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RICHARD M. TAKESHI  
REGISTER OF DEEDS  
SARASOTA COUNTY, FL

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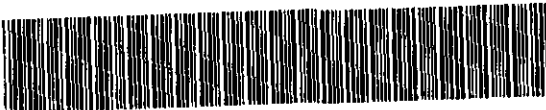
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*GENE SPENCE*  
*E & A CONSULTING GROUP, INC*  
*12001 Q ST*  
*OMAHA, NE 68137*  
*895-4700*

Temp. 12.4.01



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September 1, 2004

**DECLARATION  
OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS  
FOR ROCKBROOK CREEK ESTATES, A SUBDIVISION  
IN DOUGLAS COUNTY, NEBRASKA**

Received - DIANE L. BATTIATO  
Register of Deeds, Douglas County, NE

3/29/2005 08:21:55.10



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THIS DECLARATION, made on the date hereinafter set forth, is made by ROCKBROOK CREEK ESTATES, L.L.C., hereinafter referred to as the "Declarant".

PRELIMINARY STATEMENT

The Declarant is the owner of certain real property located within Douglas County, Nebraska and described as follows:

Lots 1 through 7, inclusive, Rockbrook Creek Estates, a subdivision, as surveyed, platted and recorded in Douglas County, Nebraska.

Such lots are herein referred to collectively as the "Lots" and individually as each "Lot".

The Declarant desires to provide for the preservation of the values and amenities of Rockbrook Creek Estates for the maintenance of the character and residential integrity of Rockbrook Creek Estates and for the acquisition, construction and maintenance of Common Facilities for the use and enjoyment of the residents of Rockbrook Creek Estates.

NOW, THEREFORE, the Declarant hereby declares that each and all of the Lots shall be held, sold and conveyed subject to the following restrictions, covenants, conditions and easements, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Lots, and the enjoyment of the residents of the Lots. These restrictions, covenants, conditions and easements shall run with such Lots and shall be binding upon all parties having or acquiring any right, title or interest in each Lot, or any part thereof, as is more fully described herein. The Lots, and each Lot is and shall be subject to all and each of the following conditions and other terms:

ARTICLE I  
RESTRICTIONS AND COVENANTS

1. Each Lot shall be used exclusively for single family residential purposes.
2. No residence, building, fence (other than fences constructed by the Declarant), wall, driveway, patio, patio enclosure, swimming pool, pool house, basketball backboards, dog house, tree house, antenna, satellite receiving station, dishes or "discs", flag pole, solar heating or cooling device, tool shed, outdoor lighting, wind mill or other external improvement, above or below the ground (herein all referred to any "improvement") shall be constructed, erected, placed or permitted to remain on any Lot, nor shall any

RETURN: CARDI CASEY  
2506 S. 105 AVE  
OMAHA, NE 68124  
391-9719

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grading or excavation for any Improvement be commenced, except for Improvements which have been approved by Declarant as follows:

A. An owner desiring to erect an Improvement shall deliver two sets of construction plans, landscaping plans and plot plans to Declarant (herein collectively referred to as the "plans"). Such plans shall include a description type, quality, color and use of materials proposed for the exterior of such Improvement. Concurrent with submission of the plans, Owner shall notify the Declarant of the Owner's mailing address.

B. Declarant shall submit the plans to an architectural review committee ("Committee") for review. The Committee shall initially consist of Declarant. The Committee shall be expanded to include the owner of the first lot sold following closing and approval of construction plans for the first lot sold. The Committee will expand by adding the owner of each additional lot sold but not until after the lot owner's construction plans are approved by the Committee. Committee decisions shall be made by majority vote of the Committee members.

C. The Committee shall review such plans in relation to the type and exterior of improvements constructed, or approved for construction, on neighboring Lots and in the surrounding area, and any general scheme or plans formulated by Committee. In this regard, Committee intends that the Lots shall constitute, when developed, a residential community with homes constructed of high quality materials. The decision to approve or refuse approval of a proposed Improvement shall be exercised by Committee to promote development of the Lots and to protect the values, character and residential quality of all Lots. If Committee determines that the harmony of external design and location in relation to the surrounding Improvements and topography of the proposed Improvement will not protect and enhance the integrity and character of all the Lots and neighboring Lots as a quality residential community, Committee may refuse approval of the proposed Improvement.

D. Written notice of any refusal to approve a proposed Improvement shall be mailed to the owner at the address specified by the owner upon submission of the plans. Such notice shall be mailed, if at all, within thirty (30) days after the date of submission of the plans. If notice of refusal is not mailed within such period, the proposed Improvement shall be deemed approved by Committee.

E. No Lot owner, or combination of Lot owners, or other person or persons, shall have any right to any action by Committee, or to control, direct or influence the acts of the Committee with respect to any proposed Improvement. No responsibility, liability or obligation shall be assumed by or imposed upon Committee by virtue of any act or failure to act by Committee with respect to any proposed Improvement.

