

AGREEMENT FOR LIFTSTATION CONSTRUCTION

THIS AGREEMENT, made and entered into this _____ day of July, 2025, by and between the City of Crete, Saline County, Nebraska, a municipal corporation under the laws of the State of Nebraska, hereinafter referred to as City, and Dittmer & Dittmer, LLC, a Nebraska limited liability company, hereinafter referred to as Developer.

WHEREAS:

- A. Developer is the owner of land they wish to use for commercial and residential development located between Iris Avenue (County Road 2350) and County Road 2400 bordering E 29th St. in Crete, Nebraska, and
- B. Developer has requested assistance with the construction of a lift station to assist the developing property's gravitational flow and force main to allow for development of said property, and
- C. The City has the resources and knowledge to assist with the necessary steps to design and construct the necessary lift station with force main sewer to assist with flow of wastewater.

NOW, THEREFORE, IN CONSIDERATION OF THE ABOVE AND FOREGOING, the parties agree as follows, WITNESSETH:

1. **Responsibilities of Developer.** The Developer shall have the following obligations:
 - a. The Developer shall provide the City with all available completed topographical and engineering data necessary to initiate the lift station project.
 - b. The Developer shall grant to the City and its agents and engineers, any access to the property necessary to evaluate, lay out, and design the proposed lift station and any associated infrastructure needed for proper function.
 - c. The Developer shall provide the city with all permanent easements necessary for the construction of said lift station and wastewater infrastructure.
 - d. The Developer shall provide the city with temporary easements for the construction of the lift station and force main sewer.
 - e. The Developer shall grant to the City, its agents, its engineers, and contractors, any and all access required to construct the wastewater lift station, including the lift station proper, the gravity drain system, the force main, any electrical work necessary, and dirt work necessary, any temporary access roads needed in order to accomplish the tasks of completing said project.
 - f. All project questions, change orders, and issues that may involve the Developer, will be between the Developer and the City. The Developer will have no standing with the city engineer, or contractors on the project. The City

will do its utmost to address any concerns with the Developer as may pertain to the project and contractor performance etc.

- g. The Developer shall promptly pay all undisputed invoices sent for the engineer and construction of the lift station within 30 days. In the event the Developer wishes to dispute a particular charge, they shall provide written notice to the City of Crete within 10 days of receipt of the disputed invoice along with the reason for contesting the particular charge. The City of Crete shall then have 10 days to investigate and respond to the disputed invoice claim with the basis for the charge. Refusal to pay after sufficient explanation shall result in termination of this agreement.

2. **Responsibilities of City.** The City shall have the following obligations:

- a. The City shall request assistance from the contract City Engineer (JEO) to complete design work for the lift station, force main, gravity main, and other necessary wastewater infrastructure for the Developer's property.
- b. The City shall request bids for construction of the designed lift station, gravity main, and force main.
- c. The City shall select the lowest reliable bid for construction of the lift station, notifying the Developer of the projected costs based on bids submitted. The City will reject any bids above Engineer's projected costs. The City will wait 15 days prior to entering an agreement with lowest reliable bid contractor to allow for the Developer to terminate this agreement without cause before incurring construction costs.
- d. The City shall be the sole contact for all discussion with the City Engineer. The City shall review and update the City Engineer on any requests or needs as the project progresses.
- e. The City of Crete will oversee and administer the agreement with the successful contractor.
- f. The City shall send invoices for the design and construction of the lift station to the Developer.

3. **Term.** The term of this Agreement shall commence on the date of signing and shall terminate on completion of construction of the lift station and all other necessary related infrastructure and final payment of all related invoices.

- a. **Without Cause.** Either party, without cause and without penalty, upon giving not less than thirty (30) days' prior written notice to the party, specifying the effective date of termination may terminate this agreement without cause;
 - 1) The remaining balance for work completed shall be assessed to the property.

- 2) The Developer understands that if they terminate this agreement, they will remain responsible for completing the remaining steps for the engineering, design, and construction of the lift station prior to or in concurrence with development of the property.
- b. With Cause. Either party, in the event of breach by the other party, upon giving the other party not less than fifteen (15) days' prior notice of termination in writing, specifying the alleged breach and the date on which termination will be effective; provided that, in the event of termination for cause under this subparagraph, the party receiving notice shall have the notice period in which to correct or cure the alleged breach or default to the reasonable satisfaction of the party giving notice.
4. **Cost**. The City shall provide Developer with updates of anticipated costs of the project. This shall include notice of the engineering estimate for the completed project, bid amount, and any updates to construction costs.

5. **General Conditions**.

- a. Notices and Invoices. Any notices and invoices required to be given by this Agreement shall be sufficient if communicated in writing by either hand delivery or mailed by United States Mail, postage prepaid, or by telefax or other written means designed to come to the attention of the addressee promptly. Notice shall be given as follows, or at such other address designated in writing by the parties:

If to Dittmer & Dittmer:

Ron & Terry Dittmer
P.O. Box 286
Crete, NE 68333
Via email:
rondittmer@gmail.com

If to City:

Tom Ourada
P.O. Box 86
Crete, NE 68333
Via email:
tom.ourada@crete.ne.gov

- b. Amendment. No amendment, modification, or discharge of this Agreement shall be valid or binding unless set forth in writing and duly executed by both parties.
- c. Assignment. This Agreement may not be assigned or transferred, nor may any of the duties or responsibilities be assigned or transferred except by written signed agreement of both parties.
- d. Binding Effect. All terms of this Agreement shall be binding upon, inure to the benefit of, and be enforceable by the parties hereto, and their heirs, legal representatives, and successors.
- e. Governing Law. This Agreement shall be interpreted, construed and governed according to the laws of the state of Nebraska

- f. Interpretation. This Agreement is the result of negotiation between the parties, and no ambiguity herein shall be construed against either party because of that party's role in drafting this Agreement.
- g. Entire Agreement. This Agreement, together with any exhibits or schedules hereto, constitute the entire agreement between the parties as to the subject matter hereof, and replaces all prior written and oral statements and understandings. To the extent that any exhibit or schedule contains express provisions which are inconsistent with any term of this document, the express provisions of the schedule or exhibit shall control.
- h. Copies/ Signatures. A fully executed facsimile or electronic copy of this Agreement shall be treated as an original Agreement and signatures may be made in counterparts to the Agreement.
- i. Recitals. The recitals are intended to describe the intent of the parties and the circumstances under which this Agreement is executed and shall be considered in the interpretation of this Agreement.
- j. No Legal Disability. Each party represents that its execution and performance of this Agreement will not violate any term, covenant or understanding with any other person or entity or place such party in breach of any contractual or legal obligation to a third party.
- k. No Third-Party Beneficiaries. This Agreement is executed for the benefit of the named parties only. Nothing in this Agreement or in the negotiation of this Agreement shall have the effect of conferring any rights or expectations on any third party. No one other than a party to this Agreement or a party's permitted successor or assign shall have the right to enforce any covenant, term or condition in this Agreement.

