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**FIRST AMENDMENT TO  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF WESTPORT AT THE COLONIES**

This First Amendment is made to the Declaration of Covenants, Conditions and Restrictions of Westport at The Colonies dated August 31, 1992, made by Construction Sciences, Inc. (herein the "Declaration") by the owners of the "Property", which is subject to the Declaration.

PRELIMINARY STATEMENT

The Declaration was made by Construction Sciences, Inc. for the purpose of developing Lots 83 through 86, inclusive, The Colonies Replat I, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska (herein the "Property") as a planned development consisting of a variety of building sizes and functional uses in the Westport style of architecture. Section 12.2 of the Declaration provides that the Declaration may be amended "with written consent of the Members holding sixty-seven Member Votes" (as defined in Section 9.3).

Prior to the execution of this First Amendment, Construction Sciences, Inc., has split Lot 83 into two parcels described on Exhibit "A" and Exhibit "B" to this Agreement, and referred to respectively as the "North Parcel of Lot 83" and the "South Parcel of Lot 83".

The owners of the Property have executed and approved this First Amendment to Declaration, to amend the Declaration to contemplate the Lot split.

NOW, THEREFORE, pursuant to the authority granted in Section 11.2 of the Declaration, Sections 9.3 and 9.4 of the Declaration are hereby revised to provide as follows:

9.3 Members. The Owners of the Building Sites will be the Members of the Association as a benefit or burden running with and charged upon the Ownership of each such Building Site. Each Building Site shall have the same

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DOUGLAS COUNTY, NE

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number of Member Votes as the percentage of the area of its Building Site bears to the total area of all Building Sites subject to this Declaration. The initial Building Site areas, percentages and Member Votes are as follows:

<u>Lot</u>	<u>Acreage</u>	<u>Percent</u>	<u>Member Votes</u>
North Parcel of Lot 83	5.01 acres	12%	12
South Parcel of Lot 83	11.09 acres	27%	27
Lot 84	18.8 acres	46%	46
Lot 85	4.7 acres	11%	11
Lot 86	1.8 acres	4%	4

The foregoing areas, percentages and Member Votes shall be revised in respect of any lot split approved by the Association.

9.4 Drainage Way Maintenance Assessment. The Association shall assess the cost of maintenance of the Drainage Way, plus a fifteen percent (15%) overhead fee, to the owners of Lot 83 and Lot 84, in proportion to the area of the Drainage Way situated in each of those Lots. The cost assessed to Lot 83 shall be allocated to the North Parcel of Lot 83 and the South Parcel of Lot 83 on the basis of the area of each.

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

IN WITNESS WHEREOF, the owners of the Property have executed this First Declaration on the date and year first above written.

Owner of the North Parcel of Lot 83,  
the South Parcel of Lot 83, Lot 84,  
Lot 85 and Lot 86

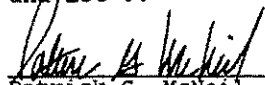
CONSTRUCTION SCIENCES, INC.,  
a Nebraska corporation

By: \_\_\_\_\_

Title: \_\_\_\_\_

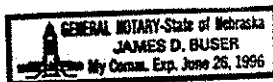
BOOK 1029 PAGE 248

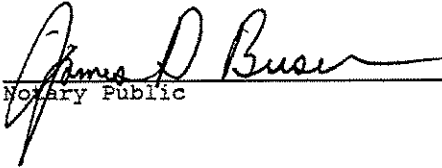
Purchaser of North Parcel of Lot 83  
and Lot 86

  
Patrick G. McNeil, d/b/a McNeil  
Builders

STATE OF NEBRASKA     )  
                                  ) ss.  
COUNTY OF DOUGLAS    )

The foregoing instrument was acknowledged before me this 31<sup>st</sup>  
day of August, 1992, by John Smith,  
President of Construction Sciences, Inc., a Nebraska corporation,  
on behalf of the corporation.



  
Notary Public

STATE OF NEBRASKA     )  
                                  ) ss.  
COUNTY OF DOUGLAS    )

The foregoing instrument was acknowledged before me this 31<sup>st</sup>  
day of August, 1992, by Patrick G. McNeil.



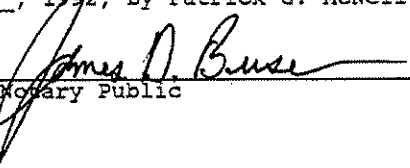
  
Notary Public

EXHIBIT "A"

LEGAL DESCRIPTION

A part of Lot 83, The Colonies Replat I, a subdivision located in the NE 1/4 of Section 2, Township 14 North, Range 11 East of the 6th P.M., Douglas County, Nebraska, more particularly described as follows:

Beginning at the Northeast corner of Lot 1, The Colonies Replat I, said point also being the Northwest corner of said Lot 83, The Colonies Replat I; thence N88°52'04"E (assumed bearing) along the South right-of-way line of "F" Street, a distance of 534.95 feet to the Northeast corner of said Lot 83, The Colonies Replat I; thence S01°07'56"E along the East line of said Lot 83, The Colonies Replat I, a distance of 135.00 feet; thence S34°36'20"W along said East line of Lot 83, The Colonies Replat I, a distance of 94.92 feet; thence S00°28'56"E along said East line of Lot 83, The Colonies Replat I, a distance of 217.97 feet; thence S88°52'04"W, a distance of 487.04 feet to the Southeast corner of Lot 7, The Colonies Replat I; thence along the West line of said Lot 83, The Colonies Replat I, on the following described courses; thence N01°07'56"W, a distance of 240.00 feet; thence N08°19'48"E, a distance of 60.83 feet; thence N01°07'56"W, a distance of 130.00 feet to the point of beginning.

Said tract of land contains an area of 5.010 acres, more or less.

EXHIBIT "B"

LEGAL DESCRIPTION

Lot 83, The Colonies Replat I, a subdivision located in the NE 1/4 of Section 2, Township 14 North, Range 11 East of the 6th P.M., Douglas County, Nebraska, except for that part legally described as follows:

Beginning at the Northeast corner of Lot 1, The Colonies Replat I, said point also being the Northwest corner of said Lot 83, The Colonies Replat I; thence N88°52'04"E (assumed bearing) along the South right-of-way line of "F" Street, a distance of 534.95 feet to the Northeast corner of said Lot 83, The Colonies Replat I; thence S01°07'56"E along the East line of said Lot 83, The Colonies Replat I, a distance of 135.00 feet; thence S34°36'20"W along said East line of Lot 83, The Colonies Replat I, a distance of 94.92 feet; thence S00°28'56"E along said East line of Lot 83, The Colonies Replat I, a distance of 217.97 feet; thence S88°52'04"W, a distance of 487.04 feet to the Southeast corner of Lot 7, The Colonies Replat I; thence along the West line of said Lot 83, The Colonies Replat I, on the following described courses; thence N01°07'56"W, a distance of 240.00 feet; thence N08°19'48"E, a distance of 60.83 feet; thence N01°07'56"W, a distance of 130.00 feet to the point of beginning.

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GEORGE J. BUGLEWICZ  
REGISTER OF DEEDS  
DOUGLAS COUNTY, NE



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EASEMENT AND RIGHT-OF-WAY

THIS INDENTURE, made this 6 day of July, 1995,  
between WESTPORT COMMERCIAL, L.P., a Nebraska Limited Partnership,  
hereinafter referred to as "Grantor", and METROPOLITAN UTILITIES DISTRICT  
OF OMAHA, a Municipal Corporation, hereinafter referred to as "Grantee",

WITNESSETH:

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

PERMANENT EASEMENT

A tract in Colonies Replat 1, a subdivision, as  
surveyed, platted and recorded in Douglas County,  
Nebraska and described as follows:

The east 10' of Lot Eighty-six (86).

Said tract contains 0.0964 of an acre, more or less,  
and is shown on the drawing attached hereto and  
made a part hereof by this reference.

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

1. The Grantor agrees that neither it nor its successors or assigns will at  
any time erect, construct or place on or below the surface of said easement tract  
any building or structure, except pavement, and they will not give anyone else  
permission to do so.

2. The Grantee shall restore the surface of the soil excavated for any  
purpose hereunder, as near as may be reasonably possible, to the original  
contour thereof and as soon after such work is performed as may be reasonably  
possible to do so.

