

ROBERT ENGSTROM COMPANIES

4801 West 81st Street, Suite 101 Minneapolis, Minnesota 55437

HOMEOWNER'S DOCUMENTS

Wildflower
at Lake Elmo

COMMUNITY ASSOCIATION



WILDFLOWER AT LAKE ELMO

COMMUNITY ASSOCIATION

1. Developer's commentary.
2. Site and Trail Plans
3. Declaration of Covenants, Conditions and Restrictions of Wildflower at Lake Elmo Community Association.
4. Bylaws of the Association.
5. Articles of Incorporation of the Association
6. Conservation Easement to the City of Lake Elmo.
7. Amended and Restated Open Space Easement, The Fields of St. Croix, 2nd Addition.

Office of Wildflower at Lake Elmo Community Association:

WILDFLOWER AT LAKE ELMO COMMUNITY ASSOCIATION
P.O Box 162
Lake Elmo, MN 55042

Office of the Declarant:

ROBERT ENGSTROM COMPANIES
4801 WEST 81ST STREET
SUITE 101
MINNEAPOLIS, MINNESOTA 55437
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WILDFLOWER AT LAKE ELMO

COMMUNITY ASSOCIATION DOCUMENTS

These documents provide the governing framework for the Wildflower at Lake Elmo Community Association.

Explanatory comments for the Association documents:

- The **Declaration** is the primary document, which is filed with the Final Plat and is difficult to change or amend.
- The **By-Laws** provide the operational direction for the non-profit organization and the Board of Directors. The by-laws can be changed as needed.
- The **Articles of Incorporation** is issued by the Minnesota Secretary of State and provides structure for the Association and protection for the Wildflower at Lake Elmo name.
- The **Conservation Easement** is permanent and filed on the open space and ensures long-term protection and Real Estate Tax advantages. The pathways are on easements to the City of Lake Elmo, which will maintain them. The open space land is private, with the public able to use the pathways.
- The Board of Directors promulgates **the rules and regulations**; these are flexible and can be changed to apply to areas like parking, storage of vehicles, provision for the orderly control of pets, etc. Rules and regulations change and are evolving, therefore, they are not included in this manual.

Note: The documents provide for architectural approval by the Developer until the last lot is conveyed to a third party. Thereafter, the Wildflower at Lake Elmo Architectural Control Committee gives the approvals. Regarding landscapes, in the spirit of being a healthy, pollinator and people- friendly community, it is intended that the Association not be over-zealous in their approach to building and landscape approval, thereby leaving room for individual expression.

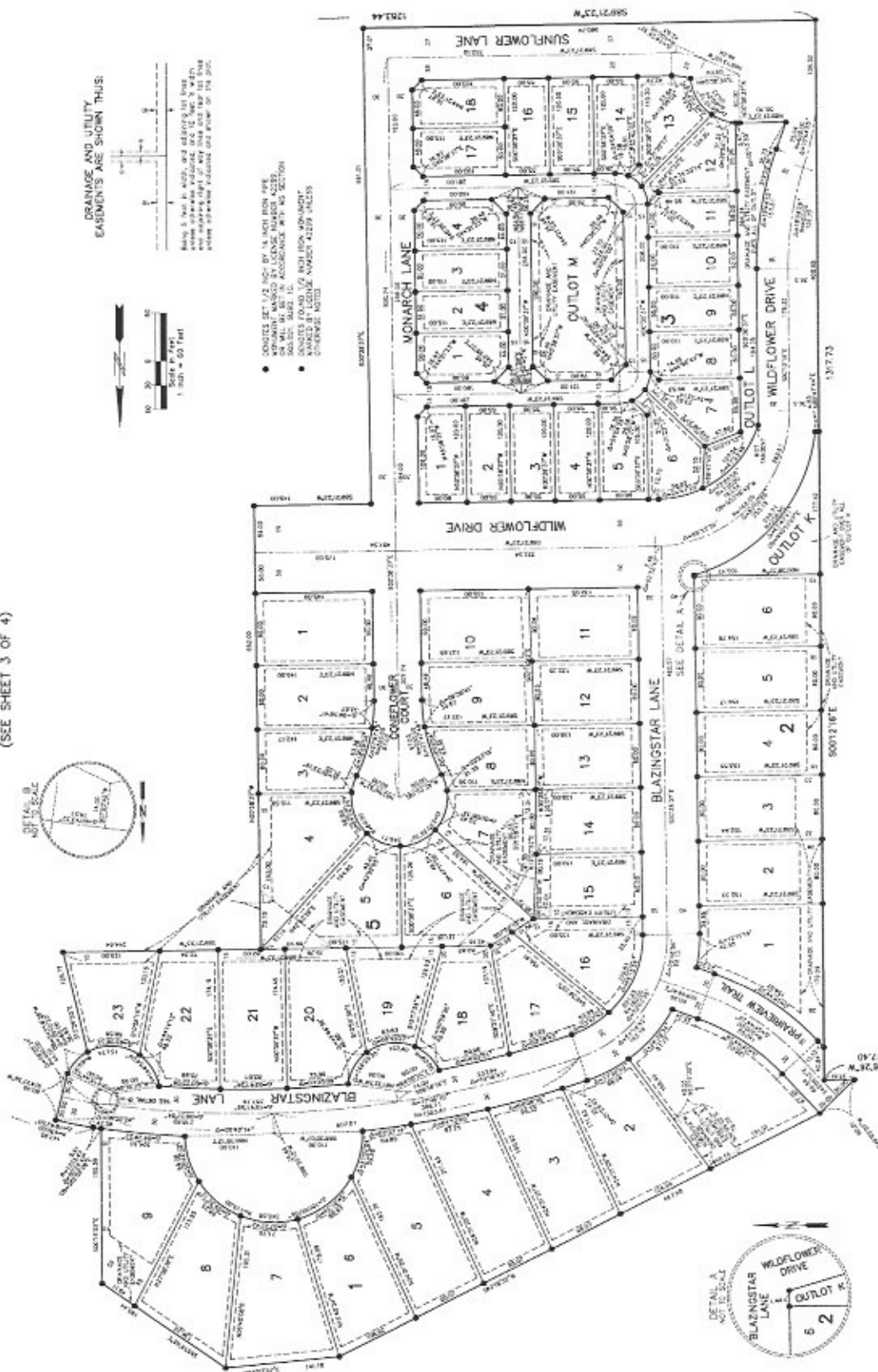
Note 2: The overall concept depicting future additions will maintain the basic framework, but may be subject to changes.

Note 3: The developer cooperated with the adjacent developer of The Village Preserve by providing trail access and surface water management facilities. In consideration, Wildflower at Lake Elmo Community Association will receive for maintenance expenses \$40.00 per lot per year for 10 years.

Bob Engstrom
January 15, 2016

WILDFLOWER AT LAKE ELMO 1ST ADDITION

INSET A
(SEE SHEET 3 OF 4)



DRAINAGE AND UTILITY
EASEMENTS ARE SHOWN THIS:



- LOT 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.



Receipt# 302724

DCR

\$46.00

Return to:
ASSURE TITLE
LLC/NETZELL LEGAL
SERVICES PLLC
7900 International Drive
#300
Bloomington MN 55425

4043700



Certified Filed and/or recorded on:

10/6/2015 12:00 PM

4043700

Office of the County Recorder
Washington County, Minnesota
Jennifer Wagenius, County Recorder

Receipt# 302717

DCR

\$46.00

Return to:
ASSURE TITLE LLC
NETZELL LEGAL SERVICES
PLLC
7900 International Drive
#300
Bloomington MN 55425

1236751



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10/6/2015 11:57 AM

1236751

Certificate #: 73010

Office of the Registrar of Titles
Washington County, Minnesota
Jennifer Wagenius, Registrar of Titles

WILDFLOWER AT LAKE ELMO

DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS

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WILDFLOWER AT LAKE ELMO

DECLARATION OF COVENANTS, CONDITIONS, EASEMENTS AND RESTRICTIONS

This Declaration of Covenants, Conditions, Easements and Restrictions (this "Declaration") is made in the County of Washington, State of Minnesota, on this day _____ of _____, 2015 by Robert Engstrom Companies, a Minnesota corporation (the "Declarant"), pursuant to the provisions of Minnesota Statutes, for the purpose of creating Wildflower at Lake Elmo.

WHEREAS, Declarant is the owner of certain real property located in Washington County, Minnesota, legally described in Exhibit A and B attached hereto and Declarant desires to submit said real property and all improvements thereon (collectively the "Property") to the provisions of this Declaration, and,

WHEREAS, Declarant also owns, or may acquire, the real property legally described in Exhibit C attached hereto (the "Additional Real Estate"), and has the option to add all or a part of the Additional Real Estate to the Property, if acquired by the Declarant, and

WHEREAS, Declarant desires to establish on the Property, Common Elements and any Additional Real Estate added thereto, a plan for a permanent residential community to be owned, occupied and operated for the use, health, safety and welfare of its resident Owners and Occupants, and for the purpose of preserving the value, the structural quality, and the original architectural and aesthetic character, of the Property, and

WHEREAS, Declarant intends that this Declaration will govern the entire Property and any Additional Real Estate which may be brought under the terms and condition of this Declaration, and

WHEREAS, the Property is NOT subject to the requirements of Minnesota Statutes Section 515B, et seq., pursuant to the exception contained in Section 515B.1-102(e)(2) of Minnesota Statutes.

THEREFORE, Declarant makes the Declaration and submits the Property to the provisions of this Declaration under the name "Wildflower at Lake Elmo", initially consisting of the Lots and Outlots referred to in Exhibit A and B, declaring that this Declaration shall constitute covenants to run with the Property, and that the Property, and all Additional Real Estate added thereto, shall be owned, used occupied and conveyed subject to the covenants, restrictions, easements, charges and liens set forth herein, all of which shall be binding upon all Persons owning or acquiring any right, title or interest therein, and their heirs, personal representatives, successors and assigns.

SECTION 1 - DEFINITIONS

The following words when used in the Governing Documents shall have the following meanings (unless the context indicates otherwise):

1. "Additional Real Estate" shall mean the real property legally described in Exhibit C, including all improvements located thereon now or in the future, and all easements and rights appurtenant thereto, which real property Declarant has the right to add to the Property and subject said real property to this Declaration.
2. "Association" shall mean Wildflower at Lake Elmo, a nonprofit corporation which has been created pursuant to Chapter 317A of the laws of the State of Minnesota whose members consist of all Owners as defined herein.
3. "Board" shall mean the Board of Directors of the Association as provided for in the By-Laws.
4. "By-Laws" shall mean the By-Laws governing the operation of the Association, as amended from time to time.
5. "Common Elements" shall mean all property to be owned by the Association for the common benefit of the Owners and Occupants. The Common Elements are legally described in Exhibit B attached hereto.
6. "Common Expenses" shall mean and include all expenditures made or liabilities incurred by or on behalf of the Association and incident to its operation, including without limitation allocations to reserves and those items specifically identified as Common Expenses in the Declaration or By-Laws.
7. "Dwelling" shall mean a part of a building consisting of one or more floors, designed and intended for occupancy as a single family residence, and located within the boundaries of a Lot. The Dwelling includes any garage attached thereto or otherwise included within the boundaries of the Lot in which the Dwelling is located.
8. "Eligible Mortgagee" shall mean any Person owning a mortgage on any Lot, which mortgage is first in priority upon foreclosure to all other mortgages that encumber such Lot, and which has requested the Association, in writing, to notify it regarding any proposed action which requires approval by a specified percentage of Eligible Mortgagees.
9. "Governing Documents" shall mean this Declaration, and the Articles of Incorporation and By-Laws of the Association, as amended from time to time, all of which shall govern the use and operation of the Property.
10. "Lot" shall mean any platted lot subject to this Declaration upon which a Dwelling is located or intended to be located, as shown on the Plat, including all improvements

thereon, but excluding the Common Elements.

11. "Member" shall mean all persons who are members of the Association by virtue of being Owners as defined in this Declaration. The words "Owner" and "Member" may be used interchangeably in the Governing Documents.
12. "Natural Planting Areas" shall mean areas of native grasses, native plant prairie, and native of trees and shrubs, and shall consist of at least one hundred (100) square feet per Lot.
13. "Occupant" shall mean any person or persons, other than an Owner, in possession of or residing in a Lot.
14. "Owner" shall mean a Person who owns a Lot, but excluding contract for deed vendors, mortgagees and other secured parties. The term "Owner" includes, without limitation, contract for deed vendees and holders of a life estate.
15. "Person" shall mean a natural individual, corporation, limited liability company, partnership, trustee, or other legal entity capable of holding title to real property.
16. "Plat" shall mean Wildflower at Lake Elmo 1st Addition, being the recorded plat depicting the Property pursuant to the requirements of the Minnesota Statutes, and satisfying the requirements of Minnesota Statutes Chapter 505, 508 or 508A, as applicable, including any amended or supplemental Plat recorded from time to time in accordance with the Minnesota Statutes.
17. "Property" shall mean all of the real property submitted to this Declaration. The Property as of the date of this Declaration is legally described in Exhibit A and B attached hereto.
18. "Rules and Regulations" shall mean the Rules and Regulations of the Association as approved from time to time pursuant to Section 5.6.

SECTION 2 - DESCRIPTION OF LOTS AND APPURTENANCES AND EASEMENT GRANTS

1. Lots. There are 60 Lots, all of which are restricted exclusively to residential use. Each Lot constitutes a separate parcel of real estate. No additional Lots may be created by the subdivision of Lots. The Lot identifiers and locations of the Lots are as shown on the Plat, which is incorporated herein by reference. The Lot identifier for a Lot shall be its lot and block numbers and the subdivision name.
2. Lot Boundaries. The front, rear and side boundaries of each Lot shall be the boundary lines of the platted lot upon which the Dwelling is located or intended to be located as shown on the Plat. The Lots shall have no upper or lower boundaries.
3. Use and Enjoyment Easements. Each Lot shall be the beneficiary of appurtenant easements for use and enjoyment on and across the Common Elements, subject to any

restrictions authorized by this Declaration.

4. Declarant's Easements. Declarant shall have and be the beneficiary of easements for construction and sales activities as described in Section 13.5.
5. Recorded Easements. The Property shall be subject to such other easements as may be recorded against it or otherwise shown on the Plat.
6. Easements are Appurtenant. All easements and similar rights burdening or benefiting a Lot or any other part of the Property shall be appurtenant thereto, and shall be permanent, subject only to termination in accordance with the Minnesota Statutes or the terms of the easement. Any recorded easement benefiting or burdening the Property shall be construed in a manner consistent with, and not in conflict with, the easements created by this Declaration.
7. Impairment Prohibited. No person shall materially restrict or impair any easement benefiting or burdening the Property; subject to this Declaration and the right of the Association to establish and enforce reasonable Rules and Regulations governing the use of the Property.
8. Utility, Maintenance, Landscaping and Emergency Access. Each Lot shall be subject to, and the Association shall be the beneficiary of easements for all services and utilities servicing the Lots, and for maintenance, repair and replacement, landscaping, and emergency access, as described in this Declaration.
9. Continuation and Scope of Easements. Notwithstanding anything in this Declaration to the contrary, in no event shall an Owner or Occupant be denied reasonable access to his or her Lot or the right to utility services thereto. The easements set forth in this Section shall supplement and not limit any easements described elsewhere in this Declaration or recorded, and shall include reasonable access to the easement areas through the Lots and the Common Elements for purposes of maintenance, repair, replacement and reconstruction.

