PURCHASER.

b) **Warranties.** This Agreement is contingent upon all warranties and representations of SELLER hereunder being true and correct in all material respects as of the date hereof and as of the Closing date.

12. **Closing Costs and Apportionments.**

a) **Real Estate Taxes.** All consolidated real estate taxes that become delinquent in the year in which the Closing takes place shall be treated as though all are current taxes, and such current taxes shall be prorated between PURCHASER and SELLER as of the date of the Closing on the basis of a 365-day calendar year. Since Outlot A does not contain all of the acres included in SELLER'S entire taxed parcel, SELLER and PURCHASER agree that PURCHASER should pay 35% of such pro-rated taxes. All prior years' taxes, interest and other charges related thereto, if any, shall be paid by SELLER.

b) **Special Assessments.** SELLER agrees that, except as provided in paragraph 17 of this Agreement, SELLER shall pay and/or be responsible for all special assessments, preliminary or final, including any deficiency assessments or such assessments deferred for any reason, which affect Outlot A as of the date of the Closing, with all such payments being made at the time of the Closing, or by way of escrow or bond as determined by PURCHASER which would allow for payment at the time of final assessment. In the event that special assessments for installation of public improvements have not been levied as of the Closing, there shall be escrowed from the Closing an amount equal to the estimated amount of such special assessments. In the event the actual special assessments are greater than the estimates, SELLER shall be responsible for the difference; and, in the event that the estimated special assessments are more than the actual assessments the balance in such escrow shall be returned to SELLER.

c) **Real Estate Transfer Taxes.** Real estate transfer taxes predicated on the purchase price will be paid by SELLER.

d) **Recording Fees.** PURCHASER shall be responsible for payment of recording fees for the deed of conveyance and for the Cross-Easements Agreement.

e) **Title Insurance.** PURCHASER and SELLER each shall pay one-half of the title insurance required by this Agreement and each shall pay one-half of the cost of the Closing fee charged by the Closing company or agent.

13. **Other Documents.** SELLER agrees to deliver at the Closing such other documents and assurances on forms as may be reasonably required by PURCHASER to affirm the title of Outlot A and the land involved in the Cross-Easements Agreement, and to verify to SELLER'S satisfaction the conditions of this Agreement, including, but not limited to: affidavit of possession, lien and special assessment affidavit and indemnity; and, full warranty deed.

14. **Payment in Full.** The Purchase Price recited herein shall constitute payment in full for any and all diminishment in the value of the SELLER'S remainder or other severance damages that may be sustained by SELLER by reason of the severance of Outlot A from other property of SELLER and by reason of or resulting from the grants contained in the Cross-Easements Agreement.

15. **Waiver.** The SELLER waives compliance by PURCHASER with the notice and other provisions of the Uniform Procedure for Acquiring Private Property for Public Use (Sec. 25-2501, R.R.S. 1995, et seq.).

16. **Notices.** All notices, demands, writings, supplements, or other documents which are required or permitted by the terms of this Agreement to be given to any party shall be delivered in person, or shall be deposited in the United States Mail, postage prepaid, return receipt requested, addressed as set forth below, and shall be effective on the date of such deposit or the date of delivery, as the case may be:

To SELLER: Gary L. Pink Manager
Pink Family Investments, L.L.C.
4920 S. 66th Plaza
Omaha, NE 68 117

Richard L. Anderson, Esq
2120 S. 72nd Street, Suite 1200
Omaha, NE 68124

To PURCHASER: John Winkler, General Manager
Papio-Missouri River Natural Resources District
8901 S. 154th Street, Omaha, NE 68138

Paul F. Peters, Esq.
2120 S. 72nd Street, Suite 640
Omaha, NE 68124

17. **Greenbelt recapture.** PURCHASER shall indemnify and hold SELLER harmless from and against any greenbelt property tax recapture with respect to Outlot A.

18. **Broker Fees.** SELLER and PURCHASER each represent to the other that they have not engaged a real estate agent or broker in this transaction. Each party agrees to indemnify and hold the other party harmless from and against any such fees or commissions, including reasonable attorney fees and court costs incurred, should any such expense arise.

