

RECORDED December 20, 2007 AT 9:50 AM.

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*Karen A. Madsen*

REGISTER OF DEEDS

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2007 DEC 20 AM 9:50

KAREN A. MADSEN  
WASHINGTON COUNTY  
REGISTER OF DEEDS  
BLAIR, NE

**DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND EASEMENTS  
FOR GLEN OAKS,  
A SUBDIVISION IN WASHINGTON COUNTY, NEBRASKA**

THIS DECLARATION, made on the date hereinafter set forth, is made by LoHo, LLC, a Nebraska limited liability company ("Declarant").

PRELIMINARY STATEMENT

The Declarant is the owner of certain real property located within Washington County, Nebraska, and described as follows:

Lots 1 through 23, inclusive, 26 through 36, inclusive and 38 through 50, inclusive, in Glen Oaks, a subdivision as surveyed, platted and recorded in Washington County, Nebraska, and Lots 1, 2 and 3, in Glen Oaks Replat One, a subdivision as surveyed, platted and recorded in Washington County, Nebraska.

Such lots as herein referred to collectively as the "Lots" and individually as each "Lot".

The Declarant is the owner of certain real property located within Washington County, Nebraska, and described as follows:

Outlots A, B, C, and D, Glen Oaks, a subdivision as surveyed, platted and recorded in Washington County, Nebraska.

Such outlots as herein referred to collectively as the "Outlots" and individually as each "Outlot".

The Declarant desires to provide for the preservation of the values and amenities of Glen Oaks, for the maintenance of the character and residential integrity of Glen Oaks, and for the acquisition, construction and maintenance of common facilities for the use and enjoyment of the residents of Glen Oaks.

NOW, THEREFORE, the Declarant, as owner of all of the Lots and Outlots covered by the Declaration, declares that each and all of the Lots and Outlots shall be held, sold and conveyed subject to the following restrictions, covenants, conditions and easements, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Lots and Outlots, and the enjoyment of the residents of the Lots and Outlots. These restrictions, covenants, conditions and easements shall run with such Lots and Outlots and shall be binding upon all parties having or acquiring any right, title or interest in each Lot and Outlot, or any part thereof, as is more fully described herein. The Lots and Outlots, and each Lot and Outlot, is and shall be subject to the following conditions and other terms:

Return to:  
James D. Buser  
Pansing Hogan Ernst & Bachman, LLP  
10250 Regency Circle, Suite 300  
Omaha, Nebraska 68114

**ARTICLE I.**  
**RESTRICTIONS AND COVENANTS**

1. Use of Lots and Outlots. Each Lot shall be used exclusively for single-family residential purposes. The Outlots shall be maintained as open green space or shall be used or developed for use in connection with a "Common Facility", as such term is defined in Article II, Section 1, Paragraph A, school or park.

2. Declarant Improvement Approval Rights. No residence, building, fence, wall, driveway, patio, patio enclosure, swimming pool, dog house, tree house, pool house, antenna, flag pole, solar heating or cooling device, tool or storage shed, wind mill or other external improvement, including landscaping, above or below the ground (herein all referred to as any "Improvement") shall be constructed, erected, placed or permitted to remain on any Lot, nor shall any grading or excavation for any Improvement be commenced, except for Improvements which have been approved by Declarant as follows:

A. An Owner desiring to erect an Improvement on a Lot shall deliver two sets of construction plans, detailed landscaping plans and plot plans to Declarant (herein collectively referred to as the "plans"). Such plans shall include a description type, quality, color and use of materials proposed for the exterior of such Improvement. Concurrent with submission of the plans, Owner shall notify the Declarant of the Owner's mailing address.

B. Declarant shall review such plans in light of the conditions and restrictions in Article I of this Declaration and in relation to the type and exterior of improvements which have been constructed, or approved for construction, on the Lots. In this regard, Declarant intends that the Lots be developed as a residential community with homes constructed of high quality materials. The decision to approve or refuse approval of a proposed Improvement shall be exercised by Declarant in a reasonable manner to promote conformity and harmony of the external design of the improvements constructed within the Glen Oaks subdivision and to protect the values, character and residential quality of all Lots in a manner consistent with this Declaration. By way of illustration, and not of limitation, it is intended that the architecture of the residential structures construed shall be consistent with the architecture found in the Huntington Park subdivision in Douglas County, Nebraska. Atypical improvements and home designs such as dome houses, A-frame houses and flat houses will not be approved unless the Declarant determines that construction of these improvements will not be materially inconsistent with the scheme of development contemplated by this Declaration. If Declarant determines that the external design and location of the proposed Improvement does not conform with the standards or requirements of this Declaration, does not conform with the surrounding improvements and topography or will not protect and enhance the integrity and character of all the Lots and neighboring lots, if any, as a quality residential community, Declarant may refuse approval of the proposed Improvement.

C. Written Notice of any approval of a proposed Improvement shall be mailed to the owner at the address specified by the owner upon submission of the plans. Such notice shall be mailed, if at all, within thirty (30) days after the date of submission of the plans. If notice of approval is not mailed within such period, the proposed Improvement shall be deemed disapproved by Declarant.

D. No Lot owner, or combination of Lot owners, or other person or persons shall have any right to any action by Declarant, or to control, direct or influence the acts of the Declarant with respect to any proposed Improvement. No responsibility, liability or obligation shall be assumed by or imposed upon Declarant by virtue of the authority granted to Declarant in this Section, or as a result of any act or failure to act by Declarant with respect to any proposed Improvement.

3. Number of Structures. Except as contemplated in Article I, Section 19, or as otherwise approved by Declarant in writing, no building shall be created, altered, placed or permitted to remain on any Lot other than one (1) detached, single family residential structure.

4. Set Back Requirements. Except as set forth herein, all Improvements on the Lots shall comply with set back requirements of the Zoning Code of Washington County, Nebraska, as the same may be amended from time to time. Notwithstanding the foregoing, Declarant contemplates that it may be necessary or appropriate to grant limited waivers of the front and side yard line set backs for certain Lots.

