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RICHARD H TAKECHI REGISTER OF DEEDS BOUGLAS COUNTY, NE

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CITY CLERK OMAHA, NEBRASKA

## **Public Works Department**

Omaha/Douglas Civic Center 1819 Farnam Street, Suite 601 Omaha, Nebraska 68183-0601 (402) 444-5220 Telefax (402) 444-5248

> Don W. Elliott, P.E. Public Works Director

Hal Daub, Mayor

City of Omaha

Honorable President

and Members of the City Council,

The attached Resolution approves the Subdivision Agreement between the City of Omaha and Nebraska Methodist Health Systems, Inc.. This Subdivision Agreement covers the public improvement of West Dodge Health Campus Replat of Douglas County, Nebraska located Northwest of 156th Street and West Dodge Road.

This Subdivision Agreement stipulates which public improvements will be built by Nebraska Methodist Health System, Inc. in West Dodge Health Campus Replat. The Agreement provides for the donation of Outlot A for use as a Linear Trail Corridor and also provides a Subdivider park contribution of \$41,770.00 to the City. The entire cost of improvements made in this development will be paid by the Subdivider.

The Subdivision Agreement will benefit the City of Omaha and the Subdivider in clarifying the responsibilities of the parties in building and maintaining the improvements in the subdivision.

The Public Works Department requests your consideration and approval of the attached Resolution and Subdivision Agreement.

Respectfully submitted, Don W. Elliott. Director approved as to Funding:

Louis A. D'Ercole Finance Director

This action has been reviewed and found to be in conformance with the Master Plan.

Acting Planning Directer

Referred City Council for Consideration:

James V. Cleary, Director

Date

Parks, Recreation and Public

Property Department

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# Y OF OMAHA.

## LEGISLATIVE CHAMBER

Omaha	Nebr	October	28,	19.97
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# RESOLVED BY THE CITY COUNCIL OF THE CITY OF OMAHA:

WHEREAS, Nebraska Methodist Health System, Inc. proposes to build a Subdivision, West Dodge Health Campus Replat, which will be located Northwest of 156th Street and West Dodge Road; and,

WHEREAS, Nebraska Methodist Health System, Inc. wishes to connect to Omaha's sewer system, the system of sanitary sewers to be constructed by Nebraska Methodist Health System, Inc. within the area to be developed; and,

WHEREAS, the parties wish to agree upon the manner in which public improvements will be built by Nebraska Methodist Health System, Inc. and to clarify the responsibilities of the parties in building and maintaining the improvements in the subdivision; and,

WHEREAS, Nebraska Methodist Health System, Inc. has agreed to donate Outlot "A" as a Linear Trail Corridor; and,

WHEREAS, the Subdivider has agreed to contribute \$41,770.00 as a City Park contribution; and,

WHEREAS, Nebraska Methodist Health System, Inc. agrees to pay \$127,164.86 as a sewer connection fee to be used for the construction of the sewers in the Papillion Creek Watershed; and,

WHEREAS, a Subdivision Agreement has been prepared setting forth all the provisions mentioned above.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OMAHA:

THAT, the Subdivision Agreement between the City of Omaha and Nebraska Methodist Health System, Inc., as recommended by the Mayor, providing for the public improvements, donation of Linear Trail Corridor, park contribution and sewer connections to the IMPRINTED SEAL Omaha sewer system, is hereby approved. REGISTER OF DEEDS

APPROVED AS TO FORM: P:\PW1\5493.SAP

Councilmember

City Clerk

Adopted NOV

Mayor

I hereby certify that the foregoing is a true and correct copy of the original document

now on file in the CityClerk's office

ASSISTANT CITY ATTORNEY

BY

DATE

16. NO. 3110

Resolution by .....

Res. that the Subdivision Agreement between the City of Omaha and Nebraska Methodist Health System, Inc., as recommended by the Mayor, providing for the public improvements, donation of Linear Trail Corridor, park contribution and sewer connections to the Omaha sewer system, is hereby approved. The Subdivision is to be known as West Dodge Health Campus Replat which will be located Northwest of 156th Street and West Dodge Road.

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Presented to City Council

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18 1997#31/0 Adopted 7-0

#### SUBDIVISION AGREEMENT

This Subdivision Agreement, made this day of Motember, 1997, by and between NEBRASKA METHODIST HEALTH SYSTEM, INC., a Nebraska non-profit corporation (hereinafter referred to as "Subdivider"), and the CITY OF OMAHA (hereinafter referred to as "City").