SECTION 3 - COMMON ELEMENTS

1. Common Elements. The Common Elements and their characteristics are as follows:
 - a. The Common Elements include those parts of the Property described in Exhibit B or designated as Common Elements on the Plat or in the Minnesota Statutes. The Common Elements will be owned by the Association, for the benefit of the Owners and Occupants.
 - b. The Common Elements shall be subject to certain easements as described in Section 2, and to the rights of Owners and Occupants.
 - c. Subject to Sections 5, 6 and 7, all maintenance, repair, replacement, management

and operation of the Common Elements shall be the responsibility of the Association.

- d. Common Expenses for the maintenance, repair, replacement, management and operation of the Common Elements shall be assessed by the Association and collected from the Owners in accordance with Section 7.
2. Notice of Permanent Open Space. The Common Elements, being Outlots A, D, E, F, G, H, I, L and M, Wildflower at Lake Elmo 1st Addition ("Open Space Outlots") shall be subjected to one or more conservation / open space easements which shall be filed with the Washington County Recorder and/or Registrar of Titles. The Open Space Outlots shall be maintained in their predominantly natural, scenic, agricultural, forested and open space condition to protect the natural, scenic and agricultural qualities, forested and open space character of the Open Space Outlots. Additionally, the Declarant reserves the right to subject the Open Space Outlots to the Minnesota Conservation Reserve Program (CRP). All funds, if any, received under the CRP program may be retained by Declarant for the first three (3) years following acceptance of the Open Space Outlots into the CRP program, and following said three (3) year period, all future funds received shall belong to and be paid to the Association.
3. Trail Easements. Declarant hereby grants to the public generally, including the Owners, perpetual, non-exclusive easements for trail and sidewalk purposes, including ingress and egress thereto (the "Public Easements"). The Public Easements shall be over and across those portions of the Common Elements identified as Outlots A, B, C, F, J and L, Wildflower at Lake Elmo 1st Addition as depicted and located on the attached Exhibit D. The Public Easements shall be constructed by Declarant and shall be constructed of a hard surface (asphalt, concrete, etc. at the Declarant's option). The Public Easements, including any and all appurtenances incidental and related thereto shall be maintained, operated and repaired by the City of Lake Elmo, Minnesota.

SECTION 4 - ASSOCIATION MEMBERSHIP: RIGHTS AND OBLIGATIONS

Membership in the Association, and the allocation to each Lot of a portion of the votes in the Association and a portion of the Common Expenses of the Association shall be governed by the following provisions:

1. Membership. Each Owner shall be a member of the Association by virtue of Lot ownership, and the membership shall be transferred with the conveyance of the Owner's interest in the Lot. An Owner's membership shall terminate when the Owner's Lot ownership terminates. When more than one Person is an Owner of a Lot, all such Persons shall be members of the Association, but multiple ownership of a Lot shall not increase the voting rights allocated to such Lot nor authorize the division of the voting rights.
2. Voting and Common Expenses. Voting rights and Common Expense obligations are allocated equally among the Lots; except that special allocations of Common Expenses shall be permitted as provided in Section 7.1.

3. Appurtenant Rights and Obligations. The ownership of a Lot shall include the voting rights and Common Expense obligations described in Section 4.2. Said rights, obligations and interests, and the title to the Lots, shall not be separated or conveyed separately. The allocation of the rights, obligations and interests described in this Section may not be changed, except in accordance with the Governing Documents and the Minnesota Statutes.
4. Authority to Vote. The Owner, or some natural person that has been designated to act as proxy on behalf of the Owner, and who need not be an Owner, may cast the vote allocated to such Lot at meetings of the Association; provided, that if there are multiple Owners of a Lot, only the Owner or other Person designated pursuant to the provisions of the By-Laws may cast such vote.

SECTION 5 - ADMINISTRATION

The administration and operation of the Association and the Property, including but not limited to the acts required of the Association, shall be governed by the following provisions:

1. General. The operation and administration of the Association and the Property shall be governed by the Governing Documents and the Rules and Regulations. The Association shall, subject to the rights of the Owners set forth in the Governing Documents, be responsible for the operation, management and control of the Common Elements. The Association shall have all powers described in the Governing Documents, and the statute under which it is incorporated. All power and authority of the Association shall be vested in the Board, unless action or approval by the individual Owners is specifically required by the Governing Documents. All references to the Association shall mean the Association acting through the Board unless specifically stated to the contrary.
2. Operational Purposes. The Association shall operate and manage the affairs of the Association for the purposes of (i) administering and enforcing the covenants, restrictions, easements, charges and liens set forth in the Governing Documents and the Rules and Regulations (ii) maintaining, repairing and replacing those portions of the Common Elements for which it is responsible and (iii) preserving the value and architectural uniformity and character of the Property.
3. Binding Effect of Actions. All agreements and determinations made by the Association in accordance with the powers and voting rights established by the Governing Documents shall be binding upon all Owners and Occupants, and their lessees, guests, heirs, personal representatives, successors and assigns, and all secured parties as defined in the Minnesota Statutes.
4. By-Laws. The Association shall have By-Laws. The By-Laws and any amendments thereto shall govern the operation and administration of the Association.
5. Management. The Board may delegate to a manager or managing agent the management

duties imposed upon the Association's officers and directors by the Governing Documents and the Minnesota Statutes; provided, however, that such delegation shall not relieve the officers and directors of the ultimate responsibility for the performance of their duties as prescribed by the Governing Documents and by Minnesota Statutes.

6. Rules and Regulations. The Board shall have exclusive authority to approve and implement such reasonable Rules and Regulations as it deems necessary from time to time for the purpose of operating and administering the affairs of the Association and regulating the use of the Property; provided that the Rules and Regulations shall not be inconsistent with the Governing Documents or the Minnesota Statutes. The inclusion in other parts of the Governing Documents of authority to approve Rules and Regulations shall be deemed to be in furtherance, and not in limitation, of the authority granted by this Section. New or amended Rules and Regulations shall be effective only after reasonable notice thereof has been given to the Owners.
7. Association Assets; Surplus Funds. All funds and real or personal property acquired by the Association shall be held and used for the benefit of the Owners for the purposes stated in the Governing Documents. Surplus funds remaining after payment of or provision for Common Expenses and reserves shall be credited against future assessments or added to reserves, as determined by the Board.

SECTION 6 - MAINTENANCE RESPONSIBILITIES

1. Maintenance by Association. The Association shall provide for all maintenance, repair or replacement (collectively referred to as "Maintenance") of the Common Elements and portions of the Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18, Block 3; and Lots 1, 2, 3, and 4, Block 4, Wildflower at Lake Elmo 1st Addition (collectively, the "Maintenance Lots"), as described herein. In addition, for the purpose of preserving the architectural character, quality, and uniform and high standards for appearance of the Property, the Association shall, in accordance with policies established by the Association, provide the following services for the Maintenance Lots:
 - a. Lawn sprinkling/irrigation.
 - b. Snow removal from the Common Elements and all driveways and front walks constructed upon the Maintenance Lots.
 - c. Lawn mowing, fertilization and weed control.
 - d. Maintenance of irrigation system.
 - e. Snow removal from any neighborhood sidewalk constructed upon the Maintenance Lots, and from any private street constructed upon the Maintenance Lots.
 - f. Maintenance and repairs, as needed, of landscaping and structures constructed on the entry island and entry monument located within Outlot L, Wildflower at Lake Elmo 1st Addition.
 - g. Weekly trash removal.

All Maintenance performed by the Association under this Section shall be funded

by annual assessments or, if necessary, special assessments. Notwithstanding the foregoing, the Association reserves the right to levy and allocate the cost of any Maintenance performed under this Section to one or more Lots, and charge the cost to the Owner of each such Lot, pursuant to the provisions of Section 7.3 of this Declaration.

The Association shall have easements as described in Section 2 to perform its obligations under this Section. The Association may, by Rules and Regulations, further define its obligations within the categories of Maintenance obligations set forth in this Section or added pursuant to this Section.

2. Maintenance by Owner. Except for the Maintenance required to be provided by the Association under Paragraph 1 or optional Maintenance if approved pursuant to paragraph 3 of this Section, all maintenance of the Dwellings and Lots shall be the sole responsibility and expense of the Owners thereof. The Owners and Occupants shall have a duty to promptly notify the Association of defects in or damage to those parts of the Property which the Association is obligated to maintain. The Association may require that any exterior maintenance to be performed by the Owner be accomplished pursuant to specific uniform criteria established by the Association. The Association may also undertake any exterior maintenance which the responsible Owner fails to or improperly performs and assess the Lot and the Owner for the cost thereof. Unless authorized under Paragraph 1 or 3 of this Section, the Association's maintenance obligations shall exclude the following, and the following shall be the responsibility of the Owner:
 - a. All of the interior or exterior of the Dwelling, including the garage (walls, floors, ceilings and all other structural elements, hardware and mechanicals including garage door openers, springs, weather-stripping and other).
 - b. All portions of all doors (including entry, patio, storm and screen doors) and windows (including sashes, glass, frames and hardware), including door trim.
 - c. Garage doors (including replacement, whether such replacement shall be in whole or in part).
 - d. Decks, including deck posts (including staining and sealing).
 - e. Watering of plantings in areas not reached by irrigation systems.
 - f. Any other items not specifically required to be maintained by the Association under paragraph 1 or added pursuant to paragraph 3 of this Section.
3. Optional Maintenance by Association. In addition to the Maintenance to be performed by the Association pursuant to paragraph 1 above, the Association may, with the approval of a majority of Owners who have authority to cast in excess of Seventy-five percent (75%) of the total votes in the Association in person or by proxy at a meeting called for such purposes, undertake to provide additional exterior maintenance to the Lots or Dwellings.
4. Damage Caused by Owner. Notwithstanding any provision to the contrary in this Section, if, in the judgment of the Association, the need for maintenance of any part of the Property is caused by the willful or negligent act or omission of any Owner or Occupant, or their guests, or by a condition in a Lot which the Owner or Occupant has willfully or negligently allowed to exist, the Association may cause such damage or condition to be

repaired or corrected (and enter upon any Lot to do so), and the cost thereof may be assessed against the Lot of the Owner responsible for the damage.

5. Maintenance Responsibilities Defined by Board of Directors. Notwithstanding any provisions to the contrary, the Board of Directors shall have the sole and exclusive authority to define the scope of maintenance and repair to be provided by the Association. The Board of Directors is hereby vested with the authority to interpret the Governing Documents and rule on any ambiguities contained therein. The Owners shall be legally bound by any decisions of the Board of Directors pertaining to the determination of the Association's maintenance obligations and the scope and extent thereof.

SECTION 7 - ASSESSMENTS FOR COMMON EXPENSES

1. General. Assessments for Common Expenses shall be determined and assessed against the Lots by the Board, in its discretion; subject to the limitations set forth in Sections 7.2 and 7.3, and the requirements of the By-Laws. Assessments for Common Expenses shall include annual assessments and may include special assessments. Assessments shall be allocated among the Lots according to the Common Expense allocations set forth in Section 4.2., subject to the following qualifications:
 - a. Any Common Expense or portion thereof benefiting fewer than all of the Lots may be assessed exclusively against the Lots benefited, on the basis of (i) equality, or (ii) the actual cost incurred with respect to each Lot.
 - b. The Association may contract with any Owner to perform lot maintenance services on individual Lots. Such services may include snow removal, grass and horticultural maintenance. The costs of such maintenance performed at the request of a Lot Owner may be assessed against the Lots on which the contract work was performed.
 - c. Reasonable attorney's fees and other costs of incurred by the Association in connection with (i) the collection of assessments and (ii) the enforcement of the Governing Documents, or the Rules and Regulations, against an Owner or Occupant or their guests, may be assessed against the Owner's Lot.
 - d. Fees, charges, late charges, fines and interest may be assessed as provided herein.
 - e. Assessments levied to pay a judgment against the Association may be levied only against the Lots existing at the time the judgment was entered, in proportion to their Common Expense liabilities.
 - f. If any damage to the Common Elements or another Lot is caused by the act or omission of any Owner or Occupant, or their guests, the Association may assess the costs of repairing the damage exclusively against the Owner's Lot to the extent not covered by insurance.

- g. If any installment of an assessment becomes more than 30 days past due, then the Association may, upon 10 days written notice of the Owner, declare the entire amount of the assessment immediately due and payable in full.
 - h. If Common Expense liabilities are reallocated for any purpose, Common Expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated Common Expense liabilities.
 - i. Assessments under Subsections 7.1. a-h shall not be considered Special Assessments as described in Section 7.3.
- 2. Annual Assessments. Annual Assessments shall be established and levied by the Board, subject only to the limitations set forth in Section 7.2 and 7.3. Each annual assessment shall cover all of the anticipated Common Expenses of the Association for that year. An assessment shall provide, among other things, for contributions to a separate reserve fund sufficient to cover the periodic cost of maintenance, repair and replacement of the Common Elements and those parts of the Lots for which the Association is responsible.
 - a. Until a Common Expense assessment is levied, Declarant shall pay all accrued expenses of the Association.
 - b. After a Common Expense assessment is levied, the annual assessment may be subsequently increased by the Board, subject to Section 7.2.c.
 - c. Until the termination of the period of Declarant control described in Section 13.6, the increase in the annual assessment for any year shall not exceed the greater of (i) the increase in the U.S. Department of Labor Revised Consumer Price Index for Urban Wage Earners and Clerical Workers for All Items for the prior year; or (ii) 5% of the total annual assessment for the Association's previous fiscal year, unless such increase is approved by the vote of a majority of those Owners voting, in person or by proxy, at a meeting called for that purpose. Written notice of the meeting shall be sent to all Owners not less than 21 days nor more than 30 days in advance of the meeting.
 - d. The initial Annual Assessment shall be determined by the Board at their first meeting. Such annual assessment may be different based upon which Lots is in question, and the level of service provided by the Association to that Lot. Such annual assessments shall commence upon a date determined by the Board.
- 3. Special Assessments. In addition to annual assessments, and subject to the limitations set forth hereafter, the Board may levy in any assessment year a special assessment against all Lots for the purpose of defraying in whole or in part (i) the cost of any foreseen or unbudgeted Common Expense, (ii) general or specific reserves for maintenance, repair or replacement, and (iii) the maintenance, repair or replacement of any part of the Property, and any fixtures or other property related thereto.

