

FILED SARPY COUNTY
ASSIGNMENT NUMBER
08-000444
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REGISTRY OF DEEDS

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County: WJ
Venty: WJ
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Proof: WJ 50
Fee: WJ
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DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR TIBURON

THIS DECLARATION, made on the date hereinafter set forth by Tiburon Limited Partnership, a Nebraska Limited Partnership, hereinafter referred to as the "Declarant", and by SWN Investments, a Nebraska partnership, and Gary L. Franks, a single person, hereinafter collectively referred to as the "Other Property Owners":

WITNESSETH:

WHEREAS, The Declarant is the Owner of the following described real property:

Lots 67 through 76, inclusive, Lots 78 through 106, inclusive, Lots 160 through 193, inclusive, and Lots 283 through 285, inclusive, and Lots 287 through 339, inclusive, of Tiburon, a Subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska, and

WHEREAS, The Other Property Owners are the owners of the following described real property:

Lots 77 and 286, in Tiburon, a subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska; and

WHEREAS, all of the above-described real estate has been zoned for single family use, and

WHEREAS, the Declarant and the Other Property Owners will convey said lots, subject to certain protective covenants, conditions, restrictions, reservations, liens, and charges as hereinafter set forth,

NOW, THEREFORE, the Declarant and the Other Property Owners hereby declare that all of the lots described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of said lots. These easements, covenants, restrictions, and conditions, shall run with said real property, and shall be binding upon all parties having or acquiring any right, title or interest in the above described lots, or any part thereof, and they shall inure to the benefit of each owner thereof.

ARTICLE I.
DEFINITIONS

A. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Properties,

98-00444A

including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

B. "Properties" shall mean and refer to all such lots that are subject to the Declaration or any supplemental Declaration under the provisions hereof, which shall initially consist of Lots 67 through 106, inclusive, Lots 160 through 193, inclusive, and Lots 283 through 339, inclusive, of Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.

C. "Lot" shall mean and refer to any one of Lots 67 through 106, inclusive, Lots 160 through 193, inclusive, or Lots 283 through 339, inclusive, of Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.

D. "Lots Adjoining Golf Course" shall mean and refer to all Lots, as defined above, for which one or more of the Lot boundary lines is shared with any boundary line of the golf course.

E. "Lots Not Adjoining Golf Course" shall mean and refer to all Lots which have no Lot boundary line in common with any boundary line of the golf course.

F. "Declarant" shall mean and refer to TIBURON LIMITED PARTNERSHIP, a Nebraska Limited Partnership, its successors and assigns.

G. "Other Property Owners" shall mean and refer to the current owners of Lots 77 and 286, Tiburon, namely Gary L. Franks, a single person and SWN Investments, a Nebraska partnership, respectively.

H. "Architectural Control Committee" shall mean the individual or committee appointed by the Declarant, its successors or assigns.

I. "Applicant" shall mean Owner, Contractor, or Realtor.

ARTICLE II. ARCHITECTURAL CONTROL

A. No dwelling, fence, wall, driveway, patio, patio enclosure, deck, rock garden, swimming pool, television or radio antenna, satellite dishes, solar collecting panels or equipment, air conditioning equipment, wind-generating power equipment, or other external improvements, above or below the surface of the ground shall be built, erected, placed, planted, altered or otherwise maintained or permitted to remain on any Lot, nor shall any grading, excavation or tree removal be commenced without express written prior approval of the Declarant through its Architectural Control Committee.

B. The Declarant, through its Architectural Control Committee, shall consider general appearance, exterior color or colors, architectural character, harmony of external design and location in relation to surroundings, topography, location within the lot boundary lines, quality of construction and size and suitability for residential purposes as part of its review procedure. Only exterior colors of certain earthtone hues will be acceptable. Designs of a repetitive nature and/or within close proximity to one another will not be approved. Superficial, cosmetic or minor architecture detail differences in like designs will not constitute a basis for approval. The Architectural Control Committee specifically reserves the right to deny permission to construct or place any of the above-mentioned improvements which it determines will not conform to the general character, plan and outline for the development of the Properties.

C. Documents submitted for approval shall be clear, concise, complete, consistent and legible. All drawings shall be to scale. Samples of materials to be included in the improvement may be required of the applicant at the discretion of

98-00444B

the Architectural Control Committee. Submittals for the approval shall be made in duplicate and the comments and actions of the Architectural Control Committee will be identically marked on both copies of said submittals. One copy will be returned to the applicant, and one copy will be retained as part of the permanent records of the Committee. Each applicant shall submit to the Architectural Control Committee the following documents, materials and/or drawings:

1. Site plan indicating specific improvement and indicating Lot number, street address, and sidewalks.

2. Complete construction plans, including, but not limited to, basement and upper floor plans, floor areas of each level, wall sections, stair and fireplace sections and exterior elevations clearly indicating flues or chimneys, type and extent of siding, roofing, other faces and/or veneer materials.

D. The approval or disapproval of the Architectural Control Committee as required in these Covenants shall be in writing. Failure of the Architectural Control Committee to give either written approval or disapproval of submitted plans within thirty (30) days after receipt of all of the documents above, by mailing such written approval or disapproval to the last known address of the applicant as shown on the submitted plans, shall operate as an Architectural Control Committee approval.

ARTICLE III.
RESTRICTIONS FOR RESIDENTIAL UNITS

A. The Lot shall be used only for residential purposes, and no Lot shall contain more than one (1) detached, single family unit.

B. No building shall be created, altered, placed or permitted to remain on any Lot other than the one (1) detached, single family dwelling referred to above, and said dwelling shall conform to the following requirements:

1. Houses built on Lots Adjoining Golf Course shall comply with the following minimum size requirements:

a. Each one story house shall contain no less than 1,800 square feet of Living Area above the basement level and exclusive of garage area.

b. Each one and one-half or two story house shall contain no less than 2,000 square feet of total Living Area above the basement level with a minimum of 1,200 square feet on the main floor, exclusive of garage area.

2. Houses built on Lots Not Adjoining Golf Course shall comply with the following minimum size requirements:

a. Each one story house shall contain no less than 1,600 square feet of Living Area above the basement level and exclusive of garage area.

b. Each one and one-half or two story house shall contain no less than 1,800 square feet of total Living Area above the basement level with a minimum of 1,000 square feet on the main floor, exclusive of garage area.

3. Other house styles not described in 1. and 2. above will be permitted only if approved by the Architectural Control Committee and shall not be approved unless they are compatible with other homes to be built in Tiburon in the opinion of the Architectural Control Committee in its sole and absolute discretion.

98-004442

4. All houses shall, as a minimum, have attached, enclosed, side-by-side, two car garages which must contain a minimum area of 400 square feet built at approximately the main level of the house. Other or additional garages may be permitted at the discretion of the Architectural Control Committee.

C. For the purposes of these restrictions, two-story height shall, when the basement wall is exposed above finish grade, be measured from the basement ceiling on the exposed side(s) to the eave of the structure on the same side(s). Living Area means finished habitable space, measured to the exterior of the enclosing walls, and does not include porches, stoops, breezeways, courtyards, patios, decks, basements, garages or carports. The maximum height of the dwelling shall be thirty-five feet. The basement is not considered a story even if it is one hundred percent (100%) above grade on one or more sides, and essentially below grade on the other sides.

D. All buildings on all Lots shall comply with the set back requirements of the Zoning Code of Sarpy County, Nebraska as the same may be amended from time to time. In the event a waiver or variance of some of the zoning requirements for a Lot or Lots is granted by the appropriate authority, the Architectural Control Committee shall have the right and authority, but not the obligation, to grant in whole or in part the relaxation of requirements allowed by the waiver or variance, all in the sole and absolute discretion of the Architectural Control Committee.

E. Exposed portions of the foundation on the front of each dwelling are to be covered with clay-fired brick or stone even if a portion of those exposed foundations may be perpendicular, or nearly so, to the affronting street. Exposed portions of the foundation on the side of each dwelling facing the street, when said dwelling is located on a corner lot, are to be covered with clay-fired brick or stone. Exposed portions of the foundation on the sides, or rear, not facing a street of a dwelling located on a corner lot, and the exposed portion of the foundation on the sides and rear of every other dwelling shall be covered with clay-fired brick, stone, siding or shall be painted.

F. Portions of the front face wall or walls of each dwelling are to be covered with clay fired brick or stone even if a portion of those faces may be perpendicular, or nearly so, to the affronting street. The portion of the front face wall to be covered shall be subject to the approval of the Architectural Control Committee in its sole and absolute discretion and shall be no less than fifty (50%) percent of the front face wall area above the foundation, not including garage door area, on one story houses and no less than twenty-five (25) percent of the front face wall area above the foundation, not including garage door area, on one and one half and two story houses.

G. Regarding fireplaces and flues constructed as a part of the dwelling on any Lot the following shall apply:

1. In the event that a wood-burning fireplace is constructed as a part of the dwelling on any Lot Adjoining Golf Course, any portion of said fireplace and/or the enclosure for the fireplace flue which protrudes from the exterior or above the roof of the dwelling shall be constructed of or finished with, clay-fired brick or stone.

2. In the event that a wood-burning fireplace is constructed as a part of the dwelling in a manner so as to protrude beyond the outer perimeter of the front or side of the dwelling, or is exposed above the roof on a Lot Not adjoining Golf Course, the enclosure of the fireplace and flue shall be constructed of, or

finished with, clay-fired brick or stone. If the wood-burning fireplace and/or enclosure for the wood-burning fireplace flue is constructed in such a manner so as to protrude beyond the outer perimeter of the rear of the dwelling on a Lot Not Adjoining Golf Course, the enclosure of the wood-burning fireplace and flue shall be constructed of, or finished with, the same material as is the dwelling at the point from which the wood-burning fireplace and/or the flue protrudes or shall be constructed of, or finished with, clay-fired brick or stone.

3. In the event that a non-wood-burning or direct vent fireplace is constructed as a part of the dwelling on any Lot and is vented directly through an exterior wall of the dwelling or is vented through the roof of the dwelling with a vent similar in style, size and location to that of a furnace flue, no clay fired brick or stone enclosure will be required. Provided however, if said non-wood-burning or direct vent fireplace is constructed in such a manner so as to protrude beyond the outer perimeter of a front or side wall of the dwelling on a Lot Not Adjoining Golf Course or beyond the outer perimeter of any wall of the dwelling on a Lot Adjoining Golf Course, the protrusion for the fireplace shall be finished with clay-fired brick or stone. Also any fireplace vent which protrudes above the roof of any dwelling shall be finished with clay-fired brick or stone unless it is on the rear slope of the roof of a dwelling on a Lot Not Adjoining Golf Course or is vented in similar style, size and location to that of a furnace flue as shown herein.

4. No furnace flue may protrude more than four (4) feet from the roof of the dwelling, as measured from the top cap of the flue to the point from which the flue emerges from the roof. All furnace flues must be located on the rear side of the roof ridge within four feet of the roof ridge.

H. No fences may be built forward of the rear-most wall at each side (corner) of the rear of the dwelling. On Lots Adjoining Golf Course, no fence may be built within twenty-five (25') feet of a lot line which adjoins the golf course. Fences shall be constructed only of wood, decorative iron, brick or stone and are subject to the approval of the Architectural Control Committee referred to above. Wire or chain-link fences shall not be permitted. Temporary or permanent barbed wire, electrified, and/or snow fences are strictly prohibited.

I. No structure of a temporary character, trailer, basement, tent, shack, barn or other out building shall be erected on said Lot, or used as a residence, temporarily or permanently. No prefabricated or factory built house or residential dwelling built elsewhere shall be moved onto or assembled on any of said Lots. No pre-cut dwelling shall be assembled on any of said Lots. No full or partial subterranean dwellings or log houses shall be constructed or erected on any Lot. No dwelling shall be moved from outside of the Properties onto any of said Lots.

J. No flat or mansard roof shall be permitted on any dwelling. All dwellings shall be roofed with wood shakes, wood shingles, or other roofing materials which have the approval of the Architectural Control Committee in its sole and absolute discretion.

K. Public sidewalks are the responsibility of, and shall be constructed by, the then Owner of a Lot prior to the time of completion of a dwelling and before occupancy thereof. The extent of sidewalks, location, construction details, materials and grades shall be in accordance with the regulations of the City of Omaha and any revisions thereof. The maintenance of said sidewalks, after construction, shall be the responsibility of the Owners of each of the Lots.

L. The Declarant has created a water drainage plan by grading the Properties and installing improvements and easements for storm drainage in accordance with accepted engineering principles. No building shall be placed, nor

98-00444E

any Lot graded, to interfere with such water drainage plan nor cause damage to the building or neighboring buildings or Lots.

M. No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any Lot. No animals, livestock, fowl or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, or other household pets maintained within the dwelling may be kept, provided that they are not kept, bred or maintained for any commercial purpose and, provided, that they are kept confined to the Lot of their owner and are not permitted to run loose outside the Lot of the Owner.

N. No incinerator or trashburner shall be permitted on any Lot. No garbage or trash can or container shall be permitted to remain outside of any dwelling unless completely screened from view from every street and from all other Lots in the subdivision and from the golf course. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling except while in actual use. No garage door shall be permitted to remain open except when entry to and exit from the garage are required. No clothesline shall be permitted outside of any dwelling at any time. Any exterior air conditioning condenser units or heat pump units shall be placed in the designated side or rear yard of the dwelling. Detached accessory buildings are not permitted.

O. No automobile, boat, camping trailer, van-type campers, auto-drawn trailer of any kind, mobile home, motorcycle, snowmobile or other self-propelled vehicles shall be stored or maintained outside of the garage. For purposes of the preceding provision, "stored or maintained outside of the garage" shall mean, parking the vehicle or trailer on the driveway, or any other part of the Lot, outside of the garage, for seven (7) or more consecutive days. All repair or maintenance work on automobiles, boats, camping trailers, van-type campers, auto-drawn trailers of any kind, mobile homes, motorcycles, snowmobiles or other self-propelled vehicles done on the premises must be done in the garage. The dedicated street right-of-way located between the pavement and the Lot line of any residential Lot shall not be used for the parking of any vehicle, boat, camper or trailer. Automobiles and other self-propelled vehicles parked out-of-doors within the premises above-described, or upon the streets thereof, must be in operating condition.

P. All Lots shall be kept free of rubbish, debris, merchandise and building material; however, building materials may be placed on Lots when construction is started on the main residential structure intended for such Lot. In addition, vacant Lots where capital improvements have not yet been installed shall not be used for dumping of earth or any other waste materials, and shall be maintained level and smooth enough for machine mowing. No vegetation on vacant Lots where capital improvements have not yet been installed shall be allowed to reach more than a maximum height of twelve (12) inches.

Q. Except for the purpose of controlling erosion on vacant Lots, no field crops shall be grown upon any Lot at any time.

R. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood, including, but not limited to, odors, dust, glare, sound, lighting, smoke, vibration and radiation.

S. A dwelling on which construction has begun must be completed within one (1) year from the date the foundation was dug for said dwelling.

98-00444F

T. Small vegetable gardens and rock gardens shall be permitted only if maintained in the designated rear yard of any Lot, behind the dwelling on said Lot. Further, rock gardens must be approved by the Architectural Control Committee.

U. No residential dwelling shall be occupied by any person as a dwelling for such person until the construction of such dwelling has been completed, except for minor finish details as determined and approved by the Architectural Control Committee.

V. No advertising signs or posters of any kind shall be erected or placed on any of said Lots, except the residential "For Sale" and "Sold" signs, not exceeding six (6) square feet in size, shall be permitted and, provided further, that such restriction as to sign size shall not apply to signs erected by the Declarant, or his agents, in the development of Tiburon.

W. All driveways shall be constructed of concrete or brick.

X. The front, side and rear yards of all Lots shall be sodded, and two (2) trees, each not less than two (2) caliper inches in diameter, shall be planted in the front yard of each residence. No trees shall be planted in the dedicated street right-of-way located between the pavement and the Lot line. All yards shall be sodded and the trees planted within one (1) year from the date that construction for the residence on the Lot was initiated.

Y. No solar collecting panels or equipment, no wind generating power equipment shall be allowed on the Lots. No television antenna, no antenna of any kind or nature, no satellite dish over 18" in diameter, shall be allowed on the Lots unless completely screened from view from every street and from all other Lots in the Subdivision and from the golf course in a manner approved by the Architectural Control Committee. Satellite dishes of 18" or less shall be permitted only with the approval of the Architectural Control Committee.

ARTICLE IV. EASEMENTS AND LICENSES

A. A perpetual license and easement is hereby reserved in favor of and granted to the U. S. West Telephone Company, the City or County franchised cable television firm and/or the Declarant, and to Omaha Public Power District, their successors, and assigns, to erect and operate, maintain, repair, and renew cables, conduits, and other instrumentalities and to extend wires for the carrying and transmission of electric current for light, heat and power and for all telephone and telegraph and message services and cable television under a 8-foot strip of land adjoining the rear boundary lines of all interior Lots, a 16-foot strip of land adjoining the rear boundary lines of all exterior Lots and a 5-foot strip of land adjoining all side boundary lot lines and license being granted for the use and benefit of all present and future owners of said Lots; provided, however, that said lot line easement is granted upon the specific condition that if any said utility companies fail to construct wires or conduits along any of the said lot lines within 36 months of the date hereof, or if any wires or conduits are constructed but hereafter removed without replacement within 60 days after their removal, then this lot line easement shall automatically terminate and become void as to such unused or abandoned easementways. No permanent buildings shall be placed in perpetual easementway, but the same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforesaid uses or rights herein granted.

B. All telephone, cable television and electric power service lines from property line to dwelling shall be underground.

98-004415

ARTICLE V.
GENERAL PROVISIONS

A. The Declarant, or its assigns, or any Owner of a Lot named herein, shall have the right to enforce by proceeding at law or in equity, all restrictions, conditions, covenants, and reservations, now or hereinafter imposed by the provisions of this Declaration, either to prevent or restrain any violation of same, or to recover damages or other dues for such violation. Failure by the Declarant or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

B. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded. This Declaration may be amended by the Declarant, or any person, firm corporation, partnership, or entity designated in writing by the Declarant, in any manner it shall determine in its full and absolute discretion for a period of five (5) years from the date hereof. Thereafter this Declaration may be amended by an instrument signed by the Owners of not less than ninety percent (90%) of the Lots covered by this Declaration.

C. Invalidation of any one of these covenants by judgment or court order shall in no way effect any of the other provisions hereof which shall remain in full force and effect.


IN WITNESS WHEREOF, the Declarant and Other Property Owners have caused these presents to be executed on the date(s) shown.

DECLARANT:

TIBURON LIMITED PARTNERSHIP
a Nebraska Limited Partnership

BY: DRELLA, INC., a Nebraska
Corporation, General Partner

Date: 1-5-98


By: 
Eric B. Waddington, President

OTHER PROPERTY OWNERS:

Owner of Lot 286:

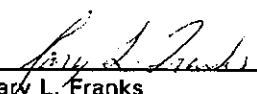
SWN INVESTMENTS,
a Nebraska partnership

Date: 1-7-98

By: 

Owner of Lot 77:

Date: 1-5-97


Gary L. Franks

48-00444 H

CONSENT

The Omaha Firefighters Credit Union, holding a first deed of Trust on Lot 77, in Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska, hereby consents to said lot being bound by the above-stated restrictive covenants.

OMAHA FIREFIGHTERS CREDIT UNION,
Trustee under a certain deed of trust
recorded May 25, 1995 in the office of the
Register of Deeds of Sarpy County,
Nebraska at Instrument No. 95-07403

By: Omaha Firefighters CU
Tiffany M. Michel
Director of Lending

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

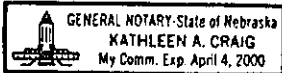
The foregoing instrument was acknowledged before me this 5th day of January, 1998, by Eric B. Waddington, President of Drella, Inc., a Nebraska Corporation, General Partner of Tiburon Limited Partnership, a Nebraska limited partnership.



Kathleen A. Craig
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF Douglas)

The foregoing instrument was acknowledged before me this 5th day of January, 1998, by Omaha Firefighters Credit Union
By Tiffany M. Michel, Director of Lending.



Kathleen A. Craig
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF Douglas)

The foregoing instrument was acknowledged before me this 5th day of January, 1998, by Gary L. Franks, a single person.



Kristina L. Efird
Notary Public

98-00444 I

STATE OF NEBRASKA)
COUNTY OF General) ss.

The foregoing instrument was acknowledged before me this 7 day of January, 1998, by SUN Investments
Lee H. Sapp GP



Dawn G. Hansen
Notary Public

98-00321

FILED SARPY CO. NE.
INSTRUMENT NUMBER
98-000321
98 JAN -6 PM 3:31
Lloyd J. Dowding
REGISTER OF DEEDS

Counter STEVE
Verify
D.E.
Proof:
Fee:
Ck
Cash
Charge

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**THIS PAGE ADDED  
FOR RECORDING  
INFORMATION.**

**LLOYD J. DOWDING**  
SARPY COUNTY REGISTER OF DEEDS  
1210 GOLDEN GATE DRIVE #1109  
PAPILLION, NE 68046-2895  
402-593-5773



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AGREEMENT

THIS AGREEMENT made this 22nd day of April, 1992 by and between Tiburon Limited Partnership, a Nebraska limited partnership (herein referred to as the "Partnership") and Dodge Land Co., a Nebraska Corporation (herein referred to as the "Developer"),

WHEREAS, the Partnership owns certain lots in Tiburon, a subdivision in Sarpy County, as surveyed, platted and recorded, which are legally described in Exhibit "A" attached hereto and incorporated herein by reference,

WHEREAS, the Partnership desires to hire the Developer to develop and market those lots and parcels in Tiburon described in Exhibit "A" (the "Property"), and

WHEREAS, the parties desire to set forth their understanding in this Agreement,

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the following is agreed between the parties hereto:

1. Employment of Developer. The Developer is hereby employed to develop and market all of the Property.

2. Duties and Responsibilities of Developer. The Developer shall have the following duties and responsibilities:

a. Secure Financial Commitment. Immediately following the full execution of this Agreement, the Developer will attempt to secure a financial commitment from a fiscal agent for sanitary and improvement district ("SID") financing to develop Phase I of the Property. Thereafter, the Developer will attempt to secure SID financing from the fiscal agent for subsequent Phases.

b. Reorganization of SID. The Developer will reorganize the present SID No. 32 of Sarpy County which covers the subdivision, probably by liquidation of it and the organization of a new SID which covers the subdivision. This SID shall be referred to herein as the "New SID". The parties agree that upon the reorganization or creation of the New SID no less than three of the trustees shall be persons designated by the Developer. The Partnership will cooperate with the Developer in reorganizing the SID, including, but not limited to, paying in full all of the outstanding warrants of SID No. 32 or securing the consent of the warrant holders to a reorganization of the SID, conveying qualifying land to the trustees designated by the Developer, and, depending on the alternative which the Developer

RETURN TO:  
Robert V. Ginn  
BRASHEAR & GINN  
800 Farnam Plaza, 1623 Farnam St.  
Omaha, NE 68102-2106

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shall select, causing SID No. 32 to dissolve, consenting to a parcel of adjoining land not presently in SID No. 32 becoming a part of a new SID, and by merging SID No. 32 into a new SID.

c. Approval of SID Improvements And Installation Of The Same. The Developer will work with the engineer for the SID to secure the necessary governmental approvals for the SID improvements and to cause the New SID to install said improvements in Phase I of the subdivision, and in subsequent Phases, said improvements to include but not necessarily limited to the following: paved streets with curb and gutter, paved (or at least hard surfaced) perimeter streets, storm sewers (to the extent required or desired consistent with the overall general obligation of the SID), sanitary sewers, sewage treatment plants, water lines, water pumping stations, wells, and water storage tanks, underground electrical service, and, to the extent possible consistent with the SID's capacity for general obligation indebtedness, acquisition and development of public parks. The New SID agrees to employ Design Engineering, Larry Hagewood, President, as engineer for the New SID provided the engineering work for the Property is performed in an acceptable and timely manner.

d. Determination of Phases. The Developer shall determine the lots to be included in the various Phases of the subdivision, including Phase I.

e. Amenities. To the extent of economic feasibility, the Developer will cause amenities determined by it to be installed in the Subdivision. In no event shall the Developer incur costs in excess of \$25,000 in any given three month period without the consent of the Partnership.

f. Minor Grading. Since the Subdivision has already been graded, the Developer may in its discretion cause additional minor grading of the Subdivision, not to exceed \$25,000 in total cost without the Partnership's consent.

g. Marketing of Lots. Working with its parent corporation, N. P. Dodge Company, the Developer will market the lots in the Subdivision.

(1) Price List. The Developer will establish a price list for the developed lots in each Phase in the discretion of the Developer which may be changed by the Developer from time to time after consultation with the Partnership.

(2) Terms of Sale. The Developer shall determine the terms of sale of the lots in the various Phases i.e. cash, installment sale, options, and so forth.

(3) Homebuilders. The Developer will work to cause homebuilders to buy lots and build homes in the subdivision.

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(4) Partner Lots. Several of the partners in the Partnership own lots in the subdivision. The Partnership will attempt to cause said partners to build homes on their lots or to offer said lots for sale through the Developer. The Partnership will encourage said partners to use the homebuilders suggested by the Developer to build their houses.

(5) Undeveloped Lots. The Developer will not sell undeveloped lots or parcels in the subdivision unless it has the written consent of the Partnership.

h. Maintenance of Subdivision. The Developer will maintain the subdivision, including the mowing of developed and undeveloped lots, cleaning mud from streets, and removal of trash.

3. Power and Authority of Developer. The following shall be applicable to the power and authority of the Developer:

a. Power of Attorney. It is the intent of this Agreement that the Developer shall have very broad and extensive powers in the development and marketing of the Property, said powers to be as extensive as if the Developer were a general partner in a Nebraska limited partnership and the Partnership were the limited partners in the limited partnership. Accordingly, the Partnership hereby grants the Developer an irrevocable power of attorney, coupled with interest, with respect to the Property which includes all ownership rights as a general partner would have in a limited partnership. Said power of attorney shall include but not be limited to the following:

(1) Sell and Convey Property. The Developer shall have the power and authority to sell, convey, assign, lease, transfer, exchange, or otherwise dispose of or encumber the Property, except Developer shall have no power to convey nor assign those lots presently owned or allocated to Tiburon limited partners, or individuals owning stock in the General Partner, as shown on Exhibit "B".

(2) Borrow Money. The Developer shall have the power and authority to borrow money for purposes of developing the Property and to issue evidence of indebtedness and to secure the same by mortgages, deeds of trust, pledges, or other liens or security interest on portions of the Property.

(3) Enter Into Contracts. The Developer shall have the power and authority to enter into and perform contracts and agreements of any kind necessary and desirable with respect to the development of the Property and in connection with any matters incidental or related thereto.

(4) Take Other Action. The Developer shall have the power and authority to take such action and execute such

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documents as may be required or desirable in connection with any mortgage, note, bond, indemnity, security agreement, escrow or bank letter of credit which may be required in the development of the Property or in connection with the financing or refinancing of the Property.

(5) Reserves. The Developer shall have the power to establish reasonable reserve funds in amounts not to exceed \$20,000 from revenues derived from sales of portions of the Property to provide payments of future obligations relating to the development and marketing of the Property.

(6) All Other Necessary and Appropriate Acts. The Developer shall have the power and authority to take all acts which it deems necessary and appropriate for the protection and preservation of the Property.

(7) Insurance. The Partnership shall maintain at its expense appropriate public liability insurance providing coverage for the development of the Property and naming Developer as an additional insured, in amounts agreeable to the Developer. Partnership agrees to furnish Developer a copy of such policy within thirty days of execution of this Agreement.

(8) Lawsuits and Claims. The Developer shall have the power and authority to compromise, settle, or submit to arbitration, and to institute, prosecute and defend any and all actions or claims in favor of or against the Partnership or relating to the development of the Property and the sale of lots or parcels.

b. Term of Power of Attorney. The full power and authority in the above Power of Attorney shall continue until terminated as provided in Paragraph 10 of this Agreement.

4. Compensation of the Developer. The Developer, or its parent, N.P. Dodge Company, shall be paid the following fees for their services:

a. Marketing Fee. A marketing fee of 8% of the gross selling price of each lot or parcel in the Property sold shall be paid to N. P. Dodge Company, payable on closing in the event of a cash sale, but, in the event the sale is on terms, one-half of said fees shall be paid at the closing and the balance shall be paid when the final payment for said lot or parcel is paid.

b. Development Fee. A development fee of 8% of the gross selling price of each lot or parcel in the subdivision shall be paid to the Developer on closing.

c. Lots Owned By Partners. The Partnership shall not be obligated for the payment of marketing fees or development

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fees on lots or parcels of the Property as shown in Exhibit "B" attached hereto owned by the partners in the Partnership on the date this Agreement is executed. However, if any of the lots or parcels owned by the partners are to be sold, the Partnership agrees to encourage the partners to sell said lots or parcels through the Developer and pay the marketing fee as shown above.

5. Release From Deeds of Trust. The Partnership owes loans which are secured by deeds of trust or mortgages on the lots and parcels in the Property. The Partnership agrees to provide a release of said deeds of trust or mortgages to the Developer for each Phase of the subdivision within ten calendar days after an SID financing commitment is issued for said phase.

6. Exclusion of Golf Facility from SID. At the time of the execution of this Agreement there is a developed 18-hole Golf Course with club house and maintenance building (herein collectively referred to as the "Golf Facility") in SID No. 32. The Partnership prefers that the Golf Facility not be a part of the New SID. In seeking an SID financial commitment, the Developer agrees to negotiate for the exclusion or the de-annexation of the Golf Facility from the New SID. It is acknowledged that the fiscal agent may require the Partnership to pay an annual fee to the SID in lieu of taxes for a period of years if the Golf Facility is excluded or de-annexed from the SID. Immediately south of the New SID there is property covered by SID No. 153 of Sarpy County, Nebraska, which will be developed at a subsequent time. It is the intention of the parties that the New SID will allow SID No. 153 to connect its sewer and water facilities at a later date for a reasonable fee, or such fee as agreed upon between the New SID and SID No. 153 in connection with the conveyance of certain real estate by SID No. 153 to the New SID.

7. Easements. In the event easements have not already been granted for public improvements of the New SID, the Partnership agrees to provide easements in the future for all such public improvements to be installed in the subdivision.

8. Title Insurance. Within twenty (20) calendar days after this Agreement is fully executed, the Partnership at its cost shall secure an updated title insurance policy from American Land Title Company (also known as ATI). The Partnership shall furnish Developer copies of the updated policy, and the policy obtained by the Partnership upon its acquisition of the Property in June of 1988 which shall show all the title holders to each lot and parcel in the Property, all mortgage holders, all easements, all covenants, and all encumbrances of every kind and description.

