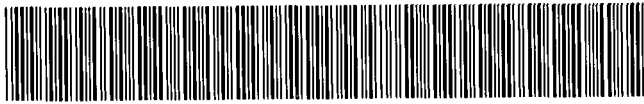





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**DECLARATION  
OF  
OAKVIEW DRIVE CONDOMINIUMS**

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**DECLARATION**  
**OF**  
**OAKVIEW DRIVE CONDOMINIUMS**

This Declaration of Oakview Drive Condominiums (this "Declaration") is made and entered into this 31 day of March, 2017, by Oak View Associates, LLC, a Nebraska limited liability company, and Validus Group II, LLC, a Nebraska limited liability company, as tenants in common, hereinafter collectively referred to as "Declarant."

**RECITALS:**

A. Pursuant to the terms of the Nebraska Condominium Act, Neb. Rev. Stat. §76-825 et. seq. (the "Act"), Declarant, as the sole record owner of the real estate legally described in Exhibit "A" attached hereto and incorporated herein by reference (the "Property") does hereby subject the Property to the condominium form of ownership as "Oakview Drive Condominiums," as provided for in the Act and in this Declaration.

B. By virtue of the recording of this Declaration, the Property shall be owned, held, transferred, sold, conveyed, used, occupied and mortgaged or otherwise encumbered subject to the provisions of this Declaration and the Act and every grantee of any interest in said Property, by acceptance of a deed or other conveyance of such interest, and every Owner of any portion of the Property, whether or not such deed or other conveyance of such interest shall be signed by such person and whether or not such person shall otherwise consent in writing, shall own and take subject to the provisions of the Act and this Declaration and shall be deemed to have consented to the terms hereof.

C. In furtherance of the plan of condominium ownership and the purposes and intents thereof, Declarant, the sole owner of the Property hereby submitted to the Act and this Declaration, together with all Improvements constructed thereon, hereby makes this Declaration which shall apply to, govern, control and regulate the sale, resale, or other disposition, acquisition, ownership, use and enjoyment of the Property and the Improvements located thereon, and does hereby specify, agree, designate and direct that this Declaration and all of its provisions shall be and are covenants to run with the Property herein described and shall be binding on the present owner of the Property and all its successors and assigns and all subsequent owners of the Property, and any portion thereof, and Improvements constructed thereon, together with their grantees successors, heirs, executors, administrators, devisees and assigns.

**DECLARATION**

NOW, THEREFORE, Declarant does hereby declare the Property and all Improvements and facilities constructed thereon to be a condominium hereunder known as the Oakview Drive Condominiums under the Act and in furtherance thereof declares and provides:

**ARTICLE I**  
**DEFINITIONS AND EXHIBITS**

Each Exhibit referred to in this Declaration and attached hereto is incorporated herein and constitutes a part of this Declaration. In addition to terms defined elsewhere in this Declaration, the following terms shall have the meanings set forth below unless the context clearly requires a different meaning:

1.1 “Allocated Interests” means the undivided interest in the Common Elements, Common Expense Liability and votes allocated to each Unit pursuant to this Declaration.

1.2 “Articles of Incorporation” means the Articles of Incorporation of the Association, as amended from time to time.

1.3 “Association” means Oakview Drive Condominium Association, a Nebraska nonprofit corporation which Declarant shall cause to be formed promptly after this Declaration is recorded in the office of the Register of Deeds of Douglas County, Nebraska, and its successors and assigns.

1.4 “Association’s Board of Directors,” “Board of Directors” or “Board” means the Board of Directors of the Association, the members of which shall be elected pursuant to the provisions of the Act from time to time as provided in this Declaration and the By-Laws and the Articles of Incorporation. The Board of Directors shall be the governing body of the Association.

1.5 “By-Laws” means the By-Laws of the Association as originally adopted and as amended from time to time.

1.6 “City” means the City of Omaha, Nebraska.

1.7 “CityLight” means CITYLIGHT CHURCH OF THE CHRISTIAN & MISSIONARY ALLIANCE, a Nebraska non-profit corporation.

1.8 “Common Elements” means all portions of the Condominium other than the Units.

1.9 “Common Expenses” means expenditures made by or financial liabilities of the Association, together with any allocations to reserves.

1.10 “Common Expense Liability” means the liability for Common Expenses allocated to each Unit pursuant to the terms of this Declaration and the Act.

1.11 “Condominium” means the Property described in **Exhibit A** attached hereto, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the Unit Owners.

1.12 “Declarant” collectively means Oak View Associates, LLC, a Nebraska limited liability company and Validus Group II, LLC, a Nebraska limited liability company, as tenants in common.

1.13 “Declaration” means this Declaration of Oakview Drive Condominiums, as it may be amended from time to time.

1.14 Intentionally Omitted.

1.15 “Dispose” or “Disposition” means a voluntary transfer to a Purchaser of any legal or equitable interest in a Unit, but does not include the transfer or release of a security interest.

1.16 “Identifying Number” means a building number, letter or address which identifies only one Unit in the Condominium.

1.17 “Improvements” shall mean all buildings, structures, underground installations, slope and grade alterations, retaining walls, lighting, walkways, gutters, storm drains, drainageways, utilities, roads, driveways, vehicular parking areas, screening walls, walls, exterior doors, windows, window boxes, awnings, stairs, stairwells, decks, patios, balconies, plantings, planted trees and shrubs, sidewalks, poles, flags, signs, storage or display areas, loading areas, docks, fountains, water features, facilities and all other structures or improvements of every type and kind.

1.18 “Limited Common Element” means a portion of the Common Elements indicated as such on the Plat or otherwise allocated by this Declaration or by the Act for the exclusive use of one or more but fewer than all of the Units.

1.19 “Managing Agent” means the Person who undertakes the duties, responsibilities and obligations of causing any necessary repairs, and maintenance of the Common Elements of the Condominium. A Managing Agent may be engaged or terminated by a vote of the Board of Directors, subject to any outstanding contract rights as might exist at that time. The initial Managing Agent (“Initial Managing Agent”) shall be Declarant and shall be entitled to an administrative fee of ten (10%) percent of the Common Expenses directly attributable to the repairs or maintenance of the Common Elements. All repair, maintenance and work performed on by any Managing Agent (including the Initial Agent) shall be done (a) in a first class, workman-like manner with first class materials, (b) in conformance with all building codes, orders and regulations, (c) by duly qualified or licensed persons, and (d) in accordance with all requirements set forth by the Association. During the one-year period beginning on the date the City of Omaha issues a final certificate of occupancy for CityLight to occupy Unit 1 of the Condominium, CityLight shall have the right to remove the Initial Managing Agent “for cause” upon 30 days’ prior written notice to Initial Managing Agent. For purposes of this paragraph, the term “for cause” shall mean the occurrence of any of the following events: (i) the failure of Initial Managing Agent to timely perform any of the duties in the manner required by this paragraph 1.19; (ii) any fraudulent or dishonest act by Initial Managing Agent or any member of the Initial Managing Agent that adversely affects CityLight or the Condominium; (iii) any insolvency or bankruptcy of Initial Managing Agent or any member of Initial Managing Agent; or (iv) the death or disability of any member of Initial Managing Agent. In the event CityLight

provides such notice and Initial Managing Agent cannot cure each of the “for cause” events stated in such termination notice, Initial Managing Agent shall be removed as Managing Agent upon the expiration of such 30-day period. After the expiration of the above-referenced one-year period, CityLight shall also have the right to remove the Initial Managing Agent at any time for any reason (“for cause” or otherwise) upon no less than 30 days’ prior written notice to Managing Agent.

1.20 “Parking Space” means any parking space located in the Condominium as may be shown on the Plat.

1.21 “Percentage Interest” means, with respect to an Owner, the percentage that is equal to: (a) the sum of the total building square footage of all Units owned by such Owner; *divided by* (b) the sum of the total building square footage of all Units that are part of the Condominium Association.

1.22 “Person” means a natural person, corporation, partnership, limited liability company, business trust, estate, trust, association, joint venture, government, governmental subdivision or agency, or other legal or commercial entity; provided, however, that for a land trust, “Person” means the beneficiary of the trust rather than the trustee of the trust.

1.23 “Plat” means the drawings prepared by a registered surveyor, an architect or a professional engineer attached hereto as **Exhibit B** and **Exhibit C** which include a survey of the entire Condominium area and show the locations and legal descriptions of the Common Elements, the Units, and the Limited Common Elements for each Unit, and which contain the other information required by the provisions of the Act.

1.24 “Purchaser” means any Person other than a Declarant that acquires a fee simple title to a Unit or equitable title to a Unit pursuant to a land contract.