5. Drainage. The Declarant has created a water drainage plan by grading the Lots and providing for easements for storm water drainage in accordance with accepted engineering principles. No residential structure shall be placed, nor any Lot graded, to interfere with such water drainage plan nor cause damage to the building or neighboring residential structures or Lots.

6. Foundation, Driveways, Approved Materials. The exposed front foundation walls and any foundation walls facing any street of all main residential structures must be constructed of or faced with brick or other material approved in writing by Declarant. All exposed side and rear concrete foundation walls not facing a street must be painted. All driveways must be constructed of asphalt, concrete, brick, paving stone, or laid stone. All foundations shall be constructed of concrete, concrete block, brick or stone. Fireplace chimneys shall be covered with brick or other material approved in writing by Declarant. The roof of all Improvements shall be covered with roofing materials approved by Declarant.

7. Advertising. No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any Lot except one sign per Lot consisting of not more than six (6) square feet advertising a lot as "For Sale." No Lot may be used in any way for any purpose which may endanger the health or unreasonably disturb the owner or owners of any Lot or any resident thereof. Provided, however, the foregoing shall not apply to the business activities, signs and billboards or the construction and maintenance of buildings, if any, by Declarant, its agents or assigns, during the construction and sale of the Lots.

8. Satellite Dishes, Antennas. No exterior television or radio antenna or disc of any sort shall be permitted on any Lot, unless approved by Declarant. Notwithstanding the foregoing, an antenna or dish that is designed to receive over-the-air video programming signals that does not exceed one meter in diameter, and that is attached directly to the residence may be permitted provided that the location and size of the proposed antenna or dish is first approved by the Declarant.

9. Prohibited Activities. No repair of any boats, automobiles, motorcycles, trucks, campers or similar vehicles requiring a continuous time period in excess of forty-eight (48) hours shall be permitted on any Lot at any time; nor shall vehicles offensive to the neighborhood be visibly stored, parked or abandoned on any Lot. No unused building material, junk or rubbish shall be left exposed on the Lot except during actual building operations, and then only in as neat and inconspicuous a manner as possible.

10. Storage of Boats, Etc. No boat, camper, trailer, auto-drawn or mounted trailer of any kind, mobile home, truck, aircraft, camper truck or similar chattel shall be maintained or stored on any part of a Lot (other than in an enclosed structure) for more than twenty (20) days within a calendar year. No motor vehicle may be parked or stored outside on any Lot, except vehicles driven on a regular basis by the occupants of the dwelling located on such Lot. No grading or excavating equipment, tractors or semitractors/trailers shall be stored, parked, kept or maintained in any yards, driveways or streets. However, this Article I, Section 10 shall not apply to trucks, tractors or commercial vehicles which are necessary for the construction of residential dwellings during the period of construction.

11. Trash Facilities, Etc. No incinerator or trash burner shall be permitted on any Lot. No garbage or trash can or container or fuel tank shall be permitted unless completely screened from view, except for pickup purposes. No garden lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling or suitable storage facility, except when in actual use. No garbage, refuse, rubbish or cutting shall be deposited on any street, road, Lot or Outlot. No clothes line shall be permitted outside of any dwelling at any time. Produce or vegetable gardens may only be maintained in rear yards and may not be used for commercial purposes.

12. Lighting. Exterior lighting installed on any Lot shall either be indirect or of such a controlled focus and intensity as not to disturb the residents of adjacent Lots.

13. Fencing. Unless approved by Declarant, no fence or mass planted shrubs shall be permitted to extend beyond the front line of a main residential structure. Unless other materials are specifically approved in writing by Declarant, fences shall only be composed of wood, wrought iron or brick. No fence shall be of the chain link or wire types. No fences or walls shall exceed a height of six (6) feet. All Lots must be fully sodded, drill seeded or hydro seeded at the time of substantial completion of the dwelling located on the Lot. Except for the purpose of controlling erosion on vacant Lots, no field crops shall be grown upon any Lot.

14. Swimming Pools. No swimming pool may extend more than one foot above ground level.

15. Construction of Improvements. Construction of any Improvement shall be completed within eighteen (18) months from the date of commencement of excavation or construction of the Improvement. No excavation dirt shall be spread across any Lot in such a fashion as to materially change the grade or contour of any Lot. Grading plans must be submitted to and approved by Declarant prior to commencement of Improvements to any Lot.

16. Restrictions on Pets, Animals. No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any Lot, except as approved by the Declarant; and provided always that the construction plans, specifications and the location of the proposed structure have been first approved by Declarant. Dog houses, stables and other structures shall only be allowed at the rear of the residence, concealed from public view. No livestock or agricultural-type animals, including horses, shall be allowed in Glen Oaks subdivision except that horses shall be permitted on Lots 43, 44, 45, 46, 47, 48, 49 and 50, in a ratio not to exceed 1 horse per 2 acres. Horses shall also be permitted on Lots 1 through 42, inclusive, but only with the prior consent of Declarant, and in no event to exceed a ratio of 1 horse per 2 acres. All permitted animals shall be contained on the Lot of the Owner.

17. Air Conditioners. Any exterior air conditioning condenser unit shall be placed in the rear yard or any side yards so as not to be visible from public view.

18. Subdivision of Lots. No Lot shall be subdivided, split or in any manner combined with any other Lot or portion of any other Lot, without the approval of the Declarant.

19. Outbuildings. No structure of a temporary character, and no barn, carport, storage building, outbuilding, shack or other non-residential structure shall be erected upon or used on any Lot at any time, either temporarily or permanently without the approval of Declarant, and in all events such structures must be architecturally consistent with the design of the residential structure, may not be used for commercial purposes, and may only be constructed concurrently with or following construction of the residential structure. No structure or dwelling shall be moved from outside Glen Oaks to any Lot without the written approval of Declarant. Any approved structure (except the main residential structure) must be set back at least seventy-five (75) feet from the front lot line and at least fifty (50) feet from all other lot lines.