9. Termination. This Agreement and the Power of Attorney outlined herein shall terminate on the first to occur of the following:

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a. Termination Because Of A Date Certain. This Agreement shall terminate on the 15th day of April, 2002, unless extended by the Partnership and the Developer.

b. Termination Because of Lack of Performance. The parties acknowledge it may be several months before all of the public improvements in Phase I are installed and the sewer treatment plan or water plant are completed and operational and before substantial momentum in the sale of lots and the building of houses is established. This Agreement may be terminated at the option of the Partnership on a date two years after the date this Agreement was fully executed if less than 40 lots in the Partnership have been sold by such date. If the Partnership elects its option to terminate this Agreement, it shall notify the Developer and record the written notice of termination in the Register of Deed's office of Sarpy County, Nebraska, against the Property within 30 calendar days after the expiration of the two-year period. Said notice of termination shall be effective on a date 60 calendar days after it is recorded in the Register of Deed's office of Sarpy County, Nebraska. In the event of a termination the Partnership shall honor all obligations and contracts incurred during the term of this Agreement.

c. Termination Because Of Failure To Secure Financial Commitment. Either party may terminate this Agreement in the event the Developer is unable to secure the financial commitment set forth in Paragraph 2 a. within 180 days of the execution of this Agreement with respect to Phase I.

10. Binding Effect. This Agreement shall be binding upon the parties, their successors and assigns.

Dated the date above written.

DEVELOPER

Dodge Land Co., a Nebraska Corporation

By: W. L. Morrison, Jr.  
W. L. Morrison, Jr.

PARTNERSHIP:

Tiburon Limited Partnership,  
a Nebraska limited partnership

BY: Drella, Inc., a Nebraska corporation, its sole general partner

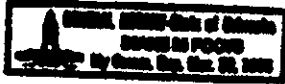
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BY: *W. L. Morrison, Jr.*  
President

STATE OF NEBRASKA )  
                          )ss.  
COUNTY OF DOUGLAS )

Before me the undersigned notary public in and for said county and state personally appeared W. L. Morrison, Jr., as the President of Dodge Land Co., a Nebraska corporation, and acknowledged his signature on the foregoing document as his voluntary act and deed as an individual, his voluntary act and deed as the President of the corporation, and the voluntary act and deed of the corporation.

Subscribed and sworn to before me this 22nd day of April, 1992.

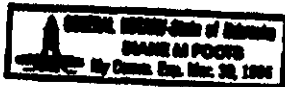


*Diane M Peels*  
Notary Public

STATE OF NEBRASKA )  
                          )ss.  
COUNTY OF DOUGLAS )

Before me the undersigned notary public in, and for said county and state personally appeared *Eric B. Waddington* as the President of Drella, Inc., the sole general partner of Tiburon Limited Partnership, a Nebraska limited partnership, and acknowledges the execution of the foregoing document as his voluntary act and deed as an individual, his voluntary act and deed as the President of said corporation, the voluntary act and deed of the corporation as the general partner, and the voluntary act and deed of said limited partnership.

Subscribed and sworn to before me this 22nd day of April, 1992.



*Diane M Peels*  
Notary Public

98-00301H

EXHIBIT "A"

Lots And Parcels Covered By Agreement

The Property covered by this Agreement is Lots 1 thru 402, inclusive, and Lots A, B, and C of Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska, except Lots A, B and C (which includes the 18-hole golf course, clubhouse and maintenance building), Fairway Townhomes d/b/a Tiburon Townhomes - Lots 1-55, Lot 399 (multi-family), Lots 397, park, and 398, school, only if used for park and/or school, and Lots 400, 401 and 402 (commercial).

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DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR TIBURON

THIS DECLARATION, made on the date hereinafter set forth by Tiburon Limited Partnership, a Nebraska Limited Partnership, hereinafter referred to as the "Declarant", and by SWN Investments, a Nebraska partnership, and Gary L. Franks, a single person, hereinafter collectively referred to as the "Other Property Owners":

WITNESSETH:

WHEREAS, The Declarant is the Owner of the following described real property:

Lots 67 through 76, inclusive, Lots 78 through 106, inclusive, Lots 160 through 193, inclusive, and Lots 283 through 285, inclusive, and Lots 287 through 339, inclusive, of Tiburon, a Subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska, and

WHEREAS, The Other Property Owners are the owners of the following described real property:

Lots 77 and 286, in Tiburon, a subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska; and

WHEREAS, all of the above-described real estate has been zoned for single family use, and

WHEREAS, the Declarant and the Other Property Owners will convey said lots, subject to certain protective covenants, conditions, restrictions, reservations, liens, and charges as hereinafter set forth,

NOW, THEREFORE, the Declarant and the Other Property Owners hereby declare that all of the lots described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of said lots. These easements, covenants, restrictions, and conditions, shall run with said real property, and shall be binding upon all parties having or acquiring any right, title or interest in the above described lots, or any part thereof, and they shall inure to the benefit of each owner thereof.

ARTICLE I.  
DEFINITIONS

A. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Properties,

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including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

B. "Properties" shall mean and refer to all such lots that are subject to the Declaration or any supplemental Declaration under the provisions hereof, which shall initially consist of Lots 67 through 106, inclusive, Lots 160 through 193, inclusive, and Lots 283 through 339, inclusive, of Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.

C. "Lot" shall mean and refer to any one of Lots 67 through 106, inclusive, Lots 160 through 193, inclusive, or Lots 283 through 339, inclusive, of Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.

D. "Lots Adjoining Golf Course" shall mean and refer to all Lots, as defined above, for which one or more of the Lot boundary lines is shared with any boundary line of the golf course.

E. "Lots Not Adjoining Golf Course" shall mean and refer to all Lots which have no Lot boundary line in common with any boundary line of the golf course.

F. "Declarant" shall mean and refer to TIBURON LIMITED PARTNERSHIP, a Nebraska Limited Partnership, its successors and assigns.

G. "Other Property Owners" shall mean and refer to the current owners of Lots 77 and 286, Tiburon, namely Gary L. Franks, a single person and SWN Investments, a Nebraska partnership, respectively.

H. "Architectural Control Committee" shall mean the individual or committee appointed by the Declarant, its successors or assigns.

I. "Applicant" shall mean Owner, Contractor, or Realtor.

## ARTICLE II. ARCHITECTURAL CONTROL

A. No dwelling, fence, wall, driveway, patio, patio enclosure, deck, rock garden, swimming pool, television or radio antenna, satellite dishes, solar collecting panels or equipment, air conditioning equipment, wind-generating power equipment, or other external improvements, above or below the surface of the ground shall be built, erected, placed, planted, altered or otherwise maintained or permitted to remain on any Lot, nor shall any grading, excavation or tree removal be commenced without express written prior approval of the Declarant through its Architectural Control Committee.

B. The Declarant, through its Architectural Control Committee, shall consider general appearance, exterior color or colors, architectural character, harmony of external design and location in relation to surroundings, topography, location within the lot boundary lines, quality of construction and size and suitability for residential purposes as part of its review procedure. Only exterior colors of certain earthtone hues will be acceptable. Designs of a repetitive nature and/or within close proximity to one another will not be approved. Superficial, cosmetic or minor architecture detail differences in like designs will not constitute a basis for approval. The Architectural Control Committee specifically reserves the right to deny permission to construct or place any of the above-mentioned improvements which it determines will not conform to the general character, plan and outline for the development of the Properties.

C. Documents submitted for approval shall be clear, concise, complete, consistent and legible. All drawings shall be to scale. Samples of materials to be included in the improvement may be required of the applicant at the discretion of

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the Architectural Control Committee. Submittals for the approval shall be made in duplicate and the comments and actions of the Architectural Control Committee will be identically marked on both copies of said submittals. One copy will be returned to the applicant, and one copy will be retained as part of the permanent records of the Committee. Each applicant shall submit to the Architectural Control Committee the following documents, materials and/or drawings:

1. Site plan indicating specific improvement and indicating Lot number, street address, and sidewalks.

2. Complete construction plans, including, but not limited to, basement and upper floor plans, floor areas of each level, wall sections, stair and fireplace sections and exterior elevations clearly indicating flues or chimneys, type and extent of siding, roofing, other faces and/or veneer materials.

D. The approval or disapproval of the Architectural Control Committee as required in these Covenants shall be in writing. Failure of the Architectural Control Committee to give either written approval or disapproval of submitted plans within thirty (30) days after receipt of all of the documents above, by mailing such written approval or disapproval to the last known address of the applicant as shown on the submitted plans, shall operate as an Architectural Control Committee approval.

**ARTICLE III.**  
**RESTRICTIONS FOR RESIDENTIAL UNITS**

A. The Lot shall be used only for residential purposes, and no Lot shall contain more than one (1) detached, single family unit.

B. No building shall be created, altered, placed or permitted to remain on any Lot other than the one (1) detached, single family dwelling referred to above, and said dwelling shall conform to the following requirements:

1. Houses built on Lots Adjoining Golf Course shall comply with the following minimum size requirements:

a. Each one story house shall contain no less than 1,800 square feet of Living Area above the basement level and exclusive of garage area.

b. Each one and one-half or two story house shall contain no less than 2,000 square feet of total Living Area above the basement level with a minimum of 1,200 square feet on the main floor, exclusive of garage area.

2. Houses built on Lots Not Adjoining Golf Course shall comply with the following minimum size requirements:

a. Each one story house shall contain no less than 1,600 square feet of Living Area above the basement level and exclusive of garage area.

b. Each one and one-half or two story house shall contain no less than 1,800 square feet of total Living Area above the basement level with a minimum of 1,000 square feet on the main floor, exclusive of garage area.

3. Other house styles not described in 1. and 2. above will be permitted only if approved by the Architectural Control Committee and shall not be approved unless they are compatible with other homes to be built in Tiburon in the opinion of the Architectural Control Committee in its sole and absolute discretion.

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4. All houses shall, as a minimum, have attached, enclosed, side-by-side, two car garages which must contain a minimum area of 400 square feet built at approximately the main level of the house. Other or additional garages may be permitted at the discretion of the Architectural Control Committee.

C. For the purposes of these restrictions, two-story height shall, when the basement wall is exposed above finish grade, be measured from the basement ceiling on the exposed side(s) to the eave of the structure on the same side(s). Living Area means finished habitable space, measured to the exterior of the enclosing walls, and does not include porches, stoops, breezeways, courtyards, patios, decks, basements, garages or carports. The maximum height of the dwelling shall be thirty-five feet. The basement is not considered a story even if it is one hundred percent (100%) above grade on one or more sides, and essentially below grade on the other sides.

D. All buildings on all Lots shall comply with the set back requirements of the Zoning Code of Sarpy County, Nebraska as the same may be amended from time to time. In the event a waiver or variance of some of the zoning requirements for a Lot or Lots is granted by the appropriate authority, the Architectural Control Committee shall have the right and authority, but not the obligation, to grant in whole or in part the relaxation of requirements allowed by the waiver or variance, all in the sole and absolute discretion of the Architectural Control Committee.

E. Exposed portions of the foundation on the front of each dwelling are to be covered with clay-fired brick or stone even if a portion of those exposed foundations may be perpendicular, or nearly so, to the affronting street. Exposed portions of the foundation on the side of each dwelling facing the street, when said dwelling is located on a corner lot, are to be covered with clay-fired brick or stone. Exposed portions of the foundation on the sides, or rear, not facing a street of a dwelling located on a corner lot, and the exposed portion of the foundation on the sides and rear of every other dwelling shall be covered with clay-fired brick, stone, siding or shall be painted.

F. Portions of the front face wall or walls of each dwelling are to be covered with clay fired brick or stone even if a portion of those faces may be perpendicular, or nearly so, to the affronting street. The portion of the front face wall to be covered shall be subject to the approval of the Architectural Control Committee in its sole and absolute discretion and shall be no less than fifty (50%) percent of the front face wall area above the foundation, not including garage door area, on one story houses and no less than twenty-five (25) percent of the front face wall area above the foundation, not including garage door area, on one and one half and two story houses.

G. Regarding fireplaces and flues constructed as a part of the dwelling on any Lot the following shall apply:

1. In the event that a wood-burning fireplace is constructed as a part of the dwelling on any Lot Adjoining Golf Course, any portion of said fireplace and/or the enclosure for the fireplace flue which protrudes from the exterior or above the roof of the dwelling shall be constructed of or finished with, clay-fired brick or stone.

2. In the event that a wood-burning fireplace is constructed as a part of the dwelling in a manner so as to protrude beyond the outer perimeter of the front or side of the dwelling, or is exposed above the roof on a Lot Not adjoining Golf Course, the enclosure of the fireplace and flue shall be constructed of, or

finished with, clay-fired brick or stone. If the wood-burning fireplace and/or enclosure for the wood-burning fireplace flue is constructed in such a manner so as to protrude beyond the outer perimeter of the rear of the dwelling on a Lot Not Adjoining Golf Course, the enclosure of the wood-burning fireplace and flue shall be constructed of, or finished with, the same material as is the dwelling at the point from which the wood-burning fireplace and/or the flue protrudes or shall be constructed of, or finished with, clay-fired brick or stone.

3. In the event that a non-wood-burning or direct vent fireplace is constructed as a part of the dwelling on any Lot and is vented directly through an exterior wall of the dwelling or is vented through the roof of the dwelling with a vent similar in style, size and location to that of a furnace flue, no clay fired brick or stone enclosure will be required. Provided however, if said non-wood-burning or direct vent fireplace is constructed in such a manner so as to protrude beyond the outer perimeter of a front or side wall of the dwelling on a Lot Not Adjoining Golf Course or beyond the outer perimeter of any wall of the dwelling on a Lot Adjoining Golf Course, the protrusion for the fireplace shall be finished with clay-fired brick or stone. Also any fireplace vent which protrudes above the roof of any dwelling shall be finished with clay-fired brick or stone unless it is on the rear slope of the roof of a dwelling on a Lot Not Adjoining Golf Course or is vented in similar style, size and location to that of a furnace flue as shown herein.

4. No furnace flue may protrude more than four (4) feet from the roof of the dwelling, as measured from the top cap of the flue to the point from which the flue emerges from the roof. All furnace flues must be located on the rear side of the roof ridge within four feet of the roof ridge.

H. No fences may be built forward of the rear-most wall at each side (corner) of the rear of the dwelling. On Lots Adjoining Golf Course, no fence may be built within twenty-five (25') feet of a lot line which adjoins the golf course. Fences shall be constructed only of wood, decorative iron, brick or stone and are subject to the approval of the Architectural Control Committee referred to above. Wire or chain-link fences shall not be permitted. Temporary or permanent barbed wire, electrified, and/or snow fences are strictly prohibited.

I. No structure of a temporary character, trailer, basement, tent, shack, barn or other out building shall be erected on said Lot, or used as a residence, temporarily or permanently. No prefabricated or factory built house or residential dwelling built elsewhere shall be moved onto or assembled on any of said Lots. No pre-cut dwelling shall be assembled on any of said Lots. No full or partial subterranean dwellings or log houses shall be constructed or erected on any Lot. No dwelling shall be moved from outside of the Properties onto any of said Lots.

J. No flat or mansard roof shall be permitted on any dwelling. All dwellings shall be roofed with wood shakes, wood shingles, or other roofing materials which have the approval of the Architectural Control Committee in its sole and absolute discretion.

K. Public sidewalks are the responsibility of, and shall be constructed by, the then Owner of a Lot prior to the time of completion of a dwelling and before occupancy thereof. The extent of sidewalks, location, construction details, materials and grades shall be in accordance with the regulations of the City of Omaha and any revisions thereof. The maintenance of said sidewalks, after construction, shall be the responsibility of the Owners of each of the Lots.

L. The Declarant has created a water drainage plan by grading the Properties and installing improvements and easements for storm drainage in accordance with accepted engineering principles. No building shall be placed, nor



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any Lot graded, to interfere with such water drainage plan nor cause damage to the building or neighboring buildings or Lots.

M. No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any Lot. No animals, livestock, fowl or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, or other household pets maintained within the dwelling may be kept, provided that they are not kept, bred or maintained for any commercial purpose and, provided, that they are kept confined to the Lot of their owner and are not permitted to run loose outside the Lot of the Owner.

N. No incinerator or trashburner shall be permitted on any Lot. No garbage or trash can or container shall be permitted to remain outside of any dwelling unless completely screened from view from every street and from all other Lots in the subdivision and from the golf course. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling except while in actual use. No garage door shall be permitted to remain open except when entry to and exit from the garage are required. No clothesline shall be permitted outside of any dwelling at any time. Any exterior air conditioning condenser units or heat pump units shall be placed in the designated side or rear yard of the dwelling. Detached accessory buildings are not permitted.

O. No automobile, boat, camping trailer, van-type campers, auto-drawn trailer of any kind, mobile home, motorcycle, snowmobile or other self-propelled vehicles shall be stored or maintained outside of the garage. For purposes of the preceding provision, "stored or maintained outside of the garage" shall mean, parking the vehicle or trailer on the driveway, or any other part of the Lot, outside of the garage, for seven (7) or more consecutive days. All repair or maintenance work on automobiles, boats, camping trailers, van-type campers, auto-drawn trailers of any kind, mobile homes, motorcycles, snowmobiles or other self-propelled vehicles done on the premises must be done in the garage. The dedicated street right-of-way located between the pavement and the Lot line of any residential Lot shall not be used for the parking of any vehicle, boat, camper or trailer. Automobiles and other self-propelled vehicles parked out-of-doors within the premises above-described, or upon the streets thereof, must be in operating condition.

P. All Lots shall be kept free of rubbish, debris, merchandise and building material; however, building materials may be placed on Lots when construction is started on the main residential structure intended for such Lot. In addition, vacant Lots where capital improvements have not yet been installed shall not be used for dumping of earth or any other waste materials, and shall be maintained level and smooth enough for machine mowing. No vegetation on vacant Lots where capital improvements have not yet been installed shall be allowed to reach more than a maximum height of twelve (12) inches.

Q. Except for the purpose of controlling erosion on vacant Lots, no field crops shall be grown upon any Lot at any time.

R. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood, including, but not limited to, odors, dust, glare, sound, lighting, smoke, vibration and radiation.

S. A dwelling on which construction has begun must be completed within one (1) year from the date the foundation was dug for said dwelling.

98-00444F

T. Small vegetable gardens and rock gardens shall be permitted only if maintained in the designated rear yard of any Lot, behind the dwelling on said Lot. Further, rock gardens must be approved by the Architectural Control Committee.

U. No residential dwelling shall be occupied by any person as a dwelling for such person until the construction of such dwelling has been completed, except for minor finish details as determined and approved by the Architectural Control Committee.

V. No advertising signs or posters of any kind shall be erected or placed on any of said Lots, except the residential "For Sale" and "Sold" signs, not exceeding six (6) square feet in size, shall be permitted and, provided further, that such restriction as to sign size shall not apply to signs erected by the Declarant, or his agents, in the development of Tiburon.

W. All driveways shall be constructed of concrete or brick.

X. The front, side and rear yards of all Lots shall be sodded, and two (2) trees, each not less than two (2) caliper inches in diameter, shall be planted in the front yard of each residence. No trees shall be planted in the dedicated street right-of-way located between the pavement and the Lot line. All yards shall be sodded and the trees planted within one (1) year from the date that construction for the residence on the Lot was initiated.

Y. No solar collecting panels or equipment, no wind generating power equipment shall be allowed on the Lots. No television antenna, no antenna of any kind or nature, no satellite dish over 18" in diameter, shall be allowed on the Lots unless completely screened from view from every street and from all other Lots in the Subdivision and from the golf course in a manner approved by the Architectural Control Committee. Satellite dishes of 18" or less shall be permitted only with the approval of the Architectural Control Committee.

#### ARTICLE IV. EASEMENTS AND LICENSES

A. A perpetual license and easement is hereby reserved in favor of and granted to the U. S. West Telephone Company, the City or County franchised cable television firm and/or the Declarant, and to Omaha Public Power District, their successors, and assigns, to erect and operate, maintain, repair, and renew cables, conduits, and other instrumentalities and to extend wires for the carrying and transmission of electric current for light, heat and power and for all telephone and telegraph and message services and cable television under a 8-foot strip of land adjoining the rear boundary lines of all interior Lots, a 16-foot strip of land adjoining the rear boundary lines of all exterior Lots and a 5-foot strip of land adjoining all side boundary lot lines and license being granted for the use and benefit of all present and future owners of said Lots; provided, however, that said lot line easement is granted upon the specific condition that if any said utility companies fail to construct wires or conduits along any of the said lot lines within 36 months of the date hereof, or if any wires or conduits are constructed but hereafter removed without replacement within 60 days after their removal, then this lot line easement shall automatically terminate and become void as to such unused or abandoned easementways. No permanent buildings shall be placed in perpetual easementway, but the same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforesaid uses or rights herein granted.

B. All telephone, cable television and electric power service lines from property line to dwelling shall be underground.

98-004416

ARTICLE V.  
GENERAL PROVISIONS

A. The Declarant, or its assigns, or any Owner of a Lot named herein, shall have the right to enforce by proceeding at law or in equity, all restrictions, conditions, covenants, and reservations, now or hereinafter imposed by the provisions of this Declaration, either to prevent or restrain any violation of same, or to recover damages or other dues for such violation. Failure by the Declarant or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

B. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded. This Declaration may be amended by the Declarant, or any person, firm corporation, partnership, or entity designated in writing by the Declarant, in any manner it shall determine in its full and absolute discretion for a period of five (5) years from the date hereof. Thereafter this Declaration may be amended by an instrument signed by the Owners of not less than ninety percent (90%) of the Lots covered by this Declaration.

C. Invalidation of any one of these covenants by judgment or court order shall in no way effect any of the other provisions hereof which shall remain in full force and effect.

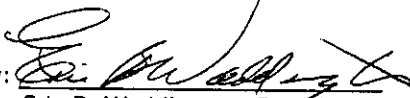
IN WITNESS WHEREOF, the Declarant and Other Property Owners have caused these presents to be executed on the date(s) shown.

DECLARANT:

TIBURON LIMITED PARTNERSHIP  
a Nebraska Limited Partnership

BY: DRELLA, INC., a Nebraska  
Corporation, General Partner

Date: 1-5-98

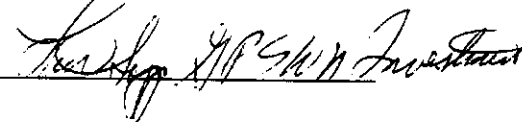
By:   
Eric B. Waddington, President

OTHER PROPERTY OWNERS:

Owner of Lot 286:

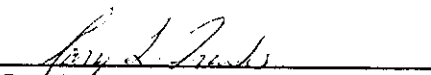
SWN INVESTMENTS,  
a Nebraska partnership

Date: 1-7-98

By: 

Owner of Lot 77:

Date: 1-5-97

  
Gary L. Franks

48-00444 H

CONSENT

The Omaha Firefighters Credit Union, holding a first deed of Trust on Lot 77, in Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska, hereby consents to said lot being bound by the above-stated restrictive covenants.

OMAHA FIREFIGHTERS CREDIT UNION,  
Trustee under a certain deed of trust  
recorded May 25, 1995 in the office of the  
Register of Deeds of Sarpy County,  
Nebraska at Instrument No. 95-07403

*Omaha Firefighters CU*  
By: *Tiffany M Michel*  
*Director of Lending*

STATE OF NEBRASKA )  
                                          ) ss.  
COUNTY OF DOUGLAS )

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of January, 1998, by Eric B. Waddington, President of Drella, Inc., a Nebraska Corporation, General Partner of Tiburon Limited Partnership, a Nebraska limited partnership.



*Kathleen A. Craig*  
Notary Public

STATE OF NEBRASKA )  
                                          ) ss.  
COUNTY OF *Douglas* )

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of January, 1998, by *Omaha Firefighters Credit Union*  
By *Tiffany M Michel, Director of Lending*



*Kathleen A. Craig*  
Notary Public

STATE OF NEBRASKA )  
                                          ) ss.  
COUNTY OF *Douglas* )

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of January, 1998, by Gary L. Franks, a single person.

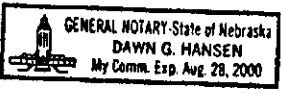


*Kristina L. Egid*  
Notary Public

98-00444I

STATE OF NEBRASKA )  
COUNTY OF General ) ss.

The foregoing instrument was acknowledged before me this 7 day of January, 1998, by St. N. Investments  
Lee H. Sapp GP



Dawn G. Hansen  
Notary Public

FILED SARPY COUNTY NE  
ASSIGNMENT NUMBER  
08-000444  
12 JAN 17 PM 3:10  
REGISTRY OF DEEDS

98-00444

County: WJ  
Verify: af  
C.E.: me  
Proof: 15  
Fee: 50  
Ok   
Cash   
Charge

DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR TIBURON

THIS DECLARATION, made on the date hereinafter set forth by Tiburon Limited Partnership, a Nebraska Limited Partnership, hereinafter referred to as the "Declarant", and by SWN Investments, a Nebraska partnership, and Gary L. Franks, a single person, hereinafter collectively referred to as the "Other Property Owners";

WITNESSETH:

WHEREAS, The Declarant is the Owner of the following described real property:

Lots 67 through 76, inclusive, Lots 78 through 106, inclusive, Lots 160 through 193, inclusive, and Lots 283 through 285, inclusive, and Lots 287 through 339, inclusive, of Tiburon, a Subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska, and

WHEREAS, The Other Property Owners are the owners of the following described real property:

Lots 77 and 286, in Tiburon, a subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska; and

WHEREAS, all of the above-described real estate has been zoned for single family use, and

WHEREAS, the Declarant and the Other Property Owners will convey said lots, subject to certain protective covenants, conditions, restrictions, reservations, liens, and charges as hereinafter set forth,

NOW, THEREFORE, the Declarant and the Other Property Owners hereby declare that all of the lots described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of said lots. These easements, covenants, restrictions, and conditions, shall run with said real property, and shall be binding upon all parties having or acquiring any right, title or interest in the above described lots, or any part thereof, and they shall inure to the benefit of each owner thereof.

ARTICLE I.  
DEFINITIONS

A. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Properties.

48-00444A

including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

B. "Properties" shall mean and refer to all such lots that are subject to the Declaration or any supplemental Declaration under the provisions hereof, which shall initially consist of Lots 67 through 106, inclusive, Lots 160 through 193, inclusive, and Lots 283 through 339, inclusive, of Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.

C. "Lot" shall mean and refer to any one of Lots 67 through 106, inclusive, Lots 160 through 193, inclusive, or Lots 283 through 339, inclusive, of Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.

D. "Lots Adjoining Golf Course" shall mean and refer to all Lots, as defined above, for which one or more of the Lot boundary lines is shared with any boundary line of the golf course.

E. "Lots Not Adjoining Golf Course" shall mean and refer to all Lots which have no Lot boundary line in common with any boundary line of the golf course.

F. "Declarant" shall mean and refer to TIBURON LIMITED PARTNERSHIP, a Nebraska Limited Partnership, its successors and assigns.

G. "Other Property Owners" shall mean and refer to the current owners of Lots 77 and 286, Tiburon, namely Gary L. Franks, a single person and SWN Investments, a Nebraska partnership, respectively.

H. "Architectural Control Committee" shall mean the individual or committee appointed by the Declarant, its successors or assigns.

I. "Applicant" shall mean Owner, Contractor, or Realtor.

## ARTICLE II. ARCHITECTURAL CONTROL

A. No dwelling, fence, wall, driveway, patio, patio enclosure, deck, rock garden, swimming pool, television or radio antenna, satellite dishes, solar collecting panels or equipment, air conditioning equipment, wind-generating power equipment, or other external improvements, above or below the surface of the ground shall be built, erected, placed, planted, altered or otherwise maintained or permitted to remain on any Lot, nor shall any grading, excavation or tree removal be commenced without express written prior approval of the Declarant through its Architectural Control Committee.

B. The Declarant, through its Architectural Control Committee, shall consider general appearance, exterior color or colors, architectural character, harmony of external design and location in relation to surroundings, topography, location within the lot boundary lines, quality of construction and size and suitability for residential purposes as part of its review procedure. Only exterior colors of certain earthtone hues will be acceptable. Designs of a repetitive nature and/or within close proximity to one another will not be approved. Superficial, cosmetic or minor architecture detail differences in like designs will not constitute a basis for approval. The Architectural Control Committee specifically reserves the right to deny permission to construct or place any of the above-mentioned improvements which it determines will not conform to the general character, plan and outline for the development of the Properties.

C. Documents submitted for approval shall be clear, concise, complete, consistent and legible. All drawings shall be to scale. Samples of materials to be included in the improvement may be required of the applicant at the discretion of

98-00444B

the Architectural Control Committee. Submittals for the approval shall be made in duplicate and the comments and actions of the Architectural Control Committee will be identically marked on both copies of said submittals. One copy will be returned to the applicant, and one copy will be retained as part of the permanent records of the Committee. Each applicant shall submit to the Architectural Control Committee the following documents, materials and/or drawings:

1. Site plan indicating specific improvement and indicating Lot number, street address, and sidewalks.

2. Complete construction plans, including, but not limited to, basement and upper floor plans, floor areas of each level, wall sections, stair and fireplace sections and exterior elevations clearly indicating flues or chimneys, type and extent of siding, roofing, other faces and/or veneer materials.

D. The approval or disapproval of the Architectural Control Committee as required in these Covenants shall be in writing. Failure of the Architectural Control Committee to give either written approval or disapproval of submitted plans within thirty (30) days after receipt of all of the documents above, by mailing such written approval or disapproval to the last known address of the applicant as shown on the submitted plans, shall operate as an Architectural Control Committee approval.

ARTICLE III.  
RESTRICTIONS FOR RESIDENTIAL UNITS

A. The Lot shall be used only for residential purposes, and no Lot shall contain more than one (1) detached, single family unit.

B. No building shall be created, altered, placed or permitted to remain on any Lot other than the one (1) detached, single family dwelling referred to above, and said dwelling shall conform to the following requirements:

1. Houses built on Lots Adjoining Golf Course shall comply with the following minimum size requirements:

a. Each one story house shall contain no less than 1,800 square feet of Living Area above the basement level and exclusive of garage area.

b. Each one and one-half or two story house shall contain no less than 2,000 square feet of total Living Area above the basement level with a minimum of 1,200 square feet on the main floor, exclusive of garage area.

2. Houses built on Lots Not Adjoining Golf Course shall comply with the following minimum size requirements:

a. Each one story house shall contain no less than 1,600 square feet of Living Area above the basement level and exclusive of garage area.

b. Each one and one-half or two story house shall contain no less than 1,800 square feet of total Living Area above the basement level with a minimum of 1,000 square feet on the main floor, exclusive of garage area.

3. Other house styles not described in 1. and 2. above will be permitted only if approved by the Architectural Control Committee and shall not be approved unless they are compatible with other homes to be built in Tiburon in the opinion of the Architectural Control Committee in its sole and absolute discretion.



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4. All houses shall, as a minimum, have attached, enclosed, side-by-side, two car garages which must contain a minimum area of 400 square feet built at approximately the main level of the house. Other or additional garages may be permitted at the discretion of the Architectural Control Committee.

C. For the purposes of these restrictions, two-story height shall, when the basement wall is exposed above finish grade, be measured from the basement ceiling on the exposed side(s) to the eave of the structure on the same side(s). Living Area means finished habitable space, measured to the exterior of the enclosing walls, and does not include porches, stoops, breezeways, courtyards, patios, decks, basements, garages or carports. The maximum height of the dwelling shall be thirty-five feet. The basement is not considered a story even if it is one hundred percent (100%) above grade on one or more sides, and essentially below grade on the other sides.