1.25 “Qualified Lender” means any bank, insurance company or other financial institution which holds a mortgage or is the beneficiary under a deed of trust encumbering a Unit, or a vendor under a land contract for the sale of a Unit, which has pursuant to Section 12.1 provided the Board of Directors with written notice of its lien specifying the name and address of the lien holder.

1.26 “Super-Majority Vote” shall mean seventy (70%) percent or more of the votes entitled to be cast by the members of the Association at any regular or special meeting of the Association called for that purpose.

1.27 “Unit” means a physical portion of the Condominium designated for separate ownership or occupancy, the boundaries of which are described in Article II, below, on the Plat and pursuant to the Act.

1.28 “Unit Owner” or “Owner” shall mean the of record fee simple interest Owner of any Unit or Units, including, without limitation, one who is buying a Unit or Units under a recorded contract, but excluding Mortgagees and others who hold such title merely as security. Owner shall not include a lessee of a Unit or Units.



**ARTICLE II  
CONDOMINIUM UNITS AND ALLOCATED INTERESTS**

2.1 The Units. The Units are depicted on **Exhibit B** and are identified by their Identifying Numbers (Unit 1 and Unit 2) on the Plat. The Condominium shall consist of two (2) Units, the boundaries of which are shown on the Plat. Each Unit includes Allocated Interests of Common Elements and Common Expense Liability that are appurtenant thereto. This Common Element and Common Expense Liability allocation is based upon a fraction, the numerator of which is the square footage of interior floor space of each Unit, and the denominator of which is the total number of square feet of interior floor space in all of the Units in the Condominium as of the date of recording of this Declaration. For purposes of voting, each Unit shall be entitled to cast one vote for each Percentage Interest allocated to that Unit. The Common Expense Liability shall be based on the operation and maintenance costs for the Common Elements and the amount of the assessment will change on a yearly basis according to these costs. Ownership of each Unit and the Unit Owner's corresponding share in the Common Elements shall not be separated. No Unit Owner may relocate the boundaries of any Unit or further subdivide any Unit without a Super-Majority Vote of the Units.

2.2 Further Definition of Units. Included in each Unit are all Improvements located on, over or beneath the surface of the Unit's land described on **Exhibit B**.

**ARTICLE III  
COMMON ELEMENTS**

3.1 Undivided Interest in Common Elements. The Owner of each Unit shall own an undivided interest in the Common Elements as a tenant in common with all the other Unit Owners, and, except as otherwise limited in this Declaration, shall have the right to use the Common Elements for purposes incidental to the use and occupancy of its Unit, and such other incidental uses as may be permitted by this Declaration, which right shall be appurtenant to and run with Owner's Unit.

3.2 Limited Common Elements. Limited Common Elements shall be for the exclusive use of the Unit or Units exclusively benefited thereby. All systems, equipment, installations and facilities which are exclusively used for the benefit of a Unit situated outside of the Unit's boundaries are Limited Common Elements. Any shutters, awnings, window boxes, doorsteps, stoops, porches, patios, building exterior lighting, sidewalk lighting fixtures and related equipment and wiring, and other fixtures and equipment designed to serve a particular Unit, but located outside the Unit's boundary, are a Limited Common Element allocated to that Unit.

**ARTICLE IV  
COVENANTS**

4.1 No Partition of Common Elements. As long as the Property is subject to the provisions of the Act, the Common Elements shall remain undivided, and no Unit Owner or Owners shall bring any action for partition or division of the Common Elements; and any agreement to the contrary shall be null and void. Provided, however, nothing herein contained

shall prevent partition of a Unit as between any Persons who are Co-Owners thereof, if such right of partition shall otherwise be available, but such partition shall not be in kind.

4.2 No Severance of Ownership. Any purported conveyance, encumbrance, judicial sale, or other voluntary or involuntary transfer of an undivided interest in the Common Elements made without the Unit to which that interest is allocated, is null and void *ab initio*.

4.3 Rights of Action. The Association, and any aggrieved Unit Owner, shall hold a right of action against any Owner who fails to comply with the provisions of this Declaration and/or the decisions made by the Association. Unit Owners shall have a right of action against the Association for violation of the Declaration and/or the decisions made by the Association.

**ARTICLE V  
EASEMENTS**

5.1 Encroachments. In the event that, by reason of construction, settlement or shifting of any building or structure, any part of the Common Elements encroaches or shall hereafter encroach upon any part of any Unit, or any part of any Unit encroaches or shall hereafter encroach upon any part of the Common Elements, or if by reason of the design or construction of any Unit it shall be necessary to a Unit Owner to use or occupy, for normal uses and purposes, any portion of the Common Elements, consisting of an unoccupied space within the Property and adjoining his or her Unit, valid easements for the maintenance of such encroachment and for the use of such adjoining space are hereby established and shall exist for the benefit of such Unit and the Common Elements, as the case may be, so long as all or any part of the building containing such Unit shall remain standing; provided, however, that in no event shall a valid easement for an encroachment be created in favor of any Unit Owner or in favor of the Owners of the Common Elements if such encroachment occurred because of the willful conduct of the Unit Owner or the Owners of the Common Elements, as the case may be. Without limiting the generality of the foregoing (and notwithstanding the proviso above excluding easements for encroachments occurring because of the willful conduct of Unit Owners), easements are hereby granted to each of the Unit Owners for encroachments on the Common Elements by footings and foundations for the Unit Owner's building. In the event any structure is partially or totally destroyed and then rebuilt, minor encroachments of part of the Common Elements because of construction shall be permitted and valid easements for said encroachment and the maintenance thereof shall exist.

5.2 Easement to Unit Owners. Except as to the use of any Unit or Limited Common Elements that are assigned and allocated to any Unit or that are assigned and allocated exclusively to any other Unit, perpetual easements are hereby established for all Unit Owners, their tenants, employees, agents, invitees, and mortgagees for the use and enjoyment of all Common Elements, subject to such rules and regulations as may from time to time be established by the Association. No Owner of a Unit shall have any right to access, occupy or use any Limited Common Elements exclusively assigned and allocated to any other Unit.

5.3 Utility Easements. Easements as shown on the Plat or as may be hereafter established by the Association are established and dedicated for sewers, electricity, television, water, telephone, voice/data communication and any and all other utility purposes, including the

right to install, lay, maintain, clean, repair and replace water mains and pipes, sewer lines, drainage pipes and conduits, television wire and equipment, telephone wire and equipment, voice/data communication wire and equipment, and electrical wires and conduits, over, under, along and across any portion of the Common Elements.

5.4 Easements in Gross. The Property shall be subject to a perpetual easement in gross to the Association provided herein, its successors and assigns, for ingress and egress, to perform its obligations and duties as required by this Declaration. Should it be necessary to enter any Unit or part thereof to repair a Common Element or Limited Common Element, the employees, agents, contractors, subcontractors, or workmen shall be entitled to entrance during reasonable hours with twenty-four (24) hours prior written notice, unless it is reasonably believed by the Board that an emergency exists which requires such entrance without advanced notice, in which case such employees, agents, contractors, subcontractors, or workmen shall be entitled to entrance by and upon exhibiting to the Unit Owner or any Person or Persons occupying such Unit under authority of such Unit Owner, an order signed by any member of the Board of Directors or signed by the Managing Agent.

5.5 Granting of Easements. The Association, acting through the Board, shall have the power to grant rights and restrictions, in the Common Elements, such as the rights to grant utility easements, licenses, or similar rights, under, through or over Common Elements as may be reasonably necessary to or desirable for the ongoing development or operation of the Condominium.

5.6 Easements in Units. To the extent that any utility line, pipe, wire or conduit serving any Unit shall be wholly or partially within the boundaries of another Unit, such other Units shall be burdened with and there hereby is reserved and created an easement for the use, maintenance, repair and replacement of such utility line, pipe, wire or conduit, such easement to run to the benefit of the Unit or Units served by the same.

5.7 Effect of Easements. All easements and rights herein established shall run with the land and inure to the benefit of and be binding on the Declarant, its successors and assigns, and any Unit Owner, Purchaser, Qualified Lender, or other Person having an interest in any portion of the Property herein described, whether or not such easements are maintained or described in any deed of conveyance.

5.8 Restoration of the Condominium. The party benefited by any easement granted hereunder shall have the duty and obligation to repair or cause to be repaired any damage to the servient portion of the Condominium caused by the exercise of its easement rights, and to restore the servient portion of the Condominium to the condition which existed prior to the exercise of such easement rights.

