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SEP 05 2014 12:02 P 7

Received - DIANE L. BATTIATO  
Register of Deeds, Douglas County, NE  
9/5/2014 12:02:54.80



2014069680

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**PERMANENT ACCESS EASEMENT**

THIS PERMANENT ACCESS EASEMENT (this "Agreement") is made effective as of this \_\_\_\_ day of \_\_\_\_\_, 2014, (hereinafter referred to as the "Effective Date") by and between Tribedo, LLC, a Nebraska limited liability company ("Grantor") and Sanitary and Improvement District No. 538 of Douglas County, Nebraska, and the City of Omaha, a municipal corporation (hereinafter collectively referred to as the "Grantee").

**RECITALS:**

WHEREAS, Grantor is the lawful owner of the following legally described, to-wit:

Lot 8, and Outlot B, West Dodge Pointe, a Subdivision as surveyed, platted and recorded in Douglas County, Nebraska (hereinafter referred to as the "Burdened Property").

WHEREAS, Grantor intends to grant Grantee a permanent, 25' wide non-exclusive easement to provide ingress and egress in, over and across that portion of the Burdened Property depicted on Exhibit "A" attached hereto (hereinafter referred to as the "Access Easement Area");

WHEREAS, by virtue of the recording of this Agreement, the Benefited Property and Burdened Property shall be owned, held, transferred, sold, conveyed, used, and occupied and mortgaged or otherwise encumbered subject to the provisions of this Agreement and every grantee of any interest in any said real property, by acceptance of a deed or other conveyance of such interest, and every person or entity owning an interest in any portion of any said real 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 this Agreement and shall be deemed to have consented to the terms hereof.

NOW, THEREFORE, for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, including the mutual grants and covenants contained herein, the receipt and adequacy of which are hereby acknowledged, the parties hereto do hereby agree as follows:

1. Permanent Access Easement. Grantor hereby grants to Grantee for the benefit of Grantee and its mortgagees, contractors, tenants, sub-tenants, agents, invitees, visitors, successors and assigns (hereinafter referred to as "Permittees"), a non-exclusive, 25' wide permanent access easement (but not parking), in, over, upon and across the Burdened Property to be constructed within the Access Easement Area for the purposes of providing vehicular ingress and egress to the Benefited Property.

2. Nature of Easement. The provisions of this Agreement are intended and shall be deemed to constitute a dedication for public use, and the rights and easements granted herein are for the benefit of the public, at large.

3. Improvements and Maintenance. Grantor, or its successors or assigns shall, at its sole cost and expense, be obligated to maintain, repair and replace the materials comprising the access drive within the Access Easement Area.

4. Restrictions. No barricades, signs, fences, or other dividers will be constructed and nothing will be done to prohibit or discourage the free and uninterrupted flow of vehicular traffic through the access drive within the Access Easement Area.

5. Effect of Covenants. Each party hereto, and its successors and assigns, by the acceptance of a deed of conveyance, accepts the same subject to all restrictions, conditions, covenants, reservations, options, liens and charges, and the jurisdiction, rights and powers granted or reserved by this Agreement or to which this Agreement 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 or entity having at any time any interest of estate in said property, and shall inure to the benefit of such property owners on like manner as though the provisions, terms and restrictions of this Agreement were received and stipulated at length in each and every deed of conveyance.

6. Waiver. No covenant, restriction, condition or provision of this Agreement 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.

7. Estoppel. Either party shall deliver to the other party, within twenty (20) days after request therefore, a written statement, setting forth that, to the best of such party's knowledge, the requesting party is not in default, in the performance of any of its obligations under this Agreement or, if in default, setting forth the nature of such default, and such other matters as may be reasonably requested.

8. Savings Clause. The invalidity of any covenant, restriction, condition, limitation or any other provision of this Agreement herein contained, as the case may be, shall not render the remainder of the Agreement invalid, nor any other part therein contained.

9. Amendment, Modification, Notices.

(a) This Agreement may only be amended by the written consent and agreement of the record owner of the Benefited Property and Burdened Property or their respective successors

and assigns. Any such modification or amendment shall be effective when duly recorded in the office of the Douglas County, Nebraska Register of Deeds.

(b) Wherever in this Agreement the consent or approval of an owner is required, unless otherwise expressly provided herein, such consent or approval shall not be unreasonably withheld or delayed. Any request for consent or approval shall: (a) be in writing; (b) specify the section hereof which requires that such notice be given or that such consent or approval be obtained; and (c) be accompanied by such background data as is reasonably necessary to make an informed decision thereon. The consent of an owner under this Agreement, to be effective, must be given, denied or conditioned expressly and in writing.

