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Polk County Iowa
JULIE M. HAGGERTY RECORDER
File# 2018-00042289

BK 17163 PG 646-664

Prepared by/Return to: Bridget K. Kautzky, 317 6th Avenue, Suite 300, Des Moines, IA 50309 (515) 243-8157

CORRECTED
DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS, AND RESTRICTIONS
FOR DEER CREEK VILLAGE PLAT 1

This Declaration is being re-recorded to correct the Declaration previously recorded November 8, 2018 in Book 17141 at Page 237-255.

This Declaration of Covenants, Conditions, Easements, and Restrictions for Deer Creek Village Plat 1, an Official Plat now included in and forming a part of the City of Ankeny, Polk County, Iowa (The "Declaration") is made this 19 day of November, 2018.

WITNESSETH:

WHEREAS, Declarant is the owner and developer of the following described real estate (hereinafter referenced to as the "Addition"):

DEER CREEK VILLAGE PLAT 1, an Official Plat, now included in and forming a part of the City of Ankeny, Polk County, Iowa.

WHEREAS, Declarant desires to develop the Lots for single-family residential dwellings; and

WHEREAS, The Addition is currently governed by a Master Declaration of Covenants, Conditions, Easements and Restrictions for The Crossings at Deer Creek dated August 8, 2017, filed August 15, 2017 in Book 16605 at Page 493 of the office of the Polk County Recorder and Declarant desires to impose additional covenants, conditions, easements and restrictions specific to the Addition; and

WHEREAS, Declarant desires to establish an Association to own, operate and maintain Common Elements (defined below) in the Addition.

NOW, THEREFORE, Declarant hereby publishes and declares that all Lots shall be held, sold and conveyed subject to the following covenants, conditions, easements, restrictions, limitations and obligations, all of which are for the purpose of protecting the value and desirability of the Property, and all of which shall run with the land and shall be a burden upon and a benefit to any and all parties acquiring or owning any right, title or interest in any part thereof, and their heirs, successors, assigns, grantees, executors, administrators, and devisees.

**ARTICLE I
DEFINITIONS**

1.02 Definitions.

- (a) **"Association"** shall mean The Villas of Deer Creek Village Homeowners Association, a nonprofit corporation organized pursuant to Chapter 504 (Revised) of the Code of Iowa, and its successors and assigns.
- (b) **"City"** shall mean the City of Ankeny, Polk County, Iowa.
- (c) **"Common Elements"** shall mean those items owned, installed, managed, and maintained by the Association for the benefit of the Owners, including, but not limited to, the shared irrigation system, lawns, trees, shrubs, walkway (sidewalk), driveways, streets, private storm sewer and Common Areas owned by the Association. The Common Elements include but are not limited to all Lots in the Addition, excluding all dwelling Units.
- (d) **"Common Areas"** shall mean the real estate owned by the Association and legally described as following: Outlot Z, Deer Creek Village Plat 1, an official Plat in the City of Ankeny, Polk County, Iowa.
- (e) **"Declarant"** shall mean Deer Creek Village, LLC its successors and assigns.
- (f) **"Lot"** shall mean Lots 1 through 26, inclusive, in the Addition.
- (g) **"Board"** shall mean the Board of Directors of the Association duly elected in accordance with the Articles of Incorporation and Bylaws of the Association.
- (h) **"Owner"** shall mean the person or persons who from time to time collectively hold the entire fee title to any Lot, including buyers under executory contracts of sale (but shall not include any person who holds such fee title merely as security for a loan, unless and until such person has succeeded to ownership by enforcement of its remedies under such loan documents).
- (i) **"Recorded Plat"** shall mean the subdivision plat of Deer Creek Village Plat 1 as recorded in the Office of the Polk County Recorder.
- (j) **"Unit"** shall mean the single family residential dwelling constructed on any Lot.
- (k) **"Zoning Ordinance"** shall mean the zoning ordinances of the City.

- (l) Words and phrases in this Declaration, including the acknowledgment, shall be construed as in the singular or plural number, unless the context permits only one such number.
- (m) Words defined elsewhere in this Declaration shall have that meaning throughout the Declaration and not just in the Section in which such word is defined, unless the definition expressly states otherwise.

ARTICLE II DESIGNATION OF USE

2.01 Lots 1 through 26 in Deer Creek Village Plat 1, shall be known and described as single-family residential Lots or buildable plots and shall not be developed with more than one (1) single-family residential dwelling on each Lot and shall not be improved, used or occupied for any purpose other than for residential purposes, consistent with the Zoning Ordinance of the City, unless such uses or structures are otherwise regulated or prohibited by this Declaration. No full time or part time business activity may be conducted on any Lot or in any building or structure on any Lot, except to the extent of a home occupation permitted by the City Zoning Ordinance, and except that homebuilders may maintain model homes during construction, and Declarant may maintain a sales office during its development and sales of all Lots in the Property.

- (a) No building or structure of a temporary character and no trailer, basement, tent, shack, garage or outbuilding shall be used at any time as a residential dwelling on any Lot, either temporarily or permanently.
- (b) No mobile home or manufactured homes, as defined in the Code of Iowa, shall be placed on or erected on any Lot.
- (c) No noxious or offensive activity or odors shall be permitted on or to escape from any Lot, nor shall anything be done thereon which is or may become an annoyance or nuisance, either temporarily or permanently.
- (d) Any offensive noise shall be governed by the City's Noise Ordinance, if any such ordinance exists.
- (e) No animals, livestock, or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats and other common household pets may be kept so long as they are not kept, bred or maintained for commercial purposes. In no event, however, shall more than a total of three (3) dogs and/or cats be maintained on any one Lot at any one time, unless otherwise approved in writing by Declarant. All pets must be leashed and under the control of its owner if not tied up or kept within an underground fenced yard.
- (f) Any construction or earth moving on any Lot(s) (whether greater or less than one acre in size) shall be in compliance with all statutes, rules and/or ordinances relating to storm water, topsoil and erosion control compliance and permitting. The Owner understands and agrees that he/she is the sole responsible permittee for the Lot(s) with respect to compliance with all terms, provisions and requirements of the NPDES Storm Water Discharge Permit NO. 2, the storm water pollution prevention plan which includes the Lot(s), and any and all applicable storm water, topsoil and/or erosion control statutes, rules and ordinances.

- (g) Each Owner shall protect, defend, indemnify and hold the Declarant and other Owners harmless from any and all damages, claims, liabilities, fines, penalties, cleanup costs and/or attorneys and consultant fees caused by, or in any manner related to: 1) any discharges of soil, silt, sediment, petroleum product, hazardous substances or solid waste from the Lot(s) identified above; and/or 2) any alleged violation of any NPDES, storm water and/or erosion control statute, rule or ordinance, after the date of sale of the Lot(s).

2.02 Design and Construction. In order to preserve the general design for the development of the Addition, the following design standards are required of all Owners of the Lots in the Addition:

- (a) All building structures or improvements of any kind must be completed within twelve (12) months of the commencement date of construction.
- (b) No building shall be erected on any Lot nearer than the building setback lines as shown on any recorded plats filed in the future which are bound by the terms and conditions found in this Declaration.
- (c) No building or structure shall be constructed, altered or maintained on any Lot unless it has a driveway running from a street to the dwelling, which must be Portland cement concrete and not less than two lanes wide. In addition, no shared driveways shall be allowed for any Lots located within the Addition.
- (d) All dwellings must be constructed with the minimum of a two-car attached garage.
- (e) The exterior of any dwelling, garage or outbuilding located on any Lot shall be finished in an earth tone conservative color design. All dwellings must be constructed with a cement board siding or similar siding (commonly referred to as "Hardie Plank," "James Hardie Siding" or "LP Smartside"), unless otherwise approved in writing by Declarant. In addition to the foregoing, all areas of exposed concrete, concrete block or tile foundations shall be either painted to blend with the exterior wall finishes, or covered with brick or stone veneer or the equivalent.
- (f) The pitch of the roof of all dwellings must be a minimum of 6/12, unless otherwise approved in writing by the Declarant. Notwithstanding the foregoing, Contemporary/Transitional home styles and dwellings will be allowed to have a pitch of the roof of 4/12 or 5/12, provided, however, that such dwellings also include: (i) Three-foot (3') overhangs, (ii) Hip roof and (iii) two (2) or more ceiling heights incorporated into the plan with height variations of two feet (2') or more. All roof material shall be slate, tile, cedar shakes, or composition shingles. Composition shingles shall be architectural grade. Shingle colors shall be muted earth tones and be compatible with and complimentary to the exterior materials and colors of the building structures. All roof vents, plumbing stacks and flashing should closely match the color of surrounding materials.
- (g) Each dwelling on a Lot shall meet the following floor area requirement, exclusive of any finished foundation area, any floor below the exterior grade, and exclusive of any garage, breezeway, porch or deck:

- (1) One-story dwellings must have a ground floor finished area of not less than 1,400 square feet.
 - (2) Only ranch-style residential dwellings may be constructed on the Property and shall not exceed the ground floor square footage described in Section (g)(1) above.
 - (3) All building plans must be approved in writing by Declarant prior to construction which shall not be unreasonably withheld.
 - (4) In no event shall any one-half, two-story or split-entry and split-level dwellings be constructed in any Lot.
- (h) Playhouses, swing sets, utility buildings, storage sheds or other similar structures shall be permitted; provided that the exterior and the roof of any such structure shall be constructed of the same material, have the same color and appearance as the residential dwelling on the same Lot and are located only in rear yards. No such structure shall be located closer than twenty feet (20') from any Lot line, unless the Declarant has specifically approved the structure and location. In addition, no playhouse, swing set, utility building, storage shed or other similar structure shall be larger than one hundred twenty (120) square feet in area. For homes located on corners lots, any utility buildings, storage sheds or other similar structures shall only be allowed in the rear yard (opposite side of the house from the front door) and shall be no closer than twenty (20) feet from any Lot line.
 - (i) Neighborhood mailbox cluster units, if required by United States Postal Service, shall be installed by the Declarant according to United States Postal Service regulations. The Owner and/or occupant of the Lot(s) on which a mailbox cluster unit is located shall be responsible for removal of snow and ice which would obstruct access to the mailbox cluster units by the mail carrier and other Owners.
 - (j) There shall be no identical front or rear elevations on adjacent Lots, unless otherwise approved in writing by Declarant.
 - (k) No vegetable gardens, playhouses, swing sets, utility buildings, storage sheds, or other similar improvements or structures shall be erected between the front of the house or garage and the street.
 - (l) No dog runs shall be permitted.
 - (m) No outdoor firepits shall be permitted and there should be no storage of outdoor firewood.

2.03 Landscaping And Fences.

- (a) Within sixty (60) days of completion of the dwelling on a Lot, the front yard, side yards and twenty-five feet (25') of the rear yard measured from the rear of the dwelling foundation shall be fully sodded, except where the topography, conservancy districts, creek slopes or tree cover does not make sodding practical, and the remainder of the rear yard to the rear lot line shall be seeded or sodded. If weather

conditions make the time requirement for sodding impossible to comply with, Declarant shall establish a reasonable period of time for compliance.

- (b) No fences shall be permitted upon any Lot except for underground electric fences.
- (c) Notwithstanding the foregoing, if a privacy fence, as contemplated in Section 2.05(c) below, is approved in writing by Declarant prior to construction the following materials are only considered acceptable for fences to be used for limited privacy pool uses: natural or stained cedar or redwood which shall not exceed six (6) feet in height.

