

BOOK 564 PAGE 389

DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by Black & Elliott Development Company, hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the owner of certain property in the County of Douglas, State of Nebraska, which is more particularly described as:

All of Lots 1 through 44, inclusive, of Escalante Hills Replat II, a replat of Lot 67, Escalante Hills, a subdivision, in Douglas County, Nebraska.

All of Lots 1 through 23, inclusive, of Escalante Hills subdivision, a subdivision in Douglas County, Nebraska.

All of Lots 1 through 50, inclusive, 55 through 86, inclusive, 111 through 120, inclusive, and 127 through 158, inclusive, of Escalante Hills Replat, a subdivision in Douglas County, Nebraska, and

WHEREAS, Sanitary and Improvement District No. 235 of Douglas County, Nebraska, hereinafter referred to as "SID" is the owner of certain property, hereinafter referred to herein as the "Common Area" and which property is located in Douglas County, Nebraska, and is legally described as follows, to-wit:

That part of Lot 159, of Escalante Hills Replat, a subdivision as surveyed, platted and recorded, lying within the following described boundary, to-wit:

Beginning at the point of intersection of the Southerly right-of-way line of Grande Avenue and the Easterly right-of-way line of 112th Street; thence Southeasterly, along said Southerly right-of-way line of Grande Avenue, on a curve to the left with a radius of 224.27 feet a distance of 44.43 feet, said curve having a long chord which bears S61°34'07"E (assumed bearing) a distance of 44.35 feet; thence S67°15'00"E, along said Southerly right-of-way line of Grande Avenue, a distance of 90.00 feet; thence Southeasterly, along said Southerly right-of-way line of Grande Avenue, on a curve to the right with a radius of 335.00 feet a distance of 137.62 feet; thence S43°42'48"E, along said Southerly

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a distance of 157.35 feet, said curve having a long chord which bears S56°48'35"E a distance of 156.25 feet; thence S44°56'25"W, a distance of 253.64 feet; thence S17°42'13"E a distance of 268.06 feet; thence S64°54'37"W a distance of 502.61 feet; thence S05°00'53"W a distance of 115.00 feet to a point on the Northeasterly right-of-way line of Larimore Avenue; thence Northerly, along said Northeasterly right-of-way line of Larimore Avenue, on a curve to the right with a radius of 323.91 feet a distance of 481.59 feet, said curve having a long chord which bears N42°23'27"W a distance of 438.44 feet to a point on said Easterly right-of-way line of 112th Street; thence along said Easterly right-of-way line of 112th Street on the following described courses; thence N00°12'10"E a distance of 611.79 feet; thence Northeasterly on a curve to the right with a radius of 239.37 feet a distance of 168.35 feet; thence N40°30'00"E a distance of 175.09 feet to the Point of Beginning.

and

That part of Lot 62 of Escalante Hills, a subdivision in Douglas County, Nebraska, as surveyed, platted and recorded, which is legally described as follows:

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Beginning at the Southwesterly corner of said Lot 9, Escalante Hills; thence N67°14'54"E (assumed bearing), along the Southerly line of said Lot 9, Escalante Hills, a distance of 164.63 feet to a point on the Westerly right-of-way line of 112th Street, said point also being the Southeasterly corner of said Lot 9, Escalante Hills; thence Southeasterly, along said westerly right-of-way line of 112th Street, on a curve to the left with a radius of 373.91 feet a distance of 46.47 feet, said curve having a long chord which bears S26°18'36"E a distance of 46.41 feet, to the Northwesterly corner of said Lot 10, Escalante Hills; thence S60°07'54"W, along the Westerly line of said Lot 10, Escalante Hills, a distance of 80.94 feet to the Southwesterly corner of said Lot 10, Escalante Hills; thence S12°35'01"W, along the Westerly line of said Lots 11 and 12, Escalante Hills; a distance of 134.20 feet to the Southwesterly corner of said Lot 12, Escalante Hills; thence S00°06'05"E, along the West line of said Lots 13 thru 16, Escalante Hills, a distance of 282.50 feet to the Southwest corner of said Lot 17, Escalante Hills; thence N89°53'55"E, along the South line of said Lots 17 and 18, Escalante Hills, a distance of 240.00 feet to the Southeast corner of said Lot 18, Escalante Hills; thence N00°06'05"W, along the East line of said Lots 19 thru 22, Escalante Hills, a distance of 282.50 feet to the Northeast corner of said Lot 22, Escalante Hills; thence N27°13'15"E, along the Easterly line of said Lot 23, Escalante Hills, a distance of 27.64 feet to a point on the Southerly right-of-way line of Larimore Avenue, said point also being the Northeasterly corner of said Lot 23,

