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DECLARATION
 OF COVENANTS, CONDITIONS, RESTRICTIONS, AND EASEMENTS
 FOR REGENCY PARK VISTA
 LOTS 1 THROUGH 14

THIS DECLARATION, made on the date hereinafter set forth by DAN WITT BUILDERS, INC., a Nebraska corporation, hereinafter referred to as "Declarant":

WITNESSETH:

WHEREAS, Declarant is the owner of the following described real property:
 See Attached Exhibit "A" and made a part hereof and
 further to be known as:

Lots 1 through 14, Regency Park Vista, an addition to the City of Omaha, as surveyed, platted and recorded in Douglas County, Nebraska.

WHEREAS, the Declarant desires to create on the hereinabove described real property a residential community with private streets, improvements, and other common facilities for the benefit of the said community;

WHEREAS, Declarant desires to provide for the preservation of the value and amenities in said community and for the maintenance of said private streets, improvements, recreational areas, if any, and other common facilities, together with limited maintenance of private yards and certain private improvements; and to this end, desires to subject the properties to the covenants, restrictions, easements, charges and liens, hereinafter set forth, each and all of which is and are for the benefit of said property and each owner thereof;

WHEREAS, Declarant has deemed it desirable, for the efficient preservation of the values and amenities in said community, to create an agency to which should be delegated and assigned the powers of maintaining and administering and enforcing the covenants and restrictions and collecting and disbursing the assessments and charges hereinafter created;

WHEREAS, Declarant has incorporated the Regency Park Vista Homeowners Association under the laws of the State of Nebraska as a non-profit corporation, the purpose of which shall be to exercise the functions aforesaid; and

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

NOW, THEREFORE, 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 the real property and shall be binding upon all parties having or acquiring any right, title or interest in the described properties or any part thereof, and shall inure to the benefit of each Owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Committee" shall mean the Architectural Control Committee appointed by the Board of Directors of the Regency Park Vista Homeowners Association, a Nebraska non-profit corporation, its successors and assigns.

Section 2. "Association" shall mean and refer to the Regency Park Vista Homeowners Association, a Nebraska non-profit Corporation, its successors, and assigns.

Section 3. "Common Properties" shall mean and refer to those areas of land designated as "Outlot A" on Exhibit "A" attached hereto and by this reference incorporated herein, and any additional areas of land declared to be Common Properties in any Supplemental Declaration filed by Declarant pursuant to Article II of the Declaration. All Common Properties shall be devoted to the exclusive common use and enjoyment of the Owners of the properties.

Section 4. "Declarant" shall mean and refer to Dan Witt Builders, Inc., its successors and assigns.

Section 5. "Living Unit" shall mean and refer to any building situated upon the properties designated and intended for the use and occupancy as a residence by a single family.

Section 6. "Lot" shall mean and refer to any parcel of land, whether all or a portion of any platted lot shown upon any recorded map or plat of the properties, upon which a Living Unit shall be built, or is proposed to be built, with the exception of the "Common Properties," as heretofore defined. The Lots subject to this Declaration are shown and described on Exhibit "A" attached hereto and by this reference incorporated herein. Any Supplemental Declaration hereinafter filed shall similarly reflect those Lots thereunder subject to this Declaration, or otherwise legally describe the real property to become subject to the Declaration.

Section 7. "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 8. "Mortgagee" shall mean the holder or beneficiary of any mortgage, deed of trust or other security interest on or to any Lot or any improvements or fixtures thereon.

Section 9. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to all or any part, parcel or portion of a platted Lot which is a part of the properties, but excluding those having such interest merely as security for the performance of an obligation.

Section 10. The "Properties" shall mean and refer to all such properties as are subject to the Declaration or any Supplemental Declaration under the provisions of Article II hereof, which shall initially consist of Lots 1 through 14 inclusive, in Regency Park Vista, an Addition to the City of Omaha, as surveyed, platted and recorded in Douglas County, Nebraska. Lot 15, Regency Park Vista is not included in or subject to this Declaration.

Section 11. "Supplemental Declaration" shall mean and refer to any written instrument filed under the provisions of Article II hereof which shall subject additional real estate to this Declaration.

Section 12. "Tree" shall mean and refer to any specie of tree larger than one (1) inch diameter at chest height.

ARTICLE II

PROPERTY SUBJECT TO DECLARATION

The Properties shall be held, transferred, sold, conveyed and occupied subject hereto. The Association shall have the right at any time subsequent to the filing of this Declaration, to add, annex and subject additional contiguous land in Douglas County, Nebraska, to this Declaration by filing in the Office of the Register of Deeds of Douglas County, a written instrument duly executed and acknowledged by the Association, to the effect that such additional land is being subjected hereto. The annexation of additional land to be subject hereto shall require written instruments signed by not less than five-sevenths (5/7) of the membership in the Association. Any real property thereby subjected to this Declaration shall, after said filing, be subject hereto and the owners thereof shall be subject to all the same duties, liabilities and rights hereunder as though said additional property had been originally a part of the real estate described in Article I hereof on the date of the filing of this Declaration.

