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Date

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By

RICHARD N. TANECHI
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

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DEL _____ SCAN BW FV _____

EASEMENT AND RIGHT-OF-WAY

THIS INDENTURE, made this 16th day of MARCH, 1999, between OLD MILITARY SQUARE, L.L.C., a Nebraska Limited Liability Company, ("Grantor"), and METROPOLITAN UTILITIES DISTRICT OF OMAHA, a Municipal Corporation, ("Grantee"),

WITNESS:

That Grantor, in consideration of the sum of Two Dollars (\$2.00) and other valuable consideration, receipt of which is hereby acknowledged, does hereby grant to Metropolitan Utilities District of Omaha, its successors and assigns, an easement and right-of-way to lay, maintain, operate, repair, relay and remove, at any time, pipelines for the transportation of water and gas and all appurtenances thereto, including but not limited to fire hydrants and valve boxes, together with the right of ingress and egress on, over, under and through lands described as follows:

PERMANENT EASEMENT

The westerly five feet (5') of Lot Twenty-eight (28), as the same abuts 92nd Avenue, in Northwest Village 2nd Addition, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska.

du-27636

The easterly five feet (5') of Lot One (1) and the easterly five feet (5') of the southerly forty-five feet (45') of Lot Two (2), both as the same abut 92nd Avenue, and both in Northwest Village 2nd Addition, Replat Three (3), an administrative subdivision, as surveyed, platted and recorded in Douglas County, Nebraska.

du-27642

This permanent easement contains a total of 0.026 of an acre, more or less, and is shown on the drawing attached hereto and made a part hereof by this reference.

TO HAVE AND TO HOLD said Easement and Right-of-Way to Grantee, Metropolitan Utilities District of Omaha, its successors and assigns.

1. The Grantor and its successors and assigns shall not at any time erect, construct or place on or below the surface of the easement tract any building or structure, except pavement and similar covering, and shall not permit anyone else to do so.

*Pls return to:
MUD
R. Owens
1723 Harney St
Omaha, NE 68102*



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By

RICHARD H. TAKECHI
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THESE DECLARATIONS, made on the date shown on the close of this instrument, by the party or parties hereto who are, at the close of this instrument, described as "Declarant",

WITNESSETH:

WHEREAS, Declarant, whether one or more, is the owner of certain property in Douglas County, Nebraska, more particularly described as follows:

Lots 1 through 33, inclusive, Northwest Village 2nd Addition, Replat Four, a subdivision located in Douglas County, Nebraska, as surveyed, platted and recorded, Lot 1, Northwest Village 2nd Addition, Replat One, a subdivision in Douglas County, Nebraska and Lot 1, Northwest Village 2nd Addition, Replat Three, a subdivision in Douglas County, Nebraska;

00-27643

00-27642

*NKA Lots 1 and 2 Northwest Village 2nd Addition, Replat Five

00-27644

WHEREAS, Declarant desires to make all of the above described property subject to the covenants, conditions and restrictions hereinafter set forth;

NOW, THEREFORE, Declarant hereby declares that all of the property hereinabove described shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with, all of said real property and shall be binding on all parties having any right, title or interest in said properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I DEFINITIONS

SECTION 1. "Association" shall mean and refer to Northwest Village 2nd Homeowners Association, Inc., a Nebraska nonprofit corporation, its successors and assigns.

SECTION 2. "Owner" shall mean and refer to:

*Laeghtin
Peterson Long
11306 Davenport St
Omaha Ne 68154*

18478 B

FEE 73	FB	see above
BKP	C/O	COMP VMB
DEL	SCAN	OC
		FV

- (a) The record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, but excluding those having such interest merely as security for the performance of an obligation or as an encumbrance upon the interest of the beneficial owner, and
- (b) The purchaser, whether one or more persons or entities, under a recorded contract for the sale and purchase of a Lot, under which the Seller retains title solely as security for the performance of the purchasers obligation under the contract.

