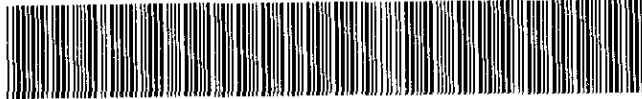




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Received - DIANE L. BATTIATO
 Register of Deeds, Douglas County, NE
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This instrument was prepared by and upon recordation should be returned to:
Robert W. Rieke, Esq., 409 South 17th Street, Suite 500, Omaha NE 68102

RECREATIONAL FACILITIES JOINT SHARING AGREEMENT

This Recreational Facilities Joint Sharing Agreement ("Agreement") is entered into this 6th day of October, 2009, by and between DODGE STREET APARTMENTS, L.L.C., a Nebraska limited liability company ("Dodge"), and WEST DUNDEE DEVELOPMENT CO., L.L.C., a Nebraska limited liability company ("Dundee").

Recitals

- A. Dodge is the owner of the real estate described on Exhibit "A" attached hereto (the "Dodge Property"), upon which Dodge has constructed a residential apartment community.
- B. Dundee is the owner of the real estate described on Exhibit "B" attached hereto (the "Dundee Property"), upon which Dundee intends to construct a residential apartment community.
- C. Dodge desires to grant certain rights benefiting the Dundee Property upon the terms and conditions set forth herein.

Agreement

NOW THEREFORE, Dodge and Dundee hereby agree as follows:

1. Granted Rights. Subject to the terms and conditions set forth herein, Dodge hereby grants to Dundee and its successors and assigns the following rights:
 - (a) *Recreational Facilities*. A non-exclusive perpetual right to the use of any clubhouse(s) and swimming pool(s) now or hereafter located on any portion of the Dodge Property (collectively "Recreational Facilities"); limited, however, to those portions of the Dodge Property which are improved with Recreational Facilities, if any, as such portions may be replaced or relocated within the Dodge Property from time to time by Dodge.
 - (b) *Access*. A non-exclusive perpetual right of access for pedestrian and vehicular traffic between the Dundee Property and the Recreational Facilities; limited, however, to those portions of the Dodge Property which are improved by Dodge from time to time for pedestrian and vehicular access, as such portion may be reduced, increased or relocated from time to time by Dodge.

RETURN TO:
 SPENCE TITLE SERVICES
 BOX 16

2. Use of Rights. The use of all rights created by this Agreement will, in each instance, be non-exclusive and for the use and benefit of Dundee and its successors, assigns and such tenants of the Dundee Property apartment community as may be designated by Dundee from time to time (the "Permittees"); provided, Dodge specifically reserves the right, at any time and from time to time, to promulgate such rules and regulations applicable to the Dodge Property (including the Recreational Facilities) as may be necessary to promote and preserve the health, safety, welfare and security of the Dodge Property, the improvements located thereon, tenants of the Dodge Property, and the Permittees. Dodge may, at any time and from time to time, remove, exclude and restrain any person from the use, occupancy and enjoyment of any right hereby created or the area covered thereby for failure to observe the rules and regulations established by Dodge. Without limiting the foregoing, if unauthorized use is being made of the Recreational Facilities or any other portion of the Dodge Property by Dundee or its Permittees, such unauthorized use may be restrained by appropriate proceeding after written notice to Dundee and failure to abate such unauthorized use within a reasonable time.

3. Maintenance of Common Facilities. Dodge will operate and maintain the Recreational Facilities in good operating condition, and any expenses occasioned thereby including, without limitation, maintenance, repairs, replacements, operating (including insurance premiums) and utility costs ("Expenses") will be initially paid by Dodge. Dundee will, upon receipt of invoices from Dodge (but not more frequently than monthly) reimburse Dodge for that portion of the Expenses equal to the percentage obtained when the total number of apartment units located on the Dundee Property is divided by the total number of apartment units located on both the Dundee Property and the Dodge Property. Any invoice remaining unpaid after ten (10) days shall bear interest at the rate of sixteen percent (16%) per annum until paid; provided, Dundee may, by recording in the public records an irrevocable relinquishment of the rights created hereby and providing a copy thereof to Dodge, be released from its share of the Expenses which accrue from and after the date of such recording. Dundee shall not be liable for the reimbursement of Expenses (a) unless and until apartment units have been constructed on the Dundee Property, or (b) after the relinquishment of its rights hereunder. If the Dundee Property is subsequently subdivided, the relinquishment right afforded to Dundee hereunder may be exercised as to any or all such subdivided parcels.

4. Insurance. Dodge agrees to maintain policies of fire and extended coverage insurance and of public liability insurance issued by reputable companies in amounts and on policy terms customary for the Recreational Facilities. Dodge releases Dundee from any liability for any loss or damage of the type provided by fire and extended coverage insurance, and grants to Dundee, on behalf of any insurer providing such insurance, a waiver of any right of subrogation which any insurer of Dodge might acquire against Dundee by virtue of payment of any loss covered by such insurance.

