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*Carol Aivona*

DODGE COUNTY  
REGISTER OF DEEDS  
COMPUTER INDEX FEE \$ 82.50

**PROTECTIVE COVENANTS  
CENTRAL PARK SUBDIVISION**

The undersigned, being all of the owners of all of the land described below in Dodge County, Nebraska, do hereby covenant, declare and publish for the benefit of all persons now, or hereafter owning real property in the real estate described as follows, to-wit:

Lots 1-6, Block 1; Lots 1-10, Block 2; and, Lots 1-<sup>10</sup>~~8~~, Block 3, Central Park Addition, City of Fremont, Dodge County, Nebraska as platted and recorded; and,

Lots 1-9, Block 1; Lots 1-3, Block 2; and, Lots 1-5, Block 3, Central Park First Addition, City of Fremont, Dodge County, Nebraska as platted and recorded; and,

A PARCEL OF LAND IN THE NW1/4 SE1/4 OF SECTION 12, INCLUDING A PORTION OF LOT 9 IN D. SCHROEDER'S SUBDIVISION, ALL IN TOWNSHIP 17 NORTH, RANGE 8 EAST OF THE 6TH P.M., DODGE COUNTY, NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS. BEGINNING AT THE NORTHEAST CORNER OF CENTRAL PARK FIRST ADDITION TO THE CITY OF FREMONT, NEBRASKA; THENCE S89°37'18"E ALONG THE NORTH LINE OF SAID NW1/4 SE1/4, ALSO BEING THE NORTH LINE OF SAID LOT 9, A DISTANCE OF 589.80 FEET TO A POINT ON THE EAST MARGIN OF A 100 FOOT WIDE STRIP OF LAND ADJOINING THE EAST LINE OF SAID LOT 9, FORMERLY CHICAGO AND NORTHWESTERN RAILWAY COMPANY RIGHT OF WAY; THENCE S09°06'11"W ALONG SAID EAST MARGIN A DISTANCE OF 504.65 FEET TO THE NORTHEAST CORNER OF LOT 5, BLOCK 3, CENTRAL PARK ADDITION TO THE CITY OF FREMONT, NEBRASKA; THENCE N89°56'03"W ALONG THE NORTHERLY LINE OF SAID LOT 5 A DISTANCE OF 502.54 FEET; THENCE N23°30'44"W A DISTANCE OF 21.82 FEET TO THE SOUTHEAST CORNER OF LOT 1, BLOCK 3 OF SAID CENTRAL PARK FIRST ADDITION; THENCE N00°03'57"E ALONG THE EAST LINE OF SAID LOT 1 A DISTANCE OF 90.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 1; THENCE N00°50'50"E ACROSS 30TH STREET A DISTANCE OF 55.01 FEET TO THE SOUTHEAST CORNER OF LOT 3, BLOCK 2 OF SAID CENTRAL PARK FIRST ADDITION; THENCE N00°03'57"E ALONG THE EAST LINE OF SAID BLOCK 2 AND ACROSS 32ND STREET A DISTANCE OF 336.60 FEET TO THE POINT OF BEGINNING; CONTAINING 6.32 ACRES, MORE OR LESS.

(Said third legal description above hereafter referred to as the "Northeast Quadrant"), that said Lands and Lots, hereafter collectively referred to as the Subdivision or as the Development, shall be owned, used, conveyed and held under and subject to the following covenants, conditions and restrictions, to-wit:

## **COVERAGE**

1. These restrictive covenants shall run with the land, and each person, firm, corporation or entity taking title to the above-described property, or any part thereof, agrees to be bound by said restrictive covenants, the same as if written in the instrument under which said person, firm, corporation or entity acquires title to said real property or any part thereof.
2. These covenants may be altered, amended or modified by an instrument in writing executed by a minimum of at least 2/3 (two-thirds) of the owners of the lots above-described, which instrument shall be recorded in the manner provided by law. For lots with townhouses, each townhouse unit shall be entitled to cast one vote on any proposed change in the Covenants, and the Secretary of the Homeowner's Association shall, by recorded Affidavit, verify the number of lots then containing townhouses and the total number of votes then available to be cast for any proposed change in the Covenants.
3. Each of the restrictive covenants contained herein is severable and separate. Invalidation of any one of these covenants by judgment or court order shall in no way affect the validity and enforceability of any of the other covenants or restrictions herein contained.
4. All lots in the subdivision shall be known and described as residential lots and used for residential purposes only. This shall not prevent the use of a greater area than one lot as a single building site. Residential lots within the subdivision may consist of single family homes, duplexes, or two unit townhouses. Each of these covenants applies to all three types of residential units except for those that, by their nature, are exclusive as to private homes or exclusive as to duplexes or are exclusive as to two unit townhouses. Single family homes may include modular homes built upon concrete foundations or concrete basements.