SECTION 3. "Properties" shall mean and refer to:

Lots 1 through 33, inclusive, of Northwest Village 2nd Addition, Replat Four, a subdivision located in Douglas County, Nebraska, as surveyed, platted and recorded, Lot 1, Northwest Village 2nd Addition, Replat One, a subdivision in Douglas County, Nebraska and Lot 1, Northwest Village 2nd Addition, Replat Three, a subdivision in Douglas County, Nebraska,

** N/A to Lots 1 and 2 Northwest Village 2nd Addition, Replat Five*
together with any such additions thereto as may hereafter be brought within the jurisdiction of the Association.

SECTION 4. "Lot" shall mean and refer to any platted Lot shown upon any recorded subdivision map of the Properties or a parcel or lot resulting from a Lot split or replating.

SECTION 5. "Declarant" shall mean and refer to all persons and entities signing this instrument, their successors and assigns.

ARTICLE II PROPERTY RIGHTS

SECTION 1. The Association may suspend the voting rights of an Owner for any period during which any assessment against such Owner's Lot remains unpaid, and for any period not to exceed 60 days for any infraction by any such Owner, or members or such Owner's family, or guests or tenants of such Owner, of the published rules and regulations of the Association.

SECTION 2. Parking Rights. Ownership of any Lot shall entitle the Owner or Owners thereof to such parking rights as shall be available upon such Lot.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

SECTION 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Each Lot Owner is empowered to enforce the covenants. Membership shall be appurtenant to and shall not be separated from ownership of any Lot which is subject to any assessment.

SECTION 2. Members holding 1/10th of the votes entitled to be cast represented in person or by proxy shall constitute a quorum.

SECTION 3. The Association shall have two classes of voting members, Class A Members and Class B Members, defined as follows:

CLASS A: Class A Members shall be all Owners, including the Declarant. Each Class A Member shall be entitled to one vote for each Lot owned. When there shall be more than one person or entity holding an interest in any Lot, all such persons or entities or both, shall be Members; provided however that the vote for such Lot shall be exercised as such persons or entities or both, shall determine, but in no event shall more than one vote be cast with respect to any one Lot.

CLASS B: The Class B Member shall be the Declarant, or its successors and assigns, who shall be entitled to two votes for each Lot owned by the Declarant, or its successors or assigns, in addition the votes to which the Declarant is entitled as a Class A Member. The Class B membership shall terminate, with the Declarant or its successors and assigns, then entitled to one vote for each Lot owned by the Declarant, or its successors and assigns, as a Class A Member, upon the occurrence of the first of the following dates:

- (a) The date on which the total votes outstanding in the Class A membership shall equal the total votes outstanding in the Class B membership, or
- (b) December 31, 2000.

ARTICLE IV COVENANT FOR MAINTENANCE ASSESSMENTS

SECTION 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant hereby covenants for each Lot and for each Owner of any Lot, by acceptance of a deed therefore or by entering into a contract for the purchase thereof, whether or not it shall be so expressed in such deed or in such contract, that it is, and shall be, deemed to covenant and agree to pay to the Association;

- (1) Special assessments for capital improvements, and

- (2) Monthly assessments for exterior maintenance and other operational expenses with respect to each Lot as deemed necessary by the Association,

as such assessments shall be established and collected as hereinafter provided. The special assessments and monthly assessments together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be continuing lien upon the property against which each such assessment shall be made. Each such assessments, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person, persons, or entity who, or which, was the Owner of the property at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to such Owner's successors in title, unless expressly assume by them.

SECTION 2. Purposes of Assessments. The assessments levied by the Association shall be used exclusively to promote the health, safety, recreation and welfare of the residents in the Properties for the maintenance, construction, reconstruction and repair of any common area, if any, and the roadway, utilities and improvements within the common area or public right of way within or abutting the Properties, and other matters as more fully set out in Article V herein.

SECTION 3. Monthly Assessments. The Board of Directors shall have the authority to levy and assess from time to time against an Lot any monthly maintenance Assessment for the purpose of meeting the requirements of Section 1 of Article V herein for exterior maintenance.