5. Legal Effect. Each of the rights created by this Agreement are appurtenant to the Dundee Property and may not be transferred, assigned or encumbered except as an appurtenance to the Dundee Property. Each covenant contained in this Agreement (a) constitutes a covenant running with the land, (b) binds every owner now having or hereafter acquiring an interest in the Dodge Property and the Dundee Property, and (c) will bind and inure to the benefit of the parties and their respective successors and assigns.

6. No Dedication. Nothing contained in this Agreement will be deemed to constitute a gift, grant or dedication of any real property to the general public or for any public purpose whatsoever, it being the intention that this Agreement will be strictly limited to the private use and benefit of the parties hereto and their respective successors and assigns. This Agreement is intended to benefit the parties hereto and their respective successors and assigns, and is not intended to constitute any person which is not a party hereto a third party beneficiary hereunder, or to give any such person any rights hereunder.

7. Amendment and Termination. This Agreement shall continue in full force and effect until terminated, modified or amended with the express written consent of all of the owners of the real property included herein and the holder of any mortgage or deed of trust constituting a first lien on any portion of the property included herein; provided, nothing contained herein shall prevent or prohibit the relinquishment by

Dundee of its rights provided in paragraph 3. No tenant or other person having only a possessory interest in the improvements constructed upon the real estate described herein will be required to join in the execution of or consent to any action taken pursuant to this Agreement.

8. Condemnation. In the event the whole, or any part, of the Dodge Property is taken for any public or quasi-public use under any governmental law, ordinance or regulation, or by right of eminent domain, or by private purchase in lieu thereof, neither Dundee nor any Permittee will share in any award, compensation or other payment made by reason of the taking, and such award, compensation or other payment will belong entirely to Dodge, and Dodge will have no further liability to Dundee for the loss of rights relating to the portion of the Dodge Property so taken.

9. Default; Remedies. Dodge and Dundee agree that the provisions of this Agreement will be enforced as follows:

- (a) *Injunctive Relief.* In the event of any violation or threatened violation by any party of any of the provisions of this Agreement, the other party will have the right to enjoin such violation or threatened violation in a court of competent jurisdiction. Prior to the commencement of any such action, written notice of the violation will be given to the party claimed to have committed such violation.
- (b) *Self Help.* In the event any party fails to perform any of the provisions of this Agreement, the other party will have the right, without being obligated to do so, to enter upon the property and improvements of the defaulting party and perform the obligations of the defaulting party hereunder; provided, however, that written notice of such intention, specifying the nature of the alleged default and the actions to be performed, has been given to the defaulting party not less than ten (10) days prior to the commencement of such action. During such ten (10) day period, the defaulting party will have the right to perform or commence performance of action appropriate to remedy such default, and provided such action is diligently carried to completion, the right of such other party to perform the obligation of the defaulting party will terminate. If a party elects to perform the action to have been performed by a defaulting party, on completion of such action, or from time to time if the action is of a continuing nature, an itemized statement of the cost thereof will be submitted to the defaulting party and the amount thereof will be immediately due and payable by the defaulting party, which amount will bear interest at the rate of sixteen percent (16%) per annum until paid.
- (c) *Lien.* In the event any party shall fail to pay any sums owed to the other party pursuant to this Agreement including, without limitation, Dundee's payment of its percentage share of the Expenses and as provided in subparagraph (b) above, and such failure shall continue for a period of ten (10) days after written notice from the non-defaulting party, the non-defaulting party may, at its option, record in the office of the Register of Deeds of Douglas County, Nebraska a lien against the defaulting party's real estate described herein and foreclose such lien in the same manner as a mortgage.
- (d) *Force Majeure.* If performance of any action by any party is prevented or delayed by act of God, war, labor disputes or other cause beyond the reasonable control of such party, the time for the performance of such action will be extended for the period that such action is delayed or prevented by such cause.
- (e) *No Termination.* No breach of this Agreement by Dundee will entitle Dodge to cancel, rescind or otherwise terminate this Agreement. The foregoing limitation will not affect, in any manner, any other right or remedy which Dodge might have by reason of such breach.

10. Miscellaneous.

- (a) *Notices.* All notices, invoices, demands and other communications given pursuant to this Agreement will be in writing and will be delivered in person or by mail to the parties at their respective addresses set forth in the real property tax records respecting each property.
- (b) *Waiver of Default.* No waiver of any default by any party will be implied from the failure of the other party to take any action in respect of such default. No express waiver of any default will affect any default or extend any period of time for performance other than as specified in such express waiver. One or more waivers of any default in the performance of any provision of this Agreement will not be deemed a waiver of any subsequent default in the performance of the same provision or any other provision. The consent to or approval of any act or request by any party will not be deemed to waive or render unnecessary the consent to or approval of any subsequent similar act or request. Except as provided in paragraph 9(e), the rights and remedies provided by this Agreement are cumulative and no right or remedy will be exclusive of any other, or of any other right or remedy at law or in equity which any party might otherwise have by virtue of a default under this Agreement and the exercise of any right or remedy by any party will not impair such party's standing to exercise any other right or remedy.
- (c) *Severability.* If any provision of this Agreement is, to any extent, declared by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement (or the application of such provision to persons or circumstances other than those in respect of which the determination of invalidity or unenforceability was made) will not be affected thereby and each provision of this Agreement will be valid and enforceable to the fullest extent permitted by law.
- (d) *Governing Law.* This Agreement will be construed in accordance with the laws of the State of Nebraska.
- (e) *Binding Effect.* The provisions of this Agreement will be binding on the parties and their respective successors and assigns.