4. **Liability of Owners for Assessments.** The obligation of an Owner to pay assessments shall commence at the later of (i) the time at which the Owner acquires title to the Lot, or (ii) the due date of the first assessment levied by the Board, subject to the alternative assessment program described in Section 7.5. The Owner at the time an assessment is payable with respect to the Lot shall be personally liable for the share of the Common Expenses assessed against such Lot. Such liability shall be joint and several where there are multiple Owners of the Lot. The liability is absolute and unconditional. No Owner is exempt from liability for payment of his or her share of Common Expenses by right of set-off, by waiver of use or enjoyment of any part of the Property, by absence from or abandonment of the Lot, by the waiver of any other rights, or by reason of any claim against the Association or its officers, directors or agents, or for their failure to fulfil any duties under the Governing Documents. The Association may invoke the charges, sanctions and remedies set forth in Section 12, in addition to any remedies provided elsewhere in the Governing Documents, the Rules and Regulations, or Minnesota Statutes, for the purpose of enforcing its rights hereunder.
5. **Declarant's Alternative Assessment Program.** The following alternative assessment program is established. Notwithstanding anything to the contrary in this Section 7, if a Common Expense assessment has been levied, any Lot owned by Declarant for initial sale shall be assessed at the rate of 0% of the assessment levied on other Lots of the same type until such Lot is conveyed by Declarant to any purchaser. This reduced assessment shall apply to each Lot owned by Declarant at the time that the Lot is created, and shall continue with respect to the Lot until such Lot is conveyed to any purchaser. There are no assurances that this alternative assessment program will have no effect on the level of services for items set forth in the Association's budget.
6. **Assessment Lien.** The Association has a lien on a Lot for any assessment levied against that Lot from the time the assessment becomes due. If an assessment is payable in installments, the full amount of the assessment is a lien from the time the first installment thereof becomes due. Fees, charges, late charges, fines and interest charges imposed by the Association are liens, and are enforceable as assessments, under this Section. Recording of the Declaration constitutes record notice and perfection of any lien under this Section, and no further recordation of any notice of or claim for the lien is required.
7. **Foreclosure of Lien: Remedies.** A lien for Common Expenses may be foreclosed against a Lot under the laws of the State of Minnesota either (i) by action, or (ii) by advertisement as a lien under a mortgage containing a power of sale, at the discretion of the Association. The Association, or its authorized representative, shall have the power to bid in at the foreclosure sale and to acquire, hold, lease, mortgage and convey any Lot so acquired. The Owner and any other Person claiming an interest in the Lot, by the acceptance or assertion of any interest in the Lot, grants to the Association a power of sale and full authority to accomplish the foreclosure. The Association shall, in addition, have the right to pursue any other remedy at law or in equity against the Owner who fails to pay any assessment or charge against the Lot.
8. **Lien Priority: Foreclosure.** A lien under this Section is prior to all other liens and encumbrances on a Lot except (i) liens and encumbrances recorded before the

Declaration, (ii) any first mortgage on the Lot, and (iii) liens for real estate taxes and other governmental assessments or charges against the Lot. Notwithstanding the foregoing, if (i) a first mortgage on a Lot is foreclosed, (ii) the first mortgage was recorded on or after June 1, 1994, and (iii) no Owner redeems during the Owner's period of redemption provided by Chapters 580, 581, or 582, then the holder of the sheriff's certificate of sale from the foreclosure of the first mortgage shall take title to the Lot subject to unpaid assessments for Common Expenses levied which became due, without acceleration, during the six months immediately preceding the first day following the end of the Owner's period of redemption.

9. Voluntary Conveyances: Statement of Assessments. In a voluntary conveyance of a Lot the buyer shall not be personally liable for any unpaid assessments and other charges made by the Association against the seller or the seller's Lot prior to the time of conveyance to the buyer, unless expressly assumed by the buyer. However, the lien of such assessments shall remain against the Lot until satisfied. Any seller or buyer shall be entitled to a statement, in recordable form, from the Association setting forth the amount of the unpaid assessments against the Lot, including all assessments payable in the Association's current fiscal year, which statement shall be binding on the Association, seller and buyer.

SECTION 8 - RESTRICTIONS ON USE OF PROPERTY

All Owners and Occupants, and all secured parties, by their acceptance or assertion of an interest in the Property, or by their occupancy of a Lot, covenant and agree that, in addition to any other restrictions which may be imposed by the Governing Documents, the occupancy, use, operation, alienation and conveyance of the Property shall be subject to the following restrictions:

1. General. The Property shall be owned, conveyed, encumbered, leased, used and occupied subject to the Governing Documents, as amended from time to time. All covenants, restrictions and obligations set forth in the Governing Documents are in furtherance of a plan for the Property, and shall run with the Property and be a burden and benefit to all Owners and Occupants and to any other Person acquiring or owning an interest in the Property, their heirs, personal representatives, successors and assigns.
2. Subdivision Prohibited. No Lot nor any part of the Common Elements may be subdivided or partitioned without the prior written approval of all Owners and all Eligible Mortgagees.
3. Residential Use. The Lots shall be used by Owners and Occupants and their guests exclusively as private, single family residential dwellings, and not for transient, hotel, commercial, business or other non-residential purposes, except as provided in Section 8.4. Any lease of a Lot (except for occupancy by guests with the consent of the Owner) for a period of less than 7 days, or any occupancy which includes any services customarily furnished to hotel guests, shall be presumed to be for transient purposes. Each Dwelling shall have a garage sufficient to accommodate at least two motor vehicles

and additional on-site parking for an additional two motor vehicles.

4. Business Use Restricted. Home office and business activities are permitted to the extent that they are compatible with a residential neighborhood and comply with all local zoning ordinances. The Board shall have the right to restrict home office and/or business activities that create an excessive traffic flow in the area, or that create outside storage of vehicles, equipment or materials for business purposes.
5. Leasing. Leasing of Lots shall be allowed, subject to reasonable regulation by the Association, and subject to the following conditions: (i) that no Lot shall be leased for transient or hotel purposes, (ii) that no Lot may be subleased, (iii) that all leases shall be in writing, and (iv) that all leases shall provide that they are subordinate and subject to the provisions of the Governing Documents and the Rules and Regulations, and (v) that any failure of the lessee to comply with the terms of such documents shall be a default under the lease. The Association may impose such reasonable Rules and Regulations as may be necessary to implement procedures for the leasing of Lots, consistent with this Section.
6. Parking. Garages and parking areas on the Property shall be used only for parking of vehicles owned or leased by Owners and Occupants and their guests, and such other incidental uses as may be authorized in writing by the Association. The use of garages, driveways and other parking areas on the Property, and the types of vehicles and personal property permitted thereon, shall be subject to regulation by the Association, including without limitation the right of the Association to tow any unauthorized or illegally parked vehicles or to remove unauthorized personal property.
7. Animals. The Board shall have the exclusive authority to prohibit, or to allow and regulate, by Rules and Regulations, the keeping of animals on the Property. The word "animal" shall be construed in its broadest sense and shall include all living creatures except humans. Common household pets may be kept, provides that they are not kept, bred or maintained for any commercial purpose. Cats must be kept on a leash or restrained within a confined area when outside the home or garage. Dogs must be kept under voice control. Each Owner shall be responsible for cleaning up after any animal which is kept in their Dwelling.
8. Quiet Enjoyment; Interference Prohibited. All Owners and Occupants and their guests shall have a right of quiet enjoyment in their respective Lots, and shall use the Property in such a manner as will not cause a nuisance, nor unduly restrict, interfere with or impede the use and enjoyment of the Property by other Owners and Occupants and their guests. The following, in addition to others that the Association may prescribe by way of Rules and Regulation shall apply to all Lots: No clothes line or drying yards or pet control lines shall be permitted unless concealed by hedges or screening acceptable to the Board of Directors. No weeds, or other unsightly growths shall be permitted to grow or remain upon the Lot. No refuse piles or unsightly objects shall be allowed to be placed or suffered to remain on the Lot. No Lot shall be used in whole or in part for the storage of rubbish of any character whatsoever, nor for the storage of any property or thing that will cause such Lot to appear in an unclean or untidy condition or that will be obnoxious to

the eye; nor shall any substance, thing, or material be kept upon any Lot that will emit foul or obnoxious odors, or that will cause any noise that will or might disturb the peace, quiet, comfort, or serenity of the occupants of surrounding property. The outside storage of unlicensed motor vehicles, campers, snowmobiles, boats and any other vehicle with a gross vehicle weight in excess of 7000 pounds, upon the Lot shall also be considered a nuisance. No semi-tractors, trailers or other types of large commercial trucks or buses shall be allowed on any Lot.

9. Fences, Walls and Hedges. Boundary walls and perimeter fences are inconsistent with the intended plan of development for the Property. No wall or fence shall be constructed or hedge planted on any Lot until the height, type, design, and location have been approved in writing by the Board. Under no circumstances shall a boundary wall, fence or hedge be permitted with a height of more than six (6) feet. The height or elevation of any wall, fence or hedge shall be measured from the existing elevations on the Lot at or along the applicable point or lines. Any question as to such heights may be completely determined by the Board. The height limitations as set forth in this paragraph shall not be applicable to tennis court enclosures, provided such enclosures have been approved by the Board. A refusal by the Board to allow or permit a fence, wall or hedge (including tennis court enclosures and swimming pool fences) on any particular Lot or in any particular location shall not be construed to be an abuse.
10. Compliance with Law. No use shall be made of the Property which would violate any then existing municipal codes or ordinances, or state or federal laws, nor shall any act or use be permitted which could cause waste to the Property, cause a material increase in insurance rates on the Property, or otherwise cause any unusual liability, health or safety risk, or expense, for the Association or any Owner or Occupant.
11. Alterations. Except for those made by Declarant in consideration of its initial sale of a Lot, no Alterations (as defined in Section 9) shall be made, or caused or allowed to be made, by any Owner or Occupant, or their guests, in any part of the Common Elements, or in any part of the Lot which affects the Common Elements or another Lot, without the prior written authorization of the Board, or as provided in Section 9. The Board shall have authority to establish reasonable criteria and requirements for Alterations, and shall be the sole judge of whether the criteria are satisfied.
12. Time Shares Prohibited. The time share form of ownership, or any comparable form of lease, occupancy rights or ownership which has the effect of dividing the ownership or occupancy of a Lot into separate time periods, is prohibited.
13. Access to Lots. In case of emergency, all Lots are subject to entry, without notice and at any time, by an officer or member of the Board, by the Association's Management agents or by any public safety personnel. Entry is also authorized for maintenance purposes under Section 6 and for enforcement purposes under Section 12.
14. Storage Tanks. No permanent storage tanks of any kind shall be erected, placed or permitted on any Lot unless buried or effectively screened from view outside the Lot.

15. Temporary Structures. No structure of temporary character, trailer, basement, tent, shack, garage, barn or other building shall be used on any Lot at any time as a residence, either temporarily or permanently.
16. Auxiliary Structures. No detached dog kennels, runs or enclosures shall be permitted unless design and location of same shall be approved by the Board, and any such kennel, run or enclosure must be immediately adjacent to the Dwelling of an Owner. No detached storage buildings shall be permitted except those approved by the Board as conforming in design and appearance to the Dwelling.
17. Driveways. Driveways must be constructed of concrete, bituminous or other hard surface material. Material and installation shall be subject to approval of the Board. Driveways must be installed within one year of the date a Certificate of Occupancy issued for any Dwelling constructed upon a Lot.
18. Exterior Lighting. All exterior lighting fixtures and standards shall be shown on submitted plans and shall comply with the overall lighting plan of the Declarant. All forms of exterior lighting shall be subject to approval of the Board. All exterior lighting shall be pointed downward, and in compliance with the City of Lake Elmo "Dark Sky's Ordinance".
19. Exterior Ornaments. Exterior ornaments, including but not limited to, precast concrete, plastic or wood figurines, wishing wells and windmills shall be prohibited unless approved by the Board prior to installation or construction.
20. Antennas. Except with the prior written approval and authorization of the Board, no satellite dishes over 24" in diameter, no exterior television or radio antenna of any sort shall be placed, allowed or maintained upon any portion of a Lot or the improvements or structures located thereon.
21. Completion of Construction of Improvements. All construction work shall, upon approval of plans by the Board, be carried on with dispatch; all improvements shall be constructed in conformity with the then existing building codes of The City of Lake Elmo, Minnesota; and all building plans shall be prepared by or under the supervision of a registered architect, a builder or a qualified design professional.
22. Minimum Landscape Plan. Each Owner is required to submit a landscape plan to the Association for approval. Owners shall be responsible for the maintenance or enhancement of natural plantings. In addition, all Lots must contain a minimum of one hundred (100) square feet of Natural Planting Areas, and be sodded, seeded or mulched within 60 days after substantial completion of the Dwelling, (except those Dwellings completed from November to March of each year shall have until the following June to complete the minimum landscape plan.) Should an Owner fail to respect these duties, the Association reserves the right to seed, sod or plant an area and levy against such Lot for the costs incurred by the Association. All Lots shall be subject to easements over and across such premises to permit the Association to carry out the work described herein.

23. **Maintenance and Repair.** In order to preserve the uniform and high-standard appearance of the Property, each Owner, subject to the provisions of Section 6.1 hereof, undertakes responsibility for maintenance and repair of the exterior of his Dwelling private yard area and private driveway on the Lot. Such responsibility for maintaining the Lot and improvements thereon shall include, but not be limited to the following: the maintenance and repair of exterior surfaces of all buildings on the Lot, including without limitation, the painting of the same as often as necessary, the replacement of trim and caulking, the maintenance or repair of roofs, gutters, downspouts and overhangs, the maintenance and repair of exterior windows and doors, necessary painting, staining and repair of patio structures; in maintaining a Lot an Owner shall be required to mow, trim, water or otherwise care for grass, trees or other plants located on a Lot and shall be required to remove snow from the private driveways, parking areas and walkways to the Dwelling. Maintenance, painting and construction shall be in the original colors and materials, or according to approved color boards on file with the Association.
24. **Natural Planting Areas.** Natural Planting Areas (as defined in Section 1), must cover at least one hundred (100) square feet, excluding the buildings and hard surface areas such as patios and driveways. Areas that adjoin designated wetlands or natural drainage swales shall be a low maintenance filter strip of grasses or vegetation and ground cover mulches.

SECTION 9 - ARCHITECTURAL CONTROL

1. **Restrictions on Improvements and Alterations.** The following restrictions and requirements shall apply to all initial improvements and subsequent alterations on the Property: Except as expressly provided in this Section 9, no structure, building, addition, deck, patio, fence, wall, enclosure, window, exterior door, sign, display, decoration, color change, shrubbery, material topographical or landscaping change, nor any other exterior improvements to or alteration of any Dwelling or any other part of a Lot which is visible on the Lot (collectively referred to as "Alterations"), shall be commenced, erected or maintained on a Lot, unless and until the plans and specifications showing the nature, kind, shape, height, color, materials and locations of the improvements and/or alterations shall have been approved in writing by the Board. Notwithstanding the foregoing, Declarant's written consent shall also be required for Alterations described in the paragraph above, until Declarant no longer owns any unsold Lot and has no further rights to add Additional Real Estate to the Property, but in no event longer than seven (7) years from the date of this Declaration.
2. **Review Procedures.** The following procedures shall govern requests for all improvements and/or Alterations under this Section:
- Detailed plans, specifications and related information regarding any proposed Alterations, in form and content acceptable to the Board, shall be submitted to the Board at least thirty (30) days prior to the projected commencement of construction. No alterations shall be commenced prior to approval.
 - The Board of Directors shall give the Owner written notice of approval or

disapproval. If the Board fails to approve or disapprove within thirty (30) days after receipt of said plans and specifications and all other information requested by the Board, then approval will not be required, and this Section shall be deemed to have been fully complied with so long as the Alterations are done in accordance with the plans, specifications and related information which were submitted.

