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Polk County Iowa
TIMOTHY J. BRIEN RECORDER
File# 2002-00061509
BK 9491 PG 83-89

AGREEMENT

Prepared By: Nicholas Street Partners 11606 Nicholas St.
Individual's Name Street Address City Zip Phone Omaha NE
402-431-0500 68154

Address Tax
Statement: _____
Individual's Name Street Address City Zip

**TIMOTHY J BRIEN
POLK COUNTY RECORDER &
REGISTRAR OF VITAL RECORDS
111 COURT AVENUE ROOM #250
DES MOINES IOWA 50309-2251**

PROTECTIVE AGREEMENT

This Protective Agreement made on this 26th day of November, 2002 by and between The Reserve, a Nonprofit Corporation and Nicholas Street Partners (Iowa) LLC, are jointly designated as "Senior Living" and Cobblestone Owners Association, Inc. ("Cobblestone").

RECITALS

1. The two parties that make up Senior Living are the owners in fee simple of the real property described on Exhibit "A" attached hereto, incorporated by reference herein and made part hereof as if fully set forth ("Senior Living Land"), a portion of which area is not to be developed with buildings or other improvements, except as set forth herein, by Senior Living ("Protected Area"), and is described on Exhibit "B" attached hereto, incorporated by reference herein and made part hereof as if fully set forth.

2. Some of Cobblestone's members own in fee simple the real property, which is adjacent to and abuts the Senior Living Land. Senior Living desires to grant certain rights and impose certain restrictions upon the Protected Area.

3. The Protected Area shall be used by Senior Living, pursuant to the terms and conditions of this Agreement, as a "green space" buffer between the Senior Living Land and the adjoining land owned by Cobblestone.

4. Subject to the rights contained in this Agreement in favor of Cobblestone, Senior Living and future owners of the Senior Living Land shall have the exclusive right to use the Protected Area.

THEREFORE, the parties agree as follows:

1. Grant. Senior Living on behalf of themselves, their successors and assigns and all future owners of the Senior Living Land does hereby grant to Cobblestone or its successors and assigns the right to exclude development of the Protected Area, it being understood that the Protected Area shall be kept as "green space" and shall not be developed by Senior Living or its successors and assigns and all future owners of the Senior Living Land nor shall improvements be constructed on the Protected Land provided, however, that Senior Living and its successors and assigns and all future owners of the Senior Living Land shall have the right to use the Protected Area for the sole purpose of underground utility placement, repair and maintenance of power lines, cable television lines, natural gas lines, water lines, telephone lines and sanitary sewer and storm sewer and such other underground utilities as may reasonably be required for the development of Senior Living's property, provided the placement, repair and maintenance of the aforementioned shall not unreasonably interfere with the purpose of the Protected Area, shall not destroy any existing trees, shrubs, or other natural habitat which are not replaced, renewed or restored and shall be placed under ground and not in view anywhere in the Protected

Area. Further provided, Senior Living, or any other party using the Protected Area for placement, repair or maintenance of utilities shall pay all costs of the placement, repair or maintenance and all costs of returning the Protected Area to its original condition, including paying all costs to repair any damage to the Protected Area and any improvements made thereto, provided further that the owners of the Senior Living Land shall have the right and obligation to maintain the Protected Area at its sole expense.

2. Covenants of Senior Living. Senior Living, their successors and assigns, and all future owners of the Senior Living Land shall be bound by the following restrictive covenants:

- a. Senior Living's use of the Protected Area shall be limited to undertaking the actions contemplated by Paragraph 1 hereof; and
- b. Senior Living shall not construct any structure of any type in the Protected Area.

3. Enforcement. The terms and conditions of this Agreement and the covenants of Senior Living, may be enforced by an action at law or in equity filed in an appropriate court by Cobblestone. Any party bringing action to enforce this Agreement shall be indemnified by the party against whom enforcement is sought, for the reasonable costs of the legal action, including reasonable attorneys' fees, if the party bringing the action shall be successful in the enforcement action.

