

UNDERGROUND ELECTRIC DISTRIBUTION SYSTEM INSTALLATION AGREEMENT

This Agreement made this ____ day of _____, 20 ____, by and between LINCOLN ELECTRIC SYSTEM, CITY OF LINCOLN, (hereinafter "LES") and _____, (hereinafter "Developer").

WHEREAS, Developer is in the process of developing a subdivision with _____ residential lots known as _____, which premises are described in Exhibit "A", attached hereto and made a part of this Agreement; and

WHEREAS, Developer desires to have LES install suitable underground distribution lines to serve the premises described in Exhibit "A" and

WHEREAS, LES is willing to install, own, operate, and maintain such suitable underground distribution lines to serve the premises described in Exhibit "A"; and

WHEREAS, Developer agrees to pay LES an amount computed to be an "Aid-to-Construction" as set forth herein;

NOW, THEREFORE in consideration of the mutual benefits and premises contained herein, the parties hereby agree as follows:

1. Definitions. For the purposes of this Agreement:

a. "Distribution Lines" shall mean the underground cable and associated equipment to be installed by LES from the LES distribution facility source to the point of connection with each house or other structure to be located on the lots described in Exhibit "A".

b. "Distribution System" shall mean all distribution lines to be installed or modified on the premises described in Exhibit "A".

c. "Project Segment" shall mean all lots located on the property as shown on Exhibit "A".

d. "Aid-to-Construction" shall mean the amount computed by LES as the Developer's share of the costs incurred or to be incurred by LES for the installation of all Distribution Lines on the premises described in Exhibit "A", including, but not limited to, expenses for labor to be performed for installation of said Distribution Lines and costs for the purchase of electric cables, wire,

insulators, transformers, poles, and associated equipment necessary for the construction and installation of the electric Distribution System. For the purposes of this Agreement, Aid-to-Construction is computed at \$400 per lot for lots with rear lot lines 100 feet in width or less and \$4.00 per rear lot foot for lots with rear lot lines of greater than 100 feet in width. The Aid-to-Construction under this Agreement shall not exceed the sum of \$800 per lot.

2. Payments by Developer. The Developer hereby agrees to pay to LES a total of _____ as an Aid-to-Construction, pursuant to the terms provided under paragraph (a) or (b) of this Section, whichever of said paragraphs the Developer elects to make payment under. The Developer hereby elects to make payment in the manner indicated with an "X" (check one).

A. Immediate Full Payment. The Developer elects to make immediate payment to LES for the full amount specified as the Aid-to-Construction in the preceding paragraph upon execution of this Agreement and LES acknowledges receipt of said amount.

B. Installation Payments and Bond.

(i) 20% Immediate Payment. The Developer elects to make immediate payment to LES of 20% of the total amount of the "Aid-to-Construction" specified in the first paragraph of this Section upon the execution of this Agreement, pay the balance of the Aid-to-Construction as provided under sub-paragraph (ii) of this Section and to either post a performance bond or establish an escrow account in a manner and form acceptable to LES prior to the execution of this Agreement. Any performance bond posted or escrow account established under this paragraph shall be in the amount equal to 80% of the Aid-to-Construction specified in this Section.

(ii) Balance of Payments. Within thirty (30) days of the date of the mailing of an invoice by LES, the Developer agrees to make full payment to LES of the amount specified in the invoice. The amount specified in each invoice shall be determined by LES as that amount of the Aid-to-Construction representing the estimated work on the project segment completed to the date of the invoice and which has not been paid pursuant to a previous invoice. The 20% Aid-to-Construction

paid by the Developer upon execution of the Agreement shall be credited against the last invoice and the interval between the sending of invoice to the Developer shall be left to the sole discretion of LES. Failure of the Developer to pay the amount specified in any invoice within thirty (30) days of the date of the mailing of the invoice shall be grounds for the termination by LES of any future work on the installation of the Distribution System until said amount has been paid in full. Any amount not paid within thirty (30) days of the invoice shall draw interest at the rate of 11% per annum from the last day payment was due until the date payment is received by LES.

3. Noncompletion of Project Segment. If the Developer determines not to proceed with development of the Project Segment as scheduled, the Developer shall notify LES of its decision prior to the commencement of any work by LES of the Project Segment. If the Developer fails to notify LES of its decision prior to the commencement by LES of any work on the Project Segment, the Developer shall be liable to LES for that amount computed by LES to be the portion of the Aid-to-Construction representing the work completed to the date of the receipt of notice by LES of the decision to discontinue work on the Project Segment over the total work required to complete the project. If the Developer has elected to make full payment of the amount of the Aid-to-Construction, LES shall refund that amount representing the difference between the total Aid-to-Construction and that amount computed under this Section as the liability of the Developer. The Developer shall make all payments required under this paragraph within thirty (30) days of the date of the mailing of an invoice by LES. If the Developer fails to make full payment within such period, interest shall accrue on the balance remaining unpaid at the rate of 11% per annum from the last day payment was due until the date payment is received by LES.

4. Preparation of Property.

A. Staking. Prior to the installation of any Distribution Line as provided herein, the Developer shall have all lot pins for lots on which Distribution Lines are to be installed in the Project Segment staked with metal lot pins in accordance with the property line descriptions shown in

Exhibit "A". These metal lot pins are to have stakes positioned immediately adjacent to, and be of sufficient size, so that the lot pins may be easily located by LES. In the event these stakes and/or lot pins are removed before LES begins its work, the Developer, at his sole expense, shall replace these stakes and/or lot pins. If any of these lot pins are removed by LES during the installation of its Distribution lines, LES shall assume all reasonable costs incurred by the Developer in repositioning those metal lot pins. Notwithstanding the foregoing, LES shall make a reasonable effort during the installation of a Distribution Line to protect these stakes and metal lot pins from disturbance by LES.

