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RETURN TO: DRI Title & Escrow  
13057 W Center Rd Ste 1  
OMAHA NE 68144

CHECK NUMBER

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**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR  
BLAIR COMMONS**

**THIS DECLARATION** ("Declaration"), is made on the date hereinafter set forth by BHRHUD, LP, LLC, a Nebraska limited liability company ("BHRHUD"), Rowsat96, LP, a Nebraska limited partnership ("Rowsat96"), HUDBLAIRGP, LLC (the "Subdivider"), the Blair Commons Owners Association, a Nebraska non-profit corporation ("Association"), and Clarity Development Company, LLC ("Clarity"). BHRHUD and Rowsat96 are collectively referred to as the "Declarants".

WITNESSETH:

**WHEREAS**, BHRHUD is the owner of Lot 1 and Subdivider is the owner of Lots 2 and 3 and Outlots A through C to the north of Lot 1 and Association is the owner of Outlot A to the east of Lot 3 (Lots 1-3, and Outlots "A" through "C" that are north of Lot 1 and Outlot "A" that is to the east of Lot 3, inclusive is collectively referred to as the "Property") in a development commonly referred to as Blair Commons.

**WHEREAS**, Subdivider intends to convey Lot 3 to Rowsat96, LP, in July 2018;

**WHEREAS**, The portion of the Property owned by BHRHUD shall be referred to as "BHRHUD Property" and the portion of the Property to be owned by Rowsat96 shall be referred to as "Rowsat96 Property" the portion of the property owned by Subdivider shall be referred to as the "Subdivider Property and the portion of the Property owned by the Association shall be referred to as the "Association Property." BHRHUD Property, Rowsat96 Property the Subdivider Property and the Association Property shall hereinafter collectively be referred to as "Property". The Property is depicted and described on Exhibit "A", attached hereto.

**WHEREAS**, Clarity is an affiliate of both Declarants and stands to benefit from the development of the Property, and as such, has agreed to assume sole responsibility for the payment of certain expenses as set forth herein;

**WHEREAS**, BHRHUD is the owner of a project commonly referred to as Blair High Residences aka Aspen Grove ("BHR Project") and commenced construction of the BHR project in April of 2017 and has completed a significant portion of the BHR Project including, without limitation, the construction of roads, sidewalks, and stormwater detention ponds;

**WHEREAS**, Rowsat96 shall be the owner of a project commonly referred to as Hillside Rows ("Hillside Rows");

**WHEREAS**, the Declarants desire to restrict the Property in accordance with the certain protective covenants, conditions, restrictions, reservations, liens, and charges as hereinafter set forth;

**NOW, THEREFORE**, the Declarants hereby declare that the Property shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property. These easements, covenants, restrictions, and conditions, shall run with the Property, and shall be binding upon all parties having or acquiring any right, title or interest in the Property, or any part thereof, and they shall inure to the benefit of each Declarant thereof and the Owners (as defined below) of lots or outlots comprising the Property. The obligations of Clarity shall be binding on the successors in interest of Clarity.

**ARTICLE I  
DEFINITIONS**

- A. "Association" shall mean and refer to the Blair Commons Owners Association, Inc., a Nebraska non-profit corporation, and its successors and assigns.

- B. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot or outlot which is a part of the Property, but excluding those having such interest merely as security for the performance of an obligation, including contract sellers and lenders.

