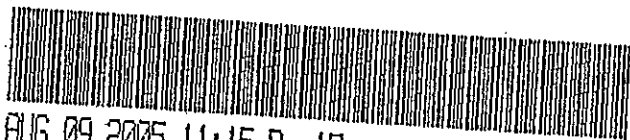


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**DECLARATION
OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
OF THE RESIDENCES ON THE GREEN AT PACIFIC SPRINGS,
A SUBDIVISION IN DOUGLAS COUNTY, NEBRASKA**

THIS DECLARATION, made on the date hereinafter set forth, is made by THE RESIDENCES ON THE GREEN AT PACIFIC SPRINGS, LLC, a Nebraska limited liability company, hereinafter referred to as "Declarant".

PRELIMINARY STATEMENT

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

Lots 1-10 inclusive, Residences on the Green at Pacific Springs, Replat 1, a cluster subdivision as surveyed, platted and recorded in Douglas County, Nebraska, and Lots 12-28 inclusive, in the Residences on the Green at Pacific Springs, a cluster subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

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

Declarant is also the owner of two (2) outlots that are adjacent to the Lots and which are legally described as follows (each an Outlot):

Outlot A and Outlot B, Residences on the Green at Pacific Springs, a cluster subdivision, as surveyed, platted and recorded in Douglas County, Nebraska.

The Declarant desires to provide for the preservation of the values and amenities of the Residences on the Green at Pacific Springs ("Residences"), for the acquisition, construction and maintenance of the character and residential integrity of the Residences, and for the acquisition, construction and maintenance of Common Facilities for the use and enjoyment of the residents of the Residences.

NOW THEREFORE, the Declarant hereby declares that each and all of the Lots 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 the enjoyment of the residents of the Lots. These restrictions,

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covenants, conditions and easements shall run with such Lots and shall be binding upon all parties having or acquiring any right, title or interest in each Lot, or any part thereof, as is more fully described herein. The Lots are and each Lot is and shall be subject to all and each of the following conditions and other terms:

ARTICLE I
RESTRICTIONS AND COVENANTS

1. Each Lot shall be used exclusively for single-family residential purposes, except for such Lots or parts thereof as may hereafter be conveyed or dedicated by Declarant, or its successors or assigns, for use in connection with a Common Facility, or as a park, or for other non-profit use.

2. No residence, building, fence (other than fences constructed by the Declarant), wall, pathway, driveway, patio, patio cover enclosure, deck, rock garden, swimming pool, pool house, basketball backboard, dog house, tennis court, flag pole, satellite receiving station or dish, solar heating or cooling device, 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, excavation or tree removal for any Improvement be commenced, except for Improvements which have been approved by Declarant as follows:

- A. Prior to the commencement of construction or installation, an owner desiring to erect an Improvement shall deliver two sets of construction plans, 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 and proposed elevations of the driveway and foundation. Concurrent with submission of the plans, Owner shall notify the Declarant of the owner's mailing address.
- B. Declarant shall review such plans in relation to (i) the type and exterior of Improvements constructed, or approved for construction, on neighboring Lots and in the surrounding area, (ii) any general scheme or plans formulated by Declarant, and (iii) in light of the conditions and restrictions in Article I of this Declaration. In this regard, Declarant intends that the Lots shall be developed as a residential community with homes constructed of high quality materials, with harmonious exterior elevations and exterior colors of earth tone hues only. The decision to approve or refuse approval of a proposed Improvement shall be exercised by Declarant in a reasonable manner in order to promote development of the Lots and to protect the value, character and residential quality of all Lots in a manner consistent with this Declaration. Atypical improvements and home designs such as dome houses, A-frame houses and log cabins 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, in its sole and absolute discretion, that the proposed Improvement (i) does not conform with the standards or requirements of this Declaration, (ii) does not conform with the surrounding improvements and

topography, or (iii) 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 any 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 against 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 Article, or as a result of any act or failure to act by Declarant, with respect to any proposed Improvement.

3. No single-family residence shall be created, altered, placed or permitted to remain on any Lot other than one detached single-family dwelling which does not exceed two and one-half stories in height. All Improvements on the Lots shall, at a minimum, comply with all set back and side yard requirements of the Zoning Code of the Municipal Code of the City of Omaha, Nebraska.

4. Subject to the specific requirements set forth in this Declaration, all foundations shall be constructed of concrete, concrete blocks, brick or stone. All exposed front foundation walls and any foundation walls facing any street of all main residential structures shall be constructed of or faced with brick, stone or stucco. All exposed side and rear foundation walls not facing a street must be painted, or faced with brick, stone, stucco or other material approved by Declarant. All driveways must be constructed of concrete, brick, paving stone, or laid stone. Fireplace chimneys shall be covered with brick, or other material approved in writing by Declarant. Unless other materials are specifically approved by Declarant, the roof of all Improvements shall be covered with Certainteed Presidential style asphalt shingles, weathered wood in color, or a similar quality product in a similar color made by a different manufacturer; provided that, Declarant approves such substitute in writing prior to installation of same.