3. No residence shall be created, altered, placed or permitted to remain on any Lot other than the one (1) single family residential structure. Each single family structure shall contain a minimum of two thousand (2,000) sq. ft. of living space area for a one story residence and a minimum of three thousand five hundred (3,500) for a one and one-half or two story residence for all floors above the basement level. Living space area means finished habitable space, measured to the exterior of the enclosing walls, and does not include porches, stoops, breezeways, courtyards, patios, decks, basements, garages or carports. The maximum height of a dwelling shall be two (2) stories. The basement is not considered a story even if it is one hundred percent (100%) above grade on one side, and essentially below grade on the other three (3) sides. All dwelling shall have attached, enclosed, side-by-side, two (2) car garages minimum which must contain area of not less than four hundred (400) sq. ft.

4. The exposed front foundation walls and any foundation walls facing any street of all main residential structures must be constructed of or faced with brick or other approved material. All exposed side and rear concrete or concrete block foundation walls not facing a street must have a masonry wipe or stucco type finish, leaving no smooth foundation surfaces. All driveways must be constructed of concrete or other approved material. All foundations shall be constructed of concrete, concrete blocks, brick or stone. Fireplace chimneys shall be covered with brick, wood, or other material approved in writing by Committee. The sides of the residential structure above the foundation shall be hardwood lap siding, stucco or drivit type materials, brick stone or other material approved in writing by the Committee. No vinyl siding will be allowed. Unless other materials are specifically approved by the Committee, the roof of all Improvements

3

shall be covered with either (i) wood shakes; (ii) wood shingles; (iii) or Tampko "heritage" asphalt with the following minimum standards: (a) Class A fire rating; (b) 40-year maintenance performance warranty; (c) give a shake, tile or slate appearance. Roofing and siding colors must be pre-approved by the Committee but must be of natural hues such as gray, brown, wood tones or cedar tones. Roofing materials which meet the above standards set forth in (iii) above may be metal, concrete, rubber, fiberglass or fiberglass composite. Decks shall not be smaller than ten feet (10') by twelve feet (12').

5. No advertising signs, billboards, unsightly objects or nuisances shall be erected, placed or permitted to remain on any Lot except one sign per Lot consisting of not more than six (6) sq. ft. advertising a Lot as "for sale"; nor shall the premises be used in any way for any purpose which may endanger the health or unreasonably disturb the owner or owners of any Lot or any resident thereof. No business activities of any kind whatsoever shall be conducted on any Lot. Provided, however, the foregoing paragraph shall not apply to the business activities, if any, by Declarant, their agents or assigns, during the construction and/or sale of the Lots.

6. No exterior television or radio antenna of any sort shall be permitted on any Lot. Notwithstanding the foregoing, an antenna that is designed to receive direct broadcast satellite service not exceeding one meter in diameter and attached directly to the residence may be permitted provided that the location and size of the proposed satellite receiving dish be first approved by the Declarant, or its assigns. No tree houses, tool sheds, dollhouses, windmills, or similar structures shall be permitted on any Lot.

7. No repair of any boats, automobiles, motorcycles, trucks, campers or similar vehicles requiring continuous time period in excess of forty-eight (48) hours shall be permitted on any Lot at any time; nor shall vehicles offensive to the neighborhood be visibly stored, parked or abandoned on any Lot. No unused building material, junk or rubbish shall be left exposed on the Lot except during actual building operations, and then only in as neat and inconspicuous a manner as possible.

8. No boat, camper, trailer, auto-drawn or mounted trailer of any kind, mobile home, truck, aircraft, camper truck or similar chattel shall be maintained or stored on any part of a Lot (other than in an enclosed structure) for more than twenty (20) days within a calendar year. No motor vehicles may be parked or stored outside of any Lot, except vehicles driven on a regular basis by the occupants of the dwelling located on such Lot. No grading or excavating equipment, tractors or semi-tractors/trailers shall be stored, parked, kept or maintained in any yards, driveways or streets. However, this Section 8 shall not apply to trucks, tractors or commercial vehicles which are necessary for the construction of residential dwellings during their period of construction. All residential Lots shall provide at least the minimum number of off street parking areas or spaces for private passenger vehicles required by the applicable zoning ordinances of the City of Omaha, Nebraska. All garage doors must be closed when not in use.

9. No incinerator, trash burner or fuel tank shall be permitted on any Lot. No garbage or trash can or container shall be permitted outside of any dwelling at any time, except for pickup purposes and not in excess of eight (8) consecutive hours. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any dwelling or suitable storage facility, except when in actual use. No garbage, refuse, rubbish or cuttings shall be deposited on any street, road or Lot. No clothes line shall be permitted outside of any dwelling at any time.

10. Exterior lighting installed on any Lot shall either be indirect or of such a controlled focus and intensity as not to disturb the residents of adjacent Lots. Street lighting shall be decorative and low intensity. No high intensity lights, such as halogen, mercury vapor, or "cobra" style lighting, or similar variation, shall be installed for street lights.

