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INST. NO 2005

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049714

LANCASTER COUNTY, NE

§156-50

BLOCK  
HUBHALL/HEIGHTS/  
CODE  
HUBHALL/HEIGHTS  
CHECKED  
ENTERED

FIRST AMENDED RESTRICTIVE COVENANTS  
HUB HALL HEIGHTS SINGLE FAMILY

The signers of this document are the Titleholders of the real estate described below (Real Estate). A copy of the plat of the Real Estate is attached as Exhibit "A". As platted, the Real Estate is comprised of:

The real property described on Exhibit A consisting of single family lots platted in Hub Hall Heights 1<sup>st</sup> Addition, Lincoln, Lancaster County, Nebraska (Lots)

The Real Estate is comprised of single family lots (Lots) and the following improvements designated within the plat of Hub Hall Heights, Lincoln, Lancaster County, Nebraska and Hub Hall Heights 1<sup>st</sup> Addition, Lincoln, Lancaster County, Nebraska (Commons):

- Permanent open space/drainage areas and facilities, including:
  - Outlot A, Hub Hall Heights, Lincoln, Lancaster County, Nebraska
  - Outlots A, and B, Hub Hall Heights 1<sup>st</sup> Addition, Lincoln, Lancaster County, Nebraska
- Storm Water detention/retention facilities within the Real Estate
- Pedestrian easements and sidewalks, including sidewalks, trails and pedestrian ways over Outlots, open space/drainage areas and facilities
- Street trees and landscape screens including street trees along NW 48<sup>th</sup> St.

Commons shall include all real property and improvements owned by the Corporation and all facilities, systems, installations or requirements as may be determined by the Owner or the City of Lincoln, NE at any time as a condition to the development of the Lots, for the common or mutual benefit of any portion of the Real Estate, or which are ancillary to the use or functioning of the Commons.

For the purposes of these Restrictive Covenants, Highway 15, Inc. or its designated agent shall be the Owner. These Restrictive Covenants are established upon the Real Estate.

Owner intends to add additional Real Estate, Lots and Commons pursuant to Article 5 of these Restrictive Covenants as generally provided in a Preliminary Plat for Hub Hall Heights. The Preliminary Plat for Hub Hall Heights provides for the development of 349 single family lots. These Restrictive Covenants are made pursuant to the provisions and shall add the Lots and Commons within Hub Hall Heights 1<sup>st</sup> Addition, Lincoln, Lancaster County, Nebraska to the Restrictive Covenants recorded with the Register of Deeds of Lancaster County, Nebraska as Instrument No. 04-012590 on March 3, 2004.

Nancy L. Loftis

Hub Hall Heights Owners Association (Corporation) has been incorporated in Nebraska for the purpose of enforcing the Restrictive Covenants established upon the Lots and maintaining and administering the commons. The affairs of the Corporation are conducted by its Board of Directors (Board).

#### ARTICLE 1. USE STANDARDS

- 1.1 **USE:** No Lot shall be used other than for residential purposes. No partially completed dwelling or temporary building and no trailer, tent, shack, or garage on any Lot shall be used as either a temporary or permanent residence.
- 1.2 **AIRPORT ENVIRONS:** The Real Estate is located within the turning zone of the Airport Environs District. All construction within the Real Estate shall be in conformance with the airport zoning requirements. The Real Estate is subject to the terms of an Avigation and Noise Easement and Covenant Agreement recorded as Instrument No. \_\_\_\_\_ with the Register of Deeds of Lancaster County, NE.
- 1.3 **NUISANCE:** No noxious or offensive activity shall be conducted or permitted upon any Lot, nor anything which is or may become an annoyance or nuisance to the neighborhood or which endangers the health or unreasonably disturbs the quiet of the occupants adjoining lots. No non-operating, wrecked, junked, partially dismantled, unlicensed or unregistered vehicle shall be kept or parked on any Lot unless within an enclosed building. No firearms shall be discharged within the Real Estate. The maintenance of the exterior of all dwelling structures, the landscaping upon any Lot and/or other appurtenances shall be the responsibility of the owner of any Lot.
- 1.4 **SIGNS:** No advertising signs, billboards, or other advertising devices shall be permitted on any Lot; however, any titleholder of a lot may place on a lot which they own the following: a "For Sale" sign; an "Open House" sign if posted for a period not exceeding 48 hours; political campaign signs not exceeding six square feet in dimension and for the limited time established by ordinance; garage sale signs not exceeding a period of 48 hours if the title holder of the lot is conducting the sale. Further, Owner may erect signs advertising development of the property and adjoining property and/or lots for sale.
- 1.5 **ANIMALS:** No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot except household pets, provided they shall not be raised, bred, or kept for any commercial purpose.
- 1.6 **RECREATIONAL VEHICLES:** No recreational vehicle, as defined by the Lincoln Municipal Code, shall be parked or stored upon any Lot, except within an enclosed structure. Recreational vehicles may be temporarily parked or stored upon a lot for a period of time not to exceed 14 days per year.
- 1.7 **INSURANCE, SERVICES:** Each member of the Corporation covenants to maintain fire and extended coverage insurance on improvements in an amount equal to the their full insurable value. Any proceeds of insurance shall be applied, to the extent required by

