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Seacrest + Kalkowski
1111 Lin Mall
Ste 350
(08)

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JUN 5 2 30 PM '97

INST. NO 97

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97R-117

Introduce: 4-7-97

RESOLUTION NO. A- 78038

1 BE IT RESOLVED by the City Council of the City of Lincoln, Nebraska:
2 That the I-1 Industrial District Protective Covenants which are attached
3 hereto, marked as Attachment "A" and made a part hereof by reference, between
4 the City and Ridge Development Company outlining certain conditions and
5 understandings between the City and Ridge Development Company relating to the
6 use of I-1 Industrial District Zoned property generally located east of North
7 27th Street and Folkways Blvd., Lancaster County, Nebraska, is approved. The
8 Mayor is authorized to execute the same on behalf of the City.

9 BE IT FURTHER RESOLVED that the City Clerk is directed to return the
10 original of the Protective Covenants to Kent Seacrest, Seacrest & Kalkowski,
11 P.C., 1111 Lincoln Mall, Suite 750, Lincoln, NE 68508-3910 for filing with the
12 Register of Deeds.

Introduced by:

Kende Wilson
AYES: Donaldson, Haar, Johnson,
Seng, Shoecraft, Wilson, Young;
NAYS: None.

Approved as to Form and Legality:

Archie Peo
Assistant City Attorney

Staff Review Completed:

Loni McClung
Administrative Assistant

APPROVED

APR 22 1997
[Signature]
MAYOR

ADOPTED

APR 14 1997

By City Council

I-1 INDUSTRIAL DISTRICT PROTECTIVE COVENANTS

These I-1 Industrial District Protective Covenants ("Protective Covenants") are made and entered into as of this 22nd day of APRIL, 1997, by and between the **City of Lincoln, Nebraska**, a municipal corporation ("City") and **Ridge Development Company**, a Nebraska corporation ("Ridge").

1. **Definitions.** Unless defined elsewhere in these Protective Covenants, the following terms are defined below:

"**Accessory Uses**" are accessory buildings and uses customarily incident to the permitted uses.

"**Final Approval**" Approval by the City which has not been appealed from within the time periods provided by law for such appeals, or that any such appeal has been conclusively denied or discussed.

"**Owner**" shall mean Ridge and its designated successors or assigns.

"**Property**" shall mean those portions of Lots 49, 50 and 51, Irregular Tracts located in the Northwest Quarter of Section 6, Township 10 North, Range 7 East of the 6th P.M., Lancaster County, Nebraska that are zoned I-1 Industrial District as of the date written above, as more particularly defined on Exhibit "A", which is attached hereto and incorporated herein by this reference.

2. **Declaration.** Owner is the present titleholder of the Property. Owner does hereby declare that the Property shall be held, transferred, sold, conveyed, and owned subject to the covenants and restrictions set forth, which shall run with the Property.

3. **Prohibited Uses.** No portion of the Property shall be used for the following purposes:

- (i) The refining, distillation, or manufacture of:
 - A. Acids or alcohols;
 - B. Ammonia, bleach, or chlorine;
 - C. Asphalt, tar, or products made therewith, including roofing or waterproofing;
 - D. Cement, lime, gypsum, or plaster of paris;

- E. Disinfectants;
 - F. Dyestuffs;
 - G. Fertilizer;
 - H. Glue, sizing, or gelatin;
 - I. Oilcloth, linoleum, oiled rubber goods;
 - J. Paint, shellac, turpentine, or oils;
 - K. Rubber, gutta-percha, balata, creosote, or products treated therewith;
 - L. Shoe polish;
- (ii) The operation of:
- A. Bag cleaning works;
 - B. Blast furnaces, coke ovens, smelting or ore reduction works;
 - C. Boiler works;
 - D. Forge;
 - E. Rolling mill;
 - F. Yeast plant;
- (iii) Production, manufacture, processing, distribution, and storage, warehousing, or transportation of toxic, radioactive, flammable, or explosive materials, except that any of the above referenced materials may be stored or used in connection with a permitted use as allowed by any ordinances or regulations of the City of Lincoln as incidental to the permitted use;
- (iv) Tanning, curing, or storage of raw hides or skins; stockyards or slaughter of animals or fowl; rendering fat, distillation of bonds, coals or wood;
- (v) Dumping or reduction of garbage, offal, or dead animals;
- (vi) Scrap processing operation, salvage yard, or disassembly operation, unless such use is fully enclosed;
- (vii) The manufacture of acetylene, or the transfer of the gas from one container to another, or the storage of the gas in containers having a capacity greater than the equivalent of 1,000 cubic feet at standard temperature and pressure.