11. No fence shall be permitted to extend beyond the middle line of a main residential structure unless written approval is first obtained from Declarant. All fences shall be constructed of materials approved by Declarant. No hedges or mass planted shrubs shall be permitted more than ten (10) feet in front of the front building lines unless approved by the Declarant. No fences or walls shall exceed a height of six (6) feet. All produce or vegetable gardens shall be maintained only in rear yards. All Lots shall be fully sodded at time of completion of the Improvements. Two (2) trees, not less than two (2) caliper inches in diameter

4

shall be planted with each constructed residence, with at least one (1) such tree to be planted in the front yard of each residence.

12. No swimming pool shall be permitted which extends more than one (1) foot above ground level.

13. Construction of any Improvement shall be completed within one (1) year from the date of commencement of excavation or construction of the Improvement. No excavation dirt shall be spread across any Lot in such a fashion as to materially change the contour of any Lot.

14. A public sidewalk shall be constructed of concrete four (4) feet wide by four (4) inches thick in front of each built upon Lot and upon the street side of each built upon corner Lot. The sidewalk shall be placed four (4) feet from the street curb line and shall be constructed by the owner of the Lot prior to the time of completion of the main structure and before the occupancy thereof; provided, however, this provisions shall vary to comply with any requirements of the City of Omaha, Nebraska.

15. Driveway approaches between the sidewalk and curb on each Lot shall be constructed of concrete. Should repair or replacement of such approach be necessary, the repair or replacement shall also be of concrete. No asphalt overlay of driveway approaches will be permitted.

16. 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 constructed for one (1) dog shall be permitted; provided always that the construction plans, specifications and the location of the proposed structure have been first approved by Declarant, or its assigns, if required by this Declaration. Dog houses shall only be allowed at the rear of the residential structure, concealed from public view; no dog runs or kennels of any sort shall be allowed. No animals, livestock, agricultural-type animals, fowl, or poultry of any kind, including pot-bellied pigs or any exotic animals of any kind, shall be raised, bred or kept on any Lot, except that dogs, cats, or other household pets maintained within the residential structure may be kept, provided that they are not kept, bred or maintained for any commercial purpose and, provided that they are kept confined to the Lot of their owner and are not permitted to run loose outside the Lot of the owner.

17. Any exterior air conditioning condenser unit shall be placed in the rear yard or any side yards so as not to be visible from public view. No grass, weeds or other vegetation will be grown or otherwise permitted to commence or continue, and no dangerous, diseased or otherwise objectionable shrubs or trees will be maintained on any Lot so as to constitute an actual or potential public nuisance, crease a hazard or undesirable proliferation, or detract from a neat and trim appearance. Vacant Lots shall not be used for dumping of earth or any waste materials, and no vegetation on vacant Lots shall be allowed to reach a height in excess of twelve (12) inches.

18. No structure of a temporary character, trailer, basement, tent, outbuilding or shack shall be erected upon or used on any Lot at any time, either temporarily or permanently. No structure or dwelling shall be moved from outside Rockbrook Creek Estates to any Lot unless the written approval of Declarant is first obtained.

19. Except for connection and access facilities, no electrical, plumbing, sprinkling, sewer or utility service lines shall be installed above ground on any Lot.

20. Declarant does hereby reserve unto itself the right to require the installation of siltation fences or erosion control devices and measures in such location, configurations, and designs as it may determine appropriate in its sole and absolute discretion.

## ARTICLE II BOUNDARY FENCE

1. A Boundary Fence, if constructed along West Center Road, will be situated generally on the southerly most boundary line of Lots 1 and 7 and at the discretion of Declarant, may be constructed on any boundary lines of Rockbrook Creek Estates. Any Boundary Fences will extend vertically not to exceed

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approximately six (6) feet and be uniform in construction and of the same material which shall be determined by Declarant.

2. Declarant hereby declares that the Boundary Lots and any other Lots with Boundary Fence installed by the Declarant are subject to a permanent and exclusive right and easement in favor of Declarant and the Rockbrook Creek Estates Homeowners Association to maintain, repair and replace any Boundary Fence. Without limitation of the rights and easements granted by this Declaration, the Declarant or Association may come upon any of the Boundary Lots for the purpose of constructing, installing, repairing, maintaining, removing, and replacing Boundary Fence. Notwithstanding the foregoing, the Owner of a Boundary Lot agrees to keep the Boundary Fence adjoining the respective Owner's Lot in good order and repair and is primarily responsible for the repair or maintenance of the Boundary Fence adjoining the Owner's Lot.

**ARTICLE III.  
ROCKBROOK CREEK ESTATES HOMEOWNERS ASSOCIATION**

1. The Association. Declarant shall cause the incorporation of ROCKBROOK CREEK ESTATES HOMEOWNERS ASSOCIATION, a Nebraska not for profit corporation (hereinafter referred to as the "Homeowners Association"). The Homeowners Association has as its purpose the promotion of the health, safety, recreation, welfare and enjoyment of the residents of the Lots, including:

A. The acquisition, construction, landscaping, improvement, equipment, maintenance, operation, repair, upkeep and replacement of Common Facilities for the general use, benefit and enjoyment of the Members and the maintenance and repair of the improvements to the Lots as set forth herein. Common Facilities may include recreational facilities such as swimming pools, tennis courts, health facilities, playgrounds and parks; dedicated and non-dedicated roads, paths, ways and green areas; and signs, fencing and entrances for Rockbrook Creek Estates Common Facilities may be situated on property owned or leased by the Homeowners Association, or on dedicated property or property subject to easements accepted by and benefiting the Homeowners Association.