the Corporation, to the repair or reconstruction of the improvements. Each member shall provide proof of insurance to the Corporation upon request. The Corporation may maintain a policy of liability insurance covering risks associated with the Commons. The Corporation may require all Lot owners to utilize a designated refuse service company.

## ARTICLE 2. CONSTRUCTION AND DESIGN STANDARDS

2.1 **CONSTRUCTION:** Any building placed or constructed upon any Lot shall be completed within twelve months after the commencement of construction. During construction on a Lot, the Lot owner and their builder shall be responsible for containment of construction materials and debris removal regularly and shall comply with all requirements for control of sedimentation and erosion or protection of trees as may be required by Owner or the Department of Public Works. Owner may allow storage and/or disposal of soil upon a Lot conditioned on advance approval and indemnity from all expense relating to the activity.

2.2 **ARCHITECTURAL AND LANDSCAPE CONTROL:** Plans for any building or improvement to be placed or constructed upon any lot within the Real Estate shall be submitted to the Owner and shall show the design, size and exterior material for the building or improvement and the plot plan for the lot. One set of plans shall be left on permanent file with the Owner.

No building, exterior addition to, or alteration of any dwelling structure shall be made or commenced until plans and specifications showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to the architectural character of surrounding structures by the Owner. In the event the Owner fails to approve or disapprove a request for any proposed alteration, modification or addition within thirty (30) days after the plans and specifications and/or a detailed proposal have been submitted, approval will not be required and this provision will be deemed to have been fully complied with.

The original grade and condition of all properties adjoining a Lot shall be maintained unless the Owner permits variance in writing. Owner shall have the exclusive right to establish grades and slopes for all Lots.

2.3 **CITY REQUIREMENTS:** All buildings shall be constructed in conformity with the requirements of the applicable building codes of the City of Lincoln, Nebraska. Streets, storm water detention/retention facilities, sidewalks, street lights and lighting shall be installed as required by the City of Lincoln.

2.4 **GENERAL STANDARDS FOR DWELLING STRUCTURES:** All dwellings shall be constructed in accordance with the following general standards. Owner may, in Owner's sole discretion, modify the standards in the exercise of Architectural Control. All modifications shall be approved in writing by Owner prior to the commencement of construction.

**Minimum Floor Area:** The minimum floor area for any dwelling exclusive of basements, garages, porches, patios, decks or enclosed decks shall be:

Single story ranch	1,100 sq ft main level
One and one half, two story	1,400 sq ft total
Multi level	1,300 sq ft total

**Setbacks:** Dwellings shall be set back from the lot lines as follows:

**Interior Lots:** a minimum of 20 ft from the front lot line, 5 ft from the side lot lines and the lesser of 30 ft. or 20% of the lot depth from the rear lot line.

**Corner Lots:** as required to satisfy the requirements of the building codes of the City of Lincoln however Owner shall determine the front line for corner lots.

Owner may vary the setbacks within the limits established by the building codes of the City of Lincoln. All variances shall be authorized in writing by Owner prior to the commencement of construction.

