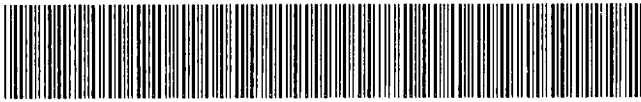




MISC 2012031525

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BKP _____ C/O _____ COMPLS
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Received - DIANE L. BATTIATO
Register of Deeds, Douglas County, NE
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GRADING, CONSTRUCTION AND INGRESS AND EGRESS EASEMENT AGREEMENT

THIS GRADING, CONSTRUCTION AND INGRESS AND EGRESS EASEMENT AGREEMENT (this "Agreement") is made and entered into as of this 8th day of March, 2012, by and between **MALIBU PROPERTIES, L.L.C.**, a Nebraska limited liability company ("Malibu") and **GOTTSCH LAND CO.**, a Nebraska corporation ("Gottsch").

Preliminary Statement

Malibu is the owner of certain real property situated in the County of Douglas, State of Nebraska, legally described as follows (the "Malibu Property"):

Lot 4, Skyline Country West, Douglas County, Nebraska.

Gottsch is the owner of certain real property situated in the County of Douglas, State of Nebraska, legally described as follows (the "Gottsch Property"):

Lot 1, Skyline Country West Replat 1, Douglas County, Nebraska.

The Malibu Property and Gottsch Property share a common boundary on the east side of the Malibu Property and the west side of the Gottsch Property, as pictorially depicted on the site plan attached to this Agreement as Exhibit "A" (the "Site Plan").

In connection with the anticipated development of the Malibu Property, Malibu desires to construct an entrance drive along the common boundary of the Malibu Property and the Gottsch Property that will provide joint access from Cumberland Drive to the Malibu Property and Gottsch Property. The common access drive will be constructed generally as depicted on the Site Plan (the "Access Drive").

As the Access Drive will benefit both the Malibu Property and Gottsch Property, the parties hereto are entering into this Agreement for purposes of memorializing their agreements and understandings regarding the grading, construction and use of the Access Drive.

NOW, THEREFORE, in consideration of the foregoing and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Malibu and Gottsch agree as follows:

**ARTICLE I
GRADING AND CONSTRUCTION EASEMENTS**

1.1 Grading Easement. Malibu and its agents and contractors shall complete grading and fill on and along and under the Access Drive as necessary and appropriate for construction of the Access Drive in accordance with grading plans to be prepared by Malibu (the “Grading Plan”). Gottsch hereby grants and conveys to Malibu, its agents and contractors, a temporary easement over and upon those portions of the Gottsch Property as reasonably necessary for the purposes of coming upon, and for grading on and across the Gottsch Property as contemplated by the Grading Plan (the “Grading Easement”). The Grading Easement shall commence on the date of this Agreement and shall continue until August 1, 2012.

1.2 Construction Easement. Malibu and its agents and contractors will construct the Access Drive generally as depicted on the Site Plan, as may be amended or modified by construction plans and specifications developed by Malibu and approved by Gottsch (the “Construction Plan”). Gottsch hereby grants and conveys to Malibu, its agents and contractors, a temporary easement over and upon the Gottsch Property as reasonably necessary for the purposes of coming upon, and for constructing the Access Drive as contemplated by the Construction Plan (the “Construction Easement”). The Construction Easement shall commence on the date of this Agreement and shall continue until August 1, 2012.

1.3 Ingress and Egress Easement. Gottsch hereby grants and conveys to Malibu, its successors and assigns in title to the Malibu Property, and to their respective agents, contractors, employees, tenants, licensees and invitees (collectively the “Malibu Permittees”), a perpetual easement for ingress and egress on and upon that part of the Gottsch Property as depicted and legally described on Exhibit “B” attached hereto, for ingress to and egress from the Malibu Property across the Gottsch Property to Cumberland Drive (the “Malibu Ingress and Egress Easement”). Malibu hereby grants and conveys to Gottsch, its successors and assigns in title to the Gottsch Property, and to their respective agents, contractors, employees, tenants, licensees and invitees (collectively the “Gottsch Permittees”), a perpetual easement for ingress and egress on and upon that part of the Malibu Property as depicted and legally described on Exhibit “C” attached hereto, for ingress to and egress from the Gottsch Property across the Malibu Property to Cumberland Drive (the “Gottsch Ingress and Egress Easement”).