3. Nothing herein contained shall be construed as a waiver of any rights  
of the Grantor, or duties and powers of the Grantee, respecting the ownership,  
use, operations, extensions and connections to any pipeline constructed and  
maintained hereunder.

4. It is further agreed the Grantor has lawful possession of said real  
estate, good right and lawful authority to make such conveyance and it and its  
executors, administrators, successors and assigns shall warrant and defend the

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R. OWENS  
M.U.D.  
1723 HARVEY ST  
OMAHA 68102

same and will indemnify and hold harmless the Grantee forever against the claims of all persons whomsoever in any way asserting any right, title or interest prior to or contrary to this conveyance.

5. The person executing this instrument represents he/she has the requisite authority to execute same and make this conveyance on behalf of the said Partnership.

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

WESTPORT COMMERCIAL, L.P.,  
a Nebraska Limited Partnership,  
Grantor

WITNESS:

By: William H. Nichols  
Title: General Partner

James A. Seward

## ACKNOWLEDGMENT

STATE OF NEBRASKA     )  
                             ) ss  
COUNTY OF DOUGLAS   )

This instrument was acknowledged before me on July 6, 1995, by Patrick McNeil, General Partner of Westport Commercial, L.P.

WITNESS my hand and Notarial Seal the day and year last above written.



Peggy S. Hinkle  
Notary Public

My Commission expires: 10-13-96

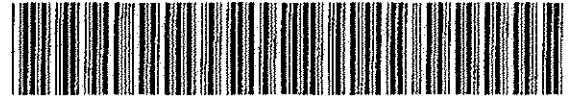


James D. Buser  
Gairnes, Mullen, Pansing & Hogan  
10050 Regency Circle, Ste. 200  
Omaha, NE 68114

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GEORGE J. HARRIS  
REGISTERED CLERK  
DOUGLAS COUNTY, NE



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SECOND AMENDMENT TO DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS OF  
WESTPORT AT THE COLONIES

This Second Amendment is made to the Declaration of Covenants, Conditions and Restrictions of Westport at the Colonies dated August 31, 1992, and recorded with the Douglas County Register of Deeds on September 2, 1992, in Book 1029 at Page 210, as amended by the First Amendment to Declaration of Covenants, Conditions and Restrictions of Westport at the Colonies dated August 31, 1992, and recorded with the Douglas County Register of Deeds on September 2, 1992, in Book 1029 at Page 246 (herein collectively the "Declaration") by the owners of the "Property" which is subject to the Declaration.

PRELIMINARY STATEMENT

The Declaration was made by Construction Sciences, Inc., as Declarant, for the purpose of developing Lots 83 through 86, inclusive, the Colonies Replat I, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska (herein the "Property"), as a planned development consisting of a variety of building sizes and functional uses in the Westport style of architecture. Section 11.2 of the Declaration provides that the Declaration may be amended "with written consent of the Members holding sixty-seven (67) Member Votes" (as defined in Section 9.3).

As a result of lot splits and subdivisions of the Property, Lots 83 through 86, inclusive, the Colonies Replat I, are now known by legal description as follows:

Lot 84, the Colonies Replat I, Lots 1 and 2, the Colonies Replat VII, Lot 1, the Colonies Replat VIII, and Lots 1 and 2, the Colonies Replat IX, all subdivisions as surveyed, platted, and recorded in Douglas County, Nebraska.   
MI-07050  
MI-07064  
MI-07065  
MI-07067

The Owners of the Property have executed and approved this Second Amendment to the Declaration, to amend the Declaration and to further the purposes of and benefit the Owners of the Property.

NOW, THEREFORE, pursuant to the authority granted in Section 11.2 of the Declaration, Sections 7.3, 9.3 and 9.4 of the Declaration are hereby amended to provide as follows:

7.3 Waiver and Variance. The Association may, at its discretion, waive or grant variances in any one or more of the covenants, conditions, restrictions, easements and reservations contained in this Declaration whenever, such waiver or variance shall not be detrimental to the overall quality of the Property; provided that the Association may not waive or grant any variance of the obligation of the Declarant set forth in Article IV, or the obligation of the Declarant or the Owners to pay charges, dues and assessments provided for in Article IX or Section 4.9.

9.3 Members. The Owners of the Building Sites will be the Members of the Association as a benefit or burden running with and charged upon the ownership of the Building Site. Each Building Site shall have the same number of Member Votes as the percentage of the area of its Building Site compares to the total area of all Building Sites subject to this Declaration. The Building Site areas, percentages and Member Votes as of the date of this Second Amendment are as follows:

<u>Lot</u>	<u>Acreage</u>	<u>Percent</u>	<u>Member Votes</u>
Lot 1 Colonies Replat VII	11.73 acres	28%	28
Lot 2 Colonies Replat VII	4.37 acres	11%	11
Lot 1 Colonies Replat VIII	.73 acres	2%	2
Lot 1 Colonies Replat IX	3.47 acres	8%	8
Lot 2 Colonies Replat IX	2.30 acres	5%	5
Lot 84 <u>Colonies Replat I</u>	<u>18.80 acres</u>	<u>46%</u>	<u>46</u>
TOTALS	41.40 acres	100%	100

The foregoing areas, percentages and Member Votes shall be revised in respect of any lot split approved by the Association without further amendment to this Declaration.

9.4 Drainageway Maintenance Assessment. The Association shall assess the cost of maintenance of the Drainage Way, plus a fifteen percent (15%) overhead fee, to the Owners of Lot 2, Colonies Replat VII and Lot 84, Colonies Replat

I, in proportion to the area of the drainageway situated on and upon each of those Lots.

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

IN WITNESS WHEREOF, the owners of the Property have executed this Second Amendment to Declaration to be effective as of the 11 day of December, 1995.

OWNER OF THAT PART OF LOT 83  
COLONIES REPLAT I NOW KNOWN AS LOT 2  
COLONIES REPLAT VII AND THAT PART OF  
LOT 85 COLONIES REPLAT I NOW KNOWN  
AS LOT 2 COLONIES REPLAT IX:

PATRICK G. MCNEIL

  
Patrick G. McNeil

OWNER OF LOT 86 COLONIES REPLAT I  
AND THAT PART OF LOT 85 COLONIES  
REPLAT I NOW KNOWN COLLECTIVELY AS  
LOT 1 COLONIES REPLAT IX:

WESTPORT COMMERCIAL, L.P., a  
Nebraska limited partnership

By   
Patrick G. McNeil, General Partner

OWNER OF THAT PART OF LOT 83  
COLONIES REPLAT I NOW KNOWN AS LOT 1  
COLONIES REPLAT VII AND THAT PART OF  
LOT 85 COLONIES REPLAT I NOW KNOWN  
AS LOT 1 COLONIES REPLAT VIII:

FIRSTPORT, L.P., a Nebraska limited  
partnership,

By: FIRSTPORT DEVELOPMENT, INC., a  
Nebraska corporation, general  
partner

By   
Patrick G. McNeil, President

OWNER OF LOT 84 COLONIES REPLAT I:

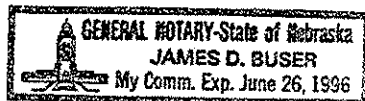
VETTER HEALTH SERVICES, INC., a  
Nebraska Corporation

By: John D. Vetter

Title: Pres.

STATE OF NEBRASKA     )  
                              ) SS.  
COUNTY OF DOUGLAS    )

The foregoing instrument was acknowledged before me this 11<sup>th</sup>  
day of December, 1995, by Patrick G. McNeil.

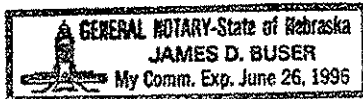


James D. Buser  
Notary Public

STATE OF NEBRASKA     )  
                              ) SS.  
COUNTY OF DOUGLAS    )

NOTARIAL SEAL AFFIXED  
REGISTER OF DEEDS

The foregoing instrument was acknowledged before me this 11<sup>th</sup>  
day of December, 1995, by Patrick G. McNeil, General Partner of  
Westport Commercial, L.P., a Nebraska limited partnership, on  
behalf of the partnership.