**Exterior finish:** Owner shall approve all exterior finish materials and colors.

**Roof:** All roof pitches shall be a minimum of 6:12 or as may be dictated by a unique architectural style. Roofing materials shall be equal to or better than an architectural-grade shingle which provides an appearance of depth such as the Horizon shingle.

**Elevations:** Owner shall determine the out of grade elevation for all dwellings and improvements.

**Solar panels:** Active solar panels shall be flush with the roof or sidewall of a dwelling and shall not be located in any required yard or upon any accessory structure.

**Garages:** All residential structures shall have an attached garage capable of holding a minimum of 2 full-sized vehicles. All driveways shall be hard surfaced and driveways in the front yard shall not exceed 22 feet in width.

**2.5 GENERAL STANDARDS FOR OTHER IMPROVEMENTS:** All improvements other than the dwelling shall be constructed in accordance with the following standards.

**Fencing:** Fencing shall be wood/vinyl privacy or dark (green/black/charcoal/brown) coated chain link. Fencing shall not extend into a front yard beyond the front elevation of the dwelling. Privacy fencing shall not exceed 6 ft in height and shall be constructed with the finished side facing the lot line or with a shadow pattern. Chain link fencing shall not exceed 5 ft in height.

**Accessory Structures:** Accessory structures, including storage sheds and playhouses shall be compatible in materials and design with the dwelling structure. All other accessory improvements, including swing sets and sand boxes shall be compatible with the quality of the overall development and shall be maintained in good order and attractive condition.

**Dog kennels:** Any dog run or kennel shall be screened from view and shall not be located in the front yard, any required setback or within 5 feet of a lot line. The size of the facility shall not exceed 4ft x 12ft x 6ft in height. Only one run or kennel shall be permitted on any lot.

**Landscaping:** All front, side and rear yard areas shall be seeded or sodded within 6 months after completion of construction of any dwelling. Each Lot owner shall install one street tree per lot or two street trees per corner lot.

**Antennas:** Video reception devices which are more than one meter (39.37 inches) in diameter are prohibited. Video reception devices which are one meter or less in diameter shall not be permitted above ground, except within a building, unless they are mounted using the following preferences:

**First Preference:** The device shall be mounted on the residence, confined to the rear, and shall not be visible from the front lot line nor protrude above the highest point of the roof line.

**Second Preference:** If an acceptable quality signal cannot be achieved under the first preference, the device shall be mounted where it is least visible from the front lot line of the residence and shall be reasonably camouflaged to blend in with the background against which it is mounted. Camouflage may include placement within existing landscaping or painting the device.

**Utility/Services Wire/Cable:** Wiring or antenna for electrical power, telephone, television, radio or any other use shall not be permitted above ground, except within a building unless they conform with all rules and regulations relating to emissions, placement and height. Such installations shall not unreasonably interfere with the reception of television or radio signals on any other lot. The installation shall be mounted where it is least visible from the front lot line of the residence and shall be reasonably camouflaged to blend with the background of its placement.

### ARTICLE 3. OWNERS ASSOCIATION

3.1 **HOMEOWNERS ASSOCIATION:** Every person or entity who becomes a titleholder of a fee or undivided fee interest in any lot shall be a Class A member of the Corporation. However, any person or entity who holds such interest merely as security for the performance of any obligation shall not be a member. The Corporation, and each member by acceptance of a deed for a Lot, is deemed to covenant and agree to own and maintain the Commons on a permanent and continuous basis.

3.2 **MEMBERSHIP:** The Corporation shall have two classes of membership:

Class A membership shall include all members of the Corporation except the Owner and any successor in interest. Each Class A member of the Corporation shall be entitled to all the rights of membership and to one vote for each lot in which the interest requisite for membership is held. However, no more than one vote shall be cast with respect to any lot.

Class B membership shall include only the Owner and any successor in interest. The Class B member shall be entitled to 30 votes for each lot in which the interest requisite for Class A membership is held. However, the Class B membership shall be converted to Class A membership when the total number of votes entitled to be cast by the Class A members equals the total number of votes entitled to be cast by the Class B member, or on January 1, 2012, whichever first occurs.