19. **Remedies of the Parties.** If either PURCHASER or SELLER defaults in the performance of any provision of this Agreement, the other party shall be entitled to any and all remedies available at law or in equity.

20. **Prior Agreements.** This Agreement evidences the entire agreement of the parties, replaces any and all prior written or oral representations, offers, letters of intent or agreements made by either party, and shall be binding upon the parties hereto, their successors and assigns. This Agreement may not be changed or altered in any way, except by a written

instrument signed by both parties. No oral representations of any kind shall be binding upon either party unless fully set forth herein or in such a written instrument.

21. **Survival of Warranties.** Any warranties, covenants and representations herein shall survive the execution of this Agreement and any other documents, including the Warranty Deed given by SELLER to PURCHASER to consummate this transaction, and shall not be merged into any such documents.

22. **Construction.** This Agreement shall be construed in accordance with the laws of the State of Nebraska. Wherever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid. If any provision of this Agreement shall be determined to be invalid or unenforceable, such provision shall be ineffective to the extent of such prohibition or invalidity without invalidating or otherwise affecting the remaining provisions of this Agreement. Time is of the essence of this Agreement. The captions contained in this Agreement are for convenience only and are not intended to limit or define the scope or effect of any provision of this Agreement.

23. **Authority.** Except as otherwise provided in this Agreement, whenever pursuant to this Agreement the approval of PURCHASER is called for, any such approval shall be presumed if granted or endorsed in writing by the PURCHASER'S General Manager or Assistant General Manager.

24. **Eminent Domain.** Neither this Agreement, nor termination of this Agreement by SELLER or PURCHASER pursuant to any provision of this Agreement, shall be deemed to estop PURCHASER from instituting an action in eminent domain to acquire Outlot A and/or easements provided by the Cross-Easements Agreement, nor be deemed to estop SELLER from asserting all of its rights in any such action, included but not limited to the right to assert a valuation in excess of the valuation per acre presented in this Agreement.

25. **Non-waiver.** No delay or failure by either party to exercise any right under this Agreement, and no partial or single exercise of that right, shall constitute a waiver of that or any other right unless otherwise expressly provided herein. A valid waiver by either party shall not be deemed to extend the amount of time available to perform any other act required under this Agreement.

26. **Further Agreements.** Each party will, whenever and as often as the other may request, execute, acknowledge and deliver or cause to be executed, acknowledged and delivered any and all such further conveyances, assignments or other instruments and documents as may be necessary, expedient or proper in the opinion of the requesting party in order to complete any and all conveyances, transfers, and assignments herein provided, and will do any and all other acts and execute, acknowledge and deliver any other documents so requested in order to carry out the intent and purposes of this Agreement.

27. **Effective date** This Agreement shall be effective upon its complete execution by both parties and may be withdrawn by either party until it is completely executed by both parties.

This Agreement is executed by SELLER on this _____ day of _____, 2008.

PINK FAMILY INVESTMENTS, L.L.C., a
Nebraska Limited Liability Company

By _____
GARY L. PINK, Manager

This Agreement is executed by PURCHASER on this _____ day of _____, 2008.

PAPIO-MISSOURI RIVER NATURAL
RESOURCES DISTRICT

By _____
JOHN WINKLER, General Manager

STATE OF NEBRASKA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day
of _____, 2008, by GARY L. PINK, Manager of PINK
FAMILY INVESTMENTS, L.L.C., a Nebraska Limited Liability Company, for and
on behalf of the company.

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of
_____, 2008, by JOHN WINKLER, General Manager
of the Papio-Missouri River Natural Resources District, for and on behalf of the
district.

Notary Public

CROSS-EASEMENTS AGREEMENT

THIS CROSS-EASEMENTS AGREEMENT (“**this Agreement**”) is entered into by and between **PINK FAMILY INVESTMENTS, L.L.C.**, a Nebraska Limited Liability Company (hereinafter referred to as “**PINK**”), and the **PAPIO-MISSOURI RIVER NATURAL RESOURCES DISTRICT** (hereinafter referred to as “the **NRD**”).