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of Lot 62, Escalante Hills, a distance of 321.35 feet to a point on the West line of said East 1/2 of the NE 1/4 of Section 5, said point also being the Southwest corner of said Lot 62, Escalante Hills; thence N00°12'10"E, along said West line of the East 1/2 of the NE 1/4 of Section 5, a distance of 506.90 feet to the Point of Beginning.

and

Lot 66 of Escalante Hills, a subdivision in Douglas County, Nebraska, as surveyed, platted and recorded.

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and

Lot 160, Escalante Hills Replat, a subdivision in Douglas County, Nebraska, as surveyed, platted and recorded, and

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WHEREAS, all of said Common Area owned by SID, as aforesaid was dedicated for park purposes for the exclusive use and enjoyment of the residents of SID for so long as they shall maintain said area, and

WHEREAS, Declarant is desirous of establishing an association of homeowners for the purpose of maintaining said Common Area and is desirous of establishing certain protective covenants to enhance the desirability of said area for residential purposes.

NOW, THEREFORE, Declarant and SID 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 hereof, their heirs, successors and assigns and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

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

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

Section 4. "Common Area" shall mean all real property owned by Sanitary and Improvement District No. 235 of Douglas County, Nebraska, for the exclusive common use and enjoyment of the owners for so long as said owners shall maintain said common area, and which common area is legally described as set forth in the second preamble hereto.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to Black & Elliott Development Company, its successors and assigns if such successors or assigns should acquire more than one undeveloped lot from the Declarant for the purpose of development.

## ARTICLE II

### PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the Common Area;

(b) the right of the Association to suspend the voting rights and right to use of the recreational facilities

(c) the owners shall continue to maintain said Common Area as open green area, and shall plant and maintain in good condition grass, trees and shrubbery within said area as shall be determined by the Association and SID.

Section 2. Delegation of Use. Any owner may delegate in accordance with the By-Laws, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

### ARTICLE III

#### MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment.

Section 2. The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners with the exception of the Declarant and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owner within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) monthly assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The monthly and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area, and of the homes situated upon the Properties.

Section 3. Maximum Monthly Assessment. Until January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum monthly assessment shall be Seven and 50/100ths Dollars (\$7.50) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum monthly assessment may be increased each

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the maximum monthly assessment may be increased above five per cent (5%) by a vote of two-thirds (2/3) of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose.

(c) The Board of Directors may fix the monthly assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements.

In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for any Action Authorized under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 shall be sent to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty per cent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting.

Section 6. Uniform Rate of Assessment. Both monthly and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Monthly Assessments:  
Due Dates. The monthly assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the deed from Developer. The Board of Directors shall fix the amount of the monthly assessment against each Lot at least thirty (30) days in advance of each assessment period. Written notice of the monthly assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the association setting forth whether the assessments on a specified Lot have been paid.

Section 8. Effect of Nonpayment of Assessment: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of six per cent (6%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the property. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior



## ARTICLE V

## ARCHITECTURAL CONTROL

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 of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated 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.

## ARTICLE VI

## GENERAL PROVISIONS

Section 1. Enforcement. The Association, 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 Association or 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. Invalidity of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions

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 per cent (90%) of the Lot Owners, and thereafter by an instrument signed by not less than seventy-five per cent (75%) of the Lot Owners. Any amendment must be recorded.

Section 4. Annexation. Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of each class of members.

Section 5. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional properties, dedication of Common Area, and amendment of this Declaration of Covenants, Conditions and Restrictions.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 6<sup>th</sup> day of May, 1976.

BLACK & ELLIOTT DEVELOPMENT COMPANY,

By Leon F. Black PARTNER  
Don W. Elliott PARTNER

STATE OF NEBRASKA )  
                          ) ss.  
COUNTY OF DOUGLAS )

On this 6<sup>th</sup> day of May, 1976, before me, a Notary Public in and for said County and State, personally appeared Leon F. Black, Partner of Black & Elliott Development Company, and Don W. Elliott, Partner of Black & Elliott Development Company, who are personally known to me to be the identical persons who subscribed the foregoing Declaration of Covenants, Conditions and Restrictions and acknowledged the execution thereof to be their voluntary act and deed and the

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WITNESS my hand and Notarial Seal at Omaha in said County,  
this 6<sup>th</sup> day of May, 1976.