SECTION 4. Special Assessment for Capital Improvements. The Association may levy special assessments from time to time against an Lot for the purpose of meeting the requirements of Section 2 of Article V herein for the costs of any construction, reconstruction, repair or replacement of any capital improvements on or within the common area, provided that any such assessment shall have the consent of two-thirds (2/3) of the votes of each class of membership, who shall vote in person or by proxy at a meeting duly called for such purpose.

SECTION 5. Notice and Quorum for Any Action Authorized Under Section 1. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 of this Article IV shall be sent to all Members not less than 10 days nor more than 50 days in advance of such meeting. At the first such meeting called, the presence of Members, in person or by proxy, entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. Any such subsequent meeting shall be held within 60 days following the preceding meeting.

SECTION 6. Rate of Assessment. The monthly assessments shall be paid prorata by the Owners of all Lots based upon the total number of Lots; provided, however, the Board of Directors of the Association may equitably adjust such prorations if it determines that certain Lots

on which all of the improvements are not yet completed do not receive all of the benefits for which such assessments are levied. The monthly assessments may be collected on a monthly or other periodic basis by the Association. The Board of Directors of the Association shall fix the amount of the monthly or other periodic assessments against each Lot. Written notice of the assessment shall be sent to every Owner subject thereto. The dates payments are due shall be established by the Board of Directors. The special assessments for capital improvements shall only be assessed against the Lot for which the costs of such construction, reconstruction, repair or replacement of any capital improvements occurs. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association, setting forth whether or not all assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments, on a particular Lot shall be binding upon the Association as of the date of its issue by the Association.

SECTION 7. Effect of Nonpayment of Assessment; Remedies of the Association.

Any assessment not paid within thirty (30) days after the due date shall be deemed delinquent and shall bear interest at the maximum legal rate allowable by law in the State of Nebraska, which at the time of the execution of these Declarations, is sixteen percent (16%) per annum. Should any assessment remain unpaid more than sixty (60) days after the due date, the Association may declare the entire unpaid portion of said assessment for said year to be immediately due and payable and thereafter delinquent. The Association may bring an action at law against the Owner personally obligated to pay the same, or may foreclose the lien of such assessment against the property through proceedings in any Court having jurisdiction of actions for the enforcement of such liens. No Owner may waive or otherwise escape liability for the assessments provided herein by abandonment or title transfer of such Owner's Lot.

SECTION 8. Subordination of the Lien to Mortgages. The lien on the assessments provided for herein shall be subordinate to the lien of any first mortgage, first deed of trust, or other initial purchase money security device, and the holder of any first mortgage, first deed of trust, or other initial purchase money security device, on any Lot may rely on this provision without the necessity of the execution of any further subordination agreement by the Association. Sale or transfer of any Lot shall not affect the status or priority of the lien for assessments made as provided herein. The Association, if authorized by its Board of Directors, may release the lien of any delinquent assessments on any Lot as to which the first mortgage, first deed of trust or initial purchase money security device thereon is in default, if such Board of Directors determines that such lien has no value to the Association. No mortgagee shall be required to collect any assessments due. The Association shall have the sole responsibility to collect all assessments due.

**ARTICLE V
EXTERIOR & COMMON AREA MAINTENANCE**

The Association shall maintain and repair at its cost the fence on the west property line of the subdivision. The Association may provide for the maintenance, repair, snow removal and reconstruction to and for the roadway and utility improvements within the common area or within

the public right of way within or abutting the Properties. The Association may also provide, at its discretion, for the maintenance and repair of the yards, driveways and exterior of the home within the Properties.

SECTION 1. Monthly assessments may be assessed for, but not limited to, the following:

- (a) Maintenance and repair of trees and shrubs, lawns, fencing, gates and other exterior landscaping improvements as originally installed by the Declarant or as agreed to be maintained by the Association.
- (b) Operation and maintenance of an underground watering system within the common area or right of way.
- (c) Maintenance, repair, snow removal and reconstruction for the roadway, grounds, improvements, and utility improvements within the common areas or right of way.
- (d) The exterior repair and maintenance of the homes within the Properties as agreed to by the Association.
- (e) Electrical service for operation of common lighting, gates and other exterior improvements.