**ARTICLE II**  
**PAYMENT AND MAINTENANCE**

- A. Development to date. The Property is subject to that certain Subdivision Agreement dated December 20, 2016 by Subdivider and the City of Omaha (the "Subdivision Agreement"). BHRHUD has installed or will install by December 1, 2018 the following facilities relating to and required for the BHRHUD Property as required under the Subdivision Agreement: street and sidewalk improvements and stormwater detention improvements as set forth on Exhibit B. The foregoing street, sidewalk and stormwater detention improvements shall hereafter be collectively referred to as the "BHRHUD Facilities". Upon the completion of construction of the BHRHUD Facilities, BHRHUD shall have no continuing liability nor obligation for any repair, maintenance, operation, insurance, replacement, or restoration of any of the BHRHUD Facilities, and further, BHRHUD shall have no liability or obligation for any repair, maintenance, operation, insurance, replacement or restoration of the Rowsat96 Facilities or the Subdivider Facilities, all which shall be the obligation of the Association hereunder. Rowsat96 shall install the following facilities relating to and required for the Rowsat96 Property as required under the Subdivision Agreement: street and sidewalk improvements and stormwater detention improvements required for the Hillside Rows Project ("Rowsat96 Facilities") as set forth on Exhibit B. Upon the completion of construction of the Rowsat96 Facilities, Rowsat96 shall have no continuing liability nor obligation for any repair, maintenance, operation, insurance, replacement, or restoration of any of the Rowsat96 Facilities, and further, Rowsat96 shall have no liability or obligation for any repair, maintenance, operation, insurance, replacement or restoration of the BHRHUD Facilities or the Subdivider Facilities, all which shall be the obligation of the Association hereunder. Subdivider (or its successor in title to the Subdivider Property) shall install the following facilities relating to and required for the Subdivider Property as required under the Subdivision Agreement: storm water detention improvements to be located on the Subdivider Property (the "Subdivider Facilities"). Upon the completion of construction of the Subdivider Facilities, Subdivider shall have no continuing liability nor obligation for any repair, maintenance, operation, insurance, replacement, or restoration of any of the Subdivider Facilities, and further, Subdivider shall have no liability or obligation for any repair, maintenance, operation, insurance, replacement or restoration of the Rowsat96 Facilities or the BHRHUD Facilities, all which shall be the obligation of the Association hereunder ("BHRHUD Facilities", "Rowsat96 Facilities" and "Subdivider Facilities" shall hereinafter collectively be referred to as "Facilities").
- B. Obligations of the Association. The Association shall manage, maintain, repair, rebuild and restore the Facilities for the benefit of the Association and the benefit of the Owners, their invitees and licensees. The Association shall maintain the Facilities in a first class manner, keeping the Facilities in clean, safe, good repair and operating order. Such repair and maintenance of the Facilities shall include, without limitation, the timely removal of snow and ice from the street and sidewalk improvements. The Association shall also be responsible for those maintenance duties set forth in the Post-Construction Stormwater Maintenance Agreement (hereinafter "PCSM Duties"), attached as an exhibit to the Subdivision Agreement and hereto as Exhibit C. The estimated annual expenses for maintenance of the Facilities is set forth in Exhibit D and incorporated herein by reference. In the event that the Association fails to perform its obligations under this Agreement, the Owners (either individually or collectively) shall have the right, but not the obligation, after giving 48 hours prior notice to the Association to perform any obligations of the Association hereunder, and the Association shall immediately reimburse such Owner for the cost thereof; provided that 48 hours written notice shall not be required in the event of defaults that result, or that an Owner reasonably determines may result, in damages or injury to persons or property or the failure to remove snow or ice from vehicular and

pedestrian streets and sidewalk improvements that comprise the Facilities within the Property (the "Self-Help Rights").

**ARTICLE III**  
**BLAIR COMMONS OWNERS ASSOCIATION**

- A. Membership. Every Owner will be admitted as a member of the Association in accordance with procedures set forth in the bylaws of the Association (the "Bylaws"). Memberships shall be appurtenant to and may not be separated from ownership of the Property. Ownership of a lot within the Property or a portion of a lot within the Property shall be the sole qualification for membership. The foregoing is not intended to include persons or entities who hold any interest merely as security for the performance of an obligation.
- B. Voting Rights. Owners shall be entitled to one (1) vote for each lot within the Property it owns. An action of the Association may occur by simple majority vote with the exception that, so long as BHRHUD and Rowsat96 are Owners, for an action of the Association to occur, these entities must vote in the affirmative. The Declarants further agree that in the event the Association fails to comply with its obligations under this Declaration after thirty days written notice from either Declarant, that either Declarant shall have the right to direct and control the Association notwithstanding any provision to the contrary contained herein or in the Bylaws.
- C. Covenants For Maintenance Assessments.
1. Creation of Lien and Personal Obligation of Assessments. The Declarants and each Owner of any lot within the Property, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, hereby covenant and agree to pay to the Association all assessments or charges which shall be established and collected, as herein provided. These assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the Property of the Owner and shall be a continuing lien on the Property of such Owner against which each assessment is made. ALL SUBSEQUENT PURCHASERS SHALL TAKE TITLE TO THE PROPERTY SUBJECT TO SAID LIEN AND SHALL BE BOUND TO INQUIRE OF THE ASSOCIATION AS TO THE AMOUNT OF ANY UNPAID ASSESSMENTS. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall be the personal obligation of all person(s) who were an Owner of such Property at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to the successors in title of said Owner(s) unless expressly assumed by such person, but the lien shall continue on the Property and the personal liability of all who were Owners at the time the lien was created shall continue.
  2. Purpose of Assessments. The assessments by the Association shall be used exclusively for the following purposes: (a) to manage, maintain, repair, and inspect the Facilities, and personal property used in connection therewith; (b) to reconstruct or replace the Facilities, including personal property used in connection therewith; (c) to comply with the PCSM Duties; and (d) to pay the reasonable costs and expenses of enforcing the provisions of this Declaration including the reasonable fees of attorneys hired to represent the Association, court costs, witness fees, and related costs.
  3. Annual Assessment.
    - a. Ninety (90) days prior to the beginning of each calendar year, the Board of Directors of the Association, hereinafter referred to as "the Board", shall prepare, in reasonably itemized detail, a proposed annual budget for the anticipated expenses and costs associated with the Facilities for that year. The proposed annual budget shall be delivered to the Owners at least ninety (90) days prior to the end of the calendar year. The Owners have the right to send written questions or comments related to the proposed annual budget and must do so with ten (10) business days of delivery of the proposed annual budget. The Owners and the Association shall resolve all questions and comments to the proposed annual budget within thirty (30) calendar days of the delivery of the proposed

annual budget and shall finalize the proposed annual budget during this time. The existing budget shall remain in effect until the Owners adopt a new budget.