B. The promulgation, enactment, amendment and enforcement of rules and regulations relating to the use and enjoyment of any Common Facilities, provided always that such rules and regulations are uniformly applicable to all Members. The rules and regulations may regulate, limit and restrict use of the Common Facilities to Members, their families, their guests, and/or by other persons, who pay a fee or other charge in connection with the use or enjoyment of the Common Facilities.

C. The exercise, promotion, enhancement and protection of the privileges and interests of the residents of Rockbrook Creek Estates; and the protection and maintenance of the residential character of Rockbrook Creek Estates.

2. Membership and Voting. The "Owner" of each Lot shall be a Member of this Homeowners Association. For purposes of this Declaration, the term "Owner" of a Lot means and refers to the record owner, whether one or more persons or entities, of fee simple title to a Lot, but excluding however those parties having any interest in any of such Lot merely as security for the performance of an obligation (such as a contract seller, the trustee or beneficiary of a deed of trust, or a mortgage). The purchaser of a Lot under a land contract or similar instrument shall be considered to be the "Owner" of the Lot for purposes of this Declaration. Membership shall be appurtenant to ownership of each Lot, and may not be separated from ownership of each lot.

The Homeowners Association shall have two (2) classes of voting members, Class A Members and Class B Members, defined as follows:

CLASS A: Class A Members shall be all Owners, with the exception of Declarant or its assigns. Each Class A Member shall be entitled to one (1) vote for each Lot owned. When there shall be more than one person or entity holding an interest in any Lot, all such persons or entities or both, shall be Members;

provided however that the vote for such Lot shall be exercised as such persons or entities or both, shall determine, but in no event shall more than one (1) vote be cast with respect to any one Lot.

**CLASS B:** Class B Members shall be the Declarant or its assigns which shall be entitled to three (3) votes for each Lot owned. For purposes herein, Declarant shall be considered the Owner of a Lot notwithstanding the existence of any contract for sale or purchase agreement, with such ownership status continuing in all events until title is transferred by Declarant through the execution, delivery and recordation of a Warranty Deed. A Class B. membership shall terminate and be converted into a Class A membership upon the occurrence of the date on which the total votes outstanding in the Class A membership shall equal or exceed the total votes outstanding in the Class B membership.

The Class A and Class B Members may be sometimes collectively referred to as "Members".

3. Purposes and Responsibilities. The Homeowners Association shall have the powers conferred upon not for profit corporations by the Nebraska Nonprofit Corporation Act, and all powers and duties necessary and appropriate to accomplish the purposes and administer the affairs of the Homeowners Association. The powers and duties to be exercised by the Board of Directors, and upon authorization of the Board of Directors by the Officers, may include but shall not be limited to the following:

A. The exterior maintenance, painting and insurance with respect to improvements constructed on the Lots, grounds care, snow removal, and trash collection as generally described in Sections 13, 14 and 15 of this Article.

B. The development, repair, replacement, operation and administration of Common Facilities, and the enforcement of the rules and regulations relating to the Common Facilities.

C. The fixing, levying, collecting, abatement and enforcement of all charges dues, or assessments made pursuant to the terms of this Declaration.

D. The expenditure, commitment and payment of Homeowners Association fund to accomplish the purposes of the Homeowners Association including, but not limited to, payment for purchase of insurance covering any Common Facility or any improvement to a Lot against property damage and casualty and purchase of liability insurance coverage for the Homeowners Association, the Board of Directors of the Homeowners Association and the Members.

E. The exercise of all of the powers and privileges, and the performance of all the duties and obligations of the Homeowners Association as set forth in this Declaration, as the same may be amended from time to time.

F. The acquisition by purchase or otherwise, holding, or disposition of any right, title or interest in real or personal property, wherever located, in connection with the affairs of the Homeowners Association.

G. The deposit, investment and reinvestment of Homeowners Association funds in bank accounts, securities, money market funds or accounts, mutual funds, pooled funds, certificates of deposit or the like.

H. The employment of professionals and consultants to advise and assist the Officers and Board of Directors of the Homeowners Association in the performance of their duties and responsibilities for the Homeowners Association.

I. General administration and management of the Homeowners Association, and execution of such documents and doing and performance of such acts as may be necessary or appropriate to accomplish such administration or management.

J. The doing and performing of such acts and the execution of such instruments and documents as may be necessary or appropriate to accomplish the purposes of the Homeowners Association.

