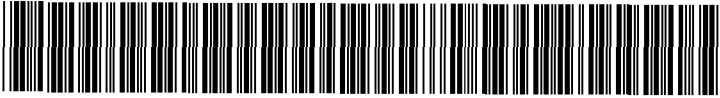


MISC 2012123744



DEC 05 2012 14:41 P 6

Fee amount: 31.00  
FB: OC-35950  
COMP: CC

Received - DIANE L. BATTIATO  
Register of Deeds, Douglas County, NE  
12/05/2012 14:41:28.00



2012123744

RETURN TO: Kendra J. Ringenberg, Koley Jessen P.C., L.L.O., 1125 South 103<sup>rd</sup> Street, Suite 800, Omaha, Nebraska 68124  
Space Above for Recorder's Use Only

**AMENDED AND RESTATED PERMANENT ACCESS EASEMENT**

THIS AMENDED AND RESTATED PERMANENT ACCESS EASEMENT (this "Easement") is made and entered into as of the 27<sup>th</sup> day of November, 2012 by and between Gottsch Land Co., a Nebraska corporation ("Grantor") and Kegler Bowling LLC, a Nebraska limited liability company ("Grantee").

**RECITALS**

- A. Grantor is the owner of certain real property legally described as Lot 1, Skyline Country West Replat 1, a Subdivision in Douglas County, Nebraska ("Lot 1").
- B. Grantee is the owner of certain real property legally described as Lot 2, Skyline Country West Replat 1, a Subdivision in Douglas County, Nebraska ("Lot 2").
- C. Lot 1 and Lot 2 share a common boundary on the east side of the Lot 1 and the west side of the Lot 2;
- D. Pursuant to that certain Permanent Access Easement, filed February 9, 2007, as Instrument No. 2007016029, Official Records, Douglas County, Nebraska (the "Original Permanent Access Easement"), Grantee constructed an access drive, as depicted on Exhibit A attached hereto (the "Access Drive");
- D. Grantor and Grantee desire to amend and restate the Original Permanent Access Easement in its entirety.

**AGREEMENT**

For and in consideration of the mutual promises hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, the parties hereby agree and covenant with each other the following:

1. Replacement. The Original Permanent Access Easement is hereby amended and restated in its entirety.

2. Grant of Easement. Grantor and its successors and assigns hereby grants and conveys a non-exclusive access easement for the purpose of ingress and egress over, through, upon, and across the Access Drive. The Access Drive shall provide access from Cumberland Drive to Lot 2. Grantee hereby acknowledges that Grantor and its successors and assigns shall also have the right to use the Access Drive at all times.

3. Term. The term of the Easement shall be perpetual. This Easement is and shall be deemed to be a covenant running with the land and shall be binding upon the parties hereto and upon their successors and assigns. Any modification or amendment shall be effective when duly executed, acknowledged and filed in the proper office of the Register of Deeds of Douglas County, Nebraska.

4. Maintenance. Until such time as Grantor constructs improvements on Lot 1, Grantee shall maintain the Access Drive in good condition and repair at its sole cost and expense. Upon issuance of a certificate of occupancy for Lot 1, Grantee shall, at its sole cost and expense, maintain the Access Drive in good condition and repair and Grantor shall reimburse Grantee for fifty (50%) percent of the costs of maintaining the Access Drive; provided, however, such costs shall not include any costs incurred in connection with the maintenance of the remainder of the access and parking areas located on Lot 2. In the event Grantee fails to maintain, repair or keep the Access Drive in good repair and condition, free of snow and debris, Grantor may, but shall not be obligated to, do so. In the event Grantor elects to perform any such maintenance or repair after written demand, Grantor shall be entitled to reimbursement for the costs so incurred. Except as expressly set forth herein, each party shall be responsible for the repair and maintenance of the real property owned by it and all improvements located on such real property. Grantee hereby acknowledges and agrees that Grantor shall have the right to tie the access ways and parking areas on Lot 1 into the current Access Drive.

5. Restrictions. Neither party, nor any successor or assign, shall create, permit or suffer at any time any obstruction to or interference with ingress and egress over, across and upon the Access Drive for any purpose nor shall any such party at any time endanger, interfere with, or otherwise obstruct the maintenance, repair, operation or use of the Access Drive for ingress and egress. Neither party shall permit liens or claims of lien to be filed against the Access Drive and shall promptly discharge or transfer to bond any lien that may be filed against such property by reason of such party's activities, its successors and assigns, employees, tenants, invitees, agents, representatives, or affiliates thereon. It is understood and agreed by both parties that it is not given any lien rights against the adjacent Lot.

