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Received - DIANE L. BATTIATO  
 Register of Deeds, Douglas County, NE  
 2/3/2015 14:29:59.95



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**DECLARATION OF  
INGRESS AND EGRESS EASEMENT**

This Declaration of Ingress and Egress Easement Agreement (this "Declaration"), is made this 3<sup>rd</sup> day of February, 2015, by and between ROYCE CANDLEWOOD, LLC, a Nebraska limited liability company ("Declarant").

**Preliminary Statement**

WHEREAS, Declarant is the owner of the real property in Douglas County, Nebraska legally described on Exhibit "A" attached hereto (the "Declarant Property");

WHEREAS, the Declarant Property is part of a commercial development known as Candlewood Hills and situated generally west and south of 124th Street and West Dodge Road, Douglas County, Nebraska;

WHEREAS, the Plat and Dedication of Candlewood Hills, recorded with the Douglas County, Nebraska Register of Deeds on December 11, 2014, as Instrument No. 2014096454 (the "Plat"), sets forth an access easement to be granted via separate document in the location as described and depicted on Exhibit "B" attached hereto (the "Easement Area");

WHEREAS, while the Plat reflects an access easement, the Plat does not identify, describe and allocate the respective owner's rights and obligations relating to the ongoing use, maintenance and operation of such access easement; and

WHEREAS, this Declaration is being made and entered into for the purposes of memorializing the rights and obligations pertaining to the access easement provided herein.

NOW, THEREFORE, Declarant hereby declares that the Declarant Property shall be held, sold and conveyed subject to the following conditions, restrictions, and easements which are for the purpose of protecting the value and desirability of, and which shall run with the Declarant Property.

**ARTICLE I  
Definitions**

1.1 Easement Area. The term "Easement Area" shall mean the area depicted and legally described on Exhibit "B" attached hereto.

1.2 Lot 4. shall mean Lot 4, Candlewood Hills, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

✓ 512134

Return to:  
 James D. Buser  
 Pansing Hogan Grantee & Bachman, LLP  
 10250 Regency Circle, Suite 300  
 Omaha, Nebraska 68114

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1.3 Lot 5. shall mean Lot 5, Candlewood Hills, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

1.4 Owner. The term "Owner" shall mean the legal owner of fee title to either Lot 4 ~~or~~ Lot 5, as reflected by the records of the Douglas County, Nebraska, Register of Deeds. If Lot 4 or Lot 5 is owned by one or more Persons, the Person or Persons holding at least fifty-one percent (51%) of the ownership interest in such property shall designate one of their number to represent all owners of the property in question and such designated Person shall be deemed the Owner of such property.

or 2/3/2015  
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1.5 Permittee. The term "Permittee" shall mean the Owner of Lot 4 and its licensees, tenants, guests and invitees.

1.6 Person. The term "Person" shall mean any individual, partnership, firm, association, corporation, limited liability company, trust, or any other form of business or government entity.

**ARTICLE II  
Easement**

2.1 Ingress and Egress Easement. Declarant hereby reserves, grants and conveys in favor of Lot 4, a perpetual nonexclusive easement for vehicular and pedestrian ingress and egress over and across the drive area as may be constructed in the Easement Area, as the same may be from time to time constructed and maintained for such use.

**ARTICLE III  
Maintenance and Repair**

3.1 Common Drive. The Owner of Lot 5 shall maintain, repair and replace the Easement Area as necessary or appropriate at its sole expense.

3.2 Maintenance. The maintenance responsibilities for the Easement Area shall include, without limitation, the following:

- (a) Maintaining the surfaces in a level, smooth and evenly covered condition with the type of surfacing as may exist in the balance of parking and drive areas on Lot 5; and
- (b) Removal of all papers, ice and snow, debris, filth and refuse.

**ARTICLE IV  
MISCELLANEOUS**

4.1 Enforcement. In the event of a breach or threatened breach of this Declaration, only an Owner shall be entitled to institute proceedings for full and adequate relief from consequences of such breach or threatened breach. Time is of the essence for purposes hereof.

4.2 Benefits; Amendment. This Declaration and the covenants, conditions, restrictions and easements shall create mutual benefits and servitudes running with the land and shall bind and inure to the benefit of the Owners of Lot 4 and Lot 5, and their respective heirs, representatives, lessees, successors and assigns. This Declaration may be modified, amended or terminated by an instrument signed by the Owners of Lot 4 and Lot 5 and recorded with the Douglas County, Nebraska, Register of Deeds.