4. **Restriction on Permitted Uses.** Except as otherwise prohibited by these covenants, a building or lot on the Property may be used for any purposes set forth in the I-1 Industrial District, as may be amended from time to time, by the City; provided that, the following restrictions contained in this paragraph shall be enforceable until January 1, 2002, after which time period the following restrictions shall automatically expire:

A. No building for retail sale of goods shall be permitted to be constructed on the Property, except that, buildings for retail sale of goods shall be permitted when (i) twenty (20) percent of the goods are assembled, fabricated, manufactured or processed on the Property; (ii) twenty (20) percent of the retail sales are to user or users of the Property; or (iii) the total amount of square feet of buildings for retail sale of goods on the Property is twenty-five percent (25) or less of the total amount of square feet of constructed buildings for all other permitted uses hereunder on the Property.

B. No free standing office buildings for office use, data processing, telecommunications, insurance financial services, or other services shall be permitted to be constructed on the Property, except that free standing office buildings containing over fifty thousand (50,000) square feet shall be permitted. Notwithstanding any contrary provision herein, offices buildings containing fifty thousand (50,000) square feet or less shall be permitted if at least one half (1/2) of the building is used for administrative offices of any permitted uses hereunder.

C. No buildings for motels or hotels shall be permitted to be constructed on the Property, except that, buildings for motels and hotels shall be permitted when (i) ten (10) percent of the motel or hotel use are to user or users of the Property or (ii) the total amount of square feet of buildings for motels or hotels on the Property is ten (10) percent or less of the total amount of square feet of constructed buildings for all other permitted uses hereunder on the Property.

5. **North 27th Street Design Criteria.** Development of the Property abutting North 27th Street shall be subject to the following conditions:

A. A 50 foot front yard setback abutting North 27th Street; provided that the Owner reserves the right to request the City to grant front yard setback waivers for ground signs;

B. One pole sign will be permitted within 300 feet of North 27th Street.

C. No raw galvanized, or other raw metal sheeting shall be used for the exterior construction of any building within 300 feet of North 27th Street. No painted galvanized or other painted metal sheeting shall be used for the primary exterior construction side of a building within 300 feet of North 27th Street if such side fronts North 27th Street.

6. **Exterior Building Finish.** No galvanized or other raw material or metal sheeting shall be used for the exterior construction of any building. No painted galvanized or other painted metal sheeting shall be used for more than 70% of the exterior construction of a building on any front side of such building containing the buildings address if such front side of the building abuts a public street.

7. **Accessory Uses.** Accessory Uses involving the open storage of materials or other articles shall only be allowed in areas enclosed or otherwise adequately screened from public view with an enclosure or screen at least six feet in height.

8. **Setbacks.** The following required setbacks shall apply under these Protective Covenants: (i) required front yard - 50 feet; (ii) required side yard - 20 feet; and required rear yard - 20 feet. When a rear yard abuts a residential district the required yard shall be 50 feet and screened in conformance with the landscape design standards adopted by the City of Lincoln.

9. **Enforcement.** These Protective Covenants shall run with the land and Property and shall be binding upon and enforceable by the Owner and the City and all persons claiming under the Owner and the City. The enforcement of these Protective Covenants may be by proceedings at law or in equity against any person or persons violating or attempting to violate any provision hereof.

10. **Severability.** The invalidation of any one of these Protective Covenants shall not effect the validity of the remaining provisions hereof.

11. **Amendments to the Protective Covenants.** The provisions contained in these Protective Covenants may not be amended without the written consent of the City of Lincoln in addition to the titleholders of lots comprising over 50% of the Property. Notwithstanding any contrary provision herein, the Owner reserves the right to establish and file of record additional restrictions on the Property without the City's approval

The parties understand and agree that, notwithstanding any contrary provision herein, the City Council, on its own motion or at the request of any party, may, in the exercise of its lawful legislative authority: (i) amend the Comprehensive Plan; (ii) change the municipal corporate boundaries; (iii) rezone or revise the zoning map or text designations applicable to all or any portion of the Property; or (iv) approve or amend plats, dedications, use permits, special permits, developments, community unit plans, building permits or other land use controls, as future circumstances may warrant. The parties understand and agree that, notwithstanding any contrary provision herein, additional real estate that is adjacent or contiguous to the Property may be added to the definition of "Property" hereunder and be subject to these Protective Covenants by the acceptance of these Protective Covenants by the legal owner of record; provided that, said additional real estate is zoned I-1 Industrial District.

