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MISC 2001 05696

REGISTER OF DEEDS  
DOUGLAS COUNTY, NE

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**EASEMENT**

THIS EASEMENT is made and entered into this 20<sup>th</sup> day of April, 2001, by and between N.P. Dodge Investments, Inc., a Nebraska corporation (referred to herein as "Dodge"), and Nebraska Methodist Health System, Inc., a Nebraska non-profit corporation (referred to herein as "Methodist").

**WITNESSETH:**

WHEREAS, contemporaneously herewith Dodge has acquired from Dodge Investments, Limited Partnership 8001, a Nebraska limited partnership (the "Partnership"), that certain property legally described as Lot 1, Dodge Plaza, an addition to the City of Omaha, as surveyed, platted, and recorded in Douglas County, Nebraska (the "Dodge Property");

WHEREAS, contemporaneously herewith Methodist has acquired from the Partnership that certain property legally described as Lot 2, Dodge Plaza, an addition to the City of Omaha, as surveyed, platted, and recorded in Douglas County, Nebraska (the "Methodist Property");

WHEREAS, the Dodge Property and the Methodist Property adjoin and abut each other as shown on the site plan (the "Site Plan") attached hereto as Exhibit A;

WHEREAS, there exists on the Dodge Property and the Methodist Property an access road from and to the West Dodge Road frontage road which is depicted on the Site Plan, and is referred to in this Easement as the "Access Road." The Access Road is located mainly on the Dodge Property and slightly on the Methodist Property; and

WHEREAS, Dodge and Methodist wish to make provisions for the unobstructed use of the Access Road and for the maintenance of the Access Road for the mutual benefit of the Dodge Property and the Methodist Property (sometimes collectively referred to in this Easement as the "Properties").



NOW, THEREFORE, in consideration of the mutual agreements set forth in this Easement and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Dodge and Methodist hereby grant and convey to each other and their respective tenants, licensees, employees, and the licensees, employees, customers and invitees of such tenants, a non-exclusive easement to use free of charge, in common with others entitled to similar use, the portion of the Access Road located on their respective Properties for the purposes of ingress and egress from and to the West Dodge Road frontage road and the Properties (the "Easement"). As used herein, the Access Road and the Easement area are one and the same portion of the Properties.

2. The purpose of the Easement is to provide vehicular and pedestrian access to the Properties from the frontage road that abuts the Properties on the north. In the event that the West Dodge Road frontage road is eliminated, the Easement shall also be for the purpose of vehicular and pedestrian access to the Properties from West Dodge Road. If the elimination of the West Dodge Road frontage road necessitates modification of the Easement to provide direct access to West Dodge Road from the Access Road, the parties agree that they will cooperate in the amendment of this Agreement for that purpose.

3. Dodge, its successors and assigns, shall maintain the Access Road and keep it in good and usable condition, free and clear of ice, snow, and obstructions of every kind. The actual and reasonable costs of maintaining the Access Road from and after the date of this Easement shall be shared equally by the persons or entities who are the owners of the Dodge Property and who are the owners of the Methodist Property at the time such costs are incurred. If such costs are incurred in conjunction with the services rendered to other portions of the Dodge Property, and such costs cannot be separated for the services directly related to the Access Road, then such costs shall be allocated to the Access Road based upon a fraction the numerator of which is the surface area of the Access Road and the denominator of which is the surface area of the Access Road and all other portions of the Dodge Property to which such services were rendered. Dodge shall bill Methodist monthly, or at such longer periods as Dodge may determine, in arrears, for Methodist's portion of the actual cost of maintaining the Access Road during such preceding billing period. Such bills shall include copies of all bills paid by Dodge with respect to the costs incurred during such preceding billing period. The costs of maintaining the Access Road shall include, but not be limited to, the costs of cleaning, snow removal, replacements, and repairs; provided that the costs of maintaining the Access Road shall not include any charges for lighting, general public liability insurance, wages, payroll taxes, worker's compensation insurance, policing, fire protection, security, management or administration, depreciation on maintenance equipment, or depreciation of the costs of constructing the existing Access Road; and Dodge agrees, at any

reasonable time, upon demand, to furnish Methodist all of Dodge's books, documents, records, papers and files relating to the costs of maintaining the Access Road. If Methodist does not pay its portion of such costs within thirty (30) days after written demand from Dodge, such assessment shall constitute a lien on the Methodist Property, which lien shall attach to the Methodist Property and be enforceable by Dodge as permitted by Nebraska law. If Dodge fails to maintain the Access Road as herein provided, Methodist may, at its option, after giving Dodge thirty (30) days written notice (unless within such 30-day period Dodge shall commence and thereafter pursue with due diligence such maintenance to completion), perform or have performed such maintenance on the Access Road; provided, however, that if such failure relates to snow removal or any other emergency which adversely affects the business being conducted on the Methodist Property, then such advance notice may be made by telephone or other means and may be for any reasonable shorter period of time. If Methodist undertakes such maintenance due to the failure of Dodge to perform the same, the portion of the costs of such maintenance that are the obligation of Dodge shall be paid by Dodge in the same manner as indicated above, and shall be assessed against and constitute a lien against the Dodge Property which shall be enforceable by Methodist as permitted by Nebraska law.

