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GAINES, MULLEN, PANSING
& HOGAN
10050 Regency Circle, Suite 200
Omaha, NE 68114-3773



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GEORGE J. LEE
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DOUGLAS COUNTY, NE

**DECLARATION
OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
OF LINDEN ESTATES 2ND ADDITION, A SUBDIVISION
IN DOUGLAS COUNTY, NEBRASKA**

THIS DECLARATION, made on the date hereinafter set forth, is made by HORGAN DEVELOPMENT COMPANY, a Nebraska corporation, hereinafter referred to as the "Declarant".

PRELIMINARY STATEMENT

The Declarant is the owner of certain real property located within Douglas County, Nebraska and described as follows:

Lots 1 through 196, inclusive, in Linden Estates 2nd Addition, a Subdivision, as surveyed, platted and recorded in Douglas County, Nebraska.

Such lots are herein referred to collectively as the "Lots" and individually as each "Lot".

The Lots are situated in Linden Estates 2nd Addition, a residential subdivision situated between 132nd and 144th Streets south of Linden Park and Linden Estates, in Douglas County, Nebraska, and herein referred to as "Linden Estates 2nd Addition."

The Declarant desires to provide for the preservation of the values and amenities of Linden Estates 2nd Addition, for the maintenance of the character and residential integrity of Linden Estates 2nd Addition, and for the acquisition, construction and maintenance of Common Facilities for the use and enjoyment of the residents of Linden Estates 2nd Addition.

NOW, THEREFORE, the Declarant hereby declares that each and all of the Lots shall be held, sold and conveyed subject to the following restrictions, covenants, conditions and easements, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Lots, and the enjoyment of the residents of the Lots. These restrictions, covenants, conditions and easements shall run with such Lots and shall be binding upon all parties having or acquiring any right, title or interest in each Lot, or any part thereof, as is more fully described herein. The Lots are, and each Lot is and shall be subject to all and each of the following conditions and other terms:

**ARTICLE I.
RESTRICTIONS AND COVENANTS**

1. Each Lot shall be used exclusively for single-family residential purposes, except for such Lots or parts thereof as may hereafter be conveyed or dedicated by Declarant, or its successors or assigns, for use in connection with a Common Facility or for a park.

2. No residence, building, fence, wall, driveway, patio, patio enclosure, swimming pool, basketball backboards, dog house, pool house, tree house, antenna, satellite receiving station or "discs", solar heating or cooling device, tool shed, wind mill, or other external improvement, above or below the ground (herein all referred to as any "Improvement") shall be constructed, erected, placed or permitted to remain on any Lot, nor shall any

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grading or excavation for any improvement be commenced, except for improvements which have been approved by Declarant as follows:

(a) An Owner desiring to erect an improvement on any Lot shall deliver two sets of construction plans, landscaping plans and plot plans to Declarant (herein collectively referred to as the "plans"). Such plans shall include a description type, quality, color and use of materials proposed for the exterior of such improvement. Concurrent with submission of the plans, Owner shall notify the Declarant of the Owner's mailing address.

(b) Declarant shall review such plans in relation to the type and exterior of improvements constructed, or approved for construction, on neighboring Lots and in the surrounding area, and any general scheme or plans formulated by Declarant. In this regard, Declarant intends that the Lots shall be developed residential community with homes constructed of high quality materials. The decision to approve or refuse approval of a proposed improvement shall be exercised by Declarant to promote development of the Lots and to protect the values, character and residential quality of all Lots. By way of illustration, and not of limitation, it is intended that the architecture of the residential structures constructed shall be consistent with the architecture found in the Linden Estates and Linden Park subdivisions in Douglas County, Nebraska. Atypical improvements and home designs such as dome houses, A-frame houses and log cabins will not be approved unless the Declarant determines that construction of these improvements will not be materially inconsistent with the scheme of development contemplated by this Declaration. If Declarant determines that the external design and location of the proposed improvement does not conform with the standards or requirements of this Declaration, does not conform with the surrounding improvements and topography or will not protect and enhance the integrity and character of all the Lots and neighboring lots, if any, as a quality residential community, Declarant may refuse approval of the proposed improvement.

(c) Written Notice of any approval of a proposed improvement shall be mailed to the owner at the address specified by the owner upon submission of the plans. Such notice shall be mailed, if at all, within thirty (30) days after the date of submission of the plans. If notice of approval is not mailed within such period, the proposed improvement shall be deemed disapproved by Declarant.

(d) No Lot owner, or combination of Lot owners, or other person or persons shall have any right to any action by Declarant, or to control, direct or influence the acts of the Declarant with respect to the approval or disapproval of any proposed improvement. No responsibility, liability or obligation shall be assumed by or imposed upon Declarant by virtue of the authority granted to Declarant in this Section, or as a result of any act or failure to act by Declarant with respect to any proposed improvement.

3. No single-family residence shall be created, altered, placed or permitted to remain on any Lot other than one detached single-family dwelling which does not exceed two and one-half stories in height.

4. The exposed foundation walls must be constructed of or faced with brick or other material approved in writing by Declarant. All driveways must be constructed of concrete, brick, paving stone, or laid stone. All foundations shall be constructed of concrete, concrete blocks, brick or stone. Fireplace chimneys shall be covered with brick, or other material approved in writing by Declarant. The roof of all improvements shall be covered with wood cedar shakes or shingles, or other material approved in writing by Declarant. Hardboard, pressed wood, bonded wood, and the like will not be approved by Declarant for coverage of any roof.

5. No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any Lot except one sign per Lot consisting of not more than six (6) square feet advertising a lot as "For Sale"; nor shall the premises be used in any way for any purpose which may endanger the health or unreasonably disturb the owner or owners of any Lot or any resident thereof.

6. No exterior television or radio antenna, satellite receiving disc, or exterior solar heating or cooling device of any sort shall be permitted on any Lot, except that DSS format receiving discs may be approved by Declarant if the disc element is less than twenty (20) inches in diameter, not visible by public view and properly screened.

7. No repair of any boats, automobiles, motorcycles, trucks, campers or similar vehicles requiring a continuous time period in excess of forty-eight (48) hours shall be permitted on any Lot at any time; nor shall

vehicles offensive to the neighborhood be visibly stored, parked or abandoned on any Lot. No unused building material, junk or rubbish shall be left exposed on the Lot except during actual building operations, and then only in as neat and inconspicuous a manner as possible.

8. No boat, camper, trailer, auto-drawn or mounted trailer of any kind, mobile home, truck, aircraft, camper truck or similar chattel shall be maintained or stored on any part of a Lot (other than in an enclosed structure) for more than twenty (20) days within a calendar year. No motor vehicle may be parked or stored outside on any Lot, except vehicles driven on a regular basis by the occupants of the dwelling located on such Lot. No grading or excavating equipment, tractors or semitrailers/trailers shall be stored, parked, kept or maintained in any yards, driveways or streets. However, this section 8 shall not apply to trucks, tractors or commercial vehicles which are necessary for the construction of residential dwellings or other improvements during the period of construction. All Lots shall provide at least the minimum number of off-street parking areas or spaces for private passenger vehicles required by the applicable zoning ordinances of the City of Omaha, Nebraska.

9. No incinerator or trash burner shall be permitted on any Lot. No garbage or trash can or container or fuel tank shall be permitted unless completely screened from view, except for pickup purposes. No garden lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling or suitable storage facility, except when in actual use. No garbage, refuse, rubbish or cutting shall be deposited on any street, road or Lot. No clothes line shall be permitted outside of any dwelling at any time. Produce or vegetable gardens may only be planted and maintained in rear yards.

10. Exterior lighting installed on any Lot shall either be indirect or of such a controlled focus and intensity as not to disturb the residents of adjacent Lots.

11. The Declarant shall establish a uniform design for brick and wrought iron fences on all Lots with such uniform design to consist exclusively of wrought iron and/or wrought iron and brick columns unless another design or material is approved in writing by the Declarant. No hedges or mass planted shrubs shall be permitted more than ten (10) feet in front of the front building line unless otherwise approved by Declarant. No fences or walls shall exceed a height of six (6) feet unless otherwise approved by Declarant. Wooden fences may be approved on the following nonestate lots only: Lots 2 through 6, inclusive, Lots 9 through 14, inclusive, Lots 18 through 23, inclusive, Lots 27, 28, 107 through 112, inclusive, Lots 117 through 123, inclusive, Lots 130 through 135, inclusive, and Lots 136 through 142, inclusive, only.

12. No swimming pool may extend more than one foot above ground level.

13. Construction of any improvement shall be completed within eighteen (18) months from the date of commencement of excavation or construction of the improvement. No dirt shall be brought on to any Lot to change the grades established by the Declarant other than as may be consistent with a landscaping plan approved by Declarant.

14. Commencing with completion of construction of any improvement on a Lot, a public sidewalk constructed of concrete four (4) feet wide by four (4) inches thick shall be installed and maintained in front of each Lot and upon each street side of each corner Lot. The sidewalk shall be placed five (5) feet back of the street curb line and shall be constructed by the owner of the Lot prior to the time of completion of the main structure and before occupancy thereof; provided, however, this provision shall vary to comply with any requirements of the City of Omaha.

15. Driveway approaches between the sidewalk and curb on each Lot shall be constructed of concrete. Should repair or replacement of such approach be necessary, the repair or replacement shall also be of concrete. No asphalt overlay of driveway approaches will be permitted.

16. No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any Lot, except for one dog house constructed for one (1) dog; provided always that the construction plans, specifications and the location of the proposed structure have been first approved by Declarant, or its assigns. Dog houses shall only be allowed adjacent to the rear of the building, concealed from public view. No dog runs or kennels may be constructed or installed on any Lot.

17. Any exterior air conditioning condenser unit shall be placed in the rear yard or any side yards so as not to be visible from public view. No grass, weeds or other vegetation will be grown or otherwise permitted

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to commence or continue, and no dangerous, diseased or otherwise objectionable shrubs or trees will be maintained on any Lot so as to constitute an actual or potential public nuisance, create a hazard or undesirable proliferation, or detract from a neat and trim appearance. Vacant Lots shall not be used for dumping of earth or any waste materials, and no vegetation on vacant Lots shall be allowed to reach a height in excess of twelve (12) inches.

18. No Residence shall be constructed on a Lot unless the entire Lot, as originally platted, is owned by one owner of such Lot, except if parts of two or more platted Lots have been combined into one Lot which is at least as wide as the narrowest Lot on the original plat, and is as large in area as the largest Lot in the original plat.

19. No structure of a temporary character, carport, detached garage, trailer, basement, tent, storage shed, outbuilding or shack shall be erected upon or used on any Lot at any time, either temporarily or permanently. Pool and bath houses may be approved by the Declarant as an Improvement, pursuant to Paragraph 2 of this Article. No structure or dwelling shall be moved from outside Linden Estates 2nd Addition to any Lot without the written approval of Declarant.

20. All utility service lines from each lot line to a dwelling or other Improvement shall be underground.

ARTICLE II. BOUNDARY FENCE

1. Declarant has constructed or will construct a boundary wall both along 132nd Street and 144th Street (the "Boundary Wall"). The Boundary Wall is situated on the east boundary line of Lots 1 through 3, inclusive, 70 through 72, inclusive, 105 through 109, inclusive, the east boundary line of Outlot 1, and along the west boundary line of Lots 183 through 190, inclusive. All such lots are collectively referred to as the "Boundary Lots".

2. Declarant hereby declares that the Boundary Lots are subject to a permanent and exclusive right and easement in favor of Declarant and the Linden Estates 2nd Addition Homeowners Association to maintain, repair and replace the Boundary Wall and any signs installed on or near the Boundary Wall. Without limitation of the rights and easements granted by this Declaration, the Declarant or Association may come upon any of the Boundary Lots for the purpose of constructing, installing, repairing, maintaining, removing, and replacing the Boundary Wall.

3. The rights and easements granted in this Article shall fully and finally terminate as to any Boundary Lot if: (i) the owner of the Boundary Lot gives written notice to the Association that the Association has failed to maintain the Boundary Wall on the Owner's Lot in neat and orderly condition and in good repair; and (ii) the Association fails to place the Boundary Wall on the Owner's Lot into good order and repair within ninety (90) days after the written notice.

ARTICLE III. HOMEOWNERS' ASSOCIATION

1. The Association. Declarant has caused the incorporation of LINDEN ESTATES 2ND ADDITION HOMEOWNERS ASSOCIATION, a Nebraska not-for-profit corporation (hereinafter referred to as the "Association"). The Association has as its purpose the promotion of the health, safety, recreation, welfare and enjoyment of the residents of Linden Estates 2nd Addition, including:

(a) The acquisition, construction, landscaping, improvement, equipment, maintenance, operation, repair, upkeep and replacement of Common Facilities for the general use, benefit and enjoyment of the Members. Common Facilities may include recreational facilities such as swimming pools, tennis courts, health facilities, playgrounds and parks; dedicated and nondedicated roads, paths, ways and green areas; and signs and entrances for Linden Estates 2nd Addition. Common Facilities may be situated on property owned or leased by the Association, on private property subject to an easement in favor of the Association, or on public property, or on property dedicated to a Sanitary Improvement District.

(b) The promulgation, enactment, amendment and enforcement of rules and regulations relating to the use and enjoyment of any Common Facilities, provided always that such rules are uniformly

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applicable to all Members. The rules and regulations may permit or restrict use of the Common Facilities by Members, their families, their guests, and/or by other persons, who may be required to pay a fee or other charge in connection with the use or enjoyment of the Common Facility.

(c) The exercise, promotion, enhancement and protection of the privileges and interests of the residents of Linden Estates 2nd Addition; and the protection and maintenance of the residential character of Linden Estates 2nd Addition.

2. Membership and Voting. Linden Estates 2nd Addition is divided into one hundred ninety-six (196) separate lots (referred to as the "Subdivision Lots"). The "Owner" of each Subdivision Lot shall be a Member of this Association. For purposes of this Declaration, the term "Owner" of a Subdivision Lot means and refers to the record owner, whether one or more persons or entities, of fee simple title to a Subdivision Lot, but excluding however those parties having any interest in any of such Subdivision Lot merely as security for the performance of an obligation (such as a contract seller, the trustee or beneficiary of a deed of trust, or a mortgagee). The purchaser of a Subdivision Lot under a land contract or similar instrument shall be considered to be the "Owner" of the Subdivision Lot for purposes of this Declaration. Membership shall be appurtenant to ownership of each Subdivision Lot, and may not be separated from ownership of each Subdivision Lot.

The Owner of each Subdivision Lot, whether one or more persons and entities, shall be entitled to one (1) vote on each matter properly coming before the Members of the Association.