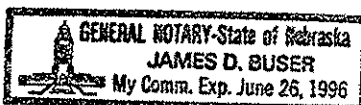


James D. Buser  
Notary Public

STATE OF NEBRASKA     )  
                              ) SS.  
COUNTY OF DOUGLAS    )

NOTARIAL SEAL AFFIXED  
REGISTER OF DEEDS

The foregoing instrument was acknowledged before me this 11<sup>th</sup>  
day of December, 1995, by Patrick G. McNeil, President of  
Firstport Development, Inc., a Nebraska corporation, General  
Partner of Firstport, L.P., a Nebraska limited partnership, on  
behalf of the partnership.

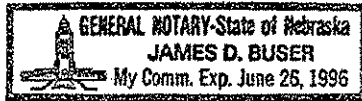


James D. Buser  
Notary Public

NOTARIAL SEAL AFFIXED  
REGISTER OF DEEDS

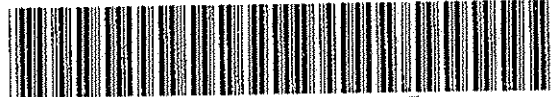
STATE OF NEBRASKA     )  
                                  ) ss.  
COUNTY OF DOUGLAS    )

The foregoing instrument was acknowledged before me this 11<sup>th</sup>  
day of December, 1995, by Jack O. Vetter, President  
of Vetter Health Services, Inc., a Nebraska corporation, on behalf  
of the corporation.



James D. Buser  
Notary Public

NOTARIAL SEAL AFFIXED  
REGISTER OF DEEDS



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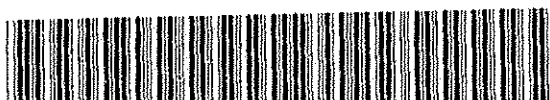
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REGISTER  
DOUGLAS C. 1002

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AMENDMENT TO  
PROTECTIVE COVENANTS

THIS AMENDMENT TO PROTECTIVE COVENANTS is made the date hereinafter set forth by Construction Sciences, Inc., a Nebraska corporation hereinafter referred to as "Declarant".

RECITALS:

A. On November 7, 1994, Protective Covenants for:

Lots 2, 3, 4, 21, 22, 24, 26, 27, 28, 44, 46, 55, 56, *M1-07050*  
58, 60, 62, 63, 65, 67, 73 and 74, Colonies Replat I; and

Lots 95, 96, 97 and 98, Colonies Replat III; and *M1-07050*

Lots 1 - 44 inclusive, Colonies Replat IV; and, *M1-07059*

Lots 1 - 4, inclusive, Colonies Replat V *M1-07062*

as surveyed, platted and recorded in Douglas County, Nebraska were recorded by the Declarant in the office of the Register of Deeds of Douglas County, Nebraska in Miscellaneous Book 1133 at Page 197; and,

B. Paragraph 24 of the Protective Covenants provides that said Covenants may be amended by the Declarant for a period of ten (10) years following November 7, 1994.

NOW, THEREFORE, Declarant hereby declares that the Protective Covenants recorded on November 7, 1994 in Miscellaneous Book 1133 at Page 197 of the office of the Register of Deeds of Douglas County, Nebraska for the above described lots should and are hereby amended by deleting the provisions of Paragraph 6; and, substituting the following:

" 6. Area. Dwellings shall be restricted to minimum floor area above grade (exclusive of garage, porches, breezeways and basements, whether finished or not) as follows:

- |                |                                                                                   |
|----------------|-----------------------------------------------------------------------------------|
| A. Ranches     | 1275 square feet total;                                                           |
| B. Split entry | 1300 square feet total<br>on main floor & minimum<br>300 sq ft finished basement. |
| C. Split level | 1500 square feet total<br>including all living levels                             |

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c/o SIM ECKER  
BILLS MADISON  
CHATHAM, NE 68127

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GEORGE J. BUSER  
REGISTERED CLERK  
DOUGLAS COUNTY, NE

#### EASEMENT AGREEMENT

This Easement Agreement is made and entered into this 14 day of March, 1995, by and between Firstport, L.P., a Nebraska limited partnership ("Firstport"), and Patrick G. McNeil ("McNeil").

#### Preliminary Statement

Firstport is the owner of real property, in Douglas County, Nebraska, legally described in Exhibit "A" attached hereto and by this reference incorporated herein.

McNeil is the owner of two parcels of property legally described as follows (referred to as "McNeil Parcel One" and "McNeil Parcel Two" respectively):

##### McNeil Parcel One

Lot 2, The Colonies Replat VII, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska.

M1-07064

##### McNeil Parcel Two

Lot 2, The Colonies Replat VIII, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska.

M1-07065

The Firstport Property and McNeil Parcel One have a common boundary along the south property line of the Firstport Property and the north property line of McNeil Parcel One. The Firstport Property and McNeil Parcel Two have a common boundary along the east property line of the Firstport Property and the west property line of McNeil Parcel Two.

Firstport plans to develop, own and operate a two hundred (200) unit apartment complex and related amenities and facilities on the Firstport Property. McNeil anticipates that additional apartment buildings and garages will be constructed, developed and operated in the future on McNeil Parcel One and McNeil Parcel Two.

Each party believes it is in their best interest desire to create reciprocal permanent non-exclusive ingress and egress easements to allow each other party the right to come upon and travel across all roadways, walkways and thoroughfares which now exist or will exist in the future on their respective properties.

In consideration of the foregoing, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Firstport and McNeil do hereby agree as follows:

#### Article I.

##### Ingress and Egress Easements

A. McNeil grants to Firstport, its employees, contractors, agents, licensees, invitees and lessees, and the lessees' families, guests, licensees and invitees, and Firstport's successors and assigns to the Firstport Property, a perpetual non-exclusive right, privilege and easement ("Firstport Easement One") to come upon and travel across all roadways, walkways and thoroughfares now existing or hereafter created on McNeil Parcel One (the "Firstport Easement One Area").

WO

B. McNeil grants to Firstport, its employees, contractors, agents, licensees, invitees and lessees, and the lessees' families, guests, licensees and invitees, and Firstport's successors and assigns to the Firstport Property, a perpetual non-exclusive right, privilege and easement ("Firstport Easement Two") to come upon and travel across all roadways, walkways and thoroughfares now existing or hereafter created on McNeil Parcel Two (the "Firstport Easement Two Area").

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C. Firstport grants to McNeil, its employees, contractors, agents, licensees, invitees and lessees, and the lessees' respective families, guests, licensees and invitees, and McNeil's successors and assigns to McNeil Parcel One and McNeil Parcel Two, a perpetual non-exclusive right, privilege and easement (the "McNeil Easement") to come upon and travel across all roadways, walkways and thoroughfares now existing or hereafter created on the Firstport Property (the "McNeil Easement Area").

D. The owner of the Firstport Property and the owner of McNeil Parcel One and McNeil Parcel Two, and their respective employees, contractors, agents, licensees, invitees and lessees, and the lessees' families, guests, licensees and invitees shall have free and unimpeded use of Firstport Easement Area One and the Firstport Easement Area Two and the McNeil Easement Area for vehicular and pedestrian ingress and egress across the Firstport Property, McNeil Parcel One, and McNeil Parcel Two, and to public rights-of-way. The owner of the Firstport Property and the respective owners of McNeil Parcel One and McNeil Parcel Two shall each prohibit and take reasonable action to prevent parking on and along those parts of Firstport Easement Area One, Firstport Easement Area Two and the McNeil Easement Area (excluding these areas designated as parking areas) which may unreasonably interfere with or block travel along the respective easement areas.

E. The owner of McNeil Parcel One agrees to repair and maintain Firstport Easement Area One in a reasonable manner, the owner of McNeil Parcel Two agrees to repair and maintain Firstport Easement Area Two in a reasonable manner, and the owner of the Firstport Property agrees to repair and maintain the McNeil Easement Area in a reasonable manner.

F. The owner of the Firstport Property agrees to at all times maintain a drive from "F" Street across the Firstport Property to McNeil Parcel One and McNeil Parcel Two, allowing access from "F" Street to McNeil Parcel One to McNeil Parcel Two.

