

WIESMAN EXECUTIVE PLAZA

DECLARATION OF COVENANTS AND RESTRICTIONS

This Declaration, made this 1st day of February, 1980, by David A. Wiesman, Trustee, hereinafter called the "Declarant".

W I T N E S S E T H:

WHEREAS, the Declarant is the sole owner of the real property in Douglas County, Nebraska, legally described on Exhibit "A", attached, and

WHEREAS, the Declarant intends to develop said real property as a commercial, industrial, and office park, to be known as "Wiesman Executive Plaza", and

WHEREAS, the undersigned desires to provide for the preservation of the values and amenities in said development; and to this end, desires to subject such real property to the covenants, restrictions, easements, charges and liens, herein-after set forth, each and all of which is and are for the benefit of said property and each owner thereof;

NOW, THEREFORE, the Declarant declares that the real property described on Exhibit "A", attached, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens hereinafter set forth.

ARTICLE I
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 all present and future owners of all or any part of the real property subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of thirty-five (35) years from the date of this Declaration; after which time said covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument signed by the owners of more than fifty percent (50%) in area of the subject real property has been recorded prior to the commencement of any ten-year period, agreeing to change said covenants in whole or in part.

ARTICLE II
ENFORCEMENT

Enforcement of these covenants and restrictions by owners of any of the subject real property shall be by any proceeding at law or in equity against any such 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 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. All legal fees to enforce will be paid by persons violating or attempting to violate. The Architectural and Standards Committee will charge the non-complying land owner for all costs incurred in enforcing compliance with all conditions of these covenants.

ARTICLE III
ARCHITECTURAL AND STANDARDS COMMITTEE

Section 1. Composition of Committee. The Architectural and Standards Committee shall be composed of three or more persons, who shall initially be appointed by the Declarant. If any member of the Architectural and Standards Committee shall resign or refuse or be unable to serve in such capacity, the remaining members of such committee shall designate a replacement for such person. Owners of seventy-five per cent (75%) in area or more of the subject real property shall have the right to remove any member of the Architectural and Standards Committee and replace such removed member by a person designated by them.

Section 2. Review of Committee. Unless prior written approval is granted by the Architectural and Standards Committee: a. no structure of any kind, permanent or temporary, including, but not limited to, buildings, poles, antennas, aerials, tents, trailers, standards, trash containers, screens, displays, decorations, projections or objects, loading docks, fences, walls, an temporary structures, signs and billboards, lights, and ancillary buildings, shall be constructed, installed, placed, maintained upon any part of the subject real property or kept outside of any building which is part of the subject real property; and b. no alteration or repainting to the exterior of a structure shall be made and no landscaping performed unless complete plans, specifications, and lot plans therefor, showing the exterior design, height, building materials and color scheme thereof, the location of the structure plotted horizontally and vertically, the location and size of driveways, curbs, parking lots, sidewalks, patios, storage yards, transformer and gas meter slabs, posts, drainage areas, the general plan of landscaping, grass, fencing, walls and windbreaks, if any, and the grading plan shall have been submitted to and approved in writing by the Architectural and Standards Committee, and a copy of such plans, specifications, and lot plans as finally approved, deposited with the Architectural and Standards Committee.

Section 3. Discretion and Powers of Committee. The Architectural and Standards Committee shall exercise its best judgment to see that all improvements, construction, landscaping and alterations on lands within the subject real property conform to these covenants and restrictions. All determinations made by the Architectural and Standards Committee shall be in its sole discretion and shall be final. It is specifically understood that the powers and duties of the Architectural and Standards Committee include the enforcement of those covenants and restrictions stated herein, and shall extend to overall control and enforcement of all matters pertaining to the appearance and maintenance of the development.

Section 4. Procedures. The Architectural and Standards Committee shall approve or disapprove all plans and requests in writing within thirty (30) days after submission. In the event the Architectural and Standards 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 Architectural and Standards Committee is required for approval or disapproval of proposed improvements.

Section 5. No Liability. The Architectural and Standards Committee shall not be liable in damages to any person submitting requests for approval or to any owner within the subject real property by reason of any action, failure to act, approval, disapproval or failure to approve or disapprove with regard to such requests.

ARTICLE IV
DRIVEWAYS AND SETBACKS

The width and location of driveways shall be approved by the Architectural and Standards Committee and shall conform to City of Omaha standards. Once approved, the driveway arrangement shall not be changed without the prior written consent of the Architectural and Standards Committee.

The building setbacks from the property line for interior side yard will be a minimum of ten feet; and for rear yard, a minimum of twenty feet; and front yard a minimum of thirty-five feet. All buildings must set back from all streets a minimum of thirty-five feet, including both streets for corner lots and double lots. No waiver of these established setbacks by the City of Omaha shall be effective unless also approved by the Architectural and Standards Committee. The minimum distance between any buildings shall be twenty feet.