ARTICLE III

PROPERTY RIGHTS IN THE COMMON PROPERTY

Section 1. Owner's Easements of Enjoyment. Every Owner and/or Member of the Association, shall have a right and easement of enjoyment in and to the Common Properties 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 suspend the voting rights and rights to the use of the Common Properties by an Owner for any period during which any assessment against his Lot remains unpaid and for a period not to exceed sixty (60) days for any infraction of its published rules and regulations.
- (b) the right of the Association to dedicate or transfer all or any part of the Common Properties, subject to any then existing ingress and egress requirements in connection therewith, to any public agency, non-profit corporation (to use for purposes similar to those for which the Association was formed), authority or utility for such purposes and subject to such conditions as may be agreed to by the Owners and/or Members of the Association and by persons holding mortgages on any portion of the subject property. No such dedication or transfer shall be effective unless an instrument signed by Owners entitled to cast not less than five-sevenths (5/7) of the votes has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every Owner not less than thirty (30) days or more than sixty (60) days in advance. Declarant, or its assigns, shall have the right at any time to use so much of the Common Properties as it may deem necessary or advisable for the purpose of aiding in the construction and development of the unimproved lots, except that such use may not unreasonably interfere with the Owner's use and reasonable access to the Common Properties, nor with their right of ingress or egress to their homes. This shall not be construed as limiting the right of the Association, without a vote of the Owners, to grant reasonable and necessary water, telephone, cable, sewer and utility easements within the Common Properties to serve or enhance service to the Properties by the same.
- (c) the right of the Association to borrow money for the purpose of improving the Common Properties and facilities and, in aid thereof, to mortgage said Common Properties and facilities, which mortgage shall be subordinate to the rights of the owners hereunder.
- (d) the right of the Association to charge reasonable admission and other fees for the use of the Common Properties by Members and by guests of Members.

- (e) the right of the Association, through its Board of Directors, to pass and amend, from time to time, rules and regulations governing the use of certain parts or all of the Common Properties for the welfare and common good of all Owners within the Properties.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the By-laws, his right of enjoyment of the Common Properties and facilities, together with any other right, license, privilege or easement conferred upon such Owner by this Declaration, to the members of his family, his tenants, guests or contract purchasers who actually reside on the property.

Section 3. Title to the Common Properties. The Declarant will convey a fee simple title to the Common Properties described in Exhibit "A," attached hereto and incorporated herein by reference, to the Association, free and clear of all encumbrances and liens, except easements, rights-of-way, restrictions, covenants, and conditions then of record. The Common Properties may be conveyed by the Declarant to the Association prior to the sale of the tenth (10th) Lot by Declarant, and shall be conveyed by Declarant to the Association no later than the sale of the tenth (10th) Lot by Declarant.

ARTICLE IV

MEMBERSHIP

Declarant, and every Owner as defined in Article I, Section 9, under this Declaration shall be a member of the Association. No Owner shall have more memberships than the number of Lots owned by such Owner. Memberships shall be appurtenant to and may not be separated from ownership of the Lots. Ownership of a Lot or Lots shall be the sole qualification for membership. The foregoing is not intended to include persons or entities (such as a lender or lien holder) who hold an interest merely as security for the performance of an obligation.

ARTICLE V

VOTING RIGHTS

Members (Owners) 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 one Lot. If multiple owners of a Lot cannot agree as to how their vote shall be cast, then they shall be deemed to have abstained from the vote, but they shall be deemed to have participated for purposes of any required quorum.

ARTICLE VI

COVENANTS FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, subject to Section 7 of this Article, and each Owner of any Lot, except those exempt under Section 9 of this Article, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, hereby covenant, and agree to pay to the Association: (1) annual assessment or charges; and (2) special assessments for capital improvements; such assessments to be established and collected as herein provided. The annual 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 Lot against which each such assessment is made. All subsequent purchasers shall take title to the Lot subject to said lien and shall be bound to inquire to the Association as to the amount of any unpaid assessments. 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 Lot at the time when the assessment fell due.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the health, safety, welfare, and recreation of the residents of the Properties and, in particular, annual assessments shall be used for: the maintenance and repair of the Common Properties; the maintenance and repair of the Roadway Easements, as defined in Article X, Section 2 herein; snow removal; care and maintenance of private streets over which the Association has an easement; care and maintenance of parks, playgrounds, open spaces and other common facilities, if any; the care and maintenance of the "private improvements," as set forth and defined in a certain Subdivision Agreement among the City of Omaha, the Declarant, and the Association; providing insurance coverages upon the Common Properties as herein set forth; basic yard care and maintenance for each Lot, removal of snow from the front sidewalks and driveway of each Lot, periodic removal of debris from gutters and downspouts for each Dwelling Unit, trash pickup, and maintenance and operation of yard sprinklers for any of the Lots, to the extent the Association elects to provide any of the foregoing services from time to time; and providing for the recreation needs of the residents of the Properties, to the extent the Association elects to provide the same from time to time. Annual assessments, and annual assessment reserves, are not intended to be for maintenance (other than yard care, snow removal and gutter cleaning, if the Association elects to provide the same), repair or replacement of the Living Units or appurtenant structures or improvements (other than yard sprinklers, if the Association elects to provide the same), nor for the construction, replacement or major repair of capital improvements upon the Common Properties.