G. The ingress and egress easements created pursuant to Article I of this Easement Agreement, as such relate to vehicular ingress and egress, shall be limited to and be used only for pedestrian, automobile and light truck purposes.

#### Article II. Miscellaneous

A. The ingress and egress easements provided for in this Easement Agreement shall run with the land, inure to the benefit of, and be binding upon, the parties, and their respective heirs, personal representatives and assigns.

B. No waiver of any breach of any of the easements or agreements contained in this Easement Agreement shall be construed or constitute a waiver of any other breach, or a waiver, acquiescence or consent to any further or succeeding breach of the same or any other easement or agreement.

C. The ingress and egress easements provided for in this Agreement shall be subject to any reasonable rules and regulations which may be adopted by the owners of the respective servient estates, provided, that such rules and regulations are equally applicable to the tenants of the servient estate and provided that such rules and regulations do not unreasonably limit or restrict the ingress and egress easements provided herein.

D. If any term or provision of this Easement Agreement shall, to any extent, be held invalid or unenforceable, the remaining terms and provisions of this Easement Agreement shall not be affected thereby, but each remaining term and provision shall be valid and enforced to the fullest extent permitted by law.

E. All notices under this Easement Agreement shall be deemed effective on the date personally delivered or mailed by U.S. Mail, Certified, Return Receipt Requested, postage prepaid, to each respective owner at their address as designated on the records of the governmental authority which is charged with delivering real estate tax notices.

F. This Easement Agreement shall be construed and enforced in accordance with the laws of the State of Nebraska.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year first written.

OWNER OF FIRSTPORT PROPERTY: FIRSTPORT, L.P.  
By: FIRSTPORT DEVELOPMENT, INC., General Partner

By:   
Patrick G. McNeil, President

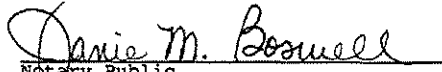
OWNER OF MCNEIL PARCEL ONE and MCNEIL PARCEL TWO:  
PATRICK G. MCNEIL

  
Patrick G. McNeil

STATE OF NEBRASKA       )  
                                  ) ss.  
COUNTY OF DOUGLAS     )

Acknowledged this 14 day of March, 1995, before me, a notary public in and for said county and state, by Patrick G. McNeil, President of Firstport Development, Inc., a Nebraska corporation, on behalf of the corporation, General Partner of Firstport, L.P., a Nebraska limited partnership, on behalf of said partnership.

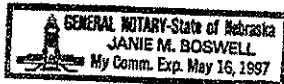


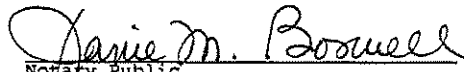
  
Notary Public

NOTARIAL SEAL AFFIXED  
REGISTER OF DEEDS

STATE OF NEBRASKA       )  
                                  ) ss.  
COUNTY OF DOUGLAS     )

Acknowledged this 14 day of March, 1995, before me a notary public in and for said county and state, by Patrick G. McNeil.



  
Notary Public

**EXHIBIT A**

**LEGAL DESCRIPTION**

**FEDERAL HOUSING ADMINISTRATION**

**PROJECT NO. 103-35116**

**WESTPORT APARTMENTS**

All of Lot 1, The Colonies Replat VII, and all of Lot 1, The Colonies Replat VIII, both subdivisions located in the NE1/4 of Section 2, Township 14 North, Range 11 East of the 6th P.M., Douglas County, Nebraska.

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RICHARD N. TAKECHI  
REGISTER OF DEEDS  
DOUGLAS COUNTY, NE



#### EASEMENT AGREEMENT

This Easement Agreement is made and entered into this 29th day of April, 1997, by and between Firstport, L.P., a Nebraska limited partnership ("Firstport"), and Patrick G. McNeil ("McNeil").

#### Preliminary Statement

Firstport is the owner of real property in Douglas County, Nebraska, legally described in Exhibit "A" attached hereto and by this reference incorporated herein.

McNeil is the owner of real property legally described as follows (referred to as the "McNeil Property"):

Lot 2, The Colonies Replat VII, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska.

The Firstport Property and the McNeil Property have a common boundary along the south property line of the Firstport Property and the north property line of the McNeil Property.

Firstport has substantially completed construction of a two hundred (200) unit apartment complex and related amenities and facilities on the Firstport Property. Firstport and McNeil have discovered that part of the access drive and paved parking lot constructed along the south part of the Firstport Property encroaches upon the McNeil Property. The part of the paved access drive and parking lot which encroaches upon the McNeil Property is legally described on Exhibit "B" attached hereto and by this reference incorporated herein (the "Encroachment Area"). Firstport desires to secure from McNeil a permanent easement to permit encroachment on the McNeil Property of the paved access drive and parking lot upon the Encroachment Area.

McNeil anticipates that additional apartment buildings and garages may be constructed, developed and operated in the future on the McNeil Property, and has determined that it would be in his best interest to grant an easement to Firstport to permit encroachment of the paved access drive and parking lot improvements upon the Encroachment Area.

NOW, THEREFORE, in consideration of the foregoing, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Firstport and McNeil do hereby agree as follows:

#### ARTICLE I. Encroachment Easement

A. McNeil grants to Firstport, its employees, contractors, agents, licensees, invitees and lessees, and the lessees' families, guests, licensees and invitees, and Firstport's successors and assigns to the Firstport Property, a perpetual nonexclusive right, privilege and easement (the "Encroachment Easement") to construct, maintain, repair, and reconstruct a paved access drive and parking lot improvements, and to come upon and travel across a paved access drive and parking lot improvements upon the Encroachment Area.

B. The owner of the Firstport Property agrees to: (i) repair and maintain that part of the paved access drive and parking lot constructed on the Encroachment Area in a reasonable manner; (ii) maintain liability insurance in an amount no less than One Million Dollars (\$1,000,000.00) per occurrence for any injury or property damage which might be chargeable to the owner of the Firstport Property for injuries or property damage occurring on the Encroachment Area; and (iii) pay to McNeil when due any increase in real estate taxes which might be assessed against the McNeil Property for the paved access drive and parking lot improvements as constructed in the Encroachment Area.

#### ARTICLE II. Miscellaneous

A. The Encroachment Easement provided for in this Easement Agreement shall run with the land, inure to the benefit of, and be binding upon, the parties, and their respective heirs, personal representatives and assigns.

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B. No waiver of any breach of any of the easements or agreements contained in this Easement Agreement shall be construed or constitute a waiver of any other breach, or a waiver, acquiescence or consent to any further or succeeding breach of the same or any other easement or agreement.

C. If any term or provision of this Easement Agreement shall, to any extent, be held invalid or unenforceable, the remaining terms and provisions of this Easement Agreement shall not be affected thereby, but each remaining term and provision shall be valid and enforced to the fullest extent permitted by law.

D. All notices under this Easement Agreement shall be deemed effective on the date personally delivered or mailed by U.S. Mail, Certified, Return Receipt Requested, postage prepaid, to each respective owner at their address as designated on the records of the governmental authority which is charged with delivering real estate tax notices.

E. This Easement Agreement shall be construed and enforced in accordance with the laws of the State of Nebraska.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year first written.

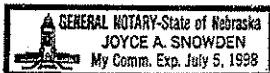
FIRSTPORT, L.P., a Nebraska limited partnership  
By: FIRSTPORT DEVELOPMENT, INC., a Nebraska corporation, General Partner

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

Patrick G. McNeil  
Patrick G. McNeil

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DOUGLAS )

Acknowledged this 29th day of April, 1997, before me, a notary public in and for said county and state, by Patrick G. McNeil, President of Firstport Development, Inc., a Nebraska corporation, on behalf of the corporation, General Partner of Firstport, L.P., a Nebraska limited partnership, on behalf of said partnership.

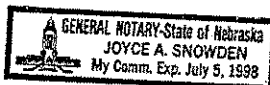


Joyce A. Snowden  
Notary Public

NOTARIAL SEAL AFFIXED  
REGISTER OF DEEDS.

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DOUGLAS )

Acknowledged this 29th day of April, 1997, before me a notary public in and for said county and state, by Patrick G. McNeil.



Joyce A. Snowden  
Notary Public

NOTARIAL SEAL AFFIXED  
REGISTER OF DEEDS.