4. Creation of the Lien and Personal Obligation of Assessments. The Declarant hereby covenants for each Assessable Lot and for each Owner of any Assessable Lot, by acceptance of a deed therefore or by entering into a contract for the purchase thereof, whether or not it shall be so expressed in such deed or in such contract, that it is, and shall be, deemed to covenant and agree to pay to the Homeowners Association:

- A. Special assessments for capital improvements, and
- B. Monthly assessments for exterior maintenance and other operational expenses with respect to each Assessable Lot as deemed necessary by the Homeowners Association, and

as such assessments shall be established and collected as hereinafter provided. The special assessments and monthly 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 shall be made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person, persons or entity who, or which, was the Owner of the property at the time when the assessment became due. The personal obligation for delinquent assessments shall not pass to such Owner's successors in title, unless expressly assumed by them.

5. Purpose of Assessment. The assessments levied upon the Homeowners Association shall be used exclusively to promote the health, safety, recreation and welfare of the residents of Rockbrook Creek Estates and for exterior maintenance, and other matters as more fully set out in Article III herein. Assessments shall be levied solely against an Assessable Lot. Assessable Lot shall mean and refer to any Improved Lot which the Board of Directors of the Homeowners Association determines is entitled to the benefits for which assessments are levied by the Homeowners Association as provided in this instrument. An Improved Lot shall mean and refer to any Lot upon which shall be erected a dwelling, the construction of which shall be at least eighty (80) percent constructed according to the plans and specifications for construction of said dwelling.

6. Monthly Assessments. The Board of Directors shall have the authority to levy and assess from time to time against any Assessable Lot any monthly maintenance assessment for the purpose of meeting the requirements of this Article III for exterior maintenance, which assessments may not be equal for each lot or dwelling.

7. Special Assessment for Capital Improvements. The Homeowners Association may levy special assessments from time to time against a Lot for the purpose of meeting the requirements of this Article III herein for the costs of any construction, reconstruction, repair or replacement of any capital improvements on such Lot, including fixtures and personal property related thereto, provided that any such assessment shall have the consent of two-thirds (2/3) of the votes of each Lot, who shall vote in person or by proxy at a meeting duly called for such purpose.

8. Notice and Quorum for Any Action Authorized Under This Article. Written notice of any meeting called for the purpose of taking any action authorized under this Article III shall be sent to all Members not less than ten (10) days nor more than fifty (50) days in advance of such meeting. At the first such meeting called, the presence of Members, in person or by proxy, entitled to cast sixty (60%) percent of all the votes entitled to be cast by each Lot 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 such subsequent meeting shall be ten (10%) percent of all the votes entitled to be cast. Any such subsequent meeting shall be held within sixty (60) days following the preceding meeting.

9. Rate of Assessment. The monthly assessments shall be paid pro rata by the Owners of all Assessable Lots based upon the total number of Assessable Lots; provided, however, the Board of Directors of the Homeowners Association may equitably adjust such pro-rations if it determines that certain Assessable Lots on which all of the improvements are not yet completed do not receive all of the benefits for which such assessments are levied. The monthly assessments may be collected on a monthly or other periodic basis by the Homeowners Association. The Board of Directors of the Homeowners Association shall fix



the amount of the monthly or other periodic assessments against each Assessable Lot. Written notice of the assessment shall be sent to every Owner subject thereto. The dates payments are due shall be established by the Board of Directors. The special assessments for capital improvements shall only be assessed against the Assessable Lot for which the costs of such construction, reconstruction, repair or replacement of any capital improvements occurs. The Homeowners Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an Officer of the Homeowners Association, setting forth whether or not all assessments on a specified Assessable Lot have been paid. A properly executed certificate of the Homeowners Association as to the status of assessments, on a particular Assessable Lot shall be binding upon the Homeowners Association as of the date of its issue by the Homeowners Association.

10. Effect of Nonpayment of Assessment; Remedies of the Homeowners Association. Any assessment not paid within thirty (30) days after the due date shall be deemed delinquent and shall bear interest at the maximum legal rate allowable by law in the State of Nebraska, which at the time of the execution of these Declarations, is sixteen (16%) percent per annum. Should any assessment remain unpaid more than sixty (60) days after the due date, the Homeowners Association may declare the entire unpaid portion of said assessment for said year to be immediately due and payable and thereafter delinquent. The Homeowners Association may bring an action at law against the Owner personally obligated to pay the same, or may foreclose the lien of such assessment against the property through proceedings in any Court having jurisdiction of actions for the enforcement of such liens. No Owner may waive or otherwise escape liability for the assessments provided herein by abandonment or title transfer of such Owner's Lot.

11. Subordination of the Lien to Mortgages. The lien on the assessments provided for herein shall be subordinate to the lien of any first mortgage, first deed of trust, or other initial purchase money security device, and the holder of any first mortgage, first deed of trust, or other initial purchase money security device, on any Lot may rely on this provision without the necessity of the execution of any further subordination agreement by the Homeowners Association. Sale or transfer of any Lot shall not affect the status or priority of the lien for assessments made as provided herein. The Homeowners Association, if authorized by its Board of Directors, may release the lien of any delinquent assessments on any Lot as to which the first mortgage, first deed of trust or initial purchase money security device thereon is in default, if such Board of Directors determines that such lien has no value to the Homeowners Association. No mortgage shall be required to collect any assessments due. The Homeowners Association shall have the sole responsibility to collect all assessments due.