ARTICLE V
PARKING FACILITIES

Except as may be permitted in writing by the Architectural and Standards Committee - all vehicular parking (customer, visitor and employee) shall be off-street. Parking areas shall not be used for any purpose other than the parking of automotive vehicles belonging to customers, visitors and employees. In no case shall any storage, servicing, or dismantling of automobiles or other vehicles be permitted in the required parking areas. All parking areas shall be hard surfaced, either portland cement or asphalt.

ARTICLE VI
LANDSCAPING AND MAINTENANCE OF UNDERDEVELOPED AREAS

All setback areas and areas not improved with buildings, drives and parking lots shall be planted with grass, shrubs, and trees. That portion of each site which is not improved through the construction of buildings, parking facilities, loading facilities and lawn area as herein provided shall be seeded to a cover planting which grows to a height not to exceed approximately 18 inches, and shall be attractively maintained. In no event, and at no time, shall any part of the land areas be planted to cultivated row crops. The landowner and/or Lessee shall be responsible for maintenance of the property up to the edge of the pavement on the abutting street or streets, including all lawn and landscaped areas, parking and loading, walks, driveways, and building exterior.

In the event any property is not maintained in accordance with these Covenants and Restrictions, after at least seven days' written notice to the Owner and/or Lessee, the Architectural and Standards Committee shall have the right, but not the obligation, to enter upon the site and make all expenditures necessary to maintain the same, and it may charge the non-complying landowner for all costs incurred in enforcing compliance with this provision.

ARTICLE VII
LOADING AREAS, STORAGE AND TRASH CONTAINERS

Section 1. Loading Areas. All loading and unloading operations and vehicle maneuvering shall be off-street. In no case shall loading and unloading be permitted in the parking or lawn areas or in a location which will interfere with ingress or egress thereto. All loading areas shall be hard-surfaced, with either portland

cement or asphalt. Truck doors and loading docks shall not face any public street or Interstate 680, unless approved by the Architectural and Standards Committee.

Section 2. Outside Storage. No merchandise, supplies, equipment, or other materials shall be kept, stored or displayed outside the confines of a walled building, unless it be so screened by fences, walls or plantings that it cannot be seen from any street. The method of screening must be first approved by the Architectural and Standards Committee. In no case may merchandise, supplies, equipment, or other personal property be placed or displayed on those lots that are located along Interstate 680 even with screening, unless approved in writing by the Architectural and Standards Committee. Automobiles, trucks, equipment or machinery parked out-of-doors must be in operating condition, or else said vehicles will be towed away at the owner's expense. In no event shall any part of the required parking or lawn areas be used for the storage or abandonment of any property.

Section 3. Trash Containers. Trash containers shall be the type as specified and shall be located as approved by the Architectural Control Committee.

ARTICLE VIII ERECTION OF SIGNS

No owner, lessee, or occupant of land within the subject real property shall use or permit to be used any portion of the property under his control for the erection of signs or billboards or displays other than those directly related to its own business conducted thereon. Written approval of the Architectural and Standards Committee is required for the erection of any sign, including building signs, and any sign erected without such prior approval may be removed at the option of the Architectural and Standards Committee at expense of violator.

ARTICLE IX SUBDIVIDING

At no time and in no event shall any parcel be subdivided into additional lots or parcels, nor shall less than all of the entire parcel be sold, leased or rented without the prior written consent and authorization of the Architectural and Standards Committee.

ARTICLE X COMPLIANCE WITH GOVERNMENT REGULATIONS

The owner and/or Lessee of any site or lot shall at all times keep the premises, buildings, improvements and appurtenances in a safe and clean condition and comply in all respects with all government, health, fire and police requirements and regulations. Every owner and/or Lessee will remove at his or its own expense any rubbish of any character, whatsoever which may accumulate at its or his site or lot. If any owner and/or Lessee fails to comply with any or all of the aforesaid specifications and requirements, or if it or he fails to establish or maintain the landscaping, parking and drive areas, then the Architectural and Standards Committee or any of the other owners of at least fifty percent (50%) in area of the real property shall have the right, privilege and license, but not the obligation, to enter upon the premises and make any and all correction or improvements that may be necessary to meet such standards, all at the sole cost and expense of said owner. In addition to the foregoing, the use and building regulations as now or hereafter imposed by the provisions of the zoning and building ordinances of the City of Omaha shall apply throughout Wiesman Executive Plaza, except as such may be modified by duly constituted authority.

ARTICLE XI
GENERAL RESTRICTIONS

No noxious or offensive trade or activity shall be carried on upon any plot nor shall anything be done thereon which may be or become an annoyance or nuisance to others. No polluting of the air, water, or land by the release or discharge of toxic or semi-toxic fumes, chemicals, soot, smoke, particulates, or any other harmful or foul-smelling substances will be permitted. No dumping, burying, discharging, burning, or disposing of waste materials of any nature in any area or receptacle will be allowed. No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot.

ARTICLE XII
EXCEPTIONS OR MODIFICATIONS

The Architectural and Standards Committee is authorized to make such exceptions to, or modifications of, these Covenants and Restrictions as unusual circumstances or special situations may warrant, and such exceptions or modifications shall not invalidate these Covenants and Restrictions. The Committee shall not be required to be consistent in its determinations, and no decision shall necessarily constitute a precedent for future exceptions or modifications for the same or different owners or property.