Mark D. Laughlin  
Notary Public

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Mead

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MAY - 11 1976  
COUNTY CLERK  
DOUGLAS COUNTY, NEBR.

Book 564 of Mead  
Page 589  
C. Harold Oster

Register of Deeds  
Deputy  
83-587  
79-586  
80-888  
P/25  
93/ETC

BOOK 627 PAGE 110

SUPPLEMENTARY DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS

WHEREAS, Black & Elliot Development Company, as the Declarant, placed of record certain Covenants, Conditions and Restrictions on certain property in the County of Douglas, State of Nebraska, which is more particularly described as follows:

All of Lots 1 through 44, inclusive, of Escalante Hills Replat II, a replat of Lot 67, Escalante Hills, a subdivision, in Douglas County, Nebraska.

All of Lots 1 through 23, inclusive, of Escalante Hills subdivision, a subdivision in Douglas County, Nebraska.

All of Lots 1 through 50, inclusive, 55 through 86, inclusive, 111 through 120, inclusive, and 127 through 158, inclusive, of Escalante Hills Replat, a subdivision in Douglas County, Nebraska, and

WHEREAS, the said above-referred to Covenants, Conditions and Restrictions established an association of homeowners for the purpose of maintaining the "Common Area" owned by Sanitary and Improvement District No. 235 of Douglas County, Nebraska, which is legally described as follows, to wit:

That part of Lot 159, of Escalante Hills Replat, a subdivision as surveyed, platted and recorded, lying within the following described boundary, to-wit:

Beginning at the point of intersection of the Southerly right-of-way line of Grande Avenue and the Easterly right-of-way line of 112th Street; thence Southeasterly, along said Southerly right-of-way line of Grande Avenue, on a curve to the left with a radius of 224.27 feet a distance of 44.43 feet, said curve having a long chord which bears S61°34'07"E (assumed bearing) a distance of 44.35 feet; thence S67°15'00"E, along said Southerly right-of-way line of Grande Avenue, a distance of 90.00 feet; thence Southeasterly, along said Southerly right-of-way line of Grande Avenue, on a curve to the right with a radius of 335.00 feet a distance of 137.62 feet; thence S43°42'48"E, along said Southerly right-of-way line of Grande Avenue, a distance of 105.00 feet; thence Southeasterly, along said Southerly right-of-way line of Grande

Avenue on a curve to the right with a radius of 383.65 feet, a distance of 157.35 feet, said curve having a long chord which bears S56°48'35"E a distance of 156.25 feet; thence S44°56'25"W, a distance of 253.64 feet; thence S17°42'13"E a distance of 268.06 feet; thence S64°54'37"W a distance of 502.61 feet; thence S05°00'53"W a distance of 115.00 feet to a point on the North-easterly right-of-way line of Larimore Avenue; thence Northerly, along said Northeasterly right-of-way line of Larimore Avenue, on a curve to the right with a radius of 323.91 feet a distance of 481.59 feet, said curve having a long chord which bears N42°23'27"W a distance of 438.44 feet to a point on said Easterly right-of-way line of 112th Street; thence along said Easterly right-of-way line of 112th Street on the following described courses; thence N00°12'10"E a distance of 611.79 feet; thence Northeasterly on a curve to the right with a radius of 239.37 feet a distance of 168.35 feet; thence N40°30'00"E a distance of 175.09 feet to the Point of Beginning.

and

That part of Lot 62 of Escalante Hills, a subdivision in Douglas County, Nebraska, as surveyed, platted and recorded, which is legally described as follows:

Beginning at the Southwesterly corner of said Lot 9, Escalante Hills; thence N67°14'54"E (assumed bearing), along the Southerly line of said Lot 9, Escalante Hills, a distance of 164.63 feet to a point on the Westerly right-of-way line of 112th Street, said point also being the Southeasterly corner of said Lot 9, Escalante Hills; thence Southeasterly, along said westerly right-of-way line of 112th Street, on a curve to the left with a radius of 373.91 feet a distance of 46.47 feet, said curve having a long chord which bears S26°18'36"E a distance of 46.41 feet, to the Northwesterly corner of said Lot 10, Escalante Hills; thence S60°07'54"W, along the Westerly line of said Lot 10, Escalante Hills, a distance of 80.94 feet to the Southwesterly corner of said Lot 10, Escalante Hills; thence S12°35'01"W, along the Westerly line of said Lots 11 and 12, Escalante Hills; a distance of 134.20 feet to the Southwesterly corner of said Lot 12, Escalante Hills; thence S00°06'05"E, along the West line of said Lots 13 thru 16, Escalante Hills, a distance of 282.50 feet to the Southwest corner of said Lot 17, Escalante Hills; thence N89°53'55"E, along the South line of said Lots 17 and 18, Escalante Hills, a distance of 240.00 feet to the Southeast corner of said Lot 18, Escalante Hills; thence N00°06'05"W, along the East line of said Lots 19 thru 22, Escalante Hills, a distance of 282.50 feet to the Northeast corner of said