WHEREAS, **PINK** is the owner of all or part of Pink Industrial Park 2, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska (hereinafter referred to as “**Pink Industrial Park 2**”); and,

WHEREAS, a Purchase Agreement (“the **Purchase Agreement**”) between the parties, dated _____, 2008, provided for the **NRD**’s purchase from **PINK** of Outlot A of Pink Industrial Park 2 (hereinafter referred to as “**Outlot A**”); and,

WHEREAS, the Purchase Agreement further provided that the parties would execute and deliver to each other certain easements over portions of Pink Industrial Park 2; and,

NOW, THEREFORE, for and consideration of the Purchase Agreement, and the additional promises and covenants hereinafter set forth, the parties hereto do hereby grant easements to each other as follows, to-wit:

PERMANENT EMERGENCY/AUXILLARY SPILLWAY EASEMENT

WHEREAS, the NRD expects to design, construct, operate and maintain a flood control dam ("the **Dam**") on Outlot A and other lands, the Dam to result in a reservoir ("the **Reservoir**") on Outlot A and other lands, having a permanent pool designed to impound or detain flood waters and sediment; and,

WHEREAS, a portion of the emergency/auxillary spillway of the Dam will be located on a portion of Lot 6, Pink Industrial Park 2 (hereinafter referred to as "**Lot 6**"),

THEREFORE, PINK hereby grants to the NRD, and its successors and assigns, the permanent easement right to construct, operate, maintain, repair, modify and replace a portion of the emergency/auxillary spillway improvements associated with the Dam, consisting of a portion of the spillway's outer sideslope, a portion of a diversion berm or swale at the top of the sideslope, and possibly a portion of the floor of the spillway, in, on, over and across the portion of Lot 6 described and depicted in the legal description attached hereto as **Exhibit "1"** and incorporated herein by reference, such easement to also allow the NRD the right to periodically flow Reservoir waters and sediment through and upon, and thereby periodically inundate, such portion of Lot 6.

PERMANENT EASEMENT FOR INGRESS AND EGRESS

PINK hereby grants to the NRD a permanent easement in, on, over and across the North twenty feet (N20') of Lot 4, Pink Industrial Park 2 (hereinafter

referred to as “**Lot 4**”), such portion of Lot 4 being described and depicted in the legal description and diagram attached hereto as **Exhibit “2”** and incorporated herein by reference, such easement allowing the NRD and its successors and assigns to permanently use such portion of Lot 4 for pedestrian and vehicular ingress and egress between Outlot A and public road rights-of-way in Pink Industrial Park 2.

TEMPORARY EASEMENT FOR SILT DETENTION BASIN

The NRD hereby grants to PINK a non-exclusive and temporary easement in, on, over and across the portion of Outlot A that is depicted and referred to as “Sediment Basin No. 2” in the plat of Pink Industrial Park 2 attached hereto as **Exhibit “3”** and incorporated herein by reference, such easement allowing PINK and its successors and assigns to use such portion of Outlot A for construction, operation, maintenance, repair and replacement of an excavated silt detention basin (“**the Silt Detention Basin**”) to detain water-borne sediments, such easement to terminate upon (a) the completion of development of Pink Industrial Park 2 or (b), on commencement of construction of the Dam or other public use by the NRD of Outlot A, or (c) on June 29, 2013, whichever shall first occur. Upon termination of such easement PINK, at its own expense, shall promptly restore the surface of Outlot A to the contours and with the ground cover existing as of the date of this Agreement.

PERMANENT EASEMENT FOR STORM SEWER AND OUTFALL

The NRD hereby grants to PINK, and its successors and assigns, a permanent easement in, on, over, under and across the north twenty feet (N20’) of Outlot A, such easement allowing PINK and its successors and assigns to permanently use such land for the purpose of construction, operation, maintenance, repair and replacement of a storm sewer pipe (“**the Storm Sewer**”), having the purpose of conveying waters and water-borne sediments to the unnamed tributary of the South Papillion Creek that runs along part of the

northerly margin of Outlot A, including, without limitation, a storm sewer pipe running from the Silt Detention Basin into said unnamed tributary, and temporary storm sewer connections to the Silt Detention Basin.