Section 3. Annual Assessment. Until January 1, 1998, the maximum annual assessment shall be One Thousand Five Hundred and No/100 (\$1,500.00) Dollars per Lot, payable monthly in 12 equal installments of \$125.00 each, subject to adjustment as hereinafter set forth:

- (a) From and after January 1, 1998, the annual assessment may be increased each year not more than ten percent (10%) above the assessment for the previous year without a vote of the membership.

- (b) From and after January 1, 2000, the annual assessment may be increased above ten percent (10%) of the annual assessment for the previous year by a vote of not less than five-sevenths (5/7) of the members who are voting in person or by proxy at a meeting duly called for this purpose.
- (c) The Board of Directors must fix the annual assessment.

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 Properties, or within the Roadway Basements, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of a majority of the votes 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 of this Article shall be delivered either personally or by mail to all members not less than 10 days nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast four-sevenths (4/7) of all the votes 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 all of the votes. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment. Both annual 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 Annual Assessments; Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Properties, EXCEPT THAT SUCH ASSESSMENTS SHALL NOT BE APPLICABLE TO ANY LOT OWNED BY THE DECLARANT UNTIL JANUARY 1, 1999. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year.

The Association's fiscal year shall be the calendar year. The Board of Directors shall adopt a budget for each fiscal year, which shall include the estimate of funds required to defray the expenses of the Association in the coming fiscal year and provide funds for reserves as herein set forth. The budget shall be adopted by no later than November of each year immediately preceding the upcoming fiscal year, and copies of the budget and proposed annual maintenance and reserve assessments shall be sent to each Owner on or before December 31, preceding the fiscal year for which the budget is made. Budgets may be amended during a current fiscal year when necessary, but copies of the amended budget and proposed increase or decrease in assessments shall be sent to each Owner as promptly as possible. The foregoing requirement of preparation of a budget and the sending of same to Owner shall not apply to any budgeting for any period prior to January 1, 1998.

The Board of Directors shall fix the amount of annual assessment to be assessed against each Lot at least thirty (30) days prior to the commencement of the fiscal year of the Association, which shall coincide with the annual assessment period commencing at 12:01 a.m., on January 1 of each year and terminating at 12:00 midnight on December 31 thereof. Written notice of the annual assessment shall be sent to each Owner subject thereto at least twenty (20) days prior to the due date of the assessment, or the first installment thereof, including the due dates and amounts thereof. The failure of the Board to so notify each Owner in advance shall not, however, relieve any Owner of the duty and obligation to pay such assessment or any installment thereof. The Board shall have the authority, in its discretion, to require that all Owners pay the annual assessment in one payment or in installments becoming due at such time or times during the assessment year and payable in such manner as determined by the Board. The annual assessments shall be and become a lien as of the date of the annual assessment.

The Association shall, upon written request, and upon payment of a reasonable administrative charge as determined by the Association from time to time, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specific Lot have been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8. Effect of Non-Payment of Assessments; The Personal Obligation of the Owner; The Lien; Remedies of the Association. If any assessment, or any installment thereof, or any other amount due by an Owner pursuant to this Declaration, is not paid on the date when due, then such assessment shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the property which shall bind such property in the hands of the then Owner, his heirs, successors, personal representatives and assigns. The personal obligation of the then Owner to pay such assessment shall remain his personal obligation for the statutory period.

Any delinquent assessment, payment or installment thereof not paid within thirty (30) days after the due day shall bear interest from the due date at an annual rate equal to the "Prime Rate" as published from time to time in the Midwest Edition of The Wall Street Journal, plus five percent (5%), or the highest contractual rate permitted by law, whichever is less; provided, if the "Prime Rate" cannot be obtained for any reason from The Wall Street Journal, then the interest rate on delinquent assessments shall be sixteen percent (16%) per annum, or the highest contractual rate permitted by law, whichever is less. In the event the unpaid assessment is an installment of an annual assessment, the Association may, after such thirty (30) day period and during the continuance of the default, declare all remaining installments of said annual assessment immediately due and payable, at its option. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the Lot, and there shall be added to the amount of such assessment the costs of preparing and filing the complaint in such action, and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided, and a reasonable attorney's fee to be fixed by the court, together with the costs of the action. No Owner may waive or otherwise escape the liability for the assessments provided for herein by non-use of the Common Properties or abandonment of his Lot. The Mortgagee of the subject property shall have the right to seasonably cure any delinquency of an Owner by payment of all sums due, together with

interest, costs and fees. The Association shall assign to such Mortgagee all of its rights with respect to such lien and rights of foreclosure.