(c) Notices or other communication hereunder shall be in writing and shall be sent certified or registered mail, return receipt requested, or by other national overnight courier company, or personal delivery. Notice shall be deemed given upon receipt or refusal to accept delivery. Each party may change from time to time their respective address for notice hereunder by like notice to the other party. The notice addresses of Grantor and Grantee are as follows:

Grantor: Tribedo, LLC  
c/o White Lotus Group  
105 N. 31<sup>st</sup> Avenue, Ste. 200  
Omaha, NE 68131

Grantee: City of Omaha  
Public Works Department  
1819 Farnam Street, 6<sup>th</sup> Floor  
Omaha, NE 68183

10. Title. Grantor confirms with Grantee that Grantor is seized in fee of the Burdened Property, which includes the Access Easement Area and that it has the right to grant and convey the easement and rights granted herein, and that it will warrant and defend such easement and rights to Grantee against the lawful claims and demands of all persons.

11. Counterparts. This Easement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument.

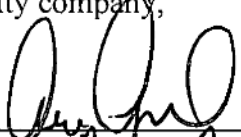
12. Governing Law. This Agreement shall be construed and governed in accordance with the laws of the State of Nebraska.

*[Remainder of page left intentionally blank – signature page follow]*

IN WITNESS WHEREOF, Grantor and Grantee have caused the authorized execution hereof, the day and year first above written.

**GRANTOR:**

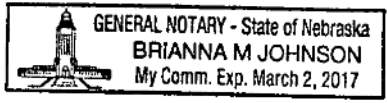
**TRIBEDO, LLC**, a Nebraska limited liability company,

By:   
Name: Arun Agarwal  
Its: Member

STATE OF NEBRASKA    )  
  ) ss.  
COUNTY OF DOUGLAS    )

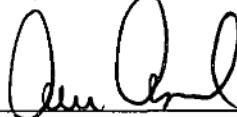
The above and foregoing instrument was acknowledged before me this 15<sup>th</sup> day of August, 2014, by Arun Agarwal, known to me to be the member of Tribedo, LLC, a Nebraska limited liability company, on behalf of said limited liability company.

  
Notary Public  
Commission Expires: 3/2/17

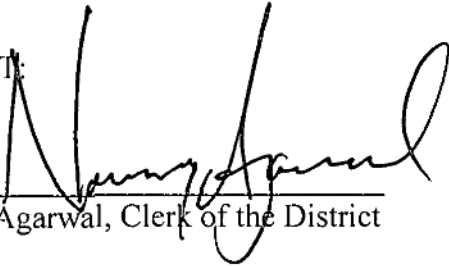


**GRANTEE:**

**SANITARY AND IMPROVEMENT  
DISTRICT NO. 538 OF DOUGLAS  
COUNTY, NEBRASKA**

By:   
Arun Agarwal, Chairman of the  
District

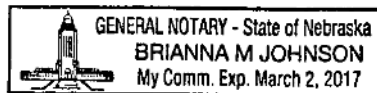
ATTEST:

  
Neeraj Agarwal, Clerk of the District

STATE OF NEBRASKA    )  
  ) ss.  
COUNTY OF DOUGLAS    )

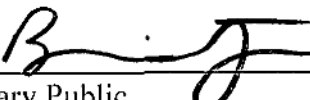
The above and foregoing instrument was acknowledged before me this 15<sup>th</sup> day of August, 2014, by Arun Agarwal, known to me to be the Chairman of Sanitary and Improvement District No. 538 of Douglas County, Nebraska, on behalf of said district.

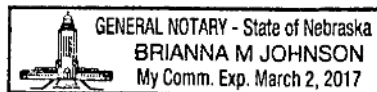
  
Notary Public  
Commission Expires: 3/2/17



STATE OF NEBRASKA    )  
  ) ss.  
COUNTY OF DOUGLAS    )

The above and foregoing instrument was acknowledged before me this 15<sup>th</sup> day of August, 2014, by Neeraj Agarwal, known to me to be the Clerk of Sanitary and Improvement District No. 538 of Douglas County, Nebraska, on behalf of said district.