chord which bears S63°53'44"E a distance of 14.57 feet; thence S24°59'17"W a distance of 46.71 feet; thence S00°06'05"E a distance of 333.31 feet, to a point on the South line of said Lot 62, Escalante Hills; thence S89°53'55"W, along said South line of Lot 62, Escalante Hills, a distance of 321.35 feet to a point on the West line of said East 1/2 of the NE 1/4 of Section 5, said point also being the Southwest corner of said Lot 62, Escalante Hills; thence N00°12'10"E, along said West line of the East 1/2 of the NE 1/4 of Section 5, a distance of 506.90 feet to the Point of Beginning.

and

Lot 66 of Escalante Hills, a subdivision in Douglas County, Nebraska, as surveyed, platted and recorded.

and

Lot 160, Escalante Hills Replat, a subdivision in Douglas County, Nebraska, as surveyed, platted and recorded, and

WHEREAS, the said above-referred to Covenants, Conditions and Restrictions were recorded in Book 564 at Page 589, of the Miscellaneous Records of Douglas County, Nebraska, said Covenants, Conditions and Restrictions hereinafter referred to as "Covenants," and

WHEREAS, this Declarant, Nebraska Service Corporation, a Nebraska Corporation, is the successor and assign of Black and Elliot Development Company, and is the owner of the above-described lots, exclusive of the "Common Area," and

WHEREAS, Article V of the Covenants, provided as follows:

#### "ARTICLE V

#### ARCHITECTURAL CONTROL

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

designated 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."

WHEREAS, the undersigned, Nebraska Service Corporation, a Nebraska Corporation, this Declarant, now desires to supplement the said Covenants, pursuant to Article VI, section 3, by deleting Article V as hereinabove set forth and substituting in its place new Architectural Control standards on said lots in order to enhance the desirability of said lots for residential purposes.

NOW THEREFORE, this Declarant, Nebraska Service Corporation, a Nebraska Corporation, does hereby supplement said Covenants with respect to the above-described lots and recorded in Book 564 at Page 589 of the Miscellaneous Records of Douglas County, Nebraska, by deleting Article V Architectural Control of the Covenants as hereinabove set forth, and in its place substituting therefore the following:

#### ARTICLE V

##### ARCHITECTURAL CONTROL

Section 1. The Escalante Architectural Control Committee shall consist of three (3) or more persons designated by the Declarant, or designated by the Declarant's successors and assigns. Upon the resignation, for any reason, of one of the committee members, the remaining members shall promptly appoint a replacement. Until such appointment has been made, the remaining members shall exercise the committee's authority. The members of the committee need not be residents of Escalante Hills Replat II, Escalante Hills, or Escalante Hills Replat.

Section 2. In no event will any construction begin or

grading and placement of structures on the lot. No sign or billboard or fence of any kind or size shall be erected, placed or permitted to remain on any lot until the Escalante Architectural Control Committee has given its written approval therefor. The Declarant specifically reserves the right to deny permission to construct any type of structure or improvement which it determines will not conform to the general character plan and scheme for development of the subdivision. The approval or disapproval of the Escalante Architectural Control Committee as required in these covenants shall be in writing. Written approval or disapproval must be signed by a majority of the Committee members and mailed or delivered to the applicant's last known address. In case of disapproval, the Committee shall include a statement of the reasons for disapproval and shall indicate in a general way, the kind of plans and specifications which the Committee will approve for the subject property. Failure of Declarant to give either written approval or disapproval of a submitted plan within thirty (30) days after submission of said plan by mailing such written approval or disapproval to the last known address of applicant for approval as shown on the submitted plan shall operate to release such plans and specifications from the provisions of this Article V, Section 2.

