

RESTRICTIVE COVENANT AGREEMENT

THIS AGREEMENT made on the date hereafter set forth by and between W. CLARK SWANSON, JR., a resident of the State of Florida; GEROCK HURLEY SWANSON, a resident of the State of Oklahoma; and CAROL ANN SWANSON PRICE, a resident of the State of Missouri (hereinafter collectively referred to as "Declarant"), CLIN-MAR PARK, INC., a Nebraska corporation (hereinafter called "Clin-Mar"), ST. LEO CHURCH OF OMAHA, a Nebraska nonprofit corporation (hereinafter called "St Leo"); ARJAY CONSTRUCTION CO., a Nebraska corporation (hereinafter called "Arjay"); WILLIAM M. LAMSON, JR. and MICHAELA LAMSON, husband and wife (hereinafter collectively called "Lamson"),

WITNESSETH:

WHEREAS, Declarant owns certain real property which is legally described as follows:

A tract of land located in the NW1/4 of Section 16, Township 15 North, Range 12 East of the Sixth Principal Meridian in Douglas County, Nebraska, the boundaries of which are described as follows:

Commencing at the northeast corner of the NW1/4 of said Section 16; thence due south along the centerline of said Section 16, 618.00 feet to a point, thence S 89°59'20" W, 33.00 feet to Point of Beginning, which point being on the west line of 102nd Street; thence due south along the west line of 102nd Street, 1,659.17 feet to a point; thence S 89°51'23" W, 960.85 feet to a point; which point being on the east Right-of-Way line of Interstate Highway I-680; thence N 0°10'52" E along the east Right-of-Way line of Interstate Highway I-680, 2,209.10 feet to a point, which point being the intersection of the east Right-of-Way line of Interstate Highway I-680 and south line of Blondo Street; thence N 89°58'39" E, along the south line of Blondo Street, 209.42 feet to a point; thence S 0°00'37" E, 547.75 feet to a point; thence N 89°59'20" E, 744.35 feet to Point of Beginning. Said tract of land containing 1,706,019 square feet (39.165 acres) more or less.

In the above description, the centerline of Section 16-15-12 (centerline of 102nd Street) is assumed to bear due north and south (said Declarant's land hereinafter called the "Subject Property" unless otherwise designated by lot numbers);

and

WHEREAS, Declarant is engaged in the process of platting and subdividing the Subject Property into a subdivision to be identified as "Pinetree", lots One (1) to Eighty (80), inclusive, for residential uses and purposes, and

WHEREAS, St. Leo owns the following described tract of land:

That part of the Northwest Quarter of Section 16, Township 15 North, Range 12 East of the 6th P.M., Douglas County, Nebraska, more particularly described as follows: Beginning at a point 33 feet South and 33 feet West of the Northeast corner of the Northwest Quarter of said Section 16, Township 15 North, Range

12 East of the 6th P.M.; thence South along the West line of 102nd Street, a distance of 585 feet; thence West parallel to the centerline of Blondo Street, a distance of 744.4 feet; thence North parallel to the centerline of 102nd Street, a distance of 547.75 feet to the South line of Blondo Street; thence East along the South line of Blondo Street, a distance of 744.4 feet to the point of beginning (hereinafter called "St. Leo's Land"),

and

WHEREAS, Clin-Mar owns the following-described tract of land:

All of the unplatted part of the West One-Half of the Northeast Quarter of Section 16, Township 15 North, Range 12 East of the 6th P.M., in Douglas County, Nebraska, which is adjacent or contiguous to 102nd Street, except for the property owned by Harold A. Mayor, Jr., et al., located at the Northeast corner of the intersection of 102nd Street and Franklin Street;

and

WHEREAS, Arjay owns Lots 4, 5, 10 and 11, Duckworth's 1st Addition, an addition to the City of Omaha, Douglas County, Nebraska;

and

WHEREAS, Lamson owns Lot 15 in said Duckworth's 1st Addition;

and

WHEREAS, Declarant desires to place certain restrictions and covenants on the development, use and occupation of the Subject Property which shall be binding on Declarant and all future owners of all or any part of the Subject Property, their grantees, heirs and assigns;

and

WHEREAS, said restrictions and covenants shall also be for the benefit of St. Leo, Arjay, Clin-Mar and Lamson as owners of the above-identified tracts, parcels and lots, their successors, heirs and assigns, together with all present and future owners of those other lots or tracts which are adjacent or contiguous to the East property line of 102nd Street between Blondo Street and the South property line of Bloomfield Hills (2nd Platting) an addition to the City of Omaha, to-wit:

Lots 29, 30, 31, 32 and 33, all in Bloomfield Hills (2nd Platting), an Addition to the City of Omaha, Douglas County, Nebraska; Lots 1, 2, 3, 4, 5 and 6, Clin-Mar Estates, an Addition to the City of Omaha, Douglas County, Nebraska,

and

WHEREAS, said restrictions and covenants shall also be for the benefit of all present and future owners of

those lots or tracts (not otherwise identified herein) which are adjacent or contiguous to the North property line of Blondo Street between 102nd Street and 104th Street.