**ARTICLE VI  
INTENTIONALLY OMITTED**

**ARTICLE VII  
ARCHITECTURAL CONTROL AND REGULATION OF IMPROVEMENTS**

7.1 Approval of Plans. No Improvement shall be constructed, erected, placed, expanded, added to, maintained or permitted to remain within the Condominium (excluding those in the interior of any Unit), and no alterations or other work which alters the exterior appearance of any Unit, Limited Common Element or Common Element shall be performed, unless approved by a Super-Majority Vote of the Units. All such approved work shall be done (ii) in a first class, workman-like manner with first class materials, (iii) in conformance with all building codes, orders and regulations, (iv) by duly qualified or licensed persons, and (v) in accordance with all requirements set forth by the Association.

7.2 Initial Unit Plans and Construction and Future Expansion and Improvements on Existing Units. Notwithstanding anything contained herein to the contrary, the requirements of this Article VII shall not apply to the initial design, plans, and construction of the Condominium in accordance with plans and specifications agreed to by Declarant and CityLight. The Declarant also acknowledges that CityLight has the right to develop, expand and/or construct new Improvements on the non-building portion of CityLight's Unit located to the east of such building and that the requirements of this Article VII shall not apply to any such future design, plans, expansion, renovation and/or construction of such non-building portion of CityLight's Unit; provided, however, any requirements to any Unit, Limited Common Element or Common Element that is necessitated by such expansion (including, but not limited to, additional parking requirements) shall be the obligation of CityLight at its sole cost and expense. All such work carried out under this Section 7.2 shall be done in an orderly and timely manner and in compliance with applicable building codes and City ordinances, and all partially completed Improvements shall be kept in an orderly condition during construction.

## **ARTICLE VIII RESTRICTIONS**

8.1 Permitted Uses - Units. The Property is intended to be used for retail, church or other place of religious worship, indoor recreational facility (including cheerleading and martial arts instruction and competition), and activities related thereto. Each Unit Owner, its heirs, successors and assigns, covenants it will not use, cause or permit its Unit to be used other than as provided in this Declaration, without having obtained in writing approval by Super-Majority Vote of the Units, which approval shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, so long as CityLight owns a Unit in the Condominium, no other Unit shall be used as a church or other place of religious worship without the express written approval of CityLight. In addition, so long as Declarant owns a Unit in the Condominium, no other Unit shall be used as an indoor recreational facility without the express written approval of Declarant.

8.2 Prohibited Uses - All Units, Common Elements and Limited Common Elements. In addition to all restrictions now existing against the Property and all Improvements now or hereafter constructed thereon, the use, occupancy and operation of the Units, Common Elements and including Limited Common Elements is hereby expressly restricted as follows:

(a) Use of Common Elements. Except for the right of ingress and egress and parking, and the right to use the Limited Common Elements allocated to their Units for their intended purposes, the Owners of Units are hereby prohibited and restricted from

using the Common Elements, except as may be allowed by the Association's Board of Directors or as expressly provided herein. This paragraph is for the mutual benefit of all Owners within the Condominium and is necessary for the protection of the Owners.

(b) Vehicles, Etc. No vehicles shall be parked on the Common Elements, other than in Parking Spaces shown on the Plat, and no vehicle repairs, other than emergency repairs or repairs of a minimal nature needed to be performed to move a vehicle off the Property, shall be allowed on the Property. No vehicles shall be parked or stored on blocks or other such devices on the Common Elements or any other portion of the Condominium. No vehicles shall be parked so as to obstruct the fire lanes or roadways as may exist within the Condominium. The Association is expressly authorized to tow away, at an offending Owner's expense, any vehicle which is in violation of this Section, or which is placed on the Condominium Property in violation of the rules and regulations governing parking as may be adopted by the Board of Directors. No boats, boat trailers, campers, canoes, recreational vehicles, vehicles used primarily for recreational purposes, vehicles primarily used for commercial purposes, or vehicles with commercial writings on their exterior shall be stored, allowed to remain, or parked on any portion of the Condominium, except in an area, if any, designated by the Board of Directors or except as otherwise permitted by the Association's Board of Directors. The Board shall have the right to designate areas within the Condominium for the parking of motorcycles and bicycles.

(c) Signs. Except for the Condominium identification sign shown on the Plat, signs shown on the Plat as Limited Common Elements, and signs designed and installed in accordance with plans and specifications agreed to by Declarant and CityLight for their respective Units, or signs hereafter approved by a Super-Majority of the Units, no signs shall be erected, placed, or permitted to remain on the common areas of the Property (except directional signs which may be approved by the Board). No Unit Owner shall display a "for rent" or "for sale" sign without the express written consent of the Board.

8.3 Security and Frozen Pipes. Should a Unit become vacant, the Owner is responsible for securing the Unit while it is unoccupied, including engaging all locks, providing security lighting, and heating the interior sufficient to keep pipes from freezing.

8.4 Unsightly Appearances. No offensive or unsightly appearance shall be maintained or allowed to exist on those portions of any Unit visible from the exterior of the Unit. All equipment, garbage cans, dumpsters and storage areas, if any are permitted in the Common Elements by the Board, shall be kept shielded so as to conceal them from view of neighboring Units and streets, unless otherwise authorized by the Board;

8.5 Acts Affecting Insurance. An Owner shall not permit or suffer anything to be done or kept in his or her Unit which will increase the rate of insurance acquired by the Association or which will otherwise obstruct or interfere with the rights of other Owners.

8.6 Trash and Recycling Containers and Collection. No trash or materials to be recycled shall be placed or kept on the Common Elements except in covered containers of a type,

size and style which are approved by the Association. The Association shall have the right to subscribe to trash and recycling services for the use and benefit of the Association and all Owners; and to adopt and promulgate rules and regulations regarding use of containers for trash and materials to be recycled, and collection of such containers. The Association shall have the right to require all Owners to place trash and materials to be recycled in containers located in areas designated by the Association. All trash and materials to be recycled shall be regularly removed from the Property and shall not be allowed to accumulate thereon.

8.7 Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon the Condominium except such machinery or equipment as the Association may require or permit for the operation and maintenance of the Common Elements and Units.

8.8 Lawful Use. No improper or unlawful use shall be permitted on any part of the Condominium. All valid laws, zoning ordinances, and regulations of all government bodies having jurisdiction over the Condominium shall be observed. Any violation of such laws, zoning ordinances or regulations shall be a violation of this Declaration.

8.9 Nuisances and Offensive Activity. No Owner, lessee, occupant, or other Person shall create a nuisance within the Condominium, or use any portion of the Condominium for any activity or purpose which is considered by the Board, in its reasonable discretion, to be objectionable due to sound, odor, visual effect or physical impact and which in the opinion of the Board will disturb or tend to disturb other Owners or lessees in the Condominium, or which is deemed by the Board to constitute a nuisance. Included among the uses or activities prohibited because of their detrimental effect upon the general appearance, enjoyment and use of the Condominium are, without limitation, the following:

- (a) Any public or private nuisance;
- (b) Any vibration, noise, sound or disturbance that is objectionable due to intermittence, beat, frequency, shrillness, loudness or pulsating effect;
- (c) Any lighting which is flashing or intermittent or is not focused downward or away from any Unit within the Condominium;
- (d) Any air pollution, including without limitation any dust, dirt, mold, microbials or other environmental pollutants in excessive quantities; and
- (e) Any emission of excessive, offensive, or noxious odors.

No nuisance shall be permitted to exist or operate upon the Condominium and no activity shall be conducted upon the Condominium which is offensive or detrimental to any portion of the Condominium or any Owner or occupants of the Condominium. No exterior speakers, horns, whistles, bells or other sound devices except security or other emergency devices used exclusively for security or emergency purposes shall be located, used or placed on or in the Condominium. It is expressly understood and agreed that, notwithstanding the foregoing in Sections 8.09(b) or (c), to the extent any of the items described in Sections 8.09(b) or (c) are incidental and/or customary with respect to carrying on activities associated with churches and/or

other places of worship, they are expressly permitted and shall not be deemed a nuisance or otherwise prohibited by this Section 8.09. It is further understood and agreed that, notwithstanding the foregoing restrictions, the use of a Unit as an indoor recreational facility, including cheerleading and martial arts instruction and competition, may result in noise, vibrations and/or odors consistent with operations of such a facility and such matters are expressly permitted and shall not be deemed a nuisance or otherwise prohibited by this Section 8.09.