Section 3. The following building restrictions shall apply to the above-described lots in ESCALANTE HILLS REPLAT II, ESCALANTE HILLS AND ESCALANTE HILLS REPLAT:

a) The following building restrictions apply to the above-described lots in ESCALANTE HILLS and ESCALANTE HILLS REPLAT. Where lots are improved with single-family dwellings, the following minimums shall be required for finished living areas exclusive



plan); 1800 square feet above basement level for a two-story house; 1600 square feet throughout the house for a tri-level house, and the foundation walls (including that of the garage) must enclose an inside ground area of not less than 1300 square feet; 1500 square feet above the foundation level for a bi-level, raised ranch or split-entry. In addition, each single-family dwelling shall contain at least 1 3/4 baths, as measured by current industry standards as to what constitutes a bath or fraction thereof and each single-family dwelling shall provide enclosed garage space for at least two cars (attached or basement garages being permitted, except that basement garages shall not be permitted in two-story houses). No dwelling unit shall exceed two stories in height.

b) The following building restrictions apply to the above-described lots in ESCALANTE HILLS REPLAT II. Where lots are improved with single-family dwellings, the following minimums shall be required for finished living areas exclusive of open porches, breezeways and garages: 1300 square feet on the ground floor for a one-story house or one-and-one-half story house if an attached garage plan (1400 square feet being required if a basement garage plan); 1700 square feet above basement level for a two-story house; 1500 square feet throughout the house for a tri-level house, and the foundation walls (including that of the garage) must enclose an inside ground area of not less than 1300 square feet; 1400 square feet above the foundation level for a bi-level, raised ranch or split-entry.

or basement garages being permitted, except that basement garages shall not be permitted in two-story houses). No dwelling unit shall exceed two stories in height.

c) No building shall be located on any lot nearer to the front lot line, side lot line, or rear lot line than that permitted by the applicable zoning ordinances of the City of Omaha, as amended or as modified by the Board of Appeals; PROVIDED, HOWEVER, that in no event shall any building be located nearer than 25 feet from the front lot line, nor shall any building be closer than 5 feet from the side lot lines. For the purposes of this covenant, eaves, steps, and open porches shall not be considered as a part of a building; provided, however, that this shall not be construed to permit any portion of a building on a lot to encroach upon another lot.

d) The Escalante Architectural Control Committee may make exceptions to the above providing it is in harmony with the total plan.

Section 4. Said lots shall be used only for single-family residential purposes or for public park, nonprofit recreational, church or school purposes. No buildings shall be erected, altered, placed, or permitted to remain on any lot other than one detached single-family dwelling and a private garage, or any building used for the above purposes.

Section 5. No noxious or offensive trade or activity shall be carried on upon any lot nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. No animals, livestock or poultry

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Section 6. No trailer, basement, tent, shack, garage, barn or other outbuilding erected on said real estate shall at any time be used as a residence temporarily or permanently, nor shall any structure of a temporary character be used as a residence. No residence built in any other subdivision or area shall be permitted to be moved onto any of the above-described lots.

Section 7. All front exposed foundations of each dwelling shall be brick, and side and rear exposed foundations shall be painted in colors to harmonize with the exterior of the home. In lieu thereof, foundations may also be finished with stucco provided the same shall harmonize with the architectural design of the building and provided same is approved by the Escalante Architectural Control Committee.

Section 8. No outbuilding or attached structure appurtenant to a residence may be erected on any of the building sites hereby restricted without the consent in writing of the Escalante Architectural Control Committee.

Section 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 building 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 revisions thereof.

Section 10. Contemporaneously with the completion of the improvements on the premises each lot shall be sodded in all locations not improved by buildings or paving. Within one year from date of completion or date of occupancy a minimum of five (5) deciduous trees shall be planted upon the lot, two of which trees shall be implanted in the front yard of the lot and additionally,

Vacant lots shall be mowed at such time or times as may be necessary to keep weeds and other vegetation under twelve (12) inches in height. No outside radio, television or other electronic antenna or aerial shall be erected on any building lot without the written consent of the Escalante Architectural Control Committee. All garbage or trash cans outside of dwellings shall be screened from view so as to be not visible from surrounding lots or streets.