20. Utility Service Lines. All utility service lines from each Lot line to a dwelling or other Improvement shall be underground.

21. Grading; Erosion Control. Each Owner covenants and agrees that it will undertake all grading and construction activities on the property in a commercially reasonable manner, in compliance with the applicable grading permit, and in compliance with all federal, state, and local laws, rules, regulations and ordinances (the "Governmental Requirements"). The Governmental Requirements include, without limitation, requirements relating to the maintenance of erosion control devices, silt fences, detention ponds, terracing and street cleaning, as required by the Environmental Protection Agency, the State of Nebraska Department of Environmental Quality, and the County of Washington, Nebraska. At Declarant's request, an Owner shall be required to obtain a separate and distinct grading permit from the grading permit of Declarant, and in such event, may not rely on or use any grading permit obtained by Declarant for the property or any other Lot. Owner shall indemnify and hold owner harmless from any and all liabilities, costs, expenses, causes of action, attorney fees, fines, penalties or assessments with respect to Owner's construction and grading activities, including, without limitation, Owner's failure to comply with Governmental Requirements during and following construction.

22. Lot Maintenance. The Owner of a Lot shall have the duty and responsibility, at such Owner's sole cost and expense, to keep the Lot owned by such Owner, including improvements thereon, including drainage ways and septic systems, in compliance with the covenants, conditions, restrictions and development standards contained in this Declaration and otherwise in a well maintained, safe, clean and attractive condition at all times. Such maintenance, as to improved and unimproved Lots, shall include, but not be limited to, the following:

- A. Prompt removal of all litter, trash, refuse, and waste;
- B. Keeping land, including lawns and shrub beds, well maintained and free of uncut grass and weeds;
- C. Keeping all sediment resulting from land disturbance or construction confined to the respective owners Lot;
- D. Complying with all governmental requirements;
- E. Lawn mowing on a regular basis;
- F. Removing and replacing any dead plant material;
- G. Keeping parking areas and driveways in good repair;
- H. Repainting of improvements;
- I. Lots shall not be used for dumping of earth or any waste materials, and no vegetation on vacant Lots shall be allowed to reach a height in excess of twelve (12) inches.

23. Repair of Damage and Deterioration to Improvements. If any Improvements are damaged or destroyed by fire or other casualty, then within six (6) months following the date of such damage or destruction occurs, the Owner of the Lot on which such Improvements are situated, must repair and restore such damaged Improvements (in accordance with the provisions in this Declaration) or remove such damaged Improvements and restore the Lot to its condition existing prior to the construction of such Improvements.

**ARTICLE II**  
**HOMEOWNERS ASSOCIATION**

1. The Association. Declarant has caused or promptly will cause the incorporation of GLEN OAKS HOMEOWNERS ASSOCIATION, a Nebraska not for profit corporation (hereinafter referred to as the "Association"). The Association shall have as its purpose the promotion of the health, safety, recreation, welfare and enjoyment of the residents of the Lots, including:

A. The acquisition, construction, landscaping, improvement, equipment, maintenance, operation, repair, upkeep and replacement of Common Facilities for the general use, benefit and enjoyment of the Members. Common Facilities may include recreational facilities such as swimming pools, tennis courts, health facilities, playgrounds and parks; dedicated and nondedicated roads, paths, ways and green areas (including landscaping) and signs and entrances for Glen Oaks. Common Facilities may be situated on property owned or leased by the Association, on Outlots, on public property, or on private property subject to an easement in favor of the Association.

B. The promulgation, enactment, amendment and enforcement of rules and regulations relating to the use and enjoyment of any Common Facilities, provided always that such rules are uniformly applicable to all Members. The rules and regulations may permit or restrict use of the Common Facilities by Members, their families, their guests, and/or by other persons, who may be required to pay a fee or other charge in connection with the use or enjoyment of the Common Facility.

C. The exercise, promotion, enhancement and protection of the privileges and interests of the residents of Glen Oaks; and the protection and maintenance of the residential character of Glen Oaks.

2. Membership and Voting.

A. Glen Oaks is divided into fifty (50) separate residential lots (for purposes of Article III of this Declaration, the term "Lots" shall mean all of the residential lots which are included in the Association including the Lots as defined by the Declaration). The "Owner" of each Lot shall be a Member of this Association with voting rights as hereinafter prescribed. For purposes of this Declaration, the term "Owner" of a Lot means and refers to the record owner, whether one or more persons or entities, of fee simple title to a Lot, but excluding however those parties having any interest in any of such Lot merely as security for the performance of an obligation (such as a contract seller, the trustee or beneficiary of a deed of trust, or a mortgagee). The purchaser of a Lot under a land contract or similar instrument shall be considered to be the "Owner" of the Lot for purposes of this Declaration. Membership shall be appurtenant to ownership of each Lot, and may not be separated from ownership of each Lot. The Association shall have two (2) classes of voting membership:

(i) **Class A Members:** Class A Members shall be all Association Members with the exception of Declarant. Class A Members shall be entitled to one (1) vote for each Lot owned by such Association Member. When more than one (1) Member is an owner of an interest in a Lot, all such persons shall be Members and the voting right appurtenant to such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any such Lot.

(ii) **Class B Member:** The sole Class B Member shall be Declarant. The Class B Member shall be entitled to fifteen (15) votes for each Lot owned by Declarant.

(iii) **Relinquishment of Control.** Notwithstanding anything contained herein to the contrary, the Class B Association Membership shall cease and be converted to Class A Association Membership upon the earliest to occur of (a) the date on which Declarant no longer owns any Lots;

(b) the date Declarant shall elect, in its sole discretion, that the Class B Membership cease and be converted to Class A Membership; or (c) December 31, 2015.

