

DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS, AND RESTRICTIONS OF PELICAN BAY AT CAPITOL BEACH

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS WTK Co. Inc., a Nebraska corporation, (the "Developer") is the owner of a certain tract of real property more particularly described as lots 1-20, Pelican Bay Final Plat, LLCN. A copy of the plat is attached hereto and incorporated herein by this reference as if fully set forth (the "Property"), and;

WHEREAS, this property is also bound by and subject to the Protective Covenants of the Capitol Beach Community Association, Incorporated (CBCA), and membership is required by this property's lot owners in the CBCA, as provided for in CBCA's Bylaws and Amended Protective Covenants.

WHEREAS, the Developer desires to ensure the orderly and proper development, maintenance and use of the Property, in order to protect and preserve the overall character of the Property in accordance with their desires to develop a quality residential lake front neighborhood, and in order to provide and maintain a uniform set of rules, regulations, and restrictions concerning the construction and use of any structures on the Property, and in order to provide for the maintenance, use and operation of the Pelican Bay boat storage facility (as hereinafter described).

NOW, THEREFORE, the Developer does hereby create, establish, adopt, and impose the following additional covenants, restrictions, and conditions on the Property hereinafter described as the "Lots", or a "Lot", these covenants being in addition to the existing Amended Protective Covenants of the CBCA dated June 19, 1991, to-wit:

1) Definitions:

(A) As used herein, the term "Property" shall be deemed to mean lots 1-20 of Pelican Bay Final Plat LLCN, a copy of which is attached hereto and incorporated herein by this reference as if fully set forth.

(B) As used herein, the term "Lots" or "Lot" shall be deemed to mean all single family Lots now or hereafter located on the Property which are shown on any Final Plat of all or any portion of the Property; provided that said Final Plat has been filed with the Register of Deeds of Lancaster County, Nebraska.

(C) As used herein the term "Boat Storage Facility" shall be deemed to mean the area of the Saline Wetlands Nature Center upon which Pelican Bay has an easement from the Lower Platte South Natural Resource District to construct and operate a fenced-in site for storage of recreational boats, trailers, etc. on the allocation of one storage space stall for each of the 20 lots in Pelican Bay.

(D) As used herein the term "Lot Owner" shall be deemed to mean the owner or owners of record of any single family Lot located on the Property.

(E) As used herein the term "Homeowners Association" shall be deemed to mean Capitol Beach Community Association, Inc. (CBCA), a Nebraska non-profit

Corporation, which has the additional right of enforcing and maintaining compliance with these Covenants and the CBCA Amended Protective Covenants.

(F) As used herein the term "Architectural Review Committee" shall be deemed to mean a committee of not less than 3, nor more than 5 persons appointed by the Developer.

(G) As used herein the term "Covenants" shall be deemed to refer to this Declaration of Protective Covenants, Conditions, and Restrictions of Pelican Bay at Capitol Beach as modified or amended in accordance herewith.

(H) As used herein the term "Amended Protective Covenants" shall be deemed to mean the most recently Amended Protective Covenants as provided by the CBCA.

(I) As used herein the term "Developer" shall be deemed to mean WTK Co., Inc., a Nebraska Corporation, or its successors or assigns; provided, however, that any successors or assigns of the Developer shall be deemed to be bound by the terms and provisions of these Covenants.

(J) As used herein the term "Side or Rear Lot Line" shall be deemed to mean that portion of any Lot line which does not directly abut a street open to the use of the general public.

2. No Lot or any residence hereafter placed or constructed on any Lot shall be utilized for any purpose other than for single family residential purposes. No townhouses, condominiums, apartments or multiple dwelling units of any kind or type shall be built on any Lot, nor shall any Lot Owner allow or permit any dwelling unit constructed on any Lot to be converted into any type of townhome, condominium, apartment or multiple dwelling unit.

3. Prior to the occupancy of any single family residence to be constructed on any Lot, application for membership in the CBCA Homeowners Association must be made and dues and special assessments paid.