5. 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 business activities of any kind whatsoever shall be conducted on any Lot; nor shall the premises 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 paragraph shall not apply to the business activities, signs and billboards or the construction and maintenance of buildings, if any, by Declarant or its agents or assigns, during the construction and sale of Lots.

6. No exterior television, radio, ham broadcasting, earth station, satellite dish or other electronic antenna or aerial or exterior solar heating or cooling device of any type shall be permitted on any Lot.

7. No tree houses, tool sheds, doll houses, windmills or similar structures shall be permitted on any Lot.

8. No repair of any boats, automobiles, motorcycles, trucks, campers (trailers, van-type, auto-drawn or mounted), snowmobiles, recreational vehicles (RV), other self-propelled vehicles 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 orderly and inconspicuous a manner as is reasonably possible.

9. 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 two (2) consecutive days and no more than fourteen (14) days combined within any 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 semi-tractors/trailers shall be stored, parked, kept or maintained in any yards, driveways or streets. However, this Section 9 shall not apply to trucks, tractors or commercial vehicles which are necessary for the construction of residential dwellings on the Lots during the period of construction.

10. No incinerator, trash burner, or fuel tank shall be permitted on any Lot. No garbage or trash can or container shall be permitted outside, 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 or Lot. No clothes line shall be permitted outside of any dwelling at any time. Produce or vegetable gardens may only be maintained in rear yards in an area no larger than eight feet (8') by ten feet (10').

11. 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.

12. No hedges or mass planted shrubs shall be permitted more than ten (10) feet in front of the front building line of any residence unless otherwise approved by Declarant. No fencing shall be installed anywhere on Lots 1 through 10, Residences on the Green at Pacific Springs, Replat 1 or Lot 12 Residences on the Green at Pacific Springs; except that electronic underground fencing which is not visible above ground may be installed on such lots. Except as otherwise set forth above, fencing is only allowed to be installed on Lots 13 through 28, Residences on the Green at Pacific Springs, in accordance with this Section 12, as follows: (a) no fence may be installed without the prior approval of the Declarant; (b) no fence shall be permitted to extend beyond the front line of a main residential structure; (c) in all events, installed fences must comply with applicable code requirements imposed by the City of Omaha;

(d) any fence erected on any Lot must be constructed of six (6) foot tall wrought iron in the same style and spacing attached as Exhibit "A". No fences or walls shall exceed a height of six (6) feet, unless otherwise approved by Declarant. No chain link, wire or wood fences are allowed on the Lots. Any fences, hedges or mass planted shrubs installed by or at the direction of the Declarant shall not be subject to the provisions of this paragraph.

13. No swimming pool may extend more than one foot above ground level.

14. Construction of any Improvement shall be completed within one (1) year from the date of commencement of excavation or construction of the Improvement. Grading plans must be submitted to and approved by Declarant prior to commencement of Improvements to any Lot. Declarant shall review the grading plans in light of commercially recognized development and engineering standards. No excavation dirt shall be spread across any Lot in such a fashion as to materially change the grade or contour of any Lot.

15. A public sidewalk shall be constructed of concrete four (4) feet wide by four (4) inches thick in front of Lots 13 through 28, Residences on the Green Pacific Springs. The sidewalk shall be constructed by the owner of the Lot prior to the time of completion of the main structure and before occupancy thereof; provided, however, this provision shall vary to comply with any requirements of the City of Omaha or with zoning applicable to the Lots.

16. Driveway approaches between the sidewalk and curb on each Lot shall be constructed of concrete. Should repair or replacement of such approach be necessary, the repair or replacement shall also be of concrete. No asphalt overlay of driveway approaches will be permitted.

17. 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 for one dog house constructed for one (1) dog; provided always, that the construction plans, specifications and the location of the proposed dog house structure have been first approved by Declarant, or its assigns. Dog houses shall only be allowed at the rear of the residence, concealed from public view. No dog runs or kennels of any kind shall be allowed in the Residences subdivision. No animals, livestock, agricultural-type animals, fowl or poultry of any kind, including pot-bellied pigs, shall be raised, bred or kept on any Lot. No excessive barking of any dog, or other excessive noise of any kind from any animal, shall be permitted on any Lot.

18. 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. No grass, weeds or other vegetation will be grown or otherwise permitted to commence or continue, and no dangerous, diseased or otherwise objectionable shrubs or trees will be maintained on any Lot so as to constitute an actual or potential public nuisance, create a hazard or undesirable proliferation, or detract from a neat and trim appearance. Vacant 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 fourteen (14) inches.