- c. If no request for approval is submitted, approval is denied, unless (i) the Alterations are reasonably visible and (ii) no written notice of the violation has been given to the Owner in whose Lot the Alterations are made, by the Association or another Owner, within six months following the date of completion of the Alterations. Notice may be direct written notice or the commencement of legal action by the Association or an Owner. The Owner of the Lot in which the Alterations are made shall have the burden of proof, by clear and convincing evidence that the Alterations were completed and reasonably visible for at least six months following completion and that the notice was not given.
3. Remedies for Violations. The Association may undertake any measures, legal or administrative, to enforce compliance with this Section and shall be entitled to recover from the Owner causing or permitting the violation all attorneys' fees and costs of enforcement, whether or not a legal action is started. Such attorneys' fees and costs shall be a lien against the Owner's Lot and a personal obligation of the Owner. In addition, the Association shall have the right to enter the Owner's Lot and to restore any part of the Dwelling or Lot to its prior condition if any Alterations were made in violation of this Section, and the cost of such restoration shall be a personal obligation of the Owner and a lien against the Owner's Lot.

SECTION 10 - INSURANCE

1. Required Coverage. The Association shall obtain and maintain, at a minimum, a master policy or policies of insurance in accordance with the insurance requirements set forth in the additional requirements set forth herein, issued by a reputable insurance company or companies authorized to do business in the State of Minnesota, as follows:
 - a. Property insurance in broad form covering all risks of physical loss in an amount equal to one hundred percent (100%) of the insurable "replacement cost" of any improvements constructed on the Common Elements, less deductibles, exclusive of land, footings, excavation and other items normally excluded from coverage (but including all building service equipment and machinery). The policy or policies shall cover personal property owned by the Association. The policy or policies shall also contain "Inflation Guard" and "Agreed Amount" endorsements, if reasonably available. Such policy or policies shall include such additional endorsements, coverage's and limits with respect to the foregoing and other hazards as may be required from time to time by the regulations of the FHA or Federal National Mortgage Association ("FNMA") as a precondition to their insuring, purchasing or financing a mortgage on a Lot. The Board may also, on

behalf of the Association, enter into binding written agreements with a mortgagee, insurer or servicer, including without limitation the FHA or FNMA, obligating the Association to keep certain specified coverage's or endorsements in effect.

- b. Comprehensive public liability insurance covering the use, operation and maintenance of the Common Elements, with minimum limits of \$1,000,000 per occurrence, against claims for death, bodily injury and property damage, and such other risks as are customarily covered by such policies for projects similar in construction, location and use to the Common Elements. The policy shall contain a "severability of interest" endorsement which shall preclude the insurer from denying the claim of an Owner or Occupant because of negligent acts of the Association or other Owners or Occupants. The policy shall include such additional endorsements, coverage's and limits with respect to such hazards as may be required by the regulations of the FHA or FNMA as a precondition to their insuring, purchasing or financing a mortgage on a Lot.
 - c. Fidelity bond or insurance coverage against dishonest acts on the part of directors, officers, manager, trustees, employees or persons responsible for handling funds belonging to or administered by the Association if deemed to be advisable by the Board or required by the regulations of the FHA or FNMA as a precondition to the purchase or financing of a mortgage on a Lot. The fidelity bond or insurance shall name the Association as the named insured and shall, if required by the regulations of the FHA or FNMA as a precondition to their insuring, purchasing or financing of a mortgage on a Lot, be written in an amount equal to the greater of (i) the estimated maximum of Association funds, including reserves, in the custody of the Association or management agent at any given time while the bond is in force, or (ii) a sum equal to three months aggregate assessments on all Lot plus reserves. An appropriate endorsement to the policy to cover any persons who serve without compensation shall be added if the policy would not otherwise cover volunteers, or a waiver of defense based upon the exclusion of persons serving without compensation shall be added.
 - d. Workers' Compensation insurance as required by law.
 - e. Directors and officers liability insurance with such reasonable limits and coverages as the Board shall determine from time to time.
 - f. Such other insurance as the Board may determine from time to time to be in the best interests of the Association and the Owners.
2. Premiums: Improvements; Deductibles. All insurance premiums shall be assessed and paid as a Common Expense.
3. Loss Payee: Insurance Trustee. All insurance coverage maintained by the Association shall be written in the name of, and the proceeds thereof shall be payable to, the Association (or a qualified insurance trustee selected by it) as trustee for the benefit of the Owners and secured parties, including Eligible Mortgagees, which suffer loss. The

Association, or any insurance trustee selected by it, shall have exclusive authority to negotiate, settle and collect upon any claims or losses under any insurance policy maintained by the Association.

4. **Waivers of Subrogation.** All policies of insurance shall contain waivers of subrogation by the insurer against the Association, or an Owner, members of the Owner's household, officers or directors, as applicable, and, if available, waivers of any defense based on co-insurance or of invalidity from any acts of the insured.
5. **Cancellation: Notice of Loss.** All policies of property insurance and comprehensive liability insurance maintained by the Association shall provide that the policies shall not be canceled or substantially modified, for any reason, without at least 30 days prior, written notice to the Association, to the FHA or FNMA (if applicable), all of the insureds and all Eligible Mortgagees.
6. **Restoration of Lieu of Cash Settlement.** All policies of property insurance maintained by the Association shall provide that, despite any provisions giving the insurer the right to elect to restore damage in lieu of a cash settlement, such option shall not be exercisable (i) without the prior written approval of the Association (or any Insurance Trustee) or (ii) when in conflict with provisions of any insurance trust agreement to which the Association may be a party, or any requirement of law.
7. **No Contribution.** All policies of insurance maintained by the Association shall be the primary insurance where there is other insurance in the name of the Owner covering the same property, and may not be brought into contribution with any insurance purchased by Owners or their Eligible Mortgagees.
8. **Effect of Acts Not Within Association's Control.** All policies of insurance maintained by the Association shall provide that the coverage shall not be voided by or conditioned upon (i) any act or omission of an Owner or Eligible Mortgagee, unless acting within the scope of authority on behalf of the Association, or (ii) any failure of the Association to comply with any warranty or condition regarding any portion of the Property over which the Association has no control.

SECTION 11 - RECONSTRUCTION, CONDEMNATION AND EMINENT DOMAIN

1. **Reconstruction.** The obligations and procedures for the repair, reconstruction or disposition of the improvements to the Common Elements following damage or destruction thereof shall be governed by the Board. Any repair or reconstruction shall be substantially in accordance with the plans and specifications of the improvements to the Common Elements as initially constructed and subsequently improved, unless changes are authorized by the Board.
2. **Condemnation and Eminent Domain.** In the event of a taking of any part of the Property by condemnation or eminent domain, Eligible Mortgagees shall be entitled to priority for condemnation awards in accordance with the priorities established by the Governing

Documents, as their interests may appear.

3. Notice. All Eligible Mortgagees shall be entitled to receive notice of any condemnation proceedings or substantial destruction of the Property, and the Association shall give written notice thereof to an Eligible Mortgagee pursuant to Section 16.9.

SECTION 12 - COMPLIANCE AND REMEDIES

Each Owner and Occupant, and any other Person owning or acquiring any interest in the Property, shall be governed by and comply with the Governing Documents, the Rules and Regulations, the decisions of the Association, and such amendments thereto as may be made from time to time. A failure to comply shall entitle the Association to the relief set forth in this Section, in addition to the rights and remedies authorized elsewhere by the Governing Documents.

1. Entitlement to Relief. The Association may commence legal action to recover sums due, for damages, for injunctive relief or to foreclose a lien owned by it, or any combination thereof, or an action for any other relief authorized by the Governing Documents or available at law or in equity. Legal relief may be sought by the Association against any Owner, or by an Owner against the Association or another Owner, to enforce compliance with the Governing Documents, the Rules and Regulations, or the decisions of the Association. However, no Owner may withhold any assessments payable to the Association, or take (or omit) other action in violation of the Governing Documents, the Rules and Regulations, as a measure to enforce such Owner's position, or for any other reason.
2. Sanctions and Remedies. In addition to any other remedies or sanctions, expressed or implied, administrative or legal, the Association shall have the right, but not the obligation, to implement any one or more of the following actions against Owners and Occupants and/or their guests, who violate the provisions of the Governing Documents, the Rules and Regulations:
 - a. Commence legal action for damages or equitable relief in any court of competent jurisdiction.
 - b. Impose late charges of up to 15% of the amount due, for each past due assessment or installment thereof, and interest at up to the highest rate permitted by law.
 - c. In the event of default of more than 30 days in the payment of any assessment or installment thereof, all remaining installments of assessments assessed against the Lot owned by the defaulting Owner may be accelerated and shall then be payable in full if all delinquent assessments, together with all costs of collection and late charges, are not paid in full prior to the effective date of the acceleration. Reasonable advance written notice of the effective date of the acceleration shall impose reasonable fines, penalties or charges for each violation of the Governing Documents or the Rules and Regulations of the Association.

- d. Suspend the voting rights of any Owner during such period in which the Owner is in violation of the Governing Documents, the Rules and Regulations.
 - e. Restore any portions of the Common Elements damaged or altered, or allowed to be damaged or altered, by any Owner or Occupant or their guests in violation of the Governing Documents, and to assess the cost of such restoration against the responsible Owners and their Lots.
 - f. Enter any Lot in which, or as to which, a violation or breach of the Governing Documents exists which materially affects, or is likely to materially affect in the near future, the health or safety of the other Owners or Occupants, or their guests, or the safety or soundness of any Dwelling or other part of the Property or the property of the Owners or Occupants, and to summarily abate and remove, at the expense of the offending Owner or Occupant, any structure, thing or condition in the Lot which is causing the violation; provided, that any improvements which are a part of a Lot may be altered or demolished only pursuant to a court order or with the agreement of the Owner.
 - g. Foreclose any lien arising under the provisions of the Governing Documents or under law, in the manner provided for the foreclosure of mortgages by action or under a power of sale in the state where the Property is located.
3. Rights to Hearing. In the case of imposition of any of the remedies authorized by Section 12.2 (d), (e), (f) or (g) of this Section, the Board shall, upon written request of the offender, grant to the offender a fair and equitable hearing. The offender shall be given notice of the nature of the violation and the right to a hearing, and at least 10 days within which to request a hearing. The hearing shall be scheduled by the Board and held within thirty days of receipt of the hearing request by the Board, and with at least 10 days prior written notice to the offender. If the offending Owner fails to appear at the hearing then the right to a hearing shall be waived and the Board may take such action as it deems appropriate. The decision of the Board and the rules for the conduct of hearings established by the Board shall be final and binding on all parties. The Board's decision shall be delivered in writing to the offender within ten days following the hearing, if not delivered to the offender at the hearing.
4. Lien for Charges, Penalties Etc. Any assessments, charges, fines, penalties or interest imposed under this Section shall be a lien against the Lot of the Owner or Occupant against whom the same are imposed and the personal obligation of such Owner in the same manner and with the same priority and effect as assessments under Section 6. The lien shall attach as of the date of imposition of the remedy, but shall not be final as to violations for which a hearing is held until the Board gives written notice following the hearing. All remedies shall be cumulative, and the exercise of, or failure to exercise, any remedy shall not be deemed a waiver of the right to pursue any others.
5. Costs of Proceeding and Attorney's Fees. With respect to any collection measures, or any measures or action, legal, administrative, or otherwise, which the Association takes to

enforce the provisions of the Governing Documents or Rules and Regulations, whether or not finally determined by a court or arbitrator, the Association may assess the violator and his or her Lot with any expenses incurred in connection with such enforcement, including without limitation fines or charges previously imposed by the Association, reasonable attorneys' fees, and interest (at the highest rate allowed by law) on the delinquent amounts owed to the Association.

6. Liability for Owners' and Occupants' Acts. An Owner shall be liable for the expense of any maintenance, repair or replacement of the Property rendered necessary by such Owner's acts or omissions, or by that of Occupants or guests in the Owner's Lot, to the extent that such expense is not covered by the proceeds of insurance carried by the Association or such Owner or Occupant. However, any insurance deductible amount and/or increase in insurance rates, resulting from the Owner's acts or omissions may be assessed against the Owner responsible for the condition and against his or her Lot.
7. Enforcement by Owners. The provisions of this Section shall not limit or impair the independent rights of other Owners to enforce the provisions of the Governing Documents, the Rules and Regulations as provided therein.

SECTION 13 - SPECIAL DECLARANT RIGHTS

Declarant hereby reserves exclusive and unconditional authority to exercise the following special Declarant rights for as long as it owns a Lot, or for such shorter period as may be specifically indicated:

1. Complete Improvements. To complete all the Lots and other improvements indicated on the Plat, or otherwise included in Declarant's development plans or allowed by the Declaration, and to make alterations in the Lots and Common Elements to accommodate its sales facilities.
2. Add Additional Real Estate. To add Additional Real Estate to the Property as described in Section 14.
3. Sales Facilities. To construct, operate and maintain a sales office, management office, and other development and sales facilities within the Common Elements and any Lots owned by Declarant from time to time, located anywhere on the Property.
4. Signs. To erect and maintain signs and other sales displays offering the Lots for sale, in or on any Lots owned by Declarant and on the Common Elements.
5. Easements. To have and use easements, for itself, its employees, contractors, representatives, agents and prospective purchasers through and over the Common Elements for the purpose of exercising its Special Declarant rights.
6. Control of Association. To control the operation and administration of the Association, including without limitation the power to appoint and remove the members of the Board,

until the earliest of: (i) voluntary surrender of control by Declarant, (ii) an Association meeting which shall be held within 60 days after conveyance to Owners other than Declarant of 75 % of the total number of Lots authorized to be included in the Property or (iii) the date five (5) years following the date of the first conveyance of a Lot to an Owner other than Declarant. Notwithstanding the foregoing, the Owners other than Declarant shall have the right to nominate and elect not less than 33 1/3% of the directors on the Board at a meeting of the Owners which shall be held within 60 days following the conveyance by Declarant of 50% of the total number of Lots authorized to be included in the Property.

7. Consent to Certain Amendments. As long as Declarant owns any unsold Lot for sale, Declarant's written consent shall be required for any amendment to the Governing Documents or Rules and Regulations which directly or indirectly affects or may affect Declarant's rights under the Governing Documents or the Minnesota Statutes.

SECTION 14 - RIGHTS TO ADD ADDITIONAL REAL ESTATE

Declarant hereby expressly reserves the right to add the Additional Real Estate to the Property, by unilateral action, subject to the following conditions:

1. The right of Declarant to add the Additional Real Estate to the terms of this Declaration shall terminate ten (10) years after the date of recording of this Declaration or upon earlier express written withdrawal of such right by Declarant or a successor Declarant, unless extended by a vote of the Owners. There are no other limitations on Declarant's rights hereunder, except as may be imposed by law.
2. The Additional Real Estate is described in Exhibit C. The Additional Real Estate may be added to the Property in parcels consisting of one or more platted lots, or portions thereof.
3. There are no assurances as to the times at which all or any part of the Additional Real Estate will be added to the Property, the order in which it will be added, the number of parcels per phase nor the size of the parcels. Declarant is under no obligation to add the Additional Real Estate to the Property, and the Additional Real Estate may be developed by Declarant or its successors in interest for other purposes, subject only to approval by the appropriate governmental authorities.
4. The maximum number of Lots that may be created within the Additional Real Estate described as such on the date of this Declaration will be no greater than 100. All Lots created on the Additional Real Estate shall be restricted exclusively to residential use.
5. Any Lots, including Dwellings and other structures, created upon the Additional Real Estate, when and if added, shall be compatible with the other Dwellings, structures and Lots which are part of the Property in terms of architectural style,

quality of construction, principal materials employed in construction and size; subject (i) to any changes required by governmental authorities or lenders and (ii) to any interior and minor exterior changes made by Declarant to meet changes in the market.