Section 12. Automobiles and other self-propelled vehicles parked out-of-doors must be in operating condition or else said vehicles may be towed away at the expense of the owners upon the request or act of any landowner in the addition. All automobiles must be parked either indoors or on hard-surfaced slabs or driveways if parked out-of-doors. Repair work on automobiles is not permitted outdoors. All boats, campers and trailers must be parked or stored indoors so as to not be visible from surrounding lots or streets. The dedicated street right-of-way located between the pavement and the lot line of any residentially-zoned lot shall not be used for the parking of any vehicle, boat, camper or trailer. No fence shall be erected or permitted to remain in front of the minimum building set back line applicable thereto. No clotheslines or clothes hangers may be constructed or used unless completely concealed within enclosed patio areas.

Section 13. Every owner shall have a right in easement of enjoyment in and to the "Common Area" which means all real property owned by the Sanitary and Improvement District No. 235 of Douglas County, Nebraska, or its successors-in-interest, for the common use and enjoyment of the owners. This right in easement shall be pertinent to and shall pass with the title to every lot. Any owner may delegate his right of enjoyment to the common area and facilities to the members of his family, guest or tenants:

Section 14. A perpetual license and easement is reserved in favor of and granted to Omaha Public Power District and Northwestern Bell Telephone Company, SID District 235, Metropolitan Utilities District of Omaha, their successors and assigns, to erect and operate, maintain repair, replace and renew buried or underground utility service lines for utility service to the above-noted lots over, under, through and upon a five-foot strip of land adjoining the rear and a five-foot strip of land adjoining the side boundary lines of said lots; said easement shall not necessarily refer to the platted or replatted side boundary lot line, but shall refer to the side boundary lot lines as ultimately conveyed; and said license being granted for the use and benefit of all present and future owners of said lots.

Section 15. The Escalante Architectural Control Committee may make exceptions to any of the above provisions provided it is in harmony with the total plan.

Except as herein supplemented, all provisions of said Covenants, Conditions and Restrictions for the above-described real property, including Common Area, shall remain in full force and effect.

IN WITNESS WHEREOF, NEBRASKA SERVICE CORPORATION, a Nebraska Corporation, being the owner of all said real estate, (except Common Area) has executed these covenants this 7 day of November, 1979.

NEBRASKA SERVICE CORPORATION

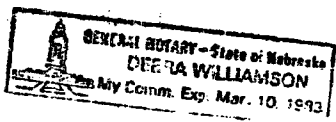
By: Charles J. Leise  
Charles J. Leise, Vice President

STATE OF NEBRASKA )  
                          ) SS.  
COUNTY OF DODGE )

BOOK 627 PAGE 120

On the day and year last above written, before me, the undersigned a Notary Public in and for said County, personally came Charles J. Leise, to me personally known to be the Vice President of NEBRASKA SERVICE CORPORATION, a Nebraska Corporation, and the identical person whose name is affixed to the above Protective Covenants, and acknowledged the execution thereof to be his voluntary act and deed as such officer and the voluntary act and deed of said corporation, and that the corporate seal of the said corporation was thereto affixed by its authority.

WITNESS my hand and Notarial Seal at Lincoln, Ne. in said County, the day and year last above written.



Debra Williamson  
Notary Public

14 April

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SECOND SUPPLEMENTARY DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS

WHEREAS, the assignor of this Declarant, Black and Elliot Development Company, placed of record certain Covenants, Conditions and Restrictions on certain property in the County of Douglas, State of Nebraska, which is more particularly described in Exhibit "A", attached hereto and incorporated herein by reference and recorded in Book 564 at Page 589 of the Miscellaneous Records of Douglas County, Nebraska,

WHEREAS, this Declarant, Nebraska Service Corporation, a Nebraska corporation, the successor and assign of Black and Elliot Development Company, placed of record certain Supplementary Declaration of Covenants, Conditions and Restrictions on the property described in Exhibit "A" and recorded in Book 627 at Page 110 of the Miscellaneous Records of Douglas County, Nebraska,

WHEREAS, this Declarant is the owner of more than 90 percent of the Lots that are more particularly described on Exhibit "A",

WHEREAS, this Declarant is owner of the real property described as follows:

Lots Eighty-Seven (87) to One Hundred (100), inclusive, Escalante Hills Replat, a subdivision in Douglas County, Nebraska

WHEREAS, this Declarant, in order to preserve and promote a uniform residential development and to enhance the value and desirability of all of said Lots described on Exhibit "A" is desirous of annexing and including Lots Eighty-Seven (87) to One Hundred (100), inclusive, Escalante Hills, in and to said Covenants and subjecting the said premises to all the terms and conditions of said Covenants and Supplements thereto pursuant to Article III of the

Improvement District No. 235 of Douglas County, Nebraska, and maintained by the Association for common use and enjoyment of all property owners within said District.