IN WITNESS WHEREOF, Senior Living has caused this instrument to be executed on its behalf by Howard F Hahn, President of The Reserve, a Nonprofit Corporation and Bart Votava, Member of Nicholas Street Partners (Iowa) LLC; and John H. Stephens, President of Cobblestone has accepted the terms and conditions contained herein.

Dated November 26th, 2002.

NICHOLAS STREET PARTNERS (IOWA) LLC:

By: Bart Votava
Its: Member

THE RESERVE, A NON-PROFIT CORPORATION

By: Howard F. Hahn
Its: President

COBBLESTONE OWNERS ASSOCIATION, INC.:

By: John H. Stephens
Its: President

STATE OF Nebraska)
)SS.
COUNTY OF Douglas)

The foregoing instrument was acknowledged before me this 20th day
of November, 2002, by Howard F. Hahn, as President of The Reserve, a
Nonprofit Corporation.



[Signature]
Notary Public

STATE OF Nebraska)
)SS.
COUNTY OF Douglas)

The foregoing instrument was acknowledged before me this 26th day
of November, 2002, by Bart Votava, as Member of Nicholas Street Partners
(Iowa) LLC.



[Signature]
Notary Public

STATE OF Iowa)
)SS.
COUNTY OF Polk)

The foregoing instrument was acknowledged before me this 3 day
of December, 2002, by John G. Stephens, as
President of Cobblestone Owners Association, Inc. on behalf of
Cobblestone Owners Association, Inc.

[Signature]
Notary Public

75.59/08-23-01/278836v10

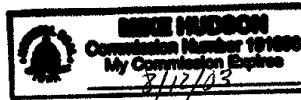


EXHIBIT "A"

PHASE ONE PROPERTY DESCRIPTION:

AN IRREGULAR SHAPED PORTION OF PARCEL "B" IN OUTLOT "X", COLBY WOODS WEST PLAT No. 6, AN OFFICIAL PLAT, URBANDALE, POLK COUNTY, IOWA AS SHOWN AT BOOK 8850 PAGE 634 IN THE OFFICE OF THE POLK COUNTY RECORDER AND DESCRIBED AS FOLLOWS:
BEGINNING AT THE NORTHWEST CORNER OF SAID PARCEL "B"; THENCE, N90°00'00"E ALONG THE NORTH LINE OF SAID PARCEL "B", A DISTANCE OF 205.28 FEET; THENCE, S29°58'24"E, A DISTANCE OF 386.84 FEET TO THE SOUTHERLY LINE OF SAID PARCEL "B"; THENCE, S60°01'02"W ALONG THE SOUTHERLY LINE OF SAID PARCEL "B", A DISTANCE OF 135.95 FEET; THENCE, N29°58'24"W ALONG THE SOUTHERLY LINE OF SAID PARCEL "B", A DISTANCE OF 7.00 FEET; THENCE, S60°01'36"W ALONG THE SOUTHERLY LINE OF SAID PARCEL "B", A DISTANCE OF 320.50 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL "B"; THENCE, N00°02'45"E ALONG THE WEST LINE OF SAID PARCEL "B", A DISTANCE OF 556.92 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND BEING SUBJECT TO AND TOGETHER WITH ANY AND ALL EASEMENTS OF RECORD.
SAID TRACT OF LAND CONTAINS 3.32 ACRES MORE OR LESS.