PROTECTIVE COVENANTS

The undersigned, CONSTRUCTION SCIENCES, INC., A Nebraska Corporation (hereinafter referred to as "Developer"), being the owner of Lots one (1) through eighty-two (82), inclusive, in THE COLONIES REPLAT 1, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska does hereby create, adopt, declare and establish the following restrictions upon the following described properties: Lots 1 through 82, inclusive, in THE COLONIES REPLAT 1, a subdivision in Douglas County, Nebraska as surveyed, platted and recorded.

1. Permitted Uses. No lot shall be used except for single-family residential purposes, schools or churches: except that Lot 1 may be used for a Metropolitan Utilities District well station. Only one detached single-family dwelling may be erected, altered, placed or permitted to remain on any lot. Said dwelling may not exceed two stories in height, shall provide an attached private garage for not less than two nor more than three automobiles. No obnoxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance.

2. Setbacks and Sideyards. All setbacks, side and rear yard requirements shall conform to applicable laws and ordinances.

3. Temporary Structures. No Structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuildings shall be used on any lot at any time as a residence, either temporary or permanent.

4. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot except dogs, cats or household pets, provided that they are not kept, bred or maintained for any commercial purpose.

5. Fences and Dog Runs. Fences shall not be located on any lot nearer to the street than the structure located on said lot.

6. Area. Dwellings shall be restricted to minimum floor area above grade (exclusive of garage, porches, breezeways and basements, whether finished or not) as follows:

- |                                 |                                                                 |
|---------------------------------|-----------------------------------------------------------------|
| A. Ranches                      | 1000 square feet total                                          |
| B. Split entries<br>Split level | 1100 square feet total                                          |
| C. Tri-level                    | 1500 square feet total; with<br>1000 square feet top two levels |

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GEORGE J. SUCLEWICZ  
REGISTER OF DEEDS  
DOUGLAS COUNTY, NE

1

968 Comp C/O FEE 61.00  
533-536 DEL MC 41c  
OF misc COMP JV F/B 111-0705

D. Two Story 1400 square feet total; with  
950 square feet on main floor  
level

E. Multi-level (three or more levels finished  
above grade) 1200 square feet total

7. Moved Dwellings. Existing houses from other locations or houses built in another location may not be moved or placed on any lot within this subdivision without the written consent of the Developer or its designee.

8. Weeds. The title holder of each lot, vacant or improved, shall keep his lot or lots free from weeds and debris.

9. Sidewalks. Portland Cement Concrete public sidewalks four feet wide by four inches thick shall be constructed in front of each building lot and along the street side of each corner lot. The sidewalks shall be placed four feet back of the street curb line.

10. Conform to Zoning. All structures, including driveways, sidewalks and patios placed upon the above property shall conform to the zoning requirements of the City of Omaha and the building code requirements of the City of Omaha.

11. Signs. Except as set forth in paragraph 16, no sign, billboard or other structure for advertising or the display of advertising material of any kind shall be erected, altered, placed or permitted to remain on any lot except that real estate signs shall be permitted temporarily. Developer and/or its designee may however, permit such signs as may be reasonable necessary for the operation and advertisement of model homes.

12. Boats and Trailers. No boat, camper, trailer or similar chattel will be maintained on any lot, other than in any enclosed structure, for more than seven (7) days within any calendar year; and no automobile, motorcycle, truck or other vehicle will be repaired, torn down or stored on any lot, other than in an enclosed structure.

13. Outside Antennae Prohibited. No outside radio, television, Ham broadcasting, Earth Station, Satellite Dish or other electronic antenna or aerial shall be erected or placed on any structure or on any lot. If used, any such antenna or aerial shall be placed in the attic of the house, or in any other place in the house where it will be concealed from public view from any side of the house.

14. **Exposed Foundation.** The exposed portion of the foundation on the front of the dwelling shall be faced with either brick or stone. If the lot has frontage on more than one street, the above provision shall apply only to that side constituting the front of the house.

15. **Sod.** A minimum of 1300 square feet of sod shall be laid in all yards.

16. **Fences/Signs.** There shall be a six foot high wood board on board fence constructed on the rear perimeter lot line of Lots 1 through 19, 55 through 59, and 63 through 65 and the side perimeter lot line of Lots 1, 19, 20 and 82 with the construction of such residence. The owner of any such lot shall at his sole expense maintain and keep such fence in good order, including removal of graffiti and the prevention of placing signs, banners, or any such thing on the fence. When and if reasonably necessary, repair and replacement of the fence shall be of the same style and equal quality.

17. **Power and Telephone Easements.** A perpetual license and easement is hereby reserved in favor of and granted to Omaha Public Power District and Northwestern Bell Telephone Company, CATV and any company duly franchised by Douglas County and receiving permission from the Developer, their successors and assigns, to erect, operate, maintain repair and renew underground conduit and wires for the carrying and transmission of electric current for light, heat and power, and for all telephone, telegraph, television and message service over and upon and below a five foot (5') strip of land adjoining the rear and side boundary lines of said lot in said addition; said license is granted for the use and benefit of all present and future owners of lots in said addition; provided, however, that said side lot easement is granted upon the specific condition that if both of said utility companies or the CATV Company fail to construct underground conduit and wires along any of said lot lines with forty-eight (48) months of the date hereof, or if any underground conduits and wires are constructed by are thereafter removed without replacement within sixty (60) days after their removal, such side lot easement shall automatically terminate as to such unused or abandoned easement ways.

18. **Model Home.** Developer, its successors and/or assigns shall be allowed to operate and maintain model homes in the subdivision. This right does not expire with the sale of the last buildable lot in the subdivision.

19. **Remedy on Violation.** If the parties hereto or any of their heirs, successors or assigns shall violate or attempt to violate any of the covenants or restrictions herein, it shall be lawful for any person or persons owning any other lots in said development or subdivision to prosecute any proceedings at law or

in equity against the person or persons violating or attempting to violate any such covenant or restriction, and either prevent him or them from so doing or to recover damages for such violation.

20. Severability. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

21. Binding on Successors. The covenants and restrictions herein contained shall run with the land, and shall be binding upon all persons for a period of twenty-five (25) years from the date hereof. Each of the covenants herein contained is several and separate from the other covenants, and invalidity of any covenant shall not affect the validity of any other provision of the instrument.

22. Enforcement by Developer. Nothing herein contained shall in any way be constructed as imposing upon the Developer or any of the undersigned any liability, obligation or requirement to enforce this instrument or any of the provisions contained herein.

23. Amendments. This Declaration may be amended by Declarant, or any person, firm, corporation, partnership, or entity designated in writing by Declarant, in any manner which it may determine in its full and absolute discretion for a period of ten (10) years following the date hereof. Thereafter this Declaration may be amended by an instrument signed by the owner or owners of not less than seventy-five percent (75%) of the lots covered by this Declaration.

24. Waiver for Hardship. Until such time as all lots are improved, Developer shall have the right in its discretion to waive any one or more of the covenants, conditions or restrictions herein contained for hardship or other cause.

Dated this 26<sup>th</sup> day of JUNE, 1991.

CONSTRUCTION SCIENCES, INC.

By: [Signature] President

STATE OF NEBRASKA )  
COUNTY OF DOUGLAS ) ss.

On this 26<sup>th</sup> day of June, 1991, the foregoing instrument was acknowledged before me by John J. Smith acting on behalf of Construction Sciences, Inc.