SECTION 2. Special assessments may be assessed for, but are not limited to, the following:

- (a) Repair and replacement of the roofs on the homes within the Properties if the Association elects to perform such improvements in a uniform manner throughout the Properties.
- (b) The repair, including payment, of the exterior walls of structures within the Properties, if the Association elects to perform such improvements on a uniform basis.
- (c) The repair, reconstruction and construction of the improvements provided by the Declarant as part of the development and other improvements provided by the Association.

**ARTICLE VI
ARCHITECTURAL CONTROL**

No building, fence, wall, or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition or change or alteration therein be made, nor shall any trees, shrubs, or plantings be planted or maintained upon the Properties, until the plans and specifications therefor, showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing, as to harmony of external design and location in relation to surrounding structures and topography, and in relation to other trees, shrubs and plantings, by the Declarant of the Association. Failure of the Declarant to act on such plans as submitted within 30 days after the date of submission shall be deemed to be approval of such plans, and the Owner may proceed in accordance with such plans and specifications. The Declarant shall have the right to assign its plan approval authority described herein to any person or entity, including the Board of Directors of the Association.

**ARTICLE VII
GENERAL RESTRICTIONS AND OTHER PROVISIONS**

SECTION 1. Restrictions. Every Owner shall have full rights of ownership and full use and enjoyment of his Lot, subject to the following restrictions:

- (a) No structure shall be constructed on any Lot other than one duplex or townhome, consisting of one or two units, or single family structure. Said structure shall conform to the following requirements:

One Story structure with attached garage	1,200 sq. ft.	On the main floor, exclusive of garage area
One Story structure with basement garage	1,200 sq. ft.	On the main floor, exclusive of garage area
One and one-half story structure	1,400 sq. ft.	Total area above the basement level; minimum 850 sq. ft. on the main floor
Two Story structure	1,600 sq. ft.	Total area above the basement level; minimum 850 sq. ft. on the main floor

For the purposes of these restrictions, two story height shall, when the basement is exposed above finish grade, shall be measured from the basement ceiling on the exposed side(s) to the eave of the structure on the same side(s). Area means finished habitable space, measured

to the exterior of the enclosing walls, and does not include porches, stoops, breezeways, courtyards, patios, decks, basements, garages or carports. The basement is not considered a story even if it is 100% above grade on one side, and essentially below grade on the other three sides. All dwellings must have attached, enclosed or side-by-side two (2) car garages which must contain area of not less than three hundred eighty-five (385) square feet.

- (b) All exterior block on the foundation facing the street of any structure shall be faced with brick, stone or another material approved by the Declarant pursuant to Article VI.
- (c) Each unit shall contain a two car garage and a sprinkler system.
- (d) All driveways shall be constructed of concrete, brick or asphaltic concrete.
- (e) A dwelling on which construction has begun must be completed within one year from the date the foundation was dug for said dwelling.
- (f) All yards shall be sodded as soon as reasonably possible after the construction of the dwelling is completed, however, such sodding shall be completed in all events within one year from the date the foundation of the residence on the lot was completed.
- (g) No fences or enclosures of any type or nature whatsoever shall ever be constructed, erected, placed or maintained on any Lot within the Properties, unless such fences or enclosures shall have first been authorized in writing by the Association. No clothes line or clothes hanger shall be constructed on any Lot or used on any Lot outside of a building located thereon. No exterior television or radio antenna shall be erected on any Lot within the Properties; provided however, that with the written approval of the Association, a satellite dish measuring 18 inches or less in diameter may be erected so long as such satellite dish is hidden from the view of the adjoining Properties.