NOW, THEREFORE, in consideration of the foregoing preamble, the undersigned declare that the following property shall be annexed as set forth and further that the following easements, restrictions, covenants and conditions as herein expressed shall apply in amendment of, for addition to and in clarification of the easements, restrictions, covenants and conditions contained in the Declarations and supplemental Declarations to the extent, and only to the extent that the same are inconsistent therewith:

1. This Declarant, Nebraska Service Corporation, a Nebraska Corporation, does hereby annex, pursuant to Article VI of the aforesaid Covenants and Supplements thereto, the following real property, to-wit:

Lots Eighty-Seven (87) to One Hundred (100),  
inclusive, Escalante Hills Replat, a sub-  
division in Douglas County, Nebraska

and said real property shall be subject to all terms and conditions of said Covenants and Supplements thereto.

2. It is agreed that Escalante Hills Homeowner's Association II, Inc., its successors and assigns shall be solely responsible for the maintenance of that part of Lot Sixty-Two (62) and all of Lot Sixty-Six (66), Escalante Hills, a subdivision in Douglas County, Nebraska, said lots being more particularly described on Exhibit "B", attached hereto and incorporated herein by reference and all of Lot 160 and that part of Lot 159, Escalante Hills Replat, a subdivision in Douglas County, Nebraska, said lots being more particularly described in Exhibit "C", attached hereto and incorporated herein by reference.

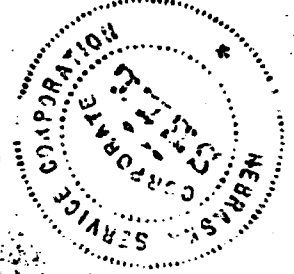
Except as herein supplemented, all provisions of said



IN WITNESS WHEREOF, Nebraska Service Corporation, a Nebraska corporation, has executed these Second Supplementary Covenants this 2 day of May, 1980.

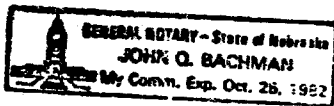
NEBRASKA SERVICE CORPORATION,  
A Nebraska Corporation

By: Charles J. Leise  
CHARLES J. LEISE  
Vice-President



STATE OF NEBRASKA     )  
                                  ) SS  
COUNTY OF DOUGLAS    )

The foregoing instrument was acknowledged before me this 12th day of May, 1980, by Charles J. Leise, Vice-President of Nebraska Service Corporation, a Nebraska corporation, on behalf of the corporation.



John O. Bachman  
Notary Public

EXHIBIT "A"

All of Lots 1 through 44, inclusive, of Escalante Hills Replat II, a replat of Lot 67, Escalante Hills, a subdivision, in Douglas County, Nebraska, ←

All of Lots 1 through 23, inclusive, a part of Lot 62 and Lot 66, of Escalante Hills subdivision, a subdivision in Douglas County, Nebraska, and ←

All of Lots 1 through 50, inclusive, 55 through 86, inclusive, 111 through 120, inclusive, and 127 through 158, inclusive, a part of Lot 159 and Lot 160 of Escalante Hills Replat, a subdivision in Douglas County, Nebraska.

## EXHIBIT "B"

A Part of Lot 62  
Escalante Hills

A part of Lot 62, Escalante Hills, a subdivision located in part of the East 1/2 of the NE-1/4 of Section 5, Township 15 North, Range 12 East of the 6th P.M., Douglas County, Nebraska, lying within the following described boundary;