## **HOMEOWNER'S ASSOCIATION**

5. Each lot owner, and the owner of each unit in two unit townhouses, upon obtaining title to a lot or townhouse unit within the subdivision, shall thereby immediately become a member of the Central Park Homeowner's Association, a Nebraska Non-Profit Corporation, (hereafter the Association or Homeowner's Association), and shall be obligated to abide by their rules and regulations, and shall pay dues or other fees as prescribed by the Association. Unpaid Association dues shall become a lien against the property and the Association may file notice of such lien following the procedures and requirements for owner liens set forth in Covenant No. 26 below. On lots with townhouses, the owner of each townhouse shall be a member of the Homeowner's Association with one vote each. All other lots shall have one vote for each lot to be cast by the owner of said lot. Fees and dues for each townhouse unit shall be the same as the fees and dues assessed to each non-townhouse lot.

## **STRUCTURES**

6. Complete plans and specifications for all structures must be approved by an architecture committee appointed by New Horizon Land and Farm, LLC and Don Peterson & Associates, Inc. so long as said LLC and Corporation together own at least 60% of the lots within the subdivision, and thereafter said approval must be obtained from the Board of Directors or architecture committee of the Homeowner's Association prior to the commencement of any construction in said development. A plot plan must be included with said specifications. All approved construction must be completed no later than 12 months after commencement.
7. All zoning and building permit requirements of the City of Fremont shall be complied with, including the applicable set back and utility easements required by the City of Fremont for the subdivision.
8. The minimum size of permanently enclosed living space of each single family residence shall be no less than 1,000 square feet. Such 1,000 square feet measurement shall pertain to the ground floor only, and shall exclude basement, porch, second story and garage areas.
9. The minimum size of permanently enclosed living space of each unit of a duplex or townhouse shall be no less than 800 square feet per unit. Such 800 square feet per unit measurement shall pertain to the ground floor only, and shall exclude basement, porch, second story and garage areas.
10. Each single family home, and each unit of a duplex or two unit townhouse, must have a connected private enclosed garage for at least one car.
11. Each dwelling shall have a minimum of 25% brick on the front side of the structure facing the street.
12. Each duplex unit and each townhouse unit shall have its own separate sprinkler system and separate utilities. The plot plan for each duplex and townhouse shall require a natural or plotted boundary line between the units that extends across both the front yard and the back yard, including the sidewalks in front. Each unit of each duplex and each unit of each townhouse shall be responsible for its own snow removal in winter and its own mowing and yard maintenance in summer.
13. All private driveways from the garage to the street shall be of concrete, brick or asphalt material, and must be constructed and completed at the time or before the house or residence is completed.

## **MAINTENANCE AND UPKEEP**

14. All lots shall be neatly maintained at all times. All grass and weeds shall be kept under a maximum height of eight inches above ground level on undeveloped lots, and a maximum of 4 inches above ground level on developed lots. There shall be no accumulation of debris,

machinery, disabled automobiles or offensive materials of any kind on any lot. Sidewalks must be cleared of snow within 24 hours of any 1" or greater snow storm.

15. Rather than do their own mowing and yard maintenance and winter snow shoveling as required by these covenants, each lot owner and each townhouse unit owner may contract with the Central Park Homeowner's Association for the providing of said services. The payment for such services, if obtained through the Homeowner's Association, shall be at the fees set from time to time by the Homeowner's Association. The actual work will be performed by contractors hired by the Homeowner's Association. Any lot owner or townhouse unit owner who does not scoop the sidewalks within 24 hours of a 1" or greater snow storm, or who fails to mow the grass after it reaches a height of 4" or 8" as specified in Covenant No. 14, is subject to having the contractors hired by the Homeowner's Association clean such sidewalks or mow such lawn or yard at the expense of the lot or townhouse unit owner without separate notice to the owner.

16. The structure and the grounds of each lot shall be maintained in a neat and attractive manner. Upon the owner's failure to do so, the Board of Directors of the Homeowner's Association may, at its option, after giving the owner 15 days written notice sent to owner's last known address, make any necessary repair of structures or removal of offensive items or otherwise correct or remedy any needed situation, when and as often as the same is necessary in its judgment as to any lot.