4. The parties hereto agree not to obstruct, impede, or interfere, one with the other, in the reasonable use of such Access Road for the purpose of ingress and egress to and from their respective Properties. Each party acknowledges that the reasonable use of such Access Road by the other party includes access to the Access Road from anywhere on their Properties which abuts the Access Road. The parties agree that the parking areas and roadways on the Dodge Property and the Methodist Property shall be maintained so as to meet at equal grades and that no obstruction shall be erected or permitted upon the Properties which will in any way interfere with any rights granted in this Easement. Except with the prior written approval of the then owners of the Dodge Property and the Methodist Property, there shall be no material redesign, alteration or modification of the Access Road which would adversely affect the use thereof as contemplated in this Easement or would otherwise interfere with any rights granted in this Easement.

5. Each party shall maintain at all times with respect to the portion of the Access Road on its Property, insurance against claims for personal injury or property damage in an amount not less than \$1,000,000 with respect to any one injury, \$1,000,000 with respect to injuries in any one accident, and \$100,000 with respect to property damage. Each party shall name each other as an additional insured under such insurance coverage. The policies for such insurance shall provide that they may not be cancelled without at least ten (10) days prior written notice to each party to this Easement. Upon request, each party shall furnish to the other appropriate certificates evidencing that such insurance is in force. Such insurance coverage can be provided by self-insurance if a Property owner maintains a self-insurance program.

6. In the event Dodge elects to dedicate any portion of the Access Road to the public for use as a public street, Methodist agrees to join in such dedication and to execute such documents as are reasonably necessary for such purpose so long as such dedication does not interfere with the remainder of the Access Road or with Methodist's access to the Methodist Property, and does not interfere with any other rights granted to Methodist hereunder. Upon such dedication, Dodge and Methodist shall be relieved of any further maintenance obligation with respect to the portion of the Access Road that is so dedicated.

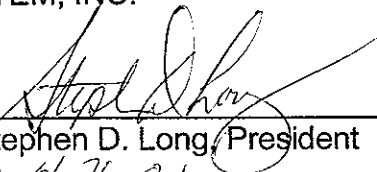
7. The Easement granted herein, the restrictions hereby imposed, and the agreements herein contained shall be easements, restrictions and covenants running with the land and shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors and assigns, including, but without limitation, all subsequent owners of the Dodge Property and the Methodist Property and all persons claiming under them.

8. This Easement shall continue in force until such time as the owners of the Methodist Property elect to terminate this Easement and record against the Properties a notice of termination of this Easement in the office of the Register of Deeds for Douglas County, Nebraska.

IN WITNESS WHEREOF, the parties have executed this Easement the day and date first above written.

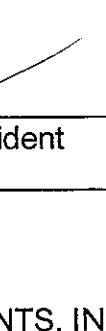
**METHODIST:**

NEBRASKA METHODIST HEALTH SYSTEM, INC.

By:   
Stephen D. Long, President  
Date: 4-26-01

**DODGE:**

N.P. DODGE INVESTMENTS, INC.

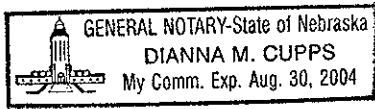
By:   
N.P. Dodge, Jr., President

Date: 4-20-01

**ACKNOWLEDGEMENTS**

STATE OF NEBRASKA    )  
                                  ) ss  
COUNTY OF DOUGLAS    )

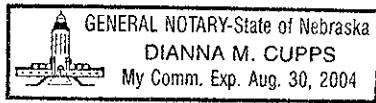
The foregoing instrument was acknowledged before me this 20 day of April, 2001, by Stephen D. Long, the President of Nebraska Methodist Health System, Inc, a Nebraska non-profit corporation.