Section 9. Exempt Property. Other than Lots exempt under the provisions of Section 7 of this Article, all Lots shall be subject to a uniform rate, except for Lots owned by or conveyed to, and accepted by, any political subdivision of the Federal, State or any local governments, and Lots owned by or conveyed to, and accepted by, the Association. Such Lots shall be exempt from assessment from and after the date of filing of any such conveyance with the Register of Deeds of Douglas County, Nebraska, and until the Lot is thereafter conveyed to a party or an entity not qualifying for exemption under this Section. Such Lots shall also be exempt from special assessments.

Section 10. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage or deed of trust. 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 with respect to the subject Lot, only, the lien of such assessments as to payments which became due prior to such sale or transfer, but the Owner at the time the delinquent assessments were incurred shall remain personally liable for payment of the same. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due, or from the lien thereof.

ARTICLE VII

ARCHITECTURAL CONTROL COMMITTEE

Section 1. Establishment. The Board of Directors of the Association shall appoint three (3) or more persons to serve as Architectural Control Committee (the "Committee"). The Board as a whole or one or more members thereof may serve as members of the Committee. Such appointees shall serve until resignation or dismissal by the Board. Vacancies need not be filled unless the Committee has less than three (3) members remaining, in which event a replacement shall be named at the earliest opportunity by the Board.

Section 2. Review of Committee.

- (a) **Structures.** No structures, whether residences, accessory buildings, tennis courts, swimming pools, swing sets, play equipment, antennae (on a structure or on a Lot), flag poles, fences, walls, driveways, patio, patio enclosure, house numbers, or any other such improvements, shall be constructed or maintained upon any Lot, nor shall any grading or excavation be commenced unless complete plans, specifications, grading plans, landscape plans and lot plans therefore, showing the exterior design, height, building material and color scheme thereof, the location of the structure platted horizontally and vertically, the location and size of driveways, the detailed plan of landscaping (including the species and location of all trees, shrubs and ornamental plantings and beds), fencing, walls and windbreaks, and the grading plan all shall have been submitted to and approved in writing by the Committee, and a copy of such plans, specifications, and lot plans as finally approved, deposited with the Committee. The Committee shall have such other powers and duties as set forth in this Declaration, the By-Laws of the Association and as delegated by the Board of Directors.
- (b) **Review Procedures.** After submission of such plans and requests, the Committee shall make due consideration thereof and shall approve or disapprove all plans and requests in writing within thirty (30) days after submission. In the event the Committee fails to take any action within thirty (30) days after requests have been submitted, approval will not be required, and this Article will be deemed to have been fully complied with. A majority vote of the Committee members is required for approval of proposed improvements.
- (c) **Tree Removal.** No tree upon the Lot of an Owner may be moved, removed, cut or destroyed unless complete plans showing the exact tree or trees to be moved, removed, cut or destroyed, and the reason therefore, together with the size and specie of the tree to be planted to replace the same, shall have been submitted to and approved in writing by the Committee.
- (d) **Tree Removal Procedures.** After submission of such tree removal and replacement plans and requests, the Committee shall make due consideration thereof and shall approve or disapprove all plans and requests in writing within thirty (30) days after submission. In the event the Committee fails to take any action within thirty (30) days after tree removal requests have been submitted, said submitted plans shall be deemed disapproved. A majority vote of the Committee members is required for approval of proposed tree removal plans.

Section 3. Guidelines and Restrictions. All exterior painting will be of an earth tone color and any repainting or changing of color or repainting of any Living Unit shall be consistent with the approved original plans and specifications for the Living Unit and shall not be done without the prior affirmative approval of the Committee. All Living Units shall have wood shingles. Driveways for each Living Unit shall be asphalt. Except for any fence or gate Declarant or the Association may elect to install at the entrance or along the north boundary of Regency Park Vista, and except as permitted in Article VIII(o), below, no fences shall be allowed. The Committee shall exercise its best judgment to see that all improvements, construction, landscaping and alterations on lands within the Properties conform to and harmonize with existing surroundings and structures.

Section 4. Records. The Committee shall maintain written records of all applications submitted to it, the dates submitted, and of all action it takes in reference thereto and the dates such action is taken.

Section 5. Liability. The Committee shall not be liable in damage to any person submitting requests for approval or to any Owner within the Properties by reason of any action, failure to act, approval, disapproval, delay or failure to approve or disapprove with regard to such requests. The approval, disapproval or failure to approve or disapprove by the Committee of any plans or

requests for approval hereunder shall in no way render the Committee or the Association liable for the sufficiency of such plans or requests or the failure of the same to comply with any covenants, restrictions, laws, ordinances, regulations, structural standards or design standards, the same being the obligation and responsibility solely of the Owner of the Lot for which the approval or disapproval would be applicable.