WHEREAS, the Subdivider is the owner of the land shown on the proposed plat attached hereto as Exhibit "A" (hereinafter referred to as the "Property"); and,

WHEREAS, the Subdivider proposes to build public improvements on the Property; and

WHEREAS, the subdivider wishes to connect the system of sanitary sewers to be constructed within the Property to the sewer system of the City of Omaha; and

WHEREAS, the Subdivider and City desire to agree on the method for the installation and allocation of expenses for public improvements to be constructed in the Property, and acceptance by the City of the dedication to the public of certain existing private streets.

NOW, THEREFORE, in consideration of the above the following is agreed between the parties hereto:

- 1. <u>Public Improvements</u>. Attached hereto as Exhibit "B" and incorporated herein by this reference is a plat showing the public improvements that have been installed, or will be installed, by or on behalf of the Subdivider on the Property (i.e., storm sewer, sanitary sewer and paving of public streets). All public improvements must meet the approval of the Public Works Department of the City of Omaha.
- 2. <u>Water, Gas, and Electrical Power</u>. The Subdivider agrees to enter into an Agreement with the Metropolitan Utilities District regarding all water and gas line extensions on the Property, and into an Agreement with the Omaha Public Power District for power lines to be installed on the Property, to the extent such utility services are not already installed on the Property. Copies of all such Agreements with the Metropolitan Utilities District and the Omaha Public Power District will be provided to the City within four months from the date of this Agreement.
- 3. <u>Installation of Improvement</u>. Subdivider agrees to commence the timely and orderly installation of the improvements following execution of this Agreement, pursuant to Section 53-9 of the Omaha Municipal Code. City acknowledges that certain portions of such public improvement have been constructed as shown on Exhibit "B" prior to the execution of this Agreement, and City agrees to accept the dedication thereof to the public as public streets and improvements in their present condition, provided that



a professional engineering firm hired by Subdivider certifies that such improvements conform to City construction standards for that type of improvement. Subdivider's engineering firm shall provide City with record drawings and test results for all such improvements constructed by Subdivider.

- 4. Payment for Improvements. Subdivider will pay, or cause to be paid, the cost of all of the public improvements, as well as all changes by the Metropolitan Utilities District for water and gas line installation and charges by Omaha Public Power District for underground electrical service. Subdivider will pay the operating costs for the public street lights (which shall be standard street lights approved by the City of Omaha Traffic Engineer) on the Property until such time as all or any portion of the Property is annexed by the City, at which time such costs shall become the City's responsibility for the area annexed.
- 5. <u>Maintenance of Public Improvements</u>. Subdivider shall provide for the maintenance of all public improvements on the Property until all or a portion of such Property is annexed by the City. Upon annexation, City will maintain all public improvements in the area annexed.
- 6. <u>Sidewalks</u>. Sidewalks along public streets on the Property shall be constructed in accordance with the following schedule:
  - (a) Sidewalks shall be constructed immediately abutting vacant lots on either side of any block or cul-de-sac (i.e., circle) as soon as the lots comprising sixty-five percent (65%) of the abutting footage on such side have been built upon.
  - (b) Sidewalks shall be constructed immediately abutting built-upon lots as soon as weather permits.
  - (c) In any event, all sidewalks to be constructed shall be constructed within three (3) years of the recording of the subdivision plat.

Sidewalks shall only be required to be constructed on numbered lots.

Subdivider shall also connect the existing Barrington Park trail to the sidewalk to be installed adjacent to the West Dodge Frontage Road depicted on Exhibit "A" in order to provide pedestrian access from the trail to 156th Street.

### 7. <u>Sanitary Sewer</u>.

A. Subject to the conditions and provisions hereinafter specified, the City hereby grants permission to the

Subdivider to connect its sewer system to the sewer system of the City for a period not to exceed ten (10) years, in such manner and at such place or places designated on plans submitted by the Subdivider and approved by the City.

