

59-2175

NOTICE AND DECLARATION OF ADDITIONAL COVENANT OF OVERLAND HILLS IV
A SUBDIVISION IN SARPY COUNTY, NEBRASKA

This notice and declaration, made on the date hereinafter set forth, is made by Celebrity Homes, Inc. and West Lincoln Properties Limited Partnership hereinafter referred to as the "Declarants."

PRELIMINARY STATEMENT

1. WHEREAS, the Overland Hills IV subdivision contains 151 lots, and some of these lots have been conveyed by the Declarants to various purchasers prior to the filing of this Notice and Declaration.

2. WHEREAS, Declarant Celebrity Homes, Inc. is the owner of the following lots in Overland Hills IV:

Lots 12-23, 25, 31, 33-38, 48, 53-57, 60-64, 66-69, 128, 135, 137, 138, 141, and 144-148, inclusive, all in Overland Hills IV, a subdivision, as surveyed, platted, and recorded in Sarpy County, Nebraska.

3. WHEREAS, Declarant West Lincoln Properties Ltd. is the owner of the following lots in Overland Hills IV:

Lots 1-5, 71, 73-92, 94-126, 130-132, 150 and 151, inclusive, all in Overland Hills IV, a subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska.

WHEREAS, each Declarant will convey its lots subject to the additional covenant and possible charge set forth in Article I.

NOW THEREFORE, each Declarant hereby declares that all lots which are owned by each Declarant as described herein shall be held, sold, and conveyed subject to this additional covenant and/or contingent charge. This additional covenant and contingent

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charge shall run with said real property, and shall be binding upon all parties having or acquiring any right, title or interest in the above described lots, or any part thereof.

DEFINITIONS

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

B. "Lot" shall mean and refer to any plot of land shown upon the recorded subdivision map or plat of Overland Hills IV, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.

C. "Declarants" shall mean and refer to Celebrity Homes, Inc., a Nebraska corporation, its successors and assigns, and West Lincoln Properties Ltd., a Nebraska Limited Partnership, its successors and assigns.

ARTICLE I

NOTICE OF POTENTIAL TELEPHONE FACILITIES CHARGE

In the event that ninety percent (90%) of all lots within Overland Hills IV Subdivision are not improved within five years from the date that Northwestern Bell Telephone Company shall have completed the installation of its distribution system within said subdivision and filed notice of such completion ("five year term"), then every lot that is unimproved at the end of the five year term shall be subject to a charge of four hundred and fifty dollars (\$450.00) by Northwestern Bell Telephone Company or its successors.

59-2175B

A lot shall be considered as unimproved if construction of a permanent structure has not commenced on that lot. Construction shall be considered as having commenced if a footing inspection has been made on the lot in question by officials of the city or other appropriate governmental authority.

All 151 lots in Overland Hills IV subdivision shall be considered in determining whether ninety percent (90%) of the lots within Overland Hills IV have been improved within the five year term. Only the 151 lots in Overland Hills IV subdivision as mentioned herein shall be considered in determining the date Northwestern Bell Telephone Company shall have completed the installation of its distribution system for the Overland Hills IV subdivision.

Such charge shall be due and owing immediately upon the expiration of the five year term, and if such charge is not paid within sixty days after the sending of written notice by Northwestern Bell Telephone Company or its successors to the owner of an unimproved lot that such charge is due, then such charge will begin drawing interest commencing upon the expiration of the sixty day period at the rate of twelve percent (12%) per annum, or the maximum rate allowed by law if said maximum rate is less than twelve percent (12%) per annum at that time.