6. All covenants and restrictions contained in this Declaration affecting the use, occupancy and alienation of Lots shall apply to all Lots created on the Additional Real Estate.

SECTION 15 - AMENDMENTS

This Declaration may be amended by the consent of (i) Owners of Lots to which are allocated at least sixty-seven percent (67%) of the votes in the Association, (ii) the percentage of Eligible Mortgagees (based upon one vote per first mortgage owned) required by Section 16 as to matters prescribed by said Section and (iii) the consent of Declarant to certain amendments as provided in Section 13.7. Consent of the Owners may be obtained in writing or at a meeting of the Association duly held in accordance with the By-Laws. Consents of Eligible Mortgagees and the Declarant shall be in writing. Any amendment to this Declaration shall be effective when recorded as provided in the Minnesota Statutes. An affidavit by the Secretary of the Association as to the outcome of the vote, or the execution of the foregoing agreements or consents, shall be adequate evidence thereof for all purposes, including without limitation, the recording of the amendment

SECTION 16 - RIGHTS OF ELIGIBLE MORTGAGEES

Notwithstanding anything to the contrary in the Governing Documents, and subject to any greater requirements of the Minnesota Statutes or other laws, Eligible Mortgagees shall have the following rights and protections:

1. Consent to Certain Amendments. The written consent of Eligible Mortgagees representing at least fifty-one percent (51 %) of the Lots that are subject to first mortgages held by Eligible Mortgagees (based upon one vote per first mortgage owned) shall be required for any amendment to the Governing Documents which causes any change in the following: (i) voting rights; (ii) increases in assessments that raise the previously assessed amount by more than 25%, assessment liens, or priority of assessment liens; (iii) reductions in reserves for maintenance, repair and replacement of Common Elements; (iv) responsibility for maintenance and repairs; (v) reallocation of interests in the Common Elements or rights to their use; (vi) redefinition of any Lot boundaries; (vii) convertibility of Lots into Common Elements or vice versa; (viii) expansion or contraction of the Property or the addition, annexation or withdrawal of property to or from the Property; (ix) hazard or fidelity insurance requirements; (x) leasing of Lots; (xi) imposition of any restrictions on the leasing of Lots; (xii) if the Association consists of 50 or more Lots, a decision by the Association to establish self-management when professional management is in effect as required previously by the Governing Documents or by an Eligible Mortgagee; (xiii) restoration or repair of the

Property (after a hazard damage or partial condemnation) in a manner other than that specified in the Governing Documents; (xiv) any action to terminate the legal status of the Association after substantial destruction or condemnation occurs; or (xv) any provisions that expressly benefit mortgage holders, or insurers or guarantors of mortgages. Notwithstanding the foregoing, implied approval of a proposed amendment shall be assumed when an Eligible Mortgagee fails to submit a response to any written proposal for an amendment within 30 days after it receives proper notice of the proposal, provided that the notice was delivered by certified mail with a return receipt requested.

2. **Consent to Certain Actions.** The written consent of Eligible Mortgagees representing at least sixty-seven percent (67%) of the Lots that are subject to first mortgages (based upon one vote per first mortgage owned) shall be required to abandon or terminate the Association.
3. **Consent to Subdivision.** No Lot may be partitioned or subdivided without the prior written approval of the Owner and Eligible Mortgagee thereof, and the Association.
4. **No Right of First Refusal.** The right of an Owner to sell, transfer or otherwise convey his or her Lot shall not be subject to any right of first refusal or similar restrictions.
5. **Priority of Lien.** Any holder of a first mortgage on a Lot or any purchaser of a first mortgage at a foreclosure sale, that comes into possession of a Lot by foreclosure of the first mortgage or by deed or assignment in lieu of foreclosure, takes the Lot free of any claims for unpaid assessments or any other charges or liens imposed against the Lot by the Association which have accrued against such Lot prior to the acquisition of possession of the Lot by said first mortgage holder or purchaser; (i) except as provided in Section 7.8 and the Minnesota Statutes and (ii) except that any unpaid assessments or charges with respect to the Lot may be reallocated among all Lots in accordance with their interests in the Common Elements.
6. **Priority of Taxes and Other Charges.** All taxes, assessments and charges which may become liens prior to the first mortgage under state law shall relate only to the individual Lots and not to the Property as a whole.
7. **Requirements - Management Agreements.** The term of any agreement for professional management of the Property may not exceed two (2) years. Any such agreement must provide at a minimum for termination without penalty or termination fee by either party, (i) with cause upon thirty (30) days prior written notice, and (ii) without cause upon ninety (90) days prior written notice.
8. **Access to Books and Records/Audit.** Eligible Mortgagees shall have the right to examine the books and records of the Association upon reasonable notice during normal business hours, and to receive free of charge, upon written request, copies of the Association's annual reports and other financial statements. Financial statements, including those which are audited, shall be available within one hundred twenty (120) days of the end of the Association's fiscal year. If a request is made by FNMA or any institutional guarantor or insurer of a mortgage loan against a Lot, for an audit of the Association's financial

statements for the preceding year, the Association shall cause an audit to be made and deliver a copy to the requesting party.

9. Notice Requirements. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor of a mortgage on a Lot, and the Lot number or address, the holder, insurer or guarantor shall be entitled to timely written notice of: a 60 day delinquency in the payment of assessments or charges owed by the Owner of a Lot on which it holds a mortgage; a proposed action which requires the consent of a specified percentage of Eligible Mortgagees.

SECTION 17 – ACTIONS RELATED TO DECLARANT.

Notwithstanding anything to the contrary contained herein or any of the Association's Governing Documents, any legal action contemplated against the Declarant by the Association shall be subject to the right of Declarant to receive written notice of any issues which concern the Association, and a reasonable opportunity to correct, fix or repair such issues. In the event that the Association feels Declarants actions are not sufficient, the Association shall submit the matter to binding arbitration, rather than pursue litigation. Prior to making a final determination to submit any matter to binding arbitration, the Association must give each Owner and Member of the Association written notice of its proposed actions at least thirty (30) days prior to submission of the matter to arbitration.

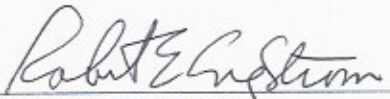
SECTION 18 - MISCELLANEOUS

1. Severability. If any term, covenant, or provision of this instrument or any exhibit attached hereto is held to be invalid or unenforceable for any reason whatsoever, such determination shall not be deemed to alter, affect or impair in any manner whatsoever any other portion of this instrument or exhibits.
2. Construction. Where applicable the masculine gender of any word used herein shall mean the feminine or neutral gender, or vice versa, and the singular of any word used herein shall mean the plural, or vice versa.
3. Tender of Claims. In the event that any incident occurs which could reasonably give rise to a demand by the Association against Declarant for indemnification, the Association shall promptly tender the defense of the action to its insurance carrier, and give Declarant written notice of such tender, the specific nature of the action and an opportunity to defend against the action.
4. Notices. Unless specifically provided otherwise in the Governing Documents or the Minnesota Statutes, all notices required to be given by or to the Association, the Board, the Association officers or the Owners or Occupants shall be in writing and shall be effective upon hand delivery, or mailing if properly addressed with postage prepaid and deposited in the United States mail.

5. Conflicts Among Documents. In the event of any conflict among the provisions of the Minnesota Statutes, this Declaration, the By-Laws or any Rules or Regulations approved by the Association, the Minnesota Statutes shall control. As among this Declaration, By-Laws and Rules and Regulations, this Declaration shall control, and as between the By-Laws and the Rules and Regulations, the By-Laws shall control.
6. Appurtenant Easements. All easements granted in this Declaration are appurtenant. All easement and similar rights burdening or benefiting a Lot or any other part of the Property shall be appurtenant thereto, and shall be permanent, subject only to termination by mutual agreement or court order.

IN WITNESS WHEREOF, the undersigned has caused this document to be executed the day and year first mentioned above.

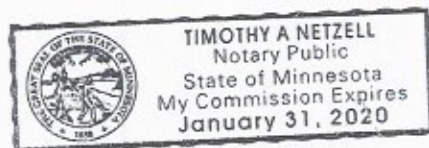
Robert Engstrom Companies


Robert E. Engstrom
Its President

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this 29 day of SEPTEMBER, 2015, by Robert E. Engstrom, President of Robert Engstrom Companies, a Minnesota Corporation, on behalf of the corporation.


Notary Public



Drafted By:
Netzell Legal Services, PLLC
7900 International Dr., Suite 300
Bloomington, MN 55425

EXHIBIT "A"
(THE PROPERTY)

*all
about* Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, Block 1; Lots 1, 2, 3, 4, 5, and 6, Block 2; Lots 1, 2, 3, 4, 5, 6, 7, 8, 9,
10, 11, 12, 13, 14, 15, 16, 17, and 18, Block 3; Lots 1, 2, 3, and 4, Block 4; Lots 1, 2, 3, 4, 5, 6,
7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, and 23, Block 5;
all in Wildflower at Lake Elmo 1st Addition

EXHIBIT "B"
(COMMON ELEMENTS)

A A A A A T A A

Outlots A, D, E, F, G, H, I, L, and M, all in Wildflower at Lake Elmo 1st Addition

EXHIBIT "C"
(ADDITIONAL REAL ESTATE)

AA T
Outlot P, O and Q, all in Wildflower at Lake Elmo 1st Addition.

And

X All that part of the Northeast Quarter of the Southwest Quarter of Section 12, Township 29, Range 21, described as follows: Beginning at the center of said Section 12; thence due South along the East line of said Northeast Quarter of Southwest Quarter a distance of 1,240.5 feet, thence at right angles due West a distance of 200 feet; thence North 55 degrees 00 minutes west a distance of 270 feet; thence due North a distance of 617 feet; thence at right angles due East a distance of 147 feet; thence at right angles due North a distance of 466 feet more or less to the North line of said Northeast Quarter of Southwest Quarter; thence Easterly along the North line of said Northeast Quarter of Southwest Quarter a distance of 274.17 feet the place of beginning, according to the United States Government Survey thereof, Washington County, Minnesota.

EXHIBIT "D"
(DEPICTION OF PUBLIC TRAIL EASMENTS)

**CONSENT TO DECLARATION
WILDFLOWER AT LAKE ELMO 1ST ADDITION**

PREMIER BANK, a Minnesota corporation, as mortgagee under that certain (i) \$2,100,000.00 Mortgage, Security Agreement, Fixture Financing Statement and Assignment of Leases and Rents from Robert Engstrom Companies, a Minnesota corporation, as mortgagor, to the undersigned, as mortgagee, dated June 30, 2014 and recorded in the Office of the County Recorder, Washington County, Minnesota on July 11, 2014 as Document No. 3993489; (ii) UCC-1 Financing Statement naming Robert Engstrom Companies, a Minnesota corporation, as debtor, and the undersigned, as secured party, recorded in the Office of the County Recorder, Washington County, Minnesota on July 11, 2014 as Document No. 3993490, and (iii) \$4,569,000.00 Mortgage, Security Agreement, Fixture Financing Statement and Assignment of Leases and Rents from Robert Engstrom Companies, a Minnesota corporation, as mortgagor, to the undersigned, as mortgagee, dated May 5, 2015 and recorded in the Office of the County Recorder, Washington County, Minnesota on May 6, 2015 as Document No. 4024575 and recorded in the Office of the Registrar of Titles, Washington County, Minnesota on May 6, 2015 as Document No. 1233835, hereby consents to the Declaration of Covenants, Conditions, Easements and Restrictions for Wildflower at Lake Elmo 1st Addition to which this Consent is attached (the "Declaration"), and agrees that in the event of the foreclosure of any of said Mortgages, or other sale of the real estate covered by and pursuant to any of the above described Mortgages under judicial or non-judicial proceedings, the same shall be sold subject to the Declaration, and to all terms, provisions, conditions, covenants and restrictions contained therein.

IN WITNESS WHEREOF, the undersigned has executed this Consent on this 1 day of OCTOBER, 2015.

PREMIER BANK

By: Andrew D. Nath

Andrew D. Nath

Its: Executive Vice President

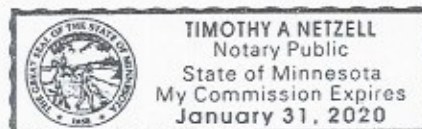
STATE OF MINNESOTA)

) ss.

COUNTY OF Ramsey

The foregoing instrument was acknowledged before me this 1 day of OCTOBER, 2015 by Andrew D. Nath, the Executive Vice President of Premier Bank, a Minnesota corporation, on behalf of the corporation.

Notary Public



**CONSENT TO DECLARATION
WILDFLOWER AT LAKE ELMO**

The City of Lake Elmo, a Minnesota Municipal Corporation, hereby consents to the recording of the attached Declaration of Covenants, Conditions, Easements and Restrictions (the "Declaration"), and specifically accepts the public trail easements granted in Section 3, Paragraph 3 of the Declaration, and also specifically acknowledges its obligation for all maintenance, repairs and alterations which are deemed necessary in the future for the hard surfaced pathways constructed by Robert Engstrom Companies within the granted public trail easements. This consent is also intended to ratify and confirm the rights and obligations of the City of Lake Elmo which are created within the Declaration and/or that Open Space Easement entered into between Robert Engstrom Companies and the City of Lake Elmo, which is recorded with Washington County contemporaneously herewith.

IN WITNESS WHEREOF, the undersigned has executed this Consent on this 5 day of OCT, 2015.

The City of Lake Elmo

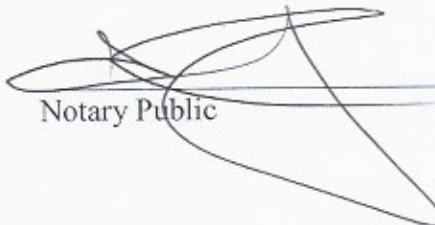

Its Mayor

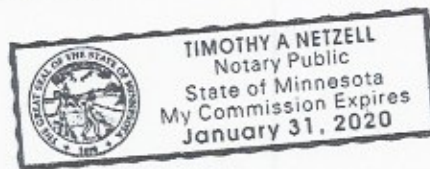
STATE OF MINNESOTA

SS.

COUNTY OF HENNEPIN

On this 5 day of OCT, 2015, before me, a notary public within and for said county, personally appeared MIKE PEARSON, to me known to be the Mayor of the above the City of Lake Elmo, a Minnesota Municipal Corporation, and he /she executed the foregoing instrument and acknowledged that he/she executed the same by authority of and on behalf of the City of Lake Elmo.