D. All buildings on all Lots shall comply with the set back requirements of the Zoning Code of Sarpy County, Nebraska as the same may be amended from time to time. In the event a waiver or variance of some of the zoning requirements for a Lot or Lots is granted by the appropriate authority, the Architectural Control Committee shall have the right and authority, but not the obligation, to grant in whole or in part the relaxation of requirements allowed by the waiver or variance, all in the sole and absolute discretion of the Architectural Control Committee.

E. Exposed portions of the foundation on the front of each dwelling are to be covered with clay-fired brick or stone even if a portion of those exposed foundations may be perpendicular, or nearly so, to the affronting street. Exposed portions of the foundation on the side of each dwelling facing the street, when said dwelling is located on a corner lot, are to be covered with clay-fired brick or stone. Exposed portions of the foundation on the sides, or rear, not facing a street of a dwelling located on a corner lot, and the exposed portion of the foundation on the sides and rear of every other dwelling shall be covered with clay-fired brick, stone, siding or shall be painted.

F. Portions of the front face wall or walls of each dwelling are to be covered with clay fired brick or stone even if a portion of those faces may be perpendicular, or nearly so, to the affronting street. The portion of the front face wall to be covered shall be subject to the approval of the Architectural Control Committee in its sole and absolute discretion and shall be no less than fifty (50%) percent of the front face wall area above the foundation, not including garage door area, on one story houses and no less than twenty-five (25) percent of the front face wall area above the foundation, not including garage door area, on one and one half and two story houses.

G. Regarding fireplaces and flues constructed as a part of the dwelling on any Lot the following shall apply:

1. In the event that a wood-burning fireplace is constructed as a part of the dwelling on any Lot Adjoining Golf Course, any portion of said fireplace and/or the enclosure for the fireplace flue which protrudes from the exterior or above the roof of the dwelling shall be constructed of or finished with, clay-fired brick or stone.

2. In the event that a wood-burning fireplace is constructed as a part of the dwelling in a manner so as to protrude beyond the outer perimeter of the front or side of the dwelling, or is exposed above the roof on a Lot Not adjoining Golf Course, the enclosure of the fireplace and flue shall be constructed of, or

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finished with, clay-fired brick or stone. If the wood-burning fireplace and/or enclosure for the wood-burning fireplace flue is constructed in such a manner so as to protrude beyond the outer perimeter of the rear of the dwelling on a Lot Not Adjoining Golf Course, the enclosure of the wood-burning fireplace and flue shall be constructed of, or finished with, the same material as is the dwelling at the point from which the wood-burning fireplace and/or the flue protrudes or shall be constructed of, or finished with, clay-fired brick or stone.

3. In the event that a non-wood-burning or direct vent fireplace is constructed as a part of the dwelling on any Lot and is vented directly through an exterior wall of the dwelling or is vented through the roof of the dwelling with a vent similar in style, size and location to that of a furnace flue, no clay fired brick or stone enclosure will be required. Provided however, if said non-wood-burning or direct vent fireplace is constructed in such a manner so as to protrude beyond the outer perimeter of a front or side wall of the dwelling on a Lot Not Adjoining Golf Course or beyond the outer perimeter of any wall of the dwelling on a Lot Adjoining Golf Course, the protrusion for the fireplace shall be finished with clay-fired brick or stone. Also any fireplace vent which protrudes above the roof of any dwelling shall be finished with clay-fired brick or stone unless it is on the rear slope of the roof of a dwelling on a Lot Not Adjoining Golf Course or is vented in similar style, size and location to that of a furnace flue as shown herein.

4. No furnace flue may protrude more than four (4) feet from the roof of the dwelling, as measured from the top cap of the flue to the point from which the flue emerges from the roof. All furnace flues must be located on the rear side of the roof ridge within four feet of the roof ridge.

H. No fences may be built forward of the rear-most wall at each side (corner) of the rear of the dwelling. On Lots Adjoining Golf Course, no fence may be built within twenty-five (25') feet of a lot line which adjoins the golf course. Fences shall be constructed only of wood, decorative iron, brick or stone and are subject to the approval of the Architectural Control Committee referred to above. Wire or chain-link fences shall not be permitted. Temporary or permanent barbed wire, electrified, and/or snow fences are strictly prohibited.

I. No structure of a temporary character, trailer, basement, tent, shack, barn or other out building shall be erected on said Lot, or used as a residence, temporarily or permanently. No prefabricated or factory built house or residential dwelling built elsewhere shall be moved onto or assembled on any of said Lots. No pre-cut dwelling shall be assembled on any of said Lots. No full or partial subterranean dwellings or log houses shall be constructed or erected on any Lot. No dwelling shall be moved from outside of the Properties onto any of said Lots.

J. No flat or mansard roof shall be permitted on any dwelling. All dwellings shall be roofed with wood shakes, wood shingles, or other roofing materials which have the approval of the Architectural Control Committee in its sole and absolute discretion.

K. Public sidewalks are the responsibility of, and shall be constructed by, the then Owner of a Lot prior to the time of completion of a dwelling and before occupancy thereof. The extent of sidewalks, location, construction details, materials and grades shall be in accordance with the regulations of the City of Omaha and any revisions thereof. The maintenance of said sidewalks, after construction, shall be the responsibility of the Owners of each of the Lots.

L. The Declarant has created a water drainage plan by grading the Properties and installing improvements and easements for storm drainage in accordance with accepted engineering principles. No building shall be placed, nor

98-00444E

any Lot graded, to interfere with such water drainage plan nor cause damage to the building or neighboring buildings or Lots.

M. No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any Lot. No animals, livestock, fowl or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, or other household pets maintained within the dwelling may be kept, provided that they are not kept, bred or maintained for any commercial purpose and, provided, that they are kept confined to the Lot of their owner and are not permitted to run loose outside the Lot of the Owner.

N. No incinerator or trashburner shall be permitted on any Lot. No garbage or trash can or container shall be permitted to remain outside of any dwelling unless completely screened from view from every street and from all other Lots in the subdivision and from the golf course. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling except while in actual use. No garage door shall be permitted to remain open except when entry to and exit from the garage are required. No clothesline shall be permitted outside of any dwelling at any time. Any exterior air conditioning condenser units or heat pump units shall be placed in the designated side or rear yard of the dwelling. Detached accessory buildings are not permitted.

O. No automobile, boat, camping trailer, van-type campers, auto-drawn trailer of any kind, mobile home, motorcycle, snowmobile or other self-propelled vehicles shall be stored or maintained outside of the garage. For purposes of the preceding provision, "stored or maintained outside of the garage" shall mean, parking the vehicle or trailer on the driveway, or any other part of the Lot, outside of the garage, for seven (7) or more consecutive days. All repair or maintenance work on automobiles, boats, camping trailers, van-type campers, auto-drawn trailers of any kind, mobile homes, motorcycles, snowmobiles or other self-propelled vehicles done on the premises must be done in the garage. The dedicated street right-of-way located between the pavement and the Lot line of any residential Lot shall not be used for the parking of any vehicle, boat, camper or trailer. Automobiles and other self-propelled vehicles parked out-of-doors within the premises above-described, or upon the streets thereof, must be in operating condition.

P. All Lots shall be kept free of rubbish, debris, merchandise and building material; however, building materials may be placed on Lots when construction is started on the main residential structure intended for such Lot. In addition, vacant Lots where capital improvements have not yet been installed shall not be used for dumping of earth or any other waste materials, and shall be maintained level and smooth enough for machine mowing. No vegetation on vacant Lots where capital improvements have not yet been installed shall be allowed to reach more than a maximum height of twelve (12) inches.

Q. Except for the purpose of controlling erosion on vacant Lots, no field crops shall be grown upon any Lot at any time.

R. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood, including, but not limited to, odors, dust, glare, sound, lighting, smoke, vibration and radiation.

S. A dwelling on which construction has begun must be completed within one (1) year from the date the foundation was dug for said dwelling.

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T. Small vegetable gardens and rock gardens shall be permitted only if maintained in the designated rear yard of any Lot, behind the dwelling on said Lot. Further, rock gardens must be approved by the Architectural Control Committee.

U. No residential dwelling shall be occupied by any person as a dwelling for such person until the construction of such dwelling has been completed, except for minor finish details as determined and approved by the Architectural Control Committee.

V. No advertising signs or posters of any kind shall be erected or placed on any of said Lots, except the residential "For Sale" and "Sold" signs, not exceeding six (6) square feet in size, shall be permitted and, provided further, that such restriction as to sign size shall not apply to signs erected by the Declarant, or his agents, in the development of Tiburon.

W. All driveways shall be constructed of concrete or brick.

X. The front, side and rear yards of all Lots shall be sodded, and two (2) trees, each not less than two (2) caliper inches in diameter, shall be planted in the front yard of each residence. No trees shall be planted in the dedicated street right-of-way located between the pavement and the Lot line. All yards shall be sodded and the trees planted within one (1) year from the date that construction for the residence on the Lot was initiated.

Y. No solar collecting panels or equipment, no wind generating power equipment shall be allowed on the Lots. No television antenna, no antenna of any kind or nature, no satellite dish over 18" in diameter, shall be allowed on the Lots unless completely screened from view from every street and from all other Lots in the Subdivision and from the golf course in a manner approved by the Architectural Control Committee. Satellite dishes of 18" or less shall be permitted only with the approval of the Architectural Control Committee.

#### ARTICLE IV. EASEMENTS AND LICENSES

A. A perpetual license and easement is hereby reserved in favor of and granted to the U. S. West Telephone Company, the City or County franchised cable television firm and/or the Declarant, and to Omaha Public Power District, their successors, and assigns, to erect and operate, maintain, repair, and renew cables, conduits, and other instrumentalities and to extend wires for the carrying and transmission of electric current for light, heat and power and for all telephone and telegraph and message services and cable television under a 8-foot strip of land adjoining the rear boundary lines of all interior Lots, a 16-foot strip of land adjoining the rear boundary lines of all exterior Lots and a 5-foot strip of land adjoining all side boundary lot lines and license being granted for the use and benefit of all present and future owners of said Lots; provided, however, that said lot line easement is granted upon the specific condition that if any said utility companies fail to construct wires or conduits along any of the said lot lines within 36 months of the date hereof, or if any wires or conduits are constructed but hereafter removed without replacement within 60 days after their removal, then this lot line easement shall automatically terminate and become void as to such unused or abandoned easementways. No permanent buildings shall be placed in perpetual easementway, but the same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforesaid uses or rights herein granted.

B. All telephone, cable television and electric power service lines from property line to dwelling shall be underground.

98-004415

ARTICLE V.  
GENERAL PROVISIONS

A. The Declarant, or its assigns, or any Owner of a Lot named herein, shall have the right to enforce by proceeding at law or in equity, all restrictions, conditions, covenants, and reservations, now or hereinafter imposed by the provisions of this Declaration, either to prevent or restrain any violation of same, or to recover damages or other dues for such violation. Failure by the Declarant or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

B. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded. This Declaration may be amended by the Declarant, or any person, firm corporation, partnership, or entity designated in writing by the Declarant, in any manner it shall determine in its full and absolute discretion for a period of five (5) years from the date hereof. Thereafter this Declaration may be amended by an instrument signed by the Owners of not less than ninety percent (90%) of the Lots covered by this Declaration.

C. Invalidation of any one of these covenants by judgment or court order shall in no way effect any of the other provisions hereof which shall remain in full force and effect.


IN WITNESS WHEREOF, the Declarant and Other Property Owners have caused these presents to be executed on the date(s) shown.

DECLARANT:

TIBURON LIMITED PARTNERSHIP  
a Nebraska Limited Partnership

BY: DRELLA, INC., a Nebraska  
Corporation, General Partner

Date: 1-5-98


By:   
Eric B. Waddington, President

OTHER PROPERTY OWNERS:

Owner of Lot 286:

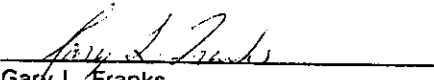
SWN INVESTMENTS,  
a Nebraska partnership

Date: 1-7-98

By: 

Owner of Lot 77:

Date: 1-5-97

  
Gary L. Franks

48-00444 H

CONSENT

The Omaha Firefighters Credit Union, holding a first deed of Trust on Lot 77, in Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska, hereby consents to said lot being bound by the above-stated restrictive covenants.

OMAHA FIREFIGHTERS CREDIT UNION,  
Trustee under a certain deed of trust  
recorded May 25, 1995 in the office of the  
Register of Deeds of Sarpy County,  
Nebraska at Instrument No. 95-07403

By: *Tiffany M. Michel*  
*Director of Lending*

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DOUGLAS )

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of January, 1998, by Eric B. Waddington, President of Drella, Inc., a Nebraska Corporation, General Partner of Tiburon Limited Partnership, a Nebraska limited partnership.



*Kathleen A. Craig*  
Notary Public

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF *Douglas* )

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of January, 1998, by *Omaha Firefighters Credit Union*  
By *Tiffany M. Michel, Director of Lending*



*Kathleen A. Craig*  
Notary Public

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF *Douglas* )

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of January, 1998, by Gary L. Franks, a single person.

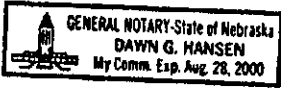


*Kristina L. Efird*  
Notary Public

98-00444I

STATE OF NEBRASKA )  
COUNTY OF General ) ss.

The foregoing instrument was acknowledged before me this 7 day of January, 1998, by SUN Investments  
Lee H. Sapp, GP



Dawn G. Hansen  
Notary Public

DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR TIBURON

THIS DECLARATION, made on the date hereinafter set forth by Tiburon Limited Partnership, a Nebraska Limited Partnership, hereinafter referred to as the "Declarant",

W I T N E S S E T H:

WHEREAS, The Declarant is the Owner of the following described real property:

Lots 1 through 15, inclusive,  
Lots 217 through 282, inclusive, and  
Lots 340 through 395, inclusive,  
of Tiburon, a Subdivision, as surveyed, platted  
and recorded in Sarpy County, Nebraska, and

WHEREAS, all of the above-described real estate has been zoned "RS-100" and, therefore, is available for single family use,

WHEREAS, the Declarant will convey said lots, subject to certain protective covenants, conditions, restrictions, reservations, liens, and charges as hereinafter set forth,

NOW, THEREFORE, the Declarant hereby declares that all of the lots described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of said lots. These easements, covenants, restrictions, and conditions, shall run with said real property, and shall be binding upon all parties having or acquiring any right, title or interest in the above described lots, or any part thereof, and they shall inure to the benefit of each owner thereof.

ARTICLE I.  
DEFINITIONS

A. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

B. "Properties" shall mean and refer to all such properties that are subject to the Declaration or any supplemental Declaration under the provisions hereof, which shall initially consist of Lots 1 through 15, inclusive, Lots 217 through 282, inclusive, and Lots 340 through 395, inclusive, of Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.

C. "Lot" shall mean and refer to any one of Lots 1 through 15, inclusive, Lots 217 through 282, inclusive, or Lots 340 through 395, inclusive, of Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.

D. "Lots Adjoining Golf Course" shall mean and refer to all Lots, as defined above, for which one or more of the Lot boundary lines is shared with any boundary line of the golf course.

E. "Lots Not Adjoining Golf Course" shall mean and refer to all Lots which have no Lot boundary line in common with any boundary line of the golf course.

F. "Declarant" shall mean and refer to TIBURON LIMITED PARTNERSHIP, a Nebraska Limited Partnership, its successors and assigns.



93-010021

G. "Architectural Control Committee" shall mean the individual or committee appointed by the Declarant, its successors or assigns.

ARTICLE II.  
ARCHITECTURAL CONTROL

A. No dwelling, fence, wall, driveway, patio, patio enclosure, deck, rock garden, swimming pool, television or radio antenna, satellite dishes, solar collecting panels or equipment, air conditioning equipment, wind-generating power equipment, or other external improvements, above or below the surface of the ground shall be built, erected, placed, planted, altered or otherwise maintained or permitted to remain on any Lot, nor shall any grading, excavation or tree removal be commenced without express written prior approval of the Declarant through its Architectural Control Committee.

B. The Declarant, through its Architectural Control Committee, shall consider general appearance, exterior color or colors, architectural character, harmony of external design and location in relation to surroundings, topography, location within the lot boundary lines, quality of construction and size and suitability for residential purposes as part of its review procedure. Only exterior colors of certain earthtone hues will be acceptable. Designs of a repetitive nature and/or within close proximity to one another will not be approved. Superficial, cosmetic or minor architectural detail differences in like designs will not constitute a basis for approval. The Architectural Control Committee specifically reserves the right to deny permission to construct or place any of the above-mentioned improvements which it determines will not conform to the general character, plan and outline for the development of the Properties.

C. Documents submitted for approval shall be clear, concise, complete, consistent and legible. All drawings shall be to scale. Samples of materials to be included in the improvement may be required of the applicant at the discretion of the Architectural Control Committee. Submittals for the approval shall be made in duplicate and the comments and actions of the Architectural Control Committee will be identically marked on both copies of said submittals. One copy will be returned to the applicant, and one copy will be retained as part of the permanent records of the Committee. Each applicant shall submit to the Architectural Control Committee the following documents, materials and/or drawings:

1. Site plan indicating specific improvement and indicating Lot number, street address, grading, surface drainage and sidewalks.

2. Complete construction plans, including, but not limited to, basement and upper floor plans, floor areas of each level, wall sections, stair and fireplace sections and exterior elevations clearly indicating flues or chimneys, type and extent of siding, roofing, other faces and/or veneer materials.

D. The approval or disapproval of the Architectural Control Committee as required in these Covenants shall be in writing. Failure of the Architectural Control Committee to give either written approval or disapproval of submitted plans within thirty (30) days after receipt of all of the documents above, by mailing such written approval or disapproval to the last known address of the applicant as shown on the submitted plans, shall operate as an Architectural Control Committee approval.

ARTICLE III.  
RESTRICTIONS FOR RESIDENTIAL UNITS

A. The Lot shall be used only for residential purposes, and no Lot shall contain more than one (1) detached, single family unit.

B. No building shall be created, altered, placed or permitted to remain on any Lot other than the one (1) detached, single family dwelling referred to above, and said dwelling shall conform to the following requirements:

1. Houses built on Lots Adjoining Golf Course shall comply with the following minimum size requirements:

a. Each one story house shall contain no less than 1,800 square feet of Living Area above the basement level and exclusive of garage area.

b. Each one and one-half or two story house shall contain no less than 2,000 square feet of total Living Area above the basement level with a minimum of 1,200 square feet on the main floor, exclusive of garage area.

2. Houses built on Lots Not Adjoining Golf Course shall comply with the following minimum size requirements:

a. Each one story house shall contain no less than 1,600 square feet of Living Area above the basement level and exclusive of garage area.

b. Each one and one-half or two story house shall contain no less than 1,800 square feet of total Living Area above the basement level with a minimum of 1,000 square feet on the main floor, exclusive of garage area.

3. Other house styles not described in 1. and 2. above will be permitted only if approved by the Architectural Control Committee and shall not be approved unless they are compatible with other homes to be built in Tiburon in the opinion of the Architectural Control Committee in its sole and absolute discretion.

4. All houses shall, as a minimum, have attached, enclosed, side-by-side, two car garages which must contain a minimum area of 400 square feet built at approximately the main level of the house. Other or additional garages may be permitted at the discretion of the Architectural Control Committee.

C. For the purposes of these restrictions, two-story height shall, when the basement wall is exposed above finish grade, be measured from the basement ceiling on the exposed side(s) to the eave of the structure on the same side(s). Living Area means finished habitable space, measured to the exterior of the enclosing walls, and does not include porches, stoops, breezeways, courtyards, patios, decks, basements, garages or carports. The maximum height of the dwelling shall be two (2) stories. The basement is not considered a story even if it is one hundred percent (100%) above grade on one or more sides, and essentially below grade on the other sides.

D. All buildings shall be located at least twenty-five (25') feet from the front Lot line, and a minimum of twenty-five (25') feet from the rear property line. All buildings shall have at least ten (10') foot sideyards. On corner lots, either street side may be designated by the Owner/Builder as the front, and either non-street side as the rear. The minimum setback requirement for the non-front street exposure is twenty-five (25') feet from the property line. For purposes of this restriction, eaves, open patios, and steps shall not be considered part of the building. The above provisions parallel the present zoning requirements of Sarpy County for the Lots. In the event that the zoning requirements for a Lot or Lots are subsequently changed by Sarpy County to be less restrictive than the present requirements, or in the event a waiver or variance of some of the requirements for a Lot or Lots is granted by the appropriate authority, the Architectural Control Committee shall have the right and authority, but not the obligation, to grant in whole or in part the relaxation of requirements allowed by the zoning changes, waiver or variance, all in the sole and absolute discretion of the Architectural Control Committee.

E. Exposed portions of the foundation on the front of each dwelling are to be covered with clay-fired brick or stone even if a portion of those exposed foundations may be perpendicular, or nearly so, to the affronting street. Exposed portions of the foundation on the side of each dwelling facing the street, when said dwelling is located on a corner lot, are to be covered with clay-fired brick or stone. Exposed portions of the foundation on the sides, or rear, not facing a street of a dwelling located on a corner lot, and the exposed portion of the foundation on the sides and rear of every other dwelling shall be covered with clay-fired brick, stone, siding or shall be painted.

F. In the event that a fireplace is constructed as a part of the dwelling on any Lot Adjoining Golf Course, said fireplace and/or the enclosure for the fireplace flue shall be constructed of or finished with, clay-fired brick or stone. In the event that a fireplace is constructed as a part of the dwelling in a manner so as to protrude beyond the outer perimeter of the front or side of the dwelling, or is exposed above the roof on a Lot Not Adjoining Golf Course, the enclosure of the fireplace and flue shall be constructed of, or finished with, clay-fired brick or stone. If the fireplace and/or enclosure for the fireplace flue is constructed in such a manner so as to protrude beyond the outer perimeter of the rear of the dwelling on a Lot Not Adjoining Golf Course, the enclosure of the fireplace and flue shall be constructed of, or finished with, the same material as is the dwelling at the point from which the fireplace and/or the flue protrudes or shall be constructed of, or finished with, clay-fired brick or stone. No furnace flue may protrude more than four (4) feet from the roof of the dwelling, as measured from the top cap of the flue to the point from which the flue emerges from the roof. All furnace flues must be located on the rear side of the roof ridge within four feet of the roof ridge.

G. No fences may be built forward of the rear-most wall at each side (corner) of the rear of the dwelling. On Lots Adjoining Golf Course, no fence may be built within thirty-five (35") feet of a lot line which adjoins the golf course. Fences shall be constructed only of wood, decorative iron, brick or stone and are subject to the approval of the Architectural Control Committee referred to above. Wire or chain-link fences shall not be permitted. Temporary or permanent barbed wire, electrified, and/or snow fences are strictly prohibited.

H. No structure of a temporary character, trailer, basement, tent, shack, barn or other out building shall be erected on said Lot, or used as a residence, temporarily or permanently. No prefabricated or factory built house or residential dwelling built elsewhere shall be moved onto or assembled on any of said Lots. No pre-cut dwelling shall be assembled on any of said Lots. No full or partial subterranean dwellings or log houses shall be constructed or erected on any Lot. No dwelling shall be moved from outside of the Properties onto any of said Lots.

I. No flat or mansard roof shall be permitted on any dwelling. All dwellings shall be roofed with wood shakes, wood shingles, or other roofing materials which have the approval of the Architectural Control Committee in its sole and absolute discretion.

J. Public sidewalks are the responsibility of, and shall be constructed by, the then Owner of a Lot prior to the time of completion of a dwelling and before occupancy thereof. The extent of sidewalks, location, construction details, materials and grades shall be in accordance with the regulations of the City of Omaha and any revisions thereof. The maintenance of said sidewalks, after construction, shall be the responsibility of the owners of each of the Lots.

K. The Declarant has created a water drainage plan by grading the Properties and installing improvements and easements for storm drainage in accordance with accepted engineering principles. No building shall be placed, nor any Lot graded, to

interfere with such water drainage plan nor cause damage to the building or neighboring buildings or Lots.

L. No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any Lot. No animals, livestock, fowl or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, or other household pets maintained within the dwelling may be kept, provided that they are not kept, bred or maintained for any commercial purpose and, provided, that they are kept confined to the Lot of their owner and are not permitted to run loose outside the Lot of the Owner.

M. No incinerator or trashburner shall be permitted on any Lot. No garbage or trash can or container shall be permitted to remain outside of any dwelling unless completely screened from view from every street and from all other Lots in the subdivision and from the golf course. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling except while in actual use. No garage door shall be permitted to remain open except when entry to and exit from the garage are required. No clothesline shall be permitted outside of any dwelling at any time. Any exterior air conditioning condenser units or heat pump units shall be placed in the designated side or rear yard of the dwelling. Detached accessory buildings are not permitted.

N. No automobile, boat, camping trailer, van-type campers, auto-drawn trailer of any kind, mobile home, motorcycle, snowmobile or other self-propelled vehicles shall be stored or maintained outside of the garage. For purposes of the preceding provision, "stored or maintained outside of the garage" shall mean, parking the vehicle or trailer on the driveway, or any other part of the Lot, outside of the garage, for seven (7) or more consecutive days. All repair or maintenance work on automobiles, boats, camping trailers, van-type campers, auto-drawn trailers of any kind, mobile homes, motorcycles, snowmobiles or other self-propelled vehicles done on the premises must be done in the garage. The dedicated street right-of-way located between the pavement and the Lot line of any residential Lot shall not be used for the parking of any vehicle, boat, camper or trailer. Automobiles and other self-propelled vehicles parked out-of-doors within the premises above-described, or upon the streets thereof, must be in operating condition.

O. All Lots shall be kept free of rubbish, debris, merchandise and building material; however, building materials may be placed on Lots when construction is started on the main residential structure intended for such Lot. In addition, vacant Lots where capital improvements have not yet been installed shall not be used for dumping of earth or any other waste materials, and shall be maintained level and smooth enough for machine mowing. No vegetation on vacant Lots where capital improvements have not yet been installed shall be allowed to reach more than a maximum height of twelve (12) inches.

P. Except for the purpose of controlling erosion on vacant Lots, no field crops shall be grown upon any Lot at any time.

Q. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood, including, but not limited to, odors, dust, glare, sound, lighting, smoke, vibration and radiation.

R. A dwelling on which construction has begun must be completed within one (1) year from the date the foundation was dug for said dwelling.

S. Small vegetable gardens and rock gardens shall be permitted only if maintained in the designated rear yard of any Lot, behind the dwelling on said Lot. Further, rock gardens must be approved by the Architectural Control Committee.

T. No residential dwelling shall be occupied by any person as a dwelling for such person until the construction of such dwelling has been completed, except for minor finish details as determined and approved by the Architectural Control Committee.

U. No advertising signs or posters of any kind shall be erected or placed on any of said Lots, except the Residential "For Sale" and "Sold" signs, not exceeding six (6) square feet in size, shall be permitted and, provided further, that such restriction as to sign size shall not apply to signs erected by the Declarant, or his agents, in the development of Tiburon.

V. All driveways shall be constructed of concrete or brick.

W. The front, side and rear yards of all Lots shall be sodded, and two (2) trees, each not less than two (2) caliper inches in diameter, shall be planted in the front yard of each residence. No trees shall be planted in the dedicated street right-of-way located between the pavement and the Lot line. All yards shall be sodded and the trees planted within one (1) year from the date that construction for the residence on the Lot was initiated.

X. No television antenna, no antenna of any kind or nature, no satellite dish, no solar collecting panels or equipment, no wind generating power equipment shall be allowed on the Lots.

#### ARTICLE IV. EASEMENTS AND LICENSES

A. A perpetual license and easement is hereby reserved in favor of and granted to the U. S. West Telephone Company, the City or County franchised cable television firm and/or the Declarant, and to Omaha Public Power District, their successors, and assign, to erect and operate, maintain, repair, and renew cables, conduits, and other instrumentalities and to extend wires for the carrying and transmission of electric current for light, heat and power and for all telephone and telegraph and message services and cable television under a 8-foot strip of land adjoining the rear boundary lines of all interior Lots, a 16-foot strip of land adjoining the rear boundary lines of all exterior Lots and a 5-foot strip of land adjoining all side boundary lot lines and license being granted for the use and benefit of all present and future owners of said Lots; provided, however, that said lot line easement is granted upon the specific condition that if any said utility companies fail to construct wires or conduits along any of the said lot lines within 36 months of the date hereof, or if any wires or conduits are constructed but hereafter removed without replacement within 60 days after their removal, then this lot line easement shall automatically terminate and become void as to such unused or abandoned easementways. No permanent buildings shall be placed in perpetual easementway, but the same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforesaid uses or rights herein granted.

B. All telephone, cable television and electric power service lines from property line to dwelling shall be underground.

#### ARTICLE V. GENERAL PROVISIONS

A. The Declarant, or its assigns, or any Owner of a Lot named herein, shall have the right to enforce by proceeding at law or in equity, all restrictions, conditions, covenants, and reservations, now or hereinafter imposed by the provisions of this Declaration, either to prevent or restrain any violation of same, or to recover damages or other dues for such violation. Failure by the Declarant or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

B. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded. This Declaration may be amended by the Declarant, or any person, firm corporation, partnership, or entity designated in writing by the Declarant, in any manner it shall determine in its full and absolute discretion for a period of five (5) years from the date hereof. Thereafter this Declaration may be amended by an instrument signed by the Owners of not less than ninety percent (90%) of the Lots covered by this Declaration.

C. Invalidation of any one of these covenants by judgment or court order shall in no way effect any of the other provisions hereof which shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has caused these presents to be executed this 14th day of JANUARY, 1993.

DECLARANT:

TIBURON LIMITED PARTNERSHIP  
a Nebraska Limited Partnership

BY: DRELLA, INC., a Nebraska Corporation, General Partner

By: Eric B. Waddington  
Eric B. Waddington, President

STATE OF NEBRASKA )  
COUNTY OF DOUGLAS ) ss.

On this 14th day of January, 1993, before me the undersigned, a Notary Public in and for said County and State, personally came Eric B. Waddington known to me to be the President of Drella, Inc., a Nebraska Corporation, and acknowledged that he executed as the willful act and deed of such corporation.

GENERAL NOTARY STATE OF NEBRASKA  
BARBARA M. HAMMOND  
My Comm. Exp. April 12, 1996

Barbara M. Hammond  
Notary Public

tibcoven  
1/13/93

FILED SARPY CO. NEB  
INSTRUMENT NUMBER  
93-001002

93 JAN 15 PM 3:50

Carol A. Savin  
REGISTER OF DEEDS

|            |              |
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| INDEXED    | <u>W</u>     |
| FILED      | <u>sk</u>    |
| SEARCHED   |              |
| SERIALIZED |              |
| RECORDED   | <u>10350</u> |

**DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR TIBURON**

THIS DECLARATION, made on the date hereinafter set forth by Tiburon Limited Partnership, a Nebraska Limited Partnership, hereinafter referred to as the "Declarant",

W I T N E S S E T H:

WHEREAS, The Declarant is the Owner of the following described real property:

Lots 1 through 15, inclusive,  
Lots 217 through 282, inclusive, and  
Lots 340 through 395, inclusive,  
of Tiburon, a Subdivision, as surveyed, platted  
and recorded in Sarpy County, Nebraska, and

WHEREAS, all of the above-described real estate has been zoned "RS-100" and, therefore, is available for single family use.