4. Prior to the construction of any single family residence on any Lot a set of building plans for such residence shall be submitted by the Lot Owner to the Architectural Review Committee for approval. Said building plans for such residence shall be signed and certified by the Lot Owner as a true and correct copy of the building plans for the residence to be constructed on such Lot, and contain a statement that the Lot Owner will submit to the Architectural Review Committee, for written approval, any amendments, modifications or changes to such building plans. Such building plans shall show the size, exterior material, design and plot plan for the residence to be constructed on such Lot and shall indicate the location and elevation of the residence, attached garage and any other structures including docks and boat lifts to be placed or constructed on such Lot. One set of such building plans and all amendments, modifications and changes thereto signed by the Lot Owner shall be left on permanent file with the Architectural Review Committee. No construction of any single family residence on any Lot shall be commenced unless and until written approval of the building plans for such residence has first been obtained from the Architectural Review Committee and such approval has been filed and recorded in the Office of the Register of Deeds of Lancaster County, Nebraska. Written approval

or disapproval of such building plans shall be given by the Architectural Review Committee within 30 days from and after receipt thereof by the Architectural Review Committee. Approval of such building plans shall not be unreasonably withheld; provided, however, that the Architectural Review Committee shall have the sole and exclusive right, in its sole discretion, to approve or reject any such building plans if, in the opinion of the Architectural Review Committee, either the style, size, material, elevation, plot plan or landscape plan, dock, boat lift, or sea wall of such residence does not conform to the general standard and character of the single family residences constructed or to be constructed on other Lots located within the Property.

Prior to the construction of any addition to any residence constructed on any Lot, or the change or modification in the exterior of any residence constructed on any Lot, the Lot Owner shall first obtain the written approval of the Architectural Review Committee to proceed with any such construction, change or modification, which approval shall not be unreasonably withheld.

Regardless of any of the requirements of these Covenants concerning the prior approval of building plans or landscape plans by the Architectural Review Committee, the Architectural Review Committee shall have no power to, to-wit: (i) allow, permit or consent to the construction of any single family residence on any Lot if such residence would violate any of the other terms or provisions of these Covenants, or the CBCA's Amended Protective Covenants, or; (ii) waive any term, condition, or restriction imposed by these Covenants on such Lot. The Architectural Review Committee shall not be liable or responsible for any defects in the plans and/or specifications submitted for review.

5. Prior to the construction of any single family residence on any Lot a landscape plan signed by the Lot Owner shall also be submitted to the Architectural Review Committee for approval. Any landscape plan must include the entire lot and show at a minimum, to-wit: (i) a landscape plan for the portion of such Lot from the Front Lot line to the single family residence to be constructed on such Lot; (ii) show a minimum planting schedule of, to-wit: (a) four (4) two (2) inch caliper deciduous trees one of which must be a Redspire Pear (5'-6'); (b) two (2) evergreens of minimum five foot height, and; (c) twenty (20) 1-gallon containers of plantings in the area described at (i) above; (iii) meet the screening requirements of paragraph 13 herein; (iv) contain a written certification by the Lot Owner that, to-wit: (a) all of the plantings required pursuant to this paragraph will be installed at the completion of the construction of the single family residence to be constructed on such Lot, and that such Lot will be seeded or sodded prior to occupancy of the single family residence; (b) that an underground sprinkler system will be installed on such Lot by the Lot Owner prior to any seeding or sodding of such Lot; (c) that the landscape plan, the plantings, and the underground sprinkler system required to be installed on the Lot pursuant to these Covenants will be continually maintained (and replaced if necessary) by the Lot Owner, or the Lot Owner's successors or assigns, and; (d) that all future landscaping of

the entire lot will be submitted to the Architectural Review Committee for approval prior to the commencement of any such future landscaping in such area. No construction of any single family residence on any Lot shall be commenced unless and until written approval of the landscape plan has first been obtained from the Architectural Review Committee, and such approval has been filed and recorded in the office of the Register of Deeds of Lancaster County, Nebraska. Written approval or disapproval of such landscape plan shall be given by the Architectural Review Committee within 30 days from and after receipt of such plans by the Architectural Review Committee. Approval of such landscape plan shall not be unreasonably withheld; provided, however, that the Architectural Review Committee shall have the sole and exclusive right, in its sole discretion, to approve or reject any such landscape plan if, in its opinion, such landscape plan does not conform to the general standard and character of landscape plans for other lots located within the Property.

Regardless of anything else set forth above in this paragraph 5 concerning Landscaping of any Lot, the plantings of the trees described in (ii) (a) and (b) above must be completed within eighteen (18) months after the title to any such Lot is conveyed (whether by deed or land contract) by the Developer to any Lot Owner other than Developer.

6. Docks, sea wall, and boat lift installation or repair must be approved in writing by the Architectural Review Committee and the CBCA.

7. All garages must be attached and interior walls must be finished. No garage is allowed to open onto the lake. Side entry garages (no garage door facing the street) are encouraged.