- 3.3 **AUTHORITY:** The Corporation shall own and maintain any and all Commons within the Real Estate and shall discharge such responsibility on a permanent and continuous basis. The Corporation shall have authority to take all actions reasonably necessary to perform the responsibilities for ownership and maintenance. Specific powers and responsibilities shall include, and not be limited to, the following:

**Sidewalks and landscape screens:** The Corporation shall maintain, repair, replace and/ or improve and provide for snow removal services as required for the sidewalks and pedestrian ways upon Commons or ancillary to the use of such walks or ways. The Corporation shall maintain the street trees and any landscape screens, whether composed of structural or live plant material, including trees and landscaping installed along NW 48<sup>th</sup> Street as required by the City of Lincoln. The Corporation may enter into agreements with the owners of the Lots upon which these improvements are located for performance of these obligations.

**Drainage/Detention Facilities:** The Corporation shall supervise, maintain, repair, replace and/or improve, as may be required by the City of Lincoln, the drainage ways and storm water detention/retention facilities designated within the plat.

**Lot Maintenance:** If the owner of a Lot fails to maintain the exterior of a dwelling structure, landscaping and/or other improvements or appurtenances and the deferral of maintenance, in the judgment of the Owner or Corporation, creates an adverse effect on the safety or values of the other Lots, the Owner or Corporation shall have the right to enter upon any lot, at reasonable times, and perform or cause to be performed maintenance as may be performed following delivery of a written notice to the titleholder of the Lot stating the intent to perform the maintenance and allowing not less than sixty (60) days for the titleholder to take corrective action. The cost of any maintenance plus a 10 percent administration fee shall be the subject of an assessment against the lot (Lot Assessment) which, when filed of record, shall become a lien against the individual lot and shall be the personal obligation of the titleholder of the lot at the time the assessment is made.

#### ARTICLE 4. ASSESSMENTS

- 4.1 **ASSESSMENTS:** All Class A members shall pay the Corporation assessments, together with late fees interest, reasonable attorney fees, and other costs of collection, which shall be a lien upon a lot until paid. Each assessment and other charges shall also be the personal obligation of the titleholder of the lot at the time any assessment is due.

**Assessment Purpose:** Assessments shall be levied by the Corporation to enable the Corporation to perform its obligations to its members. Purposes shall include, but not

be limited to: the administration, maintenance and repair of the Commons; all taxes, fees permits, and other assessments by government or public entities which may be incurred by the Corporation; providing adequate insurance; and providing such reserves as may be deemed necessary to accomplish the purposes of the Corporation.

**Annual Assessments:** Annual assessments shall be established by the Board of the Corporation and shall be payable in as a single payment or installments as determined by the Board. On or about the first day of November in each year, the Board shall establish the annual assessment rate for the following calendar year. The rate established shall apply to assessments beginning as of January 1. Written notice of the annual assessments shall be sent to every member on or before December 1 of every year.

**Special Assessment:** The Corporation may levy special assessments for unexpected repairs or replacements, or other unanticipated expenses reasonably necessary to permit the Corporation to perform its obligations. Written notice of the special assessment shall be given to the members specifying the reason for the special assessment and the date payment is due. The date set for payment shall not be less than 30 days after the date of the notice.

**Improvement Assessment:** The Corporation may levy an improvement assessment for any capital improvements. Any such improvement assessment shall require the affirmative vote of two-thirds of the members entitled to vote. Payment of the improvement assessment shall be made on terms established by the Corporation which terms shall be included in the written notice to the members advising them of the improvement assessment.

**Equity of Assessment:** All assessments except Lot Assessments shall be apportioned equally to the lots owned by Class A members.

**Late Fees and Interest:** Any assessments which are not paid within 10 days of the date they are due shall be delinquent and subject to a late fee; and if not paid within 30 days, shall bear interest from the date originally due. The amount of the late fees and interest rate shall be determined annually by the Corporation; provided, the late fee shall not exceed 10 percent of the payment and the interest rate shall not exceed 18 percent per year.

- 4.2 **PRIORITY:** The lien of any assessments shall be subordinate to the lien of any mortgage or mortgages executed and delivered before notice of an assessment lien is filed for record by the Corporation.