[Signature]  
Notary Public



1133 197 MISC



13122 94 197-202

Return to: CONSTRUCTION SCIENCES, INC.  
JIM ECKER  
8425 MADISON  
OMAHA, NE 68127

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CLERK OF DISTRICT COURT  
DISTRICT OF NEBRASKA  
COUNTY OF DOUGLAS

PROTECTIVE COVENANTS

Whereas, CONSTRUCTION SCIENCES, INC. did execute Protective Covenants for THE COLONIES REPLAT I; and, THE COLONIES REPLAT III, which were filed and recorded with the Register of Deeds, Douglas County, Nebraska on June 27, 1991 (Misc. Book 968, Pages 533 - 536) and December 18, 1992 (Misc. Book 1049, Pages 408 - 411) respectively; and,

Whereas, CONSTRUCTION SCIENCES, INC. as the owner of certain lots within COLONIES REPLAT I AND III, does hereby amend said Protective Covenants by rescinding the above said Protective Covenants for the following lots:

Lots 2, 3, 4, 21, 22, 24, 26, 27, 28, 35 - 38 inclusive, 40, 44, 46, 48 - 53 inclusive, 55, 56, 58, 60, 62, 63, 65, 67, 73 - 79 inclusive, Colonies Replat I; and Lots 89 - 130 inclusive, Colonies Replat III

Therefore, the prior Protective Covenants are hereby null and void for the above captioned lots; and,

Further, That the undersigned, CONSTRUCTION SCIENCES, INC., A Nebraska Corporation (hereinafter referred to as "Developer"), being the owner of:

Lots 2, 3, 4, 21, 22, 24, 26, 27, 28, 44, 46, 55, 56, 58, 60, 62, 63, 65, 67, 73 and 74, Colonies Replat I; and

Lots 95, 96, 97 and 98, Colonies Replat III; and

Lots 1 - 44 inclusive, Colonies Replat IV; and,

Lots 1 - 4, inclusive, Colonies Replat V

as surveyed, platted and recorded in Douglas County, Nebraska does hereby create, adopt, declare and establish the following restrictions upon the above described properties:

1. Permitted Uses. No lot shall be used except for single-family residential purposes, schools or churches. Only one detached single-family dwelling may be erected, altered, placed or permitted to remain on any lot. Said dwelling may not exceed two stories in height, shall provide an attached private garage for not less than two nor more than three automobiles. No obnoxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or become an annoyance.

2. Setbacks and Sideyards. All setbacks, side and rear yard requirements shall conform to applicable laws and ordinances.

3. Temporary Structures. No Structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuildings shall be used on any lot at any time as a residence, either temporary or permanent.

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MI-07059  
MI-07062

3

4. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any lot except dogs, cats or household pets, provided that they are not kept, bred or maintained for any commercial purpose.

5. Fences and Dog Runs. Fences shall not be located on any lot nearer to the street than the structure located on said lot.

6. Area. Dwellings shall be restricted to minimum floor area above grade (exclusive of garage, porches, breezeways and basements, whether finished or not) as follows:

- A. Ranches 1400 square feet total;
- B. Split entries 1440 square feet total;  
Split level  
(Must have a minimum of 300 sq ft finished basement)
- C. One and 1/2 Story 1800 square feet total;
- D. Tri-level 1750 square feet total;
- D. Two Story 1850 square feet total;

All residential structures shall have an attached garage which will accommodate a minimum of two (2) cars.

7. For a period of five (5) years after the filing of this Declaration, all first time new home construction shall be approved as follows:

(a) An owner desiring to erect a new home shall hand deliver three (3) sets of construction plans to Construction Sciences, Inc.. Such plans shall reflect the type of structure, square footage, quality and use of exterior materials, exterior design, exterior color or colors and location of proposed improvement. Only exterior colors of certain earthtone hues will be acceptable. Concurrent with the submission of the plans, the Owner shall provide their mailing address and telephone number.

(b) Construction Sciences, Inc. shall distribute the plans to the Architectural Control Committee (Committee), consisting of a representative of the Declarant; and, two (2) representatives of the other home builders in the area (if they agree to be represented). The Committee shall review such plans in light of the conditions and restrictions contained herein and in relation to the type and the exterior of improvements which have been constructed, or approved for construction, on the Lots. In this regard, Declarant intends that the Lots shall be developed as a residential community with homes constructed of high quality materials. The decision to approve or refuse approval of a proposed

Improvement shall be exercised by the Committee in a reasonable manner to promote conformity and harmony of the external design of the improvements constructed within the Colonies Subdivision and to protect the value, character and residential quality of all Lots in a manner consistent with this Declaration. If the Committee determines that the proposed Improvement will not protect and enhance the integrity and character of all the Lots and neighboring Lots as a quality residential community, Committee 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 or shall be hand delivered. Such notice shall be mailed or delivered within thirty (30) days after the date of submission of the plans. If written notice of approval is not mailed or delivered within such period, the proposed Improvement shall be deemed refused by the Committee.

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

8. Moved Dwellings. Existing houses from other locations or houses built in another location may not be moved or placed on any lot within this subdivision without the written consent of the Developer or its designee.

9. Weeds. The title holder of each lot, vacant or improved, shall keep his lot or lots free from weeds and debris.

10. Sidewalks. Portland Cement Concrete public sidewalks four feet wide by four inches thick shall be constructed in front of each building lot and along the street side of each corner lot. The sidewalks shall be placed four feet back of the street curb line.

11. Conform to Zoning. All structures, including driveways, sidewalks and patios placed upon the above property shall conform to the zoning requirements of the City of Omaha and the building code requirements of the City of Omaha.

12. Signs. No sign, billboard or other structure for advertising or the display of advertising material of any kind shall be erected, altered, placed or permitted to remain on any lot except that real estate signs shall be permitted temporarily.



Developer and/or its designee may however, permit such signs as may be reasonable necessary for the operation and advertisement of model homes.

13. Boats and Trailers. No boat, camper, trailer of similar chattel will be maintained on any lot, other than in any enclosed structure, for more than seven (7) days within any calendar year; and no automobile, motorcycle, truck or other vehicle will be repaired, torn down or stored on any lot, other than in an enclosed structure.

14. Outside Antennae Prohibited. No outside radio, television, Ham broadcasting, Earth Station, Satellite Dish or other electronic antenna or aerial shall be erected or placed on any structure or on any lot. If used, any such antenna or aerial shall be placed in the attic of the house, or in any other place in the house where it will be concealed from public view from any side of the house.

15. Exposed Foundation. The exposed portion of the foundation on the front of the dwelling shall be faced with either brick or stone. If the lot has frontage on more than one street, the above provision shall apply only to that side constituting the front of the house.

16. Sod. A minimum of 5000 square feet of sod shall be laid in all yards.

17. Fences/Signs. If a fence is constructed on the subject lots; the owner of any such lot shall at his sole expense maintain and keep such fence in good order, including removal of graffiti and the prevention of placing signs, banners, or any such thing on the fence, and the repair or replacement of the fence with the same style and equal quality fence when and if reasonably necessary.

18. Power and Telephone Easements. A perpetual license and easement is hereby reserved in favor of and granted to Omaha Public Power District and Northwestern Bell Telephone Company, CATV and any company duly franchised by Douglas County and receiving permission from the Developer, their successors and assigns, to erect, operate, maintain repair and renew underground conduit and wires for the carrying and transmission of electric current for light, heat and power, and for all telephone, telegraph, television and message service over and upon and below a five foot (5') strip of land adjoining the rear and side boundary lines of said lot in said addition; said license is granted for the use and benefit of all present and future owners of lots in said addition; provided, however, that said side lot easement is granted upon the specific condition that if both of said utility companies or the CATV Company fail to construct underground conduit and wires along any of said lot lines with forty-eight (48) months of the date hereof, or if any underground conduits and wires are constructed by are thereafter removed

without replacement within sixty (60) days after their removal, such side lot easement shall automatically terminate as to such unused or abandoned easement ways.

19. Model Home. Developer, its successors and/or assigns shall be allowed to operate and maintain model homes in the subdivision. This right does not expire with the sale of the last buildable lot in the subdivision.

20. Remedy on Violation. If the parties hereto or any of their heirs, successors or assigns shall violate or attempt to violate any of the covenants or restrictions herein, it shall be lawful for any person or persons owning any other lots in said development or subdivision to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenant or restriction, and either prevent him or them from so doing or to recover damages for such violation.

21. Severability. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the other provisions which shall remain in full force and effect.

22. Binding on Successors. The covenants and restrictions herein contained shall run with the land, and shall be binding upon all persons for a period of twenty-five (25) years from the date hereof. Each of the covenants herein contained is several and separate from the other covenants, and invalidity of any covenant shall not affect the validity of any other provision of the instrument.

23. Enforcement by Developer. Nothing herein contained shall in any way be constructed as imposing upon the Developer or any of the undersigned any liability, obligation or requirement to enforce this instrument or any of the provisions contained herein.