B. Additional phases of Glen Oaks may be developed by Declarant or other developers. From time to time, without the consent or approval of an Owner or Member, the Association may, with Declarant's approval, be expanded by Declarant to include additional residential lots in any subdivision which is contiguous to any of the Lots, or which is developed as a phase of the Glen Oaks Subdivision. Such expansion(s) may be effected from time to time by Declarant's recordation with the Register of Deeds of Washington County, Nebraska, of a Declaration of Covenants, Conditions, Restrictions and Easements, setting forth the identity of the additional residential lots (hereinafter the "Subsequent Phase Declaration"), provided that if the Subsequent Phase Declaration is recorded by a person or entity other than Declarant, the inclusion of additional residential lots in the Association must be approved by Declarant. Upon the recordation of any Subsequent Phase Declaration which expands the residential lots included in the Association, the additional lots identified in the Subsequent Phase Declaration shall be considered to be and shall be included in the "Lots" for purposes of this Article III, and the owners of the additional residential lots shall be members of the Association with all rights, privileges and obligations accorded or accruing to members of the Association.

3. Powers and Responsibilities. The Association shall have the powers conferred upon not for profit corporations by the Nebraska Nonprofit Corporation Act, and all powers and duties necessary and appropriate to accomplish the Purposes and administer the affairs of the Association. The powers and duties to be exercised by the Board of Directors, and upon authorization of the Board of Directors by the Officers, shall include but shall not be limited to the following:

A. The acquisition, development, maintenance, repair, replacement, operation and administration of Common Facilities, and the enforcement of the rules and regulations relating to the Common Facilities.

B. The landscaping, mowing, watering, repair and replacement of property owned by the Association, and parks, Outlots and other private or public property that may or may not be owned by the Association but that benefit the Owners of Lots.

C. The maintenance, repair and replacement of all common streets and roadways included within the Outlots and either dedicated to the public or which are subject to an easement to the public, but only to the extent such maintenance, repair and replacement is not undertaken by the sanitary and improvement district for Glen Oaks, Washington County, Nebraska or other governmental authority.

D. The fixing, levying, collecting, abatement, and enforcement of all charges, dues, or assessments made pursuant to the terms of this Declaration.

E. The expenditure, commitment and payment of Association funds to accomplish the purposes of the Association including, but not limited to, payment for purchase of insurance covering any property owned by the Association, and Common Facility against property damage and casualty, and purchase of liability insurance coverages and D & O Insurance, for the Association, the Board of Directors of the Association and the Members.

F. The exercise of all of the powers and privileges, and the performance of all of the duties and obligations of the Association as set forth in this Declaration, as the same may be amended from time to time.

G. The acquisition by purchase or otherwise, holding, or disposition of any right, title or interest in real or personal property, wherever located, in connection with the affairs of the Association.

H. The deposit, investment and reinvestment of Association funds in bank accounts, securities, money market funds or accounts, mutual funds, pooled funds, certificates of deposit or the like.

I. The employment of professionals and consultants to advise and assist the Officers and Board of Directors of the Association in the performance of their duties and responsibilities for the Association.

J. General administration and management of the Association, and execution of such documents and doing and performance of such acts as may be necessary or appropriate to accomplish such administration or management.

K. The doing and performing of such acts, and the execution of such instruments and documents, as may be necessary or appropriate to accomplish the purposes of the Association.

4. Duties of Association.

A. The Association shall maintain and repair any fences, landscaping and signs which may be installed at the entrances or the exterior of the Glen Oaks subdivision in generally good and neat condition.

B. In the event any Owner of a Lot shall fail to perform and fulfill its obligations and responsibilities under Article I, Sections 13, 22 or 23 of this Declaration, and if such failure continues for thirty (30) days after written notice to the Owner from the Association, the Association shall have the right, but not the obligation, to perform or have performed such obligations or responsibilities. If the Association undertakes to perform or have performed such responsibilities of the Owner, the cost of such performance plus a fifteen percent (15%) administrative charge shall be assessed against the Owner, and the Owner shall be obligated to promptly pay such sums to the Association. Assessment of such costs shall be made by written demand from the Association for payment by the Owner. If such assessment is not paid within thirty (30) days after written demand from the Association, such assessment shall constitute a lien on the Lot, which lien shall attach, have the authority and be enforceable by the Association in the same manner as liens for assessments and dues as provided in this Article II.

C. Maintain and repair any Common Facilities and any Outlots or Property owned by the Association.

5. Imposition of Dues and Assessments. The Association may fix, levy and charge the Owner of each Lot with dues and assessments (herein referred to respectively as "dues and assessments") under the following provisions of this Declaration. Except as otherwise specifically provided herein, the dues and assessments shall be fixed by the Board of Directors of the Association and shall be payable at the times and in the manner prescribed by the Board.

6. Abatement of Dues and Assessments. Notwithstanding any other provision of this Declaration, the Board of Directors may abate all or part of the dues or assessments due in respect of any Lot. Dues and assessments shall be abated as to all Lots owned by the Declarant.

7. Liens and Personal Obligations for Dues and Assessments. The assessments and dues, together with interest thereon, costs and reasonable attorneys' fees, shall be the personal obligation of the Owner of each Lot at the time when the dues or assessments first become due and payable. The dues and assessments, together with interest thereon, costs and reasonable attorneys' fees, shall also be a charge and continuing lien upon the Lot in respect of which the dues and assessments are charged. The personal obligation for delinquent assessments shall not pass to the successor in title to the Owner at the time the dues and assessments become delinquent unless such dues and assessments are expressly assumed by the successors, but all successors shall take title subject to the lien for



such dues and assessments, and shall be bound to inquire of the Association as to the amount of any unpaid assessments or dues.

8. Purpose of Dues. The dues collected by the Association may be committed and expended to accomplish the purposes of the Association described in Section 1 of this Article, and to perform the Powers and Responsibilities of the Association described in Sections 3 and 4 of this Article.