19. No residence shall be constructed on a Lot unless the entire Lot, as originally platted, is owned by one owner of such Lot, except if parts of two or more platted Lots have been combined into one Lot which is at least as wide as the narrowest Lot on the original plat. This

paragraph shall not prohibit administrative subdivisions for minor variations in lot lines so long as prior approval of the Declarant is obtained.

20. No temporary structure of any character and no carport, detached garage, trailer, basement, tent, outbuilding, storage or tool shed, shack or other similar structure shall be erected upon or used on any Lot at any time, either temporarily or permanently. An owner may erect a swing set, playground equipment, pool house or other non-prohibited structure on a Lot only after securing the prior written approval of Declarant. No structure or dwelling shall be moved from outside the Residences subdivision to any Lot without the prior written approval of Declarant.

21. All utility service lines from each Lot line to a dwelling or other Improvement shall be underground.

22. For purposes of this paragraph, "tree" shall mean and refer to a tree of any type with a diameter equal to or larger than two (2) inches and a height equal to or greater than five (5) feet. Upon completion of a residence on a Lot, the front yard of each Lot must have a minimum of two (2) trees which are classified as deciduous. Should any of such trees be removed, die, or deteriorate into a poor condition, the owner of such Lot shall, at its expense, replace such trees within thirty (30) days following written notice from either the Declarant or the Association. If the owner does not commence such replacement in such time, the Declarant or the Association may, but is not obligated to, cause such replacement to occur and charge the owner of such Lot for such replacement.

23. Declarant does hereby reserve unto itself the right to require, at the owner's expense, the installation of siltation fences or erosion control devices and measures in such locations, configurations, and designs as it may determine appropriate in its sole and absolute discretion.

ARTICLE II THE GOLF COURSE

1. Ownership and Use of Facilities. The North and South boundaries of The Residences abut the Pacific Springs Golf Course (the "Golf Course"). The Golf Course is currently being operated by Pacific Springs Golf, LLC. Declarant makes no representations or warranties with regard to the continuing ownership or operation of the Golf Course. The ownership or operation style of the Golf Course may change at any time without the consent of any Owner, any mortgagee or the Association. By acceptance of a deed, each Owner acknowledges that such Owner has no right, title or interest in the Golf Course or right to become a member thereof by virtue of being an Owner. Nothing contained in this Declaration shall limit the ability of any owner of the Golf Course to determine in its sole discretion how and by whom the Golf Course and facilities shall be used. OWNERSHIP OF ANY INTEREST IN ANY PORTION OF THE PROPERTY, OR MEMBERSHIP IN THE ASSOCIATION, DOES NOT GIVE ANY VESTED RIGHT OR EASEMENT, PRESCRIPTIVE OR OTHERWISE, TO USE THE GOLF COURSE OR ITS FACILITIES AND DOES NOT GRANT ANY OWNERSHIP OR MEMBERSHIP INTEREST IN THE GOLF COURSE OR ITS FACILITIES.

2. Non-Exclusive Easement. Declarant hereby grants a perpetual non-exclusive easement burdening all portions of the Lots adjoining any boundary line of the Golf Course in favor of the Grantee's (defined below) as follows: such easement shall entitle Grantees to enter upon the easement area to retrieve errant golf balls, subject to the official rules and regulations of the Golf Course; provided that, such right extends only to non-enclosed portions of the Lots (e.g., this easement does not allow entrance into any fenced area, if any) and Grantees shall not be entitled to enter into such easement area with a golf cart or other vehicle. Grantees retrieving such golf balls are required to do so in a reasonable manner and repair any damage caused by such entry to retrieve the golf balls. Such easement shall also include the flight of golf balls over and upon Lots, the use of necessary and usual equipment upon the Golf Course, the usual noise level created by the playing of the game of golf and by maintenance activities or equipment on the Golf Course, and all other common and usual activities associated with the game of golf and with all of the normal and usual activities associated with the operation of a golf course. Both the owner of the Golf Course and the Owners of the Lots adjoining the Golf Course shall endeavor to reasonably regulate the noise emanating across their common boundaries so as to be considerate of their neighbor's use and enjoyment of their property. Any unreasonable noise level shall be subject to the reasonable regulation by Declarant or the Association. The easements granted in this Article are for the use and benefit of the Owner of the Golf Course, its successors and assigns in ownership and any lessee, licensee, permittee or invitee of the Owner of the Golf Course (collectively "the Grantees"). Without limitation of the foregoing, the Grantees shall include any person or entity which contracts to operate a golf course or driving range on the Golf Course, and any golfer who is duly authorized to play golf on the Golf Course.