8. No detached accessory buildings, sheds, playhouses, greenhouses, satellite TV dishes or any structures of any kind may be constructed or placed on any Lot without the prior written approval of the Architectural Review Committee; provided, however, that a detached swimming pool house may be built beside any swimming pool constructed on any Lot so long as, to-wit: (i) the swimming pool house is constructed with the same architectural style as the single family residence located upon such Lot; (ii) such pool house is not occupied or utilized as a residence or guest house, and; (iii) the swimming pool and the pool house is located as close to the main residence as possible.

9. No single family residence shall be constructed on any Lot, unless such single family residence has a minimum ground floor or first floor area, exclusive of terraces, patios, porches, car ports, and garages, whether finished or not, of, to-wit: (i) 2,100 square feet in the case of a one-story ranch style single family residence, or; (ii) 2,400 square feet in the case of a one and one-half story with a minimum of 1,600 square feet on the first floor, or; (iii) 2,500 square feet in the case of a full two-story with a minimum of 1,500 square feet on the first floor.

10. All exposed foundation walls of any single family residence constructed on any Lot shall be faced with brick, stone, stucco or siding. Chimneys of all fireplaces on the exterior of any single family residence constructed on any Lot shall be faced with brick, stone or stucco.

11. Any solar panels placed on any single family residence constructed on any Lot shall be mounted flush with the roof of such residence, and shall not be located along any exterior wall of such single family residence nor in any yard area of any Lot, provided, however, that no solar panels shall be placed on any residence or any Lot without the prior written approval of the Architectural Review Committee.

12. Except as set forth in paragraph 11 above, and except for appropriate gutter and downspout systems, all single family residences constructed on any Lot shall have a roof consisting solely of cedar shake shingles, wood shingles, slate, tile, metal or extra heavy asphalt or fiberglass shingles and must be approved by the Architectural Review Committee.

13. Any exterior air conditioning unit or system placed on any Lot must be located in the side yard, and be screened by landscape shrubbery or fencing approved by the Architectural Review Committee, in connection with the approval of the initial landscape plan submitted to such Committee for such Lot.

14. No noxious or offensive trade, activity, or practice shall be carried on upon any Lot, nor shall anything be done on any Lot which may be or become any annoyance or nuisance to the neighborhood.

15. No trailer, mobile home, basement, tent, shack, barn, or any other outbuilding erected in or on any Lot shall at any time be used as a residence, temporarily or permanently; nor shall any structure of a temporary character be used as a residence. No trailer, mobile home, motor coach or boat may be stored or parked in any front or side yard or on the street for more than 48 hours. If the provisions of paragraph 8 of these Covenants are deemed to be in conflict with this paragraph, then the provisions of paragraph 8 shall be deemed as the controlling provisions.

16. In the event an owner of any dwelling shall fail to maintain the premises and/or the exterior of the dwelling in a manner satisfactory to the Developer, then the Developer shall have the right, through its agents and employees, to enter upon said lot and to repair, maintain, and restore the lot and/or the exterior of the dwelling located thereon and any other improvements erected thereon. This includes sea walls, docks, and boat lifts. The cost of such exterior maintenance shall become a lien against the real estate as follows:

A. Prior to the work being commenced, written notice of the non-maintenance of the lot or the dwelling shall be served upon the owner. Said owner shall have thirty (30) days to remedy the written allegations.

B. After the thirty (30) days have passed, if the maintenance has not been performed, the Developer shall notify the owner in writing as to what maintenance or repairs they intend to make on the property.

C. Once the work has been completed, a copy of an itemized statement setting forth all charges incurred in repairing or maintaining the lot or dwelling will be delivered to the owner.

D. If the statement has not been paid within thirty (30) days, a copy of the statement will be filed in the office of the Register of Deeds against this property, along with an affidavit stating what work was done and when and how notice was given. Once the lien is filed, it remains a lien against the property until it is paid, said lien shall bear interest at the rate of twelve percent (12%). If the lien is released, all sums due and owing must be paid by the Lot Owner, as well as the filing fees and release fees.

E. If the owner refuses to allow the repairmen on his property in order to make the necessary repairs, the Developer may then resort to filing an action in court to gain entry to the property. All legal fees and court costs incurred will be paid by the owner if the court upholds the decision to make said repairs.

17. No nuisance, advertising sign, billboard, or other advertising device of any kind or type shall be permitted, erected, placed or suffered to remain on any Lot or on any structure or improvement located on any such Lot. No Lot shall be used in any way or for any purpose which may in any way endanger the health or unreasonably disturb the peace and quiet of other Lot Owners. No business of any kind or anything that may be construed as a business of any kind may be conducted on or from any Lot; provided, however, that this paragraph shall not prevent nor prohibit the Developer from placing on any Lot owned by Developer, signs advertising the sale of such Lot or the development as a whole, and; provided, further, that this paragraph shall not prevent nor prohibit any Lot Owner, or his agent, from placing upon any Lot owned by such Lot Owner a "For Sale" sign, or a political yard sign. Lighted address numerals, uniform in design and style, shall be installed on the single family residence prior to occupancy.