9. Maximum Annual Dues. Unless excess dues have been authorized by the Members in accordance with Section 11, below, the aggregate dues which may become due and payable in any year shall not exceed the greater of:

A. Six and no/100 Dollars (\$600.00) per Lot.

B. In each calendar year beginning on January 1, 2008, one hundred twenty-five percent (125%) of the aggregate dues charged in the previous calendar year.

10. Assessments for Extraordinary Costs. The Board of Directors may levy an assessment or assessments for the purpose of defraying, in whole or in part, the costs of any acquisition, construction, reconstruction, repair, painting, maintenance, improvement, or replacement of any Common Facility, including fixtures and personal property related thereto, and related facilities. The aggregate assessments in each calendar year shall be limited in amount to Three Hundred and no/100 Dollars (\$300.00) per Lot.

11. Excess Dues and Assessments. With the approval of at least seventy-five percent (75%) of Class A Members and Class B Members of the Association, the Board of Directors may establish dues and assessments in excess of the maximums otherwise established in this Declaration.

12. Rate of Assessment. Dues and assessments shall be fixed at a uniform rate as to all Lots, but dues shall be abated as to individual Lots as provided in Section 6, above.

13. Certificate as to Dues and Assessments. The Association shall, upon written request and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the dues and assessments on a specified Lot have been paid to the date of request, the amount of any delinquent sums, and the due date and amount of the next succeeding dues, assessment or installment thereof. The dues and assessments shall be and become a lien as of the date such amounts first become due and payable.

14. Effect of Nonpayment of Assessments-Remedies of the Association. Any installment of dues or assessments which is not paid when due shall be delinquent. Delinquent dues or assessment shall bear interest from the due date at the rate of sixteen percent (16%) per annum, compounded annually. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot or Lots, and pursue any other legal or equitable remedy. The Association shall be entitled to recover as a part of the action and shall be indemnified against the interest, costs and reasonable attorneys' fees incurred by the Association with respect to such action. No Owner may waive or otherwise escape liability for the charge and lien provided for herein by nonuse of the Common Area or abandonment of his Lot. The mortgagee of any Lot shall have the right to cure any delinquency of an Owner by payment of all sums due, together with interest, costs and fees. The Association shall assign to such mortgagee all of its rights with respect to such lien and right of foreclosure and such mortgagee may thereupon be subrogated to any rights of the Association.

15. Subordination of the Lien to Mortgagee. The lien of dues and assessments provided for herein shall be subordinate to the lien of any mortgage, contract or deed of trust given as collateral for a home improvement or purchase money loan. Sale or transfer of any Lot shall not affect or terminate the dues and assessment lien.

**ARTICLE III.**  
**EASEMENTS AND OTHER RIGHTS**

1. Plat Easements. Easements are provided for in the Plat of Glen Oaks which is filed with the Register of Deeds of Washington County, Nebraska.
2. Use of Common Facilities. Subject to any rules, regulations and restrictions on uses set forth in this Declaration or in rules and regulations hereafter imposed by the Association, Declarant grants and reserves an easement in favor of Declarant, the Association, and the owners and their family members, guests and invitees for ingress and egress and to otherwise travel across and use the Outlots and Common Facilities on a non-exclusive basis.
3. Easement Reserved for the Association and Declarant. An easement for access, ingress and egress over, upon and across the Lots is hereby reserved by Declarant for itself and granted to the Association to perform their respective rights, duties and obligations under this Declaration.

**ARTICLE IV.**  
**GENERAL PROVISIONS**

1. Enforcement of Declaration. Except for the authority and powers specifically granted to the Declarant, the Declarant or any Owner of a Lot named herein shall have the right to enforce by a proceeding at law or in equity, all reservations, restrictions, conditions and covenants now or hereinafter imposed by the provisions of this Declaration either to prevent or restrain any violation or to recover damages arising from such violation. Failure by the Declarant or by 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.
2. Term and Amendment. The covenants and restrictions of this Declaration shall run with and bind the land in perpetuity. This Declaration may be amended or modified by the Declarant, or any person, firm, corporation, partnership, or entity designated in writing by the Declarant, in any manner which it may determine in its full and absolute discretion for a period of five (5) years from the date hereof. After such five (5) year period, this Declaration may be amended, modified or terminated by an instrument signed by the owners of not less than seventy-five percent (75%) of the Lots covered by this Declaration.
3. Waiver. By the written consent of the Declarant for a period of five (5) years from the date hereof, any or all of the covenants, conditions, restrictions, and easements as they apply to the Lots may be waived, for any Lot or Lots, in any manner, for such a time period, and on such conditions, if any, which the Declarant may determine in its full and absolute discretion after considering the benefits and detriments which the waiver will have on the Glen Oaks Subdivision and the Owner requesting the waiver. Declarant's decision on any requested waiver, shall be final and there shall be no right of appeal of Declarant's decision. No responsibility, liability or obligation shall be assumed by or imposed upon Declarant by virtue of the authority granted to Declarant in this Section, or as a result of any act or failure to act by Declarant with respect to any requested waiver.
4. Termination of Declarant Status. Declarant, or its successors or assigns, may terminate its status as Declarant under this Declaration, at any time, by filing a Notice of Termination of Status as Declarant. Upon such filing, the Association shall be deemed to succeed to the status of Declarant and shall have the right to thereafter designate another entity, association or individual to serve as Declarant, and such appointee shall thereafter serve as Declarant with the same authority and powers as the original Declarant.
5. Invalid Provisions. Invalidation of any covenant or provision in this Declaration by judgment or court order shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has caused these presents to be executed this \_\_\_\_ day of November, 2006.