ARTICLE VIII

COMMON SCHEME COVENANTS AND RESTRICTIONS

The following covenants and restrictions are imposed as a common scheme upon all Lots and Common Properties for the benefit of each other Lot and Common Properties, and may be enforced by any Owner of a Lot, or of the Common Properties, or the Association.

- (a) No Lot shall be used except for single family residential purposes for occupancy by the Owners and their immediately family and guests, and any domestic staff. Dwelling Units shall be limited to 1 1/2 story and ranch style homes, only, and walk-out basements shall be permitted only on Lots where the designed grade of the Lot is appropriate; provided that Lots 10, 11 and 12 shall be limited to 1 story ranch style homes, unless the owner of the property located at 318 N. 96th Street, which adjoins the rear of these lots, consents in writing to a 1 1/2 story home. No house or room rentals, or paid boarding, shall be allowed under any circumstances.
- (b) 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. No floodlights for outdoor areas shall be installed or used.
- (c) No structure of a temporary character, trailer, modular home, basement, tent, shack, barn or other outbuilding shall be erected upon, or used, on any Lot any time as a residence, either temporarily or permanently.
- (d) Dwellings shall not be moved from outside of the Properties to any Lot within this addition.
- (e) No unused building material, junk or rubbish shall be left exposed on any Lot except during actual building operations, during which time such items shall be kept to a minimum and shall be properly contained within the boundaries of said Lot. No repair of automobiles will be permitted outside of garages on any Lot at any time.
- (f) No boat, camping trailer, motor home, recreational vehicle, bus, auto-drawn trailer of any kind, mobile home, truck, motorcycle, grading, construction or excavating equipment (except as reasonably necessary during construction or repairs on a Lot or its improvements) or other heavy machinery or equipment, vehicle undergoing repair, or aircraft shall be stored outside the garage or in any manner left exposed on any Lot at any time.
- (g) Except for the purpose of controlling erosion on vacant Lots, no field crops or vegetables shall be grown upon any Lot at any time, however, well-maintained flower and ornamental gardens are permitted, subject to Committee approval and a four (4) foot maximum height restriction on plants other than trees, shrubs or vines.
- (h) No incinerator or trash burner shall be permitted on any Lot unless the same is incorporated into the Living Unit and not exposed to view from the outside of the Living Unit and complies with applicable laws and codes. No garbage or trash can or container or fuel tank shall be permitted to remain outside of any Living Unit unless completely screened from view from every street and from all other Lots in the addition. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any Living Unit except when in actual use unless completely screened from view from every street and from all other Lots in the addition. No garage door shall be permitted to remain open except when entry to and exit from the garage are required. No clothes line shall be permitted outside of any Living Unit at any time. Any exterior air conditioning condenser unit shall be placed in the rear or side yard.
- (i) 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 Living Unit may be kept, provided they are not kept, bred or maintained for any commercial purpose, and provided further that the total number of dogs and cats kept within the Living Unit or on the Lot shall not exceed two. It is intended specifically to prohibit horses, ponies or other animals sheltered outside the Living Unit except for the single dog house permitted in Article VIII (j). Only one free-standing bird feeder and bird bath shall be allowed per Lot, subject to Committee approval.
- (j) No stable or other shelter for any animal, livestock, fowl or poultry shall be erected, altered, placed or permitted to remain on any Lot, except that a dog house shall be permitted provided the construction plans and specifications and the location of the proposed structure have been first approved in writing by the Committee using the provision set forth in this Article VII.
- (k) 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 typical real estate for-sale signs of a size no greater than 4.5 square feet shall be permitted temporarily in the yards of Living Units which are being offered for sale.
- (l) Exposed portions of the foundation on the front of each Living Unit are to be covered with brick and exposed portions of the foundation on the sides and rear of each Living Unit shall be either covered with brick or stucco.