3. Purposes and Responsibilities. The Association shall have the powers conferred upon not for profit corporations by the Nebraska Nonprofit Corporation Act, and all powers and duties necessary and appropriate to accomplish the Purposes and administer the affairs of the Association. The powers and duties to be exercised by the Board of Directors, and upon authorization of the Board of Directors by the Officers, shall include but shall not be limited to the following:

(a) The acquisition, development, maintenance, repair, replacement, operation and administration of Common Facilities, and the enforcement of the rules and regulations relating to the Common Facilities.

(b) The landscaping, mowing, watering, repair and replacement of parks and other public property and improvements on parks or public property within or near Linden Estates 2nd Addition.

(c) The fixing, levying, collecting, abatement, and enforcement of all charges, dues, or assessments made pursuant to the terms of this Declaration.

(d) The expenditure, commitment and payment of Association funds to accomplish the purposes of the Association including, but not limited to, payment for purchase of insurance covering any Common Facility against property damage and casualty, and purchase of liability insurance coverages for the Association, the Board of Directors of the Association and the Members.

(e) The exercise of all of the powers and privileges, and the performance of all of the duties and obligations of the Association as set forth in this Declaration, as the same may be amended from time to time.

(f) The acquisition by purchase or otherwise, holding, or disposition of any right, title or interest in real or personal property, wherever located, in connection with the affairs of the Association.

(g) The deposit, investment and reinvestment of Association funds in bank accounts, securities, money market funds or accounts, mutual funds, pooled funds, certificates of deposit or the like.

(h) The employment of professionals and consultants to advise and assist the Officers and Board of Directors of the Association in the performance of their duties and responsibilities for the Association.

(i) General administration and management of the Association, and execution of such documents and doing and performance of such acts as may be necessary or appropriate to accomplish such administration or management.

(j) The doing and performing of such acts, and the execution of such instruments and documents, as may be necessary or appropriate to accomplish the purposes of the Association.

4. Mandatory Duties of the Association. The Association shall maintain and repair the fences and signs which have or will be installed by Declarant in Linden Estates 2nd Addition, in good repair and neat condition.

5. Imposition of Dues and Assessments. The Association may fix, levy and charge the Owner of each Subdivision Lot with dues and assessments (herein referred to respectively as "dues and assessments") under the following provisions of this Declaration. Except as otherwise specifically provided, the dues and assessments shall be fixed by the Board of Directors of the Association and shall be payable at the times and in the manner prescribed by the Board.

6. Abatement of Dues and Assessments. Notwithstanding any other provision of this Declaration, the Board of Directors may abate all or part of the dues or assessments due in respect of any Subdivision Lot, and shall abate all dues and assessments due in respect of any Subdivision Lot during the period such Subdivision Lot is owned by the Declarant.

7. Liens and Personal Obligations for Dues and Assessments. The assessments and dues, together with interest thereon, costs and reasonable attorneys' fees, shall be the personal obligation of the Owner of each Subdivision Lot at the time when the dues or assessments first become due and payable. The dues and assessments, together with interest thereon, costs and reasonable attorneys' fees, shall also be a charge and continuing lien upon the Subdivision Lot in respect of which the dues and assessments are charged. The personal obligation for delinquent assessments shall not pass to the successor in title to the Owner at the time the dues and assessments become delinquent unless such dues and assessments are expressly assumed by the successors, but all successors shall take title subject to the lien for such dues and assessments, and shall be bound to inquire of the Association as to the amount of any unpaid assessments or dues.

8. Purpose of Dues. The dues collected by the Association may be committed and expended to accomplish the purposes of the Association described in Section 1 of this Article, and to perform the Powers and Responsibilities of the Association described in Section 3 of this Article.

9. Maximum Annual Dues. Unless excess dues have been authorized by the Members in accordance with Section 10, below, the aggregate dues which may become due and payable in any year shall not exceed the greater of:

(a) One Hundred and no/100 Dollars (\$100.00) per Subdivision Lot.

(b) In each calendar year beginning on January 1, 1996, one hundred twenty-five percent (125%) of the aggregate dues charged in the previous calendar year.

10. Assessments for Extraordinary Costs. In addition to the dues, the Board of Directors may levy an assessment or assessments for the purpose of defraying, in whole or in part, the costs of any acquisition, construction, reconstruction, repair, painting, maintenance, improvement, or replacement of any Common Facility, including fixtures and personal property related thereto, and related facilities. The aggregate assessments in each calendar year shall be limited in amount to Two Hundred and no/100 Dollars (\$200.00) per Subdivision Lot.

11. Excess Dues and Assessments. With the approval of sixty percent (60%) of the Members of the Association, the Board of Directors may establish dues and/or assessments in excess of the maximums established in this Declaration.

12. Uniform Rate of Assessment. Assessments and dues shall be fixed at a uniform rate as to all Subdivision Lots, but dues may be abated as to individual Subdivision Lots, as provided in Section 5, above.

13. Certificate as to Dues and Assessments. The Association shall, upon written request and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the dues and assessments on a specified Subdivision Lot have been paid to the date of request, the amount of any delinquent sums, and the due date and amount of the next succeeding dues, assessment or installment thereof. The dues and assessment shall be and become a lien as of the date such amounts first become due and payable.

14. Effect of Nonpayment of Assessments-Remedies of the Association. Any installment of dues or assessment which is not paid when due shall be delinquent. Delinquent dues or assessment shall bear interest from the due date at the rate of sixteen percent (16%) per annum, compounded annually. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Subdivision Lot or Subdivision Lots, and pursue any other legal or equitable remedy. The Association shall be entitled to recover as a part of the action and shall be indemnified against the interest, costs and reasonable attorneys' fees incurred by the Association with respect to such action. No Owner may waive or otherwise escape liability for the charge and lien provided for herein by nonuse of the Common Area or abandonment of his Subdivision Lot. The mortgagee of any Subdivision Lot shall have the right to cure any delinquency of an Owner by payment of all sums due, together with interest, costs and fees. The Association shall assign to such mortgagee all of its rights with respect to such lien and right of foreclosure and such mortgagee may thereupon be subrogated to any rights of the Association.

15. Subordination of the Lien to Mortgagee. The lien of dues and assessments provided for herein shall be subordinate to the lien of any mortgage, contract or deed of trust given as collateral for a home improvement or purchase money loan. Sale or transfer of any Subdivision Lot shall not affect or terminate the dues and assessment lien.

ARTICLE IV. EASEMENTS

1. A perpetual license and easement is hereby reserved in favor of and granted to Omaha Public Power District, U S West telephone company, and any company which has been granted a franchise to provide a cable television system within the Lots, Metropolitan Utilities Company, and Sanitary and Improvement District No. 397 of Douglas County, Nebraska, their successors and assigns, to erect and operate, maintain, repair and renew buried or underground sewers, water and gas mains and cables, lines or conduits and other electric and telephone utility facilities for the carrying and transmission of electric current for light, heat and power and for all telephone and telegraph and message service and for the transmission of signals and sounds of all kinds including signals provided by a cable television system and the reception on, over, through, under and across a five (5) foot wide strip of land abutting the front and the side boundary lines of the Lots; an eight (8) foot wide strip of land abutting the rear boundary lines of all interior Lots and all exterior lots that are adjacent to presently platted and recorded Lots; and a sixteen (16) foot wide strip of land abutting the rear boundary lines of all exterior Lots that are not adjacent to presently platted and recorded Lots. The term exterior Lots is herein defined as those Lots forming the outer perimeter of the Lots. The sixteen (16) foot wide easement will be reduced to an eight (8) foot wide strip when such adjacent land is surveyed, platted and recorded.

2. A perpetual easement is further reserved for the Metropolitan Utilities District of Omaha, their successors and assigns to erect, install, operate, maintain, repair and renew pipelines, hydrants and other related facilities, and to extend thereon pipes, hydrants and other related facilities and to extend therein pipes for the transmission of gas and water on, through, under and across a five (5) foot wide strip of land abutting all cul-de-sac streets; this license being granted for the use and benefit of all present and future owners of these Lots; provided, however, that such licenses and easements are granted upon the specific conditions that if any of such utility companies fail to construct such facilities along any of such Lot lines within thirty-six (36) months of date hereof, or if any such facilities are constructed but are thereafter removed without replacement within sixty (60) days after their removal, then such easement shall automatically terminate and become void as to such unused or abandoned easementways. No permanent buildings, trees, retaining walls or loose rock walls shall be placed in the easementways but same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforementioned uses or rights granted herein.

3. In the event that ninety percent (90%) of all Lots within the subdivision are not improved within five (5) years after the date on which Northwestern Bell Telephone Company files notice that it has completed installation of telephone lines to the Lots in the subdivision (herein the "Subdivision Improvement Date"), then Northwestern Bell Telephone Company may impose a connection charge on each unimproved Lot in the amount of Four Hundred Fifty and no/100 Dollars (\$450.00). A Lot shall be considered as unimproved if construction of a permanent structure has not commenced on a Lot. Construction shall be considered as having commenced if a footing inspection has been requested on the Lot in question by officials of the City or other appropriate governmental authority.

Should such charge be implemented by Northwestern Bell Telephone Company and remain unpaid, then such charge may draw interest at the rate of twelve percent (12%) per annum commencing after the expiration of sixty (60) days from the time all of the following events shall have occurred: (1) the Subdivision Improvement Date, and (2) Northwestern Bell Telephone Company sends each owner of record a written statement or billing for Four Hundred Fifty and no/100 Dollars (\$450.00) for each unimproved Lot.

4. Other easements are provided for in the final plat of Linden Estates 2nd Addition which is filed in the Register of Deeds of Douglas County, Nebraska (Book 1996, Page 9).

**ARTICLE V.
GENERAL PROVISIONS**

1. Except for the authority and powers specifically granted to the Declarant, the Declarant or any owner of a Lot named herein shall have the right to enforce by a proceeding at law or in equity, all reservations, restrictions, conditions and covenants now or hereinafter imposed by the provisions of this Declaration either to prevent or restrain any violation or to recover damages or other dues of such violation. Failure by the Declarant or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

2. The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity. This Declaration may be amended by Horgan Development Company, a Nebraska corporation, or any person, firm, corporation, partnership, or entity designated in writing by Linden Park Partnership, a Nebraska general partnership, in any manner which it may determine in its full and absolute discretion for a period of five (5) years from the date hereof. Thereafter this Declaration may be amended by an instrument signed by the owners of not less than sixty percent (60%) of the Lots covered by this Declaration.

3. Horgan Development Company, a Nebraska corporation, or its successor or assign, may terminate its status as Declarant under this Declaration, at any time, by filing a Notice of Termination of Status as Declarant. Upon such filing, the Association may appoint itself or another entity, association or individual to serve as Declarant, and such appointee shall thereafter serve as Declarant with the same authority and powers as the original Declarant.

4. Invalidity of any covenant by judgment or court order shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has caused these presents to be executed this 27th day of July, 1995.

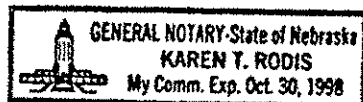
HORGAN DEVELOPMENT COMPANY, a Nebraska corporation, "Declarant"

By [Signature]
President

NOTARIAL SEAL AFFIXED
REGISTER OF DEEDS

STATE OF NEBRASKA)
) ss.:
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 27th day of July, 1995, by Robert P. Horgan, President of HORGAN DEVELOPMENT COMPANY, a Nebraska corporation, on behalf of the corporation.



[Signature]
Notary Public

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FIRST AMENDMENT TO
ESTATE LOTS DECLARATION
OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
OF LINDEN ESTATES, A SUBDIVISION
IN DOUGLAS COUNTY, NEBRASKA

THIS FIRST AMENDMENT TO the ESTATE LOTS DECLARATION of Linden Estates, made as of the date hereinafter set forth, and is made by LINDEN PARK PARTNERSHIP, a Nebraska general partnership, hereinafter referred to as the "Declarant".

PRELIMINARY STATEMENT

By its Estate Lots Declaration for Linden Estates, a Subdivision in Douglas County, Nebraska, dated November 15, 1989, and recorded on November 16, 1989, at Book 905, Pages 281 through 289, inclusive, of the Miscellaneous Records of the Register of Deeds of Douglas County, Nebraska (hereinafter referred to as the "Original Declaration"), Declarant subjected the following described lots to restrictions, covenants, conditions and easements:

Lots 1 through 73, inclusive, in Linden Estates, a Subdivision, as surveyed, platted and recorded in Douglas County, Nebraska.

Such lots are herein referred to collectively as the "Estate Lots" and individually as each "Estate Lot".

Declarant is desirous of amending the Original Declaration pursuant to the terms of Article V, General Provisions, Paragraph 2, as it relates to the Estate Lots:

The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity. This Declaration may be amended by Linden Park Partnership a Nebraska general partnership, or any person, firm, corporation, partnership, or entity designated in writing by Linden Park Partnership, a Nebraska general partnership, in any manner which it may determine in its full and absolute discretion for a period of five (5) years from the date hereof. Thereafter this Declaration may be amended by an instrument signed by the owners of not less than sixty (60%) of the Estate Lots covered by this Declaration.

Declarant does hereby substitute, amend and restate the Declaration in the following particulars only:

1. The Declarant does hereby restate and substitute for Article I, Restrictions and Covenants, Paragraph 11, as follows:

The Declarant shall establish a uniform design for brick and wrought iron fences on all Estate Lots with such uniform design to consist exclusively of wrought iron and/or wrought iron and brick columns unless another design or material is approved in writing by the Declarant. No hedges or mass planted shrubs shall be permitted more than ten (10) feet in front of the front building line unless otherwise approved by Declarant. No fences or walls shall exceed a height of six (6) feet unless otherwise approved by Declarant.

2. The Original Declaration is in all other matters ratified and affirmed.

The Declarant has executed this First Amendment to Estate Lots Declaration as of this 12th day of November, 1991.

LINDEN PARK PARTNERSHIP, a Nebraska general partnership, the "Declarant"

By: MAENNER/HORGAN DEVELOPMENT COMPANY, a Nebraska corporation, the Development Partner

By: Robert P. Horgan President

MAENNER/HORGAN DEVELOPMENT COMPANY

PG 447

OF MAENNER/HORGAN DEVELOPMENT COMPANY

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STATE OF NEBRASKA)
COUNTY OF DOUGLAS) ss.:

The foregoing instrument was acknowledged before me this 12th day of November, 1991, by Robert P. Horgan, President of Maenner/Horgan Development Company, the Development Partner of Linden Park Partnership, a Nebraska general partnership, on behalf of the Partnership.



Donna M. Horgan
Notary Public

mcc 234884

BOOK 905-281

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ESTATE LOTS DECLARATION
OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
OF LINDEN ESTATES, A SUBDIVISION
IN DOUGLAS COUNTY, NEBRASKA

GEORGE J. TUCLEWICZ
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

THIS DECLARATION, made on the date hereinafter set forth, is made by LINDEN PARK PARTNERSHIP, a Nebraska general partnership, hereinafter referred to as the "Declarant".