- b. The Association shall levy and collect assessments from each lot within the Property based on each lot Owner's pro rata ownership of the lots comprising the Property, which shall be sufficient to fund the budget for said calendar year. The parties acknowledge and agree, however, that both BHRHUD and Rowsat96 are the owners of affordable housing developments on Lot 1 (the BHRHUD Property) and Lot 3 (the Rowsat96 Property) that are commonly referred to as "Blair High Residences" and "Hillside Rows" that shall have limited available cash flow and as a result thereof. Clarity shall be solely responsible for all costs, expenses, liabilities and obligations of the Owner of the BHRHUD Property under the terms of this Declaration for as the BHRHUD Property contains an affordable housing development. Clarity shall be solely responsible for all costs, expenses, liabilities and obligations of the Owner of the Rowsat96 Property under the terms of this Declaration for as long as the the Rowsat96 Property contains an affordable housing development regardless of whether Clarity holds an ownership interest in the Rowsat96 Property. This subsection shall supersede all other provisions of this Declaration.

4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any reconstruction, repair or replacement of the Facilities including but not limited to, personal property related thereto. Provided, however, any such assessments shall have the assent of a majority of the Owners of Property who are voting in person or by proxy at a meeting duly called for this purpose.

5. Date of Commencement of Annual Assessments; Due Dates. The annual assessments provided for herein shall commence at a time to be determined by the Board.

- a. When Assessed and Notice to Owners. Subject to the right of Owners to review the budget, the Board shall fix the amount of the annual assessments to be assessed against each lot within the Property at least ninety (90) calendar days prior to the commencement of the first full calendar year of the Association. Written notice of the annual assessment shall be sent to each Owner subject thereto at least ninety (90) calendar days prior to the due date of the assessment, or the first installment thereof. The Board shall have the authority, in its discretion, to require that all Owners pay the annual assessment in one payment or in installments becoming due at such time or times during the assessment year and payable in such manner as determined by the Board. The annual assessments shall be and become a lien as of the date of the annual assessments. Declarants shall pay their annual expenses in one installment by January 30<sup>th</sup> of each year. Rowsat96 shall not have to make its respective first annual payment to the Association until January following their Placed-in-Service date ("PIS Date") with the PIS Date being the date the respective property receives its final Certificate of Occupancy from the City of Omaha. Up until this date, the Declarants agree that BHRHUD shall pay for any expenses associated with the BHRHUD Facilities under this Declaration and acknowledge that Rowsat96 shall pay for any expenses related to the Rowsat96 Facilities during the construction of Hillside Rows up through the PIS Date. Subdivider shall not have to make its respective first annual payment to the Association until January following their PIS Date, provided, however, that Clarity shall pay for any expenses related to the Subdivider Facilities during the construction the improvements to be located on the Subdivider Property up through the PIS Date.

- b. Certificate Furnished Re: Payment of Assessment. The Association shall, within 15 days of written demand, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specific lot have been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.
6. Effect of Nonpayment of Assessments; Remedies of the Association. Any assessment not paid within thirty (30) calendar days after the due date shall bear interest from the due date at the rate of six per cent (6%) per annum. The Association may bring an action at law against an Owner personally obligated to pay the same or may foreclose the lien against the Property of the nonpaying Owner in the same manner as provided by law for the foreclosure of mortgages. No Owner may waive or otherwise escape liability for the assessments provided herein by non-use of the Facilities, or abandonment of its Property.
7. Subordination of the Lien to Mortgages or Deeds of Trust. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or first deed of trust. Sale or transfer of any lot within the Property shall not affect the assessment lien. However, the sale or transfer of any Property pursuant to mortgage foreclosure or the exercise of rights under a deed of trust shall extinguish the lien for such assessments as to payments which became due prior to such sale or transfer, but all person(s) who owned the Property at the time when the lien attached shall remain personally liable for payment of the amount of the lien.

#### ARTICLE IV GENERAL PROVISIONS

- A. The Declarants, or their successor or assigns, the Association, or any Owner of a lot within the Property, shall have the right to enforce by proceeding at law or in equity, all restrictions, conditions, covenants, and reservations, now or hereafter imposed by the provisions of this Declaration, either to prevent or restrain any violation of same, or to recover damages or other dues for such violation. Failure by the Declarant(s), the Association or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.
- B. All covenants, conditions and restrictions of this Declaration shall run with and bind the land for perpetuity, or until this Declaration is terminated, from the date this Declaration is recorded and may be amended as shown in this article.
- C. All covenants, conditions and restrictions of this Declaration may be amended in writing as follows:  
only by unanimous written consent of the Owners.
- D. Invalidation of any one of these covenants by judgment or court order shall in no way effect any of the other provisions hereof which shall remain in full force and effect.
- E. Limited Subordination to HUD Loan: As used herein, "Senior Loan Documents" shall mean (i) that certain Note (herein, the "Senior Note") dated April 6, 2017, from BHRHUD, LP, in favor of Gershman Investment Corp., (herein, the "Senior Lender") evidencing a loan (herein, the "Senior Loan") from Senior Lender to the BHRHUD and (ii) that certain Construction Security Agreement a/k/a Multifamily Deed of Trust, Security Agreement, Assignment of Rents, and Fixture Filing (Nebraska) (herein, the "Senior Mortgage") dated April 6, 2017 from Borrower in favor of Senior Lender, granting a mortgage on the project known as Blair High Residences, FHA Project No. 103-35172 (herein, the "Project"); (iii) that certain Regulatory Agreement (herein, the "Regulatory Agreement") dated April 6, 2017, by and between BHRHUD and the Secretary of Housing and Urban Development (herein, "HUD"); and (iv) any and all other documents required by Senior Lender and/or HUD in connection with, evidencing and/or securing the Senior Loan.