8.10 Enforcement. This Declaration, including all restrictions set forth herein, and the rules and regulations may be enforced by injunctive relief, specific performance or the imposition of reasonable monetary fines as provided in the Act and suspension of use and voting privileges. These powers, however, shall not be construed as limiting any other legal means of enforcing the use restrictions or rules and regulations of the Association. Any fines so imposed shall be considered an assessment against the Unit and may be collected in the manner provided for collection of other assessments. In addition to the foregoing, if any Person shall fail to maintain its Unit in a reasonably safe and sanitary condition, the Association may, at the Board's option, and after ten (10) days written notice to the Unit Owner, perform any clean-up, repair and/or replacement to cure any such condition, and all cost and expenses reasonably incurred by the Association, plus interest thereon at the rate of sixteen percent(16%) per annum, or the maximum rate permitted by applicable law, whichever is less, shall be reimbursed to the Association by such Unit Owner within thirty (30) days after work has been completed. The Association may levy a special assessment against any such Unit, which may be enforced in accordance with Section 10.9 below.

## ARTICLE IX MAINTENANCE

### 9.1 Maintenance of Condominium Units and Limited Common Elements.

(a) By the Owner. Except as provided in subsection (b) of this Section, each Owner shall have the obligation to maintain, keep attractive, keep in good repair, and replace all portions of the Unit and any Limited Common Elements exclusively allocated to such Unit. Any maintenance, repair, replacement or upkeep required to be performed by an Owner hereunder shall be in conformance with any architectural standards as set forth by the Board of Directors. In explanation of and in no way limiting the foregoing, each Owner shall maintain, repair, and keep in good condition (subject to the Association's obligations hereinafter set forth), its Unit. If a Unit is damaged or destroyed by fire or other casualty, the Unit Owner shall as soon as reasonably possible, and not later than ninety days after such occurrence (weather permitting), commence and thereafter diligently complete repairs or reconstruction of the Unit, or demolish and remove from the Condominium any damaged property, fill any excavation and plant grass or other plantings so as to maintain a sightly appearance and avoid dust. If damage or destruction of a Unit creates a condition which endangers the safety of persons in the Condominium, the Unit Owner shall take immediate action to remove such dangerous condition.

(b) By the Association. The Association shall maintain, keep in good repair and upkeep, and replace, as a Common Expense assessed in accordance with this Declaration, all of the Condominium property not required to be maintained and kept in good order by a Unit Owner and as otherwise set forth in this Section. The Association shall, by way of explanation and not limitation, be responsible to maintain, keep attractive, keep in good repair and replace all of the Common Elements.

(c) In the event the need for maintenance, repair or replacement which is the responsibility of the Association hereunder is caused through the willful or negligent act of an Owner, the Owner's, tenants, or invitees, or employees or contractors of the Owner or its tenants, then the Association shall give the Owner written notice of the repair, replacement or maintenance work needed and an estimated cost to accomplish such repair, replacement or maintenance work. The Owner shall have fifteen (15) days within which to pay the Association such estimated costs, and in the event of a failure to pay, such costs shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the Unit. Notwithstanding anything contained herein to the contrary, the Association shall not be liable for injury or damage to any Person or property: (i) caused by the elements or by any Unit Owner or by any other Person; (ii) resulting from any rain, water, snow or ice which may leak or flow from any portion of the Common Elements; or (iii) caused by the leaking, failure or disrepair of any pipe, plumbing, drain, conduit, appliance, equipment or utility lines or facilities, the responsibility for the maintenance of which belongs to the Association.

(d) Failure to Maintain. If the Board determines that any Owner has failed or refused to discharge its obligations with regard to the maintenance, repair, upkeep or



replacement of any items for which it is responsible hereunder, including, but not limited to, a failure to maintain, repair or replace a condition which may increase the possibility of fire or other loss or damage to the Condominium, then the Association shall provide the Unit Owner with written notice specifying the nature of the maintenance, repair or replacement and the estimated costs thereof with reasonable particularity (except no notice shall be required in an emergency situation in which case the Association may proceed immediately). The Owner shall have fifteen (15) calendar days to complete any such repairs, maintenance or replacements; provided, however, the Unit Owner shall have more than fifteen (15) days if such performance cannot reasonably be completed within fifteen (15) days and the Unit Owner is diligently pursuing the completion. In the event the Owner fails, neglects or refuses to repair, maintain or replace any such items within fifteen (15) days after the receipt of the notice, then the Association, through its Board, shall have the right to cause the repairs, maintenance or replacements to be made, and the Unit Owner shall, within thirty (30) days after the completion of such work and receipt of demand for reimbursement, reimburse the Association. In the event any such repair or replacements are to the Common Elements the Association shall complete all such work, and the Unit Owner responsible for such repairs, maintenance or replacements shall have thirty (30) days after demand is made to reimburse the Association. Any costs incurred by the Association under this Section shall be special assessments and shall be added to and become a part of the assessment to which such Owner is subject and shall become a lien against the Unit.

## **ARTICLE X ASSOCIATION AND BY-LAWS, ASSESSMENTS**

10.1 General Information. The Association will administer the Condominium pursuant to the terms and conditions set forth in this Declaration and the By-Laws. The fiscal year of the Association shall be the calendar year. The principal office of the Association shall be located at such location as the Board of Directors shall designate from time to time. All Unit Owners, by virtue of their ownership of a Unit in the Condominium, are automatically mandatory members of the Association and shall be entitled to vote on all matters upon which members of the Association are entitled to vote, pursuant to this Declaration and in accordance with the By-Laws. The foregoing is not intended to include persons or entities which hold an interest merely as security for the performance of an obligation. Subject to the provisions of the Declaration and the By-Laws, each Unit Owner shall be entitled to cast one (1) vote for each Percentage Interest allocated to that Unit. Provided however, if a Unit Owner shall have an unresolved financial delinquency with respect to the Association, such Owner's vote shall not be eligible and shall not be entitled to be cast or counted.

10.2 Meetings and Voting. Annual and special meetings of the Association, including all notice and quorum requirements and voting of the membership shall be set forth in the By-Laws.

10.3 Directors. The business of the Association shall be managed by a Board of Directors comprised of not less than three (3) or more than five (5) Directors who shall serve

without compensation. Notwithstanding anything herein to the contrary, so long as the Condominium is comprised of only two (2) Units, the Board shall be comprised of four (4) Directors with (i) two (2) of the then serving Directors being members, pastors or other representatives of CityLight or its successor in interest and (ii) two (2) of the then serving Directors being representatives of Declarant or its successor in interest.

10.4 Director's Meetings. Regular and special meetings of the Board of Directors, including the notice and quorum requirements and voting of the Board, shall be set forth in the By-Laws.

10.5 Powers and Duties of the Board of Directors. All of the powers and duties of the Association existing under the Act, the Declaration and the By-Laws shall be exercised by the Board of Directors, its duly appointed agents, contractors or employees, subject only to approval by the Unit Owners where specifically required. Among other things, the Board of Directors shall have the power on behalf of the Association to adopt and amend rules and regulations regarding the use and enjoyment of the Common Elements, and the activities of occupants thereon. Compensation of employees of the Association shall be fixed by the Directors. A Director may be an employee of the Association and a contract for management of the Condominium may be entered into with a Director.

10.6 Officers. The executive officers of the Association shall consist of a President, who must also be a Director, a Treasurer, a Secretary, and any other officers the By-Laws specify. The By-Laws shall provide for: (i) the election of officers; (ii) the resignation; (iii) removal; (iv) vacancy; and (v) powers, duties and responsibilities of the officers of the Association, all consistent with the provisions of this Declaration.

10.7 Assessments.

(a) All Owners shall be obligated to pay the estimated assessments imposed by the Board of Directors of the Association to meet the Common Expenses. The Common Expense Liability of the Association shall be assessed among all of the Unit Owners in accordance with the Owners' respective Percentage Interests, which the Owners understand, acknowledge agree such Percentage Interests are as set forth in **Exhibit D**. Assessments for the estimated Common Expenses of the Association shall be due in advance of the first day of each calendar month or less frequently as may be determined by the Board of Directors.

(b) Each Unit Owner's obligation of payment of assessments shall begin on the day which title to the Unit is transferred to such Unit Owner; provided, however, that a Qualified Lender (or its successor) identified in Section 10.9(a)(ii) which obtains title to a Unit pursuant to the remedies provided by law or set forth in its mortgage, deed of trust or land contract shall take title to the Unit free and clear of all Common Expense Liability assessments made prior to the transfer of title and any lien or liens filed in respect thereof.

(c) Assessments shall be based upon the cash requirements deemed to be such aggregate sum as the Board of Directors of the Association shall from time to time

determine to be necessary or appropriate to provide for the payment of all estimated expenses growing out of or connected with the maintenance, repair, operation, additions, alterations and improvements of and to the Common Elements and those Limited Common Elements which are the responsibility of the Association, which sum may include, but shall not be limited to: management fees, expenses and liabilities incurred by the Managing Agent, taxes and special tax assessments (unless and until separately assessed), snow removal, road and sidewalk repair, premiums for insurance, landscaping and care of grounds, repair, maintenance and replacement of decks, patios and stoops, common lighting, repairs and renovation, trash and garbage collections, wages, common water and sewer charges, legal and accounting fees, management fees, the creation of a reasonable contingency, reserve, working capital and sinking fund reserves, as well as other costs and expenses relating to the Common Elements or Limited Common Elements which are the responsibility of the Association.