B. Clearance of Easement. Prior to the installation of any Distribution Lines as provided herein, the Developer shall have all easements furnished pursuant to Section 5 under which the Distribution Lines are to run free and clear of all trees, brush, grass, fences and any other debris or obstacles.

C. Grade of Lots. Prior to the installation of any Distribution Lines as provided herein, the Developer shall have all lots in the project segment for which Distribution Lines are to be installed in final grade. Any expenses incurred by LES in the relocation of a Distribution Line arising from the regrading of lots by the Developer shall be paid by the Developer to LES upon demand by LES and any amount remaining unpaid after thirty (30) days of the mailing of an invoice shall draw interest at the rate of 11% until the balance and interest has been paid.

D. Construction of other Facilities. Prior to the installation of any distribution lines as provided herein, all sanitary sewer, storm sewer, street and water lines planned for the project segment must be completed. Upon completion of the construction of all sanitary sewer, storm sewer, street and water line facilities, the Developer shall notify LES and LES shall undertake to install the Distribution Lines as provided in Section 6.

5. Easements. Prior to the installation of any Distribution Lines as provided herein, the Developer shall furnish LES at no cost to LES all right-of-ways and easements deemed necessary by LES for the installation of the Distribution System to serve the premises described in Exhibit "A".

All property conveyed by the Developer to LES under easements shall be free and clear of all liens and encumbrances. Any expenses incurred by LES in the removal of any trees, bushes, fences and other debris and obstacles on the property conveyed by the right-of-ways or easements shall be paid by the Developer upon demand by LES and any amount remaining unpaid after thirty (30) days of the mailing of any invoice shall draw interest at 11% until the balance and interest has been paid. It is further understood between the parties that all right-of-ways and easements granted LES shall be in the form and contain those descriptions of the property satisfactory to LES.

6. Installation of Distribution Lines. Upon receipt of notice as provided in Section 4.D, LES agrees to undertake installation of the Distribution Lines for the designated Project Segment within a reasonable time. Factors taken into consideration by LES in determining the period for commencement of work on a Project Segment include, but are not limited to, the weather, the availability of necessary equipment, lines, poles, transformers, and accessories, the availability of manpower, and the cooperation of the Developer in preparing the property for installation of Distribution Lines as provided under Section 4 and payment of amounts by the Developer required under Section 2. LES shall provide all labor, lines, equipment, poles and other materials necessary for the installation of the Distribution System required to serve the premises designated by Exhibit "A". Work to be performed by LES will include the digging of trenches in which the Distribution Lines are to be placed and the backfill of the trenches after the Distribution Lines have been laid; provided, however, that upon completion of the backfill by LES, the Developer shall thereafter be responsible for any subsequent tamping or backfill which may be necessary due to the settling of the initial backfill, and LES shall not be liable for any injury to person or property which may occur by virtue of the Developer's failure to make any subsequent tamp or backfill of any trench. It is further understood between the parties that LES shall not be liable for any damage or loss occasioned by the failure of LES to complete installation of the Distribution System within a reasonable time.

7. Ownership of Distribution System. The entire Distribution System to be installed pursuant

to this Agreement shall be the property of LES and LES agrees to maintain the Distribution System in accordance with prudent utility practice and the policies of the LES Administrative Board.

8. Notice. All notices and payments to LES required under this Agreement shall be sent by first class mail to: Manager of Engineering Services, Lincoln Electric System, 2620 Fairfield, P.O. Box 80869, Lincoln, NE 68501.

9. Waivers. Any waiver by LES of a default of an obligation otherwise required to be performed under this Agreement by the Developer shall not be deemed a waiver with respect to any subsequent default of any other obligation of the Developer provided under this Agreement.

10. Indemnification. The Developer hereby agrees to defend and hold LES harmless from all suits, judgments, damages, costs, charges and expenses of whatever nature which may accrue from the failure of the Developer to perform its obligations under this Agreement or from the injury by the Developer to the person or property of another in the performance of this Agreement.

11. Notice to Subsequent Purchases of Lots. To reduce the costs which must be assumed by a subsequent landowner of any of the lots described in Exhibit "A" and which costs are incurred by the landowner for the repair of land or structures following the removal by LES of any obstacles or debris over its easements the Developer agrees to notify all initial purchasers of any lots from the Developer described in Exhibit "A" of the purchaser's duty to keep all easements free and clear of all trees, brush, fences and any other debris and obstacles. Additionally, the Developer hereby agrees to notify purchasers of said lots from the Developer that LES will not be liable for any expenses incurred by the purchaser in resodding or repairing any property following the installation by LES of any Distribution Line or accessory to be installed under this Agreement.

12. Assignment. The obligations and rights of the parties hereunder shall inure to the obligation and benefit of any assignee or successor of the Developer and LES.

Dated this _____ day of _____, 20_____.

Name of Development

Owners _____

Owners _____

Owners _____

Notary for Corporation or Partnership

STATE OF NEBRASKA)
) SS.
_____ COUNTY)

The foregoing Underground Service Agreement was acknowledged before me this _____ day of _____, 20____, by _____ (name), _____ (title of officer or agent) for _____ (name of corporation/partnership) a _____ (state of incorporation), on behalf of the corporation/partnership.

Notary Public

LINCOLN ELECTRIC SYSTEM, CITY OF LINCOLN

By _____
Administrator