17. The cost of any such maintenance, snow removal, lawn mowing or remedying of structures or removal or other corrective actions as referred to in Covenants No.14, 15 and 16 shall be assessed against the lot or townhouse unit upon which such work is done and shall be added to and become a part of the periodic maintenance, assessment or charge to which such lot is subject under the rules and regulations of the Homeowner's Association. Payment for same is due within 30 days of billing sent to the owner at his or her last known address. Upon the owner's failure to pay same within 30 days, the Homeowner's Association may record any and all such amounts due as a written lien notice filed at the Register of Deeds office following the same procedures and requirements for owner liens as set forth in Covenant No. 26 below.

## **TOWNHOUSES**

18. The townhouses referred to in these covenants shall consist of one residential structure containing two living units. Located within each townhouse shall be a common wall dividing the adjoining living units, which common wall is hereby declared to be and shall henceforth constitute a "party wall" for the use and benefit of the entire townhouse.

19. Should the party wall, at any time, be damaged or destroyed by any cause other than an act of commission or omission by either owner, or their respective agents, employees, permissive occupants, tenants, or invitees, or any person acting by, through or under them, the party wall shall be repaired or rebuilt at the owners' joint expense, with said expenses to be proportioned equally among the parties. Should the party wall be injured by any act of commission or omission by either owner, or their respective agents, employees, permissive occupants, tenants,

or invitees, or any person acting by, through or under them, the wall shall be repaired or rebuilt at owners' expense. The owners shall cooperate with each other in giving and granting access one to the other to their respective living units as may be reasonably necessary to effect any required repairs on or of said wall.

20. The owners, their respective heirs and assigns, shall have equal right in all respects to the party wall; and neither owner, their heirs or assigns, shall use the wall in any manner whatsoever that may interfere with the equal use of said wall by the other owner. Nor may either owner use the wall in any manner which will result in damage to the premises of the other owner or interfere with the other owner's use of their living unit.

21. In the event the exterior of the entire townhouse shall require repainting, refinishing or repairing of any kind, each owner shall share equally in the cost of such repainting, refinishing or repairing. Provided that, in the event the exterior of only one living unit (or a part thereof) shall require repainting, refinishing or repairing, the owner owning that unit shall be responsible for causing such repairing, repainting and refinishing to be made, and such owner shall bear the sole cost thereof. Provided further that all repairing, refinishing and repainting shall be effected in such manner that it will be uniform and consistent with, and that it will not detract from, the appearance of the townhouse, and all reasonable effort shall be made to keep the exterior of the entire townhouse painted that same color. The exterior of each living unit of the townhouse shall be repainted in its entirety at least once every five (5) years unless waived in writing by both owners on a one-year-at-a-time basis. The five (5) year period shall commence on the date the exterior of each living unit is last repainted. The owners shall acknowledge each repainting by a written document executed by each. In the event it shall become the obligation of an owner hereto to pay for or contribute to the cost of repainting, refinishing or repairing the exterior of the townhouse (or a part thereof) and such owner fails to pay the same, and the other owner pays such cost, the owner paying the same shall have a lien for the amount so paid upon the real estate described above owned by the owner failing to pay such costs or his share thereof, which lien may be filed of record and enforced per Covenant No. 26 below.

22. In the event it is necessary to re-roof or repair the roof of the townhouse, each of the parties will contribute equally to the cost of such re-roofing or roof repair. In the event the roof of one part of the townhouse shall be damaged and it is possible to repair such roof without completely re-roofing or without affecting the roof of the other living unit of the townhouse, the owner who owns the living unit in need of re-roofing or roof repair shall be responsible for re-roofing such living unit and causing such repairs to be made and said owner shall bear the entire cost thereof. Any re-roofing or roof repair made by one of the owners to the roof covering his living unit of said townhouse shall be made using, whenever possible, the same style and kind of roofing material then existing on that portion of the roof of said townhouse not then being roofed or repaired. The roof (including sub-surface covering if in need of repair) of the townhouse shall be replaced in its entirety at least every twenty (20) years. The first twenty (20) year period shall commence on the date construction of the townhouse is completed. Each succeeding twenty (20) year period shall commence on the date that the roof was last replaced. The owners shall acknowledge the performance of this paragraph by written documents executed by each owner unless both owners agree that the replacement of the roof is not necessary and waive such

requirement in writing by both owners on a one-year-at-a-time basis. In the event it shall become the obligation of an owner to re-roof or make repairs to said roof at his cost or share in the cost thereof, and the other owner fails to pay the same, then the owner paying said costs shall have a lien for the amounts so paid upon the real estate described above owned by the owner failing to pay for such costs or his share thereof, which lien may be filed of record and enforced per Covenant No. 26 below.