12. Abatement of Dues and Assessments. Notwithstanding any other provision of this Declaration, the Board of Directors may abate all or part of the dues or assessments due in respect of any Lot and shall abate all due and assessments due in respect of any Lot during the period such Lot is owned by the Declarant.

13. Monthly Assessments. Monthly assessments may be assessed for, but not limited to the following:

A. Care and maintenance of trees and shrubs, lawns, and other exterior landscaping improvements as originally installed by the Declarant or builder, except such improvements as may be within the confines of any fenced in area on any Assessable Lot or installed by or at the direction of the Owner. The Owner understands that the original landscape as installed by the Declarant or builder is warranted for a period of one (1) year from the time of planting. The Owner is responsible for replacement of all dead landscaping improvements after the one (1) year warranty period expires and the Owner agrees to allow the Homeowners Association to replace such dead landscape improvements at the expense of the Owner of record at the time of replacement and the Owner shall reimburse the Homeowners Association on demand.

B. Operation and maintenance of an underground watering system, including the water costs.

C. Snow removal from out lots and drives, front walks and stoops only as to be determined by the guidelines set forth by the Board of Directors.

D. Trash removal, unless provided by local governmental authorities.

E. The Homeowners Association shall have no duty to repair, replace or maintain any exterior concrete surfaces, including walks, driveways, patios, foundations, doors, windows and decks, but may do so as determined by the Board of Directors.

F. Reserves for replacements, repairs and maintenance as determined by the Board of Directors.

14. Special Assessments. Special assessments may be assessed for, but not limited to, the following:

A. Maintain, repair and replace roofs.

B. Maintain, repair, including painting, of all exterior walls, with the exception that the Homeowners Association shall not assume the duty to repair or replace any glass surfaces, including, but not limited to, window glass and door glass. The Homeowners Association shall not assume the duty to repair or replace doors, door openers, and cooling units for air conditioning systems. However, the Homeowners Association shall assume the duty to paint the exterior surfaces of exterior doors.

C. Maintain, repair and replace gutters.

D. Maintain, replace and repair the out lots and Common Facilities.

15. Insurance. Insurance may be required as follows:

A. The Homeowners Association may but shall not be obligated to, purchase and provide physical property coverage insurance with respect to the improvements (residential and related structures) in any amount equal to at least ninety percent (90%) of the full replacement value of the original improvements against losses by fire, lightning, wind storm and other perils covered by standard extended coverage endorsements. The full replacement value of the original improvements is defined as the base price of the original structure excluding, but not limited to, custom finished basements and any other improvements over the base original price. Insurance premiums are assessed uniformly based upon the base price of the original structures. Betterments done to the original structure and additional custom improvements shall not be covered by the Homeowners Association's policy. The intent is to provide only coverage based only upon the basic purchase price excluding any custom betterments.

The Homeowners Association may also purchase and provide comprehensive general liability coverage insurance against any other hazards and in such amounts as shall be determined from time to time by the Board of Directors of the Homeowners Association. The Homeowners Association, in addition to the foregoing, shall provide Directors and Officers liability coverage insurance for the Homeowners Association, for its Officers, and Members of the Board of Directors. Finally, if the Homeowners Association has any employees of any nature, the Homeowners Association shall purchase and provide Workers' Compensation Insurance for all employees who may come within the scope of Nebraska Workers' Compensation laws.

The above insurance shall not cover the personal property of any Owner of any Lot, it being the Owner's responsibility to provide such insurance coverage for the Owner's protection. In addition, the Homeowners Association may purchase such additional insurance against other hazards which may be deemed appropriate by the Board of Directors.

B. The Homeowners Association is hereby irrevocably appointed as agent for each Owner of each and every Lot and for the holder of any mortgage on any Lot, to adjust any and all claims arising under insurance policies purchased by the Homeowners Association on the improvements on the Lots, joined by any such Owner or mortgage. All insurance proceeds shall be applied by the Homeowners Association toward repairing the damage covered by such insurance, provided that reconstruction or repair shall not be compulsory where the damage exceeds two-thirds (2/3) of the value of all the buildings and improvements of the Lots covered by such insurance.



The deductible portion of the applicable master insurance policy shall be borne equally by those Lots which have suffered the loss. Should the Owners so elect not to rebuild, the insurance proceeds, along with the insurance indemnity, if any, shall be credited to each Owner in accordance with such Owner's pro rata share of the loss as sustained from the casualty for which the proceeds shall be payable. Such sums shall be first applied towards satisfaction of any recorded first mortgage, first deed of trust, or initial purchase money security device against such Lots, next applied towards satisfaction of junior recorded liens in order of their priority, next toward the cost of razing the improvements or any remnants thereof from said Lots, and the filling and leveling of any of said Lots, as needed, and the remainder shall then be paid to such Owner of such razed properties on a pro rata basis.