3. Golf Course Use and Maintenance. Golf Course use and/or maintenance may begin in the early morning (before dawn) hours and extend into the late evening (after dusk) hours and occur up to seven (7) days a week. Noise and other disturbances related to Golf Course activities may create inconveniences to the Owners including sleep disturbance. The foregoing activities include night lighting for the Golf Course and its facilities and for special events. The maintenance of the Golf Course may require the use of fertilizers, pesticides and other chemicals for which appropriate precautions should be taken by the Owners. The watering of the Golf Course may result in overspray onto the Lots. Since the Golf Course may be watered with well water or reclaimed water, which is not potable (drinkable), such overspray may stain Owners' fencing and walls and affect Owners' landscaping, decking and patio furnishings. Owners should take appropriate precautions with children and pets. Furthermore, noise and other disturbances related to Golf Course maintenance power equipment including, but not limited to, grass mowers, may create inconveniences to Owners including sleep disturbance.

4. Limitations on Amendments. In recognition of the fact that the provisions of this Article II are for the benefit of the Golf Course, no amendment to this Article II and no amendment in derogation hereof to any other provisions of this Declaration may be made without the written approval thereof by the Owner of the Golf Course, which approval may not be arbitrarily withheld.

5. Provisions regarding Golf Course and Facilities.

A. Each Owner, by acceptance of a deed or other conveyance of any portion of the Property, acknowledges that the proximity of the Golf Course or its facilities to surrounding properties results in certain foreseeable risks, including the risk of property damage or injury to persons from errant golf balls (including, but not limited to, windows, stucco, roofing, decking and patio furnishings), which risks are assumed by such Owner, and that each Owner's use and enjoyment of any portion of the Lots may be limited as a result, and that the owners of the Golf Course and its facilities, and their respective affiliates and agents, shall have no obligation to take steps to remove or alleviate such risks, nor shall they have any liability to any Owner or occupant of any portion of their Lot(s), or their guests or invitees, for damage or injury resulting from errant golf balls being hit upon such portion of the Lots;

B. Each Owner, by acceptance of a deed or other conveyance of any portion of the Lots, acknowledges:

(i) That the owners of the Golf Course and its facilities, and their respective affiliates and agents, may add to, remove, or otherwise modify the landscaping, trees, and other features of the Golf Course and its facilities, including changing the location, configuration, size and elevation of bunkers, fairways and greens, and constructing fences, and that the owners of the Golf Course and its facilities, and their respective affiliates and agents, shall have no liability to any Owner as a result of such modification; and

(ii) That there are no express or implied easements over the Golf Course and its facilities for view purposes; and no guaranty or representation is made by any person or entity that any view over and across the Golf Course or its facilities will be preserved without impairment, and that no Owner of a Lot, nor owner or operator of the Golf Course or its facilities, shall have any obligation to prune or thin trees or other landscaping to preserve views over the Golf Course or its facilities.

C. No Owner shall allow drainage from their swimming pool or other human-made structure to flow onto any portion of the adjacent Golf Course. If any Owner allows such condition to occur, then such Owner shall be responsible for damages that result from such drainage.

D. Each Owner, by its acceptance of a deed or other conveyance of any portion of the Lots, assumes the risk associated with the Golf Course and its facilities (regardless of whether the Owner is using such facilities) and agrees that neither the owners of the Golf Course or its facilities, the Declarant, nor any of their respective affiliates or agents, nor any other person or entity designing, constructing, owning or managing such facilities, shall be liable to any Owner or any other person claiming any loss or damages, including without limitation, direct, indirect, special, or consequential loss or damages arising from personal injury, destruction of property, loss of view, noise pollution, or other visual or audible offenses, or trespass, or any other alleged wrong or entitlement to remedy based upon, due to, arising from, or otherwise related to the proximity of such Owner's property to the Golf Course or its facilities, including without limitation, any claim arising, in whole or in part, from the negligence of any of the owners of the Golf Course or its facilities, or their respective affiliates or agents, the Declarant, or any other person or entity designing, constructing, owning or managing The

Residences, the Lots or the Golf Course. Each Owner further hereby agrees to hold harmless the owners of the Golf Course and its facilities, the Declarant or any other persons or entities owning or managing such facilities, or designing, constructing, or owning any other portion of the Golf Course or The Residences, from and against any and all claims arising out of the design or construction of the Golf Course or siting of The Residences and/or any Owner's Lot, or the negligence or willful misconduct of any member, guest or invitee using the Golf Course facilities.

ARTICLE III HOMEOWNERS' ASSOCIATION

1. The Association. Declarant has caused or will cause the incorporation of THE RESIDENCES ON THE GREEN AT PACIFIC SPRINGS HOMEOWNERS ASSOCIATION, a Nebraska nonprofit corporation (hereinafter referred to as the "Association"). The Association has 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 non-dedicated roads, paths, ways and green areas; and signs and entrances for The Residences. Common Facilities may be situated on property owned or leased by the Association, on public property, on private property subject to an easement in favor of the Association, or on property dedicated to a Sanitary Improvement District.
- 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 The Residences; and the protection and maintenance of the residential character of The Residences.