LOHO, LLC, a Nebraska limited liability company

By: *Darrell Logemann*  
Darrell Logemann, Member

By: CJ INVESTMENTS, LLC, a Nebraska limited liability company, Member

By: *Robert P. Horgan*  
Robert P. Horgan, Manager

STATE OF NEBRASKA )  
                                  ) ss.  
COUNTY OF DOUGLAS )

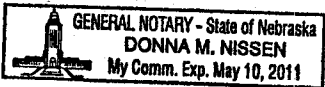
The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of November, 2007, by Robert P. Horgan, Manager of CJ Investments, LLC, a Nebraska limited liability company, Member of LoHo, LLC, a Nebraska limited liability company, on behalf of the Company.



*Donna M. Nissen*  
Notary Public

STATE OF NEBRASKA )  
                                  ) ss.  
COUNTY OF DOUGLAS )

The foregoing instrument was acknowledged before me this 8<sup>th</sup> day of November, 2007, by Darrell Logemann, Member LoHo, LLC, a Nebraska limited liability company, on behalf of the Company.



*Donna M. Nissen*  
Notary Public

00314309

Lots 48, 49 + 50

475

FILED

200601295

STATE OF NEBRASKA COUNTY OF WASHINGTON)SS  
ENTERED IN NUMERICAL INDEX AND FILED FOR RECORD  
THIS 29th DAY OF March A.D. 2006  
AT 12:50 O'CLOCK P.M AND RECORDED IN BOOK  
484 AT PAGE 475-482  
COUNTY CLERK Charlotte L. Petersen  
DEPUTY Warren Madson

Recorded ✓  
General \_\_\_\_\_  
Numerical ✓  
Photostat \_\_\_\_\_  
Proofed \_\_\_\_\_

06 MAR 29 PM 12:50

CHARLOTTE L. PETERSEN  
WASHINGTON COUNTY CLERK  
BLAIR, NEBR.

**AMENDED AND RESTATED  
COVENANT AND EASEMENT AGREEMENT**

This Amended and Restated Covenant and Easement Agreement (this "Restated Easement Agreement"), is made and entered into this 29th day of March, 2006, by and between **BURGHER FAMILY LIMITED PARTNERSHIP**, a Nebraska limited partnership (the "Burghers"), and **WESLEY J. STAMP** and **EILEEN STAMP**, husband and wife (the "Stamps").

Preliminary Statement

The Burghers and Stamps are parties to a Covenant and Easement Agreement dated June 23, 1993 (the "Easement Agreement") recorded with the Washington County, Nebraska, Register of Deeds on June 28, 1993 in Book 217 at Page 635, which Easement Agreement designates the property identified on Exhibit "A" as the "Burdened Property" and the property described on Exhibit "B" as the "Benefited Property".

The Burghers are the owner of the Burdened Property and the Stamps are the owner of the Benefited Property.

The Burghers and the Stamps desire to amend and restate the Easement Agreement in its entirety.

NOW, THEREFORE, in consideration of the foregoing and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. This Restated Easement Agreement shall be effective upon recording of such instrument with the Washington County, Nebraska, Register of Deeds (the "Effective Date"), and upon recording shall serve to amend and restate the Easement Agreement in its entirety. The Easement Agreement as amended hereby remains effective as of June 28, 1993.
2. On the Effective Date the "Burdened Property" shall mean the real estate depicted and legally described on Exhibit "C" attached hereto and the "Benefited Property" shall mean the

Return to:  
James D. Buser  
Pansing Hogan Ernst & Bachman, LLP  
10250 Regency Circle, Suite 300

*Return to:*

SPENCE TITHE & CO.

real estate legally described on Exhibit "D" attached hereto.

3. Water from the existing well located on the Burdened Property shall be used by the owner of the Benefited Property for domestic water supply and livestock watering.

4. The Burghers, as owner of the Burdened Property hereby grant to the owner of the Benefited Property an exclusive easement over the Burdened Property to lay, maintain, operate, repair, relay and remove, at any time, a well and pipeline for the transportation of water and all appurtenances thereto, including but not limited to, either underground or above ground piping and accessories associated with a water distribution system, together with the right of ingress and egress to and from the same, on, over, under or through the Burdened Property. The owner of the Burdened Property agrees that neither they nor their assigns will at any time construct on or below the surface of said tracts of land, any building or structure (but not restricting street or utility improvements), nor will they give anyone else permission to so do. In the event that any street or utility improvements are constructed on, over, or beneath the Burdened Property, such improvements will be built as to insure that no damage is done to the water well or waterline located on the Burdened Property and if any of the same is damaged, the same will be immediately repaired at the expense of the owner of the Burdened Property. It is further agreed that there shall be no grading, cutting or altering of the elevation, as it exists as of the Effective Date, over the waterline or within ten feet (10') of either side of the waterline without the prior written consent of the owner of the Benefited Property, it being understood that either the owner of the Burdened Property or the owner of the property adjacent to the Burdened Property shall have the right to move the waterline (at the Burdened Property owner's cost) to a lower depth in the event that such cutting or fill is necessary in connection with the development of such property provided such is undertaken under the supervision and approval of the Benefited Property's well contractor.

5. The parties hereto acknowledge that the legal description for the Burdened Property was prepared by the owner of the Burdened Property and in the event that the legal description of such Burdened Property does not match the actual location of the water well and waterline as constructed on the Effective Date of this Restated Easement Agreement, the description of the Burdened Property will be revised at the Burdened Property owner's cost to reflect the actual location of the water well and waterline.

6. The owner of the Burdened Property will not construct fences or other barriers which will impede the ability of the owner of the Benefited Property and its agents from accessing the waterline and well located within the Burdened Property.


7. All rights granted hereunder shall cease and terminate if the well is not operational for a period of one year, and upon the non-use of the Burdened Property by the owners of the Benefited Property. Upon termination the owner of the Benefited Property shall promptly execute and record a Notice of Termination to memorialize such termination. The owner of the Benefited Property shall also be responsible for closing the well as required by Nebraska law.