Notary Public



BYLAWS OF WILDFLOWER AT LAKE ELMO

ARTICLE I

NAME AND LOCATION

The name of the corporation is Wildflower at Lake Elmo, hereinafter referred to as the "Association". The principal office of the corporation shall be located at 4801 West 81st Street, #101, Bloomington, MN 55437 but meetings of members and directors may be held at such places within the State of Minnesota, as may be designated by the Board of Directors.

ARTICLE II

DEFINITIONS

Terms used herein shall have the meanings ascribed to them in the Declaration of Covenants, Conditions and Restrictions of Wildflower at Lake Elmo, recorded October 6, 2015, 2015 in the office of the Recorder of Washington County, Minnesota as Document No. 4043700 and in the office of the Registrar of Titles for Washington County as Document Number 1236751 ("Declaration"). The terms of the Declaration are incorporated herein by reference.

ARTICLE III

MEETING OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the members shall be held within one (1) year from the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held on such date and at such place as shall be designated by the Board of Directors in a notice of annual meeting to be furnished to the Members in the manner required by law.

Section 2. Special Meetings. Special meetings of the members may be called at any time by the president or by the Board of Directors, or upon written request of the members who are entitled to vote twenty-five percent (25%) of all of the votes of Members.

Section 3. Notice of Meeting. Written notice of each meeting of the members shall be given by, or at the direction of, the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least five (5) and no more than thirty (30) days before such meeting to each member and member's mortgagee, if any, entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, ten percent (10%) of the votes of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or represented.

Section 5. Proxies. At all meetings for 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 upon conveyance by the member of his or her Lot.

ARTICLE IV

BOARD OF DIRECTORS SELECTION : TERM OF OFFICE

Section 1. Number. The affairs of this Association shall be managed by a Board of three (3) directors, who need not be members of the Association.

Section 2. Term of Office. At the first annual meeting, the members shall elect one Director for a term of one (1) year, one director for a term of two (2) years and one Director for a term of three (3) years; and at each annual meeting thereafter the members shall fill any vacancies on the Board of Directors for a term of three (3) years.

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, his or her successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of said predecessor.

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

NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairperson, who shall be a member of the Board of

Directors, and two (2) or more members of the Association who need not be members of the Board of Directors. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members or non-members.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE VI

MEETING OF DIRECTORS

Section 1. Regular Meeting. Regular meetings of the Board of Directors shall be held at least quarterly without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should a meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the president of the Association, or by any two (2) directors, after not less than three (3) days, notice to each director.

Section 3. 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.

ARTICLE VII

THE BOARD OF DIRECTORS: POWERS, DUTIES AND RESTRICTIONS

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

(a) To adopt and publish rules and regulations governing the use of the Lots and the personal conduct of the members and their guests thereon, and to establish penalties for the infractions thereof; notice of any proposed rule or regulation or amendment thereto, shall be furnished to the members, and shall be deemed adopted ninety (90) days after such notice unless the Members, at a special meeting called for the purpose, vote to amend or repeal such proposed rule or regulation;

(b) To 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) To 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 the Declaration;

(d) To 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) To employ a manager, an independent contractor or such other employees as it deems necessary, and to prescribe their duties.

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

(a) To cause to be kept a complete record of all its acts and corporate 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 Class A members who are entitled to vote;

(b) To supervise all officers, agents and employees of this Association, and see that their duties are properly performed;

(c) To as more fully provided in the Declaration:

(i) Fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period;

(ii) Send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

(iii) Foreclose the lien of any assessment against any property subject thereto if such assessment is 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) To issue, or cause an appropriate officer to issue, upon 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) To procure and maintain adequate liability and hazard insurance, consistent with provisions set forth in the Declaration;

(f) To cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate and in accordance with the Declaration; and

(g) To cause the Lots to be maintained in accordance with the Declaration.

Section 3. Actions Related to Declarant. Notwithstanding anything to the contrary contained herein or any of the Associations organizational documents, any legal action contemplated against the Declarant by the Association shall be subject to the right of Declarant to receive written notice of any issues which concern the Association, and a reasonable opportunity to correct, fix or repair such issues. In the event that the Association feels Declarants actions are not sufficient, the Association shall submit the matter to binding arbitration, rather than pursue litigation. Prior to making a final determination to submit any matter to binding arbitration, the Association must give each Owner and Member of the Association written notice of its proposed actions at least thirty (30) days prior to submission of the matter to arbitration.

ARTICLE VIII

OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers. The officers of this Association shall be a president and vice-president, who shall at all times be members of the Board of Directors, a secretary, a treasurer and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

Section 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he or she shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he or she replaces.

Section 7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one (1) of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

PRESIDENT

The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds, contracts and other written instruments and shall co-sign all checks and promissory notes.

VICE-PRESIDENT

The Vice-President shall act in the place and stead of the President in the event of his or her absence, inability or refusal to act and shall exercise and discharge such other duties as may be required by the Board.

SECRETARY

The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses and shall perform such duties as required by the Board.

TREASURER

The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; sign all checks and promissory notes of the Association; keep proper books of account; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meetings, and deliver a copy of each to the members and to any First Mortgagees who shall request the same, pursuant to Article XI of the Declaration.

ARTICLE IX

COMMITTEES

Section 1. The Association shall appoint the following standing committees:

The Nominating Committee
The Maintenance Committee

Unless otherwise provided herein, each committee shall consist of a Chairperson and one (1) or more members and shall include a member of the Board of Directors for board contact. The committees shall be appointed by the Board of Directors prior to each annual meeting to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Board of Directors may appoint such other committees as it deems desirable.

Section 2. The Nominating Committee shall have the duties and functions described in Article V of these Bylaws and such other functions as the Board, in its discretion, determines.

Section 3. The Maintenance Committee shall advise the Board of Directors on all matters pertaining to the maintenance, repair or improvement of the Lots and shall perform such other functions as the Board, in its discretion, determines.

ARTICLE XII

NO CORPORATE SEAL

There shall be no corporate seal.

ARTICLE XIII

AMENDMENTS

Section 1. These Bylaws may be amended at a regular or special meeting of the members by a vote of a majority of a quorum of members present in person or by proxy. The procedure to amend the Bylaws shall be: (a) the Board of Directors may propose the amendment to the Bylaws by resolution setting forth the proposed amendment and directing that it be submitted for adoption at a meeting of the members; or (b) any five (5) members may set forth the proposed amendment by petition by them subscribed, which petition shall be filed with the secretary of the Association. Notice of the meeting of the members, stating the purpose, including the proposed amendment, shall be given to each member entitled to vote on the proposed amendment, and to each officer and director regardless of his voting rights. If notice required by this clause has been given, the proposed amendment may be adopted at any meeting of members by a majority of a quorum of members present in person or by proxy.

Section 2. In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control, and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

ARTICLE XIV

DISSOLUTION

The Association may be dissolved by a vote of the members entitled to cast two-thirds (2/3) of the votes of each class of membership. Written notice of a proposal to dissolve, setting forth the reasons therefor and the disposition to be made of the assets (which shall be consonant with Article XI of the Declaration and Article XV hereof) shall be mailed to every member at least ninety (90) days in advance of any action taken.

CERTIFICATION

I, the undersigned, do hereby certify:

THAT I am the duly elected and acting Secretary of Wildflower at Lake Elmo, a Minnesota nonprofit corporation, and

THAT the foregoing Bylaws constitute the original Bylaws of said Wildflower at Lake Elmo, as duly adopted at a meeting of the Board of Directors thereof, held on the 15th day of December, 2015.

Phyllis R Engstrom

ARTICLE XV

DISPOSITION OF ASSETS UPON DISSOLUTION

Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created.

In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to such similar purposes. No such disposition of Association properties shall be effective to divest or diminish any right or title of any member vested in him or her under the Declaration unless made in accordance with the provisions of such Declaration.

ARTICLE XVI

MISCELLANEOUS

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

IN WITNESS WHEREOF, we, being all of the directors of Wildflower at Lake Elmo have hereunto set our hands this 15th day of December, 2015.

Rat E Engstrom
Rat E Engstrom

Phyllis R Engstrom

Office of the Minnesota Secretary of State Certificate of Incorporation

I, Steve Simon, Secretary of State of Minnesota, do certify that: The following business entity has duly complied with the relevant provisions of Minnesota Statutes listed below, and is formed or authorized to do business in Minnesota on and after this date with all the powers, rights and privileges, and subject to the limitations, duties and restrictions, set forth in that chapter.

The business entity is now legally registered under the laws of Minnesota.

Name: Wildflower at Lake Elmo

File Number: 815441900035

Minnesota Statutes, Chapter: 317A

This certificate has been issued on: 03/05/2015



A handwritten signature in dark ink, reading "Steve Simon".

Steve Simon
Secretary of State
State of Minnesota

**ARTICLES OF INCORPORATION
OF
WILDFLOWER AT LAKE ELMO**

The undersigned, for the purpose of forming a corporation pursuant to the provisions of the Minnesota Nonprofit Corporation Act, Minnesota Statutes, Chapter 317A, adopts the following Articles of Incorporation.

ARTICLE I

The name of this corporation shall be Wildflower at Lake Elmo (hereinafter called the "Association")

ARTICLE II

The Association is organized and shall be operated for the purpose of acting as an association within the meaning of the Minnesota Common Interest Ownership Act (the "Act"), upon certain land in the City of Lake Elmo, County of Washington, and State of Minnesota, and legally described as set forth in the Declaration of Wildflower at Lake Elmo ("Declaration"), and such further properties as may be subjected to the Declaration, in accordance with the terms thereof.

Such purposes shall include, but not be limited to the following:

- To maintain, manage and administer the affairs and property of the Association, in accordance with the provisions of the Declaration and the Bylaws of the Association ("Bylaws");
- To levy and collect assessments from the members of the Association and to use the proceeds thereof for the purposes of the members of the Association;
- To contract for and employ persons, firms or corporations to assist in the management, operation, maintenance and administration of the Association;
- To make and enforce reasonable regulations concerning the use and enjoyment of the Association and its members;
- To own, maintain and improve and to buy, sell, convey, assign, mortgage, lease or otherwise dispose of real and personal property and to borrow money or issue evidences of indebtedness in furtherance of any or all of the foregoing objects, and to secure the same by mortgages, pledges, or other liens, subject to limitations contained in the Declaration or the Bylaws;
- To perform any other matter required or permitted of it as administrator of the Association under the Act, the Declaration, and the Bylaws; and

- To exercise such other powers which are consistent with the foregoing purposes
- and which are afforded to the Association by the Minnesota Nonprofit Corporation Act, the Minnesota Common Interest Ownership Act and any further laws amendatory thereof and supplementary thereof.

ARTICLE III

This Association does not and shall not, incidentally or otherwise, afford pecuniary gain to, nor shall any part of the net earnings of the Association inure to the private benefit of its members, directors or officers; provided, however, that the Association may pay to its members, directors, and officers out-of-pocket expenses incurred in the performance of their duties, and may lease and purchase from, sell to and otherwise deal with, its members, directors, officers and others in real and personal property, and may hire members to perform professional services, and shall have the power to own encumber and sell units within the Association.

No substantial part of the activities of the Association shall constitute the carrying on of propaganda or of attempting to influence legislation and the Association shall not participate or intervene in the political campaign on behalf of any candidate for public office, nor shall the Association engage in any transaction or carry on any other activity not permitted to be carried on by a community management association exempt from federal income tax under Section 528 of the Internal Revenue Code (or the corresponding provision of any future United States Internal Revenue Law).

ARTICLE IV

The period of duration of this Association shall be perpetual.

ARTICLE V

The registered office of this Association in the State of Minnesota shall be located at 4801 West 81st Street, #101, Bloomington, MN 55437.

ARTICLE VI

Voluntary dissolution shall require the approval of (i) the holders of sixty-seven percent (67%) of the vote of the Members (as defined in the Declaration) and (ii) sixty-seven percent (67%) of the holders of the first mortgages covering Units (as defined in the Declaration) within the Association. Upon the dissolution of the Association, its assets, both real and personal, shall be distributed to the members and mortgagees of Units as required by the Declaration and the Act.

ARTICLE VII

The name and address of the incorporator, who is a natural person of full age, is:

| NAME | ADDRESS |
|-------------|---|
| Tim Netzell | 7900 International Dr., #300 Bloomington, MN 55425 |

ARTICLE VIII

The first Board of Directors of this Association shall consist of three (3) persons, the name and address of whom is:

| NAME | ADDRESS |
|--------------------|--|
| Robert E. Engstrom | 4801 West 81 st Street Bloomington, MN 55425 |
| Paul Engstrom | 4801 West 81 st Street Bloomington, MN 55425 |
| Phyllis Engstrom | 4801 West 81 st Street Bloomington, MN 55425 |

The term of office of the first Board of Directors shall continue until the first annual meeting of the members which shall be held not later than the first anniversary of the date of recording the Declaration. The Board of Directors elected at the first annual meeting, and thereafter, shall be composed of three (3) members.

ARTICLE IX

Members, directors and officers of the Association shall not be personally liable to any extent whatsoever for obligations of the Association.

ARTICLE X

The Association shall have no capital stock, either authorized or issued, nor shall it have a corporate seal.

ARTICLE XI

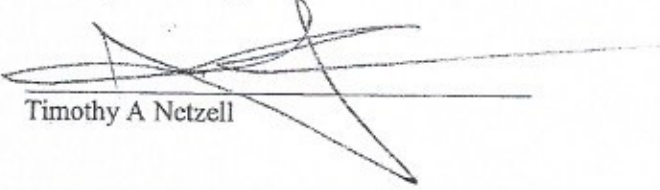
An action, other than an action requiring member approval pursuant to the terms of the Declaration, may be taken by written action signed, or consented to by authenticated electronic communication, by the number of directors that would be required to take the same action at a meeting of the Board at which all directors were present. Such written action is effective when signed, or consented to by authenticated electronic communication, by the required number of

directors, unless a different effective time is provided in the written action. When written action is permitted to be taken by less than all directors, all directors shall be notified immediately of the text of the written action and its effective date. Failure to provide the notice does not invalidate the written action. A director who does not sign or consent to the written action is not liable for the action.

ARTICLE XII

These Articles may be amended by a vote of a majority of the Board of Directors.

IN WITNESS WHEREOF, the undersigned incorporator has hereunto set her hand this 23rd day of January, 2015.



Timothy A Netzell

Netzell Legal Services, PLLC
7900 International Dr., #300
Bloomington, MN 55425
952-851-7877
tim@netzell.com



Work Item 815441900035
Original File Number 815441900035

STATE OF MINNESOTA
OFFICE OF THE SECRETARY OF STATE
FILED
03/05/2015 11:59 PM

Steve Simon

Steve Simon
Secretary of State

EAS
CRV Not Required
Exempt from Tax

\$46.00



Certified Filed and/or recorded on:

10/6/2015 12:00 PM

4043706

Office of the County Recorder
Washington County, Minnesota

Jennifer Wagenius, County Recorder
Kevin Corbid, Auditor Treasurer

Return to:
ASSURE TITLE
LLC/NETZELL LEGAL
SERVICES PLLC
7900 International Drive
#300
Bloomington MN 55425

OPEN SPACE EASEMENT

THIS OPEN SPACE EASEMENT is entered into this 29 day of September, 2015, by and between Robert Engstrom Companies, a Minnesota Corporation, ("Owner") and the City of Lake Elmo, a Minnesota Municipal Corporation ("City").