(d) Pursuant to the provisions of the Declaration and the By-Laws, the Board of Directors may levy assessments for the purpose of creating a reserve fund to defray the cost of repair or reconstruction of the Improvements in the event of their damage.

(e) The Association by its Board of Directors may levy a special assessment against any individual Unit or any Unit Owner for the reasonable expense incurred in the reconstruction or repair to the Common Elements, Limited Common Elements or the individual Unit for damage or destruction caused by the misconduct, negligence or infraction of the published rules and regulations of the Association by the Unit Owner or its employees, contractors, tenants, or invitees, or the employees, contractors or invitees of the Unit Owner's tenants.

(f) The omission or failure to fix the assessment or deliver or mail a statement for any period of time shall not be deemed a waiver, modification or release of the Owner's obligation to pay the same.

(g) The Board shall have the power and authority to assess any Common Expenses benefiting fewer than all of the Units exclusively against only the Units benefited thereby as contemplated in the Act.

(h) The Association shall have all of the powers of the Association enumerated in the Act.

(i) Within thirty (30) days after adoption of any proposed budget for the Condominium, the Board of Directors shall provide a summary of the budget to all the Unit Owners, and shall set a date for a meeting of the Unit Owners to consider ratification of the budget, which date shall not be less than fourteen (14) no more than thirty (30) days after mailing of the summary. Unless at that meeting a majority of all the Unit Owners reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected, the periodic budget last ratified by the Unit Owners shall be continued until such time as the Unit Owners ratify a subsequent budget proposed by the Board of Directors.

10.8 Owner's Personal Obligation for Payment of Expenses. The amount of the Common Expenses assessed by the Association against each Condominium Unit shall be the personal and individual debt of the Owner thereof. No Owner may exempt themselves from liability for this contribution towards the Common Expenses by waiver of the use or enjoyment of any of the Common Elements, the real property and Improvements owned by the Association or by abandonment of their Unit. The Board of Directors shall have the responsibility to take prompt action to collect any unpaid assessments which remain unpaid for more than thirty (30) days from the date for payment thereof. The failure to make payment of any assessments or installment thereof related to any Unit before the thirtieth (30th) day after the due date shall constitute a default and such Unit Owner shall: (a) pay a late charge of five (5%) percent on the outstanding balance; and (b) all amounts that are delinquent shall bear interest from the due date at a rate equal to sixteen (16%) percent per annum or the maximum interest rate allowed by law, whichever is less, and all costs and expenses incurred by the Board or its authorized representative in the collection of the amounts, including reasonable attorneys' fees and costs, shall be part of the assessment past due and the full assessment shall be a lien against such Unit. Suit to recover a money judgment for unpaid Common Expenses shall be maintainable without foreclosing the lien but no such suit shall be construed to be a waiver of the lien.

10.9 Association Lien for Non-Payment of Common Expenses.

(a) All sums assessed by the Association but unpaid for the share of Common Expenses chargeable to any Condominium Unit shall constitute a lien on such Unit superior to all other liens and encumbrances, except for (i) real estate taxes and special assessment liens against the Unit, and (ii) a mortgage, deed of trust or other lien on the Unit held by a Qualified Lender (or its successor) and recorded before the date on which the assessment or fine sought to be enforced became delinquent. To evidence such lien, the Board of Directors shall prepare a written notice of lien assessment setting forth the amount of such unpaid indebtedness, the amount of the accrued interest and late charges thereon, the name of the Owner of the Unit and the legal description of the Unit. Such notice of lien shall be signed by one of the members of the Association's Board of Directors or by one of the officers of the Association on behalf of the Association and shall be recorded in the Office of the Register of Deeds of Douglas County, Nebraska.

(b) Such lien may be enforced by the foreclosure of the defaulting Owner's Unit by the Association in the manner of a deed of trust or mortgage on real property. In any such proceedings, the Owner shall be required to pay the costs, expenses and attorney's fees incurred for filing the lien, and in the event of foreclosure, all additional costs, all expenses and reasonable attorney's fees incurred. The Owner of the Unit being foreclosed shall be required to pay the Association the monthly assessment for the Unit during the period of foreclosure, and the Association shall be entitled to the appointment of a receiver for the defaulting Owner's Unit during foreclosure. The Association shall have the power to bid on the Unit at foreclosure or other legal sale and to acquire and hold, lease, mortgage, vote the votes appurtenant to, convey and otherwise deal with the same.

(c) The Association shall report to the Qualified Lender of a Unit any assessments remaining unpaid for longer than sixty (60) days after the same are due,

whereupon the Qualified Lender may pay, but shall not be required to pay, any unpaid Common Expenses payable with respect to such Unit. No such payment will entitle the Qualified Lender to be subrogated to the Association's assessment claim or lien in respect of the Common Expenses so paid.

(d) The recorded lien may be released by a Release of Lien signed by one of the members of the Association's Board of Directors or by one of the officers of the Association on behalf of the Association and recorded in the Office of the Register of Deeds of Douglas County, Nebraska.

10.10 Ascertainment of Unpaid Common Expenses. The Board of Directors shall furnish a statement of a Unit Owner's assessment account to or at the direction of the Unit Owner, provided that the Unit Owner has given the Board at least ten (10) days prior written notice requesting the statement and paid the Association a reasonable processing fee as may be imposed by the Board from time to time. The statement of account shall include the amount of any unpaid Common Expenses, the amount of the current assessments, the dates that assessments are due, and the amount for any advanced payments made.

10.11 Financial Statements. The Board of Directors of the Association may hire an accounting firm to prepare reviewed and/or audited financial statements for each fiscal year, or may prepare or have prepared unaudited financial statements. The financial statement for the preceding fiscal year shall be available to the holder, or guarantor of any mortgage, deed of trust or other lien that is secured by a Unit on submission of a written request therefor by the Unit Owner. The financial statements must be available within one hundred twenty (120) days of the Association's fiscal year end.

10.12 Rules and Regulations Concerning Parking. The Parking Spaces shall be deemed a Common Element and shall be available to the Unit Owners and their invitees on a first come first serve basis. The parking located on the Property or otherwise available to the Property shall be at or above the ratio required by the City. The Board may from time to time adopt and amend rules and regulations to minimize or prohibit disproportionate use of such parking spaces by Unit Owners and other occupants and their employees and invitees, and the Board may take such actions as the Board deems appropriate to alleviate a parking shortage for another Unit or Units on account of such disproportionate use. The Board may tow vehicles, assess fines and take any other reasonable action it deems appropriate to enforce any rules and regulations the Board adopts pertaining to the use of parking spaces.

## **ARTICLE XI INSURANCE AND CONDEMNATION**

11.1 Scope of Coverage. Notwithstanding anything herein to the contrary, unless all Units are restricted to nonresidential use, the provisions of Section 76-871 of the Act shall apply. The Association shall at all times maintain commercial general liability insurance in an amount determined from time to time by the Board of Directors, but not less than One Million Dollars (\$1,000,000.00) combined single limit coverage for bodily injury, personal injury, death and/or property damage arising out of any single occurrence, which amount shall be reviewed annually by the Board. The policy or policies shall insure the Association, the Board and the officers of

the Association, all agents and employees of the Association and all Owners and other Persons entitled to occupy any Unit or other portion of the Unit. The Association shall maintain such other insurance as the Board shall determine from time to time, in its sole judgment, to be necessary or appropriate to protect the Association or the Owners, which may include, without limitation, property insurance covering retaining walls, monument signs lighting facilities and lighting standards, and landscaping, and shall also include, to the extent required by Section 76-871 of the Act:

(a) To the extent reasonably available:

(i) Property insurance on the Property including the Common Elements insuring against all risks of direct physical loss commonly insured against or, in the case of a conversion building, against fire and extended coverage perils. The total amount of insurance after application of any deductibles shall be not less than eighty percent of the actual cash value of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations, and other items normally excluded from property policies; and

(ii) Liability insurance, including medical payments insurance, in an amount determined by the Board of Directors but not less than any amount specified in this Declaration, covering all occurrences commonly insured against for death, bodily injury, and property damage arising out of or in connection with the use, ownership, or maintenance of the Common Elements.

(b) The insurance maintained under subdivision (a)(i) of this section, to the extent reasonably available, shall include the units, but need not include improvements and betterments installed by Owners.

(c) If the insurance described in subsections (a) and (b) of this Section 11.1 is not reasonably available, the Association promptly shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Owners.