2.04 Lot Maintenance.

- (a) No television antenna, radio receiver, or other similar device shall be attached to or installed on any portion of any Lot unless shielded from view from roads, easements and any other Lot. No radio or television signals, nor any other form of electromagnetic radiation shall be permitted to originate from any Lot that may unreasonably interfere with the reception of television or radio signals within any other Lot. Satellite dishes may be installed but may not be larger than twenty-four inches (24") in diameter (e.g. DISH, Direct TV are specifically allowed hereunder).
- (b) No exterior towers or antenna of any kind shall be constructed, modified or permitted on the ground of any Lot or on any dwelling, garage or other permitted structure. All antennae shall be concealed with the attic space of the dwelling or garage.
- (c) No light pole shall be used or placed upon any Lot that extends more than ten feet (10') above grade, provided, however, that light poles which light a tennis court shall be allowed above ten feet (10') so long as they meet the requirements hereunder. All light poles shall be of a residential design and shall be positioned on a Lot in a manner that will avoid direct lighting onto adjoining Lots. In no event shall a light pole be located any closer than twenty feet (20') from any property line.
- (d) No solar panels or wind turbines may be attached to or installed on any portion of a Lot unless shielded from view from roads, easements and any other Lot.
- (e) No holiday decoration shall be allowed on a Lot for longer than three weeks during the celebration of such holiday except for holiday lights and other winter holiday decorations may be placed on a Lot during the period of November 1st through January 15th, weather permitting.

2.05 Miscellaneous Restrictions.

- (a) Except as otherwise set forth herein, no sign of any kind or description shall be placed, exposed to view or permitted to remain on any Lot or any street adjacent thereto, except: (i) street markers, traffic signs and other signs displayed by the City or other governmental units; (ii) signs which have been approved by the Declarant or its authorized agent not exceeding 144 square inches in area upon which there shall only be exhibited the street number or name, or both, of the resident; and (iii) a customary sign (one per Lot) advertising a dwelling for sale, not exceeding 120 square inches in area. In the event that any sign, other than those described above,

shall be placed or exposed to view on any of the Lots restricted hereby, the officers or agents of the Declarant or the Association, are hereby given the right to enter upon those Lots and remove said signs. Real estate signs by the Declarant will be permitted until such development is completed. Declarant reserves the right to install entrance and directional signs with respect to the Addition, at locations and of design determined by the Declarant, and in a manner consistent with the ordinances of the City.

- (b) No trash receptacles, garbage cans or recycling bins shall be permitted to be placed outside a dwelling or garage unless hidden by an attractive screen of suitable height, or unless sunken to ground level in a hole lined with permanent cribbing. However, unscreened trash in proper containers and/or bags shall be allowed to be placed on a Lot outside a dwelling or garage no earlier than twelve (12) hours prior to a scheduled pick up of such trash. Such unscreened trash containers must be returned to the screened area or underground location, or inside a dwelling or garage, within twelve (12) hours following the scheduled pick up of such trash.
- (c) Only below-ground swimming pools shall be permitted on a Lot, which shall be located in the rear yard and shall be screened by a privacy fence if approved pursuant to Section 2.03 above or hedge. No above-ground swimming pools are allowed.
- (d) No motor vehicle, watercraft, trailer or piece of recreational equipment, including but not limited to camping trailers, motor homes, snowmobiles, motorcycles, motorbikes, boats and canoes, shall be permanently or temporarily stored or maintained on a Lot unless stored or maintained in a garage, dwelling, or area completely screened from view from roads, easements, or any other Lot. No commercial vehicle, equipment, parts or machinery shall be permanently or temporarily stored or maintained on a Lot outside of the dwelling or garage on the Lot.

2.06 Trash, Debris and Surface Water.

- (a) The Owner or person in possession of each Lot, whether vacant or improved, shall keep it free of rubbish, garbage and debris. Failing this, the Owner agrees that upon receipt of written notice from the Declarant or Association to remove such debris within ten (10) days, the Owner will be subject to enforcement remedies as provided in Article VII of the Declaration.
- (b) Vegetation in flowage easements, creek channels, drainage ways and/or timbered areas shall not become overgrown with weeds, but may be planted in groundcover species appropriate to the topography and land form.
- (c) The topography of the Addition is such that surface water may flow from certain Lots onto other Lots. In regard to all matters concerning surface water, each Lot shall be subject to such easements as may exist or the flowage of surface water under the laws of the State of Iowa, as may be in effect from time to time, and all Owners shall have such rights and obligations with respect thereto as may be provided by such law.

2.07 Utilities and Utility Meters. All utilities, including trunk and service lines for telephone, electricity and cable television, shall be constructed and located underground. Utility meters shall be hidden architecturally or through the use of remote reading devices. No private wells or septic

systems shall be permitted on any Lot. No window mounted heating or air-conditioning units are permitted.

ARTICLE III EASEMENTS AND ENCROACHMENTS

3.01 Easements and Encroachments.

(a) General Easements. Each Lot shall be subject to the following easements in favor of the Association and the other Owners:

- (1) Each Lot is burdened with an easement of ingress and egress for construction, maintenance, repair and replacement of Common Elements by the Association.
- (2) Easements for installation and maintenance of utilities, sewers, and drainage facilities, if any, are reserved as shown on the recorded plat of Deer Creek Village Plat 1 and easements filed with the Polk County Recorder in connection with said plat. The Owner and/or a person in possession of a buildable plot or Lot shall, at his or her expense, maintain, keep and preserve that portion of the easement within his/her property at all times in good repair and condition and shall neither erect nor permit erection of any building or structure of any kind, nor permit any growth of any kind within said easement which might interfere in any way with the use and patrolling of any of the utility services and drainage within the easements or contemplated to be installed within the easements in the future. Furthermore, all Lot Owners and/or a person in possession of a buildable plot or Lot shall comply with the terms and conditions of any recorded easements pertaining to Deer Creek Village Plat 1.

(b) Driveways and Access for Lots. All vehicular traffic on the streets and roads in the Addition shall be subject to the provisions of the applicable laws of the State of Iowa, Polk County and the City concerning operation of motor vehicles on public streets. Only drivers licensed to operate motor vehicles by the State of Iowa or by any other state in the United States may operate any type of motor vehicle in the Addition. All vehicles of any kind and nature that are operated on the streets in the Addition shall be operated in a careful, prudent, safe and quiet manner and with due consideration for the rights of all residents of the Addition.

(c) Sidewalks. There is hereby reserved and granted an easement for the benefit of each Lot served by a sidewalk and pedestrian walkway located partially or wholly on the Lots. This easement is for the purpose of allowing pedestrian access from the public streets to the Lot served by such sidewalk or pedestrian walkway. No Owner shall obstruct or allow obstructions on any sidewalk or pedestrian walkway that would impair the use or access by the Lot Owner that such sidewalk or pedestrian walkway serves.

(d) Common Areas. The Association will own and maintain the Common Areas in the Addition. The following easements are hereby reserved:

- (1) **Street.** There is hereby reserved and granted an easement for the benefit of each Lot served by a street in the Addition. This easement is for the purpose of allowing vehicular and pedestrian access from the street to the Lot in the Addition. No Owner shall obstruct or allow obstructions on any street that would impair the use or access by the Lot Owner of that such street.
 - (2) **Property.** There is hereby reserved and granted an easement for the benefit of each Lot served by the Addition for the purpose of allowing pedestrian access within the Common Areas. No Owner shall obstruct or allow obstructions on any property that would impair the use or access by the Lot Owner of that such property.
- (d) **Association Easements.** Declarant hereby grants to the Association an easement of ingress and egress onto all Lots for the following purposes:
- (1) Construction, maintenance and repair of all utilities related to the shared irrigation system on each Lot, including but not limited to the utilities serving said irrigation system;
 - (2) Construction, maintenance and repair of the meter pit for the shared irrigation system which is located within the Addition.
 - (3) Construction, maintenance and repair of the private storm sewer which is located within the Addition.
 - (4) Removal of snow and debris on all sidewalks and driveways located on each Lot;
 - (5) Mowing lawns, trimming trees, and shrubs located on each Lot.
 - (6) Removal of snow and debris on all Common Elements.
 - (7) Mowing lawns, trimming trees, and shrubs located within the Common Elements.
 - (8) Construction, maintenance or repair of the Common Elements.
 - (9) Enforcement of Declarant/Owner remedies.

ARTICLE IV MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATION

4.01 Membership.

- (a) Every Owner shall be a member of the Association. A person who is not an Owner may not become a member in the Association.
- (b) Membership shall be appurtenant to and may not be separated from ownership of any such Lot. Ownership of a Lot shall be the sole qualification for membership.

4.02 Voting Rights.

- (a) The Association shall have one class of voting members. Members shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members, but the vote attributable to such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any one Lot.
- (b) The Board of the Association may suspend the voting rights of a member for any period during which any assessment against the Owner's Lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of its established rules and regulations.
- (c) Each Owner, by acceptance of a deed or other conveyance of a Lot, consents and agrees to the dilution of his/her voting interest in the Association by virtue of the submission from time to time of additional property to the terms of this Declaration as may be provided herein.
- (d) Notwithstanding any other provision to the contrary, Declarant shall be the only member with voting rights as to the Association until such time as Declarant no longer owns any Lot primarily for the purpose of sale or until Declarant waives this right to be the Association's sole voting member, whichever first occurs. So long as Declarant is the sole voting member, Declarant shall have the right to appoint or remove any member or members of the Board and any officer or officers of the Association. Each Owner, by acceptance of a deed to or other conveyance of a Lot, vests in Declarant such authority to be the sole voting member and to appoint and remove directors and officers of the Association as provided by this section.
- (e) Upon the expiration of the period of Declarant's right to appoint and remove directors and officers of the Association pursuant to the provisions hereof, such right shall pass to the Owners, including Declarant if Declarant then owns one or more Lots, and a special meeting of the Association shall be called within a reasonable time thereafter. At such special meeting the Owner shall elect a new Board that shall undertake the responsibilities of the Board, and Declarant shall deliver all books, accounts and records, if any, which Declarant has kept on behalf of the Association and any agreements or contracts executed by or on behalf of the Association during such period and which Declarant has in its possession.
- (f) The voting rights are further specified in the Bylaws of the Association.

4.03 Authority and Obligation. The Association through its Board, shall have the right, power and authority to:

- (a) provide for the enforcement of this Declaration;
- (b) borrow money and own, mortgage, pledge and convey real property and personal property;
- (c) provide for any operation, maintenance, repair, reconstruction, restoration, replacement, or improvement of the Common Elements, as required by this Declaration or as deemed necessary by the Association;

- (d) hire and enter into contracts with third party vendors to mow lawns, shovel snow, trim trees, shrubs and maintain the Common Elements;
- (e) make additional common improvements to the Common Elements for the benefit of the Addition;
- (f) in its discretion, perform services on behalf of the Owners of one or more of the Lots;
- (g) hire accountants, architects, contractors, lawyers, managers, employees, and such other persons as necessary or desirable to carry out its duties;
- (h) purchase such insurance as may be reasonable, including, but not limited to, general liability insurance, property and casualty insurance and officers and director's coverages;
- (i) levy, collect, and have jurisdiction, control and possession of assessments as hereinafter provided;
- (j) enter into contracts as may be necessary or desirable to carry out the provisions of this Declaration;
- (k) establish rules and regulations for the use of Association property and easement areas which are established for the benefit of the members of the Association and their guests and invitees which may include remedies and the imposition of reasonable fines for the violation of such rules and regulations;
- (l) otherwise establish such procedures and policies as may be necessary or deemed desirable to provide for the general welfare of the Owners and Occupants of the Addition, in accordance with the spirit and letter of this Declaration, including the power to make variances in this Declaration; and
- (m) do such other things as are reasonable or necessary to carry out its obligations hereunder or under any agreement with any Owner of any Lot.