ARTICLE XIII
EASEMENTS

A perpetual license and easement is hereby reserved in favor of and granted to Omaha Public Power District and Northwestern Bell Telephone Company, their successors and assigns, to erect and operate, maintain, repair, replace and renew buried or underground cables, conduits, and to extend wires for the carrying and transmission of electric current for light, heat and power, and for all telephone service under, in and across a strip of land eight feet (8') in width along the exterior boundary of Wiseman Executive Plaza and five feet (5') in width abutting all dedicated street right-of-ways. No permanent building or retaining walls shall be placed in the said easement ways, but the same may be used for gardens, shrubs, landscaping and other purposes that do not then or later interfere with the aforesaid uses or rights herein granted. Easements to individual buildings will be dedicated by lot owners as required. All telephone and electric power entrances to structures on any of said lots shall be underground and the owner of each lot shall provide or have constructed at his cost the underground entrance to the building which shall meet the specifications in the building and site plans accepted and approved by the Architectural and Standards Committee.

ARTICLE XIV
GENERAL PROVISIONS

Section 1. Amendments. These Covenants and Restrictions may be amended by an instrument signed by owners of more than fifty percent (50%) in land area of the subject real property.

Section 2. Severability. If any paragraph or part thereof of this Declaration shall be invalid, illegal, or inoperative for any reason, the remaining parts so far as possible and reasonable, shall be effective and fully operative.

Section 3. Notices. Any notice required to be sent to any of the owners under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postage prepaid, to the last known address of the person who appears as owner of record of the applicable property at the time of such mailing. If hand delivered, written receipt must be dated and signed by both parties.

Section 4. Explanatory Provisions. Headings of the various paragraphs herein are inserted merely as a matter of convenience and for reference and shall not be considered as in any manner defining, limiting, or describing the scope or intent of the particular paragraphs to which they refer or as affecting the meaning or construction of the language in the body of such paragraphs.

IN WITNESS WHEREOF, the Owner has executed this Declaration this 1st day of February, 1980.

David A. Wiesman, Trustee
David A. Wiesman, Trustee

STATE OF NEBRASKA) SS
COUNTY OF DOUGLAS)

On this 1st day of February, 1980, before me, a Notary Public for said county, personally came David A. Wiesman, Trustee, known to me to be the identical person who signed the foregoing instrument and acknowledged the execution thereof to be his voluntary act and deed.

Witness my hand and Notarial Seal on February 1 1980. My commission expires: October 24, 1982. David A. Wiesman
Notary Public



Exhibit A

Legal Description

Wiesman Executive Plaza

Part of the Northeast Quarter of the Southwest Quarter and part of the Northwest Quarter of the Southeast Quarter, all in Section 33, Township 16 North, Range 12 East, Douglas, County, Nebraska, being more particularly described as follows:

Commencing at the Southwest corner of the Northeast Quarter of the Southwest Quarter of said Section 33; thence South 89°41'57" East along the Southerly line of said Northeast Quarter of the Southwest Quarter, a distance of 178.76 feet to a point on the Easterly right-of-way line of 103rd Street and the point of beginning; thence continuing along said Southerly line of the Northeast Quarter of the Southwest Quarter South 89°41'57" East, a distance of 1,140.28 feet to the Southeast corner of the Northeast Quarter of the Southwest Quarter of said Section 33; thence south 89°41' 57" East along the Southerly line of the Northwest Quarter of the Southeast Quarter of said Section 33, a distance of 126.93 feet to the Westerly right-of-way line of Interstate 680 (I-680); thence North 04°55'53" East along said Westerly right-of-way line of I-680, a distance of 1,056.66 feet; thence continuing along said Westerly right-of-way line of I-680 North 00°25'19" East, a distance of 212.87 feet to the Southerly right-of-way line of Military Avenue; thence North 89°41'27" West along said Southerly right-of-way line of Military Avenue, a distance of 210.53 feet; thence continuing along said Southerly right-of-way line of Military Avenue North 00°24'13" East, a distance of 5 feet; thence continuing along said Southerly right-of-way line North 89°41'27" West, a distance of 1,189.58 feet to the Westerly line of the Northeast Quarter of the Southwest Quarter of said Section 33; thence south 00°25'23" West along said Westerly line of the Northeast Quarter of the Southwest Quarter, a distance of 1,096.17 feet to a point on the Northeasterly right-of-way of 103rd Street and a point of curvature; thence on a curve to the Right, having a radius of 172.20 feet, an arc distance of 225.72 feet, said curve has a chord bearing South 52°01'21" East, an arc distance of 209.94 feet; thence South 14°27'08" East along said Northeasterly right-of-way line of 103rd Street, a distance of 48.4 feet to the Southerly line of the Northeast Quarter of the Southwest Quarter of Section 33-16-12 and the point of beginning.

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REGISTER OF DEEDS
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