PRELIMINARY STATEMENT

The Declarant is the owner of certain real property located within Douglas County, Nebraska and described as follows:

Lots 1 through 73, inclusive, in Linden Estates, a Subdivision, as surveyed, platted and recorded in Douglas County, Nebraska.

Such lots are herein referred to collectively as the "Estate Lots" and individually as each "Estate Lot".

The Estate Lots are situated in Linden Estates, a residential subdivision situated southeast of 144th and Blondo Street in Douglas County, Nebraska and herein referred to as "Linden Estates". Linden Estates consists of the Estate Lots and forty-eight (48) other residential lots, collectively referred to with the Estate Lots as the "Subdivision Lots".

The Declarant desires to provide for the preservation of the values and amenities of Linden Estates, for the maintenance of the character and residential integrity of Linden Estates, and for the acquisition, construction and maintenance of Common Facilities for the use and enjoyment of the residents of Linden Estates.

NOW, THEREFORE, the Declarant hereby declares that each and all of the Estate Lots shall be held, sold and conveyed subject to the following restrictions, covenants, conditions and easements, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Estate Lots, and the enjoyment of the residents of the Estate Lots. These restrictions, covenants, conditions and easements shall run with such Estate Lots and shall be binding upon all parties having or acquiring any right, title or interest in each Estate Lot, or any part thereof, as is more fully described herein. The Estate Lots are, and each Estate Lot is and shall be subject to all and each of the following conditions and other terms:

ARTICLE I.
RESTRICTIONS AND COVENANTS

1. Each Estate Lot shall be used exclusively for single-family residential purposes, except for such Estate Lots or parts thereof as may hereafter be conveyed or dedicated by Declarant, or its successors or assigns, for use in connection with a Common Facility, or for a church, school or park, or for other non-profit use.

2. No residence, building, fence, wall, driveway, patio, patio enclosure, swimming pool, basketball backboards, dog house, pool house, or other external improvement, above or below the ground (herein all referred to as any "Improvement") shall be constructed, erected, placed or permitted to remain on any Estate Lot, nor shall any grading or excavation for any Improvement be commenced, except for Improvements which have been approved by Declarant as follows:

(a) An Owner desiring to erect an Improvement on any Estate Lot shall deliver two sets of construction plans, landscaping plans and plot plans to Declarant (herein collectively referred to as the "plans"). Such plans shall include a description type, quality, color and use of materials proposed for the exterior of such Improvement. Concurrent with submission of the plans, Owner shall notify the Declarant of the Owner's mailing address.

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(b) Declarant shall review such plans in relation to the type and exterior of improvements constructed, or approved for construction, on neighboring Estate Lots and in the surrounding area, and any general scheme or plans formulated by Declarant. In this regard, Declarant intends that the Estate Lots shall be developed residential community with homes constructed of high quality materials. The decision to approve or refuse approval of a proposed improvement shall be exercised by Declarant to promote development of the Estate Lots and to protect the values, character and residential quality of all Estate Lots. If Declarant determines that the proposed improvement will not protect and enhance the integrity and character of all the Estate Lots and neighboring lots as a quality residential community, Declarant may refuse approval of the proposed improvement.

(c) Written Notice of any approval of a proposed improvement shall be mailed to the owner at the address specified by the owner upon submission of the plans. Such notice shall be mailed, if at all, within thirty (30) days after the date of submission of the plans. If notice of approval is not mailed within such period, the proposed improvement shall be deemed disapproved by Declarant.

(d) No Estate Lot owner, or combination of Estate Lot owners, or other person or persons shall have any right to any action by Declarant, or to control, direct or influence the acts of the Declarant with respect to the approval or disapproval of any proposed improvement. No responsibility, liability or obligation shall be assumed by or imposed upon Declarant by virtue of the authority granted to Declarant in this Section, or as a result of any act or failure to act by Declarant with respect to any proposed improvement.

3. No single-family residence shall be created, altered, placed or permitted to remain on any Estate Lot other than one detached single-family dwelling which does not exceed two and one-half stories in height.

4. The exposed foundation walls must be constructed of or faced with brick or other material approved in writing by Declarant. All driveways must be constructed of concrete, brick, paving stone, or laid stone. All foundations shall be constructed of concrete, concrete blocks, brick or stone. Fireplace chimneys shall be covered with brick, or other material approved in writing by Declarant. The roof of all improvements shall be covered with wood cedar shakes or shingles, or other material approved in writing by Declarant. Hardboard, pressed wood, bonded wood, and the like will not be approved by Declarant for coverage of any roof.

5. No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any Estate Lot except one sign per Estate Lot consisting of not more than six (6) square feet advertising a lot as "For Sale"; nor shall the premises be used in any way for any purpose which may endanger the health or unreasonably disturb the owner or owners of any Estate Lot or any resident thereof.

6. No exterior television or radio antenna, satellite receiving disc, or exterior solar heating or cooling device of any sort shall be permitted on any Estate Lot.

7. No repair of any boats, automobiles, motorcycles, trucks, campers or similar vehicles requiring a continuous time period in excess of forty-eight (48) hours shall be permitted on any Estate Lot at any time; nor shall vehicles offensive to the neighborhood be visibly stored, parked or abandoned on any Estate Lot. No unused building material, junk or rubbish shall be left exposed on the Estate Lot except during actual building operations, and then only in as neat and inconspicuous a manner as possible.

8. No boat, camper, trailer, auto-drawn or mounted trailer of any kind, mobile home, truck, aircraft, camper truck or similar chattel shall be maintained or stored on any part of a Estate Lot (other than in an enclosed structure) for more than twenty (20) days within a calendar year. No motor vehicle may be parked or stored outside on any Estate Lot, except vehicles driven on a regular basis by the occupants of the dwelling located on such

Estate Lot. No grading or excavating equipment, tractors or semitractors/trailers shall be stored, parked, kept or maintained in any yards, driveways or streets. However, this section 8 shall not apply to trucks, tractors or commercial vehicles which are necessary for the construction of residential dwellings or other improvements during the period of construction. All residential Estate Lots shall provide at least the minimum number of off street parking areas or spaces for private passenger vehicles required by the applicable zoning ordinances of the City of Omaha, Nebraska.

9. No incinerator or trash burner shall be permitted on any Estate Lot. No garbage or trash can or container or fuel tank shall be permitted unless completely screened from view, except for pickup purposes. No garden lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling or suitable storage facility, except when in actual use. No garbage, refuse, rubble or cutting shall be deposited on any street, road or Estate Lot. No clothes line shall be permitted outside of any dwelling at any time. Produce or vegetable gardens may only be planted and maintained in rear yards.

10. Exterior lighting installed on any Estate Lot shall either be indirect or of such a controlled focus and intensity as not to disturb the residents of adjacent Estate Lots.

11. The Declarant shall establish a uniform design for brick and wrought iron fences bordering Hamilton Street, and all fences constructed on Estate Lots bordering Hamilton Street shall conform with such design and materials, unless another design or material is approved in writing by Declarant. No hedges or mass planted shrubs shall be permitted more than ten (10) feet in front of the front building line unless otherwise approved by Declarant. No fences or walls shall exceed a height of six (6) feet unless otherwise approved by Declarant.

12. No swimming pool may extend more than one foot above ground level.

13. Construction of any Improvement shall be completed within one (1) year from the date of commencement of excavation or construction of the Improvement. No excavation dirt shall be spread across any Estate Lot in such a fashion as to materially change the grade or contour of any Estate Lot.

14. Commencing with completion of construction of any Improvement on a Lot, a public sidewalk constructed of concrete four (4) feet wide by four (4) inches thick shall be installed and maintained in front of each Estate Lot and upon each street side of each corner Estate Lot. The sidewalk shall be placed five (5) feet back of the street curb line and shall be constructed by the owner of the Estate Lot prior to the time of completion of the main structure and before occupancy thereof; provided, however, this provision shall vary to comply with any requirements of the City of Omaha.

15. Driveway approaches between the sidewalk and curb on each Estate Lot shall be constructed of concrete. Should repair or replacement of such approach be necessary, the repair or replacement shall also be of concrete. No asphalt overlay of driveway approaches will be permitted.

16. No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any Estate Lot, except for one dog house constructed for one (1) dog; provided always that the construction plans, specifications and the location of the proposed structure have been first approved by Declarant, or its assigns. Dog houses shall only be allowed adjacent to the rear of the building, concealed from public view. No dog runs or kennels may be constructed or installed on any Estate Lot.

17. Any exterior air conditioning condenser unit shall be placed in the rear yard or any side yards so as not to be visible from public view. No grass, weeds or other vegetation will be grown or otherwise permitted to commence or continue, and no dangerous, diseased or otherwise objectionable shrubs or trees will be maintained on any Estate Lot so as to constitute an actual or potential public nuisance, create a hazard or undesirable proliferation, or detract from a neat and trim appearance. Vacant Estate Lots shall not be used for dumping of earth or any waste materials, and no vegetation on vacant Estate Lots shall be allowed to reach a height in excess of twelve (12) inches.

18. No Residence shall be constructed on a Estate Lot unless the entire Estate Lot, as originally platted, is owned by one owner of such Estate Lot, except if parts of two or more platted Estate Lots have been combined into one Estate Lot which is at least as wide as the narrowest Estate Lot on the original plat, and is as large in area as the largest Estate Lot in the original plat.

19. No structure of a temporary character, carport, trailer, basement, tent, storage shed, outbuilding or shack shall be erected upon or used on any Estate Lot at any time, either temporarily or permanently. Pool and bath houses may be approved by the Declarant as an Improvement, pursuant to Paragraph 2 of this Article. No structure or dwelling shall be moved from outside Linden Estates to any Estate Lot without the written approval of Declarant.

20. All utility service lines from each lot line to a dwelling or other Improvement shall be underground.

ARTICLE II. BOUNDARY FENCE

1. Declarant has constructed a boundary fence between 144th Street and Linden Estates Subdivision (the "144th Street Fence"). The 144th Street Fence is situated on the west boundary line of Lots 1, 2, 3, 57, 58, 59, 60 and 61, and extends approximately twenty-five (25) feet east on each side of Hamilton Street in Lots 1 and 57. All such lots are collectively referred to as the "Boundary Lots".

2. Declarant hereby declares that the Boundary Lots are subject to a permanent and exclusive right and easement in favor of Declarant and the Linden Estates Homeowners Association to maintain, repair and replace the 144th Street Fence and any signs installed on or near the 144th Street Fence. Without limitation of the rights and easements granted by this Declaration, the Declarant or Association may come upon any of the Boundary Lots for the purpose of constructing, installing, repairing, maintaining, removing, and replacing the 144th Street Fence.

3. The rights and easements granted in this Article shall fully and finally terminate as to any Boundary Lot if: (i) the owner of the Boundary Lot gives written notice to the Association that the Association has failed to maintain the 144th Street Fence on the Owner's Lot in neat and orderly condition and in good repair; and (ii) the Association fails to place the 144th Street Fence on the Owner's Lot into good order and repair within ninety (90) days after the written notice.

ARTICLE III. HOMEOWNERS' ASSOCIATION

1. The Association. Declarant has caused the incorporation of LINDEN ESTATES HOMEOWNERS ASSOCIATION, a Nebraska not for profit corporation (hereinafter referred to as the "Association"). The Association has as its purpose the promotion of the health, safety, recreation, welfare and enjoyment of the residents of Linden Estates, including:

(a) The acquisition, construction, landscaping, improvement, equipment, maintenance, operation, repair, upkeep and replacement of Common Facilities for the general use, benefit and enjoyment of the Members. Common Facilities may include recreational facilities such as swimming pools, tennis courts, health facilities, playgrounds and parks; dedicated and nondedicated roads, paths, ways and green areas; and signs and entrances for Linden Estates. Common Facilities may be situated on property owned or leased by the Association, on private property subject to an easement in favor of the Association, or on public property, or on property dedicated to a Sanitary Improvement District.

(b) The promulgation, enactment, amendment and enforcement of rules and regulations relating to the use and enjoyment of any Common Facilities, provided always that such rules are uniformly applicable to all Members. The rules and regulations may permit or

restrict use of the Common Facilities by Members, their families, their guests, and/or by other persons, who may be required to pay a fee or other charge in connection with the use or enjoyment of the Common Facility.

(c) The exercise, promotion, enhancement and protection of the privileges and interests of the residents of Linden Estates; and the protection and maintenance of the residential character of Linden Estates.

2. Membership and Voting. Linden Estates is divided into one hundred twenty-one (121) separate lots (referred to as the "Subdivision Lots"). The "Owner" of each Subdivision Lot shall be a Member of this Association. For purposes of this Declaration, the term "Owner" of a Subdivision Lot means and refers to the record owner, whether one or more persons or entities, of fee simple title to a Subdivision Lot, but excluding however those parties having any interest in any of such Subdivision Lot merely as security for the performance of an obligation (such as a contract seller, the trustee or beneficiary of a deed of trust, or a mortgage). The purchaser of a Subdivision Lot under a land contract or similar instrument shall be considered to be the "Owner" of the Subdivision Lot for purposes of this Declaration. Membership shall be appurtenant to ownership of each Subdivision Lot, and may not be separated from ownership of each Subdivision Lot.

The Owner of each Subdivision Lot, whether one or more persons and entities, shall be entitled to one (1) vote on each matter properly coming before the Members of the Association.

3. Purposes and Responsibilities. The Association shall have the powers conferred upon not for profit corporations by the Nebraska Nonprofit Corporation Act, and all powers and duties necessary and appropriate to accomplish the Purposes and administer the affairs of the Association. The powers and duties to be exercised by the Board of Directors, and upon authorization of the Board of Directors by the Officers, shall include but shall not be limited to the following:

(a) The acquisition, development, maintenance, repair, replacement, operation and administration of Common Facilities, and the enforcement of the rules and regulations relating to the Common Facilities.

(b) The landscaping, mowing, watering, repair and replacement of parks and other public property and improvements on parks or public property within or near Linden Estates.

(c) The fixing, levying, collecting, abatement, and enforcement of all charges, dues, or assessments made pursuant to the terms of this Declaration.

(d) The expenditure, commitment and payment of Association funds to accomplish the purposes of the Association including, but not limited to, payment for purchase of insurance covering any Common Facility against property damage and casualty, and purchase of liability insurance coverages for the Association, the Board of Directors of the Association and the Members.

(e) The exercise of all of the powers and privileges, and the performance of all of the duties and obligations of the Association as set forth in this Declaration, as the same may be amended from time to time.

(f) The acquisition by purchase or otherwise, holding, or disposition of any right, title or interest in real or personal property, wherever located, in connection with the affairs of the Association.

(g) The deposit, investment and reinvestment of Association funds in bank accounts, securities, money market funds or accounts, mutual funds, pooled funds, certificates of deposit or the like.

(h) The employment of professionals and consultants to advise and assist the Officers and Board of Directors of the Association in the performance of their duties and responsibilities for the Association.