PHASE TWO PROPERTY DESCRIPTION:

AN IRREGULAR SHAPED PORTION OF PARCEL "B" IN OUTLOT "X", COLBY WOODS WEST PLAT No. 6, AN OFFICIAL PLAT, URBANDALE, POLK COUNTY, IOWA AS SHOWN AT BOOK 8850 PAGE 634 IN THE OFFICE OF THE POLK COUNTY RECORDER AND DESCRIBED AS FOLLOWS:
COMMENCING AT THE NORTHWEST CORNER OF SAID PARCEL "B"; THENCE, N90°00'00"E ALONG THE NORTH LINE OF SAID PARCEL "B", A DISTANCE OF 205.28 FEET TO THE POINT OF BEGINNING; THENCE, CONTINUING N90°00'00"E ALONG THE NORTH LINE OF SAID PARCEL "B", A DISTANCE OF 39.28 FEET; THENCE, N54°00'20"E ALONG THE NORTHERLY LINE OF SAID PARCEL "B", A DISTANCE OF 165.80 FEET; THENCE, S88°34'39"E ALONG THE NORTHERLY LINE OF SAID PARCEL "B", A DISTANCE OF 235.81 FEET TO THE NORTHEAST CORNER OF SAID PARCEL "B"; THENCE, S06°24'08"W ALONG THE EAST LINE OF SAID PARCEL "B", A DISTANCE OF 324.82 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL "B"; THENCE, S60°01'02"W ALONG THE SOUTHERLY LINE OF SAID PARCEL "B", A DISTANCE OF 207.55 FEET; THENCE, N29°58'24"W, A DISTANCE OF 94.30 FEET; THENCE, N60°01'36"E, A DISTANCE OF 80.33 FEET; THENCE, N29°58'24"W, A DISTANCE OF 56.67 FEET; THENCE, S60°01'36"W, A DISTANCE OF 80.33 FEET; THENCE, N29°58'24"W, A DISTANCE OF 235.87 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND BEING SUBJECT TO AND TOGETHER WITH ANY AND ALL EASEMENTS OF RECORD.
SAID TRACT OF LAND CONTAINS 2.63 ACRES MORE OR LESS.

POOR COPY AT
TIME OF RECORDING

EXHIBIT "B"

25.00 FEET WIDE PROTECTIVE COVENANT AREA DESCRIPTION:

A 25.00 FEET WIDE PROTECTIVE COVENANT AREA OVER AND ACROSS A PORTION OF PARCEL "B" IN OUTLOT "X", COLBY WOODS PLAT No. 6, AN OFFICIAL PLAT, URBANDALE, POLK COUNTY, IOWA AS SHOWN AT BOOK 8850 PAGE 634 IN THE OFFICE OF THE POLK COUNTY RECORDER AND DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID PARCEL "B"; THENCE, N00°02'45"E ALONG THE NORTH LINE OF SAID PARCEL "B", A DISTANCE OF 28.87 FEET; THENCE, N60°01'36"E ALONG A LINE PARALLEL WITH AND 25.0 FEET NORTHWESTERLY OF AND NORMALLY DISTANT FROM THE SOUTHERLY LINE OF SAID PARCEL "B", A DISTANCE OF 331.06 FEET; THENCE, S29°58'24"E, A DISTANCE OF 7.00 FEET; THENCE N60°01'02"E ALONG A LINE PARALLEL WITH AND 25.00 FEET NORTHWESTERLY OF AND NORMALLY DISTANT FROM THE SOUTHERLY LINE OF SAID PARCEL "B", A DISTANCE OF 336.92 FEET TO THE EAST LINE OF SAID PARCEL "B"; THENCE S06°24'08"W ALONG THE EAST LINE OF SAID PARCEL "B", A DISTANCE OF 31.05 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL "B"; THENCE S60°01'02"W ALONG THE SOUTHERLY LINE OF SAID PARCEL "B", A DISTANCE OF 343.50 FEET; THENCE, N29°58'24"W ALONG THE SOUTHERLY LINE OF SAID PARCEL "B", A DISTANCE OF 7.00 FEET; THENCE, S60°01'36"W, A DISTANCE OF 320.50 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND BEING SUBJECT TO AND TOGETHER WITH ANY AND ALL EASEMENTS OF RECORD.

SAID TRACT OF LAND CONTAINS 0.39 ACRES MORE OR LESS.