**ARTICLE II
CONSTRUCTION AND MAINTENANCE**

2.1 Construction Requirements. All construction activities to be performed by Malibu, its successors and assigns, as contemplated by Article I of this Agreement shall be performed by Malibu, its successors and assigns, in a good and workmanlike manner and in

accordance with the Construction Plan. Malibu shall be responsible for undertaking the construction and paying for the construction costs for construction of the Access Drive improvements.

2.2 Maintenance. Until such time as the owner of the Gottsch Property constructs improvements on the Gottsch Property, the owner of the Malibu Property shall provide all maintenance of the Access Drive at its sole cost and expense. Upon completion of improvements on the Gottsch Property, the owner of the Malibu Property shall be responsible for all maintenance, as hereinafter described, of that portion of the Access Drive located on the Malibu Property and the owner of the Gottsch Property shall be responsible for providing maintenance, as hereinafter described, on that portion of the Access Drive located on the Gottsch Property. The maintenance responsibilities for the Access Drive shall include, without limitation, the following:

- a. Maintaining the paved surfaces in a level, smooth and evenly covered condition with the type of surfacing material originally installed or comparable substituted material as shall in all respects be equal in quality, use and durability;
- b. Removal of all papers, ice and snow, mud and sand, debris, filth and refuse, and thoroughly sweeping the area to the extent reasonably necessary to keep the area in a clean and orderly condition;
- c. Placing, keeping and repair and replacing any necessary and appropriate directional signs, markers and lines; and
- d. Operating, keeping and repairing and replacing, where necessary, such artificial lighting facilities as shall be reasonably required and at all times in conformance with standards and applicable ordinances and governmental requirements applicable to the Access Drive.

**ARTICLE III
MISCELLANEOUS**

3.1 Successor Owners. The Malibu Ingress and Egress Easement and the Gottsch Ingress and Egress Easement and the covenants, conditions and restrictions governing such easements as provided in this Agreement shall create mutual benefits and servitudes running with the land and shall bind and inure to the benefit of the parties hereto, and their respective heirs, representatives, successors and assigns.

3.2 Notices. Any notice, demand, request or other communication which may or shall be given or served by Gottsch to or on Malibu, or by Malibu to or on Gottsch, shall be deemed to have been given or served on the date the same is personally delivered, sent by facsimile transmission (receipt confirmed) or given to a nationally recognized overnight courier service for next business day delivery and addressed as follows:

If to Gottsch: Gottsch Land Co.
20507 Nicholas Circle, Ste 100
Elkhorn, NE 68022
Attn: Brett Gottsch

If to Malibu: Malibu Properties, L.L.C.
c/o _____
1625 North 203rd Street, Suite C
Elkhorn, Nebraska 68022

The above addresses may be changed at any time by the parties by notice given in the manner provided above.

3.3 Amendment. This Agreement shall be perpetual in its duration, provided, however, this Agreement may be modified, amended or terminated by an instrument signed by the owners of the Malibu Property and the Gottsch Property, any such modification, amendment or termination to be effective upon recording of the instruments with the Register of Deeds for Douglas County, Nebraska.

3.4 Miscellaneous. This Agreement shall be construed and interpreted in accordance with the laws of the State of Nebraska. Any invalidation of any covenants by judgment or court order shall no way effect any of the other provisions hereof, which shall remain in full force and effect. Time is of the essence for purposes of this Agreement.

**[Space Below Intentionally Left Blank –
Signature Page to Follow]**

IN WITNESS WHEREOF, the parties have executed this Agreement to be effective as of the date and year first above written.

“MALIBU”

Malibu Properties, L.L.C., a Nebraska limited liability company

By: [Signature]
William Douglas, Member

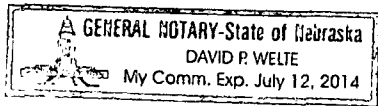
“GOTTSCH”

Gottsch Land Co., a Nebraska corporation

By: [Signature] Brett Gottsch
Title: [Signature] Pres.

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 8th day of March, 2012, by William Douglas, Member of Malibu Properties, L.L.C., a Nebraska limited liability company, on behalf of the company.



[Signature]
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 14th day of March, 2012, by Brett Gottsch, Pres. of Gottsch Land Co., a Nebraska corporation, on behalf of the corporation.