  
Notary Public  
Commission Expires: 3/2/17



**GRANTEE:**

**CITY OF OMAHA, NEBRASKA**

Jean Stothert 8-28-14  
Mayor Date

**ATTEST:**

*Deputy* Sandra L. Mose 8-28-14  
City Clerk Date

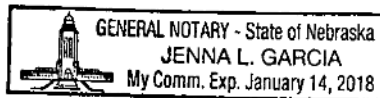
**APPROVED AS TO FORM:**

Wanda-T 25 Aug 14  
Assistant City Attorney Date

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DOUGLAS )

On this 28<sup>th</sup> day of August, 2014, before me, a Notary Public in and for said County and State, personally appeared Jean Stothert, Mayor of the City of Omaha, Nebraska, who executed the above and acknowledged the execution thereof to be her voluntary act and deed on behalf of said City.

Jenna L. Garcia  
NOTARY PUBLIC  
My Commission expires 1/14/2018



STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DOUGLAS )

On this 28<sup>th</sup> day of August, 2014, before me, a Notary Public in and for said County and State, personally appeared Sandra L. Mose, *Deputy* City Clerk of the City of Omaha, Nebraska, who executed the above and acknowledged the execution thereof to be his voluntary act and deed on behalf of said City.

Jenna L. Garcia  
NOTARY PUBLIC  
My Commission expires 1/14/2018

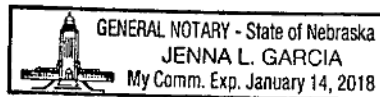
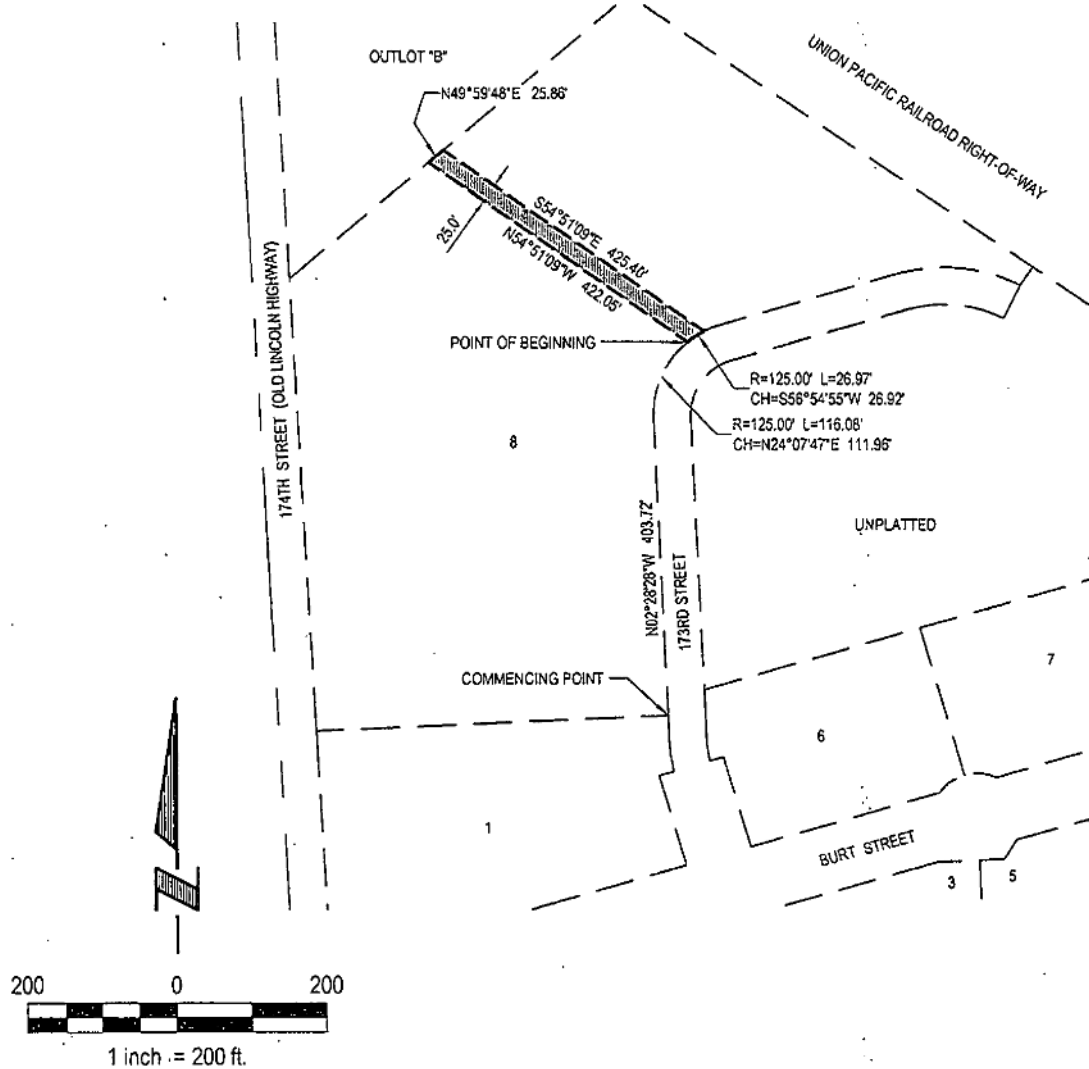