2. Membership and Voting. The "Owner" of each Lot shall be a Member of this Association. For purposes of this Declaration, the term "Owner" of a Lot means and refers to the recorded 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 Owner of each Lot, whether one or more persons and entities, shall be entitled to one (1) vote on each matter properly coming before the Members of the Association.

3. Purposes 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 parks, green areas, and other public property and improvements on parks or public property within or near The Residences.
- C. The fixing, levying, collecting, abatement, and enforcement of all charges, dues, or assessments made pursuant to the terms of this Declaration.
- D. 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 Common Facility against property damage and casualty, and purchase of liability insurance coverages for the Association, the Board of Directors of the Association and the Members.
- E. 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.
- F. 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.
- G. 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.
- H. 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.

- I. 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.
- J. 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. Mandatory Duties of Association. The following shall be mandatory duties of the Association:

- A. The Association shall maintain, repair and or replace any entrance markers, gates, fences and signs which may be installed at the entrances of The Residences, along Harney Street, and The Residences subdivision in generally good and neat condition.
- B. The Association shall operate, maintain, repair, and replace as necessary any green area and drainage way or drainage facilities installed on an Outlot.
- C. The Association shall operate, maintain, repair, and replace as necessary the streets and any other Common Facilities constructed on any Outlot, which maintenance shall include, without limitation snow plowing and street cleaning/sweeping.
- D. Declarant intends to convey title to any Outlot and to any perimeter fences and entrance markers and signs to the Association.

5. Covenant for and Imposition of Dues and Assessments. The Declarant, for each Lot owned, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay dues and assessments as provided for herein. 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, 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, and shall abate all dues and assessments due in respect of any Lot during the period such Lot is owned by the Declarant. Lots owned by the Declarant shall not be subject to imposition of dues, assessments or Association liens.

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 Monthly 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 month shall not exceed the greater of: (a) Two Hundred and no/100 Dollars (\$200) per Lot; or (b) in each calendar year beginning on January 1, 2006, one hundred twenty-five percent (125%) of the aggregate dues charged in the previous calendar year.

10. Assessments for Extraordinary Costs. In addition to the dues, the Board of Directors may levy an assessment or assessments for the purposes 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 Thousand and no/100 Dollars (\$3000) per Lot.

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

12. Uniform Rate of Assessments. Assessments and dues shall be fixed at a uniform rate as to all Lots, except that dues may be abated as to individual Lots in accordance with 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 assessment 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 IV EASEMENTS

1. In the event that ninety percent (90%) of all Lots within the subdivision are not improved within five (5) years after the date on which Qwest Corporation files notice that it has completed installation of telephone lines to the Lots in the subdivision (herein the "Subdivision Improvement Date"), then the telephone company may impose a connection charge on each unimproved Lot in the amount of Four Hundred Fifty and no/100 Dollars (\$450.00). A Lot shall be considered as unimproved if construction of a permanent structure has not commenced on a Lot. Construction shall be considered as having commenced if a footing inspection has been requested on the Lot in question by officials of the City or other appropriate authority.

Should such charge be implemented by the telephone company and remain unpaid, then such charge may draw interest at the rate of twelve percent (12%) per annum commencing after the expiration of sixty (60) days from the time all of the following events shall have occurred: (1) the Subdivision Improvement Date, and (2) the telephone company sends each owner of record a written statement or billing for Four Hundred Fifty and no/100 Dollars (\$450.00) for each unimproved Lot.

2. Other easements are provided for in the final plat of The Residences on the Green at Pacific Springs which is filed in the Office of the Register of Deeds of Douglas County, Nebraska.

ARTICLE V GENERAL PROVISIONS

1. 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 or other dues of 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. The covenants and restriction of this Declaration shall run with and bind the land for a term of thirty (30) years from the date of this Declaration. Thereafter the covenants, restrictions and other provisions of this Declaration shall automatically renew for successive ten (10) year periods unless terminated or amended by the owners of not less than seventy-five percent (75%) of said Lots, which termination or amendment shall thereupon become binding upon all Lots. This Declaration may be amended by THE RESIDENCES ON THE GREEN AT PACIFIC SPRINGS, LLC, a Nebraska limited liability company, or any person, firm, corporation, partnership, or entity designated in writing by THE RESIDENCES ON THE GREEN AT PACIFIC SPRINGS, LLC, a Nebraska limited liability company, in any manner which it may determine in its full and absolute discretion for a period of six (6) years from the date hereof.