Declarants and the Association agree that except for the easements granted in Article V of this

Declaration, all other terms of this Declaration shall specifically be subordinate to the Senior Loan Documents and all amounts now and/or hereafter advanced thereunder and/or secured thereby.

ARTICLE V  
EASEMENTS

A. Association hereby establishes and grants a nonexclusive easement for the benefit of the Owner of the Rowsat96 Property to use the storm water drainage system (the "Storm Drainage System") located on the Association Property, together with the right to discharge surface water runoff over and across the Storm Drainage System located on the Association Property. Association shall maintain the Storm Drainage System in good condition and repair pursuant to the terms of this Declaration. In connection with the initial construction and installation of the Rowsat96 Facilities, the Association hereby grants the Owner of the Rowsat96 Property a temporary easement to enter upon the Association Property in order to construct and install the Storm Drainage System. This easement shall terminate upon the completion of construction of the Storm Drainage System.

B. Owners and Association hereby grant and declare a non-exclusive perpetual easement for the benefit of the Owners across, under and over the Facilities in order for the Owners to exercise the Self-Help Rights set forth in Article II, Section B of this Declaration.

-signature page follows-

IN WITNESS WHEREOF, the Declarant has caused these presents to be executed this 2nd  
day of July, 2018.

DECLARANT:  
BHRHUD, LP, A Nebraska limited partnership

Neeraj Agarwal  
By: Neeraj Agarwal  
Authorized signatory

DECLARANT:  
Rowsat96, LP, A Nebraska limited partnership

Neeraj Agarwal  
By: Neeraj Agarwal  
Authorized Signatory

DECLARANT:  
HUDELAIRGP, LLC, A Nebraska limited liability company

Neeraj Agarwal  
By: Neeraj Agarwal  
Authorized Signatory

BY: BLAIR COMMONS OWNERS ASSOCIATION, INC., a Nebraska non-profit corporation,

BY: Neeraj Agarwal  
Neeraj Agarwal  
Authorized signatory

BY: Clarity Development Company, LLC, A Nebraska limited liability company

BY: Neeraj Agarwal  
Neeraj Agarwal  
Authorized signatory



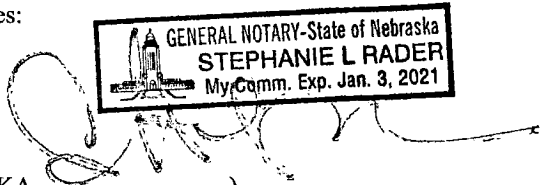
COUNTY OF DOUGLAS ) ss.  
)

The foregoing instrument was acknowledged before me this 2nd day of July, 2018, by Neeeraj Agarwal, Authorized Signatory of BHRHUD, LP, a Nebraska limited partnership.

WITNESS my hand and official seal.

My commission expires:

Notary Public



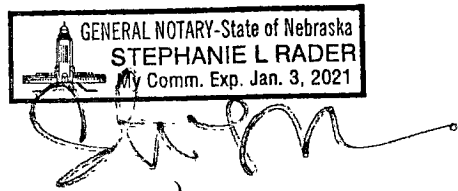
STATE OF NEBRASKA )  
) ss.  
COUNTY OF DOUGLAS )

The foregoing instrument was acknowledged before me this 2nd day of July, 2018, by Neeeraj Agarwal, Authorized Signatory of Rowsat96, LP, a Nebraska limited partnership.

WITNESS my hand and official seal.

My commission expires:

Notary Public



STATE OF NEBRASKA )  
) ss.  
COUNTY OF DOUGLAS )

The foregoing instrument was acknowledged before me this 2nd day of July, 2018, by Neeeraj Agarwal, Authorized Signatory of BLAIR COMMONS OWNERS ASSOCIATION, INC., a Nebraska non-profit corporation.

WITNESS my hand and official seal.

My commission expires:

Notary Public



STATE OF NEBRASKA )

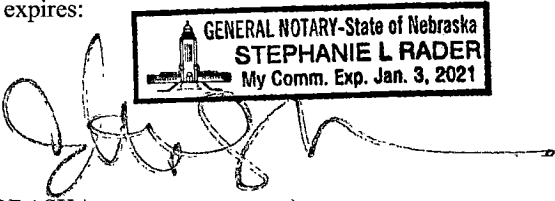
COUNTY OF DOUGLAS ) ss.  
)

The foregoing instrument was acknowledged before me this 2nd day of July 2018, by Neeeraj Agarwal, Authorized Signatory of HUDBLAIRGP, LLC, a Nebraska limited liability company.

WITNESS my hand and official seal.