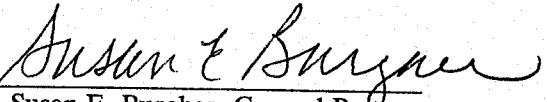
8. The agreements contained in this Covenant and Easement Agreement shall run with the land and be binding and inure to the benefit of the parties hereto, their successors and assigns, provided, however it is expressly understood that upon conveyance by an owner of their fee interest in either the Benefited Property or Burdened Property, said conveying owner

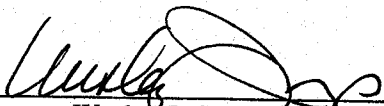
shall be personally released and discharged from further liability or obligation hereunder, any such liability or obligation running with the land and vesting with the then owner of such land. The parties hereto agree that as of the Effective Date, the Burghers and the Stamps have fully performed all obligations under the Easement Agreement to be performed through the Effective Date.

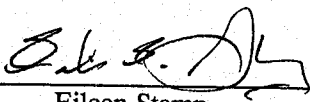
IN WITNESS WHEREOF, the parties have executed this Restated Easement Agreement to be effective on the Effective Date as provided herein.

**BURGHER FAMILY LIMITED PARTNERSHIP**, a Nebraska limited partnership

By:   
Louis W. Burgher, General Partner

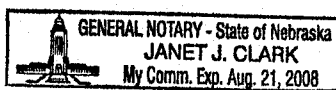
By:   
Susan E. Burgher, General Partner

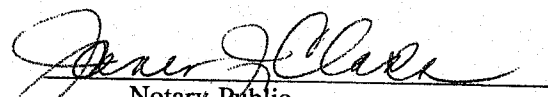
  
Wesley I. Stamp

  
Eileen Stamp

STATE OF NEBRASKA    )  
                                  ) ss.  
COUNTY OF DOUGLAS    )

The foregoing instrument was acknowledged before me this 23 day of March, 2006, by Louis W. Burgher, General Partner of Burgher Family Limited Partnership, a Nebraska limited partnership, for and on behalf of the partnership.



  
Notary Public

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DOUGLAS )

The foregoing instrument was acknowledged before me this 23 day of March, 2006, by Susan E. Burgher, General Partner of Burgher Family Limited Partnership, a Nebraska limited partnership, for and on behalf of the partnership.



*Janet J. Clark*  
Notary Public

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DOUGLAS )

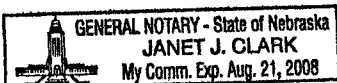
The foregoing instrument was acknowledged before me this 22 day of March, 2006, by Wesley J. Stamp.



*Janet J. Clark*  
Notary Public

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DOUGLAS )

The foregoing instrument was acknowledged before me this 22 day of March, 2006, by Eileen Stamp.



*Janet J. Clark*  
Notary Public

**EXHIBIT "A"**

Part of the W1/2 SW1/4 and part of the SW1/4 NW1/4 all in Section 4, Township 17 North, Range 12 East of the 6<sup>th</sup> P.M., Washington County, Nebraska, and more particularly described as follows:

Beginning at the Southwest corner of said Section 4, T 17 N, R 12 E; thence N 00 degree 04' 44" W (assumed bearing) along the West line of the SW1/4 of said Section a distance of 2635.58 feet to the W1/4 corner of said Section; Thence N 00 degree 04' 45" E along the West line of the NW1/4 of said Section a distance of 212.86 feet; Thence N 45 degree 40' 25" E a distance of 1480.73 feet to a point 75.0 feet South of the North line of the S1/2 NW1/4; Thence N 89 degree 36' 27" E parallel to and 75.0 feet South of said North line a distance of 206.45 feet; Thence S 00 degree 00' W a distance of 3873.31 feet to a point on the South line of the SW1/4 of said Section; Thence S 89 degree 29' 31" W along said South line a distance of 1262.43 feet to the point of beginning; and containing 100.00 acres more or less.

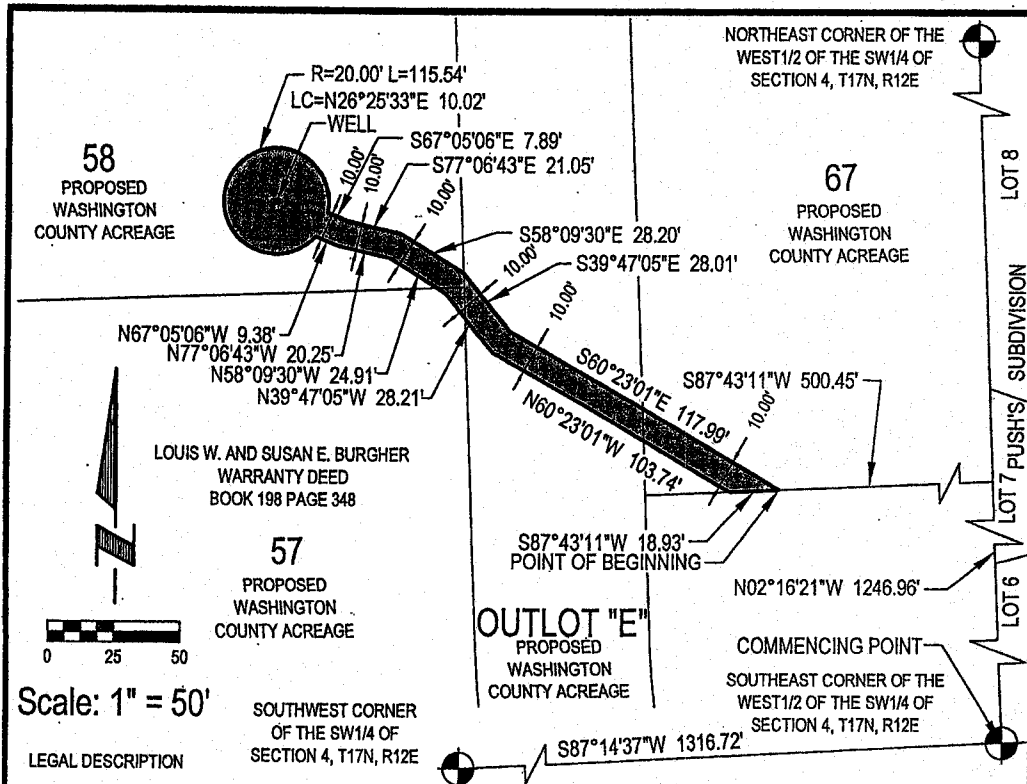


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**EXHIBIT "B"**

Lots six and seven, Push's Subdivision in Section Four, Township Seventeen North, Range Twelve, East of the Sixth P.M., in Washington County, Nebraska.

