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DECLARATION OF RESTRICTIVE COVENANTS AND EASEMENTS
in connection with
FORMATION OF ASSOCIATION

Watermark Investments, L.L.C., a Nebraska limited liability company ("*Watermark*"), as the titleholder of the ten parcels described below (the "*Property*"), recently replatted the Property as Watermark Addition, Waverly, Lancaster County, Nebraska, the final plat for which was approved by the Waverly City Council on September 25, 2018 and filed with the Lancaster County Register of Deeds on October 11, 2018 as Inst. No. 2018-040758 (the "*Plat*"). Watermark shall transfer the three outlots shown on the Plat to **Watermark Development Owners Association**, a mutual benefit Nebraska nonprofit corporation ("*Association*") formed on this date for the purpose of maintaining Outlot 'A', Outlot 'B', and Outlot 'C'. Watermark and Association hereby establish these covenants and easements ("*Restrictive Covenants*") for the benefit of the Property, all in Waverly, Lancaster County, Nebraska, described as follows:

- Lots 1 – 4 inclusive, Block 1, Watermark Addition;
- Lots 1 – 3 inclusive, Block 2, Watermark Addition;
- Outlot 'A', Watermark Addition (herein referred to as "Outlot 'A'");
- Outlot 'B', Watermark Addition (herein referred to as "Outlot 'B'"); and
- Outlot 'C', Watermark Addition (herein referred to as "Outlot 'C'").

(Individually or collectively Lots 1 through 4 inclusive in Block 1 and Lots 1 through 3 inclusive in Block 2 are referred to as a "*Lot*" or the "*Lots*". Individually or collectively Outlot 'A', Outlot 'B' and Outlot 'C' are referred to as an "*Outlot*" or the "*Outlots*".)

RECITALS

1. A copy of the Plat is attached hereto and incorporated herein as Exhibit "A".
2. The Plat dedicates and establishes the locations of various easements including a drainage easement, utility easements, existing electrical easement, and sanitary sewer easements ("*Easements*"). The Plat also shows building setbacks on the Lots.
3. Outlot 'A' is a retention basin for runoff. Outlots 'B' and 'C' will contain the concrete ditch liner and floodway for drainage.
4. Watermark desires to provide a cooperative funding mechanism for future repair, maintenance, insurance, and management of the Outlots, and any other common areas, improvements, or undertakings of the Association from time-to-time.

WATERMARK

NT

TERMS

NOW, THEREFORE, in consideration of and incorporating the foregoing recitals and of the benefits accruing to each of the Lots described herein from the covenants and restrictions established hereby, the undersigned hereby establish these Restrictive Covenants on the Property.

1. Association. The Association has been formed for the purpose of administering and enforcing these Restrictive Covenants. The Association shall have the authority to enforce these Covenants pursuant to the terms set forth herein and in the Association's Articles of Incorporation and Bylaws. Each owner of a Lot within the Property shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of a Lot.
2. Initial Improvements. Watermark covenants (i) to install at its expense the initial privately-owned improvements for the Outlots including the concrete ditch liner and floodway for drainage and the retention basin for runoff, (ii) to provide the necessary escrow or security agreements set forth in the Subdivision Agreement entered into between Watermark and the City of Waverly in connection with the platting of Watermark Addition, and (iii) to provide for formation of the Association. Watermark may by contract arrange to share or assign such costs to subsequent titleholders of the Lot(s).
3. Maintenance Covenants of the Association. The Association covenants to maintain on a permanent and continuous basis the Outlots and private improvements thereon. The Association further covenants (i) to provide adequate liability insurance and (ii) to pay for property management and administrative costs of the Association and of performing the foregoing covenants. (All of the covenants in this Section 3 are referred to herein as the "*Maintenance Covenants*".)
4. Covenants of the Lot Titleholders. The Lot titleholders, by acceptance of a deed to a Lot, hereby covenant to (i) make payment for any annual or special assessment; (ii) obtain the prior written consent of the Association before subdividing the Lots; (iii) grant the Association and its agents a non-exclusive easement on the Property for the purpose of fulfilling the Maintenance Covenants; and (iv) grant the Association the discretion and authority to determine how to fulfill the Maintenance Covenants (collectively, the "*Maintenance Obligations*").
5. Covenant to Maintain Lot(s). Each owner of a Lot within the Property does hereby, and by acceptance of a deed to such Lot, covenant to repair and maintain the improvements and the landscaping on such owner's Lot. In the event a party responsible for maintenance fails to maintain its Lot, then the Association may undertake to maintain such Lot following 10-day notice to the responsible party, and the cost to repair and/or maintain shall be an assessment against the responsible party.
6. Easements. The undersigned hereby recognize, grant and affirm the Easements shown on the Plat.
7. Assessments. The Maintenance Covenants shall be satisfied by the payment of assessments levied by the Association. The Association shall have the power to make annual and special assessments against the Lot titleholders for costs incurred by the Association in complying with the Maintenance Covenants and in enforcing the covenant to maintain Lot(s). Annual assessments shall be estimated by the Association, and reconciled and adjusted by the Association annually. Special assessments shall be payable upon receipt of notice of such assessment. All annual and special assessments shall (i) be the personal obligation of the Lot titleholders at the time of such assessment; (ii) if not paid when due, bear interest at the rate of 12% per annum until paid; and (iii) be a lien upon the Property assessed.