IN WITNESS WHEREOF, this Agreement has been executed effective as of the date first above written.

DODGE STREET APARTMENTS, L.L.C., a Nebraska limited liability company

By *David M. [Signature]*
Title: Manager

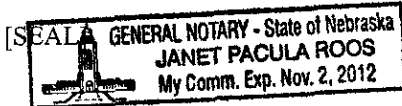
WEST DUNDEE DEVELOPMENT CO., L.L.C., a Nebraska limited liability company

By *David M. [Signature]*
Title: Manager

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On this 6 day of October, 2009, before me, a notary public in and for said county and state, personally came Howard M. Kooper, Manager of DODGE STREET APARTMENTS, L.L.C., a Nebraska limited liability company, known to me to be the identical person who signed the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said limited liability company.

WITNESS my hand and notarial seal at Omaha, in said county and state, the day and year last above written.



Janet Pacula Roos
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On this 6 day of October, 2009, before me, a notary public in and for said county and state, personally came Howard M. Kooper, Manager of WEST DUNDEE DEVELOPMENT CO., L.L.C., a Nebraska limited liability company, known to me to be the identical person who signed the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and deed of said limited liability company.

WITNESS my hand and notarial seal at Omaha, in said county and state, the day and year last above written.



Janet Pacula Roos
Notary Public

Exhibit "A"

Lots 1 and 2, in West Dodge Hills Replat 1, a Subdivision, as surveyed, platted and recorded, in Douglas County, Nebraska.

Exhibit "B"

SURVEYOR'S CERTIFICATE

PART OF THE NW1/4 OF THE NE1/4 OF SECTION 20, T15N, R11E OF THE 6TH P.M., DOUGLAS COUNTY, NEBRASKA, TOGETHER WITH PART OF THE SW1/4 OF THE NE1/4 OF SAID SECTION 20, ALL MORE PARTICULARLY DESCRIBED AS FOLLOWS, BEGINNING AT THE SW CORNER OF THE NORTH 1/2 OF SAID SW1/4;

THENCE N00°10'08"W (ASSUMED BEARING) 1174.55 FEET ON THE WEST LINE OF SAID SW1/4 TO THE SOUTH LINE OF CAPITOL AVENUE;

THENCE SOUTHEASTERLY ON THE SOUTH LINE OF CAPITOL AVENUE ON THE FOLLOWING DESCRIBED SIX COURSES;

THENCE N89°51'08"E 242.56 FEET;

THENCE SOUTHEASTERLY ON A 455.00 FOOT RADIUS CURVE TO THE RIGHT, CHORD BEARING S67°52'33"E, CHORD DISTANCE 344.89 FEET, AN ARC DISTANCE OF 353.73 FEET;

THENCE S45°36'13"E 21.52 FEET;

THENCE SOUTHEASTERLY ON A 102.50 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARING S45°36'13"E, CHORD DISTANCE 184.19 FEET, AN ARC DISTANCE OF 228.84 FEET;

THENCE S45°36'13"E 20.35 FEET;

THENCE SOUTHEASTERLY ON A 545.00 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARING S67°52'33"E, CHORD DISTANCE 413.11 FEET, AN ARC DISTANCE OF 423.70 FEET TO THE WEST LINE OF 183RD STREET;

THENCE S00°08'52"E 100.00 FEET ON THE WEST LINE OF 183RD STREET;

THENCE SOUTHWESTERLY ON THE WEST LINE OF 183RD STREET ON A 350.00 FOOT RADIUS CURVE TO THE RIGHT, CHORD BEARING S10°13'25"W, CHORD DISTANCE 126.02 FEET, AN ARC DISTANCE OF 126.71 FEET;

THENCE SOUTHWESTERLY ON THE WEST LINE OF 183RD STREET ON A 400.00 FOOT RADIUS CURVE TO THE LEFT, CHORD BEARING S00°09'01"W, CHORD DISTANCE 279.44 FEET, AN ARC DISTANCE OF 285.46 FEET;

THENCE SOUTHEASTERLY ON THE WEST LINE OF 183RD STREET ON A 350.00 FOOT RADIUS CURVE TO THE RIGHT, CHORD BEARING S10°09'27"E, CHORD DISTANCE 123.20 FEET, AN ARC DISTANCE OF 123.85 FEET;

THENCE S00°01'14"E 106.42 FEET ON THE WEST LINE OF 183RD STREET TO THE SOUTH LINE OF THE NORTH 1/2 OF SAID SW1/4;

THENCE S89°58'46"W 1101.73 FEET ON THE SOUTH LINE OF THE NORTH 1/2 OF SAID SW1/4 TO THE POINT OF BEGINNING.