- B. Without prior written approval by the City, the Subdivider shall not permit any sewer lines or sewers located outside the presently described boundaries of the Property to be connected to: the sewer or sewer lines of the Subdivider, any sewer from outside the Property boundaries to the sewers of the City, any outfall sewer of the City, or any sewage treatment plant of the City. The City shall have exclusive control over connections to its sewers whether inside or outside the Subdivider's boundaries. The Subdivider shall not collect connection charges for such connections.
- C. At all times all sewage from and through said Subdivider into the City sewer system shall be in conformity with the ordinances, regulations, and conditions applicable to sewers and sewage within the City as now existing and as from time to time may be amended.
- D. Before any connection from any premises to the sewer system installed by the Subdivider may be made, a permit shall be obtained for said premises and its connection from the proper department of the City, which permit shall be obtainable on the same terms, conditions, and requirements of the City and for the same permit fee of the City applicable from time to time to permit property outside the City to connect to the sewer system of the City; it being expressly understood that the City reserves the right to collect all connection charges and fees as required by City ordinances or rules now or hereafter in force; all such connections shall comply with minimum standards prescribed by the City.
- E. Notwithstanding any other provisions of this Agreement, City retains the right to disconnect the sewer of any sewer user within the area to be developed, which is discharging into the sewer system in violation of any applicable ordinances, rule or regulation.
- F. The Subdivider warrants that it has not employed or retained any company or person, other than a bona fide employee, working for the Subdivider, to solicit or secure this Agreement, and that is has not paid or agreed to pay any company or person, other than a bona fide employee working for the Subdivider, any fee, commission, percentage, brokerage fee, gifts, or making of this Agreement. For breach or violation of this warranty, the

City shall have the right to annul this Agreement without liability. The Subdivider shall require the same warranty from each contractor with whom its contracts in any way pertaining to its sewage system. The prohibition provided for herein shall not apply to the retention of any attorney or other agent for the purpose of negotiating the provisions of this Agreement where the existence of such agency has been disclosed to the City.

- G. The Subdivider expressly agrees that it is and shall be:
  - (1) Bound by and to any provisions of any ordinances, rules and regulations pertaining to use of City of Omaha sewers, hereafter made and adopted by the City of Omaha applicable to sanitary and improvement districts whose sewers connect directly or indirectly with or into sewers or sewage systems of the City of Omaha so long as the performance of such ordinances, rules and regulations is permitted by the applicable governmental statutes, ordinances and regulations affecting the Subdivider; and,
  - (2) Bound by any terms and provisions which by ordinance, resolution, or rule of the City of Omaha shall hereafter adopt or provide in order to permit or continue the discharge of any sewage from a sanitary and improvement district to flow into or through any part of the sewer or sewage system of the City of Omaha.
- H. The Subdivider agrees to collect an "equivalent front footage charge" in conformance with the following:

Where the property with which sewer connection is sought to be made is not located within the Property, or where such property has not been assessed or has not paid for the construction of the sewer to which connection is sought to be made, then in such case the Chief Plumbing Inspector of the Permits and Inspections Division shall not issue a permit for such sewer connection until the property owner shall have paid to the Subdivider an equivalent front footage charge for the number of front feet of the entire property with which such connection is sought to be made. The equivalent front footage charge shall be the current charge in conformance with the requirements of the Omaha Municipal Code. footage charge collected shall be used to reimburse Subdivider for the cost of the sewer installed by Subdivider.

## 8. INTERCEPTOR SEWER FEES.

A. The Subdivider shall make payment to the City of Omaha for the fee for the construction of interceptor sewers in the total amount of \$127,164.86 (based on the amount of \$3,878.16/acre) computed as follows:

Lot	Acres	Total Fee
Lot 1	1.87 Acres	\$7,252.16
Lot 2	2.19 Acres	8,493.17
Lot 3	2.68 Acres	10,393.47
Lot 4	2.76 Acres	10,703.72
Lot 5	2.05 Acres	7,950.23
Lot 6	2.58 Acres	10,005.65
Lot 7	3.90 Acres	15,124.82
Lot 8	1.70 Acres	6,592.87
Lot 9	1.92 Acres	7,446.07
Lot 10	2.04 Acres	7,911.45
Lot 11	3.90 Acres	15,124.82
Lot 12	3.32 Acres	12,875.49
Lot 13	1.88 Acres	7,290.94

This fee is computed on the lots as shown as Exhibit "A." If the area is replatted or the use of the lots is changed, the fee charged shall be changed by the City on the basis of the wastewater flow generated compared to that generated by single family residences.

- B. In the event the Subdivider shall plat additional lots, other than as shown on Exhibit "A," which Subdivider wishes to connect to the Omaha sewer system, this Agreement shall be amended by the parties to provide payment of the current fee for the additional lots before any sewer permits are issued by the City of Omaha.
- C. Special Sewer Connection Fee.