(d) Insurance policies carried pursuant to subsection (a) of this section must provide that:

(i) Each Owner is an insured person under the policy with respect to liability arising out of his or her interest in the Common Elements or membership in the Association;

(ii) The insurer waives its right to subrogation under the policy against any Owner or member of his or her household;

(iii) No act or omission by any Owner, unless acting within the scope of his or her authority on behalf of the Association, will void the policy or be a condition to recovery under the policy; and

(iv) If, at the time of a loss under the policy there is other insurance in the name of an Owner covering the same risk covered by the policy, the Association's policy provides primary insurance.

(e) Any loss covered by the property policy under subdivisions (a)(i) and (b) of this section must be adjusted with the Association, but the insurance proceeds for that loss are payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any mortgagee or beneficiary under a deed of trust. The insurance trustee or the Association shall hold any insurance proceeds in trust for Owners and lienholders as their interests may appear. Subject to the provisions of Subsection (h) of this Section 11.1, the proceeds must be disbursed first for the repair or restoration of the damaged property, and Owners and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored, or the condominium is terminated.

(f) An insurance policy issued to the Association does not prevent an Owner from obtaining insurance for his or her own benefit.

(g) An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the Association and, upon written request, to any Owner, mortgagee, or beneficiary under a deed of trust. The insurer issuing the policy may not cancel or refuse to renew it until thirty days after notice of the proposed cancellation or nonrenewal has been mailed to the Association, each Owner and each mortgagee or beneficiary under a deed of trust to whom a certificate or memorandum of insurance has been issued at their respective last-known addresses.

(h) Any portion of the Condominium for which insurance is required under this section which is damaged or destroyed shall be repaired or replaced promptly by the Association unless (i) the Condominium is terminated, (ii) repair or replacement would be illegal under any state or local health or safety statute or ordinance, or (iii) eighty percent of the Owners, including every owner of a Unit or assigned Limited Common Element which will not be rebuilt, vote not to rebuild. The cost of repair or replacement in excess of insurance proceeds and reserves is a Common Expense. If the entire Condominium is not repaired or replaced, (i) the insurance proceeds attributable to the damaged Common Elements must be used to restore the damaged area to a condition compatible with the remainder of the Condominium, (ii) the insurance proceeds attributable to Units and Limited Common Elements which are not rebuilt must be distributed to the Owners of those Units and the owners of the units to which those Limited Common Elements were allocated, or to lienholders, as their interests may appear, and (iii) the remainder of the proceeds must be distributed to all Owners or lienholders, as their interests may appear, in proportion to the Percentage Interests of all Owners. If the Owners vote not to rebuild any Unit, that Unit's Allocated Interests are automatically reallocated upon the vote as if the Unit had been condemned under Subsection (a) of Section 76-831 of the Act, and the Association promptly shall prepare, execute, and record an amendment to this Declaration reflecting the reallocations. Notwithstanding the provisions of this Subsection, Section 76-855 of the Act shall govern the distribution of insurance proceeds if the condominium is terminated.

Each Owner shall have the right to maintain insurance coverage against loss or damage to the Owner's Unit and the Owner's personal property, as well as additional commercial general liability insurance against bodily injury, including death, and such other insurance as the Unit Owner desires to obtain.

11.2 Certificate of Insurance. An insurer that has issued an insurance policy under this Article shall issue certificates or a memorandum of insurance to the Association and, upon request, to any Owner and/or such Owner's Qualified Lender. Any commercial general liability insurance obtained by the Association may not be canceled until thirty (30) days after notice of the proposed cancellation has been mailed to the Association, each Owner and each Qualified Lender.

11.3 Payment of Premiums. Premiums for all insurance obtained by the Association pursuant to this Article shall be Common Expenses and shall be paid for by the Association.

11.4 Condemnation. The Association shall represent the Unit Owners in any condemnation proceedings or in negotiations, settlements, and agreements with the condemning authority for acquisition of the Common Elements, or any part thereof, by the condemning authority. The Association is empowered to act as attorney-in-fact for the Owners for such purposes. In the event of a taking or acquisition of a part or all of the Common Elements by a condemning authority, the award or proceeds of a settlement shall be payable to the Association. Any portion of an award or settlement proceeds attributable to the acquisition of a Limited Common Element shall be paid to the Unit Owner to which the Limited Common Element was allocated at the time of acquisition.

11.5 Settlement as Proceeds. The proceeds of any sale of any part of the Condominium made under threat of condemnation shall be deemed as condemnation proceeds.

**ARTICLE XII  
QUALIFIED LENDERS**

12.1 Qualified Lenders.

(a) When a mortgage or deed of trust is delivered to a Qualified Lender, or a land contract is entered into by a vendor and vendee for the sale of a Unit, the Unit Owner shall simultaneously provide executed or conformed copies to the Board. If required by the mortgage, deed of trust or land contract, the Association shall cause the Qualified Lender to be added as an additional insured on the commercial general liability insurance policy maintained by the Association.

(b) The Association shall maintain a register of Qualified Lenders showing the names and addresses of the Qualified Lenders.

12.2 Rights of Qualified Lenders.

(a) Upon the specific written request by a Qualified Lender or its loan servicer, or by an Owner on behalf of a Qualified Lender, the Qualified Lender shall be



entitled to receive some or all of the following provided it is sufficiently designated in the request;

(i) Copies of budgets, notices of assessment, or any other notices or statements provided under this Declaration by the Board to the Owner of the Unit covered by the mortgage, deed of trust or other lien instrument;

(ii) Any audited or unaudited financial statements of the Board which are prepared for the Board and distributed to the Unit Owners. Any Qualified Lender shall be entitled to obtain an audited statement at its own expense, if one is not otherwise available;

(iii) Notice of substantial damage to or destruction of any part of the Common Elements (in excess of \$20,000);

(iv) Notice of the commencement of any condemnation or eminent domain proceedings with respect to any part of the Common Elements;

(v) Notice of any default hereunder by the Owner of the Unit encumbered by the Qualified Lender's lien, where such default is not cured by the Unit Owner within sixty (60) days;

(vi) Any lapse, cancellation or material modification of any commercial general insurance policy maintained by the Association in which the Qualified Lender is named as an additional insured;

(vii) Any proposed action which would require the consent of a specified percentage of first mortgagees as set forth in Section 14.1 below.

(b) The request of a Qualified Lender or its loan servicer shall specify which of the above items it desires to receive and shall indicate the address to which any notices or documents shall be sent by the Board. The Board need not inquire into the validity of any request made hereunder by a Qualified Lender or on its behalf by a loan servicer. The Board may refuse to honor any request where, after reasonable inquiry, it shall determine that the person making such request is not entitled to the material so requested and may establish reasonable rules to implement this Section 12.2(b).

(c) Failure to comply with the requirements set forth above shall in no way invalidate the otherwise proper actions of the Association and the Board.

(d) Any Qualified Lender shall have the right, exercisable upon written request to the Board and payment of a reasonable fee established by the Board from time to time, to examine the books and records of the Association at any reasonable time.

**ARTICLE XIII  
MISCELLANEOUS PROVISIONS**

13.1 Effective Covenants. Each Purchaser and each grantee of Declarant, their successors and assigns, by the acceptance of a deed of conveyance accepts the conveyed Property subject to all restrictions, conditions, covenants, reservations, options, liens and charges, and the jurisdiction, rights and powers granted or reserved by this Declaration or to which this Declaration is subject, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land and shall bind any Person having at any time any interest or estate in the Property, and shall inure to the benefit of such Unit Owner in like manner as though the provisions, terms and restrictions of this Declaration were received and stipulated at length in each and every deed of conveyance.

13.2 Waiver. No covenant, restriction, condition or provision of this Declaration or in the By-Laws shall be deemed to have been abrogated or waived by reason on any failure to enforce the same at any time, irrespective of the number of violations or breaches which may occur.

13.3 Savings Clause. The invalidity of any covenant, restriction, condition, limitation or any other provision of this Declaration, as the case may be, shall not render the remainder of this Declaration, nor any other part hereof, invalid.

13.4 Controlling Instrument. In the event of a conflict between the provisions of this Declaration and the By-Laws, this Declaration shall prevail except to the extent that this Declaration is inconsistent with the Act.

**ARTICLE XIV  
AMENDMENT AND TERMINATION**

14.1 Amendments; Modifications and Terminations.

(a) The prior written approval of a Super-Majority Vote of the Units (which approval is concurred with by the approving Owners' Qualified Lenders) shall be required to:

(i) Terminate the condominium status of the Property for any reason;  
or

(ii) Abandon, encumber, sell or transfer any Common Elements (the granting of easements for public utilities or for other public purposes consistent with the intended uses of the Common Elements shall not be deemed a transfer within the meaning of this subsection).