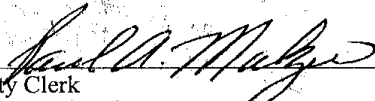
12. **Termination of the Protective Covenants.** These Protective Covenants shall continue and remain in full force and effect at all times as against the Owner of any lot comprising the Property, regardless of how he or she acquired title, until December 31, 2015, on which date these Protective Covenants shall terminate and end, and thereafter be of no further legal or equitable effect on such lots or any titleholder thereof; provided, however, that these Protective Covenants shall be automatically extended for a period of five years, and thereafter in successive five year periods, unless on or before the end of the original period or one of such extension periods the titleholders of the lots comprising over fifty percent (50%) of the Property shall by written instrument duly recorded declare a termination of the same.

Notwithstanding any contrary provision herein, the City Council, on its own motion or at the request of any party, may, in the exercise of its lawful legislative authority change the I-1 Industrial District zoning map designation to another zoning map designation on all or any portion of the Property as future circumstances may warrant and such change in zoning map designation shall without further notice or approval automatically terminate these Protective Covenants on that portion of the Property that received the City Council's Final Approval of another zoning map designation and these Protective Covenants shall continue in force and effect on any remaining portion of the Property that continues to have an I-1 Industrial District zoning map designation.

Dated as of the date written above.

City of Lincoln, Nebraska,
a municipal corporation

ATTEST:

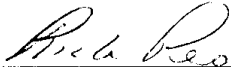


City Clerk

By: 

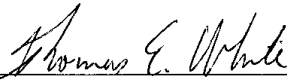
Mike Johanns, Mayor

Approved as to form and legality:

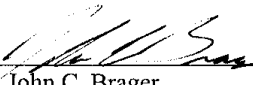
By: 

Asst City Attorney

Ridge Development Company, a
Nebraska corporation

By: 

Thomas E. White,
President of Development

By: 

John C. Brager,
President of Construction

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

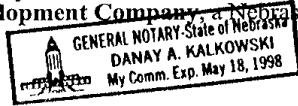
The foregoing instrument was acknowledged before me this 28nd day of April, 1996 by Mike Johanns, Mayor of the **City of Lincoln, Nebraska**, on behalf of the City of Lincoln, Nebraska.



Joan E. Ross
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

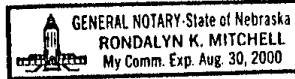
The foregoing instrument was acknowledged before me this 20th day of March, 1996 by Thomas E. White, President of Development of **Ridge Development Company**, a Nebraska corporation, on behalf of the corporation.



Danay A. Kalkowski
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 19th day of March, 1996 by John C. Brager, President of Construction of **Ridge Development Company**, a Nebraska corporation, on behalf of the corporation.