(i) General administration and management of the Association, and execution of such documents and doing and performance of such acts as may be necessary or appropriate to accomplish such administration or management.

(j) The doing and performing of such acts, and the execution of such instruments and documents, as may be necessary or appropriate to accomplish the purposes of the Association.

4. Mandatory Duties of the Association. The Association shall maintain and repair the fences and signs which have or will be installed by Declarant between 144th Street and Linden Estates, and between Blondo Street and Linden Estates, in good repair and neat condition.

5. Imposition of Dues and Assessments. The Association may fix, levy and charge the Owner of each Subdivision Lot with dues and assessments (herein referred to respectively as "dues and assessments") under the following provisions of this Declaration. Except as otherwise specifically provided, the dues and assessments shall be fixed by the Board of Directors of the Association and shall be payable at the times and in the manner prescribed by the Board.

6. Abatement of Dues and Assessments. Notwithstanding any other provision of this Declaration, the Board of Directors may abate all or part of the dues or assessments due in respect of any Subdivision Lot, and shall abate all dues and assessments due in respect of any Subdivision Lot during the period such Subdivision Lot is owned by the Declarant.

7. Lien and Personal Obligations for Dues and Assessments. The assessments and dues, together with interest thereon, costs and reasonable attorneys' fees, shall be the personal obligation of the Owner of each Subdivision Lot at the time when the dues or assessments first become due and payable. The dues and assessments, together with interest thereon, costs and reasonable attorneys' fees, shall also be a charge and continuing lien upon the Subdivision Lot in respect of which the dues and assessments are charged. The personal obligation for delinquent assessments shall not pass to the successor in title to the Owner at the time the dues and assessments become delinquent unless such dues and assessments are expressly assumed by the successors, but all successors shall take title subject to the lien for such dues and assessments, and shall be bound to inquire of the Association as to the amount of any unpaid assessments or dues.

8. Purpose of Dues. The dues collected by the Association may be committed and expended to accomplish the purposes of the Association described in Section 1 of this Article, and to perform the Powers and Responsibilities of the Association described in Section 3 of this Article.

9. Maximum Annual Dues. Unless excess dues have been authorized by the Members in accordance with Section 10, below, the aggregate dues which may become due and payable in any year shall not exceed the greater of:

(a) Sixty Dollars (\$60.00) per Subdivision Lot.

(b) In each calendar year beginning on January 1, 1991, one hundred twenty-five percent (125%) of the aggregate dues charged in the previous calendar year.

10. Assessments for Extraordinary Costs. In addition to the dues, the Board of Directors may levy an assessment or assessments for the purpose of defraying, in whole or in part, the costs of any acquisition, construction, reconstruction, repair, painting, maintenance, improvement, or replacement of any Common Facility, including fixtures and personal property related thereto, and related facilities. The aggregate assessments in each calendar year shall be limited in amount to Two Hundred Dollars (\$200.00) per Subdivision Lot.

11. Excess Dues and Assessments. With the approval of sixty percent of the Members of the Association, the Board of Directors may establish dues and/or assessments in excess of the maximums established in this Declaration.

12. Uniform Rate of Assessment. Assessments and dues shall be fixed at a uniform rate as to all Subdivision Lots, but dues may be abated as to individual Subdivision Lots, as provided in Section 5, above.

13. Certificate as to Dues and Assessments. The Association shall, upon written request and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the dues and assessments on a specified Subdivision Lot have been paid to the date of request, the amount of any delinquent sums, and the due date and amount of the next succeeding dues, assessment or installment thereof. The dues and assessment shall be and become a lien as of the date such amounts first become due and payable.

14. Effect of Nonpayment of Assessments-Remedies of the Association. Any installment of dues or assessment which is not paid when due shall be delinquent. Delinquent dues or assessment shall bear interest from the due date at the rate of sixteen percent (16%) per annum, compounded annually. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Subdivision Lot or Subdivision Lots, and pursue any other legal or equitable remedy. The Association shall be entitled to recover as a part of the action and shall be indemnified against the interest, costs and reasonable attorneys' fees incurred by the Association with respect to such action. No Owner may waive or otherwise escape liability for the charge and lien provided for herein by nonuse of the Common Area or abandonment of his Subdivision Lot. The mortgagee of any Subdivision Lot shall have the right to cure any delinquency of an Owner by payment of all sums due, together with interest, costs and fees. The Association shall assign to such mortgagee all of its rights with respect to such lien and right of foreclosure and such mortgagee may thereupon be subrogated to any rights of the Association.

15. Subordination of the Lien to Mortgage. The lien of dues and assessments provided for herein shall be subordinate to the lien of any mortgage, contract or deed of trust given as collateral for a home improvement or purchase money loan. Sale or transfer of any Subdivision Lot shall not affect or terminate the dues and assessment lien.

ARTICLE IV. EASEMENTS

1. A perpetual license and easement is hereby reserved in favor of and granted to Omaha Public Power District, U. S. West telephone company, and any company which has been granted a franchise to provide a cable television system within the Estate Lots, Metropolitan Utilities Company, and Sanitary and Improvement District No. 353 of Douglas County, Nebraska, their successors and assigns, to erect and operate, maintain, repair and renew buried or underground sewers, water and gas mains and cables, lines or conduits and other electric and telephone utility facilities for the carrying and transmission of electric current for light, heat and power and for all telephone and telegraph and message service and for the transmission of signals and sounds of all kinds including signals provided by a cable television system and the reception on, over, through, under and across a five (5) foot wide strip of land abutting the front and the side boundary lines of the Estate Lots; an eight (8) foot wide strip of land abutting the rear boundary lines of all interior Estate Lots and all exterior lots that are adjacent to presently platted and recorded Estate Lots; and a sixteen (16) foot wide strip of land abutting the rear boundary lines of all exterior Estate Lots that are not adjacent to presently platted and recorded Estate Lots. The term exterior Estate Lots is herein defined as those Estate Lots forming the outer perimeter of the Estate Lots. The sixteen (16) foot wide easement will be reduced to an eight (8) foot wide strip when such adjacent land is surveyed, platted and recorded.

2. A perpetual easement is further reserved for the Metropolitan Utilities District of Omaha, their successors and assigns to erect, install, operate, maintain, repair and renew pipelines, hydrants and other related facilities, and to extend thereon pipes, hydrants and other related facilities

and to extend therein pipes for the transmission of gas and water on, through, under and across a five (5) foot wide strip of land abutting all cul-de-sac streets; this license being granted for the use and benefit of all present and future owners of these Estate Lots; provided, however, that such licenses and easements are granted upon the specific conditions that if any of such utility companies fail to construct such facilities along any of such Estate Lot lines within thirty-six (36) months of date hereof, or if any such facilities are constructed but are thereafter removed without replacement within sixty (60) days after their removal, then such easement shall automatically terminate and become void as to such unused or abandoned easementways. No permanent buildings, trees, retaining walls or loose rock walls shall be placed in the easementways but same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforementioned uses or rights granted herein.

3. Other easements are provided for in the final plat of Linden Estates which is filed in the Register of Deeds of Douglas County, Nebraska (Book 1862, Page 228).

ARTICLE V. GENERAL PROVISIONS

1. Except for the authority and powers specifically granted to the Declarant, the Declarant or any owner of a Estate Lot named herein shall have the right to enforce by a proceeding at law or in equity, all reservations, restrictions, conditions and covenants now or hereinafter imposed by the provisions of this Declaration either to prevent or restrain any violation or to recover damages or other dues of such violation. Failure by the Declarant or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

2. The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity. This Declaration may be amended by Linden Park Partnership a Nebraska general partnership, or any person, firm, corporation, partnership, or entity designated in writing by Linden Park Partnership, a Nebraska general partnership, in any manner which it may determine in its full and absolute discretion for a period of five (5) years from the date hereof. Thereafter this Declaration may be amended by an instrument signed by the owners of not less than sixty (60%) of the Estate Lots covered by this Declaration.

3. Linden Park Partnership, a Nebraska general partnership, or its successor or assign, may terminate its status as Declarant under this Declaration, at any time, by filing a Notice of Termination of Status as Declarant. Upon such filing, the Association may appoint itself or another entity, association or individual to serve as Declarant, and such appointee shall thereafter serve as Declarant with the same authority and powers as the original Declarant.

4. Invalidity of any covenant by judgment or court order shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has caused these presents to be executed this 15 day of November, 1989.

LINDEN PARK PARTNERSHIP, a Nebraska general partnership, the "Declarant"

BY: MAENNER/HORGAN DEVELOPMENT COMPANY, a Nebraska corporation, the Development Partner


President

STATE OF NEBRASKA)
) ss.:
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 15 day of November, 1989, by Robert P. Morgan, President of Moenner/Morgan Development Company, the Development Partner of Linden Park Partnership, a Nebraska general partnership, on behalf of the Partnership.



Robert P. Morgan

Notary Public

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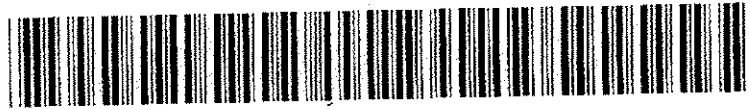
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**FIRST AMENDMENT TO ESTATE LOTS
DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS OF
LINDEN ESTATES, A SUBDIVISION IN
DOUGLAS COUNTY, NEBRASKA**

James O. Buser
16050 Regency Circle #200
Omaha, NE 68114

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GEORGE J. BUGLEWICZ
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

This First Amendment is made to the Estate Lots Declaration of Covenants, Conditions, Restrictions and Easements of Linden Estates, a subdivision in Douglas County, Nebraska, dated November 15, 1989, and recorded with the Douglas County Register of Deeds on November 16, 1989, miscellaneous records, in Book 905 at Page 281 (the "Declaration"), by Linden Park Partnership, a Nebraska general partnership (referred to as the "Declarant").

PRELIMINARY STATEMENT

The Declaration was made by the Declarant in connection with the development of Lots 1 through 73, inclusive, in Linden Estates, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska (such lots are herein referred to collectively as the "Estate Lots", and individually as each "Estate Lot"). The Estate Lots are part of Linden Estates, a residential subdivision situated southeast of 144th and Blondo Streets in Douglas County, Nebraska ("Linden Estates")

Declarant has considered modification of the Declaration to allow the Declarant the right to waive, remove or modify the applicability of any of the provisions of the Declaration as to any Estate Lot or Estate Lots. Article V, Section 2, of the Declaration allows the Declarant to amend the Declaration in any manner which it may determine in its full and absolute discretion for a period of five (5) years from the date of the Declaration. Declarant has investigated the effect which the proposed amendment would have on the Estate Lots and has concluded that the amendment would not be contrary to the preservation of Linden Estates, would not be detrimental to the maintenance of the character and residential integrity of Linden Estates, and would not in any other manner be detrimental to the intent, purpose and protection afforded to the Estate Lots by the Declaration.

NOW, THEREFORE, pursuant to the authority granted to Declarant in Article V, Section 2 of the Declaration, Declarant hereby amends and supplements the Declaration as follows:

1. Article V, Section 5 of the Declaration shall provide as follows:

5. By the duly acknowledged written consent of Linden Park Partnership, a Nebraska general partnership, any or all of the covenants, conditions, restrictions, and easements as they apply to the Estate Lots may be waived,

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modified, or amended for any Estate Lot or Estate Lots, in any manner, for such time periods, and on such conditions, if any, which it may determine in its full and absolute discretion for a period of five (5) years from the date of the Declaration.

2. In each and every other respect, the Declaration shall remain in full force and effect according to its terms.

IN WITNESS WHEREOF, the Declarant has executed this First Amendment as of the 25th day of Nov, 1992.

LINDEN PARK PARTNERSHIP, a Nebraska general partnership

By: MAENNER/HORGAN DEVELOPMENT COMPANY, a Nebraska corporation, the Development Partner

By: *Robert P. Horgan*
Robert P. Horgan, President

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

Acknowledged this 25th day of NOVEMBER, 1992, before me, a notary public in and for said county and state, by Robert P. Horgan, President of Maenner/Horgan Development Company, a Nebraska corporation, on behalf of the Corporation, the Development Partner of Linden Park Partnership, a Nebraska general partnership, on behalf of said Partnership.



Donna M. Nissen
Notary Public



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RICHARD N. TAKECHI
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

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DEED OF TRUST, SECURITY AGREEMENT
AND ASSIGNMENT OF RENTS

45 98250389
THIS DEED OF TRUST, SECURITY AGREEMENT AND ASSIGNMENT OF RENTS, made this 31st day of August, 1998, among
McNEIL COMPANY, INCORPORATED, a Nebraska corporation
as Trustor,
FIRST NATIONAL BANK OF OMAHA, a national banking association, Omaha, Nebraska
as Trustee, and
FIRST NATIONAL BANK OF OMAHA, a national banking association, Omaha, Nebraska
as Beneficiary:

WITNESSETH:

That Trustor irrevocably grants, transfer and assigns to Trustee in trust, with power of sale, the following described Real Estate:

Lot One Hundred Seventy-five (175), LINDEN ESTATES 2ND
ADDITION, a Subdivision, as surveyed, platted and recorded
in Douglas County, Nebraska.

together with all interest which Trustor now has or may hereafter acquire in and to said Real Estate and in and to: (a) all easements and rights of way appurtenant thereto and all of the estate, right, title, interest, claim and demand whatsoever of Trustor in the Real Estate, either at law or in equity, now or hereafter acquired; (b) all structures, buildings and improvements of every kind and description now or at any time hereafter located or placed on the Real Estate (the "Improvements"); (c) all machinery, appliances, apparatus, equipment and fixtures now or hereafter located in, upon or under the Real Estate or the Improvements, or any part thereof, and used or usable in connection with any present or future operation thereof, and all additions thereto and replacements thereof; (d) all articles of personal property and any additions to, substitutions for, changes in or replacements of the whole or any part thereof, including, without limitation, all furniture and furnishings, now or at any time hereafter affixed to, attached to, placed upon or used in any way in connection with the use, enjoyment, occupancy or operation of the Real Estate or the Improvements, or any portion thereof, and owned by the Trustor or in which Trustor now has or hereafter acquires an interest; (e) all of the rents, royalties, issues and profits of the Real Estate and the Improvements, or arising from the use or enjoyment of all or any portion thereof or from any lease, license, concession, occupancy agreement or other agreement pertaining thereto (the "Rents and Profits"), and all right, title and interest of Trustor in and to all leases, licenses and occupancy agreements of the Real Estate or of the Improvements now or hereafter entered into and all right, title and interest of Trustor thereunder, including without limitation, cash or securities deposited thereunder to secure performance by tenants, lessees or licensees, as applicable, of their obligations thereunder; (f) all building materials and supplies now or hereafter placed on the Real Estate or in the Improvements; (g) all proceeds of the conversion, voluntary or involuntary, of any of the foregoing into cash or liquidated claims, including, without limitation, proceeds of insurance and condemnation awards; and (h) all other or greater rights and interests of every nature in the Real Estate and the Improvements and in the possession or use thereof and income therefrom, whether now owned or subsequently acquired by Trustor. The property so conveyed hereunder is hereinafter referred to as "such property".