## ARTICLE 5. RESERVATION AND ENFORCEMENT OF RIGHTS

- 5.1 **ADDITIONS:** The Owner may add additional Real Estate or designate additional Commons, at any time, without the consent of the members of the Corporation. Additions shall be made by the execution and recording of Restrictive Covenants upon the Real Estate and any additional real estate, making the property subject to these Restrictive Covenants. Additions may include additional lots or commons. Additions may include additional improvements designated as commons including pedestrian/trail

easements and ways, utility services, drainage facilities or other improvements of benefit to the Real Estate.

**5.2 EASEMENTS:** Every Owner shall have a right and easement of enjoyment in and to the Commons which shall be appurtenant to and pass with the title to a Lot, subject to the following:

The right of the Corporation to adopt reasonable rules and regulations for the use of the Commons.

The right of the Corporation to suspend the voting rights of a Lot owner for nonpayment of assessments or infraction of the rules and regulations for use of the Commons.

The right of the Corporation to dedicate or transfer all or any part of its interest in the Commons to any person, public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless approved in writing by 2/3rds or more of the members of each class of member entitled to vote.

The Corporation shall have the right to enter upon any Lot to perform maintenance of the Commons, to maintain, repair or replace any utility service facility, and to perform maintenance or services relating to a Lot Assessment.

**5.3 AMENDMENTS:** The Restrictive Covenants shall run with the land and shall be binding upon and enforceable by the Owner and all persons claiming under the Owner. These Restrictive Covenants may be terminated or modified, in writing, by the titleholders or two-thirds of the Lots at any time. So long as there is a Class B membership, no real estate shall be added to the Lots and these Restrictive Covenants shall not be amended, without the consent of the Federal Housing Administration and/or the Veterans Administration.

Further, the provisions of these Restrictive Covenants with respect to the following Articles shall not be terminated or modified without the written consent of the City of Lincoln:

Homeowners Association, 3.1 and 3.3  
Membership, 3.2  
Sidewalks and Landscape Screens, 3.3  
Maintenance of Drainage/Detention Facilities, 3.3  
Assessments, 4.1  
Enforcement, 5.4

**5.4 ENFORCEMENT:** The enforcement of these Restrictive Covenants may be by proceedings at law or in equity against any person violating or attempting to violate any provision hereof. The proceedings may be to restrain the violation, or to recover damages and, by the Corporation, may be to enforce any lien or obligation created hereby.

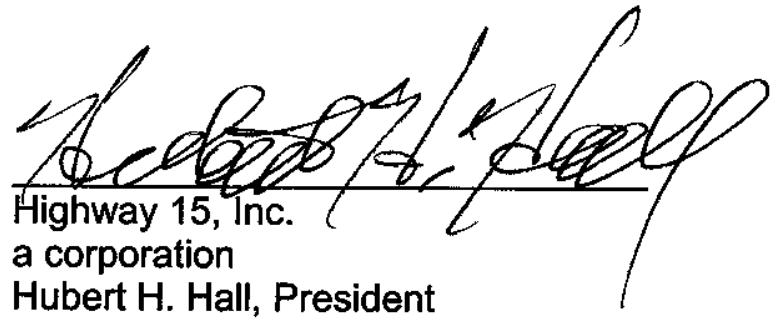
The City of Lincoln, Nebraska shall have the right to enforce all restrictions, conditions, and covenants regarding the maintenance of the common areas and private



improvements by proceedings at law or in equity. In the event the Association dissolves, the lot owners shall remain jointly and severally liable for the cost of maintenance of the common areas and private improvements.

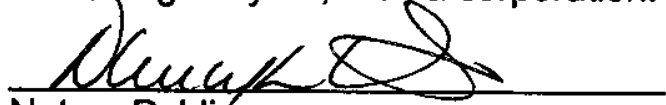
5.5 SEVERABILITY: The invalidation of any one of these Restrictive Covenants shall not affect the validity of the remaining provisions. In the event of a conflict between these Restrictive Covenants and the Articles or Bylaws of Hub Hall Heights Owners Association, the provisions of these Restrictive Covenants shall govern.

Dated: August 23, 2005

  
Highway 15, Inc.  
a corporation  
Hubert H. Hall, President

STATE OF NEBRASKA, COUNTY OF LANCASTER ) ss.