ARTICLE V COVENANT FOR MAINTENANCE ASSESSMENTS

5.01 Creation of Lien and Personal Obligation. Declarant hereby covenants, and each Owner by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association monthly assessments or charges, special assessments for capital improvements and operating deficits, and special assessments as provided in this Declaration. The assessments levied by the Association and any other charges against the Owner set forth elsewhere in this Declaration, together with interest, costs and reasonable attorney's fees, shall be a charge on the Lot of such Owner and shall be a continuing lien upon such Lot senior to all liens except the first mortgage of record and any special assessments levied by the City. Such assessment or charge, together with interest, costs and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of the Lot at the time when the assessment or charge fell due. The personal obligation for delinquent assessment or charge shall not pass to said Owner's successor in title unless expressly assumed by them.

- 5.02 Purpose of Assessments.** The assessments levied by the Association shall be used exclusively for the purpose of carrying out the general duties and powers of the Association, including, but not limited to operation, maintenance, repair, reconstruction, restoration, replacement, or alteration of the Common Elements to the Addition or the improvements hereafter constructed by the Association as provided in this Declaration, insurance coverage of the Association and its property, any legal or other costs of enforcement of this Declaration, and for such reasonable reserves as the Board deems necessary. See Section 4.03 supra. In making such assessments, the amount to be levied shall be equal to and limited to the actual cost to the Association of providing those functions and services set forth in this Declaration.
- 5.03 Rate of Assessment.** The assessments levied on and against Lots within the Addition and the Owners thereof, shall be a share of the total amount of each assessment prorated equally among such Lots within the Addition and the Owners thereof as of the beginning of the period for which such assessment applies.
- 5.04 Special Assessments for Capital Improvements and operating Deficits.** In addition to the monthly assessments authorized above, the Association may levy a special, assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement that the Association is required to maintain or for operating deficits that the Association may from time to time incur.
- 5.05 Commencement of Assessments.** The monthly assessments provided for herein shall commence as to each respective Lot on the first day of the first month following the date of conveyance to an Owner of a Lot with a completed Unit constructed thereon and for which a certificate of occupancy has been issued. Lots owned by the Declarant that do not have completed Units constructed thereon and for which certificates of occupancy have not been issued, shall be exempt from assessments. The due dates for all assessments shall be established by the Board. The Association shall, upon demand, and for a reasonable charge, furnish a certificate in a recordable form signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate from the Association regarding the status of assessments on a Lot shall be binding upon the Association as of the date of its issuance.
- 5.06 Procedures.** All assessments shall be made in the manner and subject to the following procedure:
- (a) Notice of all assessments may be given by mail addressed to the last known or usual post office address of the holder of legal title of the Assessable Property and deposited in the United States mail with postage prepaid, or may be given by posting a notice of the assessment upon the Assessable Property itself.
 - (b) Every assessment shall become due and payable within thirty (30) days after notice is given as hereinabove provided, unless the assessment by its own terms provides for payment in monthly, quarterly or semi-annual installments, in which case each payment shall be due as stated in the notice. From and after the date when said payment is due, it shall bear interest at lesser of (i) the rate of twelve percent (12%) per annum, or (ii) the maximum rate allowed by law, until paid and such payment and interest shall constitute a lien upon the Assessable Property which lien shall continue in full force and effect until the assessment is fully paid. The Board may also impose a late charge in such amount as

it shall establish from time to time and set forth in any notice of assessment to defray the Association's administrative costs associated with collecting delinquent assessment payments.

Notwithstanding any other provision herein, the Association may bring an action at law against the Owner personally obligated to pay any assessment, or may foreclose the lien against the Assessable Property in the manner provided for foreclosure of a mortgage, or both, and all costs incurred by the Association, including attorney fees, shall be added to the amount of such assessment. No Owner of Assessable Property may waive or otherwise be relieved of liability for the assessments provided for herein by non-use of the Common Elements or abandonment of its Assessable Property.

- (c) The term "Assessable Property" shall mean all Lots that are subject to this Declaration whether or not such Lots have a dwelling constructed on it and whether such Lot is vacant or occupied.
- (d) **Subordination of Assessment Liens.** If any Lot subject to a lien created by any provision of this Declaration shall be subject to the lien of a first mortgage of record: (1) the foreclosure of any lien created by anything set forth in this Declaration shall not operate to affect or impair the lien of such mortgage; and (ii) the foreclosure of the lien of such mortgage or the acceptance of a deed in lieu of the foreclosure by the mortgagee, shall not operate to affect or impair the lien except that assessment liens, if any, shall have come due up to the expiration of the applicable redemption period and issuance of a sheriff's deed resulting from a decree or the appointment of a receiver in foreclosure proceedings or the acceptance of the deed in lieu of foreclosure shall be subordinate to the lien of the mortgage, with the foreclosure-purchaser and purchasers therefrom taking title free of assessments, if any, that have come due up to the expiration of the applicable redemption period and issuance of a sheriff's deed resulting from a decree of foreclosure or the appointment of a receiver in foreclosure proceedings or deed given in lieu of foreclosure, but subject to assessment liens that shall have come due subsequent to the expiration of the applicable redemption period and issuance of a sheriff's deed resulting from a decree of foreclosure or the appointment of a receiver in foreclosure proceedings or deed given in lieu of foreclosure, but subject to assessment liens that shall have come due subsequent to the expiration of the applicable redemption period and issuance of a sheriff's deed resulting from a decree of foreclosure or the appointment of a receiver in foreclosure proceedings or the acceptance of a deed in lieu of foreclosure. All assessment liens as shall have come due up to the expiration of the applicable redemption period and issuance of a sheriff's deed resulting from a decree of foreclosure or the appointment of a receiver in foreclosure proceedings or the acceptance of a deed in lieu of foreclosure and have not been paid shall be deemed to be an expense of the Association, but this shall not derogate the Association's right to collect said sums from the defaulting owner personally.

ARTICLE VI MAINTENANCE

- 6.01 Maintenance by Owners.** The Owner of each Lot shall furnish and be responsible for all structures, improvements and equipment (excluding shared irrigation system equipment and other Common Elements). Any repair or replacement of an exterior structure, improvement, or

equipment (including without limitation, decks and fences) shall be constructed in accordance with local ordinances and building codes.

6.02 Maintenance of Sidewalks and Driveways. The Association shall be responsible for maintenance of the Common Elements in accordance with the rights granted in Article III above and as otherwise set forth in this Declaration, , excluding the stoops located at entrances of any living unit constructed or to be constructed within the properties.

6.03 Maintenance Obligations of Association. In addition to snow removal on streets, driveways and sidewalks, the Association shall provide maintenance, repair and replacement of Common Elements. Notwithstanding the foregoing, nothing herein shall require the Association to replace or repair sidewalks and driveways, which shall be the sole obligation of the Owners of each Lot. In the case of lawns, shrubs, trees and other elements of landscaping, the Association shall perform all necessary repairs, replacement and maintenance thereof in a manner similar to and in accordance with the appearance of the existing landscape, taking into account that fact or such as availability, age and reasonableness as regard to the level of maturity and development of the landscaping at the time of repair, replacement and maintenance.

ARTICLE VII GENERAL PROVISIONS; DURATION OF DECLARATION

7.01 Specific Enforcement of Restrictions/Declarant/Owner Remedies. Declarant and each Owner shall have the right to enforce this Declaration and each and every covenant, condition, easement, provision, restriction and term of this Declaration and in the event of the breach of any such covenant, condition, easement, provisions, restriction or term contained in this Declaration. Declarant and each Owner shall have the right to exercise all rights and remedies available at law or in equity as defined herein. All Owners covenant and agree, by acceptance of a deed to such Lot, whether or not it shall be so expressed in such deed, that monetary damages may not provide adequate compensation for the breach of the restrictions and covenants contained in this Declaration and that this Declaration may be specifically enforced by Declarant or the Board. All remedies provided for in this Declaration or that are otherwise available at law or in equity shall be cumulative. Neither Declarant nor any Owner shall have any liability to any person or entity for any failure to enforce any provision of this Declaration.

Declarant/Association remedies shall include, but not be limited to, the following:

If an Owner fails to comply with any provision in this Declaration and such failure continues for more than ten (10) days after written notice from the Declarant or the Association, then the Declarant or the Association shall have the right and easement to enter upon the Lot and perform such acts at the expense of the Owner of the Lot where such failure to act has occurred and shall have a right of action against the Owner of such Lot for collection of the costs thereof, plus reasonable costs, including attorney fees of collecting such amount, plus interest at the lesser of (a) twelve percent (12%) per annum or (b) the maximum rate allowed by law for the date such cost is incurred and shall have a lien against such Lot from the date an affidavit reciting the giving of such notice, the performance of such work and the cost thereof is filed in the Office of the Recorder of Dallas County, Iowa, until such amount, plus the reasonable costs, including attorney fees of collecting such amount and costs of filing such lien incurred by lienholder is paid.

- 7.02 Breaches Deemed to be a Nuisance.** Every act or omission that violates, in whole or in part, any of the covenants, conditions, easements, provisions, restrictions and terms contained in this Declaration is hereby declared to be a nuisance, and every remedy allowed by law or equity therefor shall be applicable against the party who so violates this Declaration and may be exercised by Declarant or by any Owner.
- 7.03 Attorneys' Fees.** In the opinion of the Board or Declarant, it is necessary to secure the services of an attorney to enforce the provisions of this Declaration, then the fee of such attorney, and all other costs in connection with the enforcement of this Declaration, including, but not limited to, the costs of obtaining and/or continuing an abstract of title to the Lot in question, the costs of any contemplated or actual legal proceedings, and the costs of preparation and presentation of any evidence shall be the obligation of the Owner of the Lot that is the subject of such enforcement action, unless such Owner is found not to have violated any provision of this Declaration. If such costs and attorneys' fees are not paid within ten (10) days from the date of written notice thereof by the Board or Declarant to the Owner of such Lot, said fee and costs shall thereupon constitute a lien against the property in question, the same as the lien for the general assessment pursuant to the provisions of Article V hereof, and all interest and remedies applicable to such lien shall apply thereto.
- 7.04 Inspection.** Declarant or representatives of the Association who are authorized by the Board may, from time to time, at any reasonable hour or hours, enter and inspect any Lot to ascertain compliance therewith.
- 7.05 Failure to Enforce Not a Waiver of Rights.** The failure of Declarant, the Association, or any Owner to enforce any condition, covenant, easement, provision, restriction, reservation or term of this Declaration in any one instance shall not be deemed a waiver of the right to do so thereafter nor shall it be deemed to constitute a waiver of the right to enforce any other condition, covenant, easement, provision, restriction, reservation or term of this Declaration.
- 7.06 Rights of Third Parties.** Nothing in this Declaration shall be construed so as to impose or create any duty or obligation on any of Declarant, the Association or any Owner to the benefit of the general public, third parties, or invitees, guests, employees, agents, principals or licensees of any Owner or Occupant.
- 7.07 Liability.** Neither the Declarant nor the Association, nor their respective members, shareholders, directors, managers, officers, employees, agents and representatives shall have any liability to or for damages of any sort to any Owner or Occupant or to any other person or entity for any exercise or failure to exercise any right or duty or obligation, if any, of Declarant or Association hereunder, or in any manner arising herefrom, or for the granting of approval or withholding of approval, required or permitted under the terms of this Declaration, except as in Declarant's or the Association's capacity as the Owner of any Lot. Any Owner may, however, exercise any rights such Owner may have against the Declarant or Association or otherwise seek to enforce the conditions, covenants, easements, provisions, restrictions, reservations and terms of this Declaration against such Declarant or the Association, by an action in equity for specific performance or injunctive relief, to which Declarant shall be subject. These remedies of specific performance and injunctive relief shall be the only remedies available against Declarant or the Association (except as in Declarant's or the Association's capacity as the Owner of any Lot) for any exercise or failure to exercise any right, duty or obligation, if any, of Declarant or Association hereunder, or in any manner arising herefrom, or for the granting of approval or

withholding of approval required or permitted under the terms of this Declaration, all other remedies being expressly waived by acceptance of a deed to any Lot.