Thereafter this Declaration may be amended by an instrument signed by the owners of not less than seventy-five percent (75%) of the Lots covered by this Declaration.

3. THE RESIDENCES ON THE GREEN AT PACIFIC SPRINGS, LLC, a Nebraska limited liability company, 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, Association may appoint itself or 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.

4. Invalidation of any covenant by judgment or court order shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.

5. By 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, modified or amended 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, modification or amendment will have on the The Residences subdivision and the owner requesting the waiver. Declarant's decision on any request, waiver, modification or amendment 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 request for waiver, modification or amendment.

IN WITNESS WHEREOF, the Declarant has caused these presents to be executed this 8th day of August, 2005.


THE RESIDENCES ON THE GREEN AT
PACIFIC SPRINGS, LLC, a Nebraska
limited liability company, "Declarant"

By: Troy F. Meyerson
Troy F. Meyerson, Vice President

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 8th day of August, 2005, by Troy F. Meyerson, Vice President of The Residences on the Green at Pacific Springs, LLC, a Nebraska limited liability company, on behalf of the company.

WITNESS my hand and notarial seal at Omaha in said county the day and year last above written.

 GENERAL NOTARY - State of Nebraska
NICOLE SHESTAK
My Comm. Exp. May 5, 2007

Nicole Shestak

CONSENT BY MORTGAGEE TO
DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS OF
THE RESIDENCES ON THE GREEN AT PACIFIC SPRINGS

Omaha State Bank hereby consents to the terms of the foregoing Declaration of Covenants, Conditions, Restrictions and Easements of The Residences on the Green at Pacific Springs, and hereby acknowledges that the lien of the mortgage held by Omaha State Bank dated DECEMBER 14, 2004, filed on DEC 23, 2004, as 2004165616 ^{INSTRUMENT NUMBER} of the records of the Douglas County Register of Deeds, shall be subordinate to the terms of the foregoing Declaration.

OMAHA STATE BANK

By: 

Title: PRESIDENT

STATE OF NEBRASKA)

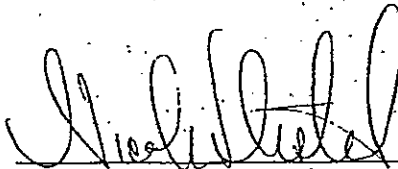
) ss.

COUNTY OF DOUGLAS)

On this 8 day of August, 2005, before me, the undersigned, a notary public in and for the State of Nebraska, personally appeared CHRISTOPHER MAHER, to me personally known, who, being by me duly sworn, did say that he/she is the PRESIDENT of the corporation, executing the within and foregoing instrument; and that said instrument was signed on behalf of the corporation by authority of its Board of Directors; and that CHRISTOPHER MAHER, as such officer, acknowledges the execution of the foregoing instrument to be the voluntary act and deed of said corporation, by it and by him/her voluntarily executed.