(b) The prior written approval of a Super-Majority Vote of the Units (which approval is concurred with by the approving Owners' Qualified Lenders) shall be required to make an amendment of a material nature to this Declaration. A change in the

provisions of this Declaration directly relating to any of the following shall for this purpose be considered material:

- (i) A change in the manner or formula by which Common Elements or Common Expense Liability are allocated, or a change in the manner or formula by which the voting rights of Units are allocated;
- (ii) Responsibility for maintenance and repairs;
- (iii) Reallocation of interests in the Common Elements or Limited Common Elements or rights to their use;
- (iv) Convertibility of Units into Common Elements or of Common Elements into Units;
- (v) Expansion or contraction of the Condominium or the addition, annexation or withdrawal of property to or from the Condominium;
- (vi) Change of permitted uses of any Units;
- (vii) Imposition of any restrictions of a Unit Owner's right to sell or transfer his or her Unit;
- (viii) The method of assessments described in this Declaration;
- (ix) Provisions that expressly benefit Qualified Lenders;
- (x) Redefinition in any Unit boundaries; or
- (xi) With exception to the existing right of first refusal granted from Declarant to CityLight, and the existing right of first refusal granted from CityLight to Declarant, with respect to the sale of the offering party's interest in its respective Unit, the imposition of any right of first refusal or similar restriction upon the rights of an Owner to convey a Unit.

An allocation of a portion of the Common Elements to a Unit as a Limited Common Element may be made by a Super-Majority vote of the Units (which approval is concurred with by such approving Owners' Qualified Lenders) if such approving Unit Owners determine that such allocation will not to have a material adverse effect on the use and enjoyment of any other Unit Owner's Unit or the Common Elements; provided, that the Unit Owner to which such Limited Common Element is to be allocated must vote to approve such allocation for such allocation to be effective.

14.2 Approval of Qualified Lenders. The approval rights granted to Qualified Lenders above shall be subject to the limitations imposed by Section 76-856 of the Act. Written approval of Qualified Lenders shall not be required for an amendment to this Declaration made pursuant to Article XV hereof.

**ARTICLE XV  
SPECIAL AMENDMENTS**

In addition to any other method of amending this Declaration provided for elsewhere herein, the Board reserves the right and power to record a special amendment (“Special Amendment”) to this Declaration at any time and from time to time which amends this Declaration: (i) to bring this Declaration into compliance with the Act, or (ii) to correct clerical or typographical errors in this Declaration or any exhibit hereto or any supplement or amendment thereto. In furtherance of the foregoing, a power coupled with an interest is hereby reserved and granted to the Declarant to make or consent to a Special Amendment on behalf of each Owner and Qualified Lender. Each deed, mortgage, trust deed, other evidence of obligation, or other instrument affecting a Unit and the acceptance thereof shall be deemed to be a grant and acknowledgment of, and a consent to the reservation of, the power to the Declarant to make, execute and record Special Amendments.

**ARTICLE XVI  
DISPUTE RESOLUTION**

16.1 Dispute Resolution. In the event any matter related to replacement, repair or maintenance obligation related to Common Elements, to the management of, and/or ownership of the Condominium requires the vote or approval of either the Unit Owners or the Directors and the Unit Owners and/or Directors fail to duly vote for such action, then the Unit Owners, or any one of them, shall submit the dispute first to mediation as provided in Section 16.2 below.

16.2 Mediation. The Unit Owners agree first to try in good faith to settle any dispute described above by informal, non-binding mediation. The disputing Unit Owner(s) shall submit the issue to a third-party professional property manager with experience in owning or managing properties similar to the shopping center in which the Condominium is located (the “Property Mediator”). The Property Mediator shall decide what action (or inaction, as the case may be) other first-class mixed use developments would do under similar circumstances. If the disputing Unit Owners cannot agree on Property Mediator, each such Unit Owners shall nominate its own property mediator, and such nominated mediators shall collectively appoint the Property Mediator. Mediation may be conducted by telephone or in person. Any in person meetings shall be held in Omaha, Nebraska. The costs and expenses of such mediation shall be divided equally between the parties to the dispute, and each party shall separately pay such party’s own attorney’s fees and expenses.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Oak View Associates, LLC, a Nebraska limited liability company, and Validus Group II, LLC, a Nebraska limited liability company, have executed this Declaration as of the day and year first above written.

DECLARANT:

**OAK VIEW ASSOCIATES, LLC**, a Nebraska limited liability company

By: Pearson Investment Properties, LLC, a Nebraska limited liability company, Manager

By: James R. Pearson  
James R. Pearson, Managing Member

STATE OF NEBRASKA    )  
  ) ss.  
COUNTY OF DOUGLAS    )

The foregoing instrument was acknowledge before me this 30<sup>th</sup> day of March, 2017 by James R. Pearson, Managing Member of Pearson Investment Properties, LLC, a Nebraska limited liability company, as the Manager of Oak View Associates, LLC, a Nebraska limited liability company, on behalf of Oak View Associates, LLC.



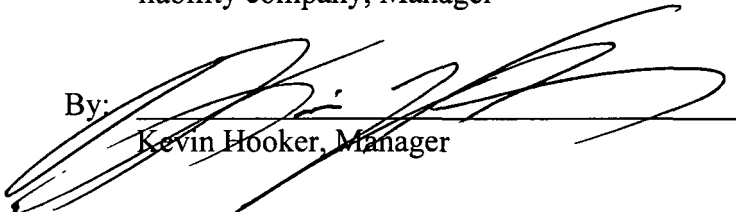
Diane L. Steffens  
Notary Public

My Commission Expires:

\_\_\_\_\_

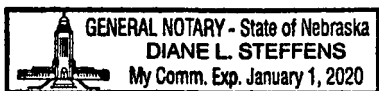
**VALIDUS GROUP II, LLC**, a Nebraska limited liability company

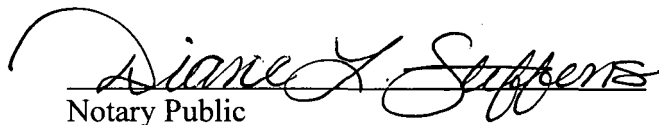
By: Validus Group, LLC a Nebraska limited liability company, Manager

By:   
Kevin Hooker, Manager

STATE OF NEBRASKA    )  
  ) ss.  
COUNTY OF DOUGLAS    )

The foregoing instrument was acknowledge before me this 30<sup>th</sup> day of March, 2017 by Kevin Hooker, Manager of Validus Group, LLC, a Nebraska limited liability company, as the Manager of Validus Group II, LLC, a Nebraska limited liability company, on behalf of Validus Group II, LLC.



  
Notary Public

My Commission Expires:

\_\_\_\_\_

EXHIBIT A  
Page 1 of 1

LEGAL DESCRIPTION OF CONDOMINIUM

[insert]

A tract of land being a portion of Lot 20, in OAK VIEW, an Addition to the City of Omaha, as surveyed, platted and recorded, in Douglas County, Nebraska, together with part of vacated 140th Street, all more particularly described as follows:

Commencing at the most Southwesterly corner of said Lot 20; thence along the Southerly line of said Lot 20, South 54°29'08" East (platted bearing), 696.71 feet, to the Point of Beginning; thence North 35°30'52" East, 300.00 feet; thence North 54°29'08" West, 51.24 feet; thence North 35°30'52" East, 241.89 feet; thence North 00°00'00" West, 39.74 feet, to the Southerly line of Oak View Drive, said point also being on the Northerly line of said Lot 20; thence along said Northerly line, South 90°00'00" East, 376.54 feet, to the beginning of a curve to the left; thence along said curve, having a radius of 360.00 feet, and a chord bearing North 87°19'59" East, 33.50 feet, an arc distance of 33.51 feet; thence South 00°00'00" East, 200.54 feet; thence South 35°30'52" West, 650.45 feet, to the Southerly line of said Lot 20; thence along said Southerly line, North 54°29'08" West, 375.00 feet, to the Point of Beginning.