7.08 Estoppel Certificates. The Association shall issue to any Owner or to any mortgagee of, or purchaser from, any Owner, an Affidavit Explanatory of Title or Estoppel Certificate in such form as may reasonably be requested. The Association shall be entitled to establish a reasonable fee for the provision of a certificate in accordance with the foregoing provisions and may condition the delivery of such certificate upon the payment of the applicable fee.

7.09 Covenants Binding and Running with the Land. Each of the conditions, covenants, easements, indentures, restrictions and reservations contained in this Declaration shall be binding upon and inure to the benefit of Declarant, the Association, and the Owners of each Lot, and their successors and assigns and all parties and persons claiming under any of them, and shall be deemed covenants that run with the land, and shall continue for the applicable periods specified in this Declaration.

7.10 Duration. All easements provided in this Declaration shall continue in perpetuity, unless sooner modified or terminated as provided in this Declaration.

Except as provided in the preceding paragraph of this Section, the covenants, indentures, restrictions and reservations in this Declaration shall be for an initial term of twenty-one (21) years, and may be renewed for successive terms of twenty-one (21) years each by appropriate filing with the Recorder of Dallas County, unless sooner modified or terminated.

7.11 Amendment of This Declaration. This Declaration may be amended in writing by an instrument signed and filed of record in the office of the Dallas County, Iowa Recorder by at least 51% of the Lot Owners, provided that such amendment shall insure provisions for the contained operation, maintenance, repair, restoration and replacement of improvements to the addition, and except that no such alteration, amendment, supplement, addition or termination may change the manner of acceptance of any owner except in the manner applied uniformly to all Owners. No such alteration, amendment, modification or change shall reduce or modify the right or obligations granted to or imposed on, the Association with the respect to the continued operation, maintenance, repair, restoration and replacement of the Declarant improvements to the addition and the power to levy assessments therefore or to eliminate the requirement that there be an association, unless some other person or entity be substituted for the Association and succeed to all its rights and duties under this Declaration. It is expressly understood that no such alteration, amendment, supplement, condition or termination shall require the consent of any Occupant (other than Owner, and then for such Owner/Occupant only to the extent provided elsewhere in the section) or any Mortgagee of any Lot or from the City, except that no amendment shall terminate restrictions on the Association responsibility elements or dissolve the Association without approval of the City. Notwithstanding the foregoing, Declarant shall amend the Declaration, in its sole and absolute discretion until such time that Declarant no longer owns a Lot in the Addition.

7.12 Release Upon Sale. Subject to the provisions of this Section, if an Owner sells, transfers, or assigns its Lot (other than as security for a loan), then such Owner shall be released from its future obligations under this Declaration. It shall be a condition precedent to such release and discharge that any and all amounts that shall then be due and payable by such Owner shall have been paid, and that such Owner shall give written notice to the Association of any such sale,

transfer, conveyance, or assignment concurrently with the filing for record of the instrument effecting the same.

Notwithstanding anything in this Declaration to the contrary, it is expressly understood and agreed that any first mortgagee that shall have acquired title to any Lot, or portion thereof, through foreclosure or deed in lieu of foreclosure, shall not be personally liable for any obligations under this Declaration that arose with respect to the obligations of the Owner of such Lot prior to the date such mortgagee acquired title thereto; provided, however, that any existing lien or right to a lien against such Lot allowed by this Declaration or as a result of the enforcement of this Declaration with respect to matters occurring before such mortgagee so acquired title thereto and shall continue and remain in full force and effect.

7.13 Severability. In the event any provision of this Declaration is held invalid, illegal, or unenforceable, in whole or in part, the remaining provisions of this Declaration shall not be affected thereby and shall continue to be valid and enforceable and if, for any reason, a court finds that any provision of this Declaration is invalid, illegal or unenforceable as written or applied, but that by limiting such provision it would become valid, legal and enforceable, then such provision shall be deemed to be written or applied and shall be construed and enforced as so limited.

7.14 Time of Essence. Time is of the essence with respect to the performance of each of the conditions, covenants, terms and provisions of this Declaration.

7.15 Governing Law. This Declaration shall be construed in accordance with the laws of the State of Iowa.

7.16 Cautions. The captions of the Articles, Sections and Subsections of this Declaration are for convenience only and shall not be considered nor referenced in resolving questions of interpretation and construction of this Declaration.

7.17 THE DECLARANT AND EACH OWNER, BY ACCEPTANCE OF A DEED TO OR OTHER CONVEYANCE OF A LOT WAIVES ANY RIGHT TO A JURY TRIAL WITH RESPECT TO ANY MATTER ARISING OUT OF THIS DECLARATION.

7.18 Order of Precedence. The terms of the Master Declaration of Covenants, Conditions, Easements and Restrictions for the Crossings at Deer Creek, referenced above, will take precedence over conflicting terms in this Declaration to the extent of any conflict.

7.19 Removing/Adding Land. Declarant shall have the sole and absolute right now and in the future to remove any portion of the Addition from the operation of this Declaration or to subject additional land to this Declaration, all without the consent of any Owner.

IN WITNESS WHEREOF, Declarant has duly executed this Declaration as of the date and year first above written.

DEER CREEK VILLAGE, LLC

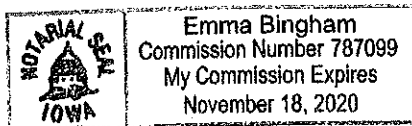
By: Orton Development Company, LLC
an Iowa limited liability company
Its: Member/Manager of Deer Creek
Village, LLC

By: Bruce Gates
Printed: Bruce Gates
Title: Member/Manager of Orton
Development Company, LLC

STATE OF IOWA)
)ss
COUNTY OF Polk)

This record was acknowledged before me on 11/19, 2018 by Bruce Gates, as
Member/Manager of Orton Development Company, LLC, an Iowa limited liability company,
Member/Manager of Deer Creek Village, LLC, an Iowa limited liability company.

Emma Bingham
Notary Public in and for the State of Iowa.



CONSENT BY MORTGAGEE

COMES NOW, the undersigned, University of Iowa Community Credit Union, which is a Mortgagee regarding the real estate described in the foregoing Declaration of Covenants, Conditions, Easements and Restrictions for Deer Creek Village Plat 1, and hereby consents to said Declaration of Covenants, Conditions, Easements and Restrictions for Deer Creek Village Plat 1. Any enforcement action by University of Iowa Community Credit Union, as Mortgagee, shall in no way extinguish the Declaration of Covenants, Conditions, Easements and Restrictions for Deer Creek Village Plat 1.

UNIVERSITY OF IOWA COMMUNITY CREDIT UNION

By Scott Wilson Sr. VP Commercial Services

STATE OF IOWA)
)ss
COUNTY OF POLK)

Subscribed and sworn to before me by Scott Wilson as Sr. VP Commercial Services of University of Iowa Community Credit Union, on this 20th day of November, 2018.



Jill Cooper
Notary Public in and for the State of Iowa.

Doc ID: 033508650009 Type: GEN
 Kind: EASEMENT
 Recorded: 11/08/2018 at 02:21:28 PM
 Fee Amt: \$47.00 Page 1 of 9
 Revenue Tax: \$0.00
 Polk County Iowa
 JULIE M. HAGGERTY RECORDER
 File# 2018-00037101
 BK 17141 PG 228-236

RETURN TO:

Prepared by and Return to: Bridget K. Kautzky, 317 6th Avenue, Suite 300, Des Moines, IA 50309 (515)243-8157

PRIVATE STORM SEWER EASEMENT AGREEMENT

This Private Storm Sewer Easement Agreement ("Agreement") is made and entered into on this 25 day of October, 2018 by and between **Deer Creek Village, LLC**, an Iowa limited liability company ("Grantor"), and **The Villas of Deer Creek Village Homeowners Association** ("Grantee").

- A. Grantor is the owner of Lot 1 in Deer Creek Village Plat 1, an Official Plat, now included in and forming a part of the City of Ankeny, Polk County, Iowa and Grantee will own certain "Common Areas" and maintain "Common Elements", which includes the pertinent private storm sewer for this development per Section 1.02 of the Declaration of Covenants, Conditions, Easements, and Restrictions for Deer Creek Village Plat 1 filed in connection with Deer Creek Village Plat 1.
- B. Grantor and Grantee desire to establish a perpetual easement and right of way under, over, on, through, across and within the real estate described on Exhibit "A" attached hereto ("Easement Area"), for the purpose of constructing, reconstructing, repairing, replacing, enlarging, inspecting and maintaining a private storm sewer line, together with all necessary structures and appurtenances thereto.

In consideration of the mutual undertakings set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, the parties hereto agree as follows:

1. GRANT OF EASEMENTS. Grantor hereby grants for the benefit of Grantee a perpetual easement and right of way under, over, on, through, across and within the Easement Area for the purpose of constructing, reconstructing, repairing,

replacing, enlarging, inspecting, and maintaining a private storm sewer line, together with all necessary structures and appurtenances.

2. **ERECTION OF STRUCTURE PROHIBITED.** Grantor shall not erect any structure, building, or fence over or within the Easement Area without obtaining written consent of the owner of Grantee.
3. **OBSTRUCTIONS PROHIBITED.** Grantor shall not erect or cause to be placed on the Easement Area any structure, material, device, thing or matter, or plant or permit to grow any hedge or other vegetative growth which could obstruct, impede, or otherwise interfere with the usage of the Easement Area without the prior written consent of the Grantee.
4. **MAINTENANCE OF EASEMENT.** The Grantee shall restore the Easement Area to its then present condition after exercising its rights hereunder. The Grantor shall not be responsible for any construction, reconstruction, replacement, repair, or maintenance of any improvements located within the Easement Area.
5. **CHANGE IN GRADE PROHIBITED.** Grantor shall not change the grade, elevation or contour of any part of the Easement Area without obtaining the prior written consent of the Grantee.
6. **RIGHT OF ACCESS.** Grantee shall have the right of reasonable access to the Easement Area, including, but not limited to, the right to remove any unauthorized obstructions or structures placed or erected on the Easement Area.
7. **LIABILITY.** Except as may be caused by the intentional or negligent acts or omissions of the Grantor, its employees, agents or its representatives, the Grantor shall not be liable for injury or property damage occurring in or to the Easement Area, the property abutting to said Easement Area, nor for property damage to any improvements or obstructions thereon. Grantee by its use of the Easement Area agrees to indemnify and hold Grantor, its employees, agents and representatives harmless against any loss, damage, injury or any claim or lawsuit for loss, damages or injury arising out of or resulting from the negligent or intentional acts or omissions of the Grantee or its employees, agents or representatives.
8. **EASEMENT RUNS WITH THE LAND.** This Easement shall be deemed to run with the land and shall be binding on the Grantor and the Grantee and their successors and assigns.