GENERAL NOTARY - State of Nebraska
NICOLE SHESTAK
My Comm. Exp. May 5, 2007



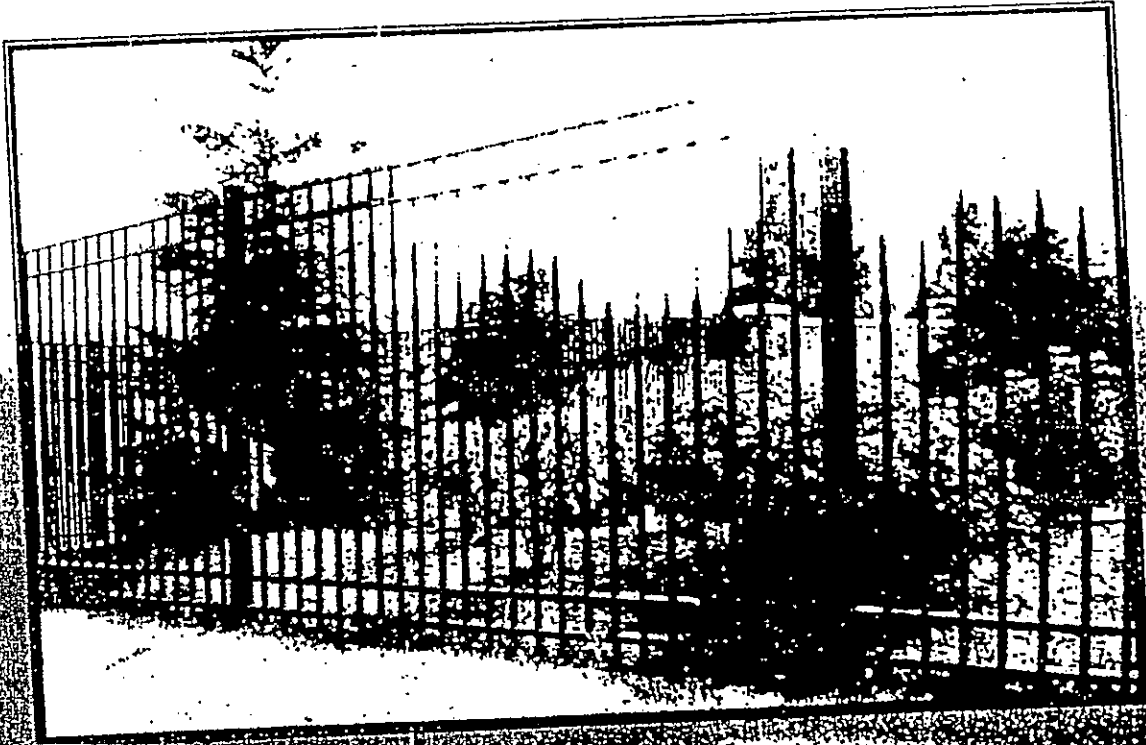
Notary Public

EXHIBIT "A"

THE RESIDENCES *on the Green at* **PACIFIC SPRINGS**

POOR COPY

POOR COPY



Fence Specifications

72" tall Closed Picket Ornamental Iron Fence

2" x 2" x 8' x 11 gauge support posts, 1/2" x 8" x 30" Concrete Footings

2" Small Peak Post Cap

1 1/2" x 1/2" x 1/8" Channel Rails - 4 per section

1/4" x 3/4" x 16 gauge square tube pickets on 3" pool code spacing

Boss Hinge System and thumb latch on gates

Epoxy

POOR COPY

SULLIVAN HOMES



MISC 2010043580



MAY 21 2010 10:03 P 4

Misc 4/28

FEE *34.00* FB *Sec*

BKP C/O

DEL *PU* SCAN

Received - DIANE L. B/
Register of Deeds, Douglas
5/21/2010 10:03:46



20100435

Amendment to covenants 5/21/2010

copy for John

**SECOND AMENDMENT TO DECLARATION OF COVENANTS,
CONDITIONS, RESTRICTIONS AND EASEMENTS FOR RESIDENCES ON THE
GREEN AT PACIFIC SPRINGS**

This Second Amendment to Declaration of Covenants, Conditions, Restrictions and Easements for Residences on the Green at Pacific Springs (the "Second Amendment") is made effective this 21 day of May, 2010, by the undersigned.

PRELIMINARY STATEMENT

WHEREAS, the Declaration of Covenants, Conditions, Restrictions and Easements for Residences on the Green at Pacific Springs, as recorded with the Douglas County Register of Deeds, Instrument Number 2005097131, as amended, (the "Declaration") governs the ownership and use of the real estate legally described as follows:

OC-32835
Rep
OC-32836
OC-32837
OC-32838
OC-32839
Lots 13 through 28, inclusive, and Outlot A, Residences on the Green at Pacific Springs, a cluster subdivision, as surveyed, platted and recorded in Douglas County, Nebraska, Lots 5 through 9, inclusive, Residences on the Green at Pacific Springs Replat 1, a cluster subdivision, as surveyed, platted and recorded in Douglas County, Nebraska, Lot 2 through 3, inclusive, and Outlot C in the Residences on the Green at Pacific Springs, Replat 2, a cluster subdivision, as surveyed, platted and recorded in Douglas County, Nebraska, Lot 2, Residences on the Green at Pacific Springs, Replat 3, a cluster subdivision, as surveyed, platted and recorded in Douglas County, Nebraska, and Lots 1 and 2, Residences on the Green at Pacific Springs, Replat 4, a cluster subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

WHEREAS, The Residences on the Green at Pacific Springs, LLC ("Declarant") is named as Declarant under the Declaration;

WHEREAS, Article V, Section 2 of the Declaration, provides that the Declarant retains the right to amend the Declaration "in any manner which it may determine in its full and absolute discretion."

WHEREAS, the Declarant intends to convey title to Outlot A to the prospective purchaser of Lot 1, Residences on the Green at Pacific Springs, Replat 4, a cluster subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

WHEREAS, the Declarant, desires to amend the Declaration as specifically set forth below.

NOW, THEREFORE, in consideration of the foregoing, Declarant hereby amends the Declaration in the following particulars:

1. Definitions. Except as context clearly requires otherwise or as terms are defined herein, capitalized terms used in this Second Amendment shall be ascribed to the same meaning as set forth in the Declaration.