18. The Lot Owners hereby assign to the Developer, and the Developer's successors and assigns, the sole and exclusive right to establish all grades, slopes and/or contours on all Lots and to fix the grade upon which any single family residence hereafter is erected or placed on any such Lot. Once such grades, slopes and/or contours have been established by Developer, they will not be changed in connection with the construction of any single family residence on any Lot more than eight inches from the grades, slopes and/or contours established by Developer, without prior written permission of the Developer, but in no event will any such Lot be graded or sloped so as to change the flow of surface waters to or from any adjoining Lots. The drainage is designed to flow from the rear of the home to the street, and subsequently into the pond or wetlands area. Drainage from the rear building line will flow into the lake. The Developer may, in the Developer's sole discretion, at such time as the Developer deems appropriate, transfer and assign to the Homeowners Association the right to establish and enforce such grades, slopes and contours.

19. Each Lot Owner, other than the Developer shall be, and does hereby assume, any and all responsibility or liability for the construction and installation for public sidewalks parallel to the street which abuts the Lot or Lots owned by such Lot Owner. All sidewalks parallel to the street

which abuts a Lot shall be constructed and paid for by such Lot Owner upon the earlier date of, to-wit: (i) the construction of the single family residence constructed on such Lot, or; (ii) whenever required by the City of Lincoln, or the Homeowners Association, or (iii) within eighteen (18) months after title to any such Lot is conveyed (whether by deed or land contract) by the Developer to any Lot Owner other than the Developer. Each individual Lot Owner, other than Developer, shall indemnify and save the Developer harmless from any liability or cost incurred in connection with the installation or payment of any public sidewalk parallel to Pelican Bay Place, which abuts the Lot owned by such Lot Owner.

20. No walls, mailboxes, fences, or hedges which exceed two feet in height may be constructed, placed, planted or maintained without the approval of the Architectural Review Committee.

21. Once construction of any single family residence is begun on any Lot, such single family residence shall be completed, in accordance with the building and landscaping plans approved by the Architectural Review Committee, within one year. In the event construction does not occur within eighteen (18) months from the date title to a Lot is transferred by the Developer, the Developer, its successors, and assigns shall have the option to repurchase the Lot for the amount paid to the Developer for the Lot. Developer may exercise the option by sending written notice to the titleholder of the Lot. This provision is intended to promote the construction of a single family residence within a reasonable time and to discourage speculation or purchase of a lot for resale.

22. All outdoor wiring for any Lot shall be placed underground. No wires for electric power, telephones, radios, televisions, or for any other use shall be placed or permitted above the ground on any Lot except inside a residence. No aerials, antennas, television dishes, poles, towers, or other devices shall be placed or permitted above the ground on any Lot except when placed inside the single family residence constructed on such Lot, below the roof line, or in a location that is not visible from the lake or street, with the approval of the Architectural Review Committee.

23. No animals, livestock, or poultry of any kind may be raised, bred, or kept on any Lot, except dogs, cats, or other household pets; provided such dogs, cats, or other household pets are not kept, bred, or maintained for commercial purposes; and, provided further that the side and rear portion of any Lot on which such household pet is kept must be fenced, with a fencing material approved in writing by the Architectural Review Committee for purposes of containing any such pet within the rear and side Lot. Kennels must be constructed from black chain link fencing. No chain link fencing shall be allowed for any use other than the above kennel description. No fencing of any kind may be placed or constructed on any Lot, without the prior written approval of the Architectural Review Committee. The construction of any fences shall

not be commenced unless and until written approval of the type and material of the fence is approved in writing by the Architectural Review Committee. All fencing shall be placed with the finished side of the fence facing outward from the Lot line regardless of style of material.

24. No Lot may be utilized or maintained or used as a dumping ground for rubbish, including but not limited to leaf and grass clippings. No compost pile may be constructed or maintained on any Lot. All waste, garbage, and trash must be kept in sanitary containers and removed from such Lot on a weekly basis. No incinerators may be constructed or maintained upon any Lot. All Lots shall be kept free of debris and weeds and shall be kept mowed. At all times during the construction of a house or improvements on the Property, Owner shall keep a container on the Lot and cause all building materials, wrappers, and other waste to be placed in the container. Lot Owner shall promptly pick up and properly dispose of any debris caused by wind, vandalism, or careless disregard which is on the Property or has been distributed upon neighboring Properties.