In case the insurance proceeds do not equal the cost of repairs or rebuilding, the excess cost shall be considered a maintenance expense to be assessed and collected by the Homeowners Association from the Owner of the damaged improvements. In any case of over insurance, any excess proceeds of insurance received shall be credited towards the working fund of the Homeowners Association.

C. Each Lot Owner may obtain such additional insurance for the individual Owner's benefit and at such Owner's own expense as may be deemed necessary by the Lot Owner, including coverage for specific improvements and betterments, personal liability, specific personal property items, the ten (10%) percent co-insurance provision of the full replacement cost of the base price of the original structure, and any exclusions of insurance coverage from the master policy provided by the Homeowners Association.

16. Access. The Homeowners Association, its Officers, employees and agents, contractors and repairmen designated by the Homeowners Association, shall have the right to go on any Lot for the purpose of performing the duties of the Homeowners Association hereunder, and the Homeowners Association is hereby granted a specific easement for such purposes.

17. Utility Meters and Service Lines. In order to facilitate the installation, operation, maintenance and repair of an underground watering system, such Lots as shall be designated from time to time by the Homeowners Association shall have a dual metering system for water so as to permit the drawing of water for watering of the lawns, shrubs, trees and other vegetation located upon the Lots. It is understood that the amount of water metered for the residential use on any such Lot shall be paid for by the Owner of each Lot receiving water, and the Owner shall be responsible for the meter servicing solely the Owner's Lot. Utility meters may be located within the Owner's residence.

18. Liens and Personal Obligations for Dues and Assessments. The assessments and dues, together with interest thereon, costs and reasonable attorney's fees, shall be the personal obligation of the Owner of each Lot at the time when the dues or assessments first become due and payable. The dues and assessments, together with interest thereon, costs and reasonable attorney's fees, shall also be a charge and continuing lien upon the Lot in respect of which the dues and assessments are charged. The personal obligation for delinquent assessments shall not pass to the successor in title to the Owner at the time the dues and assessments become delinquent unless such dues and assessments are expressly assumed by the successors, but all successors shall take title subject to the lien for such dues and assessments, and shall be bound to inquire of the Association as to the amount of any unpaid assessments or dues.

19. Uniform Rate of Assessment. Assessments and dues shall be fixed at a uniform rate as to all Assessable Lots, but dues may be abated as to individual Lots, as provided in Section 12. above.

20. Effect of Nonpayment of Assessments-remedies of the Association. Any installment of dues or assessments which is not paid when due shall be delinquent. Delinquent dues or assessments shall bear interest from the due date at the rate of sixteen (16%) percent per annum, compounded annually. The Homeowners Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot or Lots, and pursue any other legal or equitable remedy. The Homeowners Association shall be entitled to recover as a part of the action and shall be indemnified against the interest, costs and reasonable attorney's fees incurred by the Homeowners Association with respect to such action. No Owner may waive or otherwise escape liability for the charge and lien provided for herein by non-use of the Common Area or abandonment of his Lot. The mortgage of any Lot shall have the right

1.1

to cure any delinquency of an Owner by payment of all sums due, together with interest, costs and fees. The Homeowners Association shall assign to such mortgage all of its rights with respect to such lien and right of foreclosure and such mortgage may thereupon be subrogated to any rights of the Homeowners Association.

ARTICLE IV.  
EASEMENTS AND CONNECTION

1. A perpetual easement is reserved in favor of the Declarant and the Homeowners Association, its successors and assigns to create, install, repair, reconstruct, paint, maintain, and renew a fence, standards and related accessories, including rock walls, located on, over and upon a ten (10) foot wide strip of land adjoining the Boundary Fence located on any Lots.

2. In the event that ninety (90%) percent of all Lots within the subdivision are not improved within five (5) years after the date on which Qwest files notice that it has completed installation of telephone lines to the Lots in the subdivision (herein the "Subdivision Improvement Date"), then Qwest may impose a connection charge on each unimproved Lot in the amount of Four Hundred Fifty and no/100ths (\$450.00) Dollars. A Lot shall be considered as unimproved if construction of a permanent structure has not commenced on a Lot. Construction shall be considered as having commenced if a footing inspection has been requested on the Lot in question by officials of the City of Omaha or other appropriate governmental authority.

Should such charge be implemented by Qwest and remain unpaid, then such charge may draw interest at the rate of twelve (12%) percent per annum commencing after the expiration of sixty (60) days from the time all of the following events shall have occurred: (1) the Subdivision Improvement Date, and (2) Qwest sends each Owner of record a written statement or billing for Four Hundred Fifty and no/100ths (\$450.00) Dollars for each unimproved Lot.