9. CONSENT AND SUBORDINATION OF MORTGAGE HOLDER(S). By signing this Agreement, the undersigned lender, its successors and assigns consents to the terms of this agreement and hereby subordinates its interest in the Easement Area to the interest of the City and its successors and assigns.

Grantor does hereby covenant that the Grantor holds said real estate described in this Easement by fee simple title; that Grantor has good and lawful authority to grant the easement described herein and said Grantor covenants to warrant and defend the said premises against the claims of all persons whomsoever.

Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share, if any, in and to the interest conveyed by the Easement

Words and phrases herein shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

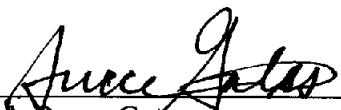
(Remainder of page left intentionally blank. Signature pages follow).

Dated this 25 day of October, 2018.

GRANTOR

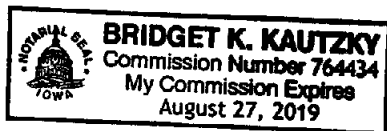
DEER CREEK VILLAGE, LLC

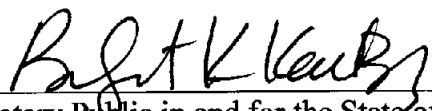
By: Orton Development Company, LLC
an Iowa limited liability company
Its: Member/Manager of Deer Creek
Village, LLC

By: 
Printed: Bruce Gates
Title: Member/Manager of Orton
Development Company, LLC

STATE OF IOWA)
)SS:
COUNTY OF Polk)

On this 25 day of October 2018, before me, the undersigned, a Notary Public in and for said County and State personally appeared Bruce Gates, to me personally known, who being by me duly sworn, did say that he is Member/Manager of Orton Development Company, LLC, as Member/Manager of Deer Creek Village, LLC executing the within and foregoing instrument and acknowledged that he executed the same as his voluntary act and deed of the Deer Creek Village, LLC, by it and by him voluntarily executed.




Notary Public in and for the State of Iowa

Dated this 25 day of October, 2018.

GRANTEE

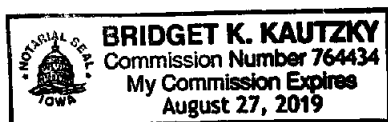
The Villas of Deer Creek Village
Homeowners Association
By: Deer Creek Village, LLC
Its: President, Vice President, Treasurer and Secretary

By: Bruce Gates
Printed: Bruce Gates
Its: Member/Manager of The Villas of Deer Creek
Village Homeowners Association

STATE OF IOWA)

COUNTY OF Polk)

This record was acknowledged before me on October 25, 2018 by Bruce Gates, as Member/Manager of Deer Creek Village, LLC, an Iowa limited liability company, President, Vice President, Treasurer and Secretary of The Villas of Deer Creek Homeowners Association.



Bridget K. Kautzky
Notary Public

Consented to and accepted by:

UNIVERSITY OF IOWA COMMUNITY CREDIT UNION

By Scott Wilson, SVP/Commercial Services

STATE OF IOWA)
COUNTY OF Jackson)ss

SUBSCRIBED AND SWORN TO before me this 25th day of October 2018 by
Scott Wilson SVP/Commercial Services of University of Iowa Community Credit Union.

Tracy Uphoff
Notary Public in and for the State of Iowa



EXHIBIT A

STORM SEWER EASEMENT

A PART OF OUTLOT 'Y', DEER CREEK VILLAGE PLAT 1, AN OFFICIAL PLAT IN THE CITY OF ANKENY, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID OUTLOT 'Y'; THENCE NORTH 0°16'09" EAST ALONG THE WEST LINE OF SAID OUTLOT 'Y', A DISTANCE OF 32.06 FEET; THENCE SOUTH 89°42'54" EAST, 24.24 FEET; THENCE SOUTH 0°17'06" WEST, 32.07 FEET TO THE SOUTH LINE OF SAID OUTLOT 'Y'; THENCE NORTH 89°42'54" WEST ALONG SAID SOUTH LINE, 24.23 FEET TO THE POINT OF BEGINNING AND CONTAINING AND CONTAINING 0.02 ACRES (777 SQUARE FEET).

AND

THE EAST 2.00 FEET OF LOT 2, DEER CREEK VILLAGE PLAT 1, AN OFFICIAL PLAT IN THE CITY OF ANKENY, POLK COUNTY, IOWA.

AND

THE WEST 2.00 FEET OF LOT 3, DEER CREEK VILLAGE PLAT 1, AN OFFICIAL PLAT IN THE CITY OF ANKENY, POLK COUNTY, IOWA.

AND

A PART OF LOT 26, DEER CREEK VILLAGE PLAT 1, AN OFFICIAL PLAT IN THE CITY OF ANKENY, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 26; THENCE NORTH 90°00'00" EAST ALONG THE NORTH LINE OF SAID LOT 26, A DISTANCE OF 3.80 FEET; THENCE SOUTH 16°04'45" WEST, 13.72 FEET TO THE WEST LINE OF SAID LOT 26; THENCE NORTH 0°00'00" EAST, 13.18 FEET TO THE POINT OF BEGINNING AND CONTAINING 25 SQUARE FEET.

AND

A PART OF LOT 26, DEER CREEK VILLAGE PLAT 1, AN OFFICIAL PLAT IN THE CITY OF ANKENY, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 26; THENCE NORTH 0°00'00" EAST ALONG THE WEST LINE OF SAID LOT 26, A DISTANCE OF 29.44 FEET; THENCE SOUTH 10°08'34" EAST, 29.90 FEET TO THE SOUTH LINE OF SAID LOT 26; THENCE NORTH 90°00'00" WEST ALONG SAID SOUTH LINE, 5.27 FEET TO THE POINT OF BEGINNING AND CONTAINING 78 SQUARE FEET.

AND

A PART OF LOT 21, DEER CREEK VILLAGE PLAT 1, AN OFFICIAL PLAT IN THE CITY OF ANKENY, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 21; THENCE SOUTH 77°49'07" WEST ALONG THE SOUTH LINE OF SAID LOT 21, A DISTANCE OF 10.02 FEET; THENCE NORTH 2°53'46" EAST, 38.52 FEET TO THE EAST LINE OF SAID LOT 21; THENCE SOUTH 12°10'53" EAST ALONG SAID EAST LINE, 37.20 FEET TO THE POINT OF BEGINNING AND CONTAINING 186 SQUARE FEET.

AND

A PART OF LOT 20, DEER CREEK VILLAGE PLAT 1, AN OFFICIAL PLAT IN THE CITY OF ANKENY, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID LOT 20; THENCE NORTH 14°00'42" EAST ALONG THE WEST LINE OF SAID LOT 20, A DISTANCE OF 41.74 FEET; THENCE SOUTH 2°53'46" WEST, 42.54 FEET TO THE SOUTH LINE OF SAID LOT 20; THENCE NORTH 75°59'18" WEST ALONG SAID SOUTH LINE, 8.20 FEET TO THE POINT OF BEGINNING AND CONTAINING 171 SQUARE FEET.

AND

A PART OF LOT 18, DEER CREEK VILLAGE PLAT 1, AN OFFICIAL PLAT IN THE CITY OF ANKENY, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 18; THENCE NORTH 75°59'18" WEST ALONG THE SOUTH LINE OF SAID LOT 18, A DISTANCE OF 4.49 FEET; THENCE NORTH 18°43'55" EAST, 54.51 FEET TO THE EAST LINE OF SAID LOT 18; THENCE SOUTH 14°00'42" WEST, 54.33 FEET TO THE POINT OF BEGINNING AND CONTAINING 122 SQUARE FEET.

AND

A PART OF LOT 18, DEER CREEK VILLAGE PLAT 1, AN OFFICIAL PLAT IN THE CITY OF ANKENY, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 18; THENCE SOUTH $14^{\circ}00'42''$ WEST ALONG THE EAST LINE OF SAID LOT 18, A DISTANCE OF 12.92 FEET; THENCE NORTH $7^{\circ}23'54''$ EAST, 13.01 FEET TO THE NORTH LINE OF SAID LOT 18; THENCE SOUTH $75^{\circ}59'18''$ EAST ALONG SAID NORTH LINE, 1.50 FEET TO THE POINT OF BEGINNING AND CONTAINING 10 SQUARE FEET.



Doc ID: 033508590003 Type: GEN
 Kind: EASEMENT
 Recorded: 11/08/2018 at 02:18:57 PM
 Fee Amt: \$17.00 Page 1 of 3
 Revenue Tax: \$0.00
 Polk County Iowa
 JULIE M. HAGGERTY RECORDER
 File# 2018-00037095

BK 17141 PG 202-204

RETURN TO:

WHEN RECORDED RETURN TO:

City Clerk
 410 W. 1st Street
 Ankeny, Iowa 50023

Preparer Information: Bridget K. Kautzky, 317 6th Avenue, Suite 300, Des Moines, IA 50309 (515)243-8157

PUBLIC DRAINAGE EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned, Deer Creek Village, LLC, of the City of Clive, County of Polk, State of Iowa, hereinafter referred to as "Grantor", in consideration of the sum of one dollar (\$1.00), and other valuable consideration, in hand paid by the City of Ankeny, Iowa, receipt of which is hereby acknowledged, do hereby sell, grant and convey unto the City of Ankeny, Iowa, a municipal corporation, in the County of Polk, State of Iowa, hereinafter referred to as "Grantee" or "City", a permanent easement under, through, and across the following described real estate:

THE WEST 10.00 FEET OF OUTLOT 'Y', DEER CREEK VILLAGE PLAT 1, AN OFFICIAL PLAT IN THE CITY OF ANKENY, POLK COUNTY, IOWA. (hereinafter referred to as the "Easement Area")

That the above described easement is granted unto the City of Ankeny, Iowa for the purpose of constructing, reconstructing, repairing, replacing, enlarging, inspecting and maintaining the following public improvements:

Public Drainage

1. Erection and Placement of Structures, Obstructions, Plantings or Materials Prohibited. Grantor and its grantees, assigns and transferees shall not erect any fence or other structure under, over, on, through, across or within the Easement Area without obtaining the prior written consent of the City, nor shall Grantor cause or permit any obstruction, planting or material to be placed under, over, on, through, across or within the Easement Area without obtaining the prior written consent of the City.
2. Change of Grade Prohibited. Grantor and its grantees, assigns and transferees shall not change the grade, elevation or contour of any part of the Easement Area without obtaining the prior written consent of the City. The City shall have the right to restore any changes in grade, elevation or contour without prior written consent of the Grantor, its grantees, assigns or transferees.
3. Right of Access. The City shall have the right of access to the Easement Area and have all rights of ingress and egress reasonably necessary for the use and enjoyment of the Easement Area from property adjacent thereto as herein described, including but not limited to, the right to remove any unauthorized fences, structures, obstruction, planting or material placed or erected under, over, on, through, across or within the Easement Area.
4. Property to be Restored. The City shall restore the Easement Area after exercising its rights hereunder, provided, however, that the City's duty of restoration shall be limited to grading and replacing grass, sod or any other ground cover (but not including any structures, trees, or shrubs). The City shall not be responsible for any

Consented to and accepted by:

UNIVERSITY OF IOWA COMMUNITY CREDIT UNION

By Scott Wilson, SVP / commercial services

STATE OF IOWA)
COUNTY OF Johnson)ss

SUBSCRIBED AND SWORN TO before me this 25th day of October 2018 by
Scott Wilson SVP / commercial services of University of Iowa Community Credit Union.