My commission expires:

Notary Public





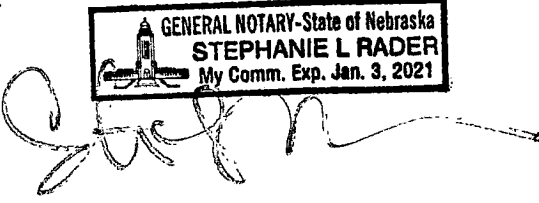
STATE OF NEBRASKA )  
) ss.  
COUNTY OF DOUGLAS )

The foregoing instrument was acknowledged before me this 2nd day of July 2018, by Neeeraj Agarwal, Authorized Signatory of Clarity Development Company, LLC, a Nebraska limited liability company.

WITNESS my hand and official seal.

My commission expires:

Notary Public





**Exhibit A**  
**Site Plan**  
(see attached)

**Exhibit B**  
**Facilities**  
(see attached)

**Exhibit C**  
**Post-Construction Stormwater Maintenance Agreement**  
(see attached)

**Exhibit D**  
**Estimated Annual Maintenance Expenses**  
(see attached)

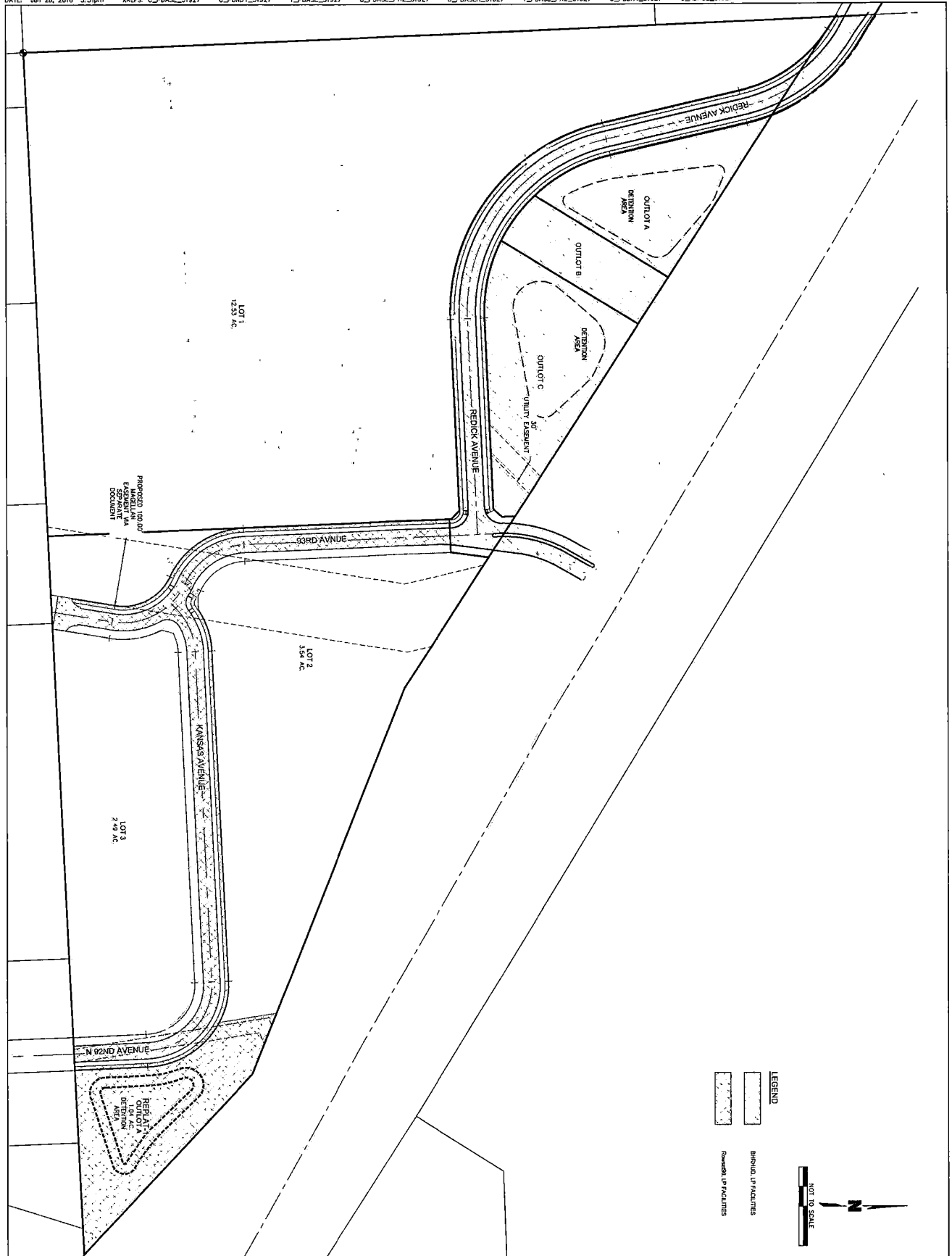
Exhibit A

Legal descriptions of Property:

1. Lot 1:  
*Lot 1, Blair Commons Replat 1, a Subdivision in Douglas County, Nebraska -*  
~~Lot 1, Blair Commons, a Subdivision as Surveyed, Platted in Douglas~~  
~~County, Nebraska as shown in the Plat filed August 12, 2016 at Instrument~~  
~~No 2016065452, records of Douglas County, Nebraska.~~ NA
2. Outlots A-C north of Lot 1  
  
Outlots A-C, Blair Commons, a Subdivision as Surveyed, Platted in Douglas County, Nebraska as shown in the Plat filed August 12, 2016 at Instrument No 2016065452, records of Douglas County, Nebraska.
3. Lot 2:  
  
Lot 2, Blair Commons Replat 1, a Subdivision in Douglas County, Nebraska.
4. Lot 3:  
  
Lot 3, Blair Commons Replat 1, a Subdivision in Douglas County, Nebraska.
5. Outlot A that is east of Lot 3:  
  
Outlot A, Blair Commons Replat 1, a Subdivision in Douglas County, Nebraska.



DWG: F:\Projects\015-1927\40-Design\AutoCAD\Exhibits\18-06-13\_LDVP\_EXHB-B.dwg USER: kheidemen  
 DATE: Jun 28, 2018 5:31pm XREFS: C\_PBASE\_51927 C\_PBRDY\_51927 T\_PBASE\_51927 C\_PBASE\_PH2\_51927 C\_PBASE\_51827 T\_PBASE\_PH2\_51927 C\_PBRDY\_51927 C\_XBASE\_51927



<p>SHEET EXHB-1</p>	<p><b>EXHIBIT B FACILITIES</b></p>	<p>2018</p>	<p>REVISIONS</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>REV. NO.</th> <th>DATE</th> <th>REVISIONS DESCRIPTION</th> </tr> </thead> <tbody> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> <tr><td> </td><td> </td><td> </td></tr> </tbody> </table>	REV. NO.	DATE	REVISIONS DESCRIPTION																														
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<p>OMAHA, NEBRASKA</p>			<p>2111 South 67th Street, Suite 200 Omaha, NE 68136 TEL 402.341.1118 FAX 402.341.8883 www.molssonassociates.com</p>																																	

# Exhibit C to Declaration

~~ADVERT ONLY~~  
Do not notarize

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## POST CONSTRUCTION STORM WATER MANAGEMENT PLAN MAINTENANCE AGREEMENT

**WHEREAS**, BHRHUD, LP, recognizes that stormwater management facilities (hereinafter referred to as “the facility” or “facilities”) must be maintained for the development called Blair Commons – Phase I located in the jurisdiction of the City of Omaha, Douglas County, Nebraska; and,

**WHEREAS**, the Property Owner (whether one of more) is the owner of Blair Commons – Phase I (hereinafter referred to as “the Property”), and,

**WHEREAS**, the City of Omaha (hereinafter referred to as “the City”) requires and the Property Owner, and its administrators, executors, successors, heirs, or assigns, agree that the health, safety and welfare of the citizens of the City require that the facilities be constructed and maintained on the property, and,

**WHEREAS**, the Post Construction Stormwater Management Plan, OMA-20160119-3347-P Blair Commons, (hereinafter referred to as “PCSMP”), should be constructed and maintained by the Property Owner, its administrators, executors, successors, heirs, or assigns.

**NOW, THEREFORE**, in consideration of the foregoing premises, the covenants contained herein, and the following terms and conditions, the property owner agrees as follows:

1. The facility or facilities shall be constructed by the Property Owner in accordance with the PCSMP, which has been reviewed and accepted by the City of Omaha or its designee.
2. The Property Owner must develop and provide the “BMP Maintenance Requirements”, attached here to as Exhibit “B”, which have been reviewed and accepted by the City of Omaha or its designee. The BMP Maintenance Requirements shall describe the specific maintenance practices to be performed for the facilities and include a schedule for implementation of these practices. The Plan shall indicate that the facility or facilities shall be inspected by a professional qualified in stormwater BMP function and maintenance at least annually to ensure that it is operating properly. A written record of inspection results and any maintenance work shall be maintained and available for review by the City.
3. The Property Owner, its administrators, executors, successors, heirs, or assigns, shall

construct and perpetually operate and maintain, at its sole expense, the facilities in strict accordance with the attached BMP Maintenance Requirements accepted by the City of Omaha or its designee.

4. The Property Owner, its administrators, executors, successors, heirs, or assigns hereby grants permission to the City, its authorized agents and employees, to enter upon the property and to inspect the facilities whenever the City deems necessary. The City shall provide the Owner copies of the inspection findings and a directive to commence with the repairs if necessary.

The City will require the Property Owner to provide, within 7 calendar days, a written response addressing what actions will be taken to correct any deficiencies and provide a schedule of repairs within a reasonable time frame. Whenever possible, the City shall provide notice prior to entry. The City shall indemnify and hold the Property Owner harmless from any damage by reason of the City's negligent acts during such entry upon the property.