WITNESSETH:

- A. Owner is the sole owner in fee simple of the following described property, together with buildings and other improvements located in Washington County, Minnesota ("Protected Land"): Outlots A, D, E, F, G, L and M, Wildflower at Lake Elmo 1st Addition, Washington County, Minnesota; and
- B. The Protected Land is primarily farmland, woodland, and open space as defined in the City's Comprehensive Use Plan and Open Space Preservation District Regulations (both herein "City Development Regulations"); and
- C. The natural, scenic and agricultural qualities, forested and open space character ("Conservation Values") of the Protected Land are important to the City and the City intends monitor the subsequent uses of the Protected Land and enforce the terms of this Open Space Easement. Notwithstanding this, the parties may use all other relevant evidence to establish the present condition of the Protected Land in the event of a disagreement as to whether a subsequent activity or use is consistent with, the terms of this Open Space Easement; and
- D. Owner intends to convey to the City the right to preserve and protect the Conservation Values of the Protected Land in perpetuity and to prevent or remedy subsequent activities or uses that are inconsistent with the terms of this Open Space Easement; and
- E. The grant of this Open Space Easement will further the purpose and intent of the City Development Regulations; and
- F. The parties acknowledge that, as a local unit of government, the City has a direct interest in the enforcement of the terms of this Open Space Easement and is in a position to monitor compliance with the terms of this Open Space Easement.

NOW, THEREFORE, in consideration of their mutual covenants and pursuant to the provisions of the City Development Regulations, Owner conveys and warrants to the City and the City accepts a perpetual open space easement on the Protected Land of the character and to the extent set forth herein.

1. **Intent.** The parties intend to permanently retain the Protected Land in its predominantly natural, scenic, agricultural, forested, and open space condition and to prevent or remedy any subsequent activity or use that significantly impairs or interferes with the Conservation Values of the Protected Land. Owner intends to restrict all subsequent use of the Protected Land to activities consistent with the terms of this Open Space Easement.
2. **City's Rights.** To accomplish the parties' intent, Owner conveys the following rights to the City as specified below:
 - a. The City shall preserve and protect the Conservation Values of the Protected Land pursuant to the terms of this Open Space Easement.
 - b. The City may enter the Protected Land at reasonable times to monitor subsequent activities and uses and to enforce the terms of this Open Space Easement. The City shall give reasonable notice to Owner of all such entries and shall not unreasonably interfere with Owner's use and quiet enjoyment of the Protected Land.
 - c. The City may act, pursuant to Paragraph 19, to prevent or remedy all subsequent activities and uses of the Protected Land not consistent with the terms of this Open Space Easement.
3. **Prohibited Uses.** Owner shall not perform or knowingly allow others to perform acts on the Protected Land that would significantly impair or interfere with the Conservation Values of the Protected Land. This general restriction is not limited by the more specific restrictions set forth in Paragraphs 4-14. The parties acknowledge that the present use of the Protected Land is consistent with the terms of this Open Space Easement and the City Development Regulations. The Owner may, subject to the restrictions set forth in Paragraphs 4-14, continue making such use of the Protected Land.
4. **Residential, Commercial & Industrial Uses.** Owner shall not subdivide all or part of the Protected Lands for residential, commercial or industrial development. Owner shall not subdivide, either legally or physically, the Protected Land for any other reason without the prior written approval of the City. Owner shall not engage in commercial or industrial activities on the Protected Land, other than the activities relating to agricultural operations as set forth in Paragraph 7. Owner shall not engage in the exploration or extraction of soil, sand, gravel, rock minerals, hydrocarbons or any other natural resource on or from the Protected Land. Owner shall not grant rights of way on the Protected Land in conjunction with commercial or industrial activities or residential development on lands other than the Protected Land, except for access to adjacent parcels owned by Owner, and except rights reserved to Owner in Paragraph 17 below.

5. **Construction.** Owner shall not construct or install additional buildings or improvements of any kind including, without limitation, fences, driveways, parking lots, and roads, on the Protected Land, except as specified herein and except rights reserved to Owner in Paragraph 17 below. Owner may maintain, repair, and replace existing roads but shall not widen them unless doing so lessens the environmental impact of the road on the Protected Land and Owner has obtained the prior written approval of the City. Owner may maintain, renovate, expand or replace existing agricultural and related buildings or improvements in substantially their present location. Any expansion or replacement of an existing building or improvement shall not substantially alter its character or function, and shall not exceed its current square footage, without the prior written approval of the City.
6. **Utility Systems.** Owner may maintain, repair, and replace existing utility systems on the Protected Land including, without limitation, water, sewer, power, fuel, and communications lines and related facilities, except as specified herein. Owner shall not install new utility systems or extensions of existing utility systems on the Protected Land including, without limitation, water, sewer, power, fuel, and communications lines and related facilities, without the prior approval of the City. Owner may install, maintain, and replace irrigation systems used on the Protected Land. Owner may install sewage systems on or under the Protected Land which comply with all existing federal, state and local regulations regarding water quality and other environmental concerns, and which do not disrupt other activities permitted under the terms of this Open Space Easement.
7. **Agricultural Use.** Owner may conduct agricultural operations on the Protected Land provided that such use is in compliance with the City Development Regulations.
8. **Surface Alteration.** Owner shall not alter the surface of the Protected Land including, without limitation, the filling, excavation, or removal of soil, sand, gravel, rocks, or other material except as reasonably required in the course of activities or uses permitted under the terms of this Open Space Easement or as reasonably required during the initial development of the adjacent property (being the real property platted as "Wildflower at Lake Elmo 1st Addition") owned by Owner. Such initial development period shall expire no later than the 30th day of November, 2016.
9. **Soil and Water Degradation.** Owner shall not engage in activities or uses that cause or are likely to cause soil degradation, erosion, or water pollution, either on the surface or underground, except for activities or uses reasonably required in the course of agricultural operations permitted by Paragraph 7.
10. **Waste Removal.** Owner shall not dump or dispose of refuse or other waste material on the Protected Land although, subject to applicable laws and regulations, Owner may dispose of brush and other plant material from the Protected Land by burning or composting if such material results from agricultural operations permitted by Paragraph 7 or other activities or uses permitted by this Open Space Easement. Subject to the applicable laws and regulations, Owner may store and make use of agricultural products and by-products including, without limitation, crops, silage, fertilizers, lime, and manure

on the Protected Land if such material results from or is to be used in agricultural operations permitted by Paragraph 7.

11. **Water Bodies and Courses.** Owner shall not alter existing bodies of water or water courses or construct new bodies of water or water courses on the Protected Land except as reasonably required for the activities or uses permitted by the terms of this Open Space Easement or to enhance wildlife habitat or water quality.
12. **Trees, Shrubs, and Vegetation.** Owner shall not remove, destroy, cut, mow, or alter trees, shrubs, and other vegetation except (i) for areas immediately adjacent to buildings or improvements permitted by Paragraph 5, (ii) as reasonably required for agricultural operations permitted by Paragraph 7, (iii) to prevent or control insects, noxious weeds, diseases, fire, personal injury, or property damage, (iv) for firewood or construction material intended for residential use on the Protected Land or adjacent land (v), as reasonably required to construct and maintain the trails permitted in Paragraph 13 (vi), selective cutting for harvest pursuant to sound forest management practices, (vii) for other activities or uses permitted by the terms of this Open Space Easement, including surface alteration permitted by Paragraph 8, (viii) for the removal of invasive species of trees or shrubs, (ix) for the removal of trees and shrubs to help with the growth of character, native trees, and (xi) for sound forestry practices.
13. **Recreational Use.** Owner may establish and maintain trails for fire breaks, walking, horseback riding, cross-country skiing, and other non-motorized recreational activities on or across the Protected Land. Owner shall not use or allow others to use motorcycles, all-terrain vehicles, or other motorized vehicles on the Protected Land except as reasonably required for other activities or uses permitted by the terms of this Open Space Easement.
14. **Signs.** Owner shall not erect or install any signs or billboards on the Protected Land without consent of the City, except such signs as installed by Owner to assist the public in understanding the natural environment of the Open Space Easement, and except entrance monuments, sculpture constructed by the Owner, and also except marketing signs deemed necessary by the Owner during the initial selling period.
15. **City's Approval.** The Owner may not change the use of the Protected Land without prior written approval of the City so that the City can determine if the proposed change is consistent with this Open Space Easement and maintains or enhances the Conservation Values of the Protected Land. Owner shall submit a request in writing to the City at least ninety (90) days prior to the proposed date of commencement of the use in question. The request shall set out the use for which approval is sought, its design and location, the impact of the proposed use on the Conservation Values of the Protected Land, and other material information in sufficient detail to allow the City to make an informed judgment that the proposed use is or is not consistent with this Open Space Easement or would adversely affect the Conservation Values of the Protected Land. The City shall notify Owner in writing of its decision within sixty (60) days of its receipt of Owner's request. Where the proposed use or modification of use requires a development permit or other approval from the City pursuant to the City Development Regulations, the Owner shall

follow the process described in such regulations and the City shall notify the Owner of its decision within sixty (60) days of receipt of a completed application from the Owner. The City may withhold its approval only on a reasonable determination that the proposed use would be inconsistent with this Open Space Easement, impairs the Conservation Values of the Protected Land, results in violation of any applicable law or regulation or that it lacks information in sufficient detail to reach an informed judgment that the proposed use is or is not consistent with this Open Space Easement. The City may condition its approval on the Owner's acceptance of modifications which, in the City's judgment, would make the proposed use, as modified, consistent with this Open Space Easement or protects the Conservation Values of the Protected Land.

16. **Public Access.** No right of access by the public to any portion of the Protected Land is conveyed by this Open Space Easement, except to such area of the Open Space Easement upon which hard surface paths are constructed by the Owner. The City shall have an easement, in favor of the public, over and across all areas on the Open Space Easement, for the use, enjoyment, and maintenance of all hard surfaced pathways constructed within the Open Space easement area. The City shall be responsible for all maintenance, repairs and alterations deemed necessary to the hard surfaced pathways after construction by the Owner.
17. **Reserved Rights.** Owner reserves the following rights accruing from its ownership of the Protected Land including, without limitation:
 - a. the right to engage in or allow others to engage in all activities or uses of the Protected Land that are not prohibited or limited by this Open Space Easement or the City Development Regulations,
 - b. the right, subject to paragraph 16 above, to exclude all or any of the public from the Protected Land, except as to the hard surfaced pathways, and;
 - c. to sell or transfer all or part of the Protected Land subject to this Open Space Easement; and
 - d. the right to construct a bituminous driveway upon Outlot G, Wildflower at Lake Elmo 1st Addition, and to execute and convey a driveway easement over, under and across Outlot G, Wildflower at Lake Elmo 1st Addition, for the benefit of the property legally described as follows:

All that part of the Northeast 1/4 of the Southwest 1/4 of Sec. 12, Twp. 29, Range 21, Washington County, Minnesota, described as follows: Beginning at the center of said Sec. 12; thence due South along the East line of said Northeast 1/4 of Southwest 1/4 a distance of 1240.5 feet, thence at right angles due West a distance of 200 feet; thence N. 55 degrees 00' West a distance of 270 feet; thence due North a distance of 617 feet; thence at right angles due East a distance of 147 feet; thence at right angles due North a distance of 466 feet more or less to the North line of said Northeast 1/4 of Southwest 1/4; thence Easterly along the North line of said Northeast 1/4 of Southwest 1/4 a distance of 274.17 feet the place of beginning.

Owner shall inform all others who exercise any right by or through it on the Protected Land of the terms of this Open Space Easement. Owner shall incorporate by reference the terms of this Open Space Easement in all deeds or other legal instruments by which they transfer any interest, including a leasehold interest, in all or part of the Protected Land. Owner shall give sixty (60) days prior written notification to the City of a transfer of all or any part of fee title to the Protected Land.

18. Costs and Liabilities. Owner retains all obligations and shall bear all costs and liabilities of any kind accruing from their ownership of the Protected Land including the following responsibilities:

- a. Owner shall remain solely responsible for the operations, upkeep, and maintenance of the Protected Land. Owner shall keep the Protected Land free of all liens arising out of work performed for, materials furnished to, or obligations incurred by Owner.
- b. Owner shall pay all taxes, special assessments and other assessments levied against the Protected Land.
- c. Owner shall remain solely responsible for maintaining liability insurance for its uses of the Protected Land and the Protected Land itself. Liability insurance policies maintained by the Owner covering the Protected Land will name the City as an additional named insured. Owner shall hold harmless, indemnify, and defend the City from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, reasonable attorney's fees, arising out of or relating to (i) personal injury, data or property damage resulting from an act, omission, or condition on or about the Protected Land unless due solely to the negligence or willful act of the City (ii) the obligations retained by Owner to maintain the Protected Land and pay taxes in Paragraphs 18 (A) and (B), and (iii) the existence of this Open Space Easement.

19. Enforcement. If the City finds at any time that Owner has breached or may breach the terms of this Open Space Easement, the City may give written notice of the breach to Owner and demand action to cure the breach including, without limitation, restoration of the Protected Land. If Owner does not cure the breach within thirty (30) days of notice, the City may commence an action to (i) enforce the terms of this Open Space Easement (ii) enjoin the breach, ex parte if needed, either temporarily or permanently, (iii) recover damages, (iv) require restoration of the Protected Land to its condition prior to Owner's breach, and (v) pursue any other remedies available to it in law or equity. If the City determines that immediate action is needed to prevent or mitigate significant damage to the Protected Land, the City may pursue its remedies under this Paragraph without written notice or giving Owner time to cure the breach.

20. Costs of Enforcement. If the City prevails in an action brought under Paragraph 19, Owner shall reimburse the City for all costs incurred by the City in enforcing the terms of this Open Space Easement including, without limitation, costs of suit, reasonable

attorney's fees, and costs of restoration. If Owner prevails and the District Court finds that the City brought the action without reasonable cause or in bad faith, the City, as determined by the Court, shall reimburse Owner's costs of defense including, without limitation, costs of suit and reasonable attorney's fees.