Tracy Uphoff
Notary Public in and for the State of Iowa



Doc ID: 033508600004 Type: GEN
 Kind: EASEMENT
 Recorded: 11/08/2018 at 02:19:37 PM
 Fee Amt: \$22.00 Page 1 of 4
 Revenue Tax: \$0.00
 Polk County Iowa
 JULIE M. HAGGERTY RECORDER
 File# 2018-00037096
 BK 17141 PG 205-208

RETURN TO:**WHEN RECORDED RETURN TO:**

City Clerk
 410 W. 1st Street
 Ankeny, Iowa 50023

Preparer Information: Bridget K. Kautzky, 317 6th Avenue, Suite 300, Des Moines, IA 50309 (515)243-8157

PUBLIC INGRESS/EGRESS EASEMENT**KNOW ALL MEN BY THESE PRESENTS:**

That the undersigned, Deer Creek Village, LLC, an Iowa limited liability company, of the City of Clive, County of Polk, State of Iowa, hereinafter referred to as "Grantor", in consideration of the sum of one dollar (\$1.00), and other valuable consideration, in hand paid by the City of Ankeny, Iowa, receipt of which is hereby acknowledged, do hereby sell, grant and convey unto the City of Ankeny, Iowa, a municipal corporation, in the County of Polk, State of Iowa, hereinafter referred to as "Grantee" or "City", a permanent easement under, through, and across the following described real estate:

(See Exhibit "A" attached hereto) (hereinafter referred to as the "Easement Area")

That the above described easement is granted unto the City of Ankeny, Iowa for the purpose of constructing, reconstructing, repairing, replacing, enlarging, inspecting and maintaining the following public improvements:

Public Ingress/Egress

1. Erection and Placement of Structures, Obstructions, Plantings or Materials Prohibited. Grantor and its grantees, assigns and transferees shall not erect any fence or other structure under, over, on, through, across or within the Easement Area without obtaining the prior written consent of the City, nor shall Grantor cause or permit any obstruction, planting or material to be placed under, over, on, through, across or within the Easement Area without obtaining the prior written consent of the City.
2. Change of Grade Prohibited. Grantor and its grantees, assigns and transferees shall not change the grade, elevation or contour of any part of the Easement Area without obtaining the prior written consent of the City. The City shall have the right to restore any changes in grade, elevation or contour without prior written consent of the Grantor, its grantees, assigns or transferees.
3. Right of Access. The City shall have the right of access to the Easement Area and have all rights of ingress and egress reasonably necessary for the use and enjoyment of the Easement Area from property adjacent thereto as herein described, including but not limited to, the right to remove any unauthorized fences, structures, obstruction, planting or material placed or erected under, over, on, through, across or within the Easement Area.
4. Property to be Restored. The City shall restore the Easement Area after exercising its rights hereunder, provided, however, that the City's duty of restoration shall be limited to grading and replacing grass, sod or any other ground cover (but not including any structures, trees, or shrubs). The City shall not be responsible for any construction, reconstruction, replacement, repair or maintenance of any improvements located within the Easement Area.

5. Liability. Except as may be caused by the negligent acts or omissions of the City, its employees, agents or its representatives, the City shall not be liable for injury or property damage occurring in or to the Easement Area, the property abutting said Easement Area, nor the property damage or any improvements or obstructions thereon resulting from the City's exercise of this Easement. Grantor agrees to indemnify and hold City, its employees, agents and representatives harmless against any loss, damage, injury or any claim or lawsuit for loss, damage or injury arising out of or resulting from the negligent or intentional acts or omissions of Grantor or its employees, agents or representatives.
6. Easement Benefit. This easement shall be for the benefit of the City, its successors and assigns, and its permittees and licensees.
7. Easement Runs with Land. This Easement shall be deemed perpetual and to run with the land and shall be binding on Grantor and on Grantor's heirs, successors and assigns.
8. Consent and Subordination of Mortgage Holder(s). By signing this Agreement, the undersigned lender, its successors and assigns consents to the terms of this agreement and hereby subordinates its interest in the Easement Area to the interest of the City and its successors and assigns.
9. Approval by City Council. This Easement shall not be binding until it has received the final approval and acceptance by the City Council by Resolution which approval and acceptance shall be noted on this Easement by the City Clerk.

That the Grantor does hereby covenant with the said Grantee, and successor-in-interest, that said Grantor holds said real estate by title and fee simple; that it has good and lawful authority to sell and convey the same; that said premises are free and clear of all liens and encumbrances whatsoever, except as may be herein stated; that said Grantor covenants to warrant and defend the said premises against the lawful claims of all persons whomsoever, except as may be herein stated.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

Signed this 25 day of October, 2018.

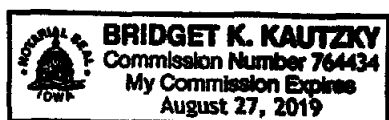
DEER CREEK VILLAGE, LLC

By: Orton Development Company, LLC
an Iowa limited liability company
Its: Member/Manager of Deer Creek
Village, LLC

By: Bruce Gates
Printed: Bruce Gates
Title: Member/Manager of Orton
Development Company, LLC

STATE OF IOWA)
)SS:
COUNTY OF Polk)

On this 25 day of October 2018, before me, the undersigned, a Notary Public in and for said County and State personally appeared Bruce Gates, to me personally known, who being by me duly sworn, did say that he is Member/Manager of Orton Development Company, LLC, as Member/Manager of Deer Creek Village, LLC executing the within and foregoing instrument and acknowledged that he executed the same as his voluntary act and deed of the Deer Creek Village, LLC, by it and by him voluntarily executed.



Bridget K. Kautzky
Notary Public in and for the State of Iowa

Consented to and accepted by:

UNIVERSITY OF IOWA COMMUNITY CREDIT UNION

STATE OF IOWA)
COUNTY OF Johnson)ss

By Scott Wilson SVP / commercial services

SUBSCRIBED AND SWORN TO before me this 25th day of October 2018 by
Scott Wilson, SVP / commercial services of University of Iowa Community Credit Union.

Tracy Uphoff
Notary Public in and for the State of Iowa



EXHIBIT A

A PART OF LOT 15, OUTLOT 'Y' AND OUTLOT 'Z', DEER CREEK VILLAGE PLAT 1, AN OFFICIAL PLAT IN THE CITY OF ANKENY, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID OUTLOT 'Z'; THENCE SOUTHWESTERLY ALONG THE EAST LINE OF SAID OUTLOT 'Z' AND A CURVE CONCAVE SOUTHEASTERLY WHOSE RADIUS IS 1240.00 FEET, WHOSE ARC LENGTH IS 110.54 FEET AND WHOSE CHORD BEARS SOUTH 24°36'23" WEST, 110.51 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING SOUTHERLY ALONG SAID EAST LINE AND A CURVE CONCAVE EASTERLY WHOSE RADIUS IS 1240.00 FEET, WHOSE ARC LENGTH IS 45.00 FEET AND WHOSE CHORD BEARS SOUTH 21°00'46" WEST, 45.00 FEET; THENCE NORTH 68°59'14" WEST, 22.97 FEET; THENCE WESTERLY ALONG A CURVE CONCAVE SOUTHERLY WHOSE RADIUS IS 177.50 FEET, WHOSE ARC LENGTH IS 21.69 FEET AND WHOSE CHORD BEARS NORTH 72°29'16" WEST, 21.68 FEET; THENCE NORTH 75°59'18" WEST, 67.94 FEET; THENCE SOUTH 16°08'23" WEST, 155.45 FEET; THENCE NORTH 73°51'37" WEST, 45.00 FEET; THENCE NORTH 16°08'23" EAST, 9.23 FEET; THENCE NORTH 73°51'37" WEST, 12.00 FEET; THENCE NORTH 16°08'23" EAST, 63.00 FEET; THENCE SOUTH 73°51'37" EAST, 15.00 FEET; THENCE NORTH 16°08'23" EAST, 81.66 FEET; THENCE NORTH 75°59'18" WEST, 139.01 FEET; THENCE WESTERLY ALONG A CURVE CONCAVE SOUTHERLY WHOSE RADIUS IS 177.50 FEET, WHOSE ARC LENGTH IS 22.52 FEET AND WHOSE CHORD BEARS NORTH 79°37'24" WEST, 22.51 FEET; THENCE SOUTH 5°27'03" WEST, 12.00 FEET; THENCE WESTERLY ALONG A CURVE CONCAVE SOUTHERLY WHOSE RADIUS IS 165.50 FEET, WHOSE ARC LENGTH IS 35.34 FEET AND WHOSE CHORD BEARS NORTH 89°16'56" WEST, 35.28 FEET; THENCE NORTH 4°00'55" WEST, 12.00 FEET; THENCE WESTERLY ALONG A CURVE CONCAVE SOUTHERLY WHOSE RADIUS IS 177.50 FEET, WHOSE ARC LENGTH IS 48.68 FEET AND WHOSE CHORD BEARS SOUTH 76°50'11" WEST, 48.53 FEET; THENCE SOUTH 68°58'45" WEST, 21.30 FEET; THENCE WESTERLY ALONG A CURVE CONCAVE NORTHERLY WHOSE RADIUS IS 172.50 FEET, WHOSE ARC LENGTH IS 63.29 FEET AND WHOSE CHORD BEARS SOUTH 79°29'22" WEST, 62.93 FEET; THENCE NORTH 90°00'00" WEST, 183.81 FEET; THENCE SOUTH 0°00'00" WEST, 15.00 FEET; THENCE NORTH 90°00'00" WEST, 45.00 FEET; THENCE NORTH 0°00'00" EAST, 15.00 FEET; THENCE NORTH 90°00'00" WEST, 59.13 FEET; THENCE NORTH 0°00'00" EAST, 45.00 FEET; THENCE NORTH 90°00'00" EAST, 287.94 FEET; THENCE EASTERLY ALONG A CURVE CONCAVE NORTHERLY WHOSE RADIUS IS 127.50 FEET, WHOSE ARC LENGTH IS 46.78 FEET AND WHOSE CHORD BEARS NORTH 79°29'22" EAST, 46.52 FEET; THENCE NORTH 68°58'45" EAST, 21.30 FEET; THENCE EASTERLY ALONG A CURVE CONCAVE SOUTHERLY WHOSE RADIUS IS 222.50 FEET, WHOSE ARC LENGTH IS 136.04 FEET AND WHOSE CHORD BEARS NORTH 86°29'43" EAST, 133.93 FEET; THENCE SOUTH 75°59'18" EAST, 248.97 FEET; THENCE EASTERLY ALONG A CURVE CONCAVE SOUTHERLY WHOSE RADIUS IS 222.50 FEET, WHOSE ARC LENGTH IS 27.19 FEET AND WHOSE CHORD BEARS SOUTH 72°29'16" EAST, 27.17 FEET; THENCE SOUTH 68°59'14" EAST, 22.97 FEET TO THE POINT OF BEGINNING AND CONTAINING 1.01 ACRES (43,806 SQUARE FEET).