6. Insurance/Indemnification. Grantee shall procure and maintain comprehensive general liability insurance, at its own cost and expense, insuring itself and Grantor from all claims, demands or actions for injury or death sustained by one or more persons as a result of any one occurrence in amount of Two Million Dollars (\$2,000,000), or such other amounts as may be reasonably required by Grantor from time to time, made by or on behalf of any person or persons, firm or corporation arising from related to or connected with the use of the Access Drive. Grantee shall, on an annual basis, provide evidence of said insurance to Grantor. As a condition to the use of the Access Drive herein granted, each party shall indemnify and save the other harmless from and against any and all claims, demands, damages, costs and expenses, including reasonable attorney's fees, arising from the such party's use of the Access Drive, or from any breach or default on the part of such party in the performance of any covenant or agreement on its part to be performed pursuant to the terms of this Easement, or from any act

of negligence of the such party, its agents, employees, customers, guests and invitees occurring on the Access Drive.

7. Title. That each party, for itself and for its successors and assigns, does hereby confirm with the other party and its successors and assigns, that it is well seized in fee of the above described property and that it has the right to grant and convey this Easement in the manner and form aforesaid, and that it and its successors and assigns shall warrant and defend this easement to said other party and its assigns against the lawful claims and demands of all persons.

**[Remainder of Page Intentionally Left Blank. Signature Page to Follow.]**

IN WITNESS WHEREOF, Grantor and the Grantee have caused this Easement to be signed on the day and the year first above written.

**GRANTOR:**

Gottsch Land Co.,  
a Nebraska corporation

By: [Signature] Brett Gottsch  
Its: President

Date: 11-27-12

**GRANTEE:**

Kegler Bowling LLC,  
a Nebraska limited liability company

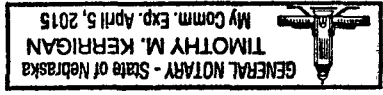
By: [Signature] Steven J. Sempcek  
Its: owner member

Date: 11/27/12

STATE OF Nebraska )  
COUNTY OF Douglas ) SS.

The foregoing instrument was acknowledged before me this 27<sup>th</sup> day of November, 2012  
by Brett Gottsch, Member on behalf of Gottsch Land Co., a Nebraska  
President corporation.

[NOTARY SEAL]

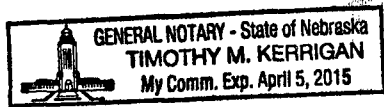


[Signature]  
Notary Public

STATE OF Nebraska )  
COUNTY OF Douglas ) SS.