- (m) A Living Unit and any permitted outbuildings shall have wood shingles.
- (n) All Living Units shall have indoor garage space for a minimum of two automobiles, and shall have driveway space for a minimum of two automobiles.
- (o) No fences shall be allowed except as required by applicable code for a swimming pool enclosure, in which case the fence must be wrought iron and shall be confined to the perimeter of the patio and/or deck surrounding the pool.
- (p) A Living Unit on which construction has begun must be completed within one (1) year from the date the foundation was dug for said Living Unit. Appropriate erosion control measures shall be employed at all times during construction and until proper sod and vegetation has been established to control same. No Owner shall remove or alter any berms, slopes or swales established by Declarant in the grading and drainage design for the Properties.
- (q) No use shall be made of the Common Properties which will in any manner violate the statutes, rules or regulations of any governmental authority having jurisdiction over the Common Properties.
- (r) No Owner, other than the Declarant, and Declarant's successors and assigns, shall place any structure whatsoever upon the Common Properties, nor shall any Owner engage in any activity which will temporarily or permanently deny free access to any part of the Common Properties to all members.
- (s) The use of the Common Properties shall be subject to such rules and regulations as may be adopted from time to time by the Board of Directors of the Association.
- (t) Swimming pools shall not extend more than one (1) foot above the surrounding grade, and above-ground swimming pools shall not be allowed under any circumstances. Outdoor spas must be either in the ground or enclosed within a deck, and no "portable" spas will be allowed.
- (u) No basketball hoops or backboards shall be erected or installed on any Lot or Living Unit. Any other playground equipment shall be limited to the rear yard of any Dwelling Unit and shall be subject to stringent review and approval by the Committee.
- (v) Each Owner must install an approved automatic yard sprinkler system at the time of construction of a Living Unit on the Owner's Lot, at Owner's expense, and, if the Association has or is establishing a central yard sprinkler control and water supply system, the Owner's sprinkler system shall be connected at Owner's expense to that system. If an Owner's sprinkler system is connected to a central system operated and controlled by the Association, then the Association shall provide maintenance for each Owner's sprinkler system (provided it has been properly installed and conforms to the standards and specifications established by the Association from time to time); otherwise each Owner shall properly operate and maintain the yard sprinkler system for that Owner's Lot as appropriate for the season, at the Owner's sole expense.
- (w) Because Declarant and the Association do not plan to provide street lights unless required by applicable code, each Dwelling Unit shall be required to have and properly maintain at all times at least one light at the front door and one light at the garage door of each such Dwelling Unit, which lights shall be controlled by a photoelectric cell so that continuous light is provided during all periods of darkness. Although outdoor floodlights are prohibited, Owners will be allowed to install low level light bollards and sidewalk/landscape ground level lighting, subject to approval by the Committee.
- (x) Once a landscape plan has been approved by the Committee for a Lot, the Owner shall be responsible for installing as soon as seasonably possible after the Dwelling Unit is substantially completed and maintaining the approved landscaping and all vegetation called for in the same at all times in good, proper and healthy condition, including proper trimming, pruning and removal of any dead or diseased material, and promptly replacing any dead or diseased plants or vegetation with healthy plants or vegetation of the same species and of appropriate size and maturity, which shall in no event be less than the size and maturity at the time the vegetation being replaced was first planted on the lot.
- (y) All exterior chases and chimneys for any fireplace shall be of brick or veneered in stucco, and no other materials or veneers (including, but not limited to, wood, metal or vinyl) shall be allowed.
- (z) Each Owner shall at all times keep and maintain the exterior of its Dwelling Unit, Lot and any related improvements in good and neat condition and repair including, but not limited to, repainting, re-siding, re-roofing, and sealing and resurfacing of driveways, as needed and in a timely manner.

ARTICLE IX

INSURANCE

Insurance shall be obtained and maintained and the proceeds thereof disposed of by the Association as follows:

Section 1. Coverage. The Association shall obtain and maintain in effect for the improvements upon the Common Properties, one or more policies of insurance against the perils of fire, lightning, malicious mischief and vandalism with extended coverage in amounts equivalent to the full replacement costs of any damage or destruction caused by such peril, without deduction for depreciation (if such replacement value coverage is available at a cost deemed reasonable by the Board of Directors). Such

coverage shall include "contents coverage". The Association shall obtain and maintain in effect public liability insurance in such limits as determined from time to time by the Board of Directors, but in no event less than \$500,000/\$1,000,000/\$100,000, covering the Common Properties with the Association, Board, its employees and agents as insureds. The Association shall also obtain and maintain workmen's compensation coverage and such other coverage as determined to be appropriate from time to time by the Board.

Section 2. Valuation and Coverage Amount. Prior to obtaining any policy of physical damage insurance or any renewal thereof, the Board of Directors may obtain an appraisal from a casualty company or otherwise of the full replacement of the improvements on the Common Properties, without deduction for depreciation, for the purpose of determining the amount of physical damage insurance to be effected pursuant to this Article.

Section 3. Liability of Board. The Board of Directors shall not be liable to any party upon the amount of insurance coverage carried on or with respect to the Common Properties, or obtained in settlement of the insurance claim nor the application of the insurance proceeds, except in the event of loss arising from its gross negligence or willful misconduct.

Section 4. Homeowner's Insurance. Each Owner shall at all times keep its Living Unit and Lot insured for its full insurable value against fire and other casualty ("all risk" coverage) and shall carry public liability insurance in amounts which are not less than the amounts carried from time to time by the Association. Each Owner shall provide proof that such insurance coverages are in effect upon request by the Association.

ARTICLE X

EASEMENTS

The Properties are, and shall perpetually be, unless any thereof is terminated, subject to all and each of the following easements for common use, construction, maintenance, support, repair, recreational and other access, private and public sewer and utility line construction and services and roadway easements.