- (h) No animals, livestock or poultry of any kind shall be raised or kept on any Lot in the Properties, other than non-exotic household pets. No such pet shall be kept, bred or maintained for commercial purposes. No animals, livestock or poultry of any kind shall be raised or kept on any Lot in the Properties, other than household pets, which shall be limited to one (1) per household and which a household pet shall not exceed twenty pounds (20) in weight. All pets shall be confined to the Lot by radio controlled fencing or leashed when outside the residential structure and patio area. All unpleasantries created by the household pet shall be the responsibility of the Owner, and he shall be obligated to clean up after the animal.
- (i) No noxious, offensive, or illegal activity shall be carried on upon the Properties, nor shall any trash, ashes or other refuse be thrown, placed, or dumped upon any Lot, nor shall anything ever be done which may be or become an annoyance or nuisance to the neighborhood. No outside above-ground trash receptacles or incinerators shall be permitted on any Lot.
- (j) No advertising signs or billboards shall be permitted on any Lot with the exception of "for sale" or "for rent" signs, which shall not exceed four square feet in size. Nothing herein contained shall prevent the use of any Lot by the Declarant, its agents, and the Association as a sales and rental office, or as a model home or both, and while any Lot is so used, they shall have the right, for themselves, or their nominees, to place signs on the premises advertising such office or model home, or both.
- (k) No trailer, tent, shack, barn or other outbuilding shall at any time be used for human habitation, either temporarily or permanently. No outbuilding shall be constructed on any Lot without the prior written consent of the Declarant, or its successors and assigns, pursuant to the plan approval procedure set forth in these Covenants. This shall not prevent the

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location of a temporary real estate and/or construction office on any Lot in the Properties for use during the period of construction and sale of the Properties.

**ARTICLE VIII
INSURANCE**

SECTION 1. The Association may purchase and provide insurance of the type(s) and in the amounts that the Board of Directors deem necessary.

**ARTICLE IX
ACCESS**

The Association, its officers, employees and agents, and contractors and repairmen designated by the Association, shall have the right to go on any Lot for the purpose of performing maintenance and repair, making inspections and performing the duties of the Association hereunder, and the Association is hereby granted a specific easement for such purposes.

**ARTICLE X
UTILITY METERS AND SERVICE LINES**

In order to facilitate the installation, operation, maintenance and repair of an underground watering system, such Lots as shall be designated from time to time by the Association shall have a dual metering system for water so as to permit the drawing of water for watering of the laws, shrubs, trees and other vegetation located upon the Lots. It is understood that the amount of water metered for the residential use on any such Lot shall be paid for by the Owner of each Lot receiving water.

**ARTICLE XI
GENERAL PROVISIONS**

SECTION 1. Enforcement. The Association, any Owner or the Declarant shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure of the Association, any Owner or the Declarant to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

SECTION 2. Severability. Invalidation of any one or more of these covenants or restrictions, by judgment or court Order, shall in no way affect any other provisions, which other provisions shall remain in full force and effect.

SECTION 3. Amendment. These Declarations may be amended at any time during the initial twenty (20) year term referred to in Section 4, hereafter, by an instrument signed by the Owners of not less than ninety percent (90%) of the Lots then covered by these Declarations, and thereafter by an instrument signed by the Owners of not less than seventy-five percent (75%) of the Lots then covered by these Declarations. The Declarant shall have the right to amend these Declaration for any reason during the initial term of five (5) years from the date these Declarations are recorded.

SECTION 4. Term. These covenants and restrictions contained in this Declaration shall run with the land, and shall be binding for an initial term of twenty (20) years from the date these Declarations are recorded, after which time they shall be automatically extended for successive periods of ten (10) years each.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, have executed these Declarations of Covenants, Conditions and Restrictions this 16 day of September, 1999.

OLD MILITARY SQUARE, L.L.C., a
Nebraska limited liability company, Declarant

By: *James K. Malone*

STATE OF NEBRASKA)
COUNTY OF DOUGLAS) SS.

Before me the undersigned, a notary public, personally came Donald M. Malone, a member, and acknowledged the execution of the above to be his voluntary act and deed on behalf of Old Military Square, L.L.C., a Nebraska limited liability company.

WITNESS my hand and notarial seal this 16th day of September, 1999.

Jody A. Hill
Notary Public

FAAGREES\REAL\OLDMIL2.COV