25. No dirt from grading, excavation, or resulting from any other activity on any Lot may be removed from the Property without the prior written permission of the Developer. The Developer will designate an area or areas within the Property for stockpiling dirt and those placing dirt in such areas will receive permission from the Developer. The Developer may, in the Developer's sole discretion, at such time as the Developer deems appropriate, transfer, convey and assign to the Homeowners Association the right to designate the area for stockpiling dirt.

26. All Lot Owners of any Lot located on the Property, by virtue of their ownership shall apply for membership in the CBCA Homeowners Association prior to occupancy of their residence. Dues and special assessments as required by the CBCA shall be paid as a requirement of membership. All such Lot Owners shall also abide by all rules and regulations governing the operation, maintenance, and use of said Homeowners Association, as the same may now exist or hereafter be established by the Homeowners Association.

27. The Homeowners Association, Architectural Review Committee, and Developer shall enforce these Covenants. The Homeowners Association shall have the power and authority to levy and assess annual and special assessments against any single family Lot located on the Property. Each Lot Owner by the acceptance of a deed by which the interest requisite for membership in the Homeowners Association is required, shall be liable to the Homeowners Association for the payment of all previously assessed dues and annual assessments for the administration, maintenance, and operation of the Homeowners Association, including the Boat Storage Facility and the maintenance and improvement of the private street. Such annual assessments shall be uniform as to each Lot in Pelican Bay. Each Lot Owner shall also be individually liable to the Homeowners Association for the payment of any special assessment levied by the Homeowners Association against such Lot Owner for purposes of reimbursing to

the Homeowners Association any funds expended by the Homeowners Association to require such individual Lot Owner to comply with these Covenants. The CBCA Amended Protective Covenants and Bylaws provide for any delinquent assessments and collection procedures.

28. The herein enumerated restrictions, rights, reservations, limitations, agreements, covenants, and conditions shall be deemed as covenants and not as conditions hereof and shall run with the land in addition to the CBCA Amended Protective Covenants, and shall bind the several Lot Owners, their successors, assigns, heirs, and devisees until the first day of January 2025 and continuously thereafter for successive 10 year periods unless and until any proposed change shall have been approved in writing by a 2/3 affirmative vote of the number of votes entitled to be cast at any meeting of the 20 Lot Owners of Pelican Bay Final Plat.

29. The enforcement of these Covenants shall be by proceedings at law or in equity, and may be instituted by either the Homeowners Association, any Lot Owner (including the Developer), or the Architectural Review Committee, against any person or persons violating or attempting to violate any provisions hereof. Such proceedings may be to restrain such violation or to recover damages, and may also be instituted to enforce any lien or obligation created hereby. If the Homeowners Association, any Lot Owner, or the Architectural Review Committee, is successful in any action, whether at law or equity, to enforce any term or provision of these Covenants, then the Homeowners Association, the Lot Owner, or the Architectural Review Committee, instituting such action, as the case may be shall be entitled to an award of reasonable attorney fees and court costs, which shall constitute a lien on the Lot owned by the person against whom enforcement is sought, in the same manner and with the same priority as a lien for annual or special assessments as stated in the CBCA Amended Protective Covenants.

30. The invalidation of any one of the covenants or restrictions set forth herein shall not effect the validity of the remaining provisions hereof, all of which shall remain in full force and effect. These Covenants are in addition to the CBCA Amended Protective Covenants and accordingly provide for more orderly and proper development and maintenance of the Lots and provide for an additional assessment for the operation and maintenance of the Boat Storage Facility as determined by the Homeowners Association.

31. The Architectural Review Committee shall, upon the written request of any Lot Owner, issue a written statement stating whether or not such Lot Owner, and the Lot owned by such Lot Owner is in compliance with the terms and provisions of these Covenants.

Dated all as of this 19 day of May, 1995.

WTK Co., Inc.

By: William T. Kimball, Jr.

William T. Kimball, Jr.
President, WTK Co.

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

Before me, a notary public qualified for said county, personally came
WILLIAM T. KUJBAL JR President of WTK Co., a Nebraska Corporation, known to me to
be the identical person who signed the foregoing instrument on behalf of WTK Co., and
acknowledged the execution thereof to be his voluntary act and deed and the voluntary act and
deed of WTK Co.

WITNESS my hand and notarial seal this 19 day of MAY, 1995.



David E. Ubben
Notary Public

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NO
CODE
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LANCASTER COUNTY, NEB
David E. Ubben
REGISTRAR OF DEEDS

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INST. NO 95 20908

\$60.00

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