The Subdivider and the City agree that payment made under Paragraph 8A of this Agreement shall constitute a Special Sewer Connection Fee for the area described in Paragraph

- 8A. There shall be no other sewer connection fee charged by the City for connection of any of the Lots in the Property to the City sewer. City agrees that the Subdivider may recoup all or a portion of such fee from purchasers of lots in the Property.
- D. The City may collect, within the area to be developed, the City's sewer connection and permit fees, as provided by existing City ordinances, and its sewer use and connection fees as now or hereafter existing. Such fees shall be in addition to the payments provided for in Paragraph 8A herein, however, the City shall reduce its "Special Connection Fee -- Papillion Creek Watershed" for any lot listed in Paragraph 8A herein, by the amount paid by the Subdivider for that lot pursuant to Paragraph 8A.
- E. Upon execution of this Agreement, the Subdivider shall make payment to the City in cash in the amount as stated in Paragraph 8A of this Agreement. The City shall accept and retain such monies to make progress payments for the design, construction and construction supervision for building interceptor sewers.
- 9. MAINTENANCE OF LANDSCAPING IN PUBLIC RIGHT-OF-WAY. All green areas and landscaping located in public rights-of-way on the Property will be maintained by Subdivider, or its successors and assigns, as appropriate. At such time as Subdivider owns no portion of the Property, Subdivider shall be relieved of any further obligation to maintain the Property, and the obligation to maintain shall be undertaken by an association of the owners of the Property. Upon annexation of the Property, the City of Omaha shall have the right to remove any and all landscaping located in pubic rights-of-way if the area is needed for a public purpose. No compensation will be paid to Subdivider for lost or damaged landscaping.
- 10. <u>RIGHT OF WAY DESIGNATION</u>. Subdivider agrees to dedicate to the public that portion of the Property shown as right-of-way on Exhibit "A." City expressly agrees to allow Subdivider to construct a sidewalk along such right-of-way, in accordance with the provisions of Paragraph 6 of this Agreement.
- 11. <u>DONATION OF PROPERTY</u>. Subdivider agrees to donate to the City, without charge, all of that area designated as Outlot A on Exhibit "A" attached hereto, for use as a linear trail corridor. Such donation shall be made following final approval and recording of the proposed plat attached hereto as Exhibit "A." City agrees that Outlot "A" will be used only for such linear trail corridor as defined herein, and for no other purpose. For purposes of this Agreement, the term "linear trail corridor" shall mean property acquired by the City as public property for the construction of public recreational trails. City agrees that facilities developed

within the linear trail corridor referred to in this paragraph shall be limited to: trail paths, landscaping, boundary fencing, signage for trail purposes, benches, lighting, streets and roads, and utilities. City agrees that it will maintain Outlot A by keeping the same regularly mowed and by regularly removing therefrom any trash, debris and any dead or diseased vegetation. Subdivider, or any successor owner of any part of the Property may, but shall not be obligated to, mow any vegetation on Outlot A and may remove any trash or debris therefrom without the permission of the City.

- 12. <u>EASEMENTS</u>. City agrees to grant to Subdivider from time to time and without charge, non-exclusive easements for utility, sanitary or storm sewer and drainage purposes over and upon said Outlot A. Any such utility or sewer installation in the easement area shall be installed below grade unless permitted otherwise by the City. Subdivider and City shall execute an easement agreements reasonably satisfactory to both parties.
- 13. PARK CONTRIBUTION. Subdivider agrees to pay to the City a park contribution of \$41,770.
- 14. STREET IMPROVEMENTS. Subdivider agrees that it will share equally with Sanitary and Improvement District 300 for the cost of traffic signalization for the intersection of Pepperwood Drive, the West Dodge Frontage Road located on Subdivider's property (the "West Dodge Frontage Road") and 156th Street. Such signalization shall be installed in the 1998 construction season. No other street improvements will be required for the Property, or for 156th Street, so long as the following development levels are not exceeded on the Property:
  - (a) One or more buildings containing medical offices, hospital services (limited), and day care (as those terms are defined in the Omaha Municipal Code) and any other uses ancillary thereto, totalling not more than 175,000 square feet of gross building area.
  - (b) Health club facilities totalling not more than 65,000 square feet of gross building area.
  - (c) Any residential use.