8. Allocation of Assessments. The Maintenance Obligations shall be allocated among the titleholders of the Lots within the Property based on the square footage of the Lots, as they may be configured from time-to-time, which are currently:

<i>Lot #</i>	<i>Square Footage</i>	<i>%</i>
Lot 1, Block 1	57,772	8.59
Lot 2, Block 1	57,770	8.59
Lot 3, Block 1	195,459	29.08
Lot 4, Block 1	124,441	18.52
Lot 1, Block 2	131,079	19.50
Lot 2, Block 2	56,245	8.37
Lot 3, Block 2	49,400	7.35
TOTALS	672,166	100

9. Administration and Enforcement. The Association is hereby authorized to administer, manage, and enforce the implementation of these Restrictive Covenants. These Restrictive Covenants may be enforced by proceedings at law or in equity against any person or persons violating or attempting to violate any provision. The enforcement of these Restrictive Covenants may be instituted by any of the following: (i) the Association or any Lot or Outlot owner, or (ii) if the proceedings are to enforce the Covenants regarding maintenance of the Outlots, the City of Waverly. Such proceedings may be to restrain such violations or to recover damages, and may also be instituted to enforce any lien or obligation created hereby. If the Association, any Lot or Outlot owner or the City of Waverly in any action to enforce these Restrictive Covenants is successful, they shall be entitled to an award of reasonable attorney's fees and court costs. Failure by the Association, any member thereof, or the City of Waverly to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so. In the event the Association is dissolved, the Lot and Outlot owners shall remain jointly and severally liable for the cost of the Maintenance Obligations.

10. Miscellaneous.

- a. Amendments. These Restrictive Covenants may be amended, modified or terminated upon the written approval of (i) titleholders having at least 60% of the allocation of Maintenance Obligations under §8 above, and (ii) the Board of Directors of the Association. These Restrictive Covenants may be amended to include additional real estate subject to these Restrictive Covenants and/or the Association.
- b. Duration. These Restrictive Covenants shall run with the land and shall be binding upon and enforceable by the Association, any Lot or Outlot titleholder, and all persons claiming title through chain of title from any Lot or Outlot titleholder.
- c. Severability. The invalidation of any one of these Restrictive Covenants shall not affect the validity of the remaining provisions hereof.

****SIGNATURE PAGES FOLLOW****

Titleholder of Lots
Watermark Investments, L.L.C.

a Nebraska limited liability company

By: Edward D. Watts
Edward D. Watts, Manager

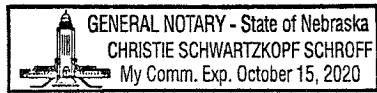
Titleholder of Outlots 'A', 'B', and 'C'
Watermark Development Owners Association

a Nebraska nonprofit corporation

By: Edward D. Watts
Edward D. Watts, President

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

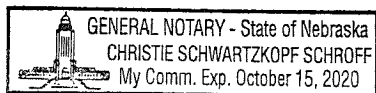
The foregoing instrument was acknowledged before me this 12th day of October, 2018, by Edward D. Watts, Manager of **Watermark Investments, L.L.C.**, a Nebraska limited liability company, on behalf of the company.



Christie Schwartzkopf Schroff
Notary Public

STATE OF NEBRASKA)
) ss.
COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 12th day of October, 2018, by Edward D. Watts, President of **Watermark Development Owners Association**, a Nebraska nonprofit corporation, on behalf of the corporation.

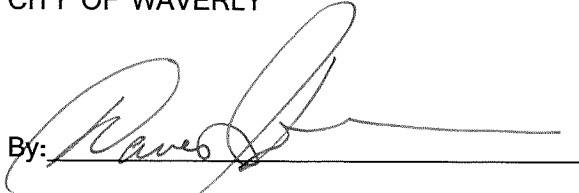


Christie Schwartzkopf Schroff
Notary Public

APPROVAL BY CITY

The foregoing Restrictive Covenants are hereby approved by the City of Waverly, Nebraska for the limited purposes of satisfying the approval requirements as a condition of the Plat.

CITY OF WAVERLY

By: 

Name: DAVID BARGEN

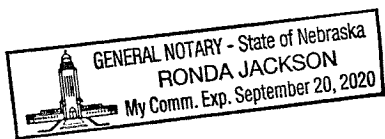
Title: ASST. CITY ATTORNEY

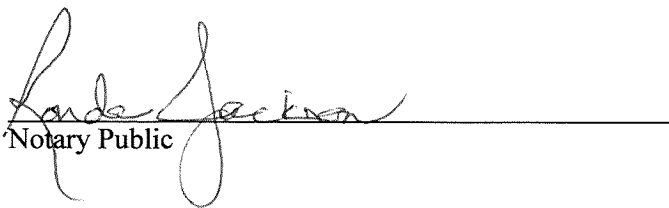
STATE OF NEBRASKA)

)ss.

COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me this 11th day of October, 2018, by David Borgen, Assistant City Attorney City of Waverly, Nebraska, a Nebraska municipal corporation, on behalf of the corporation.




Notary Public