5. The Property Owner its administrators, executors, successors, heirs, or assigns, agrees that should it fail to correct any defects in the facility or facilities within reasonable time frame agreed to in the response by the Property Owner for corrective actions, or shall fail to maintain the structure in accordance with the attached BMP Maintenance Requirements and with the law and applicable executive regulation or, in the event of an emergency as determined by the City of Omaha or its designee in its sole discretion, the City of Omaha or its designee is authorized to enter the property to make all repairs, and to perform all maintenance, construction and reconstruction as the City of Omaha or its designee deems necessary. Notwithstanding the foregoing, the City shall indemnify and hold the Property Owner harmless from any damage by reason of the City's negligent acts during such entry upon the property.

The City of Omaha or its designee shall have the right to recover from the Property Owner any and all reasonable costs the City of Omaha expends to maintain or repair the facility or facilities or to correct any operational deficiencies subject to the provisions of the immediately preceding sentence relating to negligent acts of the City. Failure to pay the City of Omaha or its designee all of its expended costs, after forty-five days written notice, shall constitute a breach of the agreement. The City of Omaha or its designee shall thereafter be entitled to bring an action against the Property Owner to pay, or foreclose upon the lien hereby authorized by this agreement against the property, or both. Interest, collection costs, and reasonable attorney fees shall be added to the recovery to the successful party.

6. The Property Owner shall not obligate the City of Omaha to maintain or repair the facility or facilities, and the City of Omaha shall not be liable to any person for the condition or operation of the facility or facilities.
7. The Property Owner, its administrators, executors, successors, heirs, or assigns, hereby indemnifies and holds harmless the City and its authorized agents and employees for any and all damages, accidents, casualties, occurrences or claims that may arise or be asserted against the City from the construction, presence, existence or maintenance of the facility or facilities by the Property Owner. In the event a claim is asserted against the City, its authorized agents or employees, the City shall promptly notify the Property Owner and the Property Owner shall defend at its own expense any suit based on such claim unless due solely to the negligence of the City in which event the City shall be



required to defend any such suit at its own expense. Notwithstanding the foregoing, if any claims are made against both the City of Omaha and the Property Owner, each will be required to defend any such suit or claim against it at its own expense. Each shall be responsible for payment of any recovery to the extent determined in such suit. If any judgment or claims against the City, its authorized agents or employees shall be allowed, the Property Owner shall pay for all costs and expenses in connection herewith except to the extent of the negligent act of the City.

- 8. The Property Owner shall not in any way diminish, limit, or restrict the right of the City of Omaha to enforce any of its ordinances as authorized by law.
- 9. This Agreement shall be recorded with the Register of Deeds of Douglas County, Nebraska and shall constitute a covenant running with the land and shall be binding on the Property Owner, its administrators, executors, successors, heirs, or assigns, including any homeowners or business association and any other successors in interest.

IN WITNESS WHEREOF, the Property Owner (s) has/ have executed this agreement this day of \_\_\_\_\_, 20\_\_.

**INDIVIDUAL, PARTNERSHIP and/or CORPORATION**

<p><b>BHRHUD, LP</b></p> <hr/> <p>Name of Individual, Partnership and/or Corporation</p> <p><b>Neeraj Agarwal</b></p> <hr/> <p>Name</p> <p><b>Authorized Agent</b></p> <hr/> <p>Title</p> <div style="border: 1px solid black; height: 30px; width: 100%;"></div> <p>Signature</p>
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<hr/> <p>Name of Individual, Partnership and/or Corporation</p> <hr/> <p>Name</p> <hr/> <p>Title</p> <div style="border: 1px solid black; height: 30px; width: 100%;"></div> <p>Signature</p>
---

**ACKNOWLEDGMENT**

\_\_\_\_\_ )  
State

\_\_\_\_\_ )  
County

On this \_\_\_ day of \_\_\_, 20\_\_\_ before me, a Notary Public, in and for said County, personally came the above named:

who is (are) personally known to me to be the identical person(s) whose name(s) is (are) affixed to the above instrument and acknowledged the instrument to be his, her (their) voluntary act and deed for the purpose therein stated.

WITNESS my hand and Notarial Seal the day and year last abovewritten.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Notary Seal