[Signature]
Notary Public

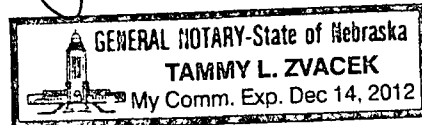
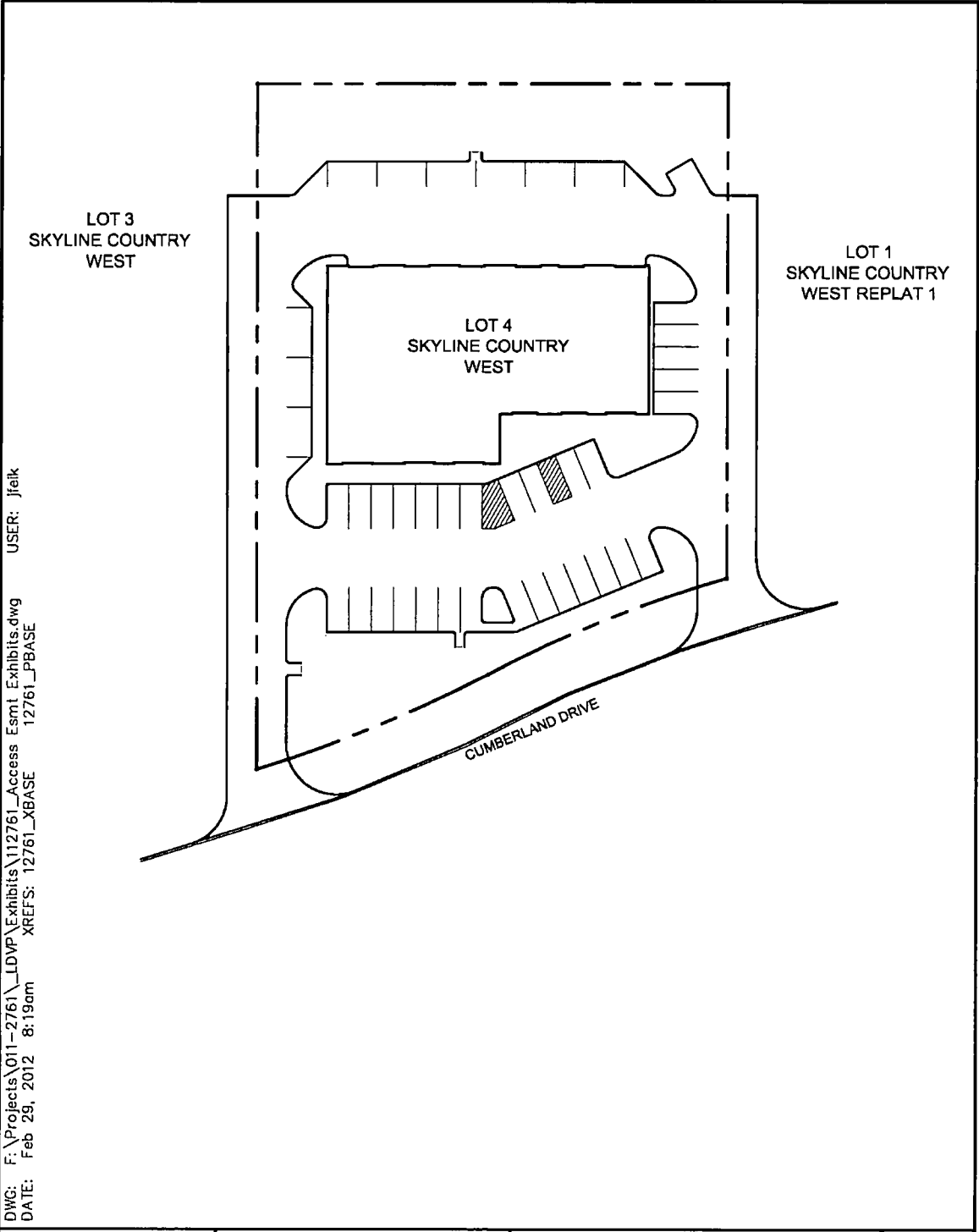