Section 1. Utility Easement. Declarant hereby granted to itself and to each of the Association, U S West, Inc., Metropolitan Utilities District, Omaha Public Power District, Cox Cable Omaha, Inc., and their respective assigns and successors, a perpetual easement, together with rights of egress, ingress, and other access thereof, for purposes of construction, installing, maintaining, operating, renewing, or repairing their respective private sewer, telephone, cable TV, gas, water, electric, public sewer, or other conduits, lines, or other facilities in and under the Common Properties (including the Roadway Easement described below), and each Lot, as confined to noninterference with any driveway, sidewalk or structural element of any approved or permitted Living Unit on any Lot. While the utility easement granted herein is a blanket easement, the easement shall not, nor is it intended to, interfere with the orderly development of each Lot, and the grantees of the above described easement agree to use only so much of the easement as is necessary for their purposes in order to maximize the buildable area of each Lot. The grantees of the above described easement further agree that subsequent to the construction of their respective improvements on the Properties, they shall reduce said blanket utility easement to a specific metes and bounds easement setting forth the actual amount of the Properties used for said improvements, and all Owners hereby covenant and agree to cooperate with the reduction of the blanket utility easement to a specific metes and bounds utility easement. Each such grantee, by acceptance or use of this easement right, shall be deemed to agree to restore the surface of the soil excavated for any purposes hereunder to the original contour thereof as near as may be possible and to repair or replace the surface of any lawns, streets, parking areas, trees, shrubs, improvements, sprinklers, utility lines, or driveways which may have been disturbed for any purpose hereunder as near as may be possible to their original condition. Such restoration, repair or replacement shall be performed as soon as may be reasonably possible to do so. The easement as to any of the Common Properties shall be determined and granted by the Association in the manner set forth in the By-Laws, as from time to time amended.

Section 2. Roadway Easement. Declarant hereby reserves and grants to itself, and to the Association, their successors and assigns, a perpetual easement, together with rights of egress, ingress, and other access thereto, for the purposes of constructing, maintaining, repairing and reconstructing roadways over, under, and upon the Common Properties, and each Lot, as confined to noninterference with any structural elements of any approved or permitted Living Unit upon the Properties. While the roadway easement granted herein is a blanket easement, the easement shall not, nor is it intended to, interfere with the orderly development of each Lot, and the grantees of the above described easement agree to use only so much of the easement as is necessary for their purposes in order to maximize the buildable area of each Lot. Provided, however, that subsequent to the initial construction of the roadways on the Properties, the Association and the Declarant hereby agree to reduce said blanket roadway easement to a specific metes and bounds easement setting forth the actual amount of the Properties used for said roadways (including ten (10) feet on each side of the paving), and all Owners hereby covenant and agree to cooperate with the reduction of the blanket roadway easement to a specific metes and bounds roadway easement. Declarant hereby reserves and grants for itself and each of the Association, each Owner, contract purchaser and lessee (while in possession of any Living Unit in the Properties) their families, guests, employees, agents and invitees, an easement for access, ingress, egress, use and enjoyment upon and over each such roadway as traffic to and from each Lot and the Common Properties.

Section 3. All telephone, cable TV and electric power service lines from property line to dwellings shall be underground.

ARTICLE XI

GENERAL PROVISIONS

Section 1. Duration. The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty (30) years from the date this Declaration is recorded, at which time this Declaration shall automatically renew for consecutive terms of ten (10) years each unless the Owners of at least four-sevenths (4/7) of the Lots vote to have this Declaration terminate at the end of the initial 30 year term or any subsequent 10 year

renewal term next following any such vote; provided, however, the easements granted in Article X, above, shall in all events survive such termination unless and until relinquished or abandoned by the grantees thereof.

Section 2. Amendments. The covenants and restrictions of 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, until such time as the Declarant has conveyed fee simple title to ten (10) of the Lots. Thereafter this Declaration may be amended by an instrument signed by the Owners of not less than five sevenths (5/7) of the Lots covered by this Declaration. Written notice of any proposed amendment and a meeting to be called for such purpose must be sent at least sixty (60) days but not more than ninety (90) days prior to such proposed meeting, by the Board of Directors of the Association. The notice will contain the full text of the proposed amendment and the date, time and place of the meeting. Any such amendment so adopted and executed must be properly recorded.

Section 3. Notices. Any notice required to be sent to any Member, Owner or Mortgagee under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing; provided, that it shall be the sole responsibility of each contract purchaser and mortgagee to notify the Association, in writing of its interest in a Lot prior to the responsibility arising in the Association to notify said contract purchaser or mortgagee as required under any of the provisions herein established. In the absence of such notice, the Association shall be free from any liability or responsibility to such party or parties arising by reason of performing its duties hereunder.

Section 4. Enforcement. Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the land to enforce any lien created by these covenants; and failure by the Association or any owner to enforce any covenant or restriction therein contained shall in no event be deemed a waiver of the right to do so thereafter.