EXHIBIT "C"



A PERMANENT WATER LINE EASEMENT LOCATED IN TAX LOT 39, A TAX LOT LOCATED IN THE WEST 1/2 OF THE SW1/4 OF SECTION 4, TOWNSHIP 17 NORTH, RANGE 12 EAST OF THE 6TH P.M., WASHINGTON COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID TAX LOT 39, SAID POINT ALSO BEING THE SOUTHWEST CORNER OF LOT 6, PUSH'S SUBDIVISION, A SUBDIVISION LOCATED IN THE WEST 1/2 OF SAID SECTION 4, SAID POINT ALSO BEING THE SOUTHWEST CORNER OF SAID WEST 1/2 OF THE SW1/4 OF SECTION 4; THENCE  $N02^{\circ}16'21"W$  (ASSUMED BEARING) ALONG THE EAST LINE OF SAID WEST 1/2 OF THE SW1/4 OF SECTION 4, SAID LINE ALSO BEING THE EAST LINE OF SAID TAX LOT 39, SAID LINE ALSO BEING THE WEST LINE OF SAID LOT 6, PUSH'S SUBDIVISION, AND ALSO THE WEST LINE OF LOT 7, SAID PUSH'S SUBDIVISION, A DISTANCE OF 1246.96 FEET; THENCE  $S87^{\circ}43'11"W$ , A DISTANCE OF 500.45 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING  $S87^{\circ}43'11"W$ , A DISTANCE OF 18.93 FEET; THENCE  $N60^{\circ}23'01"W$ , A DISTANCE OF 103.74 FEET; THENCE  $N39^{\circ}47'05"W$ , A DISTANCE OF 28.21 FEET; THENCE  $N58^{\circ}09'30"W$ , A DISTANCE OF 24.91 FEET; THENCE  $N77^{\circ}06'43"W$ , A DISTANCE OF 20.25 FEET; THENCE  $N67^{\circ}05'06"W$ , A DISTANCE OF 9.38 FEET; THENCE NORTHEASTERLY ON A CURVE TO THE RIGHT WITH A RADIUS OF 20.00 FEET, A DISTANCE OF 115.54 FEET, SAID CURVE HAVING A LONG CHORD WHICH BEAR  $N26^{\circ}25'33"E$ , A DISTANCE OF 10.02 FEET; THENCE  $S67^{\circ}05'06"E$ , A DISTANCE OF 7.89 FEET; THENCE  $S77^{\circ}06'43"E$ , A DISTANCE OF 21.05 FEET; THENCE  $S58^{\circ}09'30"E$ , A DISTANCE OF 28.20 FEET; THENCE  $S39^{\circ}47'05"E$ , A DISTANCE OF 28.01 FEET; THENCE  $S60^{\circ}23'01"E$ , A DISTANCE OF 117.99 FEET TO THE POINT OF BEGINNING.

SAID PERMANENT WATER LINE EASEMENT CONTAINS AN AREA OF 3,200 SQUARE FEET OR 0.073 ACRES, MORE OR LESS.

**EXHIBIT "D"**

Lots six and seven, Push's Subdivision in Section Four, Township Seventeen North, Range Twelve, East of the Sixth P.M., in Washington County, Nebraska.

together with

A tract of land located in part of Taxlot 39, a Tax Lot located in the NW1/4 and also the SW1/4 of Section 4; and also together with part of the North 1/2 of the NW1/4 of said Section 9; all located in Township 17 North, Range 12 East of the 6<sup>th</sup> P.M., Washington County, Nebraska, more particularly described as follows:

Beginning at the Southwest Corner of Lot 6, Push's Subdivision, a subdivision located in said Section 4, said point also being the South 1/2 corner of said SW1/4 of Section 4, said point also being the North 1/4 corner of said NW1/4 of Section 9, thence N87°14'03"E, (assumed bearing) along the North line of said NW1/4 of Section 9, said line also being the South line of said Lot 6, Push's Subdivision, a distance of 614.63 feet; thence S27°02'47"W, a distance of 389.66 feet; thence N58°56'11"W, a distance of 376.89 feet; thence Northwesterly on a curve to the right with a radius of 590.13 feet; a distance of 234.34 feet, said curve having a long chord which bears N47°33'37"W, a distance of 232.80 feet; thence N36°11'04"W, a distance of 272.37 feet, thence Northerly on a curve to the right with a radius of 432.68 feet, a distance of 217.52 feet, said curve having a long chord which bears N21°46'55"W, a distance of 215.24 feet; thence N07°22'47"W, a distance of 56.57 feet; thence Northwesterly on a curve to the left with a radius of 632.99 feet, a distance of 257.75 feet, said curve having a long chord which bears N19°02'42"W, a distance of 255.97 feet; thence N30°42'37"W, a distance of 336.25 feet; thence northerly on a curve to the right with a radius of 267.00 feet, a distance of 132.49 feet, said curve having a long chord which bears N16°29'43"W, a distance of 131.13 feet; thence N02°16'49"W, a distance of 57.30 feet; thence N87°43'11"E, a distance of 551.60 feet to a point on the East line of said Taxlot 39, said point also being on the West line of Lot 7, said Push's Subdivision, thence S02°16'21"E along said East line of Taxlot 39, said line also being said West line of said Lots 7 and 6, Push's Subdivision, a distance of 1246.96 feet to the point of beginning.