2. Amendment. The Declaration is amended and modified in the following particulars:

a. Article 1, Section 12 of the Declaration is hereby supplemented as follows:

~~A fence may be installed on Outlot A and on Lot 1,~~ Residences on the Green at Pacific Springs, Replat 4 in accordance with this Section 12 as follows: (a) no fence may be installed without prior approval of the Declarant; (b) no fence shall be permitted to extend beyond the front line of the main residential structure; (c) in all events, installed fences must comply with applicable code requirements imposed by the city of Omaha; (d) any fence erected on any lot must be constructed of six (6) foot tall wrought iron in the same style and spacing as the attached "Exhibit A." No fences or walls shall exceed a height of six (6) feet, unless otherwise approved by Declarant.

b. Article 3, Section 4 of the Declaration is hereby deleted in its entirety and replaced as follows:

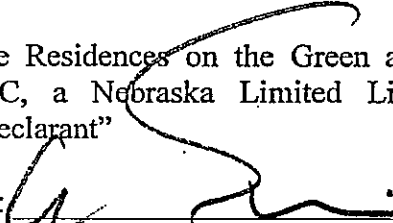
Section 4. Mandatory Duties of Association. The following shall be mandatory duties of the association:

- A. The association shall maintain, repair, or replace any entrance markers, gates, fences, and signs which may be installed at the entrance of The Residences, along Harney Street, and The Residences subdivision in generally good and neat condition.
- B. The association shall operate, maintain, repair, and replace as necessary any green area and drainage way or drainage facilities installed on Outlot C, Residences on the Green at Pacific Springs, Replat 2.
- C. The association shall operate, maintain, repair, and replace as necessary the streets and any other common facilities constructed on Outlot C, Residences on the Green at Pacific Springs, Replat 2, which maintenance shall include, without limitation snow plowing and street cleaning/sweeping.
- D. Declarant has conveyed or intends to convey title to Outlot C, Residences on the Green at Pacific Springs, Replat 2 and to any perimeter fences and entrance markers and signs to the association.

3. Limitation and Ratification. Except as expressly amended herein, the Declaration, as amended, shall continue in full force and effect according to its terms. In the event of any conflict between the Declaration and the terms of this Second Amendment, this Second Amendment shall control. The Declaration, with all amendments thereto, is hereby ratified by the undersigned.

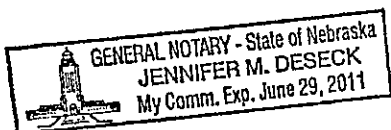
IN WITNESS WHEREOF, the undersigned has caused this Second Amendment to be executed, effective as of the day and year first written above.


The Residences on the Green at Pacific Springs,
LLC, a Nebraska Limited Liability Company,
"Declarant"

By: 
Charles V. Sullivan, Manager

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 21 day of May, 2010, by Charles Sullivan, the Manager of The Residences on the Green at Pacific Springs, LLC, a Nebraska limited liability company, on behalf of the Company.




Notary Public

Original Covenants

- I. 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.
- J. 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. Mandatory Duties of Association. The following shall be mandatory duties of the Association:

- A. The Association shall maintain, repair and or replace any entrance markers, gates, fences and signs which may be installed at the entrances of The Residences, along Harney Street, and The Residences subdivision in generally good and neat condition.
- ~~B.~~ The Association shall operate, maintain, repair, and replace as necessary any green area and drainage way or drainage facilities installed on an Outlot.
- C. The Association shall operate, maintain, repair, and replace as necessary the streets and any other Common Facilities constructed on any Outlot, which maintenance shall include, without limitation snow plowing and street cleaning/sweeping.
- D. Declarant intends to convey title to any Outlot and to any perimeter fences and entrance markers and signs to the Association.

Del -

Enclosed is the final plat showing Lot 1 and where the Outlot is located. Dr. Miles is, of course, buying both lots and has seen this plat. I am also enclosing a copy of the Amendment to the Covenants that confirms that Dr. Miles can install a fence on Lot 1, as well as Outlot A. This document also confirms my intention to convey the Outlot. (As a point of reference, I have enclosed a partial copy of original Covenants highlighting what section has been deleted by this new document.)

Regarding the meeting with Tom Blair at the City, it was determined that the best plan of action was slightly alter the house plan so that it could be built all on Lot 1 with no need for any variances replatting. I have not seen the final plan, but Dr. Miles' architect seemed confident that this could be accomplished.

Down the road, if Dr. Miles wants to re-plate the lots into one - or even to convey a portion of the Outlot to the Assisted Living Development to the south of him, that could be done. And although that process would entail rezoning the Outlot and could take several months, Tom Blair has no reason why the City would not endorse such actions.

I am not sure what kind of letter Dr. Miles would like from my attorney or what such a letter should include, but provided sufficient detail and time I am confident that I could comply with his request.

Sorry this had taken so long, but I believe all should be satisfactory now. Please let me know when you would like to close.

Charlie

P.S. I agreed to pay the mail box fee from my proceeds at closing with the HOA. Dr. Miles only owes HOA dues from the date he closes.