Section 5. 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 6. Limited Liability. In the event the Association elects to provide any care or maintenance for the Lots or the exterior of the Dwelling Units, such as, but not limited to, yard and landscape care, snow removal and/or gutter and downspout cleaning, each Owner shall nevertheless remain primarily responsible for keeping its Lot and Dwelling Unit in good and safe repair and condition and shall indemnify and hold harmless the Declarant, the Association, the Board and any contractor hired by them to provide such services, from any liability, damage, claim or injury to person or property suffered as a result of the existence of any defective, hazardous or unsafe condition on or about the Lot, except where the defective, hazardous or unsafe condition was actually created (as opposed to being allowed to exist passively) on or about the Lot of an Owner as a result of the negligent or wanton acts of one of the Association, the Board or any contractor hired by one of them. Neither the Declarant, the Association nor the Board shall be liable or responsible for the acts of the other nor shall they be liable or responsible for the acts of any independent contractor which may be hired from time to time to provide any such services. In the event the Association elects to provide snow removal services for the sidewalks and driveways to any Dwelling Unit, this service shall not include any obligation to remove or prevent the accumulation of ice or hard packed snow, and it shall be the obligation solely of the Owner of each lot to apply salt, sand and/or other appropriate deicer to any such areas as the Owner deems necessary or appropriate to comply with obligations imposed by law on an owner of property to prevent injury or damage from unsafe or hazardous conditions on or about the property.

Section 7. Declarant's Successor. At any time after Declarant has completed the initial development of the Properties by grading the site to create buildable Lots and installing the street, sidewalks, sewers and utilities to each of the Lots, and has conveyed title to the Common Properties to the Association pursuant to Article III, Section 3 of this Declaration, Declarant shall have the absolute right to transfer all of Declarant's rights and obligations under this Declaration to the Association by signing and recording with the Douglas County Register of Deeds a notice of transfer pursuant to this section, after which time the Association shall be deemed to be the Declarant for all purposes under this Declaration and any supplements, addenda or amendments hereto, and the first named Declarant shall thereupon have no further rights or obligations hereunder, except as an Owner if and to the extent said Declarant thereafter continues to own one or more Lots.

IN WITNESS WHEREOF, the Declarant has caused these presents to be executed this 21st day of August, 1996.

DAN WITT BUILDERS, INC., a Nebraska corporation,
Declarant

By: 
Daniel N. Witt, President

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On this 21st day of August, 1996, before me, a Notary Public duly commissioned and qualified in and for said County, personally came Daniel N. Witt, President of Dan Witt Builders, Inc., to me personally known to be the President and identical person who signed the foregoing instrument, and acknowledged the execution thereof to be his voluntary act and deed as such officer and the voluntary act and deed of said corporation.

Witness my hand and notarial seal the day and year last above written.



Mary O. Bond

Notary Public

NOTARIAL SEAL AFFIXED
REGISTER OF DEEDS

PARCEL A:

That part of the Northeast Quarter of Section 21, Township 15 North, Range 12 East of the 6th P.M., in Douglas County, Nebraska, described and bounded as follows:

Beginning at a point on the South line of Cass Street, 333 feet West and 60 feet South of the Northeast corner of said Section 21; thence West along the South line of Cass Street 300 feet; thence turning an angle to the left of 90° for a tangent and running thence on a curve with a radius of 925.37 feet and consuming an angle of 12° to the left, 193.5 feet; thence South 12° East 242 feet; thence on a curve to the right with a radius of 985.37 feet; 161.05 feet; thence 204.6 feet East; thence North 595 feet to the Point of Beginning, except any portion thereof for highway purposes.

PARCEL B:

The 30 foot strip of land adjacent to the West of Parcel A.

PARCEL C:

That part of the Northeast $1/4$ of the Northeast $1/4$ of Section 21, Township 15 North, Range 12 East of the 6th P.M., Douglas County, Nebraska, described as follows: Commencing at the Northeast corner of Lot 334, REGENCY 6TH ADDITION, a subdivision as surveyed, platted and recorded, said point being 880 feet South of and 33 feet West of the Northeast corner of said Section 21; thence $S89^\circ 57' 47'' W$ (the East line of the Northeast $1/4$ of said Section 21 is assumed to be North-South in direction) for 295.00 feet along the North line of Lots 334 and 335, said REGENCY 6TH ADDITION to the TRUE POINT OF BEGINNING; thence continuing $S89^\circ 57' 47'' W$ for 252.00 feet along the North line said Lots 335 and 336, REGENCY 6TH ADDITION; thence $N9^\circ 57' 18'' E$ for 6.50 feet along the Easterly line of Lot 416, said REGENCY 6TH ADDITION; thence along a curve to the left (having a radius of 955.37 feet) for an arc distance of 219.70 feet along said Easterly line of Lot 416; thence $S89^\circ 31' 42'' E$ for 233.22 feet; thence $S1^\circ 08' 52'' E$ for 223.66 feet to the TRUE POINT OF BEGINNING. Contains 1.23 acres.