23. In the event the townhouse or any part hereof shall be destroyed (or damaged to such an extent that it is not reasonably habitable) by fire or other casualty, then, unless otherwise agreed to by the owners, the townhouse shall forthwith and with due diligence be reconstructed by the owners in such a manner as to place said townhouse in as nearly possible the same condition as it existed prior to any such damage or destruction. In the event the townhouse is reconstructed after such damage or destruction, the owners shall each bear that share of the costs of such reconstruction attributable to their respective living units of the townhouse. If either owner fails to perform his obligation under this paragraph, the other owner may take such action as is reasonably necessary to reconstruct the damaged or destroyed living unit or units and the owner paying the cost thereof shall have a lien upon the real property above described owner by the owner failing to perform his obligation to the extent of his share of the costs of such reconstruction, which lien may be filed of record and enforced per Covenant No. 26 below.

24. Notwithstanding any other provision in these Covenants, if damage shall be caused to the townhouse by reason of the fault or negligence of one of the owners, or their respective agents, employees, permissive occupants, tenants, or invitees, or any person acting by, through or under them, that owner shall be fully responsible for causing such damage to be repaired and for the payment of the cost of such repairs. In the event that it shall become the obligation of the at-fault owner hereto to repair at his own expense, by reason of the fault or negligence of himself, or his agents, employees, permissive occupants, tenants, or invitees, or any person acting by, through or under them, and such repair is not made or paid for by such at-fault owner, and the other not-at-fault owner causes such repair to be made or pays for the same, then the owner paying such amount shall have a lien for the amount so paid upon the real estate owner failing to make such repairs and failing to pay for the cost thereof, which lien may be filed of record and enforced per Covenant No. 26 below.

25. Each owner shall be responsible for the cost of maintaining and keeping serviceable that part of utilities, including the sewer, serving his living unit only, but only, to the extent that such costs are not the responsibility of the utility furnishing such service.

26. Any liens to which an owner may hereto be entitled on the property of the other owner shall be created and perfected in the following manner. The owner who pays the cost or expense created by an obligation under these Covenants may record an Affidavit of Non-Payment of said costs or expenses in the office of the Register of Deeds in Dodge County, Nebraska, stating:

- a) The legal description of the property upon which the lien is claimed.
- b) the name(s) of the owner(s) of said property.

- by
- c) The amount of the cost or expense unpaid and for which claim is made. The lien shall be deemed created and perfected at the time of the filing and record of the Affidavit of Non-Payment and such lien shall be superior to all other charges. Liens of encumbrances which may thereafter in any manner arise or be unpaid upon the property, whether arising from or unpaid by judgment or decrees or by any agreement, contract, mortgage or other instrument, saving and excepting only such liens for taxes or other public charges as are by law made superior.
  - d) Any lien created and perfected according to these Covenants may be foreclosed suit by the owner filing said lien in like manner as a mortgage on real property is foreclosed. A suit to recover a money judgment for unpaid costs or expenses under these Covenants may be maintained by the parties filing the lien without foreclosure or waiving the lien securing the same.
  - e) In the event a lien is created and perfected according to these Covenants and thereafter the costs or expenses plus interest at the rate of twelve percent (12%) per annum from the date the lien is filed shall be fully paid, the owner filing the lien shall, within ten (10) days following payment, file with the Register of Deeds of Dodge County, Nebraska, an Affidavit of Payment of costs or expenses, which Affidavit shall:
    - 1. refer to and identify the Affidavit of Non-Payment of costs or expenses which created the lien which has been satisfied;
    - 2. state the legal description of the property affects; and,
    - 3. state the name(s) of the owner(s) of the property. Recording of the Affidavit of Payment of costs or expenses shall fully and completely release the lien referred to in said Affidavit and said Affidavit shall be conclusive evidence to any purchaser or encumbrancer or as to any title insurer or title examiner that the pre-existing lien has been fully released and discharged.

27. The owner will so use their respective properties above so described in such manner that they will not interfere with the other owner's use of his property and will not maintain or create a nuisance in their respective uses of their living units or on their part of the property, and they will not do anything which is in contravention of any restrictive covenants which may have heretofore been placed upon said properties.

