

NOTICE AND DECLARATION OF ADDITIONAL COVENANT OF SUMMERFIELD,
A SUBDIVISION IN SARPY COUNTY, NEBRASKA

This notice and declaration, made on the date hereinafter set forth, is made by Charles G. Smith and C.S.I., hereinafter referred to as the "Declarants."

PRELIMINARY STATEMENT

1. WHEREAS, the Summerfield subdivision contains 168 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 Charles G. Smith is the owner of the following lots in Summerfield:

Lots 1-5, 7, 10, 20-31, 33-52, 54-117, 121-132, 134-148, and 150-168, inclusive, all in Summerfield, a subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska.

3. WHEREAS, Declarant C.S.I. is the owner of the following lots in Summerfield:

Lots 6, 8, 9, 11-13, 15-19, 32, 118-120, 133 and 149, inclusive, all in Summerfield, a subdivision, as surveyed, platted and recorded in Sarpy County, Nebraska.

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

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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 Summerfield, a subdivision as surveyed, platted and recorded in Sarpy County, Nebraska.

C. "Declarants" shall mean and refer to Charles G. Smith, his successors and assigns, and C.S.I., a Nebraska corporation, its successors and assigns.

ARTICLE I
NOTICE OF POTENTIAL TELEPHONE FACILITIES CHARGE

In the event that ninety percent (90%) of all lots within Summerfield 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. 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 168 lots in Summerfield subdivision shall be considered in determining whether ninety percent (90%) of the lots within Summerfield have been improved within the five year term. Only the 168 lots in Summerfield 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 Summerfield 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.

In witness whereof, the undersigned, being the Declarants herein, have hereunto set its hand and seal this 15 day of July, 1986.

DECLARANTS:

C.S.I.

CHARLES G. SMITH

By:

[Handwritten signature]

By:

[Handwritten signature]

STATE OF NEBRASKA)
) ss.
COUNTY OF SARPY)

The foregoing instrument was acknowledged before me, this 15 day of July, 1986 by Charles G. Smith, President of C.S.I., a Nebraska corporation.

GENERAL NOTARY - State of Nebraska
LYNN W. WHISTON
My Comm. Exp. 3/18/88

[Handwritten signature]
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF SARPY)

The foregoing instrument was acknowledged before me, this 15 day of July, 1986 by Charles G. Smith.

GENERAL NOTARY - State of Nebraska
LYNN W. WHISTON
My Comm. Exp. 3/18/88

[Handwritten signature]
Notary Public

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REGISTER OF DEEDS