The foregoing instrument was acknowledged before me this 23<sup>rd</sup> day of August, 2005 by Hubert H. Hall, President of Highway 15, Inc., a corporation.

  
Notary Public

APPROVAL

These Restrictive Covenants have been reviewed and approved by the City of Lincoln, Nebraska for the limited purpose of determining Highway 15, Inc. may be relieved and discharged of permanent maintenance obligations with respect to the Commons by transfer of such obligations to Hub Hall Heights Owners Association.

Dated: \_\_\_\_\_

City of Lincoln, Nebraska

By: Dana Roper, City Attorney

By: \_\_\_\_\_

HUB HALL HEIGHTS  
FIRST AMENDED RESTRICTIVE COVENANTS  
EXHIBIT A

Properties within Hub Hall Heights subject to Instrument No. 04-012590

Lots within the Real Estate:

Lots 1 through 8	Block 1
Lots 1 through 12	Block 2
Lots 1 through 22	Block 3
Lots 1 through 16	Block 4

All in Hub Hall Heights, Lincoln, Lancaster County, Nebraska

Commons within the Real Estate:

Outlot A, Hub Hall Heights, Lincoln, Lancaster County, Nebraska

Survey Description of Real Estate (Parcel 1 identified within the Preliminary Plat for Hub Hall Heights):

Commencing at the South 1/4 Corner of Section 18. T 10N. R 6 E and extending thence N 00° 45' 21" W. 846.58 feet to the point of beginning:

Thence continuing on said bearing 593.39 feet:

Thence N 89° 14' 39" E. 68.44 feet:

Thence N 15° 10' 21" E. 77.30 feet:

Thence N 25° 01' 38" E. 77.30 feet:

Thence N 34° 52' 56" E. 77.30 feet:

Thence N 44° 44' 13" E. 77.30 feet:

Thence N 54° 35' 31" E. 77.30 feet:

Thence N 64° 26' 48" E. 77.30 feet:

Thence S 20° 37' 33" E. 120 feet to a point on a circular curve to

the right with a central angle of 15° 48' 58", a radius of 330 feet and whose chord (90.80 feet) bears N 77° 16' 56" E:

Thence along the arc of said curve 91.09 feet:

Thence N 04° 33' 48" W. 85.84 feet:

Thence N 85° 26' 12" E. 180.00 feet;

Thence S 04° 33' 48" E. 23.05 feet:

Thence N 85° 26' 12" E. 120.00 feet:

Thence S 04° 33' 48" E. 67.20 feet:

Thence S 01° 13' 27" E. 79.14 feet:

Thence S 02° 39' 12" W. 67.64 feet:

Thence S 06° 17' 12" W. 66.58 feet:

Thence S 07° 40' 22" W. 440.00 feet:

Thence S 09° 36' 58" W. 72.22 feet:

Thence S 76° 20' 49" E. 16.19 feet:

Thence S 28° 47' 49" W. 353.95 feet:

Thence N 61° 12' 11" W. 50.87 feet:

Thence S 28° 47' 49" W. 110 feet:

Thence N 61° 12' 11" W. 247.65 feet:

Thence N 50° 02' 26" W. 86.46 feet:

Thence N 35° 50' 24" W. 86.53 feet:

Thence S 89° 14' 39" W. 109.34 feet to the point of beginning containing 16.07 acres, more or less.

Properties within Hub Hall Heights 1<sup>st</sup> Addition, Lincoln, Lancaster County, NE

Lots within the Real Estate:

Lots 1 through 13	Block 1
Lots 1 through 6	Block 2
Lots 1 through 7	Block 3
Lots 1 through 2	Block 4
Lot 1	Block 5
Lots 1 through 47	Block 6
Lots 1 through 9	Block 7
Lots 1 through 3	Block 8
Lots 1 through 24	Block 9
Lots 1 through 7	Block 10
Lots 1 through 7	Block 11
Lots 1 through 6	Block 12

All in Hub Hall Heights 1<sup>st</sup> Addition, Lincoln, Lancaster County, Nebraska

Commons within the Real Estate:

Outlots A, and B, Hub Hall Heights 1<sup>st</sup> Addition, Lincoln, Lancaster County, Nebraska