28. Each owner shall obtain and keep in full force and effect, at his sole cost and expense, a policy of insurance insuring his property and the improvements located thereon (including, but not limited to, the party wall) against loss or damage by fire, windstorm, rainstorm, tornado, water damage (occasioned by broken or otherwise defective water pipes and appurtenances thereto, whether such water pipes and appurtenances are located or situated in or on either side of

the townhouse) and other casualty of like nature. Said policy of insurance shall be in an amount never less than the balance due on any mortgage covering said property or ninety percent (90%) of the value of said property (including all improvements located thereon), whichever amount be the greater.

#### **LAKE/TRAIL EASEMENT**

29. The portion of the subdivision referred to as the "Northeast Quadrant" in the initial paragraph of these Covenants setting forth the legal descriptions of the subject property lies North of Block 3 of Central Park Addition and East of Blocks 2 and 3 of Central Park First Addition. A lake is located within the Northeast Quadrant. It is understood and acknowledged that the owner of the Northeast Quadrant, New Horizons Land and Farm, LLC, or its successor in interest, intends to eventually plat residential lots in the area north of the lake and, if appropriate, in other areas within the Northeast Quadrant, but that the lake shall remain a common area as well as an area immediately around the lake and south of the lake which will connect to a common area to the south already platted as Lot 5, Block 3, Central Park Addition. The exact metes and bounds description of the lake and the shoreline immediately around it as well as the area to the south as common land that will connect the lake with said Lot 5 will be finally determined by the metes and bounds description created when said Northeast Quadrant is further subdivided. The recorded plat setting forth said metes and bounds or other legal description is hereby incorporated into these Covenants by reference. The minimum width of the common area trail connecting the lake to Lot 5, Block 3, Central Park Addition is 4 feet.

30. The use of the lake, or any other "common areas" within or near the subdivision shall be governed by and subject to the rules and regulations of the Homeowner's Association. This shall include, but not be limited to boating, fishing or swimming rules and regulations, and rules regarding any other use of the lake and common areas.

31. No dock or dock structure shall be permitted on the lake unless built and owned by the Homeowner's Association as a common dock.

32. Use of the lake and any other common areas, including the trail easement, is limited to owners of lots within the subdivision, their immediate families, and guests if the owner or an immediate family member is also present with such guest. In addition, tenants who rent a home or townhouse unit or duplex unit shall have the same right of access to the lake and common

areas but with the same restrictions as well, including the family member requirement and the guest only with the renter or family member present requirement.

33. The common areas shall include the following:

- a. Lot 5, Block 3, Central Park Addition.
- b. At the present time, the unplatted portion of the Northeast Quadrant lying south of the lake located in the Northeast Quadrant; but with the further provision that once the Northeast Quadrant is subdivided by its then current owner, the portion



of the Northeast Quadrant lying south of the lake designated as common area shall be as legally defined on said later plat, but with the requirement that said common area shall include, at a minimum, a sufficient area to permit a 4 foot wide walking trail access from Lot 5, Block 3, Central Park Addition on the south to the lake located within the Northeast Quadrant.

- c. The lake located within the Northeast Quadrant.
- d. A 4 foot wide trail easement around the perimeter of the lake consisting of the first 4 feet of the shoreline along the entire shoreline of the lake located in the Northeast Quadrant.

The "shoreline" of the lake shall mean the ten year high water line of said lake. In event of a dispute as to the location of the shoreline, the Board of Directors of the Association shall have sole authority to determine such line.

A permanent trail easement for the use of those specified in Covenant No. 32 is hereby established over the grounds identified in subparagraph a, b and d. In addition, the lake described in subparagraph c above is also common area available for the use of those designated in Covenant No. 32 above. No adjacent lot owner may erect any fence or other obstruction that will, in any manner, limit or restrict the accessibility and use of the trail easement and access or use of the lake provided for in these Covenants, even if the 4 foot walking trail around the perimeter of the lake encroaches upon the platted boundary of a Lot.

34. No motorized water craft shall be allowed on the lake and no motorized bikes or ATVs or other motorized vehicles shall be allowed on the common areas or the easement trail.

35. Drainage into the lake shall be restricted to that which is used to control natural runoff caused by rainfall, to include drainage from downspouts on the residence. Drainage from sewers and/or drainage originating from within the residence or from any domestic use, shall be prohibited.