WHEREAS, the Declarant will convey said lots, subject to certain protective covenants, conditions, restrictions, reservations, liens, and charges as hereinafter set forth,

NOW, THEREFORE, the Declarant hereby declares that all of the lots described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of said lots. These easements, covenants, restrictions, and conditions, shall run with said real property, and shall be binding upon all parties having or acquiring any right, title or interest in the above described lots, or any part thereof, and they shall inure to the benefit of each owner thereof.

**ARTICLE I.  
DEFINITIONS**

A. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

B. "Properties" shall mean and refer to all such properties that are subject to the Declaration or any supplemental Declaration under the provisions hereof, which shall initially consist of Lots 1 through 15, inclusive, Lots 217 through 282, inclusive, and Lots 340 through 395, inclusive, of Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.

C. "Lot" shall mean and refer to any one of Lots 1 through 15, inclusive, Lots 217 through 282, inclusive, or Lots 340 through 395, inclusive, of Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.

D. "Lots Adjoining Golf Course" shall mean and refer to all Lots, as defined above, for which one or more of the Lot boundary lines is shared with any boundary line of the golf course.

E. "Lots Not Adjoining Golf Course" shall mean and refer to all Lots which have no Lot boundary line in common with any boundary line of the golf course.

F. "Declarant" shall mean and refer to TIBURON LIMITED PARTNERSHIP, a Nebraska Limited Partnership, its successors and assigns.

95-010021

G. "Architectural Control Committee" shall mean the individual or committee appointed by the Declarant, its successors or assigns.

ARTICLE II.  
ARCHITECTURAL CONTROL

A. No dwelling, fence, wall, driveway, patio, patio enclosure, deck, rock garden, swimming pool, television or radio antenna, satellite dishes, solar collecting panels or equipment, air conditioning equipment, wind-generating power equipment, or other external improvements, above or below the surface of the ground shall be built, erected, placed, planted, altered or otherwise maintained or permitted to remain on any Lot, nor shall any grading, excavation or tree removal be commenced without express written prior approval of the Declarant through its Architectural Control Committee.

B. The Declarant, through its Architectural Control Committee, shall consider general appearance, exterior color or colors, architectural character, harmony of external design and location in relation to surroundings, topography, location within the lot boundary lines, quality of construction and size and suitability for residential purposes as part of its review procedure. Only exterior colors of certain earthtone hues will be acceptable. Designs of a repetitive nature and/or within close proximity to one another will not be approved. Superficial, cosmetic or minor architectural detail differences in like designs will not constitute a basis for approval. The Architectural Control Committee specifically reserves the right to deny permission to construct or place any of the above-mentioned improvements which it determines will not conform to the general character, plan and outline for the development of the Properties.

C. Documents submitted for approval shall be clear, concise, complete, consistent and legible. All drawings shall be to scale. Samples of materials to be included in the improvement may be required of the applicant at the discretion of the Architectural Control Committee. Submittals for the approval shall be made in duplicate and the comments and actions of the Architectural Control Committee will be identically marked on both copies of said submittals. One copy will be returned to the applicant, and one copy will be retained as part of the permanent records of the Committee. Each applicant shall submit to the Architectural Control Committee the following documents, materials and/or drawings:

1. Site plan indicating specific improvement and indicating Lot number, street address, grading, surface drainage and sidewalks.

2. Complete construction plans, including, but not limited to, basement and upper floor plans, floor areas of each level, wall sections, stair and fireplace sections and exterior elevations clearly indicating flues or chimneys, type and extent of siding, roofing, other faces and/or veneer materials.

D. The approval or disapproval of the Architectural Control Committee as required in these Covenants shall be in writing. Failure of the Architectural Control Committee to give either written approval or disapproval of submitted plans within thirty (30) days after receipt of all of the documents above, by mailing such written approval or disapproval to the last known address of the applicant as shown on the submitted plans, shall operate as an Architectural Control Committee approval.

ARTICLE III.  
RESTRICTIONS FOR RESIDENTIAL UNITS

A. The Lot shall be used only for residential purposes, and no Lot shall contain more than one (1) detached, single family unit.



B. No building shall be created, altered, placed or permitted to remain on any lot other than the one (1) detached, single family dwelling referred to above, and said dwelling shall conform to the following requirements:

1. Houses built on Lots Adjoining Golf Course shall comply with the following minimum size requirements:

a. Each one story house shall contain no less than 1,800 square feet of Living Area above the basement level and exclusive of garage area.

b. Each one and one-half or two story house shall contain no less than 2,000 square feet of total Living Area above the basement level with a minimum of 1,200 square feet on the main floor, exclusive of garage area.

2. Houses built on Lots Not Adjoining Golf Course shall comply with the following minimum size requirements:

a. Each one story house shall contain no less than 1,600 square feet of Living Area above the basement level and exclusive of garage area.

b. Each one and one-half or two story house shall contain no less than 1,800 square feet of total Living Area above the basement level with a minimum of 1,000 square feet on the main floor, exclusive of garage area.

3. Other house styles not described in 1. and 2. above will be permitted only if approved by the Architectural Control Committee and shall not be approved unless they are compatible with other homes to be built in Tiburon in the opinion of the Architectural Control Committee in its sole and absolute discretion.

4. All houses shall, as a minimum, have attached, enclosed, side-by-side, two car garages which must contain a minimum area of 400 square feet built at approximately the main level of the house. Other or additional garages may be permitted at the discretion of the Architectural Control Committee.

C. For the purposes of these restrictions, two-story height shall, when the basement wall is exposed above finish grade, be measured from the basement ceiling on the exposed side(s) to the eave of the structure on the same side(s). Living Area means finished habitable space, measured to the exterior of the enclosing walls, and does not include porches, stoops, breezeways, courtyards, patios, decks, basements, garages or carports. The maximum height of the dwelling shall be two (2) stories. The basement is not considered a story even if it is one hundred percent (100%) above grade on one or more sides, and essentially below grade on the other sides.

D. All buildings shall be located at least twenty-five (25') feet from the front lot line, and a minimum of twenty-five (25') feet from the rear property line. All buildings shall have at least ten (10') foot sideyards. On corner lots, either street side may be designated by the Owner/Builder as the front, and either non-street side as the rear. The minimum setback requirement for the non-front street exposure is twenty-five (25') feet from the property line. For purposes of this restriction, eaves, open patios, and steps shall not be considered part of the building. The above provisions parallel the present zoning requirements of Sarpy County for the Lots. In the event that the zoning requirements for a Lot or Lots are subsequently changed by Sarpy County to be less restrictive than the present requirements, or in the event a waiver or variance of some of the requirements for a Lot or Lots is granted by the appropriate authority, the Architectural Control Committee shall have the right and authority, but not the obligation, to grant in whole or in part the relaxation of requirements allowed by the zoning changes, waiver or variance, all in the sole and absolute discretion of the Architectural Control Committee.

E. Exposed portions of the foundation on the front of each dwelling are to be covered with clay-fired brick or stone even if a portion of those exposed foundations may be perpendicular, or nearly so, to the affroning street. Exposed portions of the foundation on the side of each dwelling facing the street, when said dwelling is located on a corner lot, are to be covered with clay-fired brick or stone. Exposed portions of the foundation on the sides, or rear, not facing a street of a dwelling located on a corner lot, and the exposed portion of the foundation on the sides and rear of every other dwelling shall be covered with clay-fired brick, stone, siding or shall be painted.

F. In the event that a fireplace is constructed as a part of the dwelling on any Lot Adjoining Golf Course, said fireplace and/or the enclosure for the fireplace flue shall be constructed of or finished with, clay-fired brick or stone. In the event that a fireplace is constructed as a part of the dwelling in a manner so as to protrude beyond the outer perimeter of the front or side of the dwelling, or is exposed above the roof on a Lot Not Adjoining Golf Course, the enclosure of the fireplace and flue shall be constructed of, or finished with, clay-fired brick or stone. If the fireplace and/or enclosure for the fireplace flue is constructed in such a manner so as to protrude beyond the outer perimeter of the rear of the dwelling on a Lot Not Adjoining Golf Course, the enclosure of the fireplace and flue shall be constructed of, or finished with, the same material as is the dwelling at the point from which the fireplace and/or the flue protrudes or shall be constructed of, or finished with, clay-fired brick or stone. No furnace flue may protrude more than four (4) feet from the roof of the dwelling, as measured from the top cap of the flue to the point from which the flue emerges from the roof. All furnace flues must be located on the rear side of the roof ridge within four feet of the roof ridge.

G. No fences may be built forward of the rear-most wall at each side (corner) of the rear of the the dwelling. On Lots Adjoining Golf Course, no fence may be built within thirty-five (35) feet of a lot line which adjoins the golf course. Fences shall be constructed only of wood, decorative iron, brick or stone and are subject to the approval of the Architectural Control Committee referred to above. Wire or chain-link fences shall not be permitted. Temporary or permanent barbed wire, electrified, and/or snow fences are strictly prohibited.

H. No structure of a temporary character, trailer, basement, tent, shack, barn or other out building shall be erected on said Lot, or used as a residence, temporarily or permanently. No prefabricated or factory built house or residential dwelling built elsewhere shall be moved onto or assembled on any of said Lots. No pre-cut dwelling shall be assembled on any of said Lots. No full or partial subterranean dwellings or log houses shall be constructed or erected on any Lot. No dwelling shall be moved from outside of the Properties onto any of said Lots.

I. No flat or mansard roof shall be permitted on any dwelling. All dwellings shall be roofed with wood shakes, wood shingles, or other roofing materials which have the approval of the Architectural Control Committee in its sole and absolute discretion.

J. Public sidewalks are the responsibility of, and shall be constructed by, the then Owner of a Lot prior to the time of completion of a dwelling and before occupancy thereof. The extent of sidewalks, location, construction details, materials and grades shall be in accordance with the regulations of the City of Omaha and any revisions thereof. The maintenance of said sidewalks, after construction, shall be the responsibility of the owners of each of the Lots.

K. The Declarant has created a water drainage plan by grading the Properties and installing improvements and easements for storm drainage in accordance with accepted engineering principles. No building shall be placed, nor any Lot graded, to

interfere with such water drainage plan nor cause damage to the building or neighboring buildings or Lots.

L. No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any Lot. No animals, livestock, fowl or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, or other household pets maintained within the dwelling may be kept, provided that they are not kept, bred or maintained for any commercial purpose and, provided, that they are kept confined to the Lot of their owner and are not permitted to run loose outside the Lot of the Owner.

M. No incinerator or trashburner shall be permitted on any Lot. No garbage or trash can or container shall be permitted to remain outside of any dwelling unless completely screened from view from every street and from all other Lots in the subdivision and from the golf course. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling except while in actual use. No garage door shall be permitted to remain open except when entry to and exit from the garage are required. No clothesline shall be permitted outside of any dwelling at any time. Any exterior air conditioning condenser units or heat pump units shall be placed in the designated side or rear yard of the dwelling. Detached accessory buildings are not permitted.

N. No automobile, boat, camping trailer, van-type campers, auto-drawn trailer of any kind, mobile home, motorcycle, snowmobile or other self-propelled vehicles shall be stored or maintained outside of the garage. For purposes of the preceding provision, "stored or maintained outside of the garage" shall mean, parking the vehicle or trailer on the driveway, or any other part of the Lot, outside of the garage, for seven (7) or more consecutive days. All repair or maintenance work on automobiles, boats, camping trailers, van-type campers, auto-drawn trailers of any kind, mobile homes, motorcycles, snowmobiles or other self-propelled vehicles done on the premises must be done in the garage. The dedicated street right-of-way located between the pavement and the Lot line of any residential Lot shall not be used for the parking of any vehicle, boat, camper or trailer. Automobiles and other self-propelled vehicles parked out-of-doors within the premises above-described, or upon the streets thereof, must be in operating condition.

O. All Lots shall be kept free of rubbish, debris, merchandise and building material; however, building materials may be placed on Lots when construction is started on the main residential structure intended for such Lot. In addition, vacant Lots where capital improvements have not yet been installed shall not be used for dumping of earth or any other waste materials, and shall be maintained level and smooth enough for machine mowing. No vegetation on vacant Lots where capital improvements have not yet been installed shall be allowed to reach more than a maximum height of twelve (12) inches.

P. Except for the purpose of controlling erosion on vacant Lots, no field crops shall be grown upon any Lot at any time.

Q. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood, including, but not limited to, odors, dust, glare, sound, lighting, smoke, vibration and radiation.

R. A dwelling on which construction has begun must be completed within one (1) year from the date the foundation was dug for said dwelling.

S. Small vegetable gardens and rock gardens shall be permitted only if maintained in the designated rear yard of any Lot, behind the dwelling on said Lot. Further, rock gardens must be approved by the Architectural Control Committee.

T. No residential dwelling shall be occupied by any person as a dwelling for such person until the construction of such dwelling has been completed, except for minor finish details as determined and approved by the Architectural Control Committee.

U. No advertising signs or posters of any kind shall be erected or placed on any of said Lots, except the residential "For Sale" and "Sold" signs, not exceeding six (6) square feet in size, shall be permitted and, provided further, that such restriction as to sign size shall not apply to signs erected by the Declarant, or his agents, in the development of Tiburon.

V. All driveways shall be constructed of concrete or brick.

W. The front, side and rear yards of all Lots shall be sodded, and two (2) trees, each not less than two (2) caliper inches in diameter, shall be planted in the front yard of each residence. No trees shall be planted in the dedicated street right-of-way located between the pavement and the Lot line. All yards shall be sodded and the trees planted within one (1) year from the date that construction for the residence on the Lot was initiated.

X. No television antenna, no antenna of any kind or nature, no satellite dish, no solar collecting panels or equipment, no wind generating power equipment shall be allowed on the Lots.

#### ARTICLE IV. EASEMENTS AND LICENSES

A. A perpetual license and easement is hereby reserved in favor of and granted to the U. S. West Telephone Company, the City or County franchised cable television firm and/or the Declarant, and to Omaha Public Power District, their successors, and assign, to erect and operate, maintain, repair, and renew cables, conduits, and other instrumentalities and to extend wires for the carrying and transmission of electric current for light, heat and power and for all telephone and telegraph and message services and cable television under a 8-foot strip of land adjoining the rear boundary lines of all interior Lots, a 16-foot strip of land adjoining the rear boundary lines of all exterior Lots and a 5-foot strip of land adjoining all side boundary lot lines and license being granted for the use and benefit of all present and future owners of said Lots; provided, however, that said lot line easement is granted upon the specific condition that if any said utility companies fail to construct wires or conduits along any of the said lot lines within 36 months of the date hereof, or if any wires or conduits are constructed but hereafter removed without replacement within 60 days after their removal, then this lot line easement shall automatically terminate and become void as to such unused or abandoned easementways. No permanent buildings shall be placed in perpetual easementway, but the same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforesaid uses or rights herein granted.

B. All telephone, cable television and electric power service lines from property line to dwelling shall be underground.

#### ARTICLE V. GENERAL PROVISIONS

A. The Declarant, or its assigns, or any Owner of a Lot named herein, shall have the right to enforce by proceeding at law or in equity, all restrictions, conditions, covenants, and reservations, now or hereinafter imposed by the provisions of this Declaration, either to prevent or restrain any violation of same, or to recover damages or other dues for such violation. Failure by the Declarant or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

93-01002 F

B. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded. This Declaration may be amended by the Declarant, or any person, firm corporation, partnership, or entity designated in writing by the Declarant, in any manner it shall determine in its full and absolute discretion for a period of five (5) years from the date hereof. Thereafter this Declaration may be amended by an instrument signed by the Owners of not less than ninety percent (90%) of the Lots covered by this Declaration.

C. Invalidation of any one of these covenants by judgment or court order shall in no way effect any of the other provisions hereof which shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant has caused these presents to be executed this 14th day of JANUARY, 1993.

DECLARANT:

TIBURON LIMITED PARTNERSHIP  
a Nebraska Limited Partnership

BY: DRELLA, INC., a Nebraska Corporation, General Partner

By: Eric B. Waddington  
Eric B. Waddington, President

STATE OF NEBRASKA )  
COUNTY OF DOUGLAS ) SS.

On this 14th day of January, 1993, before me the undersigned, a Notary Public in and for said County and State, personally came Eric B. Waddington known to me to be the President of Drella, Inc., a Nebraska Corporation, and acknowledged that he executed as the willful act and deed of such corporation.

GENERAL NOTARY PUBLIC of Nebraska  
BARBARA M. HAMMOND  
My Comm. Exp. April 11, 1996

Barbara M. Hammond  
Notary Public

tibcoven  
1/13/93

FILED SARPY CO. REC  
INSTRUMENT NUMBER  
93-001002

93 JAN 15 PM 3:50

Carol A. Savin  
REGISTER OF DEEDS

|            |              |
|------------|--------------|
| SEARCHED   | <u>w</u>     |
| SERIALIZED | <u>jk</u>    |
| INDEXED    | <u>jk</u>    |
| FILED      | <u>jk</u>    |
| RECORDED   | <u>10350</u> |

FILED SARPY CO. NE.  
INSTRUMENT NUMBER  
2003 44764

2003 AUG 11 P 3:48

*Lloyd J. Dowding*  
REGISTER OF DEEDS

Counter *sm sm*  
Verify *[Signature]*  
D.E. *[Signature]*  
Proof *[Signature]*  
Fee \$ 61.00  
Ck  Cash  Chg   
509



**THIS PAGE ADDED  
FOR RECORDING  
INFORMATION.**

**DOCUMENT STARTS ON  
NEXT PAGE.**

**LLOYD J. DOWDING**

SARPY COUNTY REGISTER OF DEEDS  
1210 GOLDEN GATE DRIVE, STE 1109  
PAPILLION, NE 68046-2895  
402-593-5773

*R & R  
Infinity Homes  
PO Box 27976  
Ralston, NE  
68127*

44764

A

**DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS DECLARATIONS, made on the date hereinafter set forth, by Cobblestone Homes, Inc., a Nebraska Corporation, hereinafter referred to as the "Declarant".

WITNESSETH:

WHEREAS, the Declarant is the Owner of certain property in Sarpy County, Nebraska, which is more particularly described as:

Lots 107 through 159, inclusive, Tiburon, a Sub-division in  
Sarpy County, Nebraska, as surveyed, platted and recorded.

All of the above-described property has been zoned "RS-100" and, therefore, is available for single family detached homes.

NOW THEREFORE, Declarant and the Other Property Owners hereby declare that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Board" shall mean and refer to the Board of Directors elected by a majority vote of the members of the Association, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security of the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as many hereafter be brought within the jurisdiction of the Association.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties.

Section 5. "Declarant" shall mean and refer to Cobblestone Homes, Inc., its successors, assigns and legal representatives.

Section 6. "Architectural Control Builder" shall mean the individual or committee appointed by the Declarant.

ARTICLE II

Section 1. Architectural Control

(1) Before the construction of the original structure on each Lot, no building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the 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

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external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, hereinafter referred to as the "Board" or by an architectural committee, hereinafter referred to as "Committee" composed of three (3) or more representatives appointed by the Builder. In the event the Board, or the Committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

(2) After the construction of the original structure on each Lot, no building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the 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 surrounding structures and topography by the Board and/or the Committee.

(3) Documents submitted for approval shall be clear, concise, complete, consistent and legible. All drawings shall be to scale. Samples of materials to be included in the improvements may be required of the applicant at the discretion of the Board and/or Committee. Submittals for approval shall be made in duplicate and the comments and actions of the Board and/or Committee will be identically marked on both copies of said submittals. One copy will be returned to the applicant, and one copy will be retained as part of the permanent records of the Board and/or Committee. Each applicant shall submit to the Board and/or Committee the following documents, materials and/or drawings:

- (a) Site plan indicating specific improvement and indicating Lot number, street address, grading, surface drainage and sidewalks; and
- (b) Complete construction plans, including, but not limited to, basement and upper floor plans, floor areas of each level, wall sections, stair and fireplace sections and exterior elevations clearly indicating flues or chimneys, type and extent of siding, roofing, other faces and/or veneer materials.

**Section 2. Restrictions for Residential Units**

(1) Residences built on Lots shall comply with the following minimum size requirements:

- (a) Each one story residence shall contain no less than 1,400 square feet of living area above the basement level and exclusive of garage area; and
- (b) Each one and one-half or two story residence shall contain no less than 1,800 square feet of total living area above the basement level with a minimum of 1,000 square feet on the main level, exclusive of garage area.

(2) Other residence styles not described above in this Section will be permitted only if approved by the Board and/or Committee and shall not be approved unless they are compatible with other residences to be built on the Property in the opinion of the Board and/or Committee in its sole and absolute discretion.

(3) All residences shall, as a minimum, have attached, enclosed, side-by-side, two car garages which must contain a minimum area of 400 square feet built at approximately the main level of the residence. Other or additional garages may be permitted at the discretion of the Board and/or Committee.

(4) For the purposes of these restrictions, two story height shall, when the basement wall is exposed above finish grade, be measured from the basement ceiling on the exposed side(s) to the eave of the structure on the same side(s). Living Area means finished habitable space, measured to the exterior of the enclosing walls, and does not include porches, stoops, breezeways, courtyards, patios, decks, basements, garages or carports. The maximum height of the dwelling shall be two (2) stories. The basement is not considered a story even if it is one hundred percent (100%) above grade on one or more sides, and essentially below grade on the other sides.



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(5) All buildings shall be located at least twenty-five feet (25') from the front Lot line, and a minimum of twenty-five feet (25') from the rear property line. All buildings shall have at least eight foot (8') side yards. On corner Lots, either street side may be designated by the owner/builder as the front, and either non-street side as the rear. The minimum setback requirement for the non-front street exposure is fifteen feet (15') from the property line. For the purposes of this restriction, eaves, open patios, steps shall not be considered part of the building. The above provisions parallel the present zoning requirements of Sarpy County for the Lots. In the extent that the zoning requirements for Lot or Lots are subsequently changed by Sarpy County to be less restrictive than the present requirements, or in the event a waiver or variance of some of the requirements for a Lot or Lots is granted by the appropriate authority, the Board and/or Committee shall have the right and authority, but not the obligation, to grant in whole or in part the relaxation of requirements allowed by the zoning changes, waiver or variance, all in the sole and absolute discretion of the Board and/or Committee.

(6) Exposed portions of the foundation on the front of each dwelling are to be covered with clay-fired brick or stone even if a portion of those exposed foundations may be perpendicular, or nearly so, to the affronting street. Exposed portions of the foundation on the side of each dwelling facing the street, when said dwelling is located on a corner Lot, are to be covered with clay-fired brick or stone. Exposed portions of the foundation on the sides, or rear, not facing a street of a dwelling on the sides and rear of every other dwelling shall be covered with clay-fired brick, stone, siding or shall be painted. Fifty percent (50%) brick or stone does not include any door, window or garage door areas.

(7) No structure of a temporary character, trailer, basement, tent, shack, barn or other out building shall be erected on any of said Lots, or used as a residence, temporarily or permanently. No prefabricated or factory built house or residential dwelling built elsewhere shall be moved onto or assembled on any of said Lots. No pre-cut dwelling shall be assembled on any of said Lots. No full or partial subterranean dwelling or log houses shall be constructed or erected on any of said Lots. No dwelling shall be moved from outside of the Properties onto any of said Lots.

(8) No flat or mansard roof shall be permitted on any dwelling. All dwellings shall be roofed with Heritage 30 weather wood color roofing, except Lots 107, 125, 126 and 159 shall be wood shake roof.

(9) Public sidewalks are the responsibility of, and shall be constructed by, the then Owner of a Lot prior to the time of completion of a dwelling and before occupancy thereof. The extent of sidewalks, location, construction details, materials and grades shall be in accordance with the regulations of Sarpy County and any revisions thereof. The maintenance of said sidewalks, after construction, shall be the responsibility of the Owners of each of the Lots.

(10) The Declarant has created a water drainage plan by grading the Properties and installing improvements and easements for storm drainage in accordance with accepted engineering principles. No building shall be placed, nor any Lot graded, to interfere with such water drainage plan nor cause damage to the building or neighboring buildings or Lots.

### ARTICLE III

#### GENERAL RESTRICTIONS

**Section 1. Awnings.** No awnings or sun screens of any type shall be affixed to any building or structure within the properties without the written consent of the Board.

**Section 2. Building or Uses Other Than for Residential Purposes.** No building or structure of any sort may ever be placed, erected or used for business, professions, trade or commercial purposes on any of the property within the Properties. Provided, however, the prohibition shall not apply:

- (a) To any building or structure that is to be used exclusively by a public utility company in connection with the furnishing of public utility services to the Properties; or
- (b) To any portion of a building used by Declarant, its licensees or assigns, for a manager's office or a sales office, or by the Association for its offices.

D

**Section 3. Fences, etc.** No fences or enclosures of any type or nature whatsoever shall ever be constructed, erected, placed or maintained on or about any building site within the Properties, except metal, PVC or wood fences approved by the Board in writing. No truck, trailer, boat, motor home, camper equipment or machinery or cars not in daily use shall ever be parked, located or otherwise maintained on any Properties. Automobiles shall be parked only in designated parking areas as published by the Association in its Rules and Regulations. No external television or radio antenna or satellite dish shall hereafter be erected on or about any of the building sites or property within the Properties. No clothesline or clothes hangers shall be permitted outside of any dwelling at any time. Any exterior air conditioning condenser units or heat pump units shall be placed in the designated side or rear yard of the dwelling. Detached accessory buildings are not permitted.

**Section 4. Livestock and Poultry Prohibited.** No animals, livestock or poultry of any kind shall be raised or kept on any building site in the Properties other than household pets, which shall be limited to two (2) per household. All pets shall be leashed when outside of the home and patio areas and provision made that they are kept confined to the Lot of their Owner and are not permitted to run loose outside the Lot of the Owner. No such pet will be kept, bred or maintained for commercial purposes.

**Section 5. Noxious Activity.** No noxious or offensive activity shall be carried on the Properties, nor shall any trash, ashes or other refuse be thrown, placed, dumped upon any vacant building site, nor shall anything ever be done which may be, or may become, an annoyance or nuisance to the neighborhood.

**Section 6. Billboards Prohibited.** No sign, billboard or other structure for advertising or the display of advertising material of any kind shall be erected, altered, placed or permitted to remain on any lot except that real estate "For Sale" or "For Rent" signs shall be permitted temporarily in the yards of dwellings which are being offered for sale or rent or other builder promotional signs.

**Section 7. Outbuildings Prohibited.** No outbuildings or other attached or unattached structures appurtenant to a residence may be erected on any of the building sites hereby restricted.

**Section 8. Temporary Structure.** No trailer, basement, tent, shack, trailer, garage, barn or other outbuilding, whether any time as a residence. PROVIDED, however, nothing contained herein shall restrict Declarant or its assigns for locating, constructing or moving a temporary real estate and/or construction office on any building site in the Properties to be used during the period of the construction and sale of the Properties. Declarant or its assigns may also erect and maintain model homes for sales purposes and rental and lease purposes and may operate such office or offices therein for so long as they deem necessary for the purposes of selling, renting or leasing the Properties.

**Section 9.** All garage doors must remain closed at all times except when cars are entering or exiting from the garage space. No garbage cans or trash receptacles are to be permitted outside unless fully screened from view in a manner approved in writing by the Association. Private barbecue grills will be subject to regulation, restriction or exclusion by the Association. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling except while in actual use. Automobile parking will be subject to regulation and restriction by the Association.

**Section 10.** No automobile, motor home, camper or vehicle repair will be permitted outside of garages on any Lot at any time. No automobiles in a state of disrepair shall be kept on the premises of any Lot or be permitted to park on the streets for a period in excess of three (3) days.

**Section 11.** Except for the purpose of controlling erosion on vacant Lots, no field crops shall be grown upon any Lot at any time.

**Section 12.** A dwelling on which construction has begun must be completed within one (1) year from the date the foundation was dug for said dwelling.

**Section 13.** Small vegetable gardens and rock gardens shall be permitted only if maintained in the designated rear yard of any Lot, behind the dwelling on said Lot. Further, rock gardens must be approved by the Board and/or Committee.

E

Section 14. No residential dwelling shall be occupied by any person as a dwelling for such person until the construction of such dwelling has been completed, except for minor finish details as determined and approved by the Board and/or Committee.

Section 15. All driveways shall be constructed of concrete or brick.

Section 16. The front, side and rear yards of all Lots shall be sodded, and one (1) tree, each not less than one (1) caliper inch in diameter, shall be planted in the front yard of each residence. No trees shall be planted in the dedicated street right-of-way located between the pavement and the Lot line. All yards shall be sodded and the trees planted within one (1) year from the date that construction for the residence on the Lot was initiated.

#### ARTICLE IV.

##### EASEMENTS AND LICENSES

Section 1. A perpetual license and easement is hereby reserved in favor of and granted to the U. S. West Telephone Company and to Omaha Public Power District, their successors and assigns, to erect and operate, maintain, repair, and renew cables, conduits and other instrumentalities, and to extend wires for the carrying and transmission of electric current for light, heat and power and for all telephone and telegraph and message service on, over, through, under and across a five foot (5') wide strip of land abutting all front and side boundary Lot lines, and an eight foot (8') wide strip of land adjoining the rear boundary lines of all Lots. Said licenses being granted for the use and benefit of all present and future owners of said Lots; PROVIDED, however, that said easements are granted upon the specific condition that if both said utility companies fail to construct wires or conduits along any of the said Lot lines within thirty-six (36) months of the date hereof, or if any wires or conduits are constructed but hereafter removed without being replaced within sixty (60) days after their removal, then this easement shall automatically terminate and become void as to such unused or abandoned easement ways. No permanent buildings shall be placed on perpetual easement ways, but the same may be used for garden shrubs, landscaping and other purposes that do not then or later interfere with the aforesaid uses or rights herein granted.

Section 2. All telephone and electric power services lines from property line to dwelling shall be underground.

#### ARTICLE V

##### GENERAL PROVISIONS

Section 1. Enforcement. The Board, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Board or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgement or court order shall in no way effect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land, for a term of four (4) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five (75%) of the Lot Owners. Any amendment must be recorded with the Register of Deeds in and for Sarpy County, Nebraska. Declarant can change anything within the first five (5) years.

2003-44764 F

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused this instrument to be executed on this 11 day of July, 2003.

August 23  
DECLARANT:

COBBLESTONE HOMES, INC.  
A Nebraska Sub-S Corporation

[Signature]  
WILLIAM J. TORCZON, President  
Cobblestone Homes, Inc.  
Corporation

STATE OF NEBRASKA )  
COUNTY OF SARPY )

The foregoing instrument was acknowledged before me this 11 day of August, 2003  
by William J. Torczon, President, Cobblestone Homes, Inc.

