

2010-29452

10/22/2010 3:47:02 PM

Wayne J. Dowling

REGISTER OF DEEDS



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FEEES \$	<u>36.00</u>		
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**SECOND AMENDMENT TO
DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS
LOTS 241 THROUGH 248, INCLUSIVE, AND OUTLOT "E",
VAL VISTA SUBDIVISION
(Commonly Known as Val Vista Business Park)**

This SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS LOTS 241 THROUGH 248, INCLUSIVE, AND OUTLOT "E", VAL VISTA SUBDIVISION ("Amendment") is executed as of the 15th day of September, 2010 by Giles Road No.2, LLC, a Nebraska limited liability, company ("Declarant").

1. Declarant made a Declaration of Covenants, Conditions, Restrictions and Easements effective June 3, 2002, that was recorded June 3, 2002 by the Sarpy County Register of Deeds as Instrument Number 2002-20540, as amended by a First Amendment to Declaration of Covenants, Conditions, Restrictions and Easements effective March 10, 2005, that was recorded on April 27, 2005 by the Sarpy County Register of Deeds as Instrument Number 2005-13484 (collectively, the "Declaration"), with respect to certain real property situated in Sarpy County, Nebraska, legally described as follows:

Lot 241 through 248, inclusive, and Outlot "E", all in Val Vista, a subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska ("Property").
*(LOTS 241 AND 248 AND LOTS 242, 243 AND 247 REPEATED) SEE PAGE 5 **
said Property being situated within the subdivision to which said Declaration applies; and

2. Declarant intended the Declaration to impose upon the Property certain covenants, conditions and restrictions and to create certain easements as described in said Declaration.

3. Declarant desires to sell, transfer and convey to Pedcor Investments-2008-CXVIII, L.P. ("Pedcor"), and Pedcor desires to purchase and acquire, Outlot "E", free and clear of the Declaration and all covenants, conditions, restrictions and easements of the Declaration; provided, however, that the release of Outlot "E" from the Declaration, as contemplated herein, is contingent upon Pedcor using Outlot "E" as a wetlands mitigation area and for no other purpose.

4. Declarant has authority to terminate the Declaration with respect to Outlot "E" and to exclude Outlot "E" from the Declaration and all of its covenants, conditions, restrictions and easements, pursuant to Section 13.2, which provides "this Declaration, or any provisions hereof, may be terminated, modified, or amended with respect to all or any portion of Val Vista Business Park by

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the terms of a recorded document executed by Declarant alone until the expiration of the Period of Declarant Control."

5. As of the date hereof, the "Period of Declarant Control" continues. Pursuant to Section 1.22 of the Declaration, the "Period of Declarant Control" commenced June 3, 2002 with the recording of the Declaration and shall continue until June 2, 2008 or as long as Declarant owns at least twenty percent (20%) of the membership interests as computed under Section 4.1 of the Declaration, whichever is later, unless and until Declarant elects to transfer, relinquish and/or surrender all of its rights and obligations in the Declaration in the manner set forth in Article XVI of the Declaration.

6. Declarant represents and warrants to Pedcor that: (i) Declarant owns at least twenty percent (20%) of the membership as computed under Section 4.1 of the Declaration; (ii) Declarant has not transferred, relinquished and/or surrendered any of its rights or obligations whatsoever in the Declaration, pursuant to said Article XVI or otherwise; (iii) the "Period of Declarant Control" continues and will continue; and (iv) Declarant shall not transfer, relinquish and/or surrender any of its rights or obligations in the Declaration before the Declarant conveys Outlot "E" to Pedcor, and this Amendment is executed and recorded with the Sarpy County Register of Deeds in the manner specified herein.

7. Declarant hereby amends and terminates the Declaration with respect to Outlot "E" effective on the earlier of (i) the date the Declarant conveys Outlot "E" to Pedcor (the "Conveyance Date") or, (ii) if Declarant temporarily or permanently transfers, relinquishes and/or surrenders any of its rights or obligations in the Declaration before the Conveyance Date, then the day immediately preceding the earlier of the date or effective date of such transfer, relinquishment and/or surrender, ("Effective Date"). Outlot "E" shall be excluded from the Declaration, and neither Outlot "E", nor any owner, lessee or other person having any interest in or on Outlot "E", shall, on or after the Effective Date of this Amendment, be subject to any covenant, condition, restriction, easement, requirement or other term or condition of the Declaration; provided, however, if Pedcor does not develop Outlot "E" as a wetland area and sells Outlot "E" to another person, Outlot "E" will again be subject to the Declaration.

8. All covenants, conditions, restrictions, easements, requirements, terms and conditions of the Declaration shall be deemed amended to reflect and be consistent with the provisions of this Amendment.

9. Capitalized terms of this Amendment shall have the meanings set forth in the Declaration, unless otherwise defined or modified by this Amendment.