Dianna M. Cupps  
Notary Public

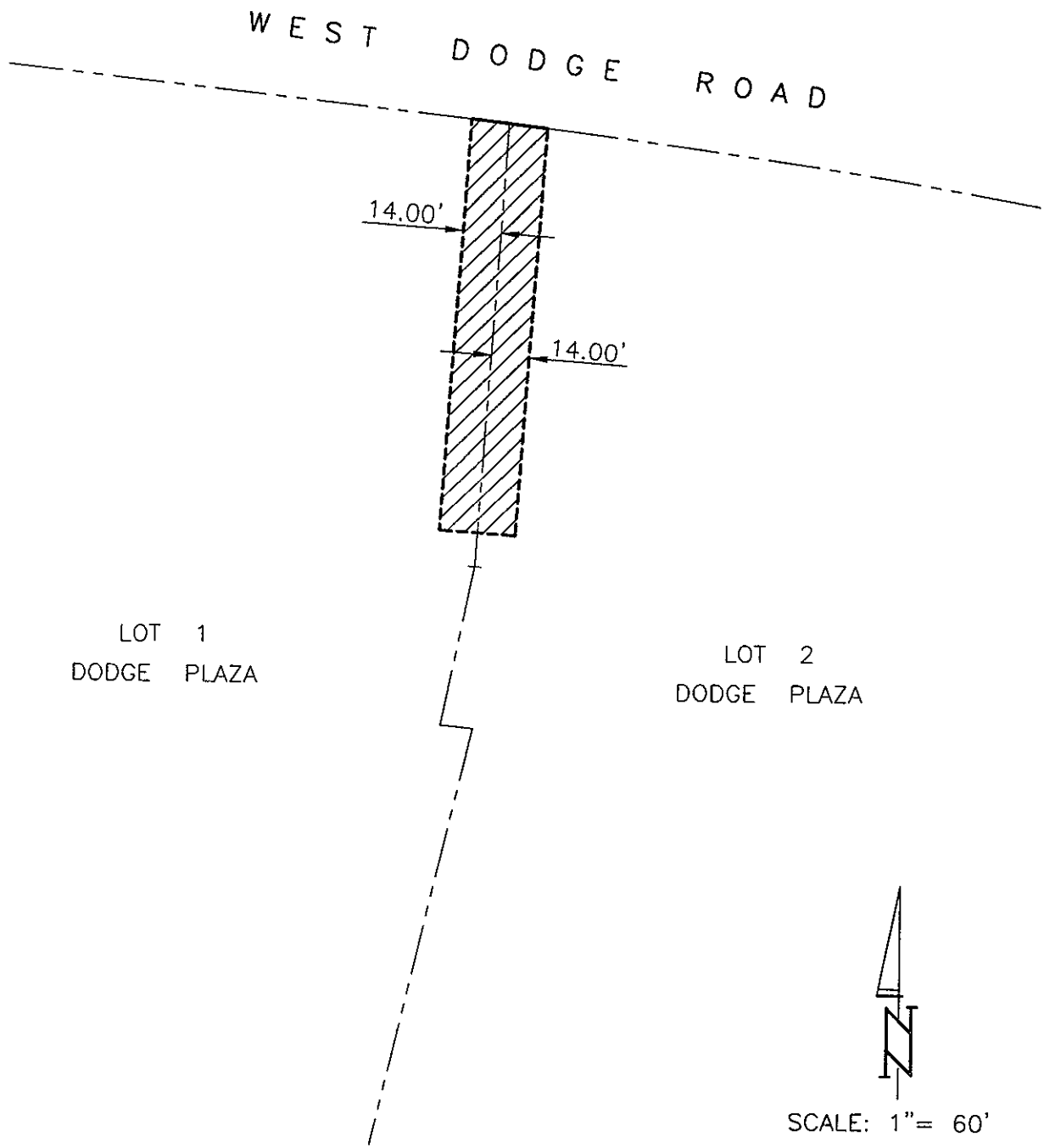
STATE OF NEBRASKA    )  
                                  ) ss  
COUNTY OF DOUGLAS    )

The foregoing instrument was acknowledged before me this 20 day of April, 2001, by N.P. Dodge, Jr., President of N.P. Dodge Investments, Inc., a Nebraska corporation, on behalf of such corporation.



Dianna M. Cupps  
Notary Public

DOCS/455481.2



## LEGAL DESCRIPTION

THE NORTH 152.00 FEET OF THE EAST 14.00 FEET OF LOT 1 AND THE NORTH 152.00 FEET OF THE WEST 14.00 FEET OF LOT 2, DODGE PLAZA, A SUBDIVISION IN DOUGLAS COUNTY, NEBRASKA.

BAIRD, HOLM, MCEACHEN, PEDERSEN,  
HAMANN AND STRASHEIM, LLP.

TD2 FILE NO.: 2002-87-140E DATE: APRIL 18, 2001

THOMPSON, DREESSEN & DORNER, INC., 10836 OLD MILL ROAD, OMAHA, NEBRASKA 68154, 402-330-8860