[Signature]  
Randi A. Zabawa  
Notary Public



FILED SARPY CO. NE.  
INSTRUMENT NUMBER  
2003-64942  
2003 NOV -4 P 12: 53  
*Lloyd J. Dowding*  
REGISTER OF DEEDS

COUNTER SM C.E. SM  
VERIFY SM D.E. SM  
PROOF SM  
FEES \$ 66.50  
CHECK# \_\_\_\_\_  
CHG \_\_\_\_\_ CASH 68.50  
REFUND 2.00 CREDIT \_\_\_\_\_  
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FOR RECORDING  
INFORMATION.**

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NEXT PAGE.**

**LLOYD J. DOWDING**  
SARPY COUNTY REGISTER OF DEEDS  
1210 GOLDEN GATE DRIVE, STE 1109  
PAPILLION, NE 68046-2895  
402-593-5773

*Ret: Fullencamp Doyle & Johnson*

**64942**

A

DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR TIBURON

THIS DECLARATION, made on the date hereinafter set forth by Tiburon Limited Partnership, a Nebraska Limited Partnership, hereinafter referred to as the "Declarant".

WITNESSETH:

WHEREAS, on August 11, 2003, a set of Covenants were filed in the office of the Register of Deeds of Sarpy County, Nebraska as Instrument Number 2003 44764 which purportedly covered the following described property in Sarpy County, Nebraska:

Lots 107 through 159, inclusive. Tiburon, a Sub-division in Sarpy County, Nebraska, as surveyed, platted, and recorded

WHEREAS, said Covenants were invalid because they were signed by Cobblestone Homes, Inc., a Nebraska Sub-S Corporation, which represented that it was the owner of the lots supposedly covered by the Covenants,

WHEREAS, said Cobblestone Homes, Inc. only had an option to purchase the lots covered by the Covenants and the true owner of the lots covered by the Covenants was the Tiburon Limited Partnership, a Nebraska Limited Partnership,

WHEREAS, the Tiburon Limited Partnership, as the true owner of the lots to be covered by these Covenants, wishes to correct said error by signing the following Corrected Declaration of Covenants, Conditions and Restrictions for Tiburon, and

WHEREAS, The Declarant, Tiburon Limited Partnership, is the Owner of the following described real property:

Lots 107 through 159, inclusive. Tiburon, a Sub-division in Sarpy County, Nebraska, as surveyed, platted, and recorded.

All of the above-described property has been zoned "RS-100" and, therefore, is available for single family detached homes.

NOW THEREFORE, Declarant hereby declares that all of the properties described shall be held and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Board" shall mean and refer to the Board of Directors elected by a majority vote of the members of the Association, its successors and assigns.

B

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title or to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security of the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as many hereafter be brought within the jurisdiction of the Association.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties.

Section 5. "Declarant" shall mean and refer to Tiburon Limited Partnership, a Nebraska Limited Partnership, its successors, assigns and legal representatives.

Section 6. "Architectural Control Committee" shall mean the individual or committee appointed by the Declarant.

## ARTICLE II

### Section 1. Architectural Control.

- (1) Before the construction of the original structure on each Lot, no building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior to or change or alteration therein be made until the 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 surrounding structures and topography by an architectural committee, hereinafter referred to as "Committee" composed of one (1) or more representatives appointed by the Declarant. In the event the Committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.
- (2) After the construction of the original structure on each Lot, no building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition or change or alteration therein be made until the 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 surrounding structures and topography by the Committee.
- (3) Documents submitted for approval shall be clear, concise, complete, consistent and legible. All drawings shall be to scale. Samples of materials to be included in the improvements may be required of the applicant at the discretion of Committee. Submittals for approval shall be made in duplicate and the comments and actions of the Committee will be identically marked on both copies of said submittals. One copy will be returned to the applicant, and one copy will be retained as part of the permanent records of the Committee. Each applicant shall submit to the Committee the following documents and/or drawings:
  - (a) Site plan indicating specific improvement and indicating Lot number, street address, grading, surface drainage and sidewalks; and

- C
- (b) Complete construction plans, including, but not limited to, basement and upper floor plans, floor areas of each level, wall sections, stair and fireplace sections and exterior elevations clearly indicating flues or chimneys, type and extent of siding, roofing, other faces and/or veneer materials.

Section 2. Restrictions for Residential Units.

- (1) Residences built on Lots shall comply with the following minimum size requirements:
  - (a) Each one story residence shall contain no less than 1,400 square feet of living area above the basement level and exclusive of garage area except Lots 107, 125, 126 and 157. These lots shall contain no less than 1600 square feet of living area above the basement level; and
  - (b) Each one and one-half of two story residence shall contain no less than 1,800 square feet of total living area above the basement level with a minimum of 1,000 square feet on the main level, exclusive of garage area.
- (2) Other residence styles not described above in this Section will be permitted only if approved by the Committee and shall not be approved unless they are compatible with other residences to be built on the Property in the opinion of the Committee in its sole and absolute discretion.
- (3) All residences shall, as a minimum, have attached, enclosed, side-by-side, two car garages which must contain minimum area of 400 square feet built at appropriately the main level of the residence. Other or additional garages may be permitted at the discretion of the Committee.
- (4) For the purposes of these restrictions, two story heights shall, when the basement wall is exposed above finish grade, be measured from the basement ceiling on the exposed side(s) to the eave of the structure on the same side(s). Living Area means finished habitable space, measured to the exterior of the enclosing walls, and does not include porches, stoops, breezeways, courtyards, patios, decks, basements, garages or carports. The maximum height of the dwelling shall be two (2) stories. The basement is not considered a story even if it is one hundred percent (100%) above grade on one or more sides, and essentially below grade on the other sides.
- (5) All buildings shall be located at least twenty-five feet (25') from the front Lot line, and a minimum of twenty-five feet from the rear property line. All buildings shall have at least eight foot (8') side yards. On corner Lots, either street side may be designated by the owner/builder as the front, and either non-street side as the rear. The minimum setback requirement for the non-front street exposure is fifteen feet (15') from the property line. For the purposes of this restriction, eaves, open patios, steps shall not be considered part of the building. The above provisions parallel the present zoning requirements of Sarpy County for the Lots. To the extent that the zoning requirements for Lot or Lots are subsequently changed by Sarpy County to be less restrictive than the present requirements, or in the event a waiver or variance of some of the requirements for Lot or Lots is granted by the appropriate authority, the Committee shall have the right and authority, but not the obligation, to grant in whole or in part the relaxation of requirements allowed by the zoning changes, waiver or variance, all in the sole and absolute discretion of the Committee.



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- (6) Exposed portions of the foundation on the front of each dwelling are to be covered with clay-fired brick or stone even if a portion of those exposed foundations may be perpendicular, or nearly so, to the affronting street. Exposed portions of the foundation on the side of each dwelling facing the street, when said dwelling is located on a corner Lot, are to be covered with clay-fired brick or stone. Exposed portions of the foundation on the sides, or rear, not facing a street of a dwelling on the sides and rear of every other dwelling shall be covered with clay-fired brick, stone, siding or shall be painted.. Fifty percent (50%) brick or stone does not include any door, window or garage door areas.
  - (7) No structure of a temporary character, trailer, basement, tent, shack, barn or other out building shall be erected on any of said Lots, or used as a residence, temporarily or permanently. No prefabricated or factory built house or residential dwelling built elsewhere shall be moved onto or assembled on any of said Lots. No pre-cut dwelling shall be assembled on any of said Lots. No full or partial subterranean dwelling oblong houses shall be constructed or erected on any of said Lots. No dwelling shall be moved from outside of the Properties onto any of said Lots.
  - (8) No flat or mansard roof shall be permitted on any dwelling. All dwellings shall be roofed with Heritage 30 weather wood color roofing, except Lots 107, 125, 126, and 159 shall be wood shake roof.
  - (9) Public sidewalks are the responsibility of, and shall be constructed by, the then Owner of a Lot prior to the time of completion of a dwelling and before occupancy thereof. The extent of sidewalks, location, construction details, materials and grades shall be in accordance with the regulations of Sarpy County and any revisions thereof. The maintenance of said sidewalks, after construction, shall be the responsibility of the Owners of each of the Lots.
  - (10) The Declarant has created a water drainage plan by grading the Properties and installing improvements and easements for storm drainage in accordance with accepted engineering principles. No building shall be placed, nor any Lot graded, to interfere with such water drainage plan nor cause damage to the building or neighboring buildings or Lots.

### ARTICLE III

#### GENERAL RESTRICTIONS

Section 1. Awnings. No awnings or sun screens of any type shall be affixed to any building or structure within the properties without the written consent of the Board.

Section 2. Buildings or Uses Other Than for Residential Purposes. No building or structure of any sort may ever be placed, erected or used for business, professions, trade or commercial purposes on any of the property within the Properties. Provided, however, the prohibition shall not apply:

- (a) To any building or structure that is to be used exclusively by a public utility company in connection with the furnishing of public utility services to the Properties; or
- (b) To any portion of a building used by Declarant, its licensees or assigns, for a manager's office, or by the Association for its offices.

E

**Section 3. Fences, etc.** No fences or enclosures of any type or nature whatsoever shall ever be constructed, erected, placed or maintained on or about any building site within the Properties, except metal, PVC or wood fences approved by the Committee in writing. No truck, trailer, boat, motor home, camper equipment or machinery or cars not in daily use shall ever be parked, located or otherwise maintained on any Properties. Automobiles shall be parked only in designated parking areas as published by the Association in its Rules and Regulations. No external television or radio antenna or satellite dish shall hereafter be erected on or about any of the building sites or property within the Properties. No clothesline or clothes hangers shall be permitted outside of any dwelling at any time. Any exterior air conditioning condenser units or heat pump units shall be placed in the designated side or rear yard of the dwelling. Detached accessory buildings are not permitted.

**Section 4. Livestock and Poultry Prohibited.** No animals, livestock or poultry of any kind shall be raised or kept on any building site in the Properties other than household pets, which shall be limited to two (2) per household. All pets shall be leashed when outside of the home and patio areas and provision made that they are kept confined to the Lot of their Owner and are not permitted to run loose outside the Lot of the Owner. No such pet will be kept, bred, or maintained for commercial purposes.

**Section 5. Noxious Activity.** No noxious or offensive activity shall be carried on the Properties, nor shall any trash, ashes or other refuse be thrown, placed, dumped upon any vacant building site, nor shall anything ever be done which may be, or may become, an annoyance or nuisance to the neighborhood.

**Section 6. Billboards Prohibited.** No sign, billboard or other structure for advertising or the display of advertising material of any kind shall be erected, altered, placed or permitted to remain on any lot except that real estate "For Sale" or "For Rent" signs shall be permitted temporarily in the yards of dwellings which are being offered for sale or rent or other builder promotional signs.

**Section 7. Outbuildings Prohibited.** No outbuildings or other attached or unattached structures appurtenant to a residence may be erected on any of the building sites hereby restricted.

**Section 8. Temporary Structure.** No trailer, basement, tent, shack, trailer, garage, barn or other outbuilding, whether any time as a residence. PROVIDED, however, nothing contained herein shall restrict Declarant or its assigns for locating, constructing or moving a temporary real estate and/or construction office on any building site in the Properties to be used during the period of the construction and sale of the Properties. Declarant or its assigns may also erect and maintain model homes for sales purposes and rental and lease purposes and may operate such office and offices therein for so long as they deem necessary for the purposes of selling, renting or leasing the Properties.

**Section 9.** All garage doors must remain closed at all times except when cars are entering or exiting from the garage space. No garbage cans or trash receptacles are to be permitted outside unless fully screened from view in a manner approved in writing by the Association. Private barbecue grills will be subject to regulation, restriction or exclusion by the Association. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling except while in actual use. Automobile parking will be subject to regulation and restriction by the Association.

F

Section 10. No automobile, motor home, camper or vehicle repair will be permitted outside of garages on any Lot at any time. No automobiles in a state of disrepair shall be kept on the premises of any Lot or be permitted to park on the streets for a period in excess of three (3) days.

Section 11. Except for the purpose of controlling erosion on vacant Lots, no field crops shall be grown upon any Lot at any time.

Section 12. A dwelling on which construction has begun must be completed within one (1) year from the date the foundation was dug for said dwelling.

Section 13. Small vegetable gardens and rock gardens shall be permitted only if maintained in the designated rear yard of any Lot, behind the dwelling on said Lot. Further, rock gardens must be approved by the Committee.

Section 14. No residential dwelling shall be occupied by any person as a dwelling for such person until the construction of such dwelling has been completed, except for minor finish details as determined and approved by the Committee.

Section 15. All driveways shall be constructed of concrete or brick.

Section 16. The front, side and rear yards of all Lots shall be sodded, and one (1) tree, each not less than one (1) caliper inch in diameter, shall be planted in the front yard of each residence. No trees shall be planted in the dedicated street right-of-way located between the pavement and the Lot line. All yards shall be sodded and the trees planted within one (1) year from the date that construction for the residence on the Lot was initiated.

#### ARTICLE IV

##### EASEMENTS AND LICENSES

Section 1. A perpetual license and easement is hereby reserved in favor of and granted to Qwest Telephone Company and to Omaha Public Power District, and their successors and assigns, to erect and operate, maintain, repair, and renew cables, conduits and other instrumentalities, and to extend wires for the carrying and transmission of electric current for light, heat and power and for all telephone and telegraph and message service on, over, through, under and across a five foot (5') wide strip of land abutting all front and side boundary Lot lines, and an eight foot (8') wide strip of land adjoining the rear boundary lines of all Lots. Said licenses being granted for the use and benefit of all present and future owners of said Lots; PROVIDED, however, that said easements are granted upon the specific condition that if both said utility companies fail to construct wires or conduits along any of the said Lot lines within thirty-six (36) months of the date hereof, or if any wires or conduits are constructed but hereafter removed without being replaced within sixty (60) days after their removal, then this easement shall automatically terminate and become void as to such unused or abandoned easement ways. No permanent buildings shall be placed on perpetual easement ways, but the same may be used for garden shrubs, landscaping and other purposes that do not then or later interfere with the aforesaid uses or rights herein granted.

Section 2. All telephone and electric power service lines from property line to dwelling shall be underground.

2003-64942G

ARTICLE V

GENERAL PROVISIONS

Section 1. Enforcement. The Declarant, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Declarant or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenant and restrictions of this Declaration shall run with and bind the land, for a term of four (4) years from the date of this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of Lot Owners. Any amendment must be recorded with the Register of Deeds in and for Sarpy County, Nebraska. Declarant can change anything within the first five (5) years.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused this instrument to be executed on this 10 day of October 2003

DECLARANT:

TIBURON LIMITED PARTNERSHIP  
a Nebraska Limited Partnership

BY: DRELLA, INC., a Nebraska  
Corporation, General Partner

By: Eric B. Waddington  
Eric B. Waddington, President

STATE OF NEBRASKA )  
COUNTY OF SARPY )

The foregoing instrument was acknowledged before me this 10 day of October 2003 by Eric B. Waddington, President, Drella, Inc.

GENERAL NOTARY-State of Nebraska  
SANDRA S. SMITH  
My Comm. Exp. Sept. 29, 2004

Sandra S. Smith  
Notary Public

FILED SARPY CO. NE.  
INSTRUMENT NUMBER  
2003-64942  
2003 NOV -4 P 12: 53  
*Lloyd J. Dowding*  
REGISTER OF DEEDS

COUNTER SM C.E. SM  
VERIFY SM D.E. SM  
PROOF SM  
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402-593-5773

*Ret: Fullencamp Doyle & Johnson*

**64942**

A

DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR TIBURON

THIS DECLARATION, made on the date hereinafter set forth by Tiburon Limited Partnership, a Nebraska Limited Partnership, hereinafter referred to as the "Declarant".

WITNESSETH:

WHEREAS, on August 11, 2003, a set of Covenants were filed in the office of the Register of Deeds of Sarpy County, Nebraska as Instrument Number 2003 44764 which purportedly covered the following described property in Sarpy County, Nebraska:

Lots 107 through 159, inclusive. Tiburon, a Sub-division in Sarpy County, Nebraska, as surveyed, platted, and recorded

WHEREAS, said Covenants were invalid because they were signed by Cobblestone Homes, Inc., a Nebraska Sub-S Corporation, which represented that it was the owner of the lots supposedly covered by the Covenants,

WHEREAS, said Cobblestone Homes, Inc. only had an option to purchase the lots covered by the Covenants and the true owner of the lots covered by the Covenants was the Tiburon Limited Partnership, a Nebraska Limited Partnership,

WHEREAS, the Tiburon Limited Partnership, as the true owner of the lots to be covered by these Covenants, wishes to correct said error by signing the following Corrected Declaration of Covenants, Conditions and Restrictions for Tiburon, and

WHEREAS, The Declarant, Tiburon Limited Partnership, is the Owner of the following described real property:

Lots 107 through 159, inclusive. Tiburon, a Sub-division in Sarpy County, Nebraska, as surveyed, platted, and recorded.

All of the above-described property has been zoned "RS-100" and, therefore, is available for single family detached homes.

NOW THEREFORE, Declarant hereby declares that all of the properties described shall be held and conveyed subject to the following easements, restrictions, covenants, and conditions, which are for the purpose of protecting the value and desirability of, and which shall run with the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Board" shall mean and refer to the Board of Directors elected by a majority vote of the members of the Association, its successors and assigns.

B

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title or to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security of the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as many hereafter be brought within the jurisdiction of the Association.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties.

Section 5. "Declarant" shall mean and refer to Tiburon Limited Partnership, a Nebraska Limited Partnership, its successors, assigns and legal representatives.

Section 6. "Architectural Control Committee" shall mean the individual or committee appointed by the Declarant.

## ARTICLE II

### Section 1. Architectural Control.

- (1) Before the construction of the original structure on each Lot, no building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior to or change or alteration therein be made until the 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 surrounding structures and topography by an architectural committee, hereinafter referred to as "Committee" composed of one (1) or more representatives appointed by the Declarant. In the event the Committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.
- (2) After the construction of the original structure on each Lot, no building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition or change or alteration therein be made until the 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 surrounding structures and topography by the Committee.
- (3) Documents submitted for approval shall be clear, concise, complete, consistent and legible. All drawings shall be to scale. Samples of materials to be included in the improvements may be required of the applicant at the discretion of Committee. Submittals for approval shall be made in duplicate and the comments and actions of the Committee will be identically marked on both copies of said submittals. One copy will be returned to the applicant, and one copy will be retained as part of the permanent records of the Committee. Each applicant shall submit to the Committee the following documents and/or drawings:
  - (a) Site plan indicating specific improvement and indicating Lot number, street address, grading, surface drainage and sidewalks; and

- C
- (b) Complete construction plans, including, but not limited to, basement and upper floor plans, floor areas of each level, wall sections, stair and fireplace sections and exterior elevations clearly indicating flues or chimneys, type and extent of siding, roofing, other faces and/or veneer materials.

Section 2. Restrictions for Residential Units.

- (1) Residences built on Lots shall comply with the following minimum size requirements:
  - (a) Each one story residence shall contain no less than 1,400 square feet of living area above the basement level and exclusive of garage area except Lots 107, 125, 126 and 157. These lots shall contain no less than 1600 square feet of living area above the basement level; and
  - (b) Each one and one-half of two story residence shall contain no less than 1,800 square feet of total living area above the basement level with a minimum of 1,000 square feet on the main level, exclusive of garage area.
- (2) Other residence styles not described above in this Section will be permitted only if approved by the Committee and shall not be approved unless they are compatible with other residences to be built on the Property in the opinion of the Committee in its sole and absolute discretion.
- (3) All residences shall, as a minimum, have attached, enclosed, side-by-side, two car garages which must contain minimum area of 400 square feet built at appropriately the main level of the residence. Other or additional garages may be permitted at the discretion of the Committee.
- (4) For the purposes of these restrictions, two story heights shall, when the basement wall is exposed above finish grade, be measured from the basement ceiling on the exposed side(s) to the eave of the structure on the same side(s). Living Area means finished habitable space, measured to the exterior of the enclosing walls, and does not include porches, stoops, breezeways, courtyards, patios, decks, basements, garages or carports. The maximum height of the dwelling shall be two (2) stories. The basement is not considered a story even if it is one hundred percent (100%) above grade on one or more sides, and essentially below grade on the other sides.
- (5) All buildings shall be located at least twenty-five feet (25') from the front Lot line, and a minimum of twenty-five feet from the rear property line. All buildings shall have at least eight foot (8') side yards. On corner Lots, either street side may be designated by the owner/builder as the front, and either non-street side as the rear. The minimum setback requirement for the non-front street exposure is fifteen feet (15') from the property line. For the purposes of this restriction, eaves, open patios, steps shall not be considered part of the building. The above provisions parallel the present zoning requirements of Sarpy County for the Lots. To the extent that the zoning requirements for Lot or Lots are subsequently changed by Sarpy County to be less restrictive than the present requirements, or in the event a waiver or variance of some of the requirements for Lot or Lots is granted by the appropriate authority, the Committee shall have the right and authority, but not the obligation, to grant in whole or in part the relaxation of requirements allowed by the zoning changes, waiver or variance, all in the sole and absolute discretion of the Committee.



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- (6) Exposed portions of the foundation on the front of each dwelling are to be covered with clay-fired brick or stone even if a portion of those exposed foundations may be perpendicular, or nearly so, to the affronting street. Exposed portions of the foundation on the side of each dwelling facing the street, when said dwelling is located on a corner Lot, are to be covered with clay-fired brick or stone. Exposed portions of the foundation on the sides, or rear, not facing a street of a dwelling on the sides and rear of every other dwelling shall be covered with clay-fired brick, stone, siding or shall be painted.. Fifty percent (50%) brick or stone does not include any door, window or garage door areas.
  - (7) No structure of a temporary character, trailer, basement, tent, shack, barn or other out building shall be erected on any of said Lots, or used as a residence, temporarily or permanently. No prefabricated or factory built house or residential dwelling built elsewhere shall be moved onto or assembled on any of said Lots. No pre-cut dwelling shall be assembled on any of said Lots. No full or partial subterranean dwelling oblong houses shall be constructed or erected on any of said Lots. No dwelling shall be moved from outside of the Properties onto any of said Lots.
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### ARTICLE III

#### GENERAL RESTRICTIONS

Section 1. Awnings. No awnings or sun screens of any type shall be affixed to any building or structure within the properties without the written consent of the Board.

Section 2. Buildings or Uses Other Than for Residential Purposes. No building or structure of any sort may ever be placed, erected or used for business, professions, trade or commercial purposes on any of the property within the Properties. Provided, however, the prohibition shall not apply:

- (a) To any building or structure that is to be used exclusively by a public utility company in connection with the furnishing of public utility services to the Properties; or
- (b) To any portion of a building used by Declarant, its licensees or assigns, for a manager's office, or by the Association for its offices.

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**Section 4. Livestock and Poultry Prohibited.** No animals, livestock or poultry of any kind shall be raised or kept on any building site in the Properties other than household pets, which shall be limited to two (2) per household. All pets shall be leashed when outside of the home and patio areas and provision made that they are kept confined to the Lot of their Owner and are not permitted to run loose outside the Lot of the Owner. No such pet will be kept, bred, or maintained for commercial purposes.

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**Section 6. Billboards Prohibited.** No sign, billboard or other structure for advertising or the display of advertising material of any kind shall be erected, altered, placed or permitted to remain on any lot except that real estate "For Sale" or "For Rent" signs shall be permitted temporarily in the yards of dwellings which are being offered for sale or rent or other builder promotional signs.

**Section 7. Outbuildings Prohibited.** No outbuildings or other attached or unattached structures appurtenant to a residence may be erected on any of the building sites hereby restricted.

**Section 8. Temporary Structure.** No trailer, basement, tent, shack, trailer, garage, barn or other outbuilding, whether any time as a residence. PROVIDED, however, nothing contained herein shall restrict Declarant or its assigns for locating, constructing or moving a temporary real estate and/or construction office on any building site in the Properties to be used during the period of the construction and sale of the Properties. Declarant or its assigns may also erect and maintain model homes for sales purposes and rental and lease purposes and may operate such office and offices therein for so long as they deem necessary for the purposes of selling, renting or leasing the Properties.

**Section 9.** All garage doors must remain closed at all times except when cars are entering or exiting from the garage space. No garbage cans or trash receptacles are to be permitted outside unless fully screened from view in a manner approved in writing by the Association. Private barbecue grills will be subject to regulation, restriction or exclusion by the Association. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling except while in actual use. Automobile parking will be subject to regulation and restriction by the Association.

F

Section 10. No automobile, motor home, camper or vehicle repair will be permitted outside of garages on any Lot at any time. No automobiles in a state of disrepair shall be kept on the premises of any Lot or be permitted to park on the streets for a period in excess of three (3) days.

Section 11. Except for the purpose of controlling erosion on vacant Lots, no field crops shall be grown upon any Lot at any time.

Section 12. A dwelling on which construction has begun must be completed within one (1) year from the date the foundation was dug for said dwelling.

Section 13. Small vegetable gardens and rock gardens shall be permitted only if maintained in the designated rear yard of any Lot, behind the dwelling on said Lot. Further, rock gardens must be approved by the Committee.

Section 14. No residential dwelling shall be occupied by any person as a dwelling for such person until the construction of such dwelling has been completed, except for minor finish details as determined and approved by the Committee.

Section 15. All driveways shall be constructed of concrete or brick.

Section 16. The front, side and rear yards of all Lots shall be sodded, and one (1) tree, each not less than one (1) caliper inch in diameter, shall be planted in the front yard of each residence. No trees shall be planted in the dedicated street right-of-way located between the pavement and the Lot line. All yards shall be sodded and the trees planted within one (1) year from the date that construction for the residence on the Lot was initiated.

#### ARTICLE IV

##### EASEMENTS AND LICENSES

Section 1. A perpetual license and easement is hereby reserved in favor of and granted to Qwest Telephone Company and to Omaha Public Power District, and their successors and assigns, to erect and operate, maintain, repair, and renew cables, conduits and other instrumentalities, and to extend wires for the carrying and transmission of electric current for light, heat and power and for all telephone and telegraph and message service on, over, through, under and across a five foot (5') wide strip of land abutting all front and side boundary Lot lines, and an eight foot (8') wide strip of land adjoining the rear boundary lines of all Lots. Said licenses being granted for the use and benefit of all present and future owners of said Lots; PROVIDED, however, that said easements are granted upon the specific condition that if both said utility companies fail to construct wires or conduits along any of the said Lot lines within thirty-six (36) months of the date hereof, or if any wires or conduits are constructed but hereafter removed without being replaced within sixty (60) days after their removal, then this easement shall automatically terminate and become void as to such unused or abandoned easement ways. No permanent buildings shall be placed on perpetual easement ways, but the same may be used for garden shrubs, landscaping and other purposes that do not then or later interfere with the aforesaid uses or rights herein granted.

Section 2. All telephone and electric power service lines from property line to dwelling shall be underground.

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ARTICLE V

GENERAL PROVISIONS

Section 1. Enforcement. The Declarant, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Declarant or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenant and restrictions of this Declaration shall run with and bind the land, for a term of four (4) years from the date of this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first twenty (20) year period by an instrument signed by not less than ninety percent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five percent (75%) of Lot Owners. Any amendment must be recorded with the Register of Deeds in and for Sarpy County, Nebraska. Declarant can change anything within the first five (5) years.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has caused this instrument to be executed on this 10 day of October 2003

DECLARANT:

TIBURON LIMITED PARTNERSHIP  
a Nebraska Limited Partnership

BY: DRELLA, INC., a Nebraska  
Corporation, General Partner

By: Eric B. Waddington  
Eric B. Waddington, President

STATE OF NEBRASKA     )  
COUNTY OF SARPY     )

The foregoing instrument was acknowledged before me this 10 day of October 2003 by Eric B. Waddington, President, Drella, Inc.

GENERAL NOTARY-State of Nebraska  
SANDRA S. SMITH  
My Comm. Exp. Sept. 29, 2004

Sandra S. Smith  
Notary Public

FILED SARP COUNTY NE  
INSTRUMENT NUMBER  
98-000444  
18 JAN -7 PM 3:10  
REGISTRY OF DEEDS

98-00444  
County: WJ  
Verify: at  
C.E.P. me  
Proof: me 50  
Fee: 15  
Ck   
Cash   
Charge

DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR TIBURON

THIS DECLARATION, made on the date hereinafter set forth by Tiburon Limited Partnership, a Nebraska Limited Partnership, hereinafter referred to as the "Declarant", and by SWN Investments, a Nebraska partnership, and Gary L. Franks, a single person, hereinafter collectively referred to as the "Other Property Owners";

WITNESSETH:

WHEREAS, The Declarant is the Owner of the following described real property:

Lots 67 through 76, inclusive, Lots 78 through 106, inclusive, Lots 160 through 193, inclusive, and Lots 283 through 285, inclusive, and Lots 287 through 339, inclusive, of Tiburon, a Subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska, and

WHEREAS, The Other Property Owners are the owners of the following described real property:

Lots 77 and 286, in Tiburon, a subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska; and

WHEREAS, all of the above-described real estate has been zoned for single family use, and

WHEREAS, the Declarant and the Other Property Owners will convey said lots, subject to certain protective covenants, conditions, restrictions, reservations, liens, and charges as hereinafter set forth,

NOW, THEREFORE, the Declarant and the Other Property Owners hereby declare that all of the lots described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of said lots. These easements, covenants, restrictions, and conditions, shall run with said real property, and shall be binding upon all parties having or acquiring any right, title or interest in the above described lots, or any part thereof, and they shall inure to the benefit of each owner thereof.

ARTICLE I.  
DEFINITIONS

A. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Properties.

98-00444A

including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

B. "Properties" shall mean and refer to all such lots that are subject to the Declaration or any supplemental Declaration under the provisions hereof, which shall initially consist of Lots 67 through 106, inclusive, Lots 160 through 193, inclusive, and Lots 283 through 339, inclusive, of Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.

C. "Lot" shall mean and refer to any one of Lots 67 through 106, inclusive, Lots 160 through 193, inclusive, or Lots 283 through 339, inclusive, of Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.

D. "Lots Adjoining Golf Course" shall mean and refer to all Lots, as defined above, for which one or more of the Lot boundary lines is shared with any boundary line of the golf course.

E. "Lots Not Adjoining Golf Course" shall mean and refer to all Lots which have no Lot boundary line in common with any boundary line of the golf course.

F. "Declarant" shall mean and refer to TIBURON LIMITED PARTNERSHIP, a Nebraska Limited Partnership, its successors and assigns.

G. "Other Property Owners" shall mean and refer to the current owners of Lots 77 and 286, Tiburon, namely Gary L. Franks, a single person and SWN Investments, a Nebraska partnership, respectively.

H. "Architectural Control Committee" shall mean the individual or committee appointed by the Declarant, its successors or assigns.

I. "Applicant" shall mean Owner, Contractor, or Realtor.

## ARTICLE II. ARCHITECTURAL CONTROL

A. No dwelling, fence, wall, driveway, patio, patio enclosure, deck, rock garden, swimming pool, television or radio antenna, satellite dishes, solar collecting panels or equipment, air conditioning equipment, wind-generating power equipment, or other external improvements, above or below the surface of the ground shall be built, erected, placed, planted, altered or otherwise maintained or permitted to remain on any Lot, nor shall any grading, excavation or tree removal be commenced without express written prior approval of the Declarant through its Architectural Control Committee.