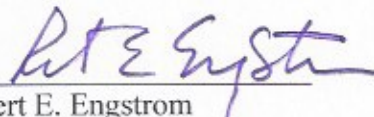
21. **Waiver.** The enforcement of the terms of this Open Space Easement is subject to the City's discretion. A decision by the City not to exercise its respective rights of enforcement in the event of a breach of a term of this Open Space Easement shall not constitute a waiver by the City of such term, or of any subsequent breach of the same or any other term, or any of the City's rights under this Open Space Easement. The delay or omission by the City to discover a breach by Owner or to exercise a right of enforcement as to such breach shall not impair or waive its rights of enforcement against Owner.
22. **Acts beyond Owner's Control.** The City shall not exercise its respective rights of enforcement against Owner for injury or alteration to the Protected Land resulting from causes beyond the reasonable control of Owner including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by Owner under emergency conditions to prevent, abate, or mitigate significant injury or alteration to the Protected Land resulting from such causes.
23. **Extinguishment.** If, in the judgment of the City, subsequent unexpected changes in the conditions surrounding the Protected Land make it impossible to preserve and protect the Conservation Values of the Protected Land, this Open Space Easement can be extinguished, either in full or in part by proceedings in a court having jurisdiction. The City agrees that it will not commence proceedings in such court to extinguish this Open Space Easement without providing notice of the City's intent to the Owner under Section 25 (Notices) at least 120 days in advance thereof.
24. **Assignment of Easement.** The City may transfer its rights and obligations in this Open Space Easement only to a qualified conservation organization, as provided in Section 170(h) of the Internal Revenue Code, which may hold Open Space Easements, as provided in Minnesota Statutes Sec. 84C.01 (2). As a condition of such transfer, the City shall require the continued enforcement of this Open Space Easement unless the Open Space Easement has been extinguished.
25. **Notices.** Any notice or other communication that either party wishes to or must give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid, to the following addresses or such other address as either party shall designate by written notice to the other:

OWNER:
Robert Engstrom Companies
4801 West 81st Street
Suite 101
Minneapolis, MN 55437

CITY:
City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo, MN 55042
ATTN: City Administrator

26. **Governing Law and Construction.** This Open Space Easement shall be governed by the laws of the Minnesota. Nothing contained in this Open Space Easement shall be construed to allow any use or development of the Protected Land in a manner which is not in compliance with the City Development Regulations or to allow the use or development of the Protected Land without obtaining all permits required by the City Development Regulations. Where inconsistencies occur between the provisions of state law, city regulations, or the terms of this Open Space Easement, the most restrictive regulation shall apply.
27. **Entire Agreement.** This Open Space Easement sets forth the entire agreement of the parties and supersedes all prior discussions.
28. **Amendment.** The parties may amend this Open Space Easement provided that such amendment shall not impair or threaten the Conservation Values of the Protected Land and shall not affect the perpetual duration of this Open Space Easement. Any purported amendment to this Open Space Easement shall be in writing and shall be executed by all of the Parties hereto.
29. **Binding Effect.** The covenants, terms, conditions, and restrictions of this Open Space Easement shall bind and inure to the benefit of the parties, their personal representatives, heirs, successors, assigns, and all others who exercise any right by or through them and shall run in perpetuity with the Protected Land.

OWNER:
Robert Engstrom Companies

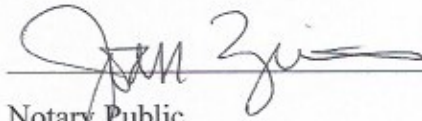
By: 
Robert E. Engstrom
Its: President

STATE OF MINNESOTA

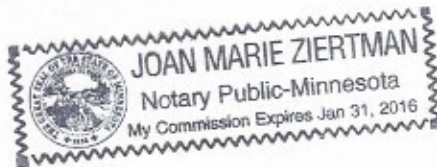
SS.

COUNTY OF ~~HENNEPIN~~ *Washington*

On this 16th day of September, 2015, before me, a notary public within and for said county, personally appeared Robert E. Engstrom, to me known to be the President of the above described corporation, and he executed the foregoing instrument and acknowledged that he executed the same by authority of and on behalf of Robert Engstrom Companies.



Notary Public



CITY:

The City of Lake Elmo

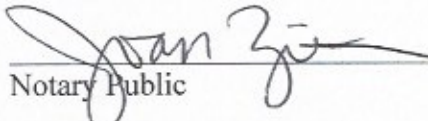

Its Mayor

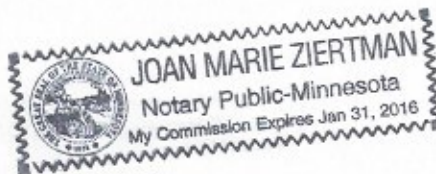
STATE OF MINNESOTA

SS.

COUNTY OF ~~HENNEPIN~~ Washington

On this 16th day of September, 2015, before me, a notary public within and for said county, personally appeared Mike Pearson, to me known to be the Mayor of the above the City of Lake Elmo, a Minnesota Statutory City, and he/she executed the foregoing instrument and acknowledged that he/she executed the same by authority of and on behalf of the City of Lake Elmo.


Notary Public




Drafted by:
Netzell Legal Services, PLLC
7900 International Dr., #300
Bloomington, MN 55425

**CONSENT
(Open Space Easement)**

PREMIER BANK, a Minnesota corporation, as mortgagee under that certain (i) \$2,100,000.00 Mortgage, Security Agreement, Fixture Financing Statement and Assignment of Leases and Rents from Robert Engstrom Companies, a Minnesota corporation, as mortgagor, to the undersigned, as mortgagee, dated June 30, 2014 and recorded in the Office of the County Recorder, Washington County, Minnesota on July 11, 2014 as Document No. 3993490; (ii) Financing Statement from Robert Engstrom Companies, a Minnesota corporation, as mortgagor, to the undersigned, dated June 30, 2014 and recorded in the Office of the County Recorder, Washington County, Minnesota on July 11, 2014 as Document No. 3993489, and (iii) \$4,569,000.00 Mortgage, Security Agreement, Fixture Financing Statement and Assignment of Leases and Rents from Robert Engstrom Companies, a Minnesota corporation, as mortgagor, to the undersigned, as mortgagee, dated May 5, 2015 and recorded in the Office of the County Recorder, Washington County, Minnesota on May 6, 2015 as Document No. 4024575 and recorded in the Office of the Registrar of Titles, Washington County, Minnesota on May 6, 2015 as Document No. 1233835, hereby consents to the Open Space Easement to which this Consent is attached (the "Open Space Easement"), and agrees that in the event of the foreclosure of any of said Mortgages, or other sale of the real estate covered by and pursuant to any of the above described Mortgages under judicial or non-judicial proceedings, the same shall be sold subject to the Open Space Easement, and to all terms, provisions, conditions, covenants and restrictions contained therein.


IN WITNESS WHEREOF, the undersigned has executed this Consent on this 1 day of OCTOBER, 2015.

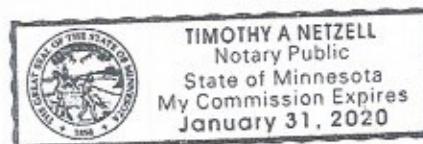
PREMIER BANK

By: 
Andrew Nath
Its: Executive Vice President

STATE OF MINNESOTA)
) ss.
COUNTY OF Ramsey)

The foregoing instrument was acknowledged before me this 1 day of OCTOBER, 2015 by Andrew Nath, the Executive Vice President of Premier Bank, a Minnesota corporation, on behalf of the corporation.





Notary Public

Receipt# 302724

EAS \$46.00
CRV Not Required
Exempt from Tax

Return to:
ASSURE TITLE
LLC/NETZELL LEGAL
SERVICES PLLC
7900 International Drive
#300
Bloomington MN 55425

4043701



Certified Filed and/or recorded on:

10/6/2015 12:00 PM

4043701

Office of the County Recorder
Washington County, Minnesota

Jennifer Wagenius, County Recorder
Kevin Corbid, Auditor Treasurer

Receipt# 302717

EAS \$46.00
MEM \$20.00
CRV Not Required
Exempt from Tax

Return to:
ASSURE TITLE LLC
NETZELL LEGAL SERVICES
PLLC
7900 International Drive
#300
Bloomington MN 55425

1236756



Certified Filed and/or recorded on:

10/6/2015 11:57 AM

1236756

Certificate # 73011 73012

Office of the Registrar of Titles
Washington County, Minnesota

Jennifer Wagenius, Registrar of Titles
Kevin Corbid, Auditor Treasurer

AMENDED AND RESTATED OPEN SPACE EASEMENT THE
FIELDS OF ST. CROIX 2ND ADDITION

**AMENDED AND RESTATED OPEN SPACE EASEMENT
THE FIELDS OF ST. CROIX
2ND ADDITION**

THIS AMENDED AND RESTATED OPEN SPACE EASEMENT is entered into this 21st DAY OF July, 2015 by and between Robert Engstrom Companies, a Minnesota Corporation, ("Owner"), The Fields of St. Croix Community Association, a Minnesota Non-Profit Corporation, ("Association"), and the City of Lake Elmo, a Minnesota statutory city (the "City") (hereinafter collectively referred to as the "Parties").

WITNESSETH

1. This Amended and Restated Open Space Easement amends and restates those certain Open Space Easements filed with the Washington County Recorder as Document Numbers 3094199 and 3298378 and the Washington County Registrar of Titles as Document Number 1089200.
2. Owner and Association are the fee owners of the following described Real Property located in Washington County, Minnesota (the "Protected Land").
A A A A A A A
Outlots A, D, F, I, J, K, and M, , all in The Fields of St. Croix 2nd Addition;
Outlot C, Bluestem at the Fields of St. Croix, and Outlots H, I and J, Wildflower at Lake Elmo 1st Addition A T T
3. The Protected Land is primarily farmland, woodland and open space as defined in the Comprehensive Use Plan and Open Space Preservation District Regulations (both herein "City Development Regulations").
4. The natural, scenic and agricultural qualities, and the forested and open space character ("Conservation Values") of the Protected Land are described in the City's Development File for The Fields of St. Croix 2nd Addition ("Development File"). The City intends to use the description of the Protected Property as contained in the City's Development File for monitoring the subsequent uses of the Protected Land and enforcing the terms of this Amended and Restated Open Space Easement. Notwithstanding this intent, the Parties may use other relevant evidence to establish the present condition of the Protected Land in the event of a disagreement as to whether a subsequent activity or use is inconsistent with the terms of this Amended and Restated Open Space Easement.
5. Owner and Association intend to convey to the City the right to preserve and protect the Conservation Values of the Protected Land in perpetuity and to prevent or remedy subsequent activities or uses that are inconsistent with the terms of this Amended and Restated Open Space Easement.

6. The grant of this Amended and Restated Open Space Easement will further the purpose and intent of the City's Development Regulations.
7. The parties acknowledge that as a Local unit of government, the City has a direct interest in the enforcement of the terms of this Open Space Easement and that the City is in a position to monitor compliance with the terms of this Amended and Restated Open Space Easement.

NOW, THEREFORE, in consideration of their mutual covenants and pursuant to the provisions of the City's Development Regulations, Owner and Association convey and warrant to the City and the City accepts a perpetual open space easement on the Protected Land of the character and to the extent set forth herein.

1. Intent. The parties intend to permanently retain the Protected Land in its predominantly natural, scenic, agricultural, forested, and open space condition and to prevent or remedy any subsequent activity or use that significantly impairs or interferes with the Conservation Values of the Protected Land. Owner and Association intend to restrict all subsequent use of the Protected Land to activities consistent with the terms of this Amended and Restated Open Space Easement.
2. City's Rights. To accomplish the parties' intent, Owner and Association convey the following rights to the City as specified below:
 - a. The City shall preserve and protect the Conservation Values of the Protected Land, pursuant to the terms of this Amended and Restated Open Space Easement.
 - b. The City may enter the Protected Land at reasonable times to monitor subsequent activities and uses and to enforce the terms of this Amended and Restated Open Space Easement. The City shall give reasonable notice to Owner and Association of all such entries and shall not unreasonably interfere with Association's and Owner's use and quiet enjoyment of the Protected Land.
 - c. The City may act, pursuant to Paragraph 19, to prevent or remedy all, subsequent activities and uses of the Protected Land not consistent with the terms of this Amended and Restated Open Space Easement.
 - d. Own, maintain and operate a storm water management facility located on Outlot J, Wildflower at Lake Elmo 1st Addition.
 - e. Allow public use of the pathways constructed on Outlot J, Wildflower at Lake Elmo 1st Addition.
3. Prohibited Uses. Owner and Association shall not perform or knowingly allow others to perform acts on the Protected Land that would significantly impair or interfere with the Conservation Values of the Protected Land. This general restriction is not limited by the more specific restrictions set forth in Paragraphs 4

through 14 hereof. The Parties acknowledge that the present use of the Protected Land is consistent with the terms of this Amended and Restated Open Space Easement and the City's Development Regulations. The Owner and Association may, subject to the restrictions set forth in Paragraphs 4 through 14 hereof, continue making such use of the Protected Land.

4. Residential, Commercial & Industrial Use. Owner and Association shall not subdivide all or part of the Protected Lands for residential, commercial or industrial development. Owner and Association shall not subdivide, either legally or physically, the Protected Land for any other reason without each other's prior written approval. Owner and Association shall not engage in commercial or industrial activities on the Protected Land, other than the activities relating to agricultural operations as set forth in Paragraph 7. Owner and Association shall not engage in the exploration or extraction of soil, sand, gravel, rock minerals, hydrocarbons or any other natural resource on or from the Protected Land. Owner and Association shall not grant rights of way on the Protected Land in conjunction with commercial or industrial activities, or residential development, or any other purpose inconsistent with the Conservation Values, on Lands other than the Protected Land, except for access to adjacent parcels owned by Owner and Association.
5. Construction. Owner and Association shall not construct or install additional buildings or improvements of any kind including, without limitation, fences, driveways, parking lots, and roads, on the Protected Land, except as specified herein. Owner and Association may maintain, repair, and replace existing roads but shall not widen them unless doing so lessens the environmental impact of the road on the Protected Land and Owner and Association have obtained each other's, and the City's, prior written approval. Owner and Association may maintain, renovate, expand or replace existing agricultural and related buildings or improvements in substantially their present Location. Any expansion or replacement of an existing building or improvement shall not substantially alter its character or function, and shall not exceed its current square footage, without the prior written approval of all of the Parties to this Agreement.
6. Utility Systems. Owner and Association may maintain, repair, and replace utility systems in place as of the date of this Amended and Restated Open Space Easement on the Protected Land including, without limitation, water, sewer, power, fuel, and communications lines and related Facilities. Owner and Association shall not install new utility systems or extensions or expansions of existing utility systems on the Protected Land including, without limitation, water, sewer, power, fuel, and communications lines and related facilities, without each other's prior approval. Owner and Association may install, maintain, and replace irrigation systems used on the Protected Land. Owner and Association may install sewage systems on or under the Protected Land which comply with all existing federal, state and local regulations regarding water quality and other environmental concerns, and which do not disrupt other activities permitted under the terms of this Amended and Restated Open Space Easement. Owner may grant City such easement rights as the city deems necessary for the installation of any

future utility systems and lines over Outlot H, Wildflower at Lake Elmo 1st Addition.

7. Agricultural Use. Owner and Association may conduct agriculture operations, except livestock operations, on the Protected Land provided that such use is in compliance with the City's Development Regulations and with each other's prior written approval.
8. Surface Alteration. Owner and Association shall not alter the surface of the Protected Land including, without limitation, the filling, excavation, or removal of soil, sand, gravel, rocks, or other material. Notwithstanding the forgoing, surface alteration on Outlots I and J, Wildflower at Lake Elmo 1st Addition, may be conducted as may be reasonably required in the course of activities or uses permitted under the terms of this Amended and Restated Open Space Easement or as reasonably required during the initial development of the adjacent property (being the real property platted as "Wildflower at Lake Elmo 1st Addition") owned by Owner or Association. Such initial development period shall expire no later than the 30th day of September, 2016.