BYLAWS
OF
THE VILLAS OF DEER CREEK VILLAGE HOMEOWNERS ASSOCIATION

ARTICLE I
NAME AND LOCATION

The name of the corporation is The Villas of Deer Creek Village Homeowners Association, hereinafter referred to as the "Association." The principal office of the corporation shall be located at 2208 Woodlands Parkway, Clive, Iowa 50325, but meetings of Members and directors may be held at such places within the State of Iowa, as may be designated by the Board of Directors.

ARTICLE II
DEFINITIONS

Section 1. ***"Association"*** shall mean The Villas of Deer Creek Village Homeowners Association, a nonprofit corporation organized pursuant to Chapter 504 (Revised) of the Code of Iowa, and its successors and assigns.

Section 2. ***"Board of Directors"*** shall mean the Board of Directors of the Association duly elected in accordance with the Articles of Incorporation and Bylaws of the Association.

Section 3. ***"Owner"*** shall mean the person or persons who from time to time collectively hold the entire fee title to any Lot, including buyers under executory contracts of sale (but shall not include any person who holds such fee title merely as security for a loan, unless and until such person has succeeded to ownership by enforcement of its remedies under such loan documents).

Section 4. ***"Unit"*** shall mean the single family residential dwelling constructed on any Lot.

Section 5. ***"Common Elements"*** shall mean those items owned, installed, managed, and maintained by the Association for the benefit of the Owners, including, but not limited to, the shared irrigation system, lawns, trees, shrubs, walkway (sidewalk), driveways, streets, private storm sewer and Common Areas owned by the Association. The Common Elements include but are not limited to all Lots in the Addition, excluding all dwelling Units.

Section 6. ***"Member"*** shall mean and refer to every Owner of a Lot in the Addition.

Section 7. ***"Declaration"*** shall mean the Declaration of Covenants, Conditions, Easement and Restrictions for Deer Creek Village Plat 1 recorded in the office of the Recorder of Polk County, Iowa.

Section 8. ***"Declarant"*** shall mean Deer Creek Village, LLC its successors and assigns.

Section 9. ***"Lot"*** shall mean Lots 1 through 26, inclusive, in the Addition.

Section 10. ***"Addition"*** shall mean the real estate located within the following: Lot 1 in DEER CREEK SOUTH PLAT 1, an Official Plat, now included in and forming a part of the City of Ankeny, Polk County, Iowa.

ARTICLE III MEETING OF MEMBERS

Section 1. Annual Meetings. The annual meeting of the Association shall be held on or before the second Monday in February of each year at such place as may be determined by the members of the Board of Directors.

Section 2. Special Meetings. Special meetings of the Board of Directors or the Members of the Association shall be called by the President on written request made by the Board of Directors or on written demand by at least thirty percent (30%) of the Owners of the Units. The President shall determine the date, time and place of the meeting.

Section 3. Notice of Meetings. All notices for the annual meeting and for any special meetings shall be in writing and shall be mailed to each of the Members of the Association at their last known mailing address by ordinary mail, postage prepaid, at least thirty (30) days and no more than sixty (60) days prior to the date fixed for the meeting. Such notice shall include an agenda for the meeting of the membership, annual or special.

Section 4. Quorum. A quorum shall consist of sixty percent (60%) of the votes of the membership. If the required quorum is not present, another meeting may be called subject to the same notice requirement and the required quorum at the subsequent meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 5. Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease on conveyance of a Unit by the Member.

ARTICLE IV MEMBERS AND VOTING RIGHTS

Section 1. Members. The qualification of members and the manner of their admission into the Association shall be as follows:

- A. A Unit Owner shall by virtue of such interest be a Member of this Association.

- B. If more than one person is an Owner of the same Unit, all such Owners shall be Members and remain jointly and severally liable for all membership obligations.
- C. It shall be the duty of each Unit Owner to register with the Secretary of the Association the fact of ownership and the address of the Owner. The Owner shall register with the Secretary of the Association the name of any tenant occupying the Unit. The Secretary shall maintain a Roll of Members (the "Roll"). Failure of a Unit Owner to register shall not affect any obligation of such Unit Owner under the Declaration, Bylaws and any applicable Rules and Regulations.
- D. The share of a Member in the funds and assets of the Association cannot be assigned, pledged, encumbered or transferred in any manner, except as an appurtenance to a Unit.

Section 2. Voting Rights. All Unit Owners of a Unit shall collectively have one vote. Where there is more than one Owner of a Unit, any one thereof may cast the vote allocated to that Unit. In the event that there is a dispute among such Unit Owners, the matter shall be referred to the Board of Directors who shall decide by whom the vote is to be cast, and such decision will be final.

Notwithstanding any other provision to the contrary herein, Declarant shall be the only member with voting rights as to the Association until such time as Declarant no longer owns any Lot primarily for the purpose of sale or until Declarant waives this right to be the Association's sole voting member, whichever first occurs. So long as Declarant is the sole voting member, Declarant shall have the right to appoint or remove any member or members of the Board and any officer or officers of the Association. Each Owner, by acceptance of a deed to or other conveyance of a Lot, vests in Declarant such authority to be the sole voting member and to appoint and remove directors and officers of the Association as provided by this section.

ARTICLE V DIRECTORS

Section 1. Number. The management and affairs of this Association shall be managed by a Board of not less than one (1) nor more than five (5) directors, provided that the number of directors shall always be an odd number and all directors shall be Members of the Association, except that during the period of Declarant control, there may be two directors named. The number of directors may be changed by amendment of the Bylaws of the Association.

At the first meeting of the members, they shall elect one-third (1/3) of the directors for a term of one (1) year, one-third (1/3) for a terms of two (2) years and one-third (1/3) for a term of three (3) years. At each annual meeting thereafter the Members shall elect one-third (1/3) of the Board of Directors for a term of three (3) years.

Section 2. Vacancy. Regular vacancies occurring on the Board of Directors shall be filled by election of the Members at the regular annual meeting. If a vacancy occurs prior to the annual meeting, the President shall appoint a Member to serve until the annual meeting.

Section 3. Removal. Any director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association. In the event of death, resignation or removal of a director, the successor director shall be selected by the remaining members of the Board and shall serve for the unexpired term of the predecessor director.

Section 4. Compensation. No director shall receive compensation for any service rendered to the Association; however, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 5. Action Taken Without a Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

ARTICLE VI DIRECTORS MEETINGS

Section 1. Meetings. The Board of Directors shall meet on request of any member thereof and at any reasonable hour or location, provided, however, that at least twenty-four (24) hours notice is given to each director.

Section 2. Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board of Directors.

Section 3. Majority Rule. All questions and deliberations before the board shall be decided by simple majority of the directors present.

ARTICLE VII POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have power to:

- A. Adopt and publish rules and regulations governing the use of the Common Elements, if any, and facilities, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;
- B. Suspend the voting rights of a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Association.

Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days, for infraction of published rules and regulations;

- C. Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these Bylaws, the Articles of Incorporation, or as more fully provided in the Declaration;
- D. Declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors; and
- E. Employ an independent contractor, or such other employees as they deem necessary, and prescribe their duties.

Section 2. Duties. It shall be the duty of the Board of Directors to:

- A. Cause to be kept a complete record of all its acts and affairs and to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Members who are entitled to vote;
- B. Supervise all officers, agents and employees of this Association and see that their duties are properly performed;
- C. As more fully provided in the Declaration:
 - 1. Fix the amount of the annual assessment against each Unit at least thirty (30) days in advance of each annual assessment period;
 - 2. Send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and
 - 3. Foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same;
- D. Issue or cause an appropriate officer to issue, on demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- E. Procure and maintain adequate liability and hazard insurance on property owned by the Association;

- F. Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;
- G. Cause the Common Elements to be maintained.

ARTICLE VIII OFFICERS AND THEIR DUTIES

Section 1. The officers of the Association shall be President, Vice-President, Secretary and Treasurer. The officers shall be elected at the annual meeting of the Members and shall be elected for a one-year term. A majority of the votes cast by the Unit Owners present shall determine the election.

A. Duties of the President. The duties of the President shall be:

1. To conduct meetings.
2. To serve as a member of the Board of Directors and as an ex officio member of all regular and special committees.
3. To call special meetings as necessary.
4. To represent the Association officially.
5. To prepare the agenda for the annual meeting of the Association.

B. Duties of the Vice-President. The duties of the Vice-President shall be:

1. To serve as presiding officer at meetings in the absence of the President.
2. To assist generally in the duties of the President.

C. Duties of the Secretary. The duties of the Secretary shall be:

1. To record and preserve all minutes of meetings of the Association and preserve other written and printed materials pertaining to the Association.
2. To mail copies of the minutes of the annual and special meetings to all Members.
3. To receive, communicate and file correspondence relating to the Association.
4. To prepare and give notice of meetings as required by these Bylaws.

D. Duties of the Treasurer. The duties of the Treasurer shall be:

1. To have the general responsibility for the Association's funds and accounts subject to the order of the Board of Directors.
2. To maintain and keep proper books of account which at reasonable times shall be open for examination by any Member of the Association.
3. To oversee the receipt and disbursement of all funds belonging to the Association.
4. To execute all financial transactions as directed by the Board of Directors.

E. Removal of Officers. Any officer of the Association may be removed by a majority vote of the Unit Owners present at the regular annual meeting or special meeting duly called for that purpose.

ARTICLE IX
ASSESSMENTS

Section 1. Unless otherwise specified the term "Assessments" includes annual and special Common Expense assessments.

Assessments shall be levied in accordance with the Declaration by a majority vote of all of the members of the Board of Directors of the Association, in each instance supported by a budget and paid by the members to the Association in accordance with the following provisions:

- A. All Owners of a Unit shall be jointly and severally liable for the Common Expenses which are assessed against the Unit.
- B. All sums collected by the Association as assessments may be commingled in a single fund.
- C. All assessments, both annual and special, shall become a lien on the Unit on the date they become payable. In case any installment is not paid within thirty (30) days after it becomes payable, the Board of Directors may declare the entire assessment payable without notice.
- D. Annual assessments shall be made in advance on or before the second Monday in December of the year preceding that for which the assessments are payable, and special assessments shall be made at such other additional times as in the judgment of the Board of Directors, additional common expense assessments are required for the proper management, maintenance and operation of the condominium. Such annual assessments shall be payable in equal monthly

installments beginning with January 1 and on the 1st day of each month thereafter. Special assessments shall be due and payable as determined by the Board of Directors. If an annual assessment is not made, there shall be an assessment in the amount of the last prior annual assessment which shall be payable as above set forth.

- E. The assessments against all units shall be set forth upon the Roll which shall be available in the office of the Association for inspection at all reasonable times by members or their duly authorized representatives. Such Roll shall indicate for each unit the name, address and interest of the member, the assessments or other obligations owing to the Association and the amounts of all assessments or other obligations which are unpaid.
- F. Assessments and installments thereof paid on or before thirty (30) days after the date when payable shall not bear interest or penalty, but all sums not paid on or before thirty (30) days after the date when payable shall bear interest and/or penalty as determined by the Association to the extent permitted by law from the date when payable until paid. All payments upon account shall be applied first to interest and/or penalty and then to the assessment payment first payable. All interest and penalties collected shall be credited to the Common Expense Account.

ARTICLE X AMENDMENTS

These Bylaws may be altered, amended or repealed, and new Bylaws adopted if such action is proposed and presented in writing to the Members of the Association at least ten (10) days in advance of the date of any meeting where such action shall occur. Approval of any change in the Bylaws must be by a two-third (2/3) vote of the membership entitled to vote under the provisions of these Bylaws.