TEMPORARY CONSTRUCTION EASEMENT

The NRD hereby grants to PINK a temporary, non-exclusive easement in, on, over, under and across Outlot A, such easement allowing PINK and its successors and assigns to use Outlot A for ingress and egress or any other reasonable and lawful purpose that may be necessary or convenient during the construction, reconstruction, operation and maintenance of the Silt Detention Basin and the Storm Sewer, such easement to terminate (a) on the completion of development of Pink Industrial Park 2, (b) on commencement of construction of the Dam or other public use by the NRD of Outlot A, or (c) on June 29, 2013, whichever shall first occur. PINK agrees to not excavate or fill on the NRD Property, or construct or install thereon any fixtures or structures, except as may be permitted by other easements herein granted by the NRD. Upon termination of such easement, PINK, at its own expense and inasmuch as physically feasible, shall promptly restore the surface of Outlot A to the contours and with the ground cover existing as of the date of this Agreement.

ADDITIONAL PROVISIONS

The parties hereby further agree as follows:

1. With the assistance of a professional engineer, PINK shall prepare written plans and specifications for the Silt Detention Basin and the Storm Sewer. Prior to commencing any construction or reconstruction thereof, PINK shall submit such plans and specifications to the NRD, and obtain the NRD'S written approval of such plans and specifications by the NRD, such approval to not be withheld or delayed unreasonably.

2. The Silt Detention Basin and the Storm Sewer shall be designed in accordance with generally-accepted engineering practices and shall be constructed, reconstructed, operated and maintained by PINK, as built, in a good and workmanlike manner, in substantial conformance with the NRD-approved plans and specifications

3. PINK shall not transport earthen materials onto Outlot A without the prior written consent of the NRD. PINK shall transport from Outlot A, and not leave or permanently stock-pile thereon, any surplus excavated earthen materials resulting from its operations, except those resulting from the construction, operation or maintenance of the Silt Detention Basin or Storm Sewer.

4. Within a reasonable time after completion of construction or any reconstruction of the Silt Detention Basin and/or Storm Sewer, PINK shall restore the ground cover on all areas of Outlot A disturbed during such activity to approximately the condition of such areas as they existed immediately prior to the commencement of such work, and leave Outlot A in a safe condition.

5. Within a reasonable time after completion of construction or any reconstruction of the portion of the emergency/auxillary spillway of the Dam that will be located on a portion of Lot 6, and within a reasonable time after utilization of a portion of Lot 4 for ingress or egress, the NRD shall restore the ground cover on all areas of said lots disturbed during such activity and leave the same in a safe condition.

6. The easements herein provided shall run with the land and shall be binding upon and inure to the benefit of the parties to this instrument and their respective heirs, successors and assigns.

7. This Agreement contains the entire agreement between the parties; and, each of the parties agrees that neither the other party, nor any officers, agents or employees of the other party, have made any representations or

promises with respect to or affecting this Agreement not expressly contained herein.

8. The consideration stated herein shall constitute payment in full for all damages sustained by a party and its successors and assigns by reason of the exercise by the other party of any of the rights or privileges herein expressly granted or reasonably implied.

9. Time is of the essence of this Agreement.

10. Whenever this Agreement calls for the approval of the NRD, such approval may be granted by the General Manager or Assistant General Manager of the NRD.

11. Whenever this Agreement calls for the approval of PINK, such approval may be granted by PINK'S Manager, or the successor thereto.

12. This Agreement shall be effective upon its complete execution by both of the parties.

THIS CROSS-EASEMENTS AGREEMENT is executed by PINK on this _____ day of _____, 2008.

PINK FAMILY INVESTMENTS, L.L.C., a
Nebraska Limited Liability Company

By _____
GARY L. PINK, Manager

THIS CROSS-EASEMENTS AGREEMENT is executed by the NRD on this _____ day of _____, 2008.

PAPIO-MISSOURI RIVER NATURAL
RESOURCES DISTRICT

By _____
JOHN WINKLER, General Manager

STATE OF NEBRASKA)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me on this _____ day
of _____, 2008, by GARY L. PINK, Manager of PINK
FAMILY INVESTMENTS, L.L.C., a Nebraska Limited Liability Company, for and
on behalf of such limited liability company.

Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF SARPY)

The foregoing instrument was acknowledged before me on this _____ day
of _____, 2008, by JOHN WINKLER, General
Manager of Papio-Missouri River Natural Resources District, for and on behalf of
such district.

Notary Public