36. Once the Northeast Quadrant is platted, ownership of the lake and the other common areas described herein including Lot 5, Block 3, Central Park Subdivision shall be deeded to the Central Park Homeowner's Association. The Association shall accept ownership of said parcels and shall thereafter be responsible for their care, control and maintenance.

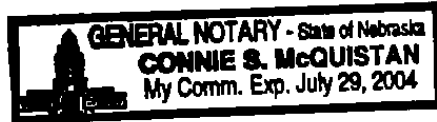
IN WITNESS WHEREOF, each of the undersigned owners of property within the Subdivision, being all of the owners of said property, have executed these restrictive covenants on the respective dates set forth below.

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DODGE )

NEW HORIZON LAND AND FARM, LLC

Gary Pebley  
Gary Pebley, President

The foregoing instrument was acknowledged before me on July 12, 2003 by Gary Pebley President of New Horizon Land and Farm, LLC, a Nebraska Limited Liability Company.



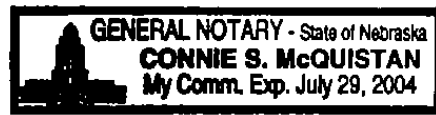
Connie S. McQuistan  
Notary Public

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DODGE )

DON PETERSON & ASSOCIATES, INC.

Larry Shepard  
Larry Shepard, President

The foregoing instrument was acknowledged before me on July 12, 2003 by Larry Shepard, President of Don Peterson & Associates, Inc., a corporation.



Connie S. McQuistan  
Notary Public

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DODGE )

J. Marlin Brabec  
J. Marlin Brabec

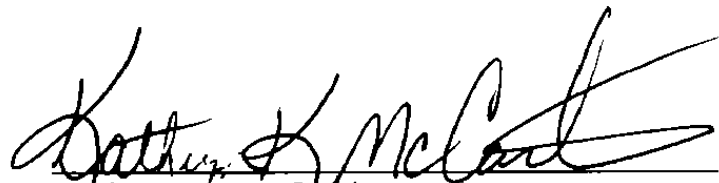
Marla Brabec  
Marla Brabec

The foregoing instrument was acknowledged before me on July 12, 2003, by J. Marlin Brabec and Marla Brabec, husband and wife, owners of real estate in said subdivision.



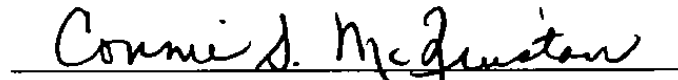
Connie S. McQuistan  
Notary Public

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DODGE )

  
Kathryn K. McCartin

The foregoing instrument was acknowledged before me on July 12, 2003, by Kathryn K. McCartin, a single person, owner of real estate in said subdivision.



  
Notary Public

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DODGE )

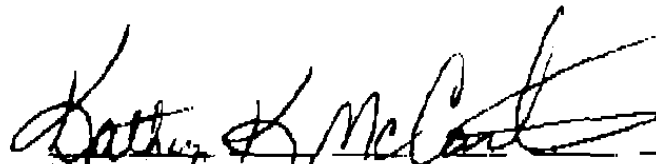
\_\_\_\_\_  
Richard J. Pohlad

\_\_\_\_\_  
Julie L. Pohlad

The foregoing instrument was acknowledged before me on July \_\_\_\_\_, 2003, by Richard J. Pohlad and Julie L. Pohlad, husband and wife, owners of real estate in said subdivision.

\_\_\_\_\_  
Notary Public

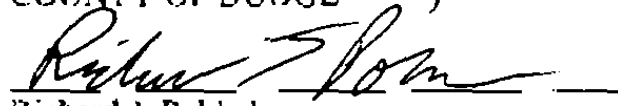
STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DODGE )


  
Kathryn K. McCartin

The foregoing instrument was acknowledged before me on July \_\_, 2003, by Kathryn K. McCartin, a single person, owner of real estate in said subdivision.

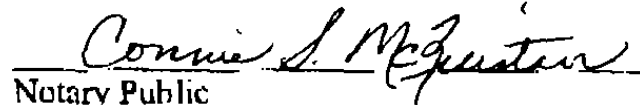
\_\_\_\_\_  
Notary Public

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DODGE )

  
Richard J. Pohlad

  
Julie L. Pohlad  
A. J.A.P.

The foregoing instrument was acknowledged before me on July 12, 2003, by Richard J. Pohlad and Julie L. Pohlad, husband and wife, owners of real estate in said subdivision.

  
Notary Public