NOW, THEREFORE, Declarant does hereby declare, covenant and agree that the Subject Property shall be held, used, sold and conveyed subject to the following restrictions, conditions and covenants (hereinafter collectively called "Covenants"), to-wit:

1. These Covenants shall apply to such of the lots in the Subject Property as are hereinafter specifically designated, and shall run with the land to said lots in the Subject Property, and shall be binding upon all parties presently having or acquiring in the future any right, title or interest in said lots commencing with the effective date hereof, as hereinafter stated, and continuing until December 31, 1995.

2. These Covenants shall inure to the benefit of the present and future owners of each of said lots in the Subject Property and shall likewise be for the benefit of any and all persons or entities who may now own, or who may hereafter own, St. Leo's Land and the lots or tracts identified above which are owned by Arjay, Clin-Mar, Lamson and shall likewise be for the benefit of any and all persons or entities who may now own, or who may hereafter own, those said lots or tracts which are adjacent or contiguous to the East property line of 102nd Street between Blondo Street and the South property line of said Bloomfield Hills (2nd Platting) Addition, and which are adjacent or contiguous to the North property line of Blondo Street between 102nd Street and 104th Street. Any person or entity specifically identified in this Paragraph 2 for whose benefit these restrictions and covenants are declared and enunciated, is hereby given the right to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such restrictions and/or covenants, and either to prevent him or them from so doing, or to recover damages or other dues for such violation. Failure by any Owner to enforce any restriction or covenant hereinafter set forth shall in no event be deemed a waiver of the right to do so thereafter.

3. These covenants shall be recorded by the Planning Director of the City of Omaha at Declarant's expense in the Office of the Register of Deeds for Douglas County, Nebraska, promptly after a) the final approval by the City of Omaha and recording in said Office of the Register of Deeds of Declarant's plat and subdivision of the Subject Property as "Pinetree", an addition, and after the effective date of the ordinance rezoning the lots in said Pinetree, an Addition, as hereinafter noted.

4. The use and occupancy of the Subject Property shall be restricted as follows:

a) Provided that Lots One to Fifteen, inclusive, in said Pinetree, an addition, are rezoned by the City of Omaha from S-2 to R-2 Second Residence District, as defined by Zoning Ordinances of the City of Omaha, the use and occupancy thereof shall be limited to those uses which are permitted by said Second Residence District; within one (1) year after construction of street paving is completed on 102nd Avenue, Seward Circle and Hamilton

Street, as located on said plat of Pinetree, an Addition, there must be planted and subsequently maintained within the rear fifteen feet of each of said lots which abut on 102nd Street (and within the side fifteen feet of Lot 16 abutting on 102nd Street) not less than five Scotch Pine or Austrian Pine trees three to four feet in height at time of planting.

b) Provided that Lots Sixteen to Thirty-Five, inclusive, in said Pinetree, an addition, are rezoned by the City of Omaha from S-2 to R-3 Third Residence District, as defined by said zoning ordinances, the use and occupancy thereof shall be limited to those uses which are permitted by said Third Residence District.

c) Provided that Lots Thirty-Eight to Seventy-Nine, inclusive, in said Pinetree, an addition, are rezoned by the City of Omaha from S-2 to R-4 Fourth Residence District, as a Cluster Subdivision, as defined by said zoning ordinances, the use and occupancy thereof shall be limited to those uses which are permitted by said Fourth Residence District as a Cluster Subdivision. Notwithstanding the foregoing, however, Declarant reserves the right in the discretion of Declarant and assigns to seek further rezoning of all or any part of said Lots Thirty-Eight to Seventy-Nine, inclusive, to such zoning under the City of Omaha Zoning Code as will permit duplex or two-family dwellings, but in no event will the total number of residential units to be constructed on said Lots Thirty-Eight to Seventy-Nine be permitted to exceed forty-two.

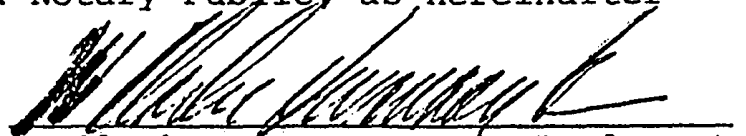
d) Provided that Lot Thirty-Six in said Pinetree Addition is rezoned by the City of Omaha from S-2 to R-9 Ninth Residence District, as defined by said zoning ordinances, the use and occupancy thereof shall be limited to residential units, either single-family, or duplexes or multi-family, or any combination of same, the total density of which shall not exceed in the aggregate under a Planned Unit Development, or otherwise, fifteen such residential units per acre. The East elevation of any building constructed on said Lot Thirty-Six shall not exceed a total of six stories in height.