Rondalyn K. Mitchell
Notary Public

LEGAL DESCRIPTION FOR CHANGE OF ZONE
PARCEL "A", 1-1 ZONE

A LEGAL DESCRIPTION FOR CHANGE OF ZONE PURPOSES FOR A TRACT OF LAND COMPOSED OF A PORTION OF LOT 50 I.T., AND A PORTION OF LOT 51 I.T., ALL LOCATED IN THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 10 NORTH, RANGE 7 EAST OF THE 6TH P.M., LANCASTER COUNTY, NEBRASKA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 6, THENCE ON AN ASSUMED BEARING OF NORTH 89 DEGREES 09 MINUTES 21 SECONDS EAST ALONG THE NORTH LINE OF SAID SECTION 6, A DISTANCE OF 83.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 51 I.T., SAID POINT BEING THE TRUE POINT OF BEGINNING, THENCE CONTINUING NORTH 89 DEGREES 09 MINUTES 21 SECONDS EAST ALONG THE NORTH LINE OF SAID LOT 51 I.T., SAID LINE BEING THE NORTH LINE OF SAID SECTION 6, A DISTANCE OF 2568.43 FEET TO THE NORTHEAST CORNER OF SAID LOT 51 I.T., SAID POINT BEING THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 6, THENCE SOUTH 1 DEGREE 11 MINUTES 56 SECONDS EAST ALONG THE EAST LINE OF SAID LOT 51 I.T., SAID LINE BEING THE EAST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 6, A DISTANCE OF 2201.45 FEET TO A POINT, THENCE SOUTH 87 DEGREES 55 MINUTES 14 SECONDS WEST, A DISTANCE OF 830.29 FEET TO A POINT, THENCE NORTH 55 DEGREES 00 MINUTES 23 SECONDS WEST, A DISTANCE OF 795.52 FEET TO A POINT, THENCE SOUTH 88 DEGREES 50 MINUTES 27 SECONDS WEST, A DISTANCE OF 158.27 FEET TO A POINT, THENCE NORTH 1 DEGREE 09 MINUTES 33 SECONDS WEST, A DISTANCE OF 453.85 FEET TO A POINT OF CURVATURE, THENCE AROUND A CURVE IN A CLOCKWISE DIRECTION HAVING A DELTA ANGLE OF 28 DEGREES 03 MINUTES 40 SECONDS, AN ARC DISTANCE OF 289.29 FEET, A RADIUS OF 636.00 FEET, AND A CHORD OF NORTH 11 DEGREES 52 MINUTES 17 SECONDS EAST, A DISTANCE OF 285.80 FEET TO A POINT OF TANGENCY, THENCE NORTH 24 DEGREES 54 MINUTES 07 SECONDS EAST, A DISTANCE OF 62.83 FEET TO A POINT, THENCE AROUND A CURVE IN A CLOCKWISE DIRECTION HAVING A DELTA ANGLE OF 04 DEGREES 15 MINUTES 44 SECONDS, AN ARC DISTANCE OF 32.43 FEET, A RADIUS OF 436.00 FEET, AND A CHORD OF NORTH 58 DEGREES 13 MINUTES 50 SECONDS WEST, A DISTANCE OF 32.43 FEET TO A POINT OF TANGENCY, THENCE NORTH 56 DEGREES 05 MINUTES 58 SECONDS WEST, A DISTANCE OF 453.51 FEET TO A POINT OF CURVATURE, THENCE AROUND A CURVE IN A COUNTERCLOCKWISE DIRECTION HAVING A DELTA ANGLE OF 35 DEGREES 03 MINUTES 35 SECONDS, AN ARC DISTANCE OF 222.73 FEET, A RADIUS OF 364.00 FEET, AND A CHORD OF NORTH 73 DEGREES 37 MINUTES 46 SECONDS WEST, A DISTANCE OF 219.27 FEET TO A POINT OF TANGENCY, THENCE SOUTH 88 DEGREES 50 MINUTES 27 SECONDS WEST, A DISTANCE OF 437.66 FEET TO A POINT ON THE NORTHWEST LINE OF SAID LOT 50 I.T., THENCE NORTH 43 DEGREES 50 MINUTES 27 SECONDS EAST ALONG THE NORTHWEST LINE OF SAID LOT 50 I.T., A DISTANCE OF 5.67 FEET TO THE SOUTHWEST CORNER OF SAID LOT 51 I.T., THENCE NORTH 88 DEGREES 50 MINUTES 27 SECONDS EAST ALONG THE NORTH LINE OF SAID LOT 50 I.T., A DISTANCE OF 35.00 FEET TO A POINT, THENCE NORTH 1 DEGREE 09 MINUTES 33 SECONDS WEST ALONG THE WEST LINE OF SAID LOT 50 I.T., SAID LINE BEING 100.00 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID SECTION 6, A DISTANCE OF 10.78 FEET TO A POINT OF DEFLECTION, THENCE NORTH 50 DEGREES 10 MINUTES 52 SECONDS EAST ALONG THE NORTHWEST LINE OF SAID LOT 50 I.T., A DISTANCE OF 57.63 FEET TO A POINT OF DEFLECTION, THENCE NORTH 1 DEGREE 09 MINUTES 33 SECONDS WEST ALONG THE WEST LINE OF SAID LOT 51 I.T., SAID LINE BEING 145.00 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID SECTION 6, A DISTANCE OF 60.00 FEET TO A POINT OF DEFLECTION, THENCE NORTH 36 DEGREES 15 MINUTES 13 SECONDS WEST ALONG THE SOUTHEAST LINE OF SAID LOT 51 I.T., A DISTANCE OF 107.84 FEET TO A POINT OF DEFLECTION, THENCE NORTH 1 DEGREE 09 MINUTES 33 SECONDS WEST ALONG THE WEST LINE OF SAID LOT 51 I.T., SAID LINE BEING 83.00 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID SECTION 6, A DISTANCE OF 438.15 FEET TO THE POINT OF BEGINNING, SAID TRACT CONTAINS A CALCULATED AREA OF 92.65 ACRES MORE OR LESS.

EXHIBIT "A"