B. The Declarant, through its Architectural Control Committee, shall consider general appearance, exterior color or colors, architectural character, harmony of external design and location in relation to surroundings, topography, location within the lot boundary lines, quality of construction and size and suitability for residential purposes as part of its review procedure. Only exterior colors of certain earthtone hues will be acceptable. Designs of a repetitive nature and/or within close proximity to one another will not be approved. Superficial, cosmetic or minor architecture detail differences in like designs will not constitute a basis for approval. The Architectural Control Committee specifically reserves the right to deny permission to construct or place any of the above-mentioned improvements which it determines will not conform to the general character, plan and outline for the development of the Properties.

C. Documents submitted for approval shall be clear, concise, complete, consistent and legible. All drawings shall be to scale. Samples of materials to be included in the improvement may be required of the applicant at the discretion of

98-00444B

the Architectural Control Committee. Submittals for the approval shall be made in duplicate and the comments and actions of the Architectural Control Committee will be identically marked on both copies of said submittals. One copy will be returned to the applicant, and one copy will be retained as part of the permanent records of the Committee. Each applicant shall submit to the Architectural Control Committee the following documents, materials and/or drawings:

1. Site plan indicating specific improvement and indicating Lot number, street address, and sidewalks.

2. Complete construction plans, including, but not limited to, basement and upper floor plans, floor areas of each level, wall sections, stair and fireplace sections and exterior elevations clearly indicating flues or chimneys, type and extent of siding, roofing, other faces and/or veneer materials.

D. The approval or disapproval of the Architectural Control Committee as required in these Covenants shall be in writing. Failure of the Architectural Control Committee to give either written approval or disapproval of submitted plans within thirty (30) days after receipt of all of the documents above, by mailing such written approval or disapproval to the last known address of the applicant as shown on the submitted plans, shall operate as an Architectural Control Committee approval.

**ARTICLE III.**  
**RESTRICTIONS FOR RESIDENTIAL UNITS**

A. The Lot shall be used only for residential purposes, and no Lot shall contain more than one (1) detached, single family unit.

B. No building shall be created, altered, placed or permitted to remain on any Lot other than the one (1) detached, single family dwelling referred to above, and said dwelling shall conform to the following requirements:

1. Houses built on Lots Adjoining Golf Course shall comply with the following minimum size requirements:

a. Each one story house shall contain no less than 1,800 square feet of Living Area above the basement level and exclusive of garage area.

b. Each one and one-half or two story house shall contain no less than 2,000 square feet of total Living Area above the basement level with a minimum of 1,200 square feet on the main floor, exclusive of garage area.

2. Houses built on Lots Not Adjoining Golf Course shall comply with the following minimum size requirements:

a. Each one story house shall contain no less than 1,600 square feet of Living Area above the basement level and exclusive of garage area.

b. Each one and one-half or two story house shall contain no less than 1,800 square feet of total Living Area above the basement level with a minimum of 1,000 square feet on the main floor, exclusive of garage area.

3. Other house styles not described in 1. and 2. above will be permitted only if approved by the Architectural Control Committee and shall not be approved unless they are compatible with other homes to be built in Tiburon in the opinion of the Architectural Control Committee in its sole and absolute discretion.

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4. All houses shall, as a minimum, have attached, enclosed, side-by-side, two car garages which must contain a minimum area of 400 square feet built at approximately the main level of the house. Other or additional garages may be permitted at the discretion of the Architectural Control Committee.

C. For the purposes of these restrictions, two-story height shall, when the basement wall is exposed above finish grade, be measured from the basement ceiling on the exposed side(s) to the eave of the structure on the same side(s). Living Area means finished habitable space, measured to the exterior of the enclosing walls, and does not include porches, stoops, breezeways, courtyards, patios, decks, basements, garages or carports. The maximum height of the dwelling shall be thirty-five feet. The basement is not considered a story even if it is one hundred percent (100%) above grade on one or more sides, and essentially below grade on the other sides.

D. All buildings on all Lots shall comply with the set back requirements of the Zoning Code of Sarpy County, Nebraska as the same may be amended from time to time. In the event a waiver or variance of some of the zoning requirements for a Lot or Lots is granted by the appropriate authority, the Architectural Control Committee shall have the right and authority, but not the obligation, to grant in whole or in part the relaxation of requirements allowed by the waiver or variance, all in the sole and absolute discretion of the Architectural Control Committee.

E. Exposed portions of the foundation on the front of each dwelling are to be covered with clay-fired brick or stone even if a portion of those exposed foundations may be perpendicular, or nearly so, to the affronting street. Exposed portions of the foundation on the side of each dwelling facing the street, when said dwelling is located on a corner lot, are to be covered with clay-fired brick or stone. Exposed portions of the foundation on the sides, or rear, not facing a street of a dwelling located on a corner lot, and the exposed portion of the foundation on the sides and rear of every other dwelling shall be covered with clay-fired brick, stone, siding or shall be painted.

F. Portions of the front face wall or walls of each dwelling are to be covered with clay fired brick or stone even if a portion of those faces may be perpendicular, or nearly so, to the affronting street. The portion of the front face wall to be covered shall be subject to the approval of the Architectural Control Committee in its sole and absolute discretion and shall be no less than fifty (50%) percent of the front face wall area above the foundation, not including garage door area, on one story houses and no less than twenty-five (25) percent of the front face wall area above the foundation, not including garage door area, on one and one half and two story houses.

G. Regarding fireplaces and flues constructed as a part of the dwelling on any Lot the following shall apply:

1. In the event that a wood-burning fireplace is constructed as a part of the dwelling on any Lot Adjoining Golf Course, any portion of said fireplace and/or the enclosure for the fireplace flue which protrudes from the exterior or above the roof of the dwelling shall be constructed of or finished with, clay-fired brick or stone.

2. In the event that a wood-burning fireplace is constructed as a part of the dwelling in a manner so as to protrude beyond the outer perimeter of the front or side of the dwelling, or is exposed above the roof on a Lot Not adjoining Golf Course, the enclosure of the fireplace and flue shall be constructed of, or



finished with, clay-fired brick or stone. If the wood-burning fireplace and/or enclosure for the wood-burning fireplace flue is constructed in such a manner so as to protrude beyond the outer perimeter of the rear of the dwelling on a Lot Not Adjoining Golf Course, the enclosure of the wood-burning fireplace and flue shall be constructed of, or finished with, the same material as is the dwelling at the point from which the wood-burning fireplace and/or the flue protrudes or shall be constructed of, or finished with, clay-fired brick or stone.

3. In the event that a non-wood-burning or direct vent fireplace is constructed as a part of the dwelling on any Lot and is vented directly through an exterior wall of the dwelling or is vented through the roof of the dwelling with a vent similar in style, size and location to that of a furnace flue, no clay fired brick or stone enclosure will be required. Provided however, if said non-wood-burning or direct vent fireplace is constructed in such a manner so as to protrude beyond the outer perimeter of a front or side wall of the dwelling on a Lot Not Adjoining Golf Course or beyond the outer perimeter of any wall of the dwelling on a Lot Adjoining Golf Course, the protrusion for the fireplace shall be finished with clay-fired brick or stone. Also any fireplace vent which protrudes above the roof of any dwelling shall be finished with clay-fired brick or stone unless it is on the rear slope of the roof of a dwelling on a Lot Not Adjoining Golf Course or is vented in similar style, size and location to that of a furnace flue as shown herein.

4. No furnace flue may protrude more than four (4) feet from the roof of the dwelling, as measured from the top cap of the flue to the point from which the flue emerges from the roof. All furnace flues must be located on the rear side of the roof ridge within four feet of the roof ridge.

H. No fences may be built forward of the rear-most wall at each side (corner) of the rear of the dwelling. On Lots Adjoining Golf Course, no fence may be built within twenty-five (25') feet of a lot line which adjoins the golf course. Fences shall be constructed only of wood, decorative iron, brick or stone and are subject to the approval of the Architectural Control Committee referred to above. Wire or chain-link fences shall not be permitted. Temporary or permanent barbed wire, electrified, and/or snow fences are strictly prohibited.

I. No structure of a temporary character, trailer, basement, tent, shack, barn or other out building shall be erected on said Lot, or used as a residence, temporarily or permanently. No prefabricated or factory built house or residential dwelling built elsewhere shall be moved onto or assembled on any of said Lots. No pre-cut dwelling shall be assembled on any of said Lots. No full or partial subterranean dwellings or log houses shall be constructed or erected on any Lot. No dwelling shall be moved from outside of the Properties onto any of said Lots.

J. No flat or mansard roof shall be permitted on any dwelling. All dwellings shall be roofed with wood shakes, wood shingles, or other roofing materials which have the approval of the Architectural Control Committee in its sole and absolute discretion.

K. Public sidewalks are the responsibility of, and shall be constructed by, the then Owner of a Lot prior to the time of completion of a dwelling and before occupancy thereof. The extent of sidewalks, location, construction details, materials and grades shall be in accordance with the regulations of the City of Omaha and any revisions thereof. The maintenance of said sidewalks, after construction, shall be the responsibility of the Owners of each of the Lots.

L. The Declarant has created a water drainage plan by grading the Properties and installing improvements and easements for storm drainage in accordance with accepted engineering principles. No building shall be placed, nor

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any Lot graded, to interfere with such water drainage plan nor cause damage to the building or neighboring buildings or Lots.

M. No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any Lot. No animals, livestock, fowl or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, or other household pets maintained within the dwelling may be kept, provided that they are not kept, bred or maintained for any commercial purpose and, provided, that they are kept confined to the Lot of their owner and are not permitted to run loose outside the Lot of the Owner.

N. No incinerator or trashburner shall be permitted on any Lot. No garbage or trash can or container shall be permitted to remain outside of any dwelling unless completely screened from view from every street and from all other Lots in the subdivision and from the golf course. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling except while in actual use. No garage door shall be permitted to remain open except when entry to and exit from the garage are required. No clothesline shall be permitted outside of any dwelling at any time. Any exterior air conditioning condenser units or heat pump units shall be placed in the designated side or rear yard of the dwelling. Detached accessory buildings are not permitted.

O. No automobile, boat, camping trailer, van-type campers, auto-drawn trailer of any kind, mobile home, motorcycle, snowmobile or other self-propelled vehicles shall be stored or maintained outside of the garage. For purposes of the preceding provision, "stored or maintained outside of the garage" shall mean, parking the vehicle or trailer on the driveway, or any other part of the Lot, outside of the garage, for seven (7) or more consecutive days. All repair or maintenance work on automobiles, boats, camping trailers, van-type campers, auto-drawn trailers of any kind, mobile homes, motorcycles, snowmobiles or other self-propelled vehicles done on the premises must be done in the garage. The dedicated street right-of-way located between the pavement and the Lot line of any residential Lot shall not be used for the parking of any vehicle, boat, camper or trailer. Automobiles and other self-propelled vehicles parked out-of-doors within the premises above-described, or upon the streets thereof, must be in operating condition.

P. All Lots shall be kept free of rubbish, debris, merchandise and building material; however, building materials may be placed on Lots when construction is started on the main residential structure intended for such Lot. In addition, vacant Lots where capital improvements have not yet been installed shall not be used for dumping of earth or any other waste materials, and shall be maintained level and smooth enough for machine mowing. No vegetation on vacant Lots where capital improvements have not yet been installed shall be allowed to reach more than a maximum height of twelve (12) inches.

Q. Except for the purpose of controlling erosion on vacant Lots, no field crops shall be grown upon any Lot at any time.

R. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood, including, but not limited to, odors, dust, glare, sound, lighting, smoke, vibration and radiation.

S. A dwelling on which construction has begun must be completed within one (1) year from the date the foundation was dug for said dwelling.

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T. Small vegetable gardens and rock gardens shall be permitted only if maintained in the designated rear yard of any Lot, behind the dwelling on said Lot. Further, rock gardens must be approved by the Architectural Control Committee.

U. No residential dwelling shall be occupied by any person as a dwelling for such person until the construction of such dwelling has been completed, except for minor finish details as determined and approved by the Architectural Control Committee.

V. No advertising signs or posters of any kind shall be erected or placed on any of said Lots, except the residential "For Sale" and "Sold" signs, not exceeding six (6) square feet in size, shall be permitted and, provided further, that such restriction as to sign size shall not apply to signs erected by the Declarant, or his agents, in the development of Tiburon.

W. All driveways shall be constructed of concrete or brick.

X. The front, side and rear yards of all Lots shall be sodded, and two (2) trees, each not less than two (2) caliper inches in diameter, shall be planted in the front yard of each residence. No trees shall be planted in the dedicated street right-of-way located between the pavement and the Lot line. All yards shall be sodded and the trees planted within one (1) year from the date that construction for the residence on the Lot was initiated.

Y. No solar collecting panels or equipment, no wind generating power equipment shall be allowed on the Lots. No television antenna, no antenna of any kind or nature, no satellite dish over 18" in diameter, shall be allowed on the Lots unless completely screened from view from every street and from all other Lots in the Subdivision and from the golf course in a manner approved by the Architectural Control Committee. Satellite dishes of 18" or less shall be permitted only with the approval of the Architectural Control Committee.

#### ARTICLE IV. EASEMENTS AND LICENSES

A. A perpetual license and easement is hereby reserved in favor of and granted to the U. S. West Telephone Company, the City or County franchised cable television firm and/or the Declarant, and to Omaha Public Power District, their successors, and assigns, to erect and operate, maintain, repair, and renew cables, conduits, and other instrumentalities and to extend wires for the carrying and transmission of electric current for light, heat and power and for all telephone and telegraph and message services and cable television under a 8-foot strip of land adjoining the rear boundary lines of all interior Lots, a 16-foot strip of land adjoining the rear boundary lines of all exterior Lots and a 5-foot strip of land adjoining all side boundary lot lines and license being granted for the use and benefit of all present and future owners of said Lots; provided, however, that said lot line easement is granted upon the specific condition that if any said utility companies fail to construct wires or conduits along any of the said lot lines within 36 months of the date hereof, or if any wires or conduits are constructed but hereafter removed without replacement within 60 days after their removal, then this lot line easement shall automatically terminate and become void as to such unused or abandoned easementways. No permanent buildings shall be placed in perpetual easementway, but the same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforesaid uses or rights herein granted.

B. All telephone, cable television and electric power service lines from property line to dwelling shall be underground.

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ARTICLE V.  
GENERAL PROVISIONS

A. The Declarant, or its assigns, or any Owner of a Lot named herein, shall have the right to enforce by proceeding at law or in equity, all restrictions, conditions, covenants, and reservations, now or hereinafter imposed by the provisions of this Declaration, either to prevent or restrain any violation of same, or to recover damages or other dues for such violation. Failure by the Declarant or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

B. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded. This Declaration may be amended by the Declarant, or any person, firm corporation, partnership, or entity designated in writing by the Declarant, in any manner it shall determine in its full and absolute discretion for a period of five (5) years from the date hereof. Thereafter this Declaration may be amended by an instrument signed by the Owners of not less than ninety percent (90%) of the Lots covered by this Declaration.

C. Invalidation of any one of these covenants by judgment or court order shall in no way effect any of the other provisions hereof which shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant and Other Property Owners have caused these presents to be executed on the date(s) shown.

DECLARANT:

TIBURON LIMITED PARTNERSHIP  
a Nebraska Limited Partnership

BY: DRELLA, INC., a Nebraska  
Corporation, General Partner

Date: 1-5-98

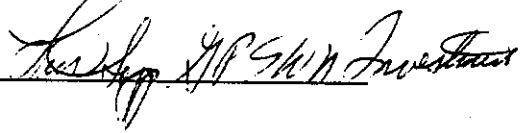
By:   
Eric B. Waddington, President

OTHER PROPERTY OWNERS:

Owner of Lot 286:

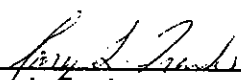
SWN INVESTMENTS,  
a Nebraska partnership

Date: 1-7-98

By: 

Owner of Lot 77:

Date: 1-5-97

  
Gary L. Franks

48-00444 H

CONSENT

The Omaha Firefighters Credit Union, holding a first deed of Trust on Lot 77, in Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska, hereby consents to said lot being bound by the above-stated restrictive covenants.

OMAHA FIREFIGHTERS CREDIT UNION,  
Trustee under a certain deed of trust  
recorded May 25, 1995 in the office of the  
Register of Deeds of Sarpy County,  
Nebraska at Instrument No. 95-07403

By: Omaha Firefighters CU  
Tiffany M. Michel  
Director of Lending

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF DOUGLAS )

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of January, 1998, by Eric B. Waddington, President of Drella, Inc., a Nebraska Corporation, General Partner of Tiburon Limited Partnership, a Nebraska limited partnership.



Kathleen A. Craig  
Notary Public

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF Douglas )

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of January, 1998, by Omaha Firefighters Credit Union  
By Tiffany M. Michel, Director of Lending.



Kathleen A. Craig  
Notary Public

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF Douglas )

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of January, 1998, by Gary L. Franks, a single person.



Kristina L. Efird  
Notary Public

98-00444I

STATE OF NEBRASKA )  
COUNTY OF General ) ss.

The foregoing instrument was acknowledged before me this 7 day of January, 1998, by SUN Investments  
Lee H. Sapp GP



Dawn G. Hansen  
Notary Public

A. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Properties.

ARTICLE I. DEFINITIONS

NOW, THEREFORE, the Declarant and the Other Property Owners hereby declare that all of the lots described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of said lots. These easements, covenants, restrictions, and conditions, shall run with said real property, and shall be binding upon all parties having or acquiring any right, title or interest in the above described lots, or any part thereof, and they shall inure to the benefit of each owner thereof.

WHEREAS, the Declarant and the Other Property Owners will convey said lots, subject to certain protective covenants, conditions, restrictions, reservations, liens, and charges as hereinafter set forth;

WHEREAS, all of the above-described real estate has been zoned for single family use, and

WHEREAS, the Other Property Owners are the owners of the following described real property:

WHEREAS, the Declarant is the Owner of the following described real property:

WITNESSETH:

THIS DECLARATION, made on the date hereinafter set forth by Tiburon Limited Partnership, a Nebraska Limited Partnership, hereinafter referred to as the "Declarant", and by SWN Investments, a Nebraska partnership, and Gary L. Franks, a single person, hereinafter collectively referred to as the "Other Property Owners";

FOR TIBURON

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

DECLARATION

98-00444  
COUNTY: WAB  
CERTIFICATE: 150  
PROOF: 150  
SEE: 150  
OK  
CASH  
CHARGE

FILED SHERIFF'S OFFICE  
8-000444  
JAN-7 PM 3:10  
REGISTERED DEEDS

C. Documents submitted for approval shall be clear, concise, complete, consistent and legible. All drawings shall be to scale. Samples of materials to be included in the improvement may be required of the applicant at the discretion of

B. The Declarant, through its Architectural Control Committee, shall consider general appearance, exterior color or colors, architectural character, harmony of external design and location in relation to surroundings, topography, location within the lot boundary lines, quality of construction and size and suitability for residential purposes as part of its review procedure. Only exterior colors of certain earthenstone hues will be acceptable. Designs of a repetitive nature and/or within close proximity to one another will not be approved. Superficial, cosmetic or minor architectural detail differences in like designs will not constitute a basis for approval. The Architectural Control Committee specifically reserves the right to deny permission to construct or place any of the above-mentioned improvements which it determines will not conform to the general character, plan and outline for the development of the Properties.

A. No dwelling, fence, wall, driveway, patio, patio enclosure, deck, rock garden, swimming pool, television or radio antenna, satellite dishes, solar collecting panels or equipment, air conditioning equipment, wind-generating power equipment, or other external improvements, above or below the surface of the ground shall be built, erected, placed, altered or otherwise maintained or permitted to remain on any lot, nor shall any grading, excavation or tree removal be commenced without express written prior approval of the Declarant through its Architectural Control Committee.

ARTICLE II.  
ARCHITECTURAL CONTROL

- I. "Applicant" shall mean Owner, Contractor, or Realtor.
  - H. "Architectural Control Committee" shall mean the individual or committee appointed by the Declarant, its successors or assigns.
  - G. "Other Property Owners" shall mean and refer to the current owners of Lots 77 and 286, Tiburon, namely Gary L. Franks, a single person and SWN Investments, a Nebraska partnership, respectively.
  - F. "Declarant" shall mean and refer to TIBURON LIMITED PARTNERSHIP, a Nebraska Limited Partnership, its successors and assigns.
  - E. "Lots Not Adjoining Golf Course" shall mean and refer to all Lots which have no lot boundary line in common with any boundary line of the golf course.
  - D. "Lots Adjoining Golf Course" shall mean and refer to all Lots, as defined above, for which one or more of the lot boundary lines is shared with any boundary line of the golf course.
  - C. "Lot" shall mean and refer to any one of Lots 67 through 106, inclusive, Lots 160 through 193, inclusive, or Lots 283 through 339, inclusive, of Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.
  - B. "Properties" shall mean and refer to all such lots that are subject to the Declaration or any supplemental Declaration under the provisions hereof, which shall initially consist of Lots 67 through 106, inclusive, Lots 160 through 193, inclusive, and Lots 283 through 339, inclusive, of Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.
- including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

98-00444A



3. Other house styles not described in 1. and 2. above will be permitted only if approved by the Architectural Control Committee and shall not be approved unless they are compatible with other homes to be built in Tiburon in the opinion of the Architectural Control Committee in its sole and absolute discretion.

b. Each one and one-half or two story house shall contain no less than 1,800 square feet of total Living Area above the basement level with a minimum of 1,000 square feet on the main floor, exclusive of garage area.

a. Each one story house shall contain no less than 1,600 square feet of Living Area above the basement level and exclusive of garage area.

the following minimum size requirements:

2. Houses built on Lots Not Adjoining Golf Course shall comply with

b. Each one and one-half or two story house shall contain no less than 2,000 square feet of total Living Area above the basement level with a minimum of 1,200 square feet on the main floor, exclusive of garage area.

a. Each one story house shall contain no less than 1,800 square feet of Living Area above the basement level and exclusive of garage area.

following minimum size requirements:

1. Houses built on Lots Adjoining Golf Course shall comply with the

B. No building shall be created, altered, placed or permitted to remain on any lot other than the one (1) detached, single family dwelling referred to above, and said dwelling shall conform to the following requirements:

A. The Lot shall be used only for residential purposes, and no Lot shall contain more than one (1) detached, single family unit.

ARTICLE III.  
RESTRICTIONS FOR RESIDENTIAL UNITS

D. The approval or disapproval of the Architectural Control Committee as required in these Covenants shall be in writing. Failure of the Architectural Control Committee to give either written approval or disapproval of submitted plans within thirty (30) days after receipt of all of the documents above, by mailing such written approval or disapproval to the last known address of the applicant as shown on the submitted plans, shall operate as an Architectural Control Committee approval.

2. Complete construction plans, including, but not limited to, basement and upper floor plans, floor areas of each level, wall sections, stair and fireplace sections and exterior elevations clearly indicating flues or chimneys, type and extent of siding, roofing, other faces and/or veneer materials.

1. Site plan indicating specific improvement and indicating Lot number, street address, and sidewalks.

Committee the following documents, materials and/or drawings:  
records of the Committee. Each applicant shall submit to the Architectural Control Committee the following documents, materials and/or drawings:  
duplicate and the comments and actions of the Architectural Control Committee will be identically marked on both copies of said submissions. One copy will be returned to the applicant, and one copy will be retained as part of the permanent records of the Committee. Each applicant shall submit to the Architectural Control

98-00444B

2. In the event that a wood-burning fireplace is constructed as a part of the dwelling in a manner so as to protrude beyond the outer perimeter of the front or side of the dwelling, or is exposed above the roof on a Lot Not adjoining Golf Course, the enclosure of the fireplace and flue shall be constructed of, or

1. In the event that a wood-burning fireplace is constructed as a part of the dwelling on any Lot Adjoining Golf Course, any portion of said fireplace and/or the enclosure for the fireplace flue which protrudes from the exterior or above the roof of the dwelling shall be constructed of or finished with, clay-fired brick or stone.

G. Regarding fireplaces and flues constructed as a part of the dwelling on any Lot the following shall apply:

F. Portions of the front face wall or walls of each dwelling are to be covered with clay fired brick or stone even if a portion of those faces may be perpendicular, or nearly so, to the affroning street. The portion of the front face wall to be covered shall be subject to the approval of the Architectural Control Committee in its sole and absolute discretion and shall be no less than fifty (50%) percent of the front face wall area above the foundation, not including garage door area, on one story houses and no less than twenty-five (25) percent of the front face wall area above the foundation, not including garage door area, on one and one half and two story houses.

E. Exposed portions of the foundation on the front of each dwelling are to be covered with clay-fired brick or stone even if a portion of those exposed foundations may be perpendicular, or nearly so, to the affroning street. Exposed portions of the foundation on the side of each dwelling facing the street, when said dwelling is located on a corner lot, are to be covered with clay-fired brick or stone. Exposed portions of the foundation on the sides, or rear, not facing a street of a dwelling located on a corner lot, and the exposed portion of the foundation on the sides and rear of every other dwelling shall be covered with clay-fired brick, stone, siding or shall be painted.

D. All buildings on all Lots shall comply with the set back requirements of the Zoning Code of Sarpy County, Nebraska as the same may be amended from time to time. In the event a waiver or variance of some of the zoning requirements for a Lot or Lots is granted by the appropriate authority, the Architectural Control Committee shall have the right and authority, but not the obligation, to grant in whole or in part the relaxation of requirements allowed by the waiver or variance, all in the sole and absolute discretion of the Architectural Control Committee.

C. For the purposes of these restrictions, two-story height shall, when the basement wall is exposed above finish grade, be measured from the basement ceiling on the exposed side(s) to the eve of the structure on the same side(s). Living Area means finished habitable space, measured to the exterior of the enclosing walls, and does not include porches, stoops, breezeways, courtyards, patios, decks, basements, garages or carports. The maximum height of the dwelling shall be thirty-five feet. The basement is not considered a story even if it is one hundred percent (100%) above grade on one or more sides, and essentially below grade on the other sides.

4. All houses shall, as a minimum, have attached, enclosed, side-by-side, two car garages which must contain a minimum area of 400 square feet built at approximately the main level of the house. Other or additional garages may be permitted at the discretion of the Architectural Control Committee.

98-0444C

L. The Declarant has created a water drainage plan by grading the Properties and installing improvements and easements for storm drainage in accordance with accepted engineering principles. No building shall be placed, nor

K. Public sidewalks are the responsibility of, and shall be constructed by, the then Owner of a Lot prior to the time of completion of a dwelling and before occupancy thereof. The extent of sidewalks, location, construction details, materials and grades shall be in accordance with the regulations of the City of Omaha and any revisions thereof. The maintenance of said sidewalks, after construction, shall be the responsibility of the Owners of each of the Lots.

J. No flat or mansard roof shall be permitted on any dwelling. All dwellings shall be roofed with wood shakes, wood shingles, or other roofing materials which have the approval of the Architectural Control Committee in its sole and absolute discretion.

I. No structure of a temporary character, trailer, basement, tent, shack, barn or other out building shall be erected on said Lot, or used as a residence, temporarily or permanently. No prefabricated or factory built house or residential dwelling built elsewhere shall be moved onto or assembled on any of said Lots. No pre-cut dwelling shall be assembled on any of said Lots. No full or partial subterranean dwellings or log houses shall be constructed or erected on any Lot. No dwelling shall be moved from outside of the Properties onto any of said Lots.

H. No fences may be built forward of the rear-most wall at each side (corner) of the rear of the dwelling. On Lots Adjoining Golf Course, no fence may be built within twenty-five (25') feet of a lot line which adjoins the golf course. Fences shall be constructed only of wood, decorative iron, brick or stone and are subject to the approval of the Architectural Control Committee referred to above. Wire or chain-link fences shall not be permitted. Temporary or permanent barbed wire, electrified, and/or snow fences are strictly prohibited.

4. No furnace flue may protrude more than four (4) feet from the roof of the dwelling, as measured from the top cap of the flue to the point from which the flue emerges from the roof. All furnace flues must be located on the rear side of the roof ridge within four feet of the roof ridge.

3. In the event that a non-wood-burning or direct vent fireplace is constructed as a part of the dwelling on any Lot and is vented directly through an exterior wall of the dwelling or is vented through the roof of the dwelling with a vent similar in style, size and location to that of a furnace flue, no clay fired brick or stone enclosure will be required. Provided however, if said non-wood-burning or direct vent fireplace is constructed in such a manner so as to protrude beyond the outer perimeter of a front or side wall of the dwelling on a Lot Adjoining Golf Course or beyond the outer perimeter of any wall of the dwelling on a Lot Adjoining Golf Course, the protrusion for the fireplace shall be finished with clay-fired brick or stone. Also any fireplace vent which protrudes above the roof of any dwelling shall be finished with clay-fired brick or stone unless it is on the rear slope of the roof of a dwelling on a Lot Not Adjoining Golf Course or is vented in similar style, size and location to that of a furnace flue as shown herein.

finished with, clay-fired brick or stone. If the wood-burning fireplace and/or enclosure for the wood-burning fireplace flue is constructed in such a manner so as to protrude beyond the outer perimeter of the rear of the dwelling on a Lot Not Adjoining Golf Course, the enclosure of the wood-burning fireplace and flue shall be constructed of, or finished with, the same material as is the dwelling at the point from which the wood-burning fireplace and/or the flue protrudes or shall be constructed of, or finished with, clay-fired brick or stone.

98-0444D

S. A dwelling on which construction has begun must be completed within one (1) year from the date the foundation was dug for said dwelling.

R. No noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood, including, but not limited to, odors, dust, glare, sound, lighting, smoke, vibration and radiation.

Q. Except for the purpose of controlling erosion on vacant Lots, no field crops shall be grown upon any Lot at any time.

P. All Lots shall be kept free of rubbish, debris, merchandise and building material; however, building materials may be placed on Lots when construction is started on the main residential structure intended for such Lot. In addition, vacant Lots where capital improvements have not yet been installed shall not be used for dumping of earth or any other waste materials, and shall be maintained level and smooth enough for machine mowing. No vegetation on vacant Lots where capital improvements have not yet been installed shall be allowed to reach more than a maximum height of twelve (12) inches.

O. No automobile, boat, camping trailer, van-type campers, auto-drawn trailer of any kind, mobile home, motorcycle, snowmobile or other self-propelled vehicles shall be stored or maintained outside of the garage. For purposes of the preceding provision, "stored or maintained outside of the garage" shall mean, parking the vehicle or trailer on the driveway, or any other part of the Lot, outside of the garage, for seven (7) or more consecutive days. All repair or maintenance work on automobiles, boats, camping trailers, van-type campers, auto-drawn trailers of any kind, mobile homes, motorcycles, snowmobiles or other self-propelled vehicles done on the premises must be done in the garage. The dedicated street right-of-way located between the pavement and the Lot line of any residential Lot shall not be used for the parking of any vehicle, boat, camper or trailer. Automobiles and other self-propelled vehicles parked out-of-doors within the premises above-described, or upon the streets thereof, must be in operating condition.

N. No incinerator or trashburner shall be permitted on any Lot. No garbage or trash can or container shall be permitted to remain outside of any dwelling unless completely screened from view from every street and from all other Lots in the subdivision and from the golf course. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling except while in actual use. No garage door shall be permitted to remain open except when entry to and exit from the garage are required. No clothesline shall be permitted outside of any dwelling at any time. Any exterior air conditioning condenser units or heat pump units shall be placed in the designated side or rear yard of the dwelling. Detached accessory buildings are not permitted.