5. These Covenants shall become effective on, but not prior to, the date of recording hereof in the Office of the Register of Deeds by said City Planning Director, as provided in Paragraph 3, above.

6. These Covenants shall not be affected by and shall remain in full force and effect, notwithstanding invalidation of any one of same by judgment or court order, except as to such restriction or covenant so invalidated.

IN WITNESS WHEREOF, the undersigned have executed this Restrictive Covenant Agreement on the day and year on which each said signature was acknowledged before a Notary Public, as hereinafter noted.

  
Gerock Hurley Swanson, Declarant

  
W. Clarke Swanson, Jr., Declarant

  
Carol Ann Swanson Price, Declarant

CLIN-MAR PARK, INC.

By: John L. Maginn  
John L. Maginn, President

ARJAY CONSTRUCTION CO.

By: R. J. Thramel

ST. LEO CHURCH OF OMAHA

By: Kevin C. Stuchart

William M. Lamson, Jr.  
William M. Lamson, Jr.

Michaela Lamson  
Michaela Lamson

STATE OF FLORIDA )  
 ) ss.  
COUNTY OF Lee )

On this 4th day of June,  
1979, before me, the undersigned a  
Notary Public in and for said County,  
personally came W. CLARKE SWANSON, JR.,

to me personally known to be the identical person whose name is  
affixed to the foregoing instrument and acknowledged the execution  
thereof to be his voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year last above  
written.

Maureen M. Steyer  
Notary Public

My Commission expires Jan 11, 1980.

STATE OF OKLAHOMA )  
 ) ss.  
COUNTY OF Adair )

On this 11 day of June,  
1979, before me, the undersigned a  
Notary Public in and for said County,  
personally came GEROCK HURLEY SWANSON,

to me personally known to be the identical person whose name is  
affixed to the foregoing instrument and acknowledged the execution  
thereof to be his voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year last above  
written.

Phyllis Schmitz  
Notary Public

My Commission expires February 5, 1980.

STATE OF MISSOURI )  
 ) ss.  
COUNTY OF Jackson )

On this 8th day of June,  
1979, before me, the undersigned a  
Notary Public in and for said County,  
personally came CAROL ANN SWANSON PRICE,

to me personally known to be the identical person whose name is  
affixed to the foregoing instrument and acknowledged the execution  
thereof to be her voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year last above  
written.

Beverly Shaw  
Notary Public

My Commission expires March 30, 1983.

STATE OF NEBRASKA) On this 14th day of June,  
 )ss. 1979, before me, the undersigned a Notary  
 COUNTY OF DOUGLAS) Public in and for said County, personally  
 came John L. Maginn, President  
 of CLIN-MAR PARK, INC., a Nebraska corporation, to me personally  
 known to be the President and the identical person whose name is  
 affixed to the foregoing instrument and acknowledged the execution  
 thereof to be his voluntary act and deed as such officer and the  
 voluntary act and deed of the said corporation.



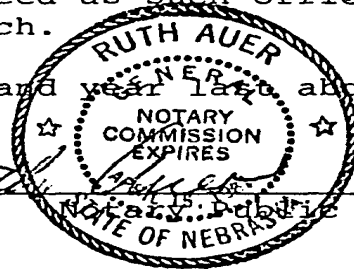
WITNESS my hand and Notarial Seal the day and year last above

Clayton D. Ryan  
 Notary Public

My Commission expires November 25, 1979.

STATE OF NEBRASKA) On this 18th day of June,  
 )ss. 1979, before me, the undersigned a Notary  
 COUNTY OF DOUGLAS) Public in and for said County, personally  
 came Daniel C. Sheehan, President  
 of ST. LEO CHURCH OF OMAHA, a Nebraska nonprofit corporation, to me  
 personally known to be the President and the identical person whose  
 name is affixed to the foregoing instrument and acknowledged the  
 execution thereof to be his voluntary act and deed as such officer  
 and the voluntary act and deed of the said church.

WITNESS my hand and Notarial Seal the day and year last above  
 written.

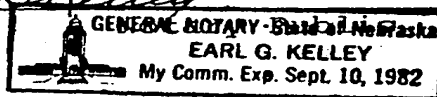


My Commission expires April 15, 1981.

STATE OF NEBRASKA) On this 26th day of July,  
 )ss. 1979, before me, the undersigned a Notary  
 COUNTY OF DOUGLAS) Public in and for said County, personally  
 came R. J. SHramek, President of ARJAY  
 CONSTRUCTION CO., a Nebraska corporation, to me personally known to  
 be the President and the identical person whose name is affixed  
 to the foregoing instrument and acknowledged the execution thereof  
 to be his voluntary act and deed as such officer and the voluntary  
 act and deed of the said corporation.

WITNESS my hand and Notarial Seal the day and year last above  
 written.

Earl G. Kelley



My Commission expires Sept. 10, 1982.

My Commission expires

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