24. Amendments. This Declaration may be amended by Declarant, or any person, firm, corporation, partnership, or entity designated in writing by Declarant, in any manner which it may determine in its full and absolute discretion for a period of ten (10) years following the date hereof. Thereafter this Declaration may be amended by an instrument signed by the owner or owners of not less than seventy-five percent (75%) of the lots covered by this Declaration.

25. Waiver for Hardship. Until such time as all lots are improved, Developer shall have the right in its discretion to waive any one or more of the covenants, conditions or restrictions herein contained for hardship or other cause.

IN WITNESS WHEREOF, Construction Sciences, Inc., being the owner of all said real estate, has executed these Covenants, this 7th day of November, 1994.

CONSTRUCTION SCIENCES, INC.

By: [Signature]

President

STATE OF NEBRASKA )  
                                  ) ss.  
COUNTY OF DOUGLAS )

On this 7th day of November, 1994, the foregoing instrument was acknowledged before me by John J. Smith acting on behalf of Construction Sciences, Inc.

NEBRASKA GENERAL NOTARY  
JANET O'MALLEY  
MY COMM. EXP.  
JULY 26, 1998

[Signature]  
Notary Public



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Apr 26 11 13 AM '95

GEORGE J. B. DICKSON  
REGISTERED  
DOUGLAS C. DICKSON

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AMENDMENT TO  
PROTECTIVE COVENANTS

THIS AMENDMENT TO PROTECTIVE COVENANTS is made the date hereinafter set forth by Construction Sciences, Inc., a Nebraska corporation hereinafter referred to as "Declarant".

RECITALS:

- A. On November 7, 1994, Protective Covenants for:
- Lots 2, 3, 4, 21, 22, 24, 26, 27, 28, 44, 46, 55, 56, *M1-07050*  
58, 60, 62, 63, 65, 67, 73 and 74, Colonies Replat I; and
- Lots 95, 96, 97 and 98, Colonies Replat III; and *M1-07050*
- Lots 1 - 44 inclusive, Colonies Replat IV; and, *M1-07059*
- Lots 1 - 4, inclusive, Colonies Replat V *M1-07062*

as surveyed, platted and recorded in Douglas County, Nebraska were recorded by the Declarant in the office of the Register of Deeds of Douglas County, Nebraska in Miscellaneous Book 1133 at Page 197; and,

B. Paragraph 24 of the Protective Covenants provides that said Covenants may be amended by the Declarant for a period of ten (10) years following November 7, 1994.

NOW, THEREFORE, Declarant hereby declares that the Protective Covenants recorded on November 7, 1994 in Miscellaneous Book 1133 at Page 197 of the office of the Register of Deeds of Douglas County, Nebraska for the above described lots should and are hereby amended by deleting the provisions of Paragraph 6; and, substituting the following:

" 6. Area. Dwellings shall be restricted to minimum floor area above grade (exclusive of garage, porches, breezeways and basements, whether finished or not) as follows:

- |                |                                                                                   |
|----------------|-----------------------------------------------------------------------------------|
| A. Ranches     | 1275 square feet total;                                                           |
| B. Split entry | 1300 square feet total<br>on main floor & minimum<br>300 sq ft finished basement. |
| C. Split level | 1500 square feet total<br>including all living levels                             |

*C SI*  
*c/o SIM ECKER*  
*6445 MADISON*  
*OMAHA NE 68127*

- |                      |                         |
|----------------------|-------------------------|
| D. One and 1/2 Story | 1700 square feet total; |
| E. Tri-level         | 1700 square feet total; |
| F. Two Story         | 1600 square feet total; |

All residential structures shall have an attached garage which will accommodate a minimum of two (2) cars."

All other terms and conditions of said Protective Covenants shall remain in full force and effect.

Dated this 24<sup>th</sup> day of APRIL, 1995.

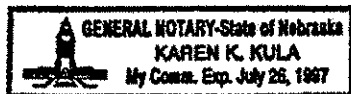
~~CONSTRUCTION SCIENCES, INC.~~

By: [Signature]  
President

STATE OF NEBRASKA     )  
                              ) ss.  
COUNTY OF DOUGLAS    )

On this 24th day of APRIL, 1995, the foregoing instrument was acknowledged before me by John J. Smith acting on behalf of Construction Sciences, Inc.

Karen K. Kuea  
Notary Public



NOTARIAL SEAL AFFIXED  
REGISTER OF DEEDS

[illegible]

EASEMENT

BOOK 750 PAGE 570

WHEREAS, Hunters Glen Joint Venture, a Nebraska partnership composed of Hunters Glen, Inc., a Nebraska corporation and Hunter CVF, Inc., a Nebraska corporation (said Joint Venture being herein referred to as the "Grantor") desires to grant a permanent easement for a storm water drainageway and storm sewers over certain property owned by the Grantor to Sanitary and Improvement District No. 330 of Douglas County, Nebraska, and the City of Omaha, a municipal corporation in the State of Nebraska (herein collectively referred to as the "Grantee"), except as otherwise noted,

NOW, THEREFORE, in consideration of One and no/100 Dollar (\$1.00) and other valuable consideration, receipt of which is hereby acknowledged, the Grantor, being the owner of the property described in Exhibit "A" does herewith give and grant unto the Grantee, its successors and assigns, a permanent easement for a storm water drainageway and storm sewers over, on, across, under the property as shown on Exhibit "A" attached hereto and incorporated herein by reference as all set out herein.

1. The scope and purpose of the easement is for the construction, repair, maintenance, replacement and renewal of a storm water drainageway and storm sewer pipe lines, including all necessary manholes and other related appurtenances, and the transmission through said sewers of storm water. The Grantee shall have full right and authority to enter upon said easement way in order to perform any of the acts and functions described within the scope and purpose of said easement. Provided, however, that the rights in said easement of the City of Omaha shall have no force and effect unless and until the property on which said storm water drainageway and storm sewer improvements are constructed shall be annexed as a part of said City and the City shall have a legal obligation to maintain said drainageway and storm sewer improvements as public facilities.

2. By accepting and recording this perpetual easement, said Sanitary and Improvement District No. 330 of Douglas County, Nebraska, agrees forthwith, and said City of Omaha, agrees effective with the annexation of the property on which such drainageway and sewer improvements are constructed, to make good or cause to be made good to the owner all damage that may be done by reason of negligent changes, alterations, maintenance, inspection, repairs or construction in the way of damage to trees, grounds, buildings, or other improvements abutting thereon, including crops, vines, and gardens; provided, however, that this provision does not apply to any of the aforesaid located in, on, over or across said easement or any part thereof.

3. Grantor herein for itself, its successors and assigns, does hereby covenant and agree with the said Grantee and its successors and assigns that at the time of the execution and delivery of these presents, Grantor is lawfully seized of such premises, that the Grantor has good, right and lawful authority

BOOK 750 PAGE 571

to grant said easement way, and that the Grantor further hereby covenants to warrant and defend said easement way against the lawful claims of all persons whomsoever.

4. This Easement shall be binding upon the successors and assigns of the respective parties hereto.

HUNTERS GLEN JOINT VENTURE, A  
Nebraska Partnership, Grantor

BY: HUNTERS GLEN, INC., A  
Nebraska Corporation

By: *Glenn L. Buck*  
President

BY: HUNTER CVF, INC., A Nebraska  
Corporation

By: *C. E. Westphal*  
President

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DOUGLAS )

The foregoing instrument was acknowledged before me this 12 day of June, 1985 by Glenn L. Buck, President of Hunters Glen, Inc., a Nebraska corporation.