## Exhibit "A" Real Property Depiction

### PROJECT INFORMATION

Legal Description: Outlots A and C, Blair Commons in Douglas County, Nebraska

Property Address: 93<sup>rd</sup> Avenue and Blair High Road

Subdivision Name: Blair Commons

Sect.-Town.-Rng.: Section 34, Township 16 N, Range 12 E

### APPLICANT INFORMATION

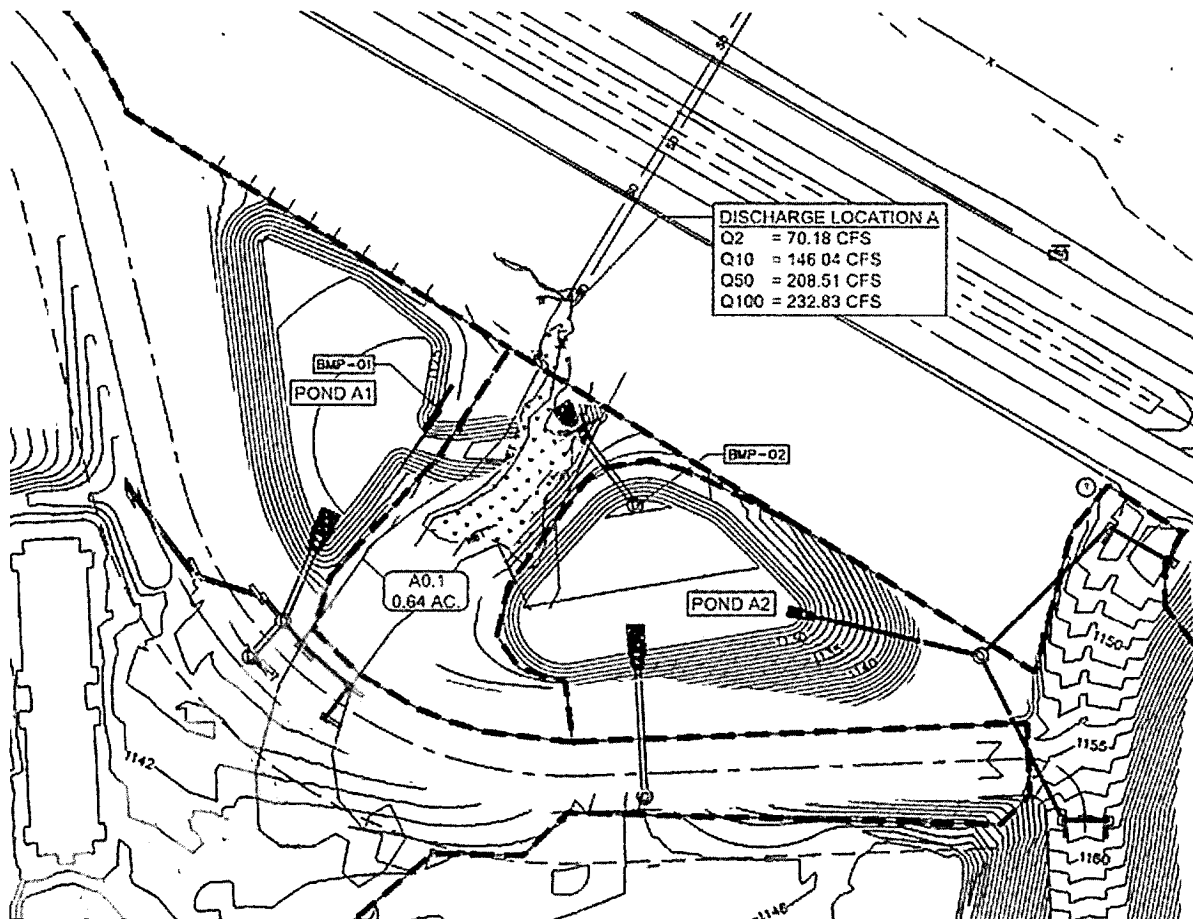
Business Name: BHRHUD, LP

Business Address: 3814 Farnam Street, Omaha, NE 68131

Contact Representative's Name: Neeraj Agarwal

Contact Representative's Phone Number: 402-905-0718

Signing Representative's Name: Neeraj Agarwal



## Exhibit "B"

### BMP Maintenance Requirements

**Name & Location**

Project Name: Blair Commons  
 Address: 93<sup>rd</sup> Avenue and Blair High Road  
 PCWP Project Number: OMA-20151119-3347-GP1  
 PWD Building Permit #: N/A  
 PCSMP Project Number: OMA-20160119-3347-P

**Site Data**

Total Site Area: 14.60 Acres  
 Total Disturbed Area: 14.60 Acres  
 Total Undisturbed Area: 0.00 Acres  
 Impervious Area Before Construction: 0%  
 Impervious Area After Construction: 40%

**BMP Information**

BMP No.	BMP ID	Type of BMP	Latitude/Longitude
BMP-01	POND A1	Detention Pond	Lat: 41.31640 Long: -96.06095
BMP-02	POND A2	Detention Pond	Lat: 41.31627 Long: -96.06069

BMP Type (Dry Detention Basin/ Pond)	
Task	Schedule
Remove debris and trash from trash rack and side slopes	Monthly
Outlet/inlet inspection and cleanout	Monthly
Bank mowing and inspection/stabilization of eroded areas	Monthly
Forebay inspection and cleanout	Monthly – remove sediment every 7 years or when 50% of storage volume has been lost
Basin inspection and cleanout	Annually – remove sediment when 25% of storage volume has been lost
Remove woody vegetation along embankment	Annually
Inspect for structural damage	Annually
Inspect, exercise all mechanical devices	Annually
Repair broken pipes	As needed
Replace riprap choked with sediment	As needed
Security	As needed

**Maintenance Inspection Reports**

Annual maintenance inspection reports must be commissioned by the property owner and provided to the City upon request. The first report shall be conducted one year following the final acceptance date of the Post Construction Stormwater Management Plan and each year thereafter on or before the acceptance anniversary date. All maintenance activities and inspection reports must be kept on file with the property owner for a minimum of five years. Annual maintenance inspection reports shall be performed by a registered Nebraska professional engineer, architect, or qualified professional.

Exhibit D

Estimated Annual Expense for Maintenance of the Facilities

- 1) BHRHUD Facilities: \$1,000.00/month
- 2) Rowsat96 Facilities: \$500.00/month