EXHIBIT "A"
SITE PLAN

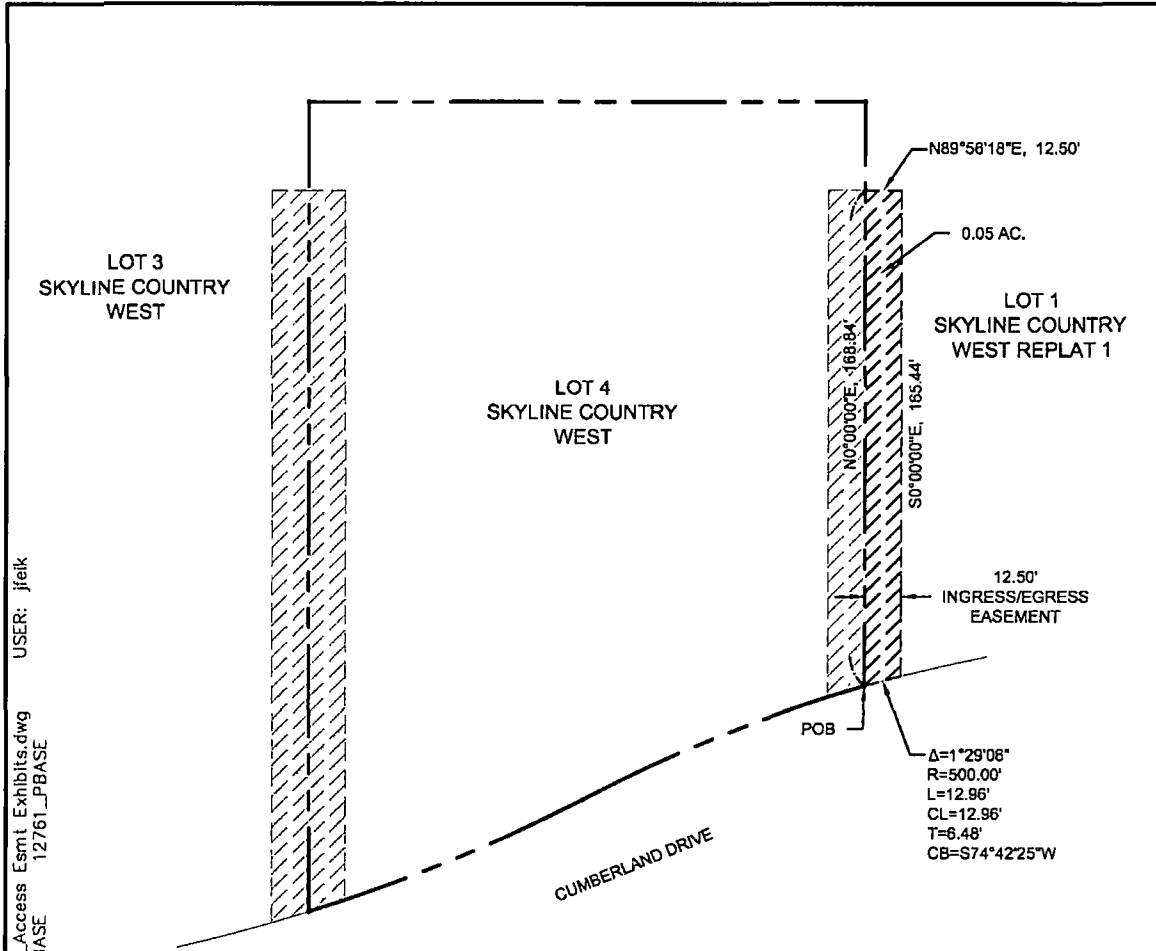


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| PROJECT NO: 011-2761 | SITE PLAN | | 2111 South 67th Street Omaha, NE 68106 TEL 402.341.1118 FAX 402.341.5895 | EXHIBIT |
| DRAWN BY: JLF | | | | A |
| DATE: 2/28/2012 | | | | |

EXHIBIT "B"