3. Other easements are provided for in the final plat of Rockbrook Creek Estates which is filed in the office of the Register of Deeds of Douglas County, Nebraska *INSTRUMENT # 2003 198 623*

ARTICLE V.  
GENERAL PROVISIONS

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

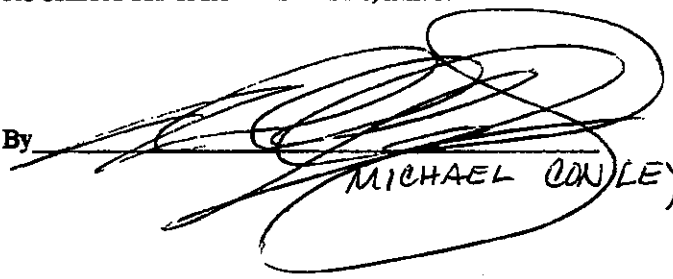
2. The covenants and restrictions of this Declaration shall run with and bind the land for a term of thirty (30) years from the date of this Declaration is recorded. This Declaration may be amended by Declarant, or any person, firm, corporation, partnership, or entity designated in writing by Declarant in any manner which it may determine in its full and absolute discretion for a period of five (5) years from the date hereof. Thereafter this Declaration may be amended by an instrument signed by the Owners of not less than seventy (70%) percent of the Lots covered by this Declaration.

3. Declarant, or its successor or assign, may terminate its status as Declarant under this Declaration, at any time, by filing a notice of Termination of Status as Declarant. Upon such filing, Association may appoint itself or another entity, association or individual to serve as Declarant, and such appointee shall thereafter serve as Declarant, with the same authority and powers as the original Declarant.

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

IN WITNESS WHEREOF, the Declarant has caused these presents to be executed this 10th day of SEPTEMBER, 2004.

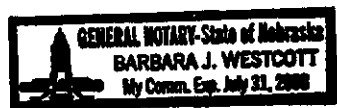
ROCKBROOK CREEK ESTATES, L.L.C.

By  MICHAEL CONLEY, PRES.

STATE OF NEBRASKA )  
  ) SS.  
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me, a Notary Public in and for said County and State, this 10th day of SEPTEMBER, 2004.

  
Notary Public



# Rock Brook Creek Estates

Plat and Dedication  
Filed 10-10-03 in Book 2003 at Page 198623, Instrument No. \_\_\_\_\_

Grants a perpetual easement in favor of  
 Omaha Public Power District,  
 U.S. West Communications Qwest  
 Northwestern Bell Telephone Company  
and any cable company granted a cable television franchise system,  
and for

for utility, installation and maintenance  
on, over, through, under and across  
or

*See below*

a 5 foot wide strip of land abutting the front and the side boundary lines of all lots;  
an 8 foot wide strip of land abutting the rear boundary line of all interior lots;  
and a 16 foot wide strip of land abutting the rear boundary line of all exterior lots.

Does it include the following??  Yes or No (Circle One)

Also grants an easement to Metropolitan Utilities District of Omaha for utility,  
installation and maintenance on, through, under and across a 5 foot wide strip of land  
abutting all cul-de-sac streets.

Any additional info,

\_\_\_\_\_  
\_\_\_\_\_

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Declaration of Covenants, Conditions, Restrictions and Easements,  
Restrictive Covenants  
Protective Covenants  
or

Filed 3-29-05, in Book 2005 at Page 034336, Instrument No. \_\_\_\_\_

Omaha Public Power District,  
U.S. West Communications  
Northwestern Bell Telephone Company  
and any cable company granted a cable television franchise system,  
and for

*See below*

for utility, installation and maintenance  
on, over, through, under and across  
or

a \_\_\_\_\_ foot wide strip of land abutting the front and the side boundary lines of all lots;  
an \_\_\_\_\_ foot wide strip of land abutting the rear boundary line of all interior lots;  
and a \_\_\_\_\_ foot wide strip of land abutting the rear boundary line of all exterior lots.

Does it include the following?? Yes or No (Circle One)

Also grants an easement to Metropolitan Utilities District \_\_\_\_\_ for utility,  
installation and maintenance on, through, under and across a \_\_\_\_\_ foot wide strip of land

2. Plat and Dedication filed October 10, 2003, in Instrument No. 2003198623 wherein an easement is granted to Omaha Public Power District, Qwest Communications and any cable company granted a cable television franchise system for utility installation and maintenance on, over, through, under and across a 5 foot wide strip of land abutting the front and side lot lines; 8 foot wide strip of land abutting the rear lot lines of all interior lots and a 16 foot wide strip of land abutting the rear lot lines of all exterior lots. Also grants easement to Metropolitan Utilities District for utility installation and maintenance on, through, under and across a 5 foot wide strip of land abutting all cul-de-sac streets. Also grants permanent ingress and egress easement over all of Outlot "A" to owners of Lots 1-7, their guests and invitees.
3. Declaration of Covenants, filed March 29, 2005, in Instrument No. 2005343363, wherein a Homeowners Association is created; perpetual easement is granted to Declarant and the Homeowners Association to create, install, repair, reconstruct, paint, maintenance and renew a fence, standards and related accessories, including rock walls, located on, over and upon a 10 foot wide strip of land adjoining the Boundary Fence located on any lots; in the event that 90% of all lots within the subdivision are not improved within 5 years after the date on which Qwest files notice that it has completed installation of telephone lines to lots, then Qwest may impose a connection charge on each unimproved lot of \$450.00.

\_\_\_\_\_  
\_\_\_\_\_