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RICHARD N TAKECO REGISTER OF DEEDS DOUGLAS COUNTY, NE

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DECLARATION OF EASEMENT
BY MARRIOTT SENIOR LIVING SERVICES, INC. ("Declarant")

WHEREAS, Declarant is the owner of Lot 1 and Lot 2, Brighton Gardens, an Addition to the City of Omaha, Douglas County, Nebraska as set forth in the Dedication of Plat of Brighton Gardens, filed on December 23, 1997 in Book 2078 at Page 547 among the Deed Records of Douglas County, Nebraska, and

WHEREAS, Declarant intends to sell and convey Lot 2 to a party to be determined by Declarant (the "Beneficiary"), and

WHEREAS, Declarant desires to create and establish a non-exclusive Easement for pedestrian and vehicular access in common with others over and upon Lot 1 for the benefit of Lot 2, as shown and described in Exhibit A, annexed hereto and made a part hereof (the "Easement"),

NOW, THEREFORE, Declarant hereby declares, gives, grants and conveys the Easement subject to the following terms and conditions:

- (1) Beneficiary, at its sole cost and expense, may construct and maintain a roadway over and upon the Easement connecting the existing roadway located thereon with Lot 2, provided that such construction and maintenance:
- (a) shall not unreasonably obstruct or interfere with the use and maintenance of the existing roadway;
- (b) shall be completed using materials and design standards which equal or exceed those used in the existing roadway;
- (c) shall be constructed and maintained in accordance with all applicable governmental rules, ordinances and regulations;
- (d) shall be completed in a good and workmanlike manner with any damage caused by such work restored, including the provision of landscaping consistent with the existing roadway area.
- (2) No construction shall be commenced until the Beneficiary (a) obtains the written approval of the Declarant to a plan or plans describing the work to be performed, which approval shall not be unreasonably withheld or delayed; and (b) posts a bond or letter of credit for the full costs of the work to be performed, with the Declarant named as a beneficiary of such bond or letter of credit.
- (3) Beneficiary shall utilize the Easement in a manner designed to minimize interference with Declarant's use of its property. Beneficiary's manner of use of the Easement shall take into consideration the safety and convenience of the residents, guests and invitees of the assisted living facility located on Lot 1, and shall not bring any large vehicles or heavy equipment through, across or within the Easement without the prior consent of the Declarant.

- (4) Beneficiary shall indemnify and hold the Declarant and the owner of Lot 1 harmless from any and all expenses, claims, liabilities and damages of any kind, including reasonable attorney's fees and costs, which arise out of or as a result of (i) the construction and/or maintenance performed by Beneficiary in or upon the Easement; and (ii) the use of the portion of the Easement constructed and/or maintained by Beneficiary.
- (5) In the event that, prior to the commencement of construction, the Beneficiary shall obtain all necessary governmental approvals to construct a vehicular access to Lot 2 directly from Western Avenue shown on Exhibit A, this Declaration of Easement shall, ipso facto, become null, void and of no further force or effect.
- (6) Declarant is the operator of an assisted living facility (the "Operator") located on Lot 1. So long as Declarant is the Operator, Declarant shall have the right, in conjunction with the Beneficiary and the owner of Parcel 1, to amend this Declaration, provided that the location of the Easement shall not be affected thereby. In the event Declarant is no longer the Operator, such right shall be exerciseable by the then record owners of Lots 1 and 2.
- (7) The Beneficiary, its successors and assigns, shall provide and maintain a general liability insurance policy with a recognized insurance company covering the easement area with limits of not less than One Million Dollars (\$1,000,000.00) per occurrence, which policy shall name Declarant and the owner of Lot 1 as an additional insureds. Beneficiary shall deliver a copy of said policy and all renewals thereof to Declarant and the Owner of Lot 1.
- (8) This Declaration shall inure to the benefit of and be binding upon the Declarant, the Beneficiary and their respective successors and assigns.

IN WITNESS WHEREOF, the Declarant has executed this declaration this day of March, 2000.

WITNESS:

MARRIOTT SENIOR LIVING SERVICES, INC.

Title: Vice President

STATE OF MARYLAND

) ss.

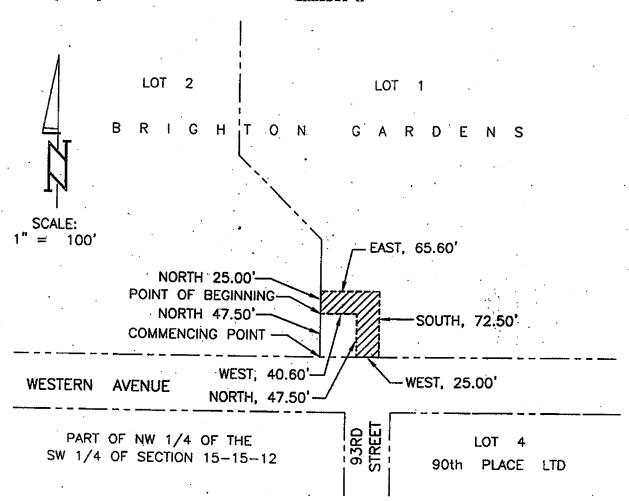
COUNTY OF MONTGOMERY

The foregoing instrument was acknowledged before me on , 2000 by Michael 11; Jr. Vice Pres. of Marriott Senior Living Services, Inc., a Delaware corporation, on behalf of the corporation.

LYNN A. SMITH **Notary Public** Montgomery County Maryland ominission Expires Nov 13, 2002

Notary Public

REGISTER



## LEGAL DESCRIPTION

THAT PART OF LOT 1, BRIGHTON GARDENS, A SUBDIVISION IN DOUGLAS COUNTY, NEBRASKA, DESCRIBED AS FOLLOWS: COMMENCING AT THE SW CORNER OF SAID LOT 1;

THENCE NORTH (ASSUMED BEARING) 47.50 FEET ON THE WEST LINE OF SAID LOT 1 TO THE POINT OF BEGINNING;

THENCE CONTINUING NORTH 25.00 FEET ON THE WEST LINE OF SAID LOT 1;

THENCE EAST 65.60 FEET;

THENCE SOUTH 72.50 FEET TO THE SOUTH LINE OF SAID LOT 1;

THENCE WEST 25.00 FEET ON THE SOUTH LINE OF SAID LOT 1:

THENCE NORTH 47.50 FEET;

THENCE WEST 40.60 FEET TO THE POINT OF BEGINNING.

MARRIOTT INTERNATIONAL TD2 FILE NO. 200-274-8ESMT DATE: JAN. 14, 2000 THOMPSON, DREESSEN & DORNER, INC., 10836 OLD MILL ROAD, OMAHA, NEBRASKA 68154, 402-330-8860