FOR THE PURPOSE OF SECURING:

- A. Payment of the principal sum of One Hundred Six Thousand and no/100ths-----(\$106,000.00)----- evidenced by that certain promissory note dated of even date herewith (hereinafter referred to as the "Promissory Note") issued by Trustor in said amount and payable to the order of Beneficiary, together with interest thereon, late charges and prepayment bonuses according to the terms of the Promissory Note and all renewals, extensions and modifications thereof.
- B. Performance, discharge of and compliance with every obligation, covenant and agreement of Trustor incorporated by reference or contained herein or in any other security agreement or deed of trust at any time given to secure any indebtedness hereby secured, or any part thereof.
- C. Payment of all fees and charges of Beneficiary, whether or not set forth herein.
- D. Payment of future advances necessary to protect such property.
- E. Payment of future advances to be made at the option of Trustor and Beneficiary.

TO PROTECT THE SECURITY OF THIS DEED OF TRUST, TRUSTOR COVENANTS:

1. **Title:** That it is lawfully seized and possessed of a good and indefeasible title and estate to such property in fee simple and will forever warrant and defend the title thereto against the claims and demands of all persons whatsoever; that it will, at its expense, maintain and preserve the lien of this Deed of Trust as a first and paramount lien upon such property.
2. **Maintenance:** To keep such property in good condition and repair; to complete or restore promptly and in good and workmanlike manner any building which may be constructed, damaged or destroyed thereon and to pay, when due, all claims for labor performed and materials furnished therefor and for any alterations thereof; to comply with the provisions of restrictions affecting such property; not to remove, demolish or materially alter any building, or the character or use thereof at any time thereon; not to drill or extract nor to permit the drilling for or extraction of oil, gas or other hydrocarbon substances or any mineral of any kind unless the written consent of Beneficiary is first had and obtained; not to commit or permit any waste thereof or any act upon such property in violation of law; to do all other acts in a timely and proper manner which from the character or use of such property may be reasonably necessary to protect and preserve said security, the specific enumerations herein not excluding the general.
3. **Construction of Improvements:** To complete in good and workmanlike manner any building or improvement or repair relating thereto which may be begun on such property or contemplated by the loan secured hereby, to pay when due all costs and liabilities incurred therefor, and not to permit any construction lien against such property. Trustor also agrees, anything in this Deed of Trust to the contrary notwithstanding: (a) to promptly commence work and to complete the proposed improvements promptly, (b) to complete same in accordance with plans and specifications as approved by Beneficiary, (c) to comply with all of the terms of any construction loan agreement between Trustor and Beneficiary, (d) to allow Beneficiary to inspect such property at all times during construction, and (e) to replace any work or materials unsatisfactory to Beneficiary, within fifteen (15) days after written notice from Beneficiary of such fact, which notice may be given to Trustor by registered or certified mail, sent to his last known address, or by personal service of the same.

First National Bank of Omaha
Mortgage Loan Department
1620 Dodge Street
Omaha, Nebraska 68102.

20. **Waiver of Statute of Limitations:** Time is of the essence in all Trustor's obligations hereunder; and to the extent permitted by law, Trustor waives all present or future statutes of limitations with respect to any debt, demand or obligation secured hereby in any action or proceeding for the purpose of enforcing this Trust or any right or remedies hereunder.

21. **Inspection and Business Records:** Beneficiary at any time during the continuation of this Trust may enter and inspect such property at any reasonable time. Trustor agrees that in the event such property is now or hereafter used for commercial or residential income purposes, when requested by Beneficiary, Trustor will promptly deliver to Beneficiary, such certified financial statements and profit and loss statements of such types and at such intervals as may be required by Beneficiary, which will be in form and content prepared according to the usual and acceptable accounting principles and practices, which statements shall cover the financial operations relating to such property. Trustor further agrees when requested by Beneficiary to promptly deliver in writing such further additional information as required by Beneficiary relating to any such financial statements.

22. **Acceleration Clause:** Should Trustor be in default under this Deed of Trust, or should Trustor, or any successor in interest of Trustor, voluntarily or involuntarily sell, exchange, convey, transfer, contract to sell, lease with option to purchase, sublease, change the character or use of, or further encumber such property, or any part thereof, or any interest therein; or if any said parties shall be divested of title to such property, or any part thereof, or any interest therein, either voluntarily, or involuntarily; or if title to such property be subjected to any lien or charge, voluntarily or involuntarily, contractual or statutory, without the written consent of Beneficiary being first had and obtained, then Beneficiary shall have the right, at its option, to declare all sums secured hereby forthwith due and payable; and this same right of acceleration shall be available to Beneficiary if the undersigned is a partnership and any interest of a general partner terminates, is assigned or transferred, or is diminished; or if the undersigned is a corporation and any of the corporate stock is transferred, sold or assigned; or if the undersigned is a trustee of a trust and there is a change of any of the beneficial interest of the trust.

23. **Remedies:** No remedy herein provided shall be exclusive of any other remedy herein or now or hereafter existing by law, but shall be cumulative. Every power or remedy hereby given to Trustee or Beneficiary, or to which either of them may be otherwise entitled, may be exercised from time to time and as often as may be deemed expedient by them, and either of them may pursue inconsistent remedies. If Beneficiary holds any additional security for any obligation secured hereby, it may enforce the sale thereof at its option, either before, contemporaneously with, or after the sale is made hereunder, and on any default of Trustor, Beneficiary may, at its option, offset against any indebtedness secured hereby, and the Beneficiary is hereby authorized and empowered at its option, without any obligation so to do, and without affecting the obligations hereof, to apply toward the payment of any indebtedness of the Trustor to the Beneficiary any and all sums of money of Trustor which Beneficiary may have in its possession or under its control, including without limiting the generality of the foregoing, any savings account, deposit, investment certificate, escrow or trust funds.

24. **Acknowledgment:** Trustor agrees and acknowledges that prior to the execution of this Deed of Trust, Trustor did acknowledge in writing and hereby confirms again that (a) this Deed of Trust is not a mortgage, but a deed of trust, (b) that the power of sale provided for herein provides substantially different rights and obligations for Trustor than a mortgage in the event of a default or breach of any obligation hereunder, and (c) the aforementioned written acknowledgment was executed prior to the execution of this Deed of Trust.

25. **Law Applicable:** That this Deed of Trust shall be construed according to the laws of the State of Nebraska

26. **Illegality:** In the event that any provision or clause of this Deed of Trust conflicts with applicable law, such conflict shall not affect other provisions of this Deed of Trust which can be given effect without the conflicting provision, and to this end the provisions of this Deed of Trust are declared to be severable.

27. **General Provisions:** (a) This Deed of Trust applies to, inures to the benefit of, and binds all parties hereto, their heirs, legatees, devisees, administrators, executors, successors and assigns. (b) The term "Beneficiary" shall mean the owner and holder (including a pledgee) of any note secured hereby, whether or not named as Beneficiary herein. (c) Wherever the context so requires, the masculine gender includes the feminine and neuter, the singular number includes the plural, and vice versa. (d) Captions and paragraph headings used herein are for convenience only, are not a part of this agreement, and shall not be used in construing it. If more than one person is named herein as Trustor, each obligation of Trustor shall be the joint and several obligation of each such person. The rights or remedies granted hereunder, or by law, shall not be exclusive, but shall be concurrent and cumulative.

28. **Trustee Accepts** this Trust when this Deed of Trust, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party hereto of pending sale under any other Deed of Trust or any action or proceeding in which Trustor, Beneficiary or Trustee shall be a party, unless brought by Trustee.

29. **Address for Mailing Notices:** Trustor hereby requests that a copy of any notice of default and a copy of any notice of sale hereunder shall be mailed to each person itemized below at the address indicated:

McNeil Company, Incorporated, 4666 South 132nd Street, Omaha, Nebraska 68137 (Address of Trustor)
(Trustor)
First National Bank of Omaha, Trustee & Beneficiary, 1620 Dodge Street, Omaha, NE 68102

IN WITNESS WHEREOF, Trustor has executed this Deed of Trust on the date first above written.

(CORPORATE SEAL)

MCNEIL COMPANY, INCORPORATED, a Nebraska
corporation

By: Patrick G. McNeil
Patrick G. McNeil, President

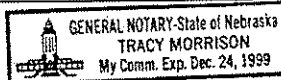
STATE OF Nebraska)
)ss.
COUNTY OF Douglas)

On this 31st day of August, 19 98, before me, the undersigned, a Notary Public duly commissioned and qualified in and for said county, personally came Patrick G. McNeil, President of McNeil Company, Incorporated, a Nebraska corporation to me known to be the persons named in and who executed the foregoing instrument, and acknowledged that he executed the same as his voluntary act and deed.

Witness my hand and notarial seal the day and year last above written.

My commission expires:

10-1-86



UNTERSEAL

Tracy Morrison
Notary Public

EASEMENT FOR SANITARY AND STORM SEWER

This indenture made this 2nd day of June, 1989, by and between LINDEN PARK PARTNERSHIP, a Nebraska general partnership (hereinafter referred to as "Grantor"), and SANITARY AND IMPROVEMENT DISTRICT NO. 353 OF DOUGLAS COUNTY, NEBRASKA (hereinafter referred to as "Grantee").

WITNESSETH:

That Grantor, in consideration of the sum of One and no/100 Dollar (\$1.00) and other valuable consideration, receipt of which is hereby acknowledged, does hereby grant and convey to Grantee, its successors and assigns, perpetual easements for the construction, maintenance and operation of a sanitary sewer main and storm sewer over, under and through that part of Lots 41 and 42, Linden Estates, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska, more specifically located and described on Exhibit A attached hereto which is hereby incorporated in and made a part of this Easement by reference.

To have and to hold said Easement and right-of-way unto the said Grantee, its successors and assigns, in perpetuity. Grantor, its successors and assigns, shall be entitled to and do hereby reserve the right, to connect to and make reasonable and customary use of any sewer line installed and maintained by Grantee under the terms of this Easement at no expense whatsoever. The approval of this term by Grantor and its successors and assigns shall be shown by recording this document with the Douglas County Register of Deeds. This Easement and the license contained herein is given without any warranty whatsoever.

IN WITNESS WHEREOF, the Grantor has caused this Easement to be signed on the day and year first above written.

LINDEN PARK PARTNERSHIP, a Nebraska general partnership,

By: MAENNER/HORGAN DEVELOPMENT COMPANY, a Nebraska corporation, General Partner,

By: Robert P. Morgan

STATE OF NEBRASKA)
) ss.:
COUNTY OF DOUGLAS)

On this 2nd day of June, 1989, before me, the undersigned, a Notary Public duly commissioned and qualified for said county, personally came Robert P. Morgan President of MAENNER/HORGAN DEVELOPMENT COMPANY, a Nebraska corporation, General Partner of LINDEN PARK PARTNERSHIP, a Nebraska general partnership, to me personally known to be the person whose name is affixed to the foregoing instrument in that capacity and who acknowledge the same to be his voluntary act and deed as President of the corporation on behalf of the partnership.

WITNESS my hand and notarial seal on the day and year last above written.



Elaine L. Limpach
Notary Public

My commission expires the 14th day of Sept., 1991.

Legal Description:

That part of Lots 41 as surveyed, platted, all more particularly most Southerly corner on the Southerly line curve to the right, ch chord distance 10.23 feet NO1°12'13"E 32.86 feet to the East line of said thence S01°12'13"W 36. and parallel to the We line of said Lot 41; line of said Lot 41 on chord bearing N79°28' distance of 10.13 feet

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REGISTER OF DEEDS
DOUGLAS COUNTY, NE

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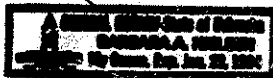
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FIRST AMENDMENT TO
ESTATE LOTS DECLARATION
OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
OF LINDEN ESTATES, A SUBDIVISION
IN DOUGLAS COUNTY, NEBRASKA

BOOK 985 PAGE 447

THIS FIRST AMENDMENT TO the ESTATE LOTS DECLARATION of Linden Estates, made as of the date hereinafter set forth, and is made by LINDEN PARK PARTNERSHIP, a Nebraska general partnership, hereinafter referred to as the "Declarant".

PRELIMINARY STATEMENT

By its Estate Lots Declaration for Linden Estates, a Subdivision in Douglas County, Nebraska, dated November 15, 1989, and recorded on November 16, 1989, at Book 905, Pages 281 through 289, inclusive, of the Miscellaneous Records of the Register of Deeds of Douglas County, Nebraska (hereinafter referred to as the "Original Declaration"), Declarant subjected the following described lots to restrictions, covenants, conditions and easements:

Lots 1 through 73, inclusive, in Linden Estates, a Subdivision, as surveyed, platted and recorded in Douglas County, Nebraska.

Such lots are herein referred to collectively as the "Estate Lots" and individually as each "Estate Lot".

Declarant is desirous of amending the Original Declaration pursuant to the terms of Article V, General Provisions, Paragraph 2, as it relates to the Estate Lots:

The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity. This Declaration may be amended by Linden Park Partnership a Nebraska general partnership, or any person, firm, corporation, partnership, or entity designated in writing by Linden Park Partnership, a Nebraska general partnership, in any manner which it may determine in its full and absolute discretion for a period of five (5) years from the date hereof. Thereafter this Declaration may be amended by an instrument signed by the owners of not less than sixty (60%) of the Estate Lots covered by this Declaration.

Declarant does hereby substitute, amend and restate the Declaration in the following particulars only:

1. The Declarant does hereby restate and substitute for Article I, Restrictions and Covenants, Paragraph 11, as follows:

The Declarant shall establish a uniform design for brick and wrought iron fences on all Estate Lots with such uniform design to consist exclusively of wrought iron and/or wrought iron and brick columns unless another design or material is approved in writing by the Declarant. No hedges or mass planted shrubs shall be permitted more than ten (10) feet in front of the front building line unless otherwise approved by Declarant. No fences or walls shall exceed a height of six (6) feet unless otherwise approved by Declarant.

2. The Original Declaration is in all other matters ratified and affirmed.

The Declarant has executed this First Amendment to Estate Lots Declaration as of this 12th day of November, 1991.

LINDEN PARK PARTNERSHIP, a Nebraska general partnership, the "Declarant"

By: MAENNER/HORGAN DEVELOPMENT COMPANY, a Nebraska corporation, the Development Partner

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GEORGE L. BUGLEVICH
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

STATE OF NEBRASKA)
COUNTY OF DOUGLAS) ss.:

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The foregoing instrument was acknowledged before me this 12th day of NOVEMBER, 1991, by Robert P. Horgan, President of Maenner/Horgan Development Company, the Development Partner of Linden Park Partnership, a Nebraska general partnership, on behalf of the Partnership.