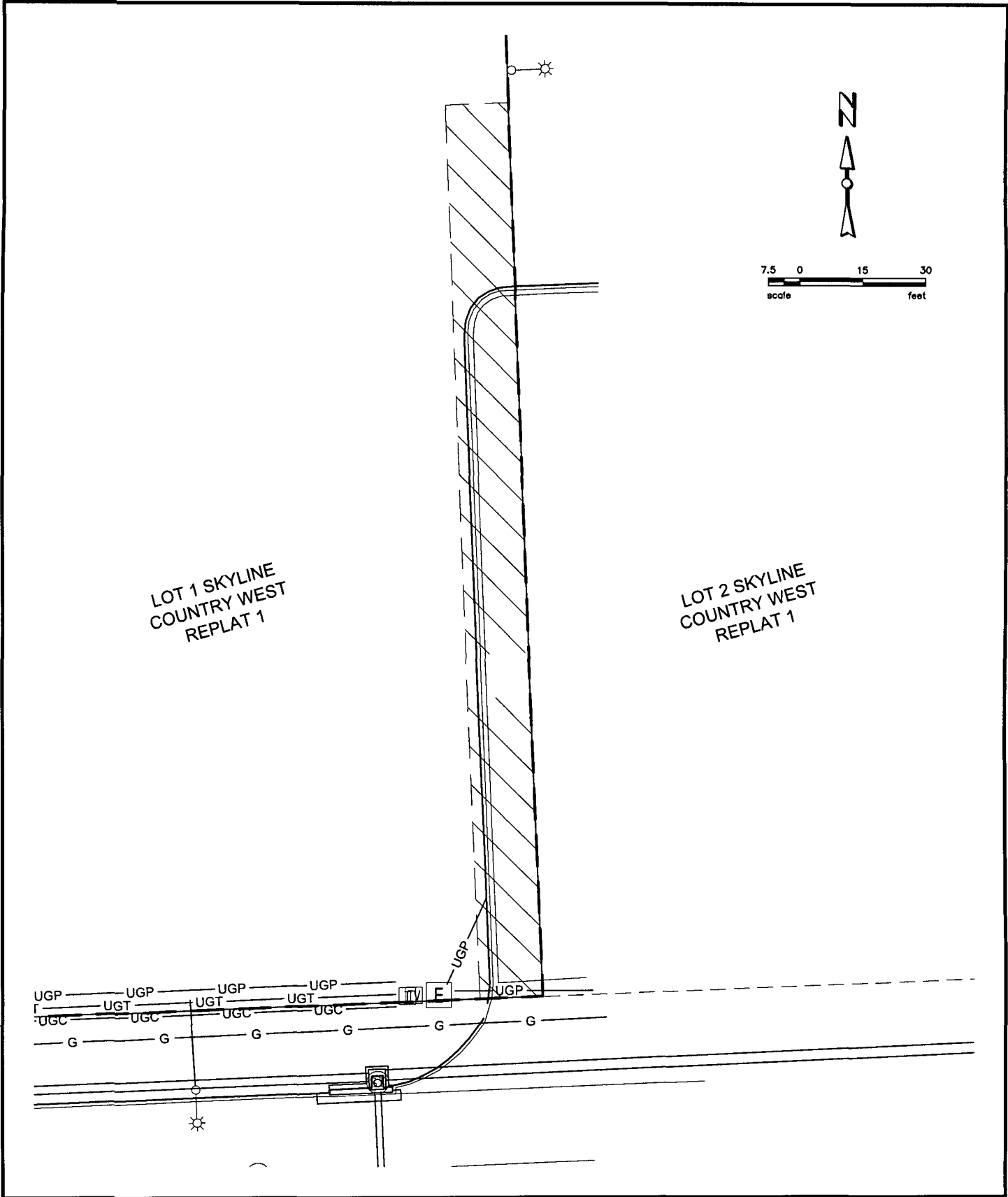
The foregoing instrument was acknowledged before me this 27<sup>th</sup> day of November, 2012  
by Steven J. Sempcek, Member on behalf of Kegler Bowling LLC, a Nebraska  
limited liability company.

[NOTARY SEAL]



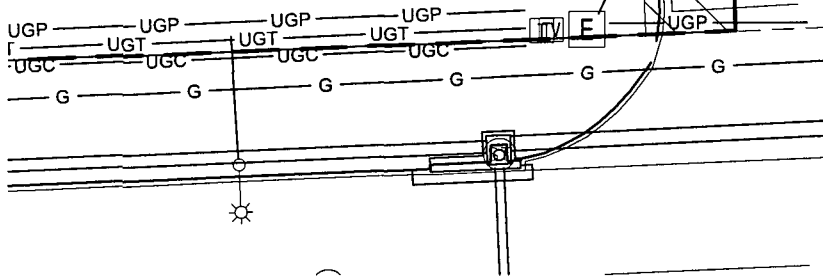
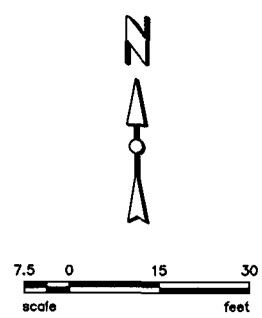
[Signature]  
Notary Public

EXHIBIT "A"  
ACCESS DRIVE



LOT 1 SKYLINE  
COUNTRY WEST  
REPLAT 1

LOT 2 SKYLINE  
COUNTRY WEST  
REPLAT 1



A.L.T.A. / A.C.S.M.  
SURVEY

LOT 1 SKYLINE COUNTRY WEST REPLAT 1  
EXHIBIT

PROJECT #			
12049			
SHEET			
1 OF 1			
11-29-2012	SRB	N/A	DOH
DATE	DRAWN	DESIGN	CHECK

**UNITED ENGINEERING**  
Surveying & Engineering Services

20507 NICHOLAS CIRCLE • OMAHA, NE 68022 • (402) 763-9475