EXHIBIT "A"



**LEGAL DESCRIPTION**

A PERMANENT 25.00 FOOT ACCESS EASEMENT LOCATED IN LOT 8, WEST DODGE POINTE, A SUBDIVISION LOCATED IN THE NW1/4 OF THE SE1/4 OF SECTION 16, TOWNSHIP 15, RANGE 11 EAST OF THE 6TH P.M., DOUGLAS COUNTY, NEBRASKA. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF LOT 1, SAID WEST DODGE POINTE, SAID POINT ALSO BEING THE SOUTHEASTERLY MOST CORNER OF LOT 8, SAID WEST DODGE POINTE, SAID POINT ALSO BEING ON THE WEST RIGHT-OF-WAY LINE OF 173RD STREET; THENCE ALONG THE EAST LINE OF SAID LOT 8, WEST DODGE POINTE, SAID LINE ALSO BEING SAID WEST RIGHT-OF-WAY OF 173RD STREET ON THE FOLLOWING TWO (2) COURSES: THENCE N02°28'28"W (ASSUMED BEARING), A DISTANCE OF 403.72 FEET; THENCE NORTHEASTERLY ON A CURVE TO THE RIGHT WITH AN RADIUS 125.00 FEET, A DISTANCE OF 116.08 FEET, SAID CURVE HAVING A LONG CHORD WHICH BEARS N24°07'47"E, A DISTANCE OF 111.96 FEET TO THE POINT OF BEGINNING; THENCE N54°51'09"W, A DISTANCE OF 422.05 FEET TO A POINT ON THE NORTHERLY LINE OF SAID LOT 8, WEST DODGE POINTE, SAID POINT ALSO BEING ON THE SOUTHERLY LINE OF OUTLOT "B", SAID WEST DODGE POINTE; THENCE N49°59'48"E ALONG SAID NORTHERLY OF LOT 8, WEST DODGE POINTE, SAID LINE ALSO BEING SAID SOUTHERLY LINE OF OUTLOT "B", WEST DODGE POINTE, A DISTANCE OF 25.86 FEET; THENCE S54°51'09"E, A DISTANCE OF 425.40 FEET TO A POINT ON SAID EAST LINE OF SAID LOT 8, WEST DODGE POINTE, SAID POINT ALSO BEING SAID WEST RIGHT-OF-WAY LINE OF 173RD STREET; THENCE ALONG THE EAST LINE OF SAID LOT 8, WEST DODGE POINTE, SAID LINE ALSO BEING THE WEST RIGHT-OF-WAY OF 173RD STREET, THENCE SOUTHWESTERLY ON A CURVE TO THE LEFT WITH A RADIUS OF 125.00 FEET, A DISTANCE OF 26.97 FEET, SAID CURVE HAVING A LONG CHORD WHICH BEARS S56°54'55"W, A DISTANCE OF 26.92 FEET TO THE POINT OF BEGINNING.

SAID PERMANENT 25.00 FOOT ACCESS EASEMENT CONTAINS 10,580 SQUARE FEET OR 0.243 ACRES, MORE OR LESS.

 <p>Engineering Answers</p>	<p><b>E &amp; A CONSULTING GROUP, INC.</b>                  Engineering • Planning • Environmental &amp; Field Services                  330 North 117th Street Omaha, NE 68154 Phone: 402.895.4700</p>	<p><b>PERMANENT 25 FOOT ACCESS EASEMENT</b>                  LOT 8, WEST DODGE STATION                  DOUGLAS COUNTY, NEBRASKA</p>
	<p>Drawn by: JRS Chkd by: EAS Stalid Date: 05/13/2014                  Job No.: P2005.222.008</p>	