ARTICLE XI FISCAL YEAR

The fiscal year of the Association shall begin on January 1 and end on December 31 of each year.

ARTICLE XII CORPORATE SEAL

The Association shall have no seal.

ARTICLE XIII
SALE AND NOTICE

Owners shall notify members of the Board of Directors of the sale of any Unit within thirty (30) days of the sale and shall furnish the Board of Directors with the name and address of the new Owner or Owners.


ARTICLE XIII
SALE AND NOTICE

Owners shall notify members of the Board of Directors of the sale of any Unit within thirty (30) days of the sale and shall furnish the Board of Directors with the name and address of the new Owner or Owners.

IN WITNESS WHEREOF, Owner has adopted the foregoing Bylaws of The Villas of Deer Creek Village Homeowners Association on October 25, 2018.

DEER CREEK VILLAGE, LLC

By: Orton Development Company, LLC
an Iowa limited liability company
Its: Member/Manager of Deer Creek
Village, LLC

By: 
Printed: Bruce Gates
Title: Member/Manager of Orton
Development Company, LLC

**ARTICLES OF INCORPORATION
OF
THE VILLAS OF DEER CREEK VILLAGE HOMEOWNERS ASSOCIATION**

**TO THE SECRETARY OF STATE
OF THE STATE OF IOWA:**

Pursuant to the Revised Iowa Nonprofit Corporation Act under Chapter 504 of the Code of Iowa, the undersigned acting as incorporator of a corporation adopts the following Articles of Incorporation:

**ARTICLE I
NAME**

The name of the corporation is: The Villas of Deer Creek Village Homeowners Association.

**ARTICLE II
DURATION**

The period of duration for The Villas of Deer Creek Village Homeowners Association is perpetual. The existence of The Villas of Deer Creek Village Homeowners Association shall commence at the time and date of filing of these Articles of Incorporation with the Secretary of State of the State of Iowa.

**ARTICLE III
PURPOSE**

The purpose and objectives for which The Villas of Deer Creek Village Homeowners Association is organized is to promote the health, safety and welfare of the residents.

**ARTICLE IV
REGISTERED OFFICE AND REGISTERED AGENT**

The street address of The Villas of Deer Creek Village Homeowners Association's registered office in Iowa is 2208 Woodlands Parkway, Clive, Iowa 50325, and the name of its initial registered agent is Bruce Gates.

**ARTICLE V
MEMBERS**

The members of The Villas of Deer Creek Village Homeowners Association shall be those persons described as members in the Bylaws of The Villas of Deer Creek Village Homeowners Association. The voting rights of the members shall be as provided in the Declaration of Covenants, Conditions, Easements and Restrictions for Deer Creek Village Plat 1 and the Bylaws of The Villas of Deer Creek Village Homeowners Association.

**ARTICLE VI
DIRECTORS**

The number of directors of The Villas of Deer Creek Village Homeowners Association shall be between one (1) and five (5), inclusive. The number of directors may be changed by resolution of the members as set forth in the Bylaws of The Villas of Deer Creek Village Homeowners Association. The names and addresses of the persons initially serving as directors until the election of their successors are:

<u>Director</u>	<u>Address</u>
Deer Creek Village, LLC	2208 WoodlandsParkway Clive, IA 50325

**ARTICLE VII
PERSONAL LIABILITY OF DIRECTORS**

A director of The Villas of Deer Creek Village Homeowners Association shall not be liable to The Villas of Deer Creek Village Homeowners Association or its members for money damages for any action taken, or any failure to take any action, as a director, except liability for any of the following: (1) the amount of a financial benefit received by a director to which the director is not entitled; (2) an intentional infliction of harm on The Villas of Deer Creek Village Homeowners Association or the members; (3) a violation of the unlawful distribution provision of the Revised Iowa Nonprofit Corporation Act; or (4) an intentional violation of criminal law. If the Revised Iowa Nonprofit Corporation Act is hereafter amended to authorize the further elimination or limitation of the liability of directors, then the liability of a director of the Corporation, in addition to the limitation on personal liability provided herein, shall be eliminated or limited to the extent of such amendment, automatically and without any further action, to the fullest extent permitted by law. Any repeal or modification of this Article shall be prospective only and shall not adversely affect any limitation on the personal liability or any other right or protection of a director of The Villas of Deer Creek Village Homeowners Association with respect to any state of facts existing at or prior to the time of such repeal or modification.

**ARTICLE VIII
INCORPORATOR**

The name and address of the incorporator of The Villas of Deer Creek Village Homeowners Association is Bruce Gates, 2208 Woodlands Parkway, Clive, Iowa, 50325.

ARTICLE IX

No part of the net earnings of The Villas of Deer Creek Village Homeowners Association shall inure to the benefit of, or be distributable to the benefit of, or be distributable to its members, trustees, officers, or other private persons, except that The Villas of Deer Creek Village Homeowners Association shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in these Articles. No substantial part of the activities of The Villas of Deer Creek Village Homeowners Association shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in, or intervene in (including the publishing or distribution of statements) and political campaign on behalf of any candidate for public office. Notwithstanding any other provision of these Articles, The Villas of Deer Creek Village Homeowners Association shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal income tax under section 501(c)(3) of the I.R.C. or (b) by a corporation, contributions to which are deductible under section 170(c)(2) of the I.R.C.

ARTICLE X INDEMNIFICATION

The Corporation shall indemnify a director for liability (as such term is defined in section 504.851(5) of the Revised Iowa Nonprofit Corporation Act) to any person for any action taken, or any failure to take any action, as a director, except liability for any of the following: (1) receipt of a financial benefit by a director to which the director is not entitled; (2) an intentional infliction of harm on The Villas of Deer Creek Village Homeowners Association or the members; (3) a violation of the unlawful distribution provision of the Revised Iowa Nonprofit Corporation Act; or (4) an intentional violation of criminal law. Without limiting the foregoing, The Villas of Deer Creek Village Homeowners Association shall exercise all of its permissive powers as often as necessary to indemnify and advance expenses to its directors and officers to the fullest extent permitted by law. If the Revised Iowa Nonprofit Corporation Act is hereafter amended to authorize broader indemnification, then the indemnification obligations of The Villas of Deer Creek Village Homeowners Association shall be deemed amended automatically and without any further action to require indemnification and advancement of funds to pay for or reimburse expenses of its directors and officers to the fullest extent permitted by law. Any repeal or modification of this Article shall be prospective only and shall not adversely affect any indemnification obligations of The Villas of Deer Creek Village Homeowners Association with respect to any state of facts existing at or prior to the time of such repeal or modification.

ARTICLE XI DISSOLUTION

On the dissolution of The Villas of Deer Creek Village Homeowners Association, the Board of Directors shall, after paying or making provision for the payment of all of the liabilities of The Villas of Deer Creek Village Homeowners Association, dispose of all of the assets of The Villas of Deer Creek Village Homeowners Association exclusively for the purposes of The Villas of Deer Creek Village Homeowners Association in such manner or to such organization or organizations organized exclusively for charitable, educational, religious, or scientific purposes as shall qualify as an exempt organization or organization under Section 501(c)(3) of the Internal Revenue Code as the Board of Directors shall determine. Any such assets not so disposed shall be disposed of by the Iowa District Court in the county in which the principal office of The Villas of Deer Creek Village Homeowners Association is then located, exclusively for such purposes or to such organization or organizations and operated exclusively for such purposes.

Dated September 21, 2018.



Bruce Gates, Incorporator



Doc ID: 037556000003 Type: GEN
Kind: RESTRICTIVE COVENANT
Recorded: 02/09/2022 at 12:44:07 PM
Fee Amt: \$17.00 Page 1 of 3
Polk County Iowa
JULIE M. HAGGERTY RECORDER
File# 2022-00011114

BK **18981** PG **801-803**

**AMENDMENT TO CORRECTED DECLARATION OF COVENANTS, CONDITIONS,
EASEMENTS AND RESTRICTIONS FOR DEER CREEK VILLAGE PLAT 1**

Preparer Information:

Lisa R. Wilson
222 N.W. Sunrise Drive
Waukee, Iowa 50263
(515) 369-2502

Taxpayer Information:

N/A

RETURN TO:

Return Document To:

Wilson & Egge, P.C.
222 N.W. Sunrise Drive
Waukee, Iowa 50263

Grantor:

Deer Creek Village, LLC

Grantee:

N/A

Legal Description:

All Lots and Outlots in Deer Creek Village Plat 1, an Official Plat, now included in and forming a part of the City of Ankeny, Polk County, Iowa; AND All Lots and Outlots in Deer Creek Village Plat 2, an Official Plat, now included in and forming a part of the City of Ankeny, Polk County, Iowa.

Document or instrument number of previously recorded documents:

Book 17141, Page 237; Book 17163, Page 646

**AMENDMENT TO CORRECTED DECLARATION OF COVENANTS, CONDITIONS,
EASEMENTS AND RESTRICTIONS FOR DEER CREEK VILLAGE PLAT 1**

THIS AMENDMENT TO CORRECTED DECLARATION is made this 19th day of January, 2022.

WHEREAS, a Declaration of Covenants, Conditions, Easements and Restrictions was executed by Deer Creek Village, LLC, an Iowa limited liability company ("Declarant") and filed in Polk County, Iowa, on November 8, 2018 in Book 17141, Page 237, as amended by a Corrected Declaration filed November 29, 2018 in Book 17163, Page 646 ("Declaration").

WHEREAS, the undersigned Declarant, pursuant to rights granted under Sections 7.11 and 7.19 of the Declaration as filed, has the right to amend the Declaration so long as it owns a Lot in Deer Creek Village Plat 1, and has the right to annex additional land to the terms of the Declaration.

WHEREAS, Declarant desires to amend the Declaration, and to subject Lots 1 through 32, and Outlot Z, in Deer Creek Village Plat 2 to the terms of the Declaration.

NOW, THEREFORE, the undersigned Declarant does hereby modify the Declaration as follows:

1. "Lot" as defined in the Declaration is amended to include the following described real estate:

Lots 1 through 32, inclusive, in Deer Creek Village Plat 2.

2. "Addition" as defined in the Declaration is amended to include the following described real estate:

Deer Creek Village Plat 2, an Official Plat, now included in and forming a part of the City of Ankeny, Polk County, Iowa.

3. "Common Areas" as defined in the Declaration is amended to include the following described real estate:

Outlot Z in Deer Creek Village Plat 2.

4. "Recorded Plat" as defined in the Declaration is amended to include the following:

Deer Creek Village Plat 2 as recorded in the Office of the Polk County Recorder.

5. Any general references in the Declaration to "Deer Creek Village Plat 1" shall include lots in "Deer Creek Village Plat 2", as may be applicable.

6. In all other respects, the Declaration shall remain unaffected and be enforceable as filed.

Dated on this day and year first written above.

-SIGNATURE PAGE TO FOLLOW-

-SIGNATURE PAGE-


DEER CREEK VILLAGE, LLC, an Iowa limited liability company

By: Orton Development Company, L.L.C., Manager

By: 
Bruce E. Gates, Manager

STATE OF IOWA)
COUNTY OF Dallas)

This record was acknowledged before me on this 19th day of January, 2022, by Bruce E. Gates, Manager of Orton Development Company, L.L.C., the Manager of Deer Creek Village, LLC.


Notary Public in and for the State of Iowa