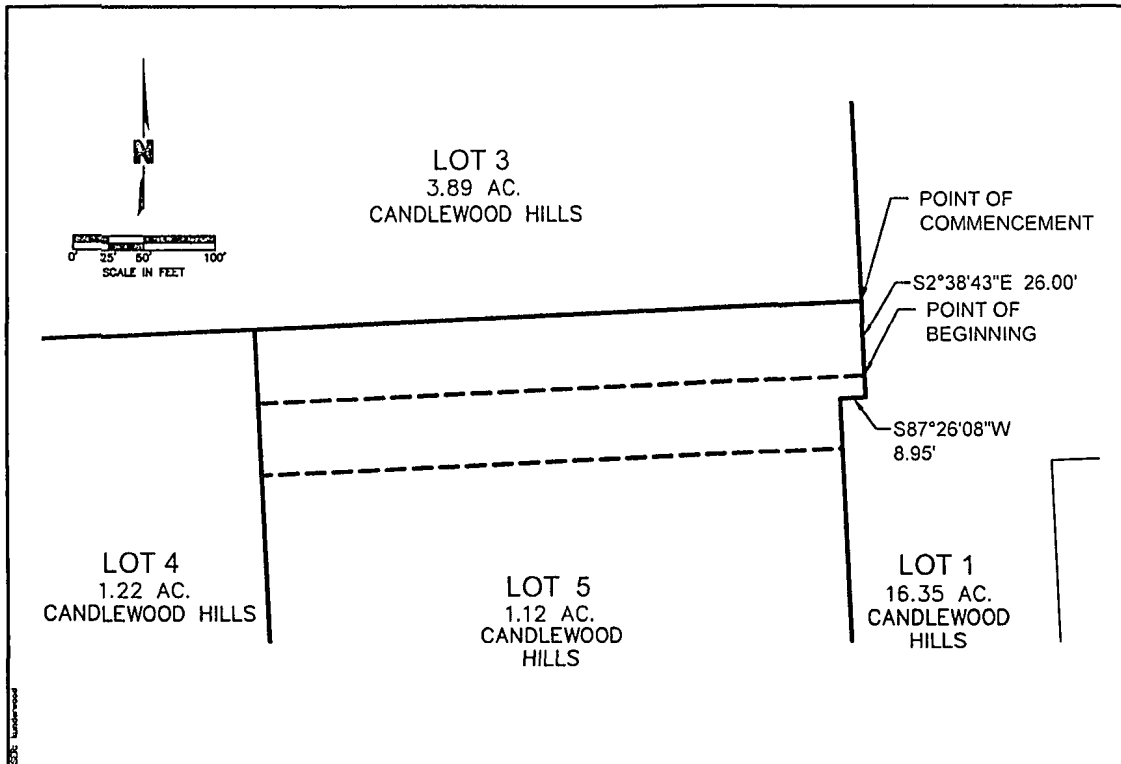
4.3 Survival. Invalidation of any covenant by judgment or court order shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.



**EXHIBIT "A"**  
**DECLARANT PROPERTY**

Lots 4 and 5, Candlewood Hills, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

**EXHIBIT "B"**  
**EASEMENT AREA**



**LEGAL DESCRIPTION**

AN INGRESS AND EGRESS EASEMENT LOCATED IN LOT 5, CANDLEWOOD HILLS, A PLATTED AND RECORDED SUBDIVISION IN DOUGLAS COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 5, CANDLEWOOD HILLS; THENCE ON THE EAST LINE OF SAID LOT 5, S02°38'43"E (ASSUMED BEARING), 26.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING ON SAID EAST LINE, S02°38'43"E, 7.59 FEET; THENCE ON SAID EAST LINE OF LOT 5, S87°26'08"W, 8.95 FEET; THENCE ON SAID EAST LINE OF LOT 5, S02°33'52"E, 17.41 FEET; THENCE S87°26'08"W, 204.00 FEET TO A POINT ON THE WEST LINE OF SAID LOT 5; THENCE ON SAID WEST LINE OF LOT 5, N02°33'52"W, 25.00 FEET; THENCE N87°26'08"E, 212.95 FEET TO THE POINT OF BEGINNING.

SAID INGRESS AND EGRESS EASEMENT CONTAINS A CALCULATED AREA OF 5167.94 SQ. FT. OR 0.12 ACRES +/-.

DATE: 11/3/2014 11:12am  
 DRAWN BY: ALB  
 PROJECT: 012-1773  
 PROJECT NAME: LOT 5, CANDLEWOOD HILLS, DOUGLAS COUNTY, NEBRASKA  
 PROJECT NUMBER: 11773.PLT  
 PROJECT LOCATION: 1538, Candlewood Hills

PROJECT NO: 012-1773	LOT 5 CANDLEWOOD HILLS INGRESS AND EGRESS EASEMENT	2111 South 67th Street, Suite 200 Omaha, NE 68106 TEL: 402.341.1118 FAX: 402.341.5895	EXHIBIT
DRAWN BY: ALB			B
DATE: 11/3/2014			