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EXHIBIT B




PLAT

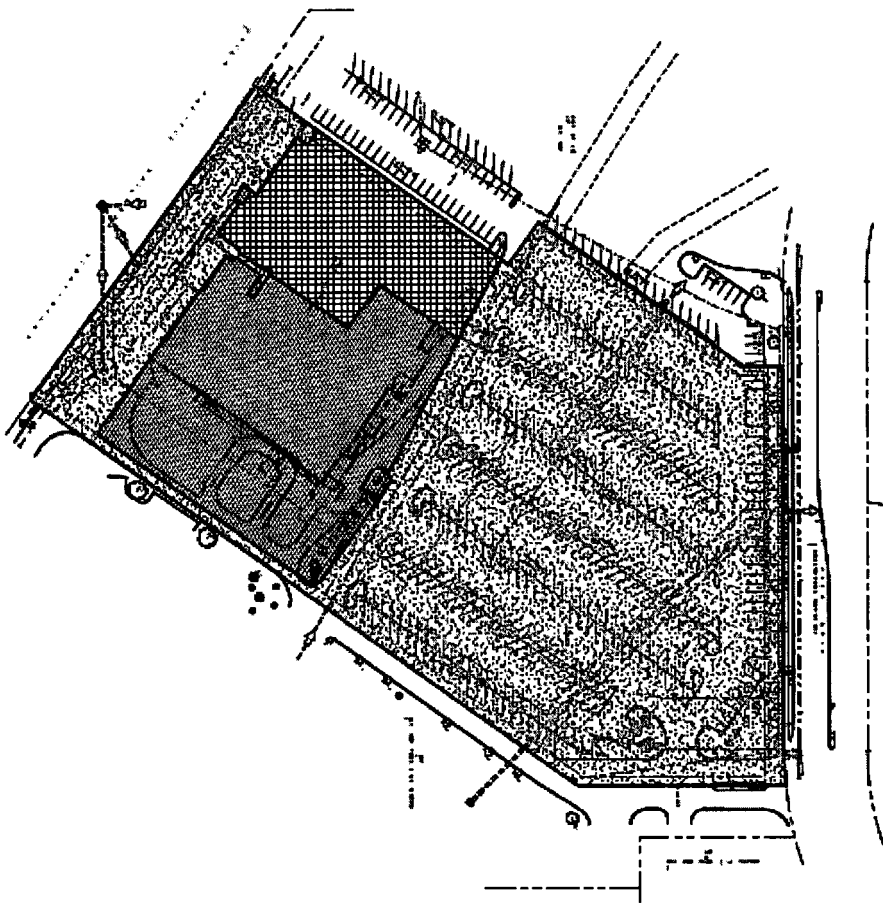


**GENERAL NOTES:**

1) Markers designate general unit and common elements on the site.

**2) LEGEND**

-  = UNIT #1  
81,557 square feet
-  = UNIT #2  
28,775 square feet
-  = COMMON ELEMENTS  
197,554 square feet



**1** CONDOMINIUM UNIT & COMMON ELEMENTS PLAN  
1" = 100'-0"

**BVH**

ARCHITECT  
BVH ARCHITECTURE  
901 JONES STREET  
OKLAHOMA CITY, OK  
V. 407.343.3100  
F. 405.345.7071  
bvh.com

OAKVIEW DRIVE  
CONDOMINIUMS

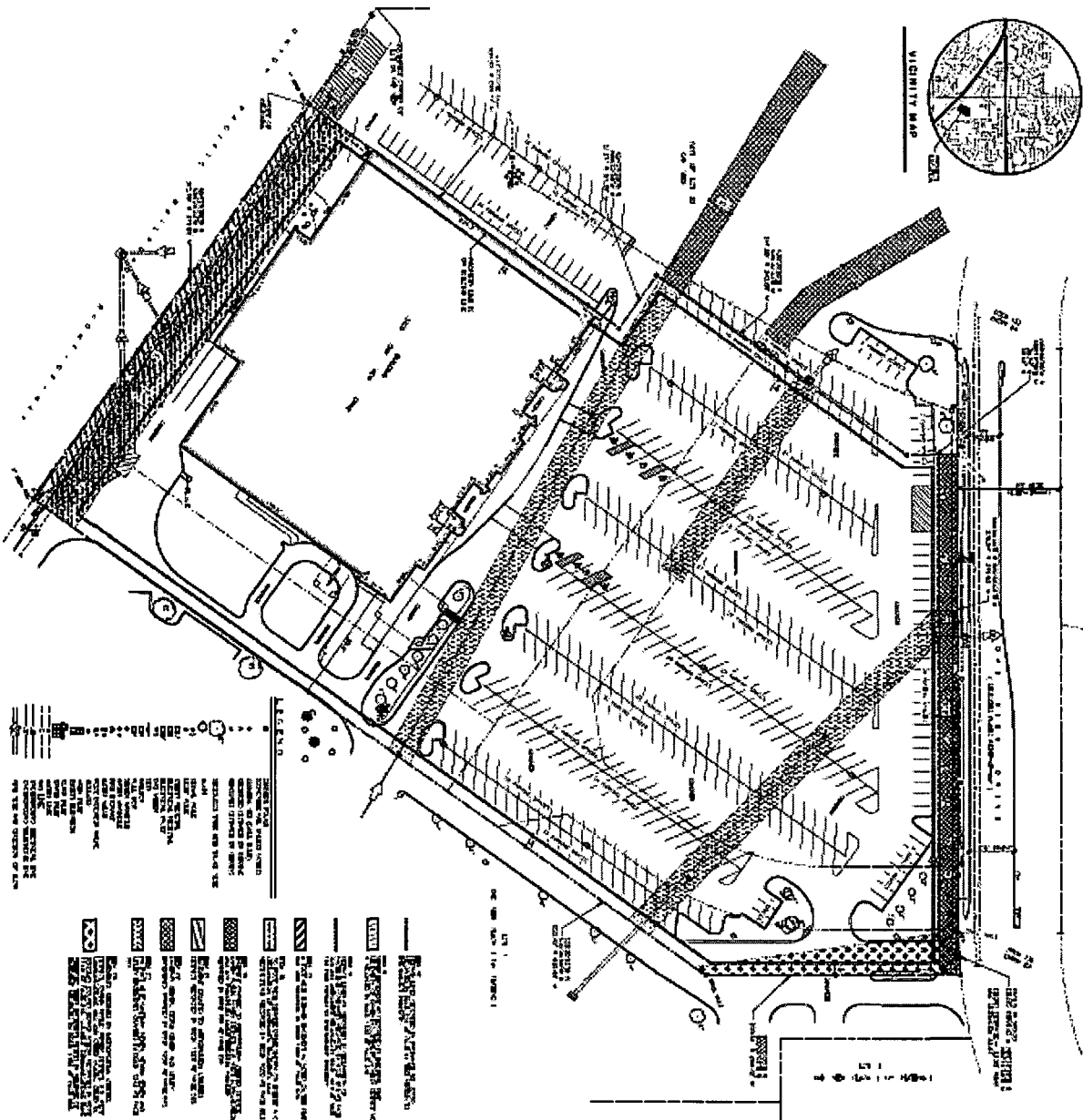
PROJECT PHOTO  
DATE: 08/01/17  
BY: WELLS, BROWN, AND ASSOCIATES

CONDO UNIT &  
COMMON  
ELEMENTS PLAN

NORTH  
 **ACD-1**

REV. 8/17/2018

EXHIBIT C  
SURVEY OF ENTIRE CONDOMINIUM



**NOTES**

1. ALL DIMENSIONS ARE IN FEET AND INCHES.
2. ALL WALLS ARE TO BE CONCRETE UNLESS OTHERWISE NOTED.
3. ALL FLOORS ARE TO BE CONCRETE UNLESS OTHERWISE NOTED.
4. ALL ROOFS ARE TO BE CONCRETE UNLESS OTHERWISE NOTED.
5. ALL CHIMNEYS ARE TO BE BRICK UNLESS OTHERWISE NOTED.
6. ALL TOWERS ARE TO BE BRICK UNLESS OTHERWISE NOTED.
7. ALL TOWER ROOFS ARE TO BE CONCRETE UNLESS OTHERWISE NOTED.
8. ALL TOWER CHIMNEYS ARE TO BE BRICK UNLESS OTHERWISE NOTED.
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**PAINT** OF LOT 22 OAK  
 WHITE  
 WOODWORK  
 WHITE  
 STAIRS  
 OAK  
 COUNTY, MISSOURI

**OWNER**  
 CITYLIGHT CHURCH  
 1000 N. 10TH ST.  
 OMAHA, NE 68102

**DATE**  
 10/15/11

**PROJECT**  
 CITYLIGHT CHURCH  
 1000 N. 10TH ST.  
 OMAHA, NE 68102

**SCALE**  
 AS SHOWN

**PROJECT NO.**  
 1011

EXHIBIT D

Page 1 of 1

ALLOCATED INTERESTS IN COMMON ELEMENTS AND COMMON EXPENSE  
LIABILITY

Unit Number	Percentage
1	54%
2	46%

The parties agree to modify the Allocated Interests above at such time when the Unit Owner of Unit #1 expands its building onto the vacant ground located to the east of Unit #1.