M. No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any Lot. No animals, livestock, fowl or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, or other household pets maintained within the dwelling may be kept, provided that they are not kept, bred or maintained for any commercial purpose and, provided, that they are kept confined to the Lot of their owner and are not permitted to run loose outside the Lot of the Owner.

any Lot graded, to interfere with such water drainage plan nor cause damage to the building or neighboring buildings or Lots.

98-00444E

B. All telephone, cable television and electric power service lines from property line to dwelling shall be underground.

A. A perpetual license and easement is hereby reserved in favor of and granted to the U. S. West Telephone Company, the City or County franchised cable television firm and/or the Declarant, and to Omaha Public Power District, their successors, and assigns, to erect and operate, maintain, repair, and renew cables, conduits, and other instrumentalities and to extend wires for the carrying and transmission of electric current for light, heat and power and for all telephone and telegraph and message services and cable television under a 8-foot strip of land adjoining the rear boundary lines of all interior lots, a 16-foot strip of land adjoining the rear boundary lines of all exterior lots and a 5-foot strip of land adjoining all side boundary lot lines and license being granted for the use and benefit of all present and future owners of said lots; provided, however, that said lot line easement is granted upon the specific condition that if any said utility companies fail to construct wires or conduits along any of the said lot lines within 36 months of the date hereof, or if any wires or conduits are constructed but hereafter removed without replacement within 60 days after their removal, then this lot line easement shall automatically terminate and become void as to such unused or abandoned easementways. No permanent buildings shall be placed in perpetual easementway, but the same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforesaid uses or rights herein granted.

ARTICLE IV,  
EASEMENTS AND LICENSES

Y. No solar collecting panels or equipment, no wind generating power equipment shall be allowed on the lots. No television antenna, no antenna of any kind or nature, no satellite dish over 18" in diameter, shall be allowed on the lots unless completely screened from view from every street and from all other lots in the Subdivision and from the golf course in a manner approved by the Architectural Control Committee. Satellite dishes of 18" or less shall be permitted only with the approval of the Architectural Control Committee.

X. The front, side and rear yards of all lots shall be sodded, and two (2) trees, each not less than two (2) caliper inches in diameter, shall be planted in the front yard of each residence. No trees shall be planted in the dedicated street right-of-way located between the pavement and the lot line. All yards shall be sodded and the trees planted within one (1) year from the date that construction for the residence on the lot was initiated.

W. All driveways shall be constructed of concrete or brick.

V. No advertising signs or posters of any kind shall be erected or placed on any of said lots, except the residential "For Sale" and "Sold" signs, not exceeding six (6) square feet in size, shall be permitted and, provided further, that such restriction as to sign size shall not apply to signs erected by the Declarant, or his agents, in the development of Tiburon.

U. No residential dwelling shall be occupied by any person as a dwelling for such person until the construction of such dwelling has been completed, except for minor finish details as determined and approved by the Architectural Control Committee.

T. Small vegetable gardens and rock gardens shall be permitted only if maintained in the designated rear yard of any lot, behind the dwelling on said lot. Further, rock gardens must be approved by the Architectural Control Committee.

98-00444F

Date: 1-5-97

Gary L. Franks  
*[Signature]*

Owner of Lot 77:

Date: 1-7-98

BY: *[Signature]*  
SWN INVESTMENTS,  
a Nebraska partnership

Owner of Lot 286:

OTHER PROPERTY OWNERS:

Date: 1-5-98

BY: *[Signature]*  
Eric B. Waddington, President

BY: DRELLA, INC., a Nebraska  
Corporation, General Partner  
a Nebraska Limited Partnership  
TIBURON LIMITED PARTNERSHIP

DECLARANT:

IN WITNESS WHEREOF, the Declarant and Other Property Owners have caused these presents to be executed on the date(s) shown.

C. Invalidation of any one of these covenants by judgment or court order shall in no way effect any of the other provisions hereof which shall remain in full force and effect.

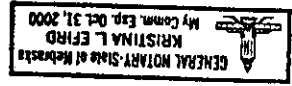
covered by this Declaration.

B. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded. This Declaration may be amended by the Declarant, or any person, firm, corporation, partnership, or entity designated in writing by the Declarant, in any manner it shall determine in its full and absolute discretion for a period of five (5) years from the date hereof. Thereafter this Declaration may be amended by an instrument signed by the Owners of not less than ninety percent (90%) of the Lots

A. The Declarant, or its assigns, or any Owner of a Lot named herein, shall have the right to enforce by proceeding at law or in equity, all restrictions, conditions, covenants, and reservations, now or hereinafter imposed by the provisions of this Declaration, either to prevent or restrain any violation of same, or to recover damages or other dues for such violation. Failure by the Declarant or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

ARTICLE V.  
GENERAL PROVISIONS

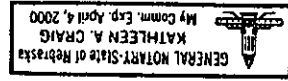
98-004496



Notary Public  
*Kristina L. Efrid*

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of January, 1998, by Gary L. Franks, a single person.

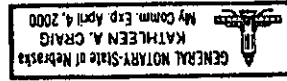
STATE OF NEBRASKA  
COUNTY OF Douglas  
)  
) ss.



Notary Public  
*Kathleen A. Craig*

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of January, 1998, by Eric B. Waddington, President of Drella, Inc., a Nebraska Corporation, General Partner of Tiburon Limited Partnership, a Nebraska limited partnership.

STATE OF NEBRASKA  
COUNTY OF Douglas  
)  
) ss.



Notary Public  
*Kathleen A. Craig*

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of January, 1998, by Eric B. Waddington, President of Drella, Inc., a Nebraska Corporation, General Partner of Tiburon Limited Partnership, a Nebraska limited partnership.

STATE OF NEBRASKA  
COUNTY OF DOUGLAS  
)  
) ss.

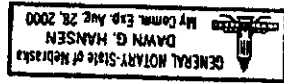
OMAHA FIREFIGHTERS CREDIT UNION,  
Trustee under a certain deed of trust  
recorded May 25, 1995 in the office of the  
Register of Deeds of Sarpy County,  
Nebraska at Instrument No. 95-07403  
BY: *Eric B. Waddington*  
*Director of Lending*

The Omaha Firefighters Credit Union, holding a first deed of Trust on Lot 77, in Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska, hereby consents to said lot being bound by the above-stated restrictive covenants.

CONSENT

48-00444 H

*Dawn G. Hansen*  
Notary Public



The foregoing instrument was acknowledged before me this 7 day of January, 1998, by SUN Investments Lee H. Supp. et al.

STATE OF NEBRASKA  
COUNTY OF General  
ss.

I 98-00444 I



E. "Lots Not Adjoining Golf Course" shall mean and refer to all Lots which have no Lot boundary line in common with any boundary line of the golf course.

D. "Lots Adjoining Golf Course" shall mean and refer to all Lots, as defined above, for which one or more of the Lot boundary lines is shared with any boundary line of the golf course.

C. "Lot" shall mean and refer to any one of Lots 16 through 66, inclusive, or Lots 194 through 216, inclusive, of Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.

B. "Properties" shall mean and refer to all such properties that are subject to the Declaration or any supplemental Declaration under the provisions hereof, which shall initially consist of Lots 16 through 66, inclusive, and Lots 194 through 216, inclusive, of Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.

A. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

**DEFINITIONS**  
**ARTICLE I.**

NOW, THEREFORE, the Declarant hereby declares that all of the lots described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of said lots. These easements, covenants, restrictions, and conditions, shall run with said real property, and shall be binding upon all parties having or acquiring any right, title or interest in the above described lots, or any part thereof, and they shall inure to the benefit of each owner thereof.

WHEREAS, the Declarant will convey said lots, subject to certain protective covenants, conditions, restrictions, reservations, liens, and charges as hereinafter set forth,

WHEREAS, all of the above-described real estate has been zoned for single family use, and

WHEREAS, Lots 16 through 66, inclusive, and Lots 194 through 216, inclusive, of Tiburon, a Subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska, and

WHEREAS, The Declarant is the Owner of the following described real property:

**WITNESSETH:**

THIS DECLARATION, made on the date hereinafter referred to as the "Declaration", Partnership, a Nebraska Limited Partnership, hereinafter referred to as the "Declarant",

*[Signature]*  
FOR TIBURON

OF COVENANTS, CONDITIONS AND RESTRICTIONS

DECLARATION

94-23087

Stamp area with handwritten numbers and lines.

D. The approval or disapproval of the Architectural Control Committee as required in these Covenants shall be in writing. Failure of the Architectural Control Committee to give either written approval or disapproval of submitted plans within thirty (30) days after receipt of all of the documents above, by mailing such written approval or disapproval to the last known address of the applicant as shown on the submitted plans, shall operate as an Architectural Control Committee approval.

2. Complete construction plans, including, but not limited to, basement and upper floor plans, floor areas of each level, wall sections, stair and fireplace sections and exterior elevations clearly indicating flues or chimneys, type and extent of siding, roofing, other faces and/or veneer materials.

1. Site plan indicating specific improvement and indicating Lot number, street address, grading, surface drainage and sidewalks.

C. Documents submitted for approval shall be clear, concise, complete, consistent and legible. All drawings shall be to scale. Samples of materials to be included in the improvement may be required of the applicant at the discretion of the Architectural Control Committee. Submittals for the approval shall be made in duplicate and the comments and actions of the Architectural Control Committee will be identically marked on both copies of said submittals. One copy will be returned to the applicant, and one copy will be retained as part of the permanent records of the Committee. Each applicant shall submit to the Architectural Control Committee the following documents, materials and/or drawings:

B. The Declarant, through its Architectural Control Committee, shall consider general appearance, exterior or colors, architectural character, harmony of the lot boundary lines, quality of construction and size and suitability for residential purposes as part of its review procedure. Only exterior colors of certain earthtone hues will be acceptable. Designs of a repetitive nature and/or within close proximity to one another will not be approved. Superficial, cosmetic or minor architectural differences in like designs will not constitute a basis for approval. The Architectural Control Committee specifically reserves the right to deny permission to construct or place any of the above-mentioned improvements which it determines will not conform to the general character, plan and outline for the development of the Properties.

A. No dwelling, fence, wall, driveway, patio, patio enclosure, deck, rock garden, swimming pool, television or radio antenna, satellite dishes, solar collecting panels or equipment, air conditioning equipment, wind-generating power equipment, or other external improvements, above or below the surface of the ground shall be built, erected, placed, altered or otherwise maintained or permitted to remain on any Lot, nor shall any grading, excavation or tree removal be commenced without express written prior approval of the Declarant through its Architectural Control Committee.

**ARTICLE II  
ARCHITECTURAL CONTROL**

F. "Declarant" shall mean and refer to TBURON LIMITED PARTNERSHIP, a Nebraska Limited Partnership, its successors and assigns.  
G. "Architectural Control Committee" shall mean the individual or committee appointed by the Declarant, its successors or assigns.

94-23087A

A. The Lot shall be used only for residential purposes, and no lot shall contain more than one (1) detached, single family unit.

B. No building shall be created, altered, placed or permitted to remain on any lot other than the one (1) detached, single family dwelling referred to above, and said dwelling shall conform to the following requirements:

1. Houses built on Lots Adjoining Golf Course shall comply with the following minimum size requirements:

a. Each one story house shall contain no less than 1,800 square feet of Living Area above the basement level and exclusive of garage area.

b. Each one and one-half or two story house shall contain no less than 2,000 square feet of total Living Area above the basement level with a minimum of 1,200 square feet on the main floor, exclusive of garage area.

2. Houses built on Lots Not Adjoining Golf Course shall comply with the following minimum size requirements:

a. Each one story house shall contain no less than 1,600 square feet of Living Area above the basement level and exclusive of garage area.

b. Each one and one-half or two story house shall contain no less than 1,800 square feet of total Living Area above the basement level with a minimum of 1,000 square feet on the main floor, exclusive of garage area.

3. Other house styles not described in 1. and 2. above will be permitted only if approved by the Architectural Control Committee and shall not be approved unless they are compatible with other homes to be built in Tiburon in the opinion of the Architectural Control Committee in its sole and absolute discretion.

4. All houses shall, as a minimum, have attached, enclosed, side-by-side, two car garages which must contain a minimum area of 400 square feet built at approximately the main level of the house. Other or additional garages may be permitted at the discretion of the Architectural Control Committee.

C. For the purposes of these restrictions, two-story height shall, when the basement wall is exposed above finish grade, be measured from the basement ceiling on the exposed side(s) to the eave of the structure on the same side(s). Living Area means finished habitable space, measured to the exterior of the enclosing walls, and does not include porches, stoops, breezeways, courtyards, patios, decks, basements, garages or carports. The maximum height of the dwelling shall be two (2) stories. The basement is not considered a story even if it is one hundred percent (100%) above grade on one or more sides, and essentially below grade on the other sides.

D. All buildings on all lots shall comply with the set back requirements of the Zoning Code of Sarpy County, Nebraska as the same may be amended from time to time. In the event a waiver or variance of some of the zoning requirements for a lot or lots is granted by the appropriate authority, the Architectural Control Committee shall have the right and authority, but not the obligation, to grant in whole or in part the relaxation of requirements allowed by the waiver or variance, all in the sole and absolute discretion of the Architectural Control Committee.

ARTICLE III.  
RESTRICTIONS FOR RESIDENTIAL UNITS

94-23087B

G. No fences may be built forward of the rear-most wall at each side (corner) of the rear of the dwelling. On Lots Adjoining Golf Course, no fence may be built within thirty-five (35) feet of a lot line which adjoins the golf course. Fences shall be constructed only of wood, decorative iron, brick or stone and are subject to the approval of the Architectural Control Committee referred to above. Wire or chain-link fences shall not be permitted. Temporary or permanent barbed wire, electrified, and/or snow fences are strictly prohibited.

4. No furnace flue may protrude more than four (4) feet from the roof of the dwelling, as measured from the top cap of the flue to the point from which the flue emerges from the roof. All furnace flues must be located on the rear side of the roof ridge within four feet of the roof ridge.

3. In the event that a non-wood-burning or direct vent fireplace is constructed as a part of the dwelling on any Lot and is vented through the roof of the dwelling with a vent similar in style, size and location to that of a furnace flue, no clay fired brick or stone enclosure will be required. Provided however, if said non-wood-burning or direct vent fireplace is constructed in such a manner so as to provide beyond the outer perimeter of a front or side wall of the dwelling on a Lot Not Adjoining Golf Course or beyond the outer perimeter of any wall of the dwelling on a Lot Adjoining Golf Course, the protrusion for the fireplace shall be finished with clay-fired brick or stone. Also any fireplace vent which protrudes above the roof of any dwelling shall be finished with clay-fired brick or stone unless it is on the rear slope of the roof of a dwelling on a Lot Not Adjoining Golf Course or is vented in similar style, size and location to that of a furnace flue as shown herein.

2. In the event that a wood-burning fireplace is constructed as a part of the dwelling in a manner so as to protrude beyond the outer perimeter of the front or side of the dwelling, or is exposed above the roof on a Lot Not adjoining Golf Course, the enclosure of the fireplace and flue shall be constructed of, or finished with, clay-fired brick or stone. If the wood-burning fireplace and/or enclosure for the wood-burning fireplace flue is constructed in such a manner so as to protrude beyond the outer perimeter of the rear of the dwelling on a Lot Not Adjoining Golf Course, the enclosure of the wood-burning fireplace and flue shall be constructed of, or finished with, the same material as is the dwelling at the point from which the wood-burning fireplace and/or the flue protrudes or shall be constructed of, or finished with, clay-fired brick or stone.

1. In the event that a wood-burning fireplace is constructed as a part of the dwelling on any Lot Adjoining Golf Course, any portion of said fireplace and/or the enclosure for the fireplace flue which protrudes from the exterior or above the roof of the dwelling shall be constructed of or finished with, clay-fired brick or stone.

F. Regarding fireplaces and flues constructed as a part of the dwelling on any Lot the following shall apply:

E. Exposed portions of the foundation on the front of each dwelling are to be covered with clay-fired brick or stone even if a portion of those exposed foundations may be perpendicular, or nearly so, to the adjoining street. Exposed portions of the foundation on the side of each dwelling facing the street, when said dwelling is located on a corner lot, are to be covered with clay-fired brick or stone. Exposed portions of the foundation on the sides, or rear, not facing a street of a dwelling located on a corner lot, and the exposed portion of the foundation on the sides and rear of every other dwelling shall be covered with clay-fired brick, stone, siding or shall be painted.

94-23087C

N. No automobile, boat, camping trailer, van-type campers, auto-drawn trailer of any kind, mobile home, motorcycle, snowmobile or other self-propelled vehicles shall be stored or maintained outside of the garage. For purposes of the preceding provision, "stored or maintained outside of the garage" shall mean, parking the vehicle or trailer on the driveway, or any other part of the Lot, outside of the garage, for seven (7) or more consecutive days. All repair or maintenance work on automobiles, boats, camping trailers, van-type campers, auto-drawn trailers of any kind, mobile homes, motorcycles, snowmobiles or other self-propelled vehicles done on the premises must be done in the garage. The dedicated street right-of-way located between the pavement and the Lot line of any residential Lot shall not be used for parking of any vehicle, boat, camper or trailer. Automobiles and other self-propelled vehicles parked out-of-doors within the premises above-described, or upon the streets thereof, must be in operating condition.

M. No incinerator or trashburner shall be permitted on any Lot. No garbage or trash can or container shall be permitted to remain outside of any dwelling unless completely screened from view from every street and from all other Lots in the subdivision and from the golf course. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain open except when entry to and exit from the garage are required. No clothesline shall be permitted outside of any dwelling at any time. Any exterior air conditioning condenser units or heat pump units shall be placed in the designated side or rear yard of the dwelling. Detached accessory buildings are not permitted.

L. No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any Lot. No animals, livestock, fowl or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats, or other household pets maintained within the dwelling may be kept, provided that they are not kept, bred or maintained for any commercial purpose and, provided, that they are kept confined to the Lot of their owner and are not permitted to run loose outside the Lot of the Owner.

K. The Declarant has created a water drainage plan by grading the Properties and installing improvements and easements for storm drainage in accordance with accepted engineering principles. No building shall be placed, nor any Lot graded, to interfere with such water drainage plan nor cause damage to the building or neighboring buildings or Lots.

J. Public sidewalks are the responsibility of, and shall be constructed by, the then Owner of a Lot prior to the time of completion of a dwelling and before occupancy thereof. The extent of sidewalks, location, construction details, materials and grades shall be in accordance with the regulations of the City of Omaha and any revisions thereof. The maintenance of said sidewalks, after construction, shall be the responsibility of the Owners of each of the Lots.

I. No flat or mansard roof shall be permitted on any dwelling. All dwellings shall be roofed with wood shakes, wood shingles, or other roofing materials which have the approval of the Architectural Control Committee in its sole and absolute discretion.

H. No structure of a temporary character, trailer, basement, tent, shack, barn or other out building shall be erected on said Lot, or used as a residence, temporarily or permanently. No prefabricated or factory built house or residential dwelling built elsewhere shall be moved onto or assembled on any of said Lots. No pre-cut dwelling shall be assembled on any of said Lots. No full or partial subterranean dwellings or log houses shall be constructed or erected on any Lot. No dwelling shall be moved from outside of the Properties onto any of said Lots.

94-23087D

A. A perpetual license and easement is hereby reserved in favor of and granted to the U. S. West Telephone Company, the City or County franchised cable television firm and/or the Declarant, and to Omaha Public Power District, their successors, and assigns, to erect and operate, maintain, repair, and renew cables, conduits, and other instrumentalities and to extend wires for the carrying and transmission of electric current for light, heat and power and for all telephone and telegraph and message services and cable television under a 8-foot strip of land adjoining the rear boundary

**EASEMENTS AND LICENSES**  
**ARTICLE IV.**

from the golf course in a manner approved by the Architectural Control Committee. screened from view from every street and from all other Lots in the Subdivision and kind or nature, no satellite dish, shall be allowed on the Lots unless completely equipment shall be allowed on the Lots. No television antenna, no antenna of any X. No solar collecting panels or equipment, no wind generating power

the Lot was initiated.  
trees planted within one (1) year from the date that construction for the residence on located between the pavement and the Lot line. All yards shall be sodded and the of each residence. No trees shall be planted in the dedicated street right-of-way each not less than two (2) caliper inches in diameter, shall be planted in the front yard W. The front, side and rear yards of all Lots shall be sodded, and two (2) trees,

V. All driveways shall be constructed of concrete or brick.

development of Tiburon.  
to sign size shall not apply to signs erected by the Declarant, or his agents, in the square feet in size, shall be permitted and, provided further, that such restriction as of said Lots, except the residential "For Sale" and "Sold" signs, not exceeding six (6) U. No advertising signs or posters of any kind shall be erected or placed on any

Committee.  
minor finish details as determined and approved by the Architectural Control such person until the construction of such dwelling has been completed, except for T. No residential dwelling shall be occupied by any person as a dwelling for

Further, rock gardens must be approved by the Architectural Control Committee.  
S. Small vegetable gardens and rock gardens shall be permitted only if maintained in the designated rear yard of any Lot, behind the dwelling on said Lot.

(1) year from the date the foundation was dug for said dwelling.  
R. A dwelling on which construction has begun must be completed within one

smoke, vibration and radiation.  
anything be done thereon which may be, or may become, an annoyance or nuisance Q. No noxious or offensive activity shall be carried on upon any Lot, nor shall

shall be grown upon any Lot at any time.  
P. Except for the purpose of controlling erosion on vacant Lots, no field crops

maximum height of twelve (12) inches.  
improvements have not yet been installed shall be allowed to reach more than a smooth enough for machine mowing. No vegetation on vacant Lots where capital dumping of earth or any other waste materials, and shall be maintained level and Lots where capital improvements have not yet been installed shall not be used for started on the main residential structure intended for such Lot. In addition, vacant material; however, building materials may be placed on Lots when construction is

O. All Lots shall be kept free of rubbish, debris, merchandise and building

94-23087E

BY:  Eric B. Waddington, President

BY: DRELLA, INC., a Nebraska Corporation, General Partner  
a Nebraska Limited Partnership  
TBURON LIMITED PARTNERSHIP

DECLARANT:

IN WITNESS WHEREOF, the Declarant has caused these presents to be executed this 27th day of October, 1994.

C. Invalidation of any one of these covenants by judgment or court order shall in no way effect any of the other provisions hereof which shall remain in full force and effect.

B. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded. This Declaration may be amended by the Declarant, or any person, firm corporation, partnership, or entity designated in writing by the Declarant, in any manner it shall determine in its full and absolute discretion for a period of five (5) years from the date hereof. Hereafter this Declaration may be amended by an instrument signed by the Owners of not less than ninety percent (90%) of the Lots covered by this Declaration.

A. The Declarant, or its assigns, or any Owner of a Lot named herein, shall have the right to enforce by proceeding at law or in equity, all restrictions, conditions, covenants, and reservations, now or hereinafter imposed by the provisions of this Declaration, either to prevent or restrain any violation of same, or to recover damages or other dues for such violation. Failure by the Declarant or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so hereafter.

ARTICLE V.  
GENERAL PROVISIONS

B. All telephone, cable television and electric power service lines from property line to dwelling shall be underground.

lines of all interior Lots, a 16-foot strip of land adjoining the rear boundary lines of all exterior Lots and a 5-foot strip of land adjoining all side boundary lot lines and license being granted for the use and benefit of all present and future owners of said Lots; provided, however, that said lot line easement is granted upon the specific condition that if any said utility companies fail to construct wires or conduits along any of the said lot lines within 36 months of the date hereof, or if any wires or conduits are constructed but hereafter removed without replacement within 60 days after their removal, then this lot line easement shall automatically terminate and become void as to such unused or abandoned easementways. No permanent buildings shall be placed in perpetual easementway, but the same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforesaid uses or rights herein granted.

94-23087 F



*Just Morsey*  
Notary Public

On this 26 day of October, 1994, before me the undersigned, a Notary Public in and for said County and State, personally came Eric B. Waddington, known to me to be the President of Drella, Inc., a Nebraska Corporation, and acknowledged that he executed as the willful act and deed of such corporation.

STATE OF NEBRASKA )  
                                  ) ss.  
COUNTY OF DOUGLAS )

94-23087G



64941



*Diane E. Wingate*  
Notary Public

WITNESS my hand and Notarial Seal this *27* day of October 2003.

Before me, the undersigned, Notary Public in and for said County and State appeared William J. Torzon, President of Cobblestone Homes, Inc., a Nebraska corporation, known to me to be the identical person who signed the above instrument and acknowledged the execution thereof to be his voluntary act and deed of said corporation.

STATE OF NEBRASKA )  
) ss. )  
COUNTY OF DOUGLAS )

By: *[Signature]*  
William J. Torzon, President  
COBBLESTONE HOMES, INC., a Nebraska corporation,

IN WITNESS WHEREOF, the undersigned has caused this instrument to be executed this *27* day of October 2003.

Lots 107 through 159, inclusive, Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.  
Cobblestone Homes, Inc., a Nebraska corporation, hereby releases, discharges and terminates that certain Declaration of Covenants, Conditions and Restrictions dated July 11, 2003, which was recorded in the office of the Sarpy County Register of Deeds on August 11, 2003, Instrument No. 2003-44764, against the following legally described real property, to-wit:

**TERMINATION OF DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

[The Space Above Line is for Recording Data]

COUNTER *[Signature]* C.E. *[Signature]*  
VERIFY D.E. *[Signature]*  
PROOF *[Signature]*  
FEES \$ *31.50*  
CHECK# \_\_\_\_\_  
CASH *100.00*  
CHG. \_\_\_\_\_  
REFUND *68.50*  
CREDIT \_\_\_\_\_  
NCR \_\_\_\_\_  
SHORT \_\_\_\_\_

FILED SARPY CO. NE.  
INSTRUMENT NUMBER *2003-64941*  
2003 NOV -4 P 12:52 PM  
*[Signature]*  
REGISTER OF DEEDS

04445

3/5/13309

MEMBER OF DEERS

1989 APR 18 AM 10:23

INDEXED  
 PAGED  
 GRANTED  
 GRANTEE  
 FILMED  
 CHECKED  
 FILED  
 20709

DATED: 4-1-89

*[Signature]*  
 DRELLA, INC., by its President,  
 General Partner of FILED SARPY CO. NE.  
 Tiburon Partnership  
 INSTRUMENT NUMBER 89-04445

This Easement shall cease to be a charge upon the real estate upon termination of such natural gas service from Peoples to Tiburon, their successors and assigns. The Easement shall include that part of the real estate reasonably necessary for Peoples to adequately construct, operate, and maintain natural gas lines to the Tiburon Golf Club and Coronado Estates subdivision.

Lots 2 through 402, inclusive, and Lots A, B, and C, in Coronado, a subdivision as surveyed, platted and recorded, in Sarpy County, Nebraska.

IN CONSIDERATION of the agreement by PEOPLES NATURAL GAS COMPANY, Division of UtiliCorp United Inc. ("Peoples"), to furnish certain natural gas service to TIBURON PARTNERSHIP, a Nebraska Limited Partnership ("Tiburon"), at the Tiburon Golf Club in Sarpy County, Nebraska, Tiburon grants to Peoples an easement and right-of-way for the purpose of the construction, operation, and maintenance of underground natural gas lines on the following described real estate:

EASEMENT

89-04445

A. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Properties.

ARTICLE I. DEFINITIONS

NOW, THEREFORE, the Declarant and the Other Property Owners hereby declare that all of the lots described above shall be held, sold, and conveyed subject to the following easements, restrictions, covenants, and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of said lots. These easements, covenants, restrictions, and conditions, shall run with said real property, and shall be binding upon all parties having or acquiring any right, title or interest in the above described lots, or any part thereof, and they shall inure to the benefit of each owner thereof.

WHEREAS, the Declarant and the Other Property Owners will convey said lots, subject to certain protective covenants, conditions, restrictions, reservations, liens, and charges as hereinafter set forth,

WHEREAS, all of the above-described real estate has been zoned for single family use, and

platted and recorded in Sarpy County, Nebraska; and  
Lots 77 and 286, in Tiburon, a subdivision, as surveyed,

WHEREAS, The Other Property Owners are the owners of the following described real property:

Lots 67 through 76, inclusive, Lots 78 through 106, inclusive, Lots 160 through 193, inclusive, and Lots 283 through 285, inclusive, and Lots 287 through 339, inclusive, of Tiburon, a Subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska, and

WHEREAS, The Declarant is the Owner of the following described real property:

WITNESSETH:

THIS DECLARATION, made on the date hereinafter set forth by Tiburon Limited Partnership, a Nebraska Limited Partnership, hereinafter referred to as the "Declarant", and by SWN Investments, a Nebraska partnership, and Gary L. Franks, a single person, hereinafter collectively referred to as the "Other Property Owners";

FOR TIBURON

OF COVENANTS, CONDITIONS AND RESTRICTIONS

DECLARATION

Countersigned by: *[Signature]*  
Notary Public for Nebraska  
Comm. Exp. 12/31/2015  
Fee: \$50  
Cash  
CK  
Charge

98-00444

FILED SARPY COUNTY  
8-000444  
JAN 7 PM 5:10  
REGISTRATION DEPT

98-00444A

including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

B. "Properties" shall mean and refer to all such lots that are subject to the Declaration or any supplemental Declaration under the provisions hereof, which shall initially consist of Lots 67 through 106, inclusive, Lots 160 through 193, inclusive, and Lots 283 through 339, inclusive, of Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.

C. "Lot" shall mean and refer to any one of Lots 67 through 106, inclusive, Lots 160 through 193, inclusive, or Lots 283 through 339, inclusive, of Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.

D. "Lots Adjoining Golf Course" shall mean and refer to all Lots, as defined above, for which one or more of the Lot boundary lines is shared with any boundary line of the golf course.

E. "Lots Not Adjoining Golf Course" shall mean and refer to all Lots which have no Lot boundary line in common with any boundary line of the golf course.

F. "Declarant" shall mean and refer to TIBURON LIMITED PARTNERSHIP, a Nebraska Limited Partnership, its successors and assigns.

G. "Other Property Owners" shall mean and refer to the current owners of Lots 77 and 286, Tiburon, namely Gary L. Franks, a single person and SWN Investments, a Nebraska partnership, respectively.

H. "Architectural Control Committee" shall mean the individual or committee appointed by the Declarant, its successors or assigns.

I. "Applicant" shall mean Owner, Contractor, or Realtor.

ARTICLE II.  
ARCHITECTURAL CONTROL

A. No dwelling, fence, wall, driveway, patio, patio enclosure, deck, rock garden, swimming pool, television or radio antenna, satellite dishes, solar collecting panels or equipment, air conditioning equipment, wind-generating power equipment, or other external improvements, above or below the surface of the ground shall be built, erected, placed, planted, altered or otherwise maintained or permitted to remain on any Lot, nor shall any grading, excavation or tree removal be commenced without express written prior approval of the Declarant through its Architectural Control Committee.