MALIBU INGRESS AND EGRESS EASEMENT



LEGAL DESCRIPTION INGRESS & EGRESS LOT 1 SKYLINE COUNTRY WEST REPLAT 1

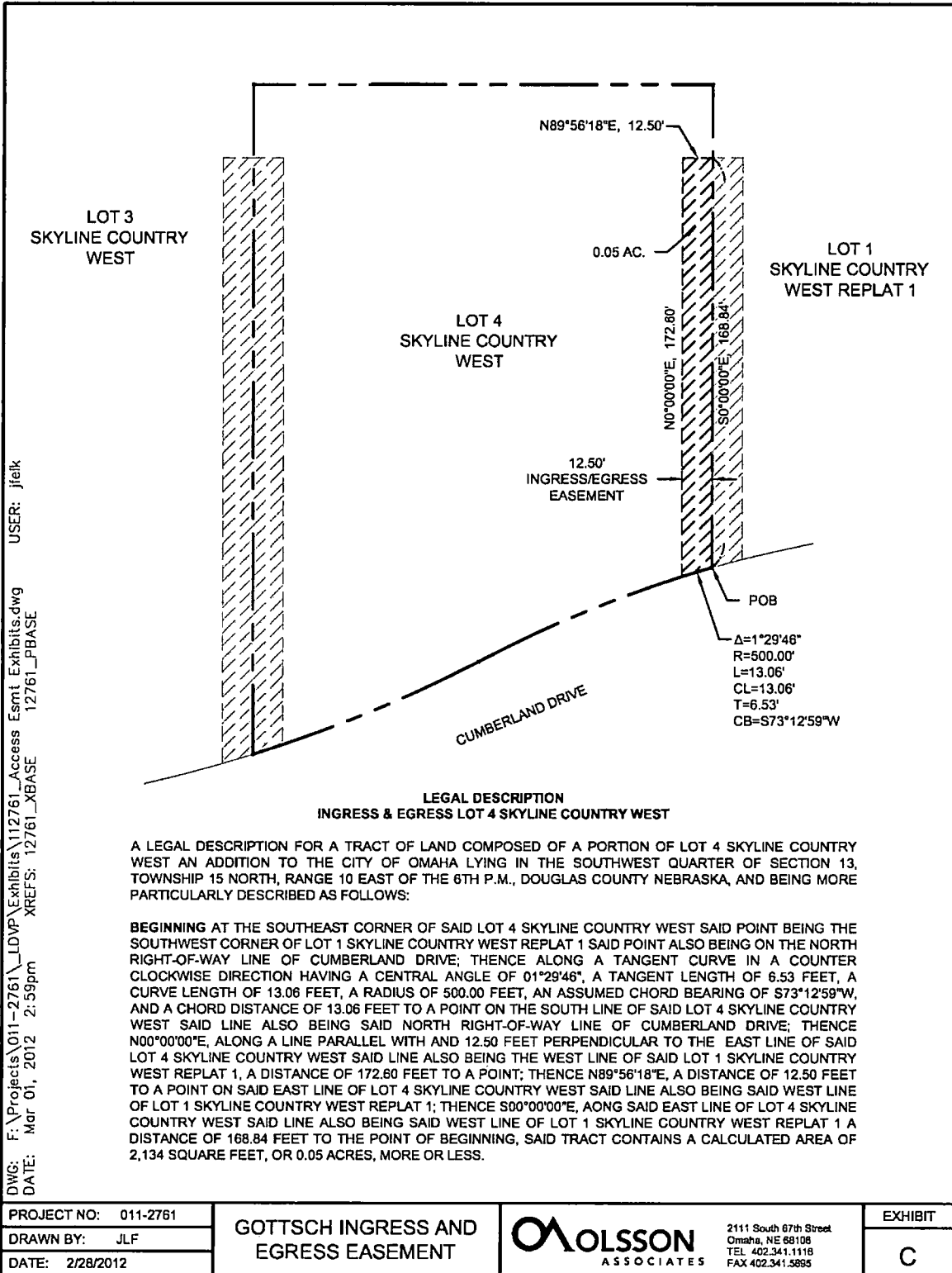
A LEGAL DESCRIPTION FOR A TRACT OF LAND COMPOSED OF A PORTION OF LOT 1 SKYLINE COUNTRY WEST REPLAT 1 AN ADDITION TO THE CITY OF OMAHA LYING IN THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 15 NORTH, RANGE 10 EAST OF THE 6TH P.M., DOUGLAS COUNTY NEBRASKA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 1 SKYLINE COUNTRY WEST REPLAT 1 SAID POINT BEING THE SOUTHEAST CORNER OF LOT 4 SKYLINE COUNTRY WEST SAID POINT ALSO BEING ON THE NORTH RIGHT-OF-WAY LINE OF CUMBERLAND DRIVE; THENCE ON AN ASSUMED BEARING OF N00°00'00\"E, ALONG THE WEST LINE OF SAID LOT 1 SKYLINE COUNTRY WEST REPLAT 1 SAID LINE ALSO BEING THE EAST LINE OF SAID LOT 4 SKYLINE COUNTRY WEST A DISTANCE OF 168.84 FEET TO A POINT ON SAID WEST LINE OF LOT 1 SKYLINE COUNTRY WEST REPLAT 1 SAID LINE ALSO BEING SAID EAST LINE OF LOT 4 SKYLINE COUNTRY WEST; THENCE N89°56'18\"E, A DISTANCE OF 12.50 FEET TO A POINT; THENCE S00°00'00\"E, ALONG A LINE PARALLEL WITH AND 12.50 FEET PERPENDICULAR TO SAID WEST LINE OF LOT 1 SKYLINE COUNTRY WEST REPLAT 1 SAID LINE BEING SAID EAST LINE OF LOT 4 SKYLINE COUNTRY WEST A DISTANCE OF 165.44 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 1 SKYLINE COUNTRY WEST REPLAT 1 SAID LINE ALSO BEING SAID NORTH RIGHT-OF-WAY LINE OF CUMBERLAND DRIVE; THENCE ALONG A TANGENT CURVE IN A COUNTER CLOCKWISE DIRECTION HAVING A CENTRAL ANGLE OF 01°29'08\", A TANGENT LENGTH OF 6.48 FEET, A CURVE LENGTH OF 12.96 FEET, A RADIUS OF 500.00 FEET, AN ASSUMED CHORD BEARING OF S74°42'25\"W, AND A CHORD DISTANCE OF 12.96 FEET TO THE POINT OF BEGINNING, SAID TRACT CONTAINS A CALCULATED AREA OF 2,089 SQUARE FEET, OR 0.05 ACRES, MORE OR LESS.