10. Except as modified by this Amendment, the covenants, conditions, restrictions, easements, requirements, terms and conditions of the Declaration shall continue in full force and effect with respect to the Property (with the exception of Outlot "E").

11. Declarant does hereby specify, agree, designate and direct that this Amendment and all of its provisions shall be and constitute covenants running with the land in favor of Pedcor and Outlot "E", its grantees, successors and assigns, and shall be binding on the Property and all portions thereof, and all present owners, and all successors, heirs, executors, administrators, legal representatives, grantees, devisees, mortgagees and assigns of presents owners, of the Property and all portions thereof.

12. Declarant represents and warrants to City that the undersigned constitute all owners or persons having any interest in any Property within the Subdivision as of closing on the sale of Outlot "E" to Pedcor.

13. Execution and recording of this Amendment shall be a condition of closing of Pedcor's purchase of Outlot "E" from Declarant. Declarant shall ensure that this Amendment is filed with the Sarpy County Register of Deeds before the warranty deed conveying Outlot "E" to Pedcor is filed. This Amendment shall survive said closing on Outlot "E". No agreement, amendment, document, instrument or action shall be adopted, executed or taken contrary to or otherwise affecting any matter or issue contained in this Amendment without the prior written consent of Pedcor.

IN WITNESS WHEREOF, Declarant has executed this Amendment effective as of the date first set forth above.

GILES ROAD NO.2, LLC, a
Nebraska limited liability company

BY: KVT #2, Limited Partnership, a
Nebraska limited partnership, Member

BY: Seechol Properties, a Nebraska
general partnership, Member

By: 
George W. Venteicher, General Partner

By: 
General Partner

By: 
Stephen M. Farrell, Member

By: 
General Partner

STATE OF NEBRASKA)
) ss.
COUNTY OF Douglas)

On this 15th day of September, 2010 before me, the undersigned, a Notary Public, duly commissioned and qualified for in said County, personally came George W. Venteicher, General Partner of KVT #2, limited partnership, Member of Giles Road No.2, LLC, a Nebraska limited liability company, known to be the identical person or persons whose name is or names are affixed to the foregoing instrument and acknowledged the execution thereof to be their voluntary act and deed on behalf of said company.

Witness my hand and notarial seal the day and year last above written.

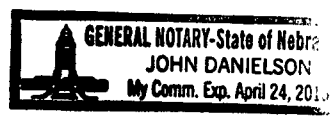



NOTARY PUBLIC

STATE OF NEBRASKA)
) ss.
COUNTY OF Douglas)

On this 15th day of September, 2010 before me, the undersigned, a Notary Public, duly commissioned and qualified for in said County, personally came Stephen M. Farrell, Member of Giles Road No.2, LLC, a Nebraska limited liability company, known to be the identical person or persons whose name is or names are affixed to the foregoing instrument and acknowledged the execution thereof to be their voluntary act and deed on behalf of said company.

Witness my hand and notarial seal the day and year last above written.

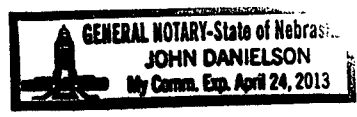


[Signature]
NOTARY PUBLIC

STATE OF NEBRASKA)
) ss.
COUNTY OF Douglas)

On this 15th day of September, 2010 before me, the undersigned, a Notary Public, duly commissioned and qualified for in said County, personally came Thomas Nichols, General Partner of Seechol Properties, a Nebraska general partnership, Member of Giles Road No, 2, LLC, a Nebraska limited liability company, known to be the identical person or persons whose name is or names are affixed to the foregoing instrument and acknowledged the execution thereof to be their voluntary act and deed on behalf of said company.

Witness my hand and notarial seal the day and year last above written.

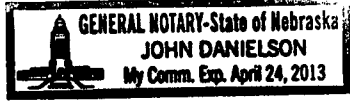


[Signature]
NOTARY PUBLIC

STATE OF NEBRASKA)
) ss.
COUNTY OF Douglas)

On this 15th day of September, 2010 before me, the undersigned, a Notary Public, duly commissioned and qualified for in said County, personally came Lee Seeman, General Partner of Seechol Properties, a Nebraska general partnership, Member of Giles Road No, 2, LLC, a Nebraska limited liability company, known to be the identical person or persons whose name is or names are affixed to the foregoing instrument and acknowledged the execution thereof to be their voluntary act and deed on behalf of said company.

Witness my hand and notarial seal the day and year last above written.



John Danielson
NOTARY PUBLIC

- * LOTS 241 AND 248 VAL VISTA NOW KNOWN AS LOTS 1-THRU 12 VALVISTA REPLAT 4
- * LOT 242 AND 243 ~~now~~ KNOWN AS LOTS 1 & 2 VAL VISTA REPLAT 2 AND LOT 243A VAL VISTA
- * LOT 247 NOW KNOWN AS LOTS 1-3 VAL VISTA REPLAT 3