*Carrie Lovato*  
Notary Public

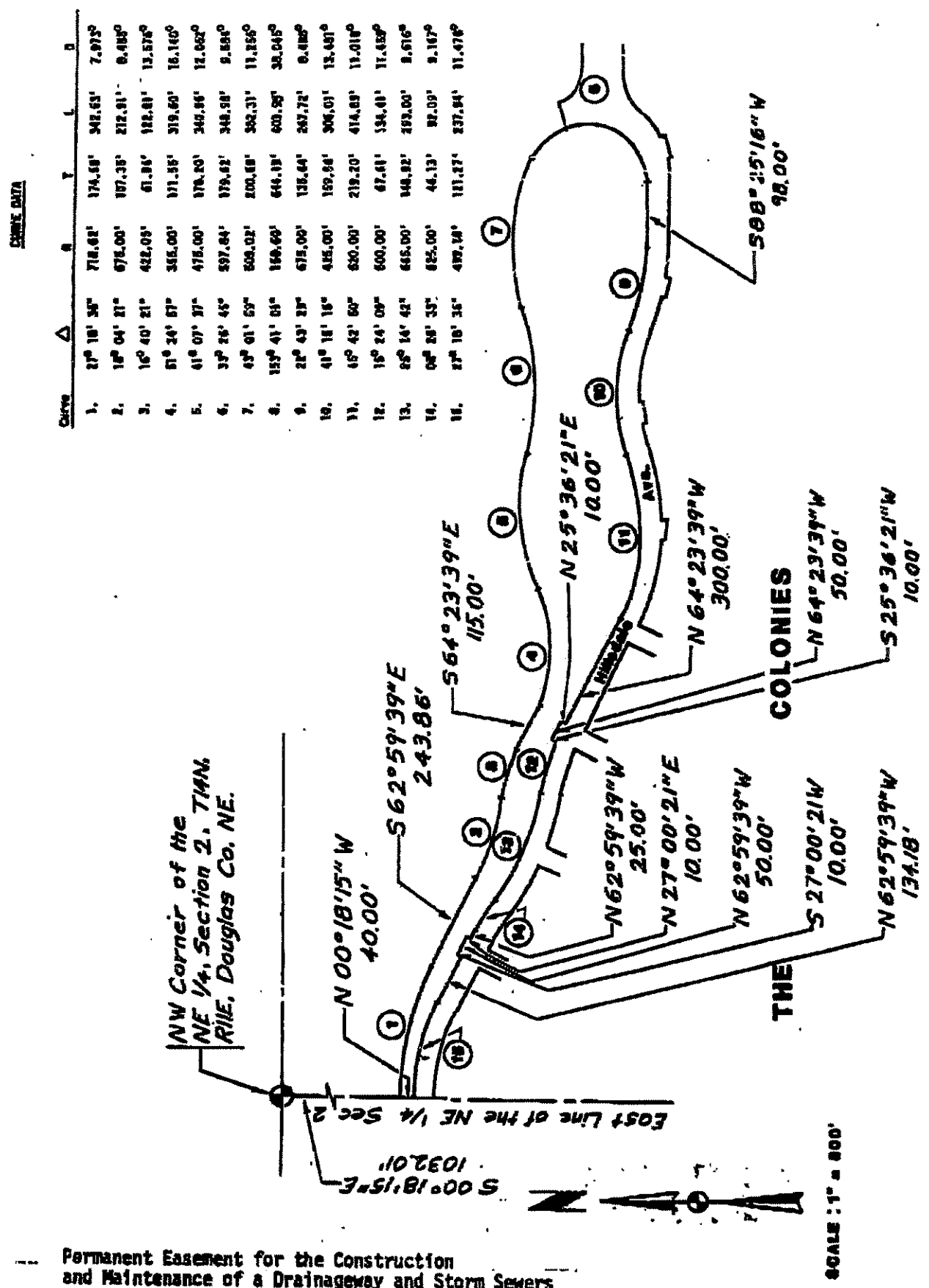
STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DOUGLAS )

The foregoing instrument was acknowledged before me this 12th day of June, 1985 by C. E. Westphal, President of Hunter CVF, Inc., a Nebraska corporation.



*Audrey Wilderbrand*  
Notary Public





Permanent Easement for the Construction and Maintenance of a Drainageway and Storm Sewers  
Page 1 of 2

Book \_\_\_\_\_ Page \_\_\_\_\_ Date 4-24-88 Job Number 840982

**lamp, ryneason & associates, inc.**  
architects engineers surveyors planners

14747 california street omaha, nebraska 68134 402-482-2438

BOOK 750 PAGE 573

## LEGAL DESCRIPTION: Of a Permanent Easement for the Construction and Maintenance of a Drainageway and Storm Sewers.

That part of the Northeast 1/4 of Section 2, Township 14 North, Range 11 East of the 6th P.M., Douglas County, Nebraska, described as follows:

Commencing at the Northwest corner of said Northeast 1/4; thence South 00°18'15" East (bearings referenced to THE COLONIES Final Plat as surveyed, platted, and recorded in Douglas County, Nebraska) along the West line of said Northeast 1/4 for 1032.01 feet to the True Point of Beginning; thence along a curve to the right (having a radius of 718.62 feet and a long chord bearing South 76°38'57" East for 339.30 feet) for an arc distance of 342.53 feet; thence South 62°59'39" East for 243.86 feet; thence along a curve to the left (having a radius of 675.00 feet and a long chord bearing South 72°01'50" East for 212.03 feet) for an arc distance of 212.91 feet; thence along a curve to the right (having a radius of 422.05 feet and a long chord bearing South 72°43'50" East for 122.38 feet) for an arc distance of 122.81 feet; thence South 64°23'39" East for 115.00 feet; thence along a curve to the left (having a radius of 355.00 feet and a long chord bearing North 89°48'52" East for 308.92 feet) for an arc distance of 319.60 feet; thence along a curve to the right (having a radius of 475.00 feet and a long chord bearing North 84°35'12" East for 333.68 feet) for an arc distance of 340.96 feet; thence along a curve to the left (having a radius of 597.84 feet and a long chord bearing North 88°25'39" East for 344.05 feet) for an arc distance of 348.98 feet; thence along a curve to the right (having a radius of 509.02 feet and a long chord bearing South 86°46'44" East for 373.39 feet) for an arc distance of 382.31 feet; thence along a curve to the right (having a radius of 150.60 feet and a long chord bearing South 11°34'46" West for 293.29 feet) for an arc distance of 403.95 feet; thence South 88°25'16" West along the North Right-of-way line of Hillsdale Avenue in said THE COLONIES for 98.00 feet; thence along said ROW line and a curve to the right (having a radius of 675.00 feet and a long chord bearing North 80°12'59" West for 265.97 feet) for an arc distance of 267.72 feet; thence along said ROW line and a curve to the left (having a radius of 425.00 feet and a long chord bearing North 89°28'52" West for 299.44 feet) for an arc distance of 306.01 feet; thence along said ROW line and a curve to the right (having a radius of 520.00 feet and a long chord bearing North 87°15'04" West for 403.97 feet) for an arc distance of 414.89 feet; thence North 64°23'39" West along said ROW line for 300.00 feet; thence North 25°36'21" East along said ROW line for 10.00 feet; thence North 64°23'39" West along said ROW line for 50.00 feet; thence South 25°36'21" West along said ROW line for 10.00 feet; thence along said ROW line and a curve to the left (having a radius of 500.00 feet and a long chord bearing North 72°05'43" West for 134.01 feet) for an arc distance of 134.41 feet; thence along said ROW line and a curve to the right (having a radius of 665.00 feet and a long chord bearing North 67°10'27" West for 290.64 feet) for an arc distance of 293.00 feet; thence along said ROW line and a curve to the left (having a radius of 625.00 feet and a long chord bearing North 58°46'23" West for 92.01 feet) for an arc distance of 92.09 feet; thence North 62°59'39" West along said ROW line for 25.00 feet; thence North 27°00'21" East along said ROW line for 10.00 feet; thence North 62°59'39" West along said ROW line for 50.00 feet; thence South 27°00'21" West along said ROW line for 10.00 feet; thence North 62°59'39" West along said ROW line for 134.18 feet; thence along said ROW line and a curve to the left (having a radius of 499.18 feet and a long chord bearing North 76°38'57" West for 235.69 feet) for an arc distance of 237.94 feet to a point in the West line of said Northeast 1/4; thence North 00°18'16" West along said West line for 40.00 feet to the POINT OF BEGINNING.

Containing 9.63 acres.

LAMP, RYNEARSON & ASSOCIATES, INC.  
Job No. 840983  
April 23, 1985  
Page 2 of 2

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PG 570 Index AN 2-14-11 MC AN  
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GEORGE J. BUSLEWICZ  
REGISTER OF DEEDS  
DOUGLAS COUNTY, NEBRASKA

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