Beginning at the Southwest corner of said Escalante Hills; thence  $N00^{\circ}12'10''E$  (assumed bearing) along the West line of said Escalante Hills, a distance of 506.90 feet to the Southwest corner of Lot 9, Escalante Hills; thence  $N67^{\circ}14'54''E$  along the Southerly line of said Lot 9 Escalante Hills, a distance of 164.63 feet to a point on the Westerly right-of-way line of 112th Street; thence Southeasterly along said Westerly right-of-way line of 112th Street on a curve to the left with a radius of 373.91 feet, a distance of 46.48 feet, said curve having a long chord which bears  $S26^{\circ}17'40''E$  a distance of 46.45 feet to the Northerly corner of Lot 10, Escalante Hills; thence  $S60^{\circ}07'54''W$  along the Northerly line of said Lot 10, Escalante Hills, a distance of 80.94 feet to the Westerly corner of said Lot 10 Escalante Hills, said point also being the Northerly corner of Lot 11, Escalante Hills; thence  $S12^{\circ}35'01''W$  along the Westerly line of said Lot 11, Escalante Hills and the Westerly line of Lot 12 Escalante Hills, a distance of 134.20 feet to the Southwest corner of said Lot 12 Escalante Hills, said point also being the Northwest corner of Lot 13, Escalante hills; thence  $S00^{\circ}06'05''E$  along the West line of Lots 13 thru 16 inclusive, Escalante Hills, a distance of 282.50 feet to the Southwest corner of said Lot 16, Escalante Hills; thence  $S89^{\circ}53'55''W$  along the South line of Lots 17 and 18, Escalante Hills, a distance of 240.00 feet to the Southeast corner of said Lot 18, Escalante Hills, thence  $S00^{\circ}06'05''E$  a distance of 75.00 feet to a point on the South line of said Escalante Hills; thence  $S89^{\circ}52'55''W$  along said South line of Escalante Hills, a distance of 315.40 feet to the Point of Beginning.

Lot 66  
Escalante Hills

Lot 66, Escalante Hills, a subdivision in Douglas County, Nebraska

PGOR

EXHIBIT "C"

Lot 160  
Escalante Hills Replat

Lot 160, Escalante Hills Replat, a subdivision  
in Douglas County, Nebraska

A Part of Lot 159  
Escalante Hills Replat

All of Lot 159, Escalante Hills Replat, a subdivision  
located in part of the East 1/2 of the NE-1/4 of Sec-  
tion 5, Township 15 North, Range 12 East of the 6th  
P.M., Douglas County, Nebraska, except that portion  
lying within the following described boundary:

Beginning at the point of intersection of the Southerly  
right-of-way line of Grande Avenue and the westerly  
right-of-way line of 109th Street; thence along said  
Westerly right-of-way line of 109th Street on the follow-  
ing described courses; thence Southwesterly on a curve  
to the left with a radius of 105.67 feet, a distance  
of 82.53 feet; said curve having a long chord which  
bears S22°33'47"W (assumed bearing), a distance of  
80.46 feet; thence S00°11'25"W a distance of 220.80  
feet; thence Southwesterly on a curve to the right with  
a radius of 322.37 feet, a distance of 154.73 feet,  
said curve having a long chord which bears S13°56'24"W  
a distance of 153.24 feet; thence S27°41'25"W a dis-  
tance of 128.91 feet to the point of intersection of  
said Westerly right-of-way line of 109th Street and the  
Northerly right-of-way line of Larimore Avenue; thence  
N62°18'35"W along said Northerly right-of-way line of  
Larimore Avenue, a distance of 18.00 feet; thence con-  
tinuing along said Northerly right-of-way line of  
Larimore Avenue. Northwestery, on a curve to the left  
with a radius of 202.65 feet, a distance of 92.11 feet,  
said curve having a long chord which bears N75°20'02"W, a  
distance of 91.32 feet to the Southeast corner of Lot  
100, Escalante Hills Replat; thence N17°39'47"W along the  
Easterly line of said Lot 100, Escalante Hills Replat,  
a distance of 108.40 feet to the Northeasterly corner  
of said Lot 100 Escalante Hills Replat; thence  
N19°06'31"E, a distance of 130.05 feet to the Southeast  
corner of Lot 111, Escalante Hills Replat; thence  
N30°57'50"W along the Easterly line said Lot 111  
Escalante Hills Replat, a distance of 97.00 feet to the  
Northeasterly corner of said Lot 111, Escalante Hills  
Replat; thence N15°09'34"E, a distance of 36.07 feet  
to the Southeasterly corner of Lot 120, Escalante Hills  
Replat; thence N30°57'50"W along the Easterly line of  
said Lot 120 Escalante Hills Replat, and the Northerly  
extension thereof, a distance of 115.82 feet; thence  
N29° 2'10"E a distance of 279.54 feet to a point on  
said Southerly right-of-way line of Grande Avenue; thence  
Southeasterly along said Southerly right-of-way line  
of Grande Avenue, on a curve to the right with a radius  
of 383.65 feet, a distance of 117.72 feet. Said curve  
having a long chord which bears S53°51'01"E a distance  
of 117.26 feet; thence S45°03'35"E along said Southerly  
right-of-way line of Grande Avenue, a distance of 130.00  
feet to the Point of Beginning.

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