In the event any of the following intersection improvements are made to the 156th street and West Dodge Frontage Road intersection, the square footage of the buildings referred to in paragraph 14a. above shall be increased as indicated:

- (1) If a dedicated right turn lane is constructed on the West Dodge Frontage Road, the square footage shall increase to 190,000.
- (2) If the northbound left turn lane on 156th street at the West Dodge Frontage Road is lengthened to 350 feet, the square footage shall increase to 250,000.
- (3) If the improvements shown at paragraphs (1) and (2) are constructed, the square footage shall increase to 290,000.
- (4) If the improvements shown at paragraphs (1) and (2) are constructed and the northbound left turn lane on 156th street is increased to a dual left turn lane, the square footage shall increase to 450,000.

If the any development on the Property exceeds these amounts, or if any building is constructed on the property for other uses (other than uses that are ancillary to the uses referred to in subparagraph a. above), the person or entity proposing such construction shall, if the City so requests, provide a traffic study to the City showing the effect that such use will have upon traffic on the Property and in the vicinity thereof. City may condition the granting of a building permit for such construction upon the making of street improvements necessary to accommodate such traffic in a manner consistent with good traffic engineering standards applied reasonably under the circumstances then existing.

- 15. ENTRANCE SIGNS. Subdivider shall be permitted at Subdivider's cost, to erect one or more signs at the intersection of the West Dodge Frontage Road and 156th Streets including lighting thereof, for purposes of identifying the subdivision and the businesses located therein. Such sign may be located in the West Dodge Frontage Road right-of-way, and shall conform to the basic design regulations for Business Center monument signs in the GO--General Office District as specified in Article 18--Signs and Street Graphics, Chapter 55 of the Omaha Municipal Code. Plans for such signage and an agreement for maintenance thereof, shall be submitted to the City for review and approval prior to the installation of such signs.
- 16. <u>EROSION CONTROL</u>. The Erosion Control Plan prepared by the Subdivider and approved by the Papio-Missouri River Natural Resources District is attached hereto as Exhibit "C." Subdivider shall pay the costs of erosion control.

#### 17. MISCELLANEOUS.

A. The provisions of this Agreement shall run with the land in favor of and for the benefit of the City and shall be binding upon present and all successor owners of the Property described in the attached Exhibit "A."

- В. Subdivider shall not, in the performance of this contract, discriminate in violation of any applicable federal or state laws or local ordinances because of race, color, sex, age, political or religious opinions, affiliations, or national origin.
- Parties to this contract shall conform with all existing and applicable City ordinances, resolutions, state and federal laws, and all existing and applicable rules and regulations. Nebraska law will govern the terms and the performance under this Agreement.
- Pursuant to Section 8.05 of the Home Rule Charter, no D. elected official or any officer of the City of Omaha shall have a financial interest, direct or indirect, in any City of Omaha contract. Any violation of this section with the knowledge of the person or corporation contracting with the City of Omaha shall render the contract voidable by the Mayor or Council.
- In the event for any reason any portion of this Agreement Ε. determined to be invalid, void, illegal or unenforceable for any reason, the remainder of this Agreement shall nevertheless remain in full force and effect and shall not be deemed invalidated thereby.
- F. This Agreement shall be binding upon the successors and assigns of the parties hereto and shall run with the land described in Exhibit "A," which is known as the West Dodge Health Campus.

IN WITNESS WHEREOF, the undersigned have executed this Agreement the day and year first above written.

NEBRASKA METHODIST HEALTH SYSTEM, INC.

IMPRINTED SEAL REGISTER OF DEEDS

CITY OF OMAHA, NEBRASKA

Attest:

Approved as to form:

By Assistant City Attorney

On this of
Witness my hand and official seal the day and year last above written.
A GENERAL MOTARY-State of Mediraska  LINDA DAMMANN  My Comm. Exp. 7–18–98
STATE OF NEBRASKA )
COUNTY OF DOUGLAS )
On this 26 of Normbey , 1997, before me a Notary Public in and for said County and State, personally appeared the Nayor of the CITY OF OMAHA, NEBRASKA, a municipal corporation and the identical person who subscribed his name to the foregoing instrument and acknowledged to me that he executed the same as his fee and voluntary act and deed and as the free and voluntary act and deed of the CITY OF OMAHA, NEBRASKA.
Witness my hand and official seal the day and year last above written.

222780.05.218 N3001-120-1

GENERAL NOTARY-State of Nebraska TOM LUND My Comm. Exp. July 30, 2000