B. The Declarant, through its Architectural Control Committee, shall consider general appearance, exterior color or colors, architectural character, harmony of external design and location in relation to surroundings, topography, location within the lot boundary lines, quality of construction and size and suitability for residential purposes as part of its review procedure. Only exterior colors of certain earthtone hues will be acceptable. Designs of a repetitive nature and/or within close proximity to one another will not be approved. Superficial, cosmetic or minor architecture detail differences in like designs will not constitute a basis for approval. The Architectural Control Committee specifically reserves the right to deny permission to construct or place any of the above-mentioned improvements which it determines will not conform to the general character, plan and outline for the development of the Properties.

C. Documents submitted for approval shall be clear, concise, complete, consistent and legible. All drawings shall be to scale. Samples of materials to be included in the improvement may be required of the applicant at the discretion of

98-00444B

the Architectural Control Committee. Submittals for the approval shall be made in duplicate and the comments and actions of the Architectural Control Committee will be identically marked on both copies of said submittals. One copy will be returned to the applicant, and one copy will be retained as part of the permanent records of the Committee. Each applicant shall submit to the Architectural Control Committee the following documents, materials and/or drawings:

1. Site plan indicating specific improvement and indicating lot number, street address, and sidewalks.

2. Complete construction plans, including, but not limited to, basement and upper floor plans, floor areas of each level, wall sections, stair and fireplace sections and exterior elevations clearly indicating flues or chimneys, type and extent of siding, roofing, other faces and/or veneer materials.

D. The approval or disapproval of the Architectural Control Committee as required in these Covenants shall be in writing. Failure of the Architectural Control Committee to give either written approval or disapproval of submitted plans within thirty (30) days after receipt of all of the documents above, by mailing such written approval or disapproval to the last known address of the applicant as shown on the submitted plans, shall operate as an Architectural Control Committee approval.

ARTICLE III.  
RESTRICTIONS FOR RESIDENTIAL UNITS

A. The Lot shall be used only for residential purposes, and no Lot shall contain more than one (1) detached, single family unit.

B. No building shall be created, altered, placed or permitted to remain on any Lot other than the one (1) detached, single family dwelling referred to above, and said dwelling shall conform to the following requirements:

1. Houses built on Lots Adjoining Golf Course shall comply with the following minimum size requirements:

a. Each one story house shall contain no less than 1,800 square feet of Living Area above the basement level and exclusive of garage area.

b. Each one and one-half or two story house shall contain no less than 2,000 square feet of total Living Area above the basement level with a minimum of 1,200 square feet on the main floor, exclusive of garage area.

2. Houses built on Lots Not Adjoining Golf Course shall comply with the following minimum size requirements:

a. Each one story house shall contain no less than 1,600 square feet of Living Area above the basement level and exclusive of garage area.

b. Each one and one-half or two story house shall contain no less than 1,800 square feet of total Living Area above the basement level with a minimum of 1,000 square feet on the main floor, exclusive of garage area.

3. Other house styles not described in 1. and 2. above will be permitted only if approved by the Architectural Control Committee and shall not be approved unless they are compatible with other homes to be built in Tiburon in the opinion of the Architectural Control Committee in its sole and absolute discretion.

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4. All houses shall, as a minimum, have attached, enclosed, side-by-side, two car garages which must contain a minimum area of 400 square feet built at approximately the main level of the house. Other or additional garages may be permitted at the discretion of the Architectural Control Committee.

C. For the purposes of these restrictions, two-story height shall, when the basement wall is exposed above finish grade, be measured from the basement ceiling on the exposed side(s) to the eave of the structure on the same side(s). Living Area means finished habitable space, measured to the exterior of the enclosing walls, and does not include porches, stoops, breezeways, courtyards, patios, decks, basements, garages or carports. The maximum height of the dwelling shall be thirty-five feet. The basement is not considered a story even if it is one hundred percent (100%) above grade on one or more sides, and essentially below grade on the other sides.

D. All buildings on all lots shall comply with the set back requirements of the Zoning Code of Sarpy County, Nebraska as the same may be amended from time to time. In the event a waiver or variance of some of the zoning requirements for a lot or lots is granted by the appropriate authority, the Architectural Control Committee shall have the right and authority, but not the obligation, to grant in whole or in part the relaxation of requirements allowed by the waiver or variance, all in the sole and absolute discretion of the Architectural Control Committee.

E. Exposed portions of the foundation on the front of each dwelling are to be covered with clay-fired brick or stone even if a portion of those exposed foundations may be perpendicular, or nearly so, to the affronting street. Exposed portions of the foundation on the side of each dwelling facing the street, when said dwelling is located on a corner lot, are to be covered with clay-fired brick or stone. Exposed portions of the foundation on the sides, or rear, not facing a street of a dwelling located on a corner lot, and the exposed portion of the foundation on the sides and rear of every other dwelling shall be covered with clay-fired brick, stone, siding or shall be painted.

F. Portions of the front face wall or walls of each dwelling are to be covered with clay fired brick or stone even if a portion of those faces may be perpendicular, or nearly so, to the affronting street. The portion of the front face wall to be covered shall be subject to the approval of the Architectural Control Committee in its sole and absolute discretion and shall be no less than fifty (50%) percent of the front face wall area above the foundation, not including garage door area, on one story houses and no less than twenty-five (25) percent of the front face wall area above the foundation, not including garage door area, on one and one half and two story houses.

G. Regarding fireplaces and flues constructed as a part of the dwelling on any lot the following shall apply:

1. In the event that a wood-burning fireplace is constructed as a part and/or the enclosure for the fireplace flue which protrudes from the exterior or above the roof of the dwelling shall be constructed of or finished with, clay-fired brick or stone.

2. In the event that a wood-burning fireplace is constructed as a part of the dwelling in a manner so as to protrude beyond the outer perimeter of the front or side of the dwelling, or is exposed above the roof on a lot Not adjoining Golf Course, the enclosure of the fireplace and flue shall be constructed of, or

L. The Declarant has created a water drainage plan by grading the Properties and installing improvements and easements for storm drainage in accordance with accepted engineering principles. No building shall be placed, nor

K. Public sidewalks are the responsibility of, and shall be constructed by, the then Owner of a Lot prior to the time of completion of a dwelling and before occupancy thereof. The extent of sidewalks, location, construction details, materials and grades shall be in accordance with the regulations of the City of Omaha and any revisions thereof. The maintenance of said sidewalks, after construction, shall be the responsibility of the Owners of each of the Lots.

J. No flat or mansard roof shall be permitted on any dwelling. All dwellings shall be roofed with wood shakes, wood shingles, or other roofing materials which have the approval of the Architectural Control Committee in its sole and absolute discretion.

I. No structure of a temporary character, trailer, basement, tent, shack, barn or other out building shall be erected on said Lot, or used as a residence, temporarily or permanently. No prefabricated or factory built house or residential dwelling built elsewhere shall be moved onto or assembled on any of said Lots. No pre-cut dwelling shall be assembled on any of said Lots. No full or partial subterranean dwellings or log houses shall be constructed or erected on any Lot. No dwelling shall be moved from outside of the Properties onto any of said Lots.

H. No fences may be built forward of the rear-most wall at each side (corner) of the rear of the dwelling. On Lots Adjoining Golf Course, no fence may be built within twenty-five (25') feet of a lot line which adjoins the golf course. Fences shall be constructed only of wood, decorative iron, brick or stone and are subject to the approval of the Architectural Control Committee referred to above. Wire or chain-link fences shall not be permitted. Temporary or permanent barbed wire, electrified, and/or snow fences are strictly prohibited.

4. No furnace flue may protrude more than four (4) feet from the roof of the dwelling, as measured from the top cap of the flue to the point from which the flue emerges from the roof. All furnace flues must be located on the rear side of the roof ridge within four feet of the roof ridge.

3. In the event that a non-wood-burning or direct vent fireplace is constructed as a part of the dwelling on any Lot and is vented directly through an exterior wall of the dwelling or is vented through the roof of the dwelling with a vent similar in style, size and location to that of a furnace flue, no clay fired brick or stone enclosure will be required. Provided however, if said non-wood-burning or direct vent fireplace is constructed in such a manner so as to protrude beyond the outer perimeter of a front or side wall of the dwelling on a Lot Adjoining Golf Course or beyond the outer perimeter of any wall of the dwelling on a Lot Adjoining Golf Course, the protrusion for the fireplace shall be finished with clay-fired brick or stone. Also any fireplace vent which protrudes above the roof of any dwelling shall be finished with clay-fired brick or stone unless it is on the rear slope of the roof of a dwelling on a Lot Not Adjoining Golf Course or is vented in similar style, size and location to that of a furnace flue as shown herein.

finished with, clay-fired brick or stone. If the wood-burning fireplace and/or enclosure for the wood-burning fireplace flue is constructed in such a manner so as to protrude beyond the outer perimeter of the rear of the dwelling on a Lot Not Adjoining Golf Course, the enclosure of the wood-burning fireplace and flue shall be constructed of, or finished with, the same material as is the dwelling at the point from which the wood-burning fireplace and/or the flue protrudes or shall be constructed of, or finished with, clay-fired brick or stone.

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any lot graded, to interfere with such water drainage plan nor cause damage to the building or neighboring buildings or lots.

M. No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any lot. No animals, livestock, fowl or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats, or other household pets maintained within the dwelling may be kept, provided that they are not kept, bred or maintained for any commercial purpose and, provided, that they are kept confined to the lot of their owner and are not permitted to run loose outside the lot of the Owner.

N. No incinerator or trashburner shall be permitted on any lot. No garbage or trash can or container shall be permitted to remain outside of any dwelling unless completely screened from view from every street and from all other lots in the subdivision and from the golf course. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling except while in actual use. No garage door shall be permitted to remain open except when entry to and exit from the garage are required. No clothesline shall be permitted outside of any dwelling at any time. Any exterior air conditioning condenser units or heat pump units shall be placed in the designated side or rear yard of the dwelling. Detached accessory buildings are not permitted.

O. No automobile, boat, camping trailer, van-type campers, auto-drawn trailer of any kind, mobile home, motorcycle, snowmobile or other trailer of any kind, mobile home, motorcycle, snowmobile or other self-propelled vehicles shall be stored or maintained outside of the garage. For purposes of the preceding provision, "stored or maintained outside of the garage" shall mean, parking the vehicle or trailer on the driveway, or any other part of the lot, outside of the garage, for seven (7) or more consecutive days. All repair or maintenance work on automobiles, boats, camping trailers, van-type campers, auto-drawn trailers of any kind, mobile homes, motorcycles, snowmobiles or other self-propelled vehicles done on the premises must be done in the garage. The dedicated street right-of-way located between the pavement and the lot line of any residential lot shall not be used for the parking of any vehicle, boat, camper or trailer. Automobiles and other self-propelled vehicles parked out-of-doors within the premises above-described, or upon the streets thereof, must be in operating condition.

P. All lots shall be kept free of rubbish, debris, merchandise and building material; however, building materials may be placed on lots when construction is started on the main residential structure intended for such lot. In addition, vacant lots where capital improvements have not yet been installed shall not be used for dumping of earth or any other waste materials, and shall be maintained level and smooth enough for machine mowing. No vegetation on vacant lots where capital improvements have not yet been installed shall be allowed to reach more than a maximum height of twelve (12) inches.

Q. Except for the purpose of controlling erosion on vacant lots, no field crops shall be grown upon any lot at any time.

R. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be, or may become, an annoyance or nuisance to the neighborhood, including, but not limited to, odors, dust, glare, sound, lighting, smoke, vibration and radiation.

S. A dwelling on which construction has begun must be completed within one (1) year from the date the foundation was dug for said dwelling.

98-00444E



98-00444F

T. Small vegetable gardens and rock gardens shall be permitted only if maintained in the designated rear yard of any lot, behind the dwelling on said lot. Further, rock gardens must be approved by the Architectural Control Committee.

U. No residential dwelling shall be occupied by any person as a dwelling for such person until the construction of such dwelling has been completed, except for minor finish details as determined and approved by the Architectural Control Committee.

V. No advertising signs or posters of any kind shall be erected or placed on any of said lots, except the residential "For Sale" and "Sold" signs, not exceeding six (6) square feet in size, shall be permitted and, provided further, that such restriction as to sign size shall not apply to signs erected by the Declarant, or his agents, in the development of Tiburon.

W. All driveways shall be constructed of concrete or brick.

X. The front, side and rear yards of all lots shall be sodded, and two (2) trees, each not less than two (2) caliper inches in diameter, shall be planted in the front yard of each residence. No trees shall be planted in the dedicated street right-of-way located between the pavement and the lot line. All yards shall be sodded and the trees planted within one (1) year from the date that construction for the residence on the lot was initiated.

Y. No solar collecting panels or equipment, no wind generating power equipment shall be allowed on the lots. No television antenna, no antenna of any kind or nature, no satellite dish over 18" in diameter, shall be allowed on the lots unless completely screened from view from every street and from all other lots in the subdivision and from the golf course in a manner approved by the Architectural Control Committee. Satellite dishes of 18" or less shall be permitted only with the approval of the Architectural Control Committee.

ARTICLE IV.  
EASEMENTS AND LICENSES

A. A perpetual license and easement is hereby reserved in favor of and granted to the U. S. West Telephone Company, the City or County franchised cable television firm and/or the Declarant, and to Omaha Public Power District, their successors, and assigns, to erect and operate, maintain, repair, and renew cables, conduits, and other instrumentalities and to extend wires for the carrying and transmission of electric current for light, heat and power and for all telephone and telegraph and message services and cable television under a 8-foot strip of land adjoining the rear boundary lines of all interior lots, a 16-foot strip of land adjoining the rear boundary lines of all exterior lots and a 5-foot strip of land adjoining all side boundary lot lines and license being granted for the use and benefit of all present and future owners of said lots; provided, however, that said lot line easement is granted upon the specific condition that if any said utility companies fail to construct wires or conduits along any of the said lot lines within 36 months of the date hereof, or if any wires or conduits are constructed but hereafter removed without replacement within 60 days after their removal, then this lot line easement shall automatically terminate and become void as to such unused or abandoned easements. No permanent buildings shall be placed in perpetual easementway, but the same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforesaid uses or rights herein granted.

B. All telephone, cable television and electric power service lines from property line to dwelling shall be underground.

98-004446

ARTICLE V.  
GENERAL PROVISIONS

A. The Declarant, or its assigns, or any Owner of a Lot named herein, shall have the right to enforce by proceeding at law or in equity, all restrictions, conditions, covenants, and reservations, now or hereinafter imposed by the provisions of this Declaration, either to prevent or restrain any violation of same, or to recover damages or other dues for such violation. Failure by the Declarant or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

B. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty-five (25) years from the date this Declaration is recorded. This Declaration may be amended by the Declarant, or any person, firm, corporation, partnership, or entity designated in writing by the Declarant, in any manner it shall determine in its full and absolute discretion for a period of five (5) years from the date hereof. Thereafter this Declaration may be amended by an instrument signed by the Owners of not less than ninety percent (90%) of the Lots covered by this Declaration.

C. Invalidation of any one of these covenants by judgment or court order shall in no way effect any of the other provisions hereof which shall remain in full force and effect.

IN WITNESS WHEREOF, the Declarant and Other Property Owners have caused these presents to be executed on the date(s) shown.

DECLARANT:

TIBURON LIMITED PARTNERSHIP  
a Nebraska Limited Partnership

BY: DRELLA, INC., a Nebraska  
Corporation, General Partner

BY: Eric B. Waddington, President

Date: 1-5-98

OTHER PROPERTY OWNERS:

Owner of Lot 286:

SWN INVESTMENTS,  
a Nebraska partnership

BY: *[Signature]*

Date: 1-7-98

Owner of Lot 77:

Gary L. Franks

*[Signature]*

Date: 1-5-97

48-00444 H

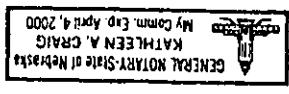
CONSENT

The Omaha Firefighters Credit Union, holding a first deed of Trust on Lot 77, in Tiburon, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska, hereby consents to said lot being bound by the above-stated restrictive covenants.

OMAHA FIREFIGHTERS CREDIT UNION,  
Trustee under a certain deed of trust  
recorded May 25, 1995 in the office of the  
Register of Deeds of Sarpy County,  
Nebraska at Instrument No. 95-07403  
BY: [Signature]  
Director of Lending

STATE OF NEBRASKA  
COUNTY OF DOUGLAS  
) ss.  
)

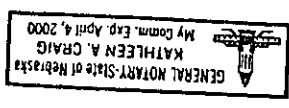
The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of January, 1998, by Eric B. Waddington, President of Drella, Inc., a Nebraska Corporation, General Partner of Tiburon Limited Partnership, a Nebraska limited partnership.



Kathleen A. Craig  
Notary Public

STATE OF NEBRASKA  
COUNTY OF Douglas  
) ss.  
)

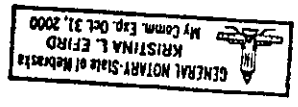
The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of January, 1998, by [Signature] Director of Lending



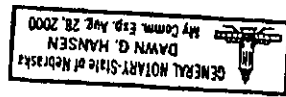
Kathleen A. Craig  
Notary Public

STATE OF NEBRASKA  
COUNTY OF Douglas  
) ss.  
)

The foregoing instrument was acknowledged before me this 5<sup>th</sup> day of January, 1998, by Gary L. Franks, a single person.



Kristina L. Efrid  
Notary Public



*Dawn G. Hansen*  
Notary Public

The foregoing instrument was acknowledged before me this 7 day of January, 1998, by SUN Investments Lee H. Stapp GP

STATE OF NEBRASKA  
COUNTY OF General  
ss.

98-00444 I



89-0445

EASEMENT

IN CONSIDERATION of the agreement by PEOPLES NATURAL GAS COMPANY,

Division of UtiliCorp United Inc. ("Peoples"), to furnish certain natural

gas service to TIBURON PARTNERSHIP, a Nebraska Limited Partnership

("Tiburon"), at the Tiburon Golf Club in Sarpy County, Nebraska, Tiburon

grants to Peoples an easement and right-of-way for the purpose of the

construction, operation, and maintenance of underground natural gas

lines on the following described real estate:

Lot 2 through 502, Nebraska, and Lots A, B, and C of the Coronado, a subdivision located, platted and recorded, in Sarpy County, Nebraska.

This Easement shall cease to be a charge upon the real estate upon

termination of such natural gas service from Peoples to Tiburon, their

successors and assigns.

The Easement shall include that part of the real estate reasonably

necessary for Peoples to adequately construct, operate, and maintain

natural gas lines to the Tiburon Golf Club and Coronado Estates

subdivision.

DRELLA, INC., by its President,  
General Partner of TIBURON PARTNERSHIP,  
Tiburon Partnership  
INSTRUMENT NUMBER 89-0445

1989 APR 18 AM 10:23

OFFICE OF REESES

0445

INDEXED  
FILED  
SEARCHED  
SERIALIZED  
APR 18 1989  
207

3/5J13309

DATED: 4-1-89

92-26711

October 13, 1992

MINUTES OF MEETING  
BOARD OF COUNTY COMMISSIONERS OF SARPY COUNTY, NEBRASKA

A meeting of the Board of County Commissioners of Sarpy County, Nebraska was convened in open and public session at 9:00 a.m. on October 13, 1992 at the Courthouse in Papillion, Nebraska. Present: Dick Gregg, Drew Miller, Edward F. Gilbert, Ronald Woodie, Bob Woolman, Board Administrator Mark Wayne and Debra J. Houghaling, County Clerk.  
Notice of the meeting was given in advance by publication in the Papillion Times on October 8, 1992 a copy of the Proof of Publication is on file in the County Clerk's office. Notice of the meeting was simultaneously given to all members of the Board of County Commissioners of Sarpy County, Nebraska. Availability of the agenda was communicated in the published notice and in the notice to members of the Board of County Commissioners of Sarpy County, Nebraska. All proceedings were taken while the convened meeting was open to the attendance of the public.

Commissioners' comments were recorded.

Gregg moved, seconded by Miller, to approve the minutes of the October 6, 1992 meeting as submitted. Ayes: Gregg, Miller, Gilbert, Woodie & Woolman. Nays: None.

Woodie moved, seconded by Gilbert, to approve the claims as submitted by Debra J. Houghaling, County Clerk, and authorize the County Clerk to issue warrants for said claims. A complete listing of claims is on file in the office of the County Clerk. Ayes: Gregg, Miller, Gilbert, Woodie & Woolman. Nays: None.

Gilbert moved, seconded by Woodie, to approve the Interlocal Cooperation Agreement with Sanitary and Improvement District No. 158 for the improvement of 168th Street, a distance of approximately 0.27 mile extending north from Station 39 + 25, the existing end point of asphalt, to 168th & Cornhusker Road, thence west approximately one (1) mile along Cornhusker Road to the intersection of 180th Street, with the stipulation that the agreement meet the specifications as set out by Tom Lynam, Surveyor, and approval by the County Attorney. Ayes: Gregg, Miller, Gilbert, Woodie & Woolman. Nays: None.

Gilbert moved, seconded by Gregg, to approve the change of name of Coronado Subdivision and the change of the street names located in the Coronado Subdivision. Ayes: Gregg, Miller, Gilbert, Woodie & Woolman. Nays: None.

Woodie moved, seconded by Gilbert, to approve the request by the City of Bellevue to allow free use of the Sarpy County Landfill for Bellevue's Fall Cleanup Days, October 17 & 18, 1992, with hauling dates to the landfill of October 19 through October 23, 1992.

Miller moved, seconded by Gregg, to amend the previous motion as follows: Beginning in 1993, any city requesting free use of the Sarpy County Landfill for community clean-up will be required to pay the surtax levied by the Nebraska Department of Environmental Control pursuant to LB1257. Ayes: Gregg, Miller & Woolman. Nays: Woodie & Gilbert.

Chairman Woolman called for a vote on Commissioner Woodie's motion as amended. Ayes: Gregg, Miller, Gilbert, Woodie & Woolman. Nays: None.

Miller moved, seconded by Gregg, to approve the Special Designated Permit Application of Millard South Baseball, Inc., date of event: November 13, 1992, 7:00 p.m. to 12:30 a.m., at Millard Social Hall and notify Nebraska Liquor Control Commission of board approval. Ayes: Gregg, Miller, Gilbert, Woodie & Woolman. Nays: None.

|         |        |
|---------|--------|
| Proof   | _____  |
| D.E.    | _____  |
| Verify  | _____  |
| Filed   | _____  |
| Checked | _____  |
| Fee \$  | 821.00 |

REGISTERED OFFERS  
92-26711  
57 DEC -2 4:13:26

026711

133

LIBURON  
CORPORATION

Plat and Dedication  
Filed 8-14-87, in Book 5 at Page 98, Instrument No. \_\_\_\_\_  
\* Grants a perpetual easement in favor of  
\* Omaha Public Power District,  
\* U.S. West Communications  
\* Northwestern Bell Telephone Company  
and any cable company granted a cable television franchise system,  
and/or

for utility, installation and maintenance  
on, over, through, under and across  
or  
a 5 foot wide strip of land abutting the front and the side boundary lines of all lots;  
an 8 foot wide strip of land abutting the rear boundary line of all interior lots;  
and a 8 foot wide strip of land abutting the rear boundary line of all exterior lots.  
Does it include the following?? Yes or No (Circle One)  
Also grants an easement to Metropolitan Utilities District  
for utility, installation and maintenance on, through, under and across a \_\_\_\_\_ foot wide strip of land  
abutting all cul-de-sac streets.  
Any additional info,

\*\*\*\*\*  
\* Declaration of Covenants, Conditions, Restrictions and Easements,  
\* Restrictive Covenants  
\* Protective Covenants  
or

Filed 1-7-98, in Book 98 at Page 444, Instrument No. \_\_\_\_\_  
\* Omaha Public Power District,  
\* U.S. West Communications  
\* Northwestern Bell Telephone Company  
and any cable company granted a cable television franchise system,  
and/or

for utility, installation and maintenance  
on, over, through, under and across  
or  
a 5 foot wide strip of land abutting the front and the side boundary lines of all lots;  
an 16 foot wide strip of land abutting the rear boundary line of all interior lots;  
and a 16 foot wide strip of land abutting the rear boundary line of all exterior lots.  
Does it include the following?? Yes or No (Circle One)  
Also grants an easement to Metropolitan Utilities District  
for utility, installation and maintenance on, through, under and across a \_\_\_\_\_ foot wide strip of land  
abutting all cul-de-sac streets.  
Does it include the following?? Homeowners Association Yes or No (Circle One)  
Does it include the following?? Possible Telephone Connection Charge Yes or No (Circle One)  
Any additional info.

Easement Right of Way 1<sup>st</sup>, 2<sup>nd</sup> 3<sup>rd</sup> or \_\_\_\_\_ Amendment to \_\_\_\_\_  
Filed \_\_\_\_\_, Book \_\_\_\_\_ at Page \_\_\_\_\_, Instrument No. \_\_\_\_\_  
Dated \_\_\_\_\_



Tiburron

Plat and Dedication  
Filed 8-14-97, in Book 5 at Page 98, Instrument No.

- Grants a perpetual easement in favor of
- Omaha Public Power District,
- U.S. West Communications
- Northwestern Bell Telephone Company
- and any cable company granted a cable television franchise system,

for utility, installation and maintenance  
on, over, through, under and across  
or

a 5 foot wide strip of land abutting the front and the side boundary lines of all lots;  
an 8 foot wide strip of land abutting the rear boundary line of all interior lots;  
and a 16 foot wide strip of land abutting the rear boundary line of all exterior lots.  
Does it include the following? Yes or No (Circle One)  
Also grants an easement to Metropolitan Utilities District  
for utility, installation and maintenance on, through, under and across a  
foot wide strip of land  
abutting all cut-de-sac streets.  
Any additional info,

\*\*\*\*\*

Declaration of Covenants, Conditions, Restrictions and Easements, 2003-44764  
Restrictive Covenants  
Protective Covenants  
or  
 Omaha Public Power District,  
 U.S. West Communications  
and any cable company granted a cable television franchise system,  
and/or

for utility, installation and maintenance  
on, over, through, under and across  
or  
a 5 foot wide strip of land abutting the front and the side boundary lines of all lots;  
an 8 foot wide strip of land abutting the rear boundary line of all interior lots;  
and a foot wide strip of land abutting the rear boundary line of all exterior lots.  
Does it include the following? Yes or No (Circle One)  
Also grants an easement to Metropolitan Utilities District  
for utility, installation and maintenance on, through, under and across a  
foot wide strip of land  
abutting all cut-de-sac streets.  
Does it include the following? Homeowners Association Yes or No. (Circle One)  
Does it include the following?? Possible Telephone Connection Charge Yes or No (Circle One)

Any additional info.  
The Deal created a water drainage plan by grading the  
Property + Installing Improvement + Care for Storm drainage

Easement Right of Way 12, 2nd 3rd or  
Amendment to  
at Page  
Book  
Filed  
Instrument No.

Deal 03-64942 filed 11-4-03 same document as above

Deal 2003-64941 Heleaving 03-44764 filed 11-4-03

L. BURTON

Plat and Dedication  
Filed 8-14-73, in Book 5 at Page 98 Instrument No.

Grants a perpetual easement in favor of  
X Omaha Public Power District,  
X U.S. West Communications  
X Northwestern Bell Telephone Company  
and any cable company granted a cable television franchise system,  
and/or

for utility, installation and maintenance  
X on, over, through, under and across

or

5  
a 5 foot wide strip of land ~~abutting the front~~ and the side boundary lines of all lots;  
and a 10 foot wide strip of land ~~abutting the rear~~ boundary line of all interior lots;  
Does it include the following? Yes or No (Circle One)  
Also grants an easement to Metropolitan Utilities District  
installation and maintenance on, through, under and across a \_\_\_\_\_ foot wide strip of land  
abutting all cul-de-sac streets.  
Any additional info,

X Declaration of Covenants, Conditions, Restrictions and Easements,  
Restrictive Covenants  
Protective Covenants  
or

Filed 1-5-72 in Book 93 at Page 01002, Instrument No.  
X Omaha Public Power District,  
X U.S. West Communications  
X Northwestern Bell Telephone Company  
X and any cable company granted a cable television franchise system,  
and/or

for utility, installation and maintenance  
on, over, through, under and across

or

9  
a 8 foot wide strip of land ~~abutting the front~~ and the side boundary lines of all lots;  
and a 10 foot wide strip of land ~~abutting the rear~~ boundary line of all interior lots;  
Does it include the following? Yes or No (Circle One)  
Also grants an easement to Metropolitan Utilities District  
installation and maintenance on, through, under and across a \_\_\_\_\_ foot wide strip of land  
abutting all cul-de-sac streets.  
Does it include the following? Possible Telephone Connection Charge Yes or No (Circle One)  
Does it include the following?  
Any additional info.

Easement Right of Way 1<sup>st</sup>, 2<sup>nd</sup> 3<sup>rd</sup> or \_\_\_\_\_ Amendment to \_\_\_\_\_  
Dated \_\_\_\_\_ Filed \_\_\_\_\_ Book \_\_\_\_\_ at Page \_\_\_\_\_ Instrument No. \_\_\_\_\_

Easement 89-4445 filed 4-18-89 Copy

98-0321 filed 1-6-98 Agreement - Copy

Tiburon

Plat and Dedication  
Filed 8-14-73, in Book 5 at Page 98  
Instrument No. \_\_\_\_\_

Grants a perpetual easement in favor of  
X Omaha Public Power District,  
U.S. West Communications  
X Northwestern Bell Telephone Company  
and any cable company granted a cable television franchise system,  
and for

for utility, installation and maintenance  
on, over, through, under and across

or

5 foot wide strip of land abutting the rear and the side boundary lines of all lots;  
an 8 foot wide strip of land abutting the rear boundary line of all interior lots;  
and a 16 foot wide strip of land abutting the rear boundary line of all exterior lots.  
Does it include the following?  
X Yes or No (Circle One) NO  
Also grants an easement to Metropolitan Utilities District  
installation and maintenance on, through, under and across a \_\_\_\_\_  
foot wide strip of land  
abutting all cul-de-sac streets.  
Any additional info,

\*\*\*\*\*  
X Declaration of Covenants, Conditions, Restrictions and Easements,  
Restrictive Covenants  
Protective Covenants  
or

Filed 1-7-98 in Book 98 at Page 00444, Instrument No. \_\_\_\_\_  
X Omaha Public Power District,  
X U.S. West Communications  
X Northwestern Bell Telephone Company  
and any cable company granted a cable television franchise system,  
and for

for utility, installation and maintenance  
on, over, through, under and across

or

5 foot wide strip of land abutting the rear and the side boundary lines of all lots;  
an 8 foot wide strip of land abutting the rear boundary line of all interior lots;  
and a 16 foot wide strip of land abutting the rear boundary line of all exterior lots.  
Does it include the following?  
X Yes or No (Circle One)  
Also grants an easement to Metropolitan Utilities District  
installation and maintenance on, through, under and across a \_\_\_\_\_  
foot wide strip of land  
abutting all cul-de-sac streets.  
Does it include the following?  
X Yes or No (Circle One)  
Does it include the following?  
Possible Telephone Connection Charge Yes or No (Circle One)  
Any additional info,

Easement Right of Way 1st, 2nd 3rd or  
Amendment to \_\_\_\_\_  
Book \_\_\_\_\_ at Page \_\_\_\_\_  
Instrument No. \_\_\_\_\_

98-00321 Reord 1-6-98 Agreement  
copy attached