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| PROJECT NO: 011-2761 | MALIBU INGRESS AND EGRESS EASEMENT | | EXHIBIT B |
| DRAWN BY: JLF | | 2111 South 67th Street Omaha, NE 68108 TEL 402.341.1116 FAX 402.341.5955 | |
| DATE: 2/28/2012 | | | |

EXHIBIT "C"
GOTTSCH INGRESS AND EGRESS EASEMENT



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LEGAL DESCRIPTION
INGRESS & EGRESS LOT 4 SKYLINE COUNTRY WEST

A LEGAL DESCRIPTION FOR A TRACT OF LAND COMPOSED OF A PORTION OF LOT 4 SKYLINE COUNTRY WEST AN ADDITION TO THE CITY OF OMAHA LYING IN THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 15 NORTH, RANGE 10 EAST OF THE 6TH P.M., DOUGLAS COUNTY NEBRASKA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 4 SKYLINE COUNTRY WEST SAID POINT BEING THE SOUTHWEST CORNER OF LOT 1 SKYLINE COUNTRY WEST REPLAT 1 SAID POINT ALSO BEING ON THE NORTH RIGHT-OF-WAY LINE OF CUMBERLAND DRIVE; THENCE ALONG A TANGENT CURVE IN A COUNTER CLOCKWISE DIRECTION HAVING A CENTRAL ANGLE OF 01°29'46", A TANGENT LENGTH OF 6.53 FEET, A CURVE LENGTH OF 13.06 FEET, A RADIUS OF 500.00 FEET, AN ASSUMED CHORD BEARING OF S73°12'59"W, AND A CHORD DISTANCE OF 13.06 FEET TO A POINT ON THE SOUTH LINE OF SAID LOT 4 SKYLINE COUNTRY WEST SAID LINE ALSO BEING SAID NORTH RIGHT-OF-WAY LINE OF CUMBERLAND DRIVE; THENCE N00°00'00"E, ALONG A LINE PARALLEL WITH AND 12.50 FEET PERPENDICULAR TO THE EAST LINE OF SAID LOT 4 SKYLINE COUNTRY WEST SAID LINE ALSO BEING THE WEST LINE OF SAID LOT 1 SKYLINE COUNTRY WEST REPLAT 1, A DISTANCE OF 172.60 FEET TO A POINT; THENCE N89°56'18"E, A DISTANCE OF 12.50 FEET TO A POINT ON SAID EAST LINE OF LOT 4 SKYLINE COUNTRY WEST SAID LINE ALSO BEING SAID WEST LINE OF LOT 1 SKYLINE COUNTRY WEST REPLAT 1; THENCE S00°00'00"E, ALONG SAID EAST LINE OF LOT 4 SKYLINE COUNTRY WEST SAID LINE ALSO BEING SAID WEST LINE OF LOT 1 SKYLINE COUNTRY WEST REPLAT 1 A DISTANCE OF 168.84 FEET TO THE POINT OF BEGINNING, SAID TRACT CONTAINS A CALCULATED AREA OF 2,134 SQUARE FEET, OR 0.05 ACRES, MORE OR LESS.

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|----------------------|--|--------------------------|---|---------|
| PROJECT NO: 011-2761 | GOTTSCH INGRESS AND EGRESS EASEMENT | OLSSON ASSOCIATES | 2111 South 67th Street Omaha, NE 68106 TEL 402.341.1118 FAX 402.341.5855 | EXHIBIT |
| DRAWN BY: JLF | | | | C |
| DATE: 2/28/2012 | | | | |