Notary Public

BOOK 905 PAGE 281

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ESTATE LOTS DECLARATION
OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
OF LINDEN ESTATES, A SUBDIVISION
IN DOUGLAS COUNTY, NEBRASKA

GEORGE A. DOLEWICK
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

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THIS DECLARATION, made on the date hereinafter set forth, is made by LINDEN PARK PARTNERSHIP, a Nebraska general partnership, hereinafter referred to as the "Declarant".

PRELIMINARY STATEMENT

The Declarant is the owner of certain real property located within Douglas County, Nebraska and described as follows:

Lots 1 through 73, inclusive, in Linden Estates, a Subdivision, as surveyed, platted and recorded in Douglas County, Nebraska.

Such lots are herein referred to collectively as the "Estate Lots" and individually as each "Estate Lot".

The Estate Lots are situated in Linden Estates, a residential subdivision situated southeast of 144th and Blondo Street in Douglas County, Nebraska and herein referred to as "Linden Estates". Linden Estates consists of the Estate Lots and forty-eight (48) other residential lots, collectively referred to with the Estate Lots as the "Subdivision Lots".

The Declarant desires to provide for the preservation of the values and amenities of Linden Estates, for the maintenance of the character and residential integrity of Linden Estates, and for the acquisition, construction and maintenance of Common Facilities for the use and enjoyment of the residents of Linden Estates.

NOW, THEREFORE, the Declarant hereby declares that each and all of the Estate Lots shall be held, sold and conveyed subject to the following restrictions, covenants, conditions and easements, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Estate Lots, and the enjoyment of the residents of the Estate Lots. These restrictions, covenants, conditions and easements shall run with such Estate Lots and shall be binding upon all parties having or acquiring any right, title or interest in each Estate Lot, or any part thereof, as is more fully described herein. The Estate Lots are, and each Estate Lot is and shall be subject to all and each of the following conditions and other terms:

ARTICLE I.
RESTRICTIONS AND COVENANTS

1. Each Estate Lot shall be used exclusively for single-family residential purposes, except for such Estate Lots or parts thereof as may hereafter be conveyed or dedicated by Declarant, or its successors or assigns, for use in connection with a Common Facility, or for a church, school or park, or for other non-profit use.

2. No residence, building, fence, wall, driveway, patio, patio enclosure, swimming pool, basketball backboards, dog house, pool house, or other external improvement, above or below the ground (herein all referred to as any "Improvement") shall be constructed, erected, placed or permitted to remain on any Estate Lot, nor shall any grading or excavation for any Improvement be commenced, except for Improvements which have been approved by Declarant as follows:

(a) An Owner desiring to erect an Improvement on any Estate Lot shall deliver two sets of construction plans, landscaping plans and plot plans to Declarant (herein collectively referred to as the "plans"). Such plans shall include a description type, quality, color and use of materials proposed for the exterior of such Improvement. Concurrent with submission of the plans, Owner shall notify the Declarant of the Owner's mailing address.

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(b) Declarant shall review such plans in relation to the type and exterior of improvements constructed, or approved for construction, on neighboring Estate Lots and in the surrounding area, and any general scheme or plans formulated by Declarant. In this regard, Declarant intends that the Estate Lots shall be developed residential community with homes constructed of high quality materials. The decision to approve or refuse approval of a proposed Improvement shall be exercised by Declarant to promote development of the Estate Lots and to protect the values, character and residential quality of all Estate Lots. If Declarant determines that the proposed Improvement will not protect and enhance the integrity and character of all the Estate Lots and neighboring lots as a quality residential community, Declarant may refuse approval of the proposed Improvement.

(c) Written Notice of any approval of a proposed Improvement shall be mailed to the owner at the address specified by the owner upon submission of the plans. Such notice shall be mailed, if at all, within thirty (30) days after the date of submission of the plans. If notice of approval is not mailed within such period, the proposed Improvement shall be deemed disapproved by Declarant.

(d) No Estate Lot owner, or combination of Estate Lot owners, or other person or persons shall have any right to any action by Declarant, or to control, direct or influence the acts of the Declarant with respect to the approval or disapproval of any proposed Improvement. No responsibility, liability or obligation shall be assumed by or imposed upon Declarant by virtue of the authority granted to Declarant in this Section, or as a result of any act or failure to act by Declarant with respect to any proposed Improvement.

3. No single-family residence shall be created, altered, placed or permitted to remain on any Estate Lot other than one detached single-family dwelling which does not exceed two and one-half stories in height.

4. The exposed foundation walls must be constructed of or faced with brick or other material approved in writing by Declarant. All driveways must be constructed of concrete, brick, paving stone, or laid stone. All foundations shall be constructed of concrete, concrete blocks, brick or stone. Fireplace chimneys shall be covered with brick, or other material approved in writing by Declarant. The roof of all Improvements shall be covered with wood cedar shakes or shingles, or other material approved in writing by Declarant. Hardboard, pressed wood, bonded wood, and the like will not be approved by Declarant for coverage of any roof.

5. No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any Estate Lot except one sign per Estate Lot consisting of not more than six (6) square feet advertising a lot as "For Sale"; nor shall the premises be used in any way for any purpose which may endanger the health or unreasonably disturb the owner or owners of any Estate Lot or any resident thereof.

6. No exterior television or radio antenna, satellite receiving disc, or exterior solar heating or cooling device of any sort shall be permitted on any Estate Lot.

7. No repair of any boats, automobiles, motorcycles, trucks, campers or similar vehicles requiring a continuous time period in excess of forty-eight (48) hours shall be permitted on any Estate Lot at any time; nor shall vehicles offensive to the neighborhood be visibly stored, parked or abandoned on any Estate Lot. No unused building material, junk or rubbish shall be left exposed on the Estate Lot except during actual building operations, and then only in as neat and inconspicuous a manner as possible.

8. No boat, camper, trailer, auto-drawn or mounted trailer of any kind, mobile home, truck, aircraft, camper truck or similar chattel shall be maintained or stored on any part of a Estate Lot (other than in an enclosed structure) for more than twenty (20) days within a calendar year. No motor vehicle may be parked or stored outside on any Estate Lot, except vehicles driven on a regular basis by the occupants of the dwelling located on such

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Estate Lot. No grading or excavating equipment, tractors or semitractors/trailers shall be stored, parked, kept or maintained in any yards, driveways or streets. However, this section 8 shall not apply to trucks, tractors or commercial vehicles which are necessary for the construction of residential dwellings or other improvements during the period of construction. All residential Estate Lots shall provide at least the minimum number of off street parking areas or spaces for private passenger vehicles required by the applicable zoning ordinances of the City of Omaha, Nebraska.

9. No incinerator or trash burner shall be permitted on any Estate Lot. No garbage or trash can or container or fuel tank shall be permitted unless completely screened from view, except for pickup purposes. No garden lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling or suitable storage facility, except when in actual use. No garbage, refuse, rubble or cutting shall be deposited on any street, road or Estate Lot. No clothes line shall be permitted outside of any dwelling at any time. Produce or vegetable gardens may only be planted and maintained in rear yards.

10. Exterior lighting installed on any Estate Lot shall either be indirect or of such a controlled focus and intensity as not to disturb the residents of adjacent Estate Lots.

11. The Declarant shall establish a uniform design for brick and wrought iron fences bordering Hamilton Street, and all fences constructed on Estate Lots bordering Hamilton Street shall conform with such design and materials, unless another design or material is approved in writing by Declarant. No hedges or mass planted shrubs shall be permitted more than ten (10) feet in front of the front building line unless otherwise approved by Declarant. No fences or walls shall exceed a height of six (6) feet unless otherwise approved by Declarant.

12. No swimming pool may extend more than one foot above ground level.

13. Construction of any Improvement shall be completed within one (1) year from the date of commencement of excavation or construction of the Improvement. No excavation dirt shall be spread across any Estate Lot in such a fashion as to materially change the grade or contour of any Estate Lot.

14. Commencing with completion of construction of any Improvement on a Lot, a public sidewalk constructed of concrete four (4) feet wide by four (4) inches thick shall be installed and maintained in front of each Estate Lot and upon each street side of each corner Estate Lot. The sidewalk shall be placed five (5) feet back of the street curb line and shall be constructed by the owner of the Estate Lot prior to the time of completion of the main structure and before occupancy thereof; provided, however, this provision shall vary to comply with any requirements of the City of Omaha.

15. Driveway approaches between the sidewalk and curb on each Estate Lot shall be constructed of concrete. Should repair or replacement of such approach be necessary, the repair or replacement shall also be of concrete. No asphalt overlay of driveway approaches will be permitted.

16. No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any Estate Lot, except for one dog house constructed for one (1) dog; provided always that the construction plans, specifications and the location of the proposed structure have been first approved by Declarant, or its assigns. Dog houses shall only be allowed adjacent to the rear of the building, concealed from public view. No dog runs or kennels may be constructed or installed on any Estate Lot.

17. Any exterior air conditioning condenser unit shall be placed in the rear yard or any side yards so as not to be visible from public view. No grass, weeds or other vegetation will be grown or otherwise permitted to commence or continue, and no dangerous, diseased or otherwise objectionable shrubs or trees will be maintained on any Estate Lot so as to constitute an actual or potential public nuisance, create a hazard or undesirable proliferation, or detract from a neat and trim appearance. Vacant Estate Lots shall not be used for dumping of earth or any waste materials, and no vegetation on vacant Estate Lots shall be allowed to reach a height in excess of twelve (12) inches.

18. No Residence shall be constructed on a Estate Lot unless the entire Estate Lot, as originally platted, is owned by one owner of such Estate Lot, except if parts of two or more platted Estate Lots have been combined into one Estate Lot which is at least as wide as the narrowest Estate Lot on the original plat, and is as large in area as the largest Estate Lot in the original plat.

19. No structure of a temporary character, carport, trailer, basement, tent, storage shed, outbuilding or shack shall be erected upon or used on any Estate Lot at any time, either temporarily or permanently. Pool and bath houses may be approved by the Declarant as an Improvement, pursuant to Paragraph 2 of this Article. No structure or dwelling shall be moved from outside Linden Estates to any Estate Lot without the written approval of Declarant.

20. All utility service lines from each lot line to a dwelling or other Improvement shall be underground.

ARTICLE II. BOUNDARY FENCE

1. Declarant has constructed a boundary fence between 144th Street and Linden Estates Subdivision (the "144th Street Fence"). The 144th Street Fence is situated on the west boundary line of Lots 1, 2, 3, 57, 58, 59, 60 and 61, and extends approximately twenty-five (25) feet east on each side of Hamilton Street in Lots 1 and 57. All such lots are collectively referred to as the "Boundary Lots".

2. Declarant hereby declares that the Boundary Lots are subject to a permanent and exclusive right and easement in favor of Declarant and the Linden Estates Homeowners Association to maintain, repair and replace the 144th Street Fence and any signs installed on or near the 144th Street Fence. Without limitation of the rights and easements granted by this Declaration, the Declarant or Association may come upon any of the Boundary Lots for the purpose of constructing, installing, repairing, maintaining, removing, and replacing the 144th Street Fence.

3. The rights and easements granted in this Article shall fully and finally terminate as to any Boundary Lot if: (i) the owner of the Boundary Lot gives written notice to the Association that the Association has failed to maintain the 144th Street Fence on the Owner's Lot in neat and orderly condition and in good repair; and (ii) the Association fails to place the 144th Street Fence on the Owner's Lot into good order and repair within ninety (90) days after the written notice.

ARTICLE III. HOMEOWNERS' ASSOCIATION

1. The Association. Declarant has caused the incorporation of LINDEN ESTATES HOMEOWNERS ASSOCIATION, a Nebraska not for profit corporation (hereinafter referred to as the "Association"). The Association has as its purpose the promotion of the health, safety, recreation, welfare and enjoyment of the residents of Linden Estates, including:

(a) The acquisition, construction, landscaping, improvement, equipment, maintenance, operation, repair, upkeep and replacement of Common Facilities for the general use, benefit and enjoyment of the Members. Common Facilities may include recreational facilities such as swimming pools, tennis courts, health facilities, playgrounds and parks; dedicated and nondedicated roads, paths, ways and green areas; and signs and entrances for Linden Estates. Common Facilities may be situated on property owned or leased by the Association, on private property subject to an easement in favor of the Association, or on public property, or on property dedicated to a Sanitary Improvement District.

(b) The promulgation, enactment, amendment and enforcement of rules and regulations relating to the use and enjoyment of any Common Facilities, provided always that such rules are uniformly applicable to all Members. The rules and regulations may permit or

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restrict use of the Common Facilities by Members, their families, their guests, and/or by other persons, who may be required to pay a fee or other charge in connection with the use or enjoyment of the Common Facility.

(c) The exercise, promotion, enhancement and protection of the privileges and interests of the residents of Linden Estates; and the protection and maintenance of the residential character of Linden Estates.

2. Membership and Voting. Linden Estates is divided into one hundred twenty-one (121) separate lots (referred to as the "Subdivision Lots"). The "Owner" of each Subdivision Lot shall be a Member of this Association. For purposes of this Declaration, the term "Owner" of a Subdivision Lot means and refers to the record owner, whether one or more persons or entities, of fee simple title to a Subdivision Lot, but excluding however those parties having any interest in any of such Subdivision Lot merely as security for the performance of an obligation (such as a contract seller, the trustee or beneficiary of a deed of trust, or a mortgagee). The purchaser of a Subdivision Lot under a land contract or similar instrument shall be considered to be the "Owner" of the Subdivision Lot for purposes of this Declaration. Membership shall be appurtenant to ownership of each Subdivision Lot, and may not be separated from ownership of each Subdivision Lot.

The Owner of each Subdivision Lot, whether one or more persons and entities, shall be entitled to one (1) vote on each matter properly coming before the Members of the Association.

3. Purposes and Responsibilities. The Association shall have the powers conferred upon not for profit corporations by the Nebraska Nonprofit Corporation Act, and all powers and duties necessary and appropriate to accomplish the Purposes and administer the affairs of the Association. The powers and duties to be exercised by the Board of Directors, and upon authorization of the Board of Directors by the Officers, shall include but shall not be limited to the following:

(a) The acquisition, development, maintenance, repair, replacement, operation and administration of Common Facilities, and the enforcement of the rules and regulations relating to the Common Facilities.

(b) The landscaping, mowing, watering, repair and replacement of parks and other public property and improvements on parks or public property within or near Linden Estates.

(c) The fixing, levying, collecting, abatement, and enforcement of all charges, dues, or assessments made pursuant to the terms of this Declaration.

(d) The expenditure, commitment and payment of Association funds to accomplish the purposes of the Association including, but not limited to, payment for purchase of insurance covering any Common Facility against property damage and casualty, and purchase of liability insurance coverages for the Association, the Board of Directors of the Association and the Members.

(e) The exercise of all of the powers and privileges, and the performance of all of the duties and obligations of the Association as set forth in this Declaration, as the same may be amended from time to time.

(f) The acquisition by purchase or otherwise, holding, or disposition of any right, title or interest in real or personal property, wherever located, in connection with the affairs of the Association.

(g) The deposit, investment and reinvestment of Association funds in bank accounts, securities, money market funds or accounts, mutual funds, pooled funds, certificates of deposit or the like.

(h) The employment of professionals and consultants to advise and assist the Officers and Board of Directors of the Association in the performance of their duties and responsibilities for the Association.

(i) General administration and management of the Association, and execution of such documents and doing and performance of such acts as may be necessary or appropriate to accomplish such administration or management.

(j) The doing and performing of such acts, and the execution of such instruments and documents, as may be necessary or appropriate to accomplish the purposes of the Association.

4. Mandatory Duties of the Association. The Association shall maintain and repair the fences and signs which have or will be installed by Declarant between 144th Street and Linden Estates, and between Blondo Street and Linden Estates, in good repair and neat condition.

5. Imposition of Dues and Assessments. The Association may fix, levy and charge the Owner of each Subdivision Lot with dues and assessments (herein referred to respectively as "dues and assessments") under the following provisions of this Declaration. Except as otherwise specifically provided, the dues and assessments shall be fixed by the Board of Directors of the Association and shall be payable at the times and in the manner prescribed by the Board.

6. Abatement of Dues and Assessments. Notwithstanding any other provision of this Declaration, the Board of Directors may abate all or part of the dues or assessments due in respect of any Subdivision Lot, and shall abate all dues and assessments due in respect of any Subdivision Lot during the period such Subdivision Lot is owned by the Declarant.

7. Lien and Personal Obligations for Dues and Assessments. The assessments and dues, together with interest thereon, costs and reasonable attorneys' fees, shall be the personal obligation of the Owner of each Subdivision Lot at the time when the dues or assessments first become due and payable. The dues and assessments, together with interest thereon, costs and reasonable attorneys' fees, shall also be a charge and continuing lien upon the Subdivision Lot in respect of which the dues and assessments are charged. The personal obligation for delinquent assessments shall not pass to the successor in title to the Owner at the time the dues and assessments become delinquent unless such dues and assessments are expressly assumed by the successors, but all successors shall take title subject to the lien for such dues and assessments, and shall be bound to inquire of the Association as to the amount of any unpaid assessments or dues.

8. Purpose of Dues. The dues collected by the Association may be committed and expended to accomplish the purposes of the Association described in Section 1 of this Article, and to perform the Powers and Responsibilities of the Association described in Section 3 of this Article.

9. Maximum Annual Dues. Unless excess dues have been authorized by the Members in accordance with Section 10, below, the aggregate dues which may become due and payable in any year shall not exceed the greater of:

(a) Sixty Dollars (\$60.00) per Subdivision Lot.

(b) In each calendar year beginning on January 1, 1991, one hundred twenty-five percent (125%) of the aggregate dues charged in the previous calendar year.

10. Assessments for Extraordinary Costs. In addition to the dues, the Board of Directors may levy an assessment or assessments for the purpose of defraying, in whole or in part, the costs of any acquisition, construction, reconstruction, repair, painting, maintenance, improvement, or replacement of any Common Facility, including fixtures and personal property related thereto, and related facilities. The aggregate assessments in each calendar year shall be limited in amount to Two Hundred Dollars (\$200.00) per Subdivision Lot.

11. Excess Dues and Assessments. With the approval of sixty percent of the Members of the Association, the Board of Directors may establish dues and/or assessments in excess of the maximums established in the Declaration.

12. Uniform Rate of Assessment. Assessments and dues shall be fixed at a uniform rate as to all Subdivision Lots, but dues may be abated as to individual Subdivision Lots, as provided in Section 5, above.

13. Certificate as to Dues and Assessments. The Association shall, upon written request and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the dues and assessments on a specified Subdivision Lot have been paid to the date of request, the amount of any delinquent sums, and the due date and amount of the next succeeding dues, assessment or installment thereof. The dues and assessment shall be and become a lien as of the date such amounts first become due and payable.

14. Effect of Nonpayment of Assessments-Remedies of the Association. Any installment of dues or assessment which is not paid when due shall be delinquent. Delinquent dues or assessment shall bear interest from the due date at the rate of sixteen percent (16%) per annum, compounded annually. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Subdivision Lot or Subdivision Lots, and pursue any other legal or equitable remedy. The Association shall be entitled to recover as a part of the action and shall be indemnified against the interest, costs and reasonable attorneys' fees incurred by the Association with respect to such action. No Owner may waive or otherwise escape liability for the charge and lien provided for herein by nonuse of the Common Area or abandonment of his Subdivision Lot. The mortgagee of any Subdivision Lot shall have the right to cure any delinquency of an Owner by payment of all sums due, together with interest, costs and fees. The Association shall assign to such mortgagee all of its rights with respect to such lien and right of foreclosure and such mortgagee may thereupon be subrogated to any rights of the Association.

15. Subordination of the Lien to Mortgagee. The lien of dues and assessments provided for herein shall be subordinate to the lien of any mortgage, contract or deed of trust given as collateral for a home improvement or purchase money loan. Sale or transfer of any Subdivision Lot shall not affect or terminate the dues and assessment lien.

ARTICLE IV. EASEMENTS

1. A perpetual license and easement is hereby reserved in favor of and granted to Omaha Public Power District, U. S. West telephone company, and any company which has been granted a franchise to provide a cable television system within the Estate Lots, Metropolitan Utilities Company, and Sanitary and Improvement District No. 353 of Douglas County, Nebraska, their successors and assigns, to erect and operate, maintain, repair and renew buried or underground sewers, water and gas mains and cables, lines or conduits and other electric and telephone utility facilities for the carrying and transmission of electric current for light, heat and power and for all telephone and telegraph and message service and for the transmission of signals and sounds of all kinds including signals provided by a cable television system and the reception on, over, through, under and across a five (5) foot wide strip of land abutting the front and the side boundary lines of the Estate Lots; an eight (8) foot wide strip of land abutting the rear boundary lines of all interior Estate Lots and all exterior lots that are adjacent to presently platted and recorded Estate Lots; and a sixteen (16) foot wide strip of land abutting the rear boundary lines of all exterior Estate Lots that are not adjacent to presently platted and recorded Estate Lots. The term exterior Estate Lots is herein defined as those Estate Lots forming the outer perimeter of the Estate Lots. The sixteen (16) foot wide easement will be reduced to an eight (8) foot wide strip when such adjacent land is surveyed, platted and recorded.

2. A perpetual easement is further reserved for the Metropolitan Utilities District of Omaha, their successors and assigns to erect, install, operate, maintain, repair and renew pipelines, hydrants and other related facilities, and to extend thereon pipes, hydrants and other related facilities

305-289

STATE OF NEBRASKA)
COUNTY OF DOUGLAS) ss.:

The foregoing instrument was acknowledged before me this 15th day of March, 1989, by Robert P. Morgan, President of Masner/Morgan Development Company, the Development Partner of Linden Park Partnership, a Nebraska general partnership, on behalf of the Partnership.



Robert P. Morgan
Notary Public

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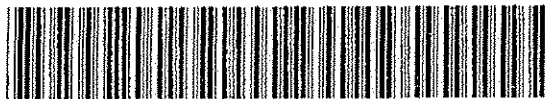
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GEORGE J. DOGLEWICZ
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

February 23, 1996

DISCLAIMER AND RELEASE

KNOW ALL MEN BY THESE PRESENTS, that OMAHA PUBLIC POWER DISTRICT, a public corporation, for and in consideration of One Dollar (\$1.00) and other valuable consideration, the receipt of which is hereby acknowledged, does hereby release and disclaim any rights it may have attained by virtue of the Declaration of Covenants and the Plat and Dedication of Linden Estates 2nd Addition, an Addition as surveyed, platted and recorded in Douglas County, Nebraska, over, upon, along and above the following described property:

A strip of land Ten feet (10') in width, being Five feet (5') along and abutting the common side lot lines, and a strip of land Sixteen feet (16') in width, being Eight feet (8') along and abutting the rear lot lines of Lots Forty-seven (47) thru Fifty-seven (57), Inclusive, and Lot 165 and Out Lot 2, all of said Linden Estates 2nd Addition. **

Said Plat and Dedication filed for record January 11, 1995 in Book 1996 at Page 9, and said Restrictive Covenants filed for record July 28, 1995 in Book 1152 at Page 416 all in the office of the Register of Deeds, Douglas County, Nebraska.

IN WITNESS WHEREOF, the undersigned has set its hand this 23rd day of February, 1996.

OMAHA PUBLIC POWER DISTRICT

Alan J. Kugan
Approved by Engineering

** The above described Lots, except for Lot 53, are now known as Lots 1 through 5 and Outlot 1, Linden Estates 2nd Addition Replat 1, AND Lots 1, 2 and 3, Linden Estates 2nd Addition Replat 3.

STATE OF NEBRASKA)

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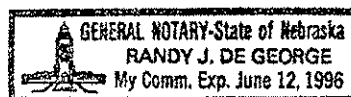
COUNTY OF DOUGLAS)

Michael L. Vodicka
Michael L. Vodicka - Manager
Administrative Services
Engineering Division

4571 cash MC-22587
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DEL C/O COMP MC-22589
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On this 23rd day of February, 1996, before me the undersigned, a Notary Public in and for said county personally came Michael L. Vodicka - (Manager-Administrative Services), to me personally known to be the identical person whose name is affixed to the above conveyance and acknowledged the execution thereof to be his voluntary act and deed.

WITNESS my hand and Notarial Seal at Omaha, in said county the day and year above written.



Randy J. De George
NOTARY PUBLIC

NOTARIAL SEAL AFFIXED
REGISTER OF DEEDS

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after receiving return to:
Healthcare Title Services

TA-33178



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GEORGE J. BULEWICZ
REGISTERED DEEDS
DOUGLAS COUNTY, NE

RELEASE OF EASEMENT

WHEREAS, request has been made that the Metropolitan Utilities District of Omaha release certain easement rights, as hereinafter further described, in Lots 47 through 57, inclusive, and in Lot 165 and Outlot 2, all in Linden Estates 2nd Addition, a subdivision, in Douglas County, Nebraska; and

WHEREAS, the District has no present or future need to retain said easement rights.

NOW, THEREFORE, the Metropolitan Utilities District of Omaha hereby releases its easement rights in certain side and rear lot line easement parcels in Linden Estates 2nd Addition, Douglas County, Nebraska, more particularly described as:

A parcel ten feet (10') in width, the five feet (5') along and abutting the common side lot lines, and a parcel sixteen feet (16') in width, being eight feet (8') along and abutting the rear lot lines of Lots Forty-seven (47) through Fifty-seven (57), inclusive, and Lot 165 and Outlot Two (2), excluding therefrom the five foot (5') wide parcel abutting the front boundary lines of said Lots 47 through 52 and of Lots 54 through 57, inclusive, all in Linden Estates 2nd Addition, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska. **

IN WITNESS WHEREOF, this Release is executed by the undersigned on this 4th day of April, 1996.

04575 H mc-22593
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METROPOLITAN UTILITIES DISTRICT
OF OMAHA, a Municipal Corporation

By: [Signature]
General Manager

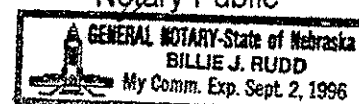
STATE OF NEBRASKA)
) ss
COUNTY OF DOUGLAS)

On this 4th day of April, 1996, before me, a Notary Public in and for the State of Nebraska, personally came the above named W. L. Strong, to me personally known to be the identical person who executed the foregoing Release on behalf of the Metropolitan Utilities District, and to me known to be the General Manager of said District, and he acknowledged said execution to be his voluntary act and deed and the voluntary act and deed of said Municipal Corporation pursuant to a resolution of its Board of Directors in the premises.

WITNESS my hand and Notarial Seal on the date aforesaid.

** The above described Lots are now known as Lots 1 through 5 and Outlot 1, Linden Estates 2nd Addition Replat 1, AND Lots 1, 2 and 3 Linden Estates Replat 3.

NOTARIAL SEAL AFFIXED
REGISTER OF DEEDS



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Returns!

FIRST AMENDMENT TO ESTATE LOTS
DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS OF
LINDEN ESTATES, A SUBDIVISION IN
DOUGLAS COUNTY, NEBRASKA

James O. Busch
16050 Regency Arch #200
Omaha, NE 68114

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GEORGE A. BUGLEWICZ
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

This First Amendment is made to the Estate Lots Declaration of Covenants, Conditions, Restrictions and Easements of Linden Estates, a subdivision in Douglas County, Nebraska, dated November 15, 1989, and recorded with the Douglas County Register of Deeds on November 16, 1989, miscellaneous records, in Book 905 at Page 281 (the "Declaration"), by Linden Park Partnership, a Nebraska general partnership (referred to as the "Declarant").

PRELIMINARY STATEMENT

The Declaration was made by the Declarant in connection with the development of Lots 1 through 73, inclusive, in Linden Estates, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska (such lots are herein referred to collectively as the "Estate Lots", and individually as each "Estate Lot"). The Estate Lots are part of Linden Estates, a residential subdivision situated southeast of 144th and Blondo Streets in Douglas County, Nebraska ("Linden Estates")

Declarant has considered modification of the Declaration to allow the Declarant the right to waive, remove or modify the applicability of any of the provisions of the Declaration as to any Estate Lot or Estate Lots. Article V, Section 2, of the Declaration allows the Declarant to amend the Declaration in any manner which it may determine in its full and absolute discretion for a period of five (5) years from the date of the Declaration. Declarant has investigated the effect which the proposed amendment would have on the Estate Lots and has concluded that the amendment would not be contrary to the preservation of Linden Estates, would not be detrimental to the maintenance of the character and residential integrity of Linden Estates, and would not in any other manner be detrimental to the intent, purpose and protection afforded to the Estate Lots by the Declaration.

NOW, THEREFORE, pursuant to the authority granted to Declarant in Article V, Section 2 of the Declaration, Declarant hereby amends and supplements the Declaration as follows:

1. Article V, Section 5 of the Declaration shall provide as follows:

5. By the duly acknowledged written consent of Linden Park Partnership, a Nebraska general partnership, any or all of the covenants, conditions, restrictions, and easements as they apply to the Estate Lots may be waived,

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modified, or amended for any Estate Lot or Estate Lots, in any manner, for such time periods, and on such conditions, if any, which it may determine in its full and absolute discretion for a period of five (5) years from the date of the Declaration.

2. In each and every other respect, the Declaration shall remain in full force and effect according to its terms.

IN WITNESS WHEREOF, the Declarant has executed this First Amendment as of the 25th day of Nov, 1992.

LINDEN PARK PARTNERSHIP, a Nebraska general partnership

By: MAENNER/HORGAN DEVELOPMENT COMPANY, a Nebraska corporation, the Development Partner

By: *Robert P. Horgan*
Robert P. Horgan, President

STATE OF NEBRASKA)
COUNTY OF DOUGLAS) ss.

Acknowledged this 25th day of NOVEMBER, 1992, before me, a notary public in and for said county and state, by Robert P. Horgan, President of Maenner/Horgan Development Company, a Nebraska corporation, on behalf of the Corporation, the Development Partner of Linden Park Partnership, a Nebraska general partnership, on behalf of said Partnership.



Donna M. Nissen
Notary Public



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GEORGE A. LUBIEWICZ
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

DISCLAIMER AND RELEASE

KNOW ALL MEN BY THESE PRESENTS, that SANITARY AND IMPROVEMENT DISTRICT NO. 397 OF DOUGLAS COUNTY, NEBRASKA, a Nebraska political subdivision, for and in consideration of One and no/100 Dollars (\$1.00) and other valuable consideration, the receipt of which is hereby acknowledged, does hereby release and disclaim any rights it may have attained by virtue of the Declaration of Covenants and the Plat and Dedication of Linden Estates 2nd Addition, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska, over, upon, along and above the following described property:

A strip of land ten feet (10') in width, being five feet (5') along and abutting the common side lot lines, and a strip of land sixteen feet (16') in width, being eight feet (8') along and abutting the rear lot lines of Lots 47 through 57, inclusive, and Lot 165, and Outlot 2, all of said Linden Estates 2nd Addition, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska. **

Said Plat and Dedication filed for record January 11, 1995, in Book 1996 at Page 9, and said Restrictive Covenants filed for record July 28, 1995, in Book 1152 at Page 416 all in the office of the Register of Deeds, Douglas County, Nebraska.

IN WITNESS WHEREOF, the undersigned has set its hand this 15th day of April, 1996.

** The above described Lots, except for Lot 53, are now known as Lots 1 through 5 and Outlot 1, Linden Estates 2nd Addition Replat 1, AND Lots 1, 2 and 3,

ATTEST: Linden Estates 2nd Addition Replat 3.

Donna M. Nissen
Clerk

SANITARY AND IMPROVEMENT DISTRICT
NO. 397 OF DOUGLAS COUNTY, NEBRASKA

By

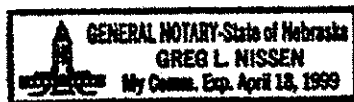
Robert P. Horgan
Chairman

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STATE OF NEBRASKA)
) ss.:
COUNTY OF DOUGLAS)

On this 15th day of April, 1996, before me, the undersigned, a Notary Public duly commissioned and qualified for said county, personally came Robert P. Horgan, Chairman, and Donna M. Nissen, Clerk, of SANITARY AND IMPROVEMENT DISTRICT NO. 397 OF DOUGLAS COUNTY, NEBRASKA, a Nebraska political subdivision, to me personally known to be the persons whose names are affixed to the foregoing instrument in that capacity and who acknowledge the same to be the voluntary act and deed of the district.

WITNESS my hand and notarial seal on the day and year last above written.



Greg L. Nissen
Notary Public

My commission expires the 18th day of APRIL, 1999.

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NOTARIAL SEAL AFFIXED
REGISTER OF DEEDS



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GEORGE J. BOULEWICZ
REGISTER OF DEEDS
DOUGLAS COUNTY, NE**CableVision**
MORE THAN JUST TELEVISION

March 4, 1996

DISCLAIMER AND RELEASE

KNOW ALL MEN BY THESE PRESENTS, that T.V. Transmission, Inc., aka Douglas County Cablevision, hereby fully or partially releases and forever disclaims certain easement rights which it may have acquired heretofore by virtue of franchise, or otherwise, to construct, maintain, renew and operate communications facilities in, under, upon, over and through the following described property:

A strip of land Ten feet {10'} in width, being Five feet {5'} along and abutting the common side lot lines, and a strip of land Sixteen feet {16'} in width, being Eight feet {8'} along and abutting the rear lot lines of Lots Forty-seven {47} thru Fifty-seven {57}, Inclusive, and Lot 165 and Out lot 2, all of Linden Estates 2nd Addition. **

IN WITNESS THEREOF, T.V. Transmission, Inc. has caused this instrument to be duly executed in it's behalf on this 6 day of March, 1996, by it's duly authorized representative.

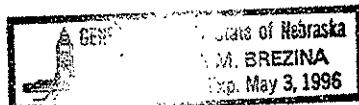
** The above described T.V. Transmission, Inc.
Lots, except for Lot 53, dba Douglas County Cablevision
are now known as Lots 1
through 5 and Outlot 1, BY DK Ross
Linden Estates 2nd General Manager
Addition Replat 1, AND title
Lots 1, 2 and 3, Linden
Estates Replat 3. 2nd Addition

STATE OF NEBRASKA

COUNTY OF DOUGLAS

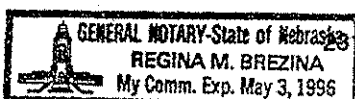
On this 6 day of March, 1996, before me, a Notary Public, duly commissioned and qualified in and for said County, personally came the above named, DK Ross, General Manager who is personally known to me to be the identical person whose name is affixed to the above Release of Easement. He acknowledges the execution thereof to be his voluntary act and deed as such officer and the voluntary deed and act of said T.V. Transmission, Inc.

WITNESS MY HAND AND NOTARIAL SEAL THE DAY AND YEAR
LAST WRITTEN ABOVE



Regina M. Brezina
Notary Public

DOUGLAS COUNTY CABLEVISION



2 SOUTH 156TH CIRCLE • OMAHA, NEBRASKA 68130 • 333-6484

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GEORGE J. DUBLEWICZ
REGISTER OF DEEDS
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RELEASE OF EASEMENT

KNOW ALL MEN BY THESE PRESENTS, THAT U S WEST COMMUNICATIONS, INC., A COLORADO CORPORATION, HEREBY FULLY OR PARTIALLY RELEASES AND FOREVER DISCLAIMS CERTAIN EASEMENT RIGHTS WHICH IT MAY HAVE ACQUIRED HERETOFORE BY VIRTUE OF FRANCHISE OR OTHERWISE, TO CONSTRUCT, MAINTAIN, RENEW AND OPERATE COMMUNICATIONS FACILITIES IN, UNDER, UPON, OVER AND THROUGH THE FOLLOWING DESCRIBED PROPERTY:

THOSE EASEMENTS ABUTTING, PARALLEL WITH AND ADJACENT TO THE COMMON LINE OF THE FOLLOWING LOTS: LOTS 47 THRU 57, LOT 165 AND OUTLOT 2, LINDEN ESTATES 2ND ADDITION, AS SURVEYED, PLATTED AND RECORDED IN SECTION 13, T-15-N, R-11-E OF THE 6TH P.M., DOUGLAS COUNTY, NEBRASKA, AND ALSO THOSE EASEMENTS ALONG AND ABUTTING THE REAR LOT LINES OF SAID LOTS.

The above described lots, except for Lot 53, are now known as Lots 1 through 5 and Outlot 1, Linden Estates 2nd Addition Replat 1, AND Lots 1, 2 and 3, Linden Estates 2nd Addition Replat 3.

IF THIS RELEASE OF EASEMENT IS PARTIAL OR CONDITIONAL, SPECIFY HERE:
RELEASES ARE TOTAL.

AND WHICH IS RECORDED IN THE RECORDS OF DOUGLAS COUNTY, NEBRASKA ON THE 11TH DAY OF JANUARY, 1995 IN BOOK 1996, PAGE 9. ALSO, FILED JULY 28, 1995, BOOK 1152, PAGE 416.

IN WITNESS WHEREOF, U S WEST COMMUNICATIONS, INC., HAS CAUSED THIS INSTRUMENT TO BE DULY EXECUTED IN ITS BEHALF ON THIS 27TH DAY OF FEBRUARY, 1996, BY ITS DULY AUTHORIZED OFFICERS.

ATTEST:

U S WEST COMMUNICATIONS, INC.
A COLORADO CORPORATION

Claudia Larsen
Claudia Larsen, Data Spec.

BY James V. Quinn
TITLE James V. Quinn, Field Engr.

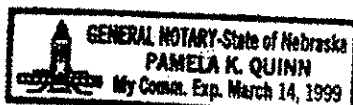
STATE OF NEBRASKA
COUNTY OF DOUGLAS

04574
FEE 90 R 1315-11 FBMC-22587
DEL. C/P COMPC-22593
LEGALPG SOAM FV

ON THIS 27TH DAY OF FEBRUARY, 1996
BEFORE ME, A NOTARY PUBLIC, DULY COMMISSIONED AND QUALIFIED IN AND FOR SAID COUNTY, PERSONALLY CAME THE ABOVE NAMED Claudia Larsen, Data Spec. AND James V. Quinn, Field Engr. OF

U S WEST COMMUNICATIONS, INC., WHO ARE PERSONALLY KNOWN TO ME TO BE THE IDENTICAL PERSONS WHOSE NAMES ARE AFFIXED TO THE ABOVE RELEASE OF EASEMENT. THEY ACKNOWLEDGED THE EXECUTION THEREOF TO BE THEIR VOLUNTARY ACT AND DEED AS SUCH OFFICERS, AND THE VOLUNTARY ACT AND DEED OF THE SAID U S WEST COMMUNICATIONS, INC.

WITNESS MY HAND AND NOTARIAL SEAL THE DAY AND YEAR LAST ABOVE WRITTEN.



PLEASE RETURN TO: Pam Quinn
910 N. 43rd Ave.
Omaha, NE 68131

Pamela K. Quinn
NOTARY PUBLIC
MY COMMISSION EXPIRES 3/14/99

TA-33178



5769 163 MTG



19590 99 163-166

Neb Doc
Stamp Tax

Date

\$

By

RICHARD N TAKECH
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

99 JUL 16 PM 2:09

RECEIVED

State of Nebraska

Space Above This Line For Recording Data

45

99250279

DEED OF TRUST

(With Future Advance Clause)

☒ Construction Security Agreement

1. **DATE AND PARTIES.** The date of this Deed of Trust (Security Instrument) is JULY 8, 1999 and the parties, their addresses and tax identification numbers, if required, are as follows:

TRUSTOR: PREFERRED ENTERPRISES, L.L.C.
1850 1ST NATIONAL CENTER
OMAHA, NE 68102
TAXPAYER I.D. #: 91-1823060

☐ If checked, refer to the attached Addendum incorporated herein, for additional Trustors, their signatures and acknowledgments.

TRUSTEE: NEBRASKA STATE BANK OF OMAHA
3211 NORTH 90TH STREET
OMAHA, NE 68134
TAXPAYER I.D. #: 47-0544762

BENEFICIARY: NEBRASKA STATE BANK OF OMAHA
ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF NEBRASKA
3211 NORTH 90TH STREET
OMAHA, NE 68134
TAXPAYER I.D. #: 47-0544762

2. **CONVEYANCE.** For good and valuable consideration, the receipt and sufficiency of which is acknowledged, and to secure the Secured Debt (defined below) and Trustor's performance under this Security Instrument, Trustor irrevocably grants, conveys and sells to Trustee, in trust for the benefit of Beneficiary, with power of sale, the following described property: LOT 2, LINDEN ESTATES 2ND ADDITION REPLAT 5, AN ADMINISTRATIVE SUBDIVISION OF LOT 1, LINDEN ESTATES 2ND ADDITION REPLAT 1, A SUBDIVISION, AS SURVEYED, PLATTED AND RECORDED IN DOUGLAS COUNTY, NEBRASKA

19540
FEE 70.50 FB MC-220646
BKP _____ C/O _____ COMP ES
DEL _____ SCAN _____ FV _____

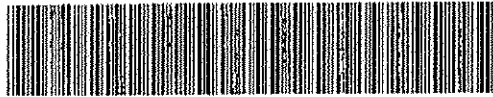
The property is located in DOUGLAS at _____
(County)
1206 NORTH 136TH AVENUE, OMAHA, Nebraska 68154
(Address) (City) (ZIP Code)

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, all water and riparian rights, ditches, and water stock and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above (all referred to as "Property").

3. **MAXIMUM OBLIGATION LIMIT.** The total principal amount secured by this Security Instrument at any one time shall not exceed \$ 1,200,098.00. This limitation of amount does not include interest and other fees and charges validly made pursuant to this Security Instrument. Also, this limitation does not apply to advances made under the terms of this Security Instrument to protect Beneficiary's security and to perform any of the covenants contained in this



BK 6240 PG 152-155



MTG 2000 27809

Nebr Doc
Stamp Tax

Date

\$

By

RICHARD N. JAKUB
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

00 NOV 20 AM 8:12

RECEIVED

State of Nebraska

Space Above This Line For Recording Data

DEED OF TRUST

(With Future Advance Clause)

☒ Construction Security Agreement

1. **DATE AND PARTIES.** The date of this Deed of Trust (Security Instrument) is NOVEMBER 14, 2000 and the parties, their addresses and tax identification numbers, if required, are as follows:

TRUSTOR: PREFERRED ENTERPRISES, L.L.C.
1850 1ST NATIONAL CENTER
OMAHA, NE 68102
TAXPAYER I.D. #: 91-1823060

☐ If checked, refer to the attached Addendum incorporated herein, for additional Trustors, their signatures and acknowledgments.

TRUSTEE: NEBRASKA STATE BANK OF OMAHA
3211 NORTH 90TH STREET
OMAHA, NE 68134
TAXPAYER I.D. #: 47-0544762

BENEFICIARY: NEBRASKA STATE BANK OF OMAHA
ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF NEBRASKA
3211 NORTH 90TH STREET
OMAHA, NE 68134
TAXPAYER I.D. #: 47-0544762

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mtg 4 B 20
FEE 20 FB _____
BKP _____ C/O _____ COMP _____
DEL _____ SCAN dc FV _____

The property is located in DOUGLAS at _____
(County)
1206 NORTH 136TH AVENUE OMAHA, Nebraska 68154
(Address) (City) (ZIP Code)

Together with all rights, easements, appurtenances, royalties, mineral rights, oil and gas rights, all water and riparian rights, ditches, and water stock and all existing and future improvements, structures, fixtures, and replacements that may now, or at any time in the future, be part of the real estate described above (all referred to as "Property").

3. **MAXIMUM OBLIGATION LIMIT.** The total principal amount secured by this Security Instrument at any one time shall not exceed \$ 200,077.00. This limitation of amount does not include interest and other fees and charges validly made pursuant to this Security Instrument. Also, this limitation does not apply to advances made under the terms of this Security Instrument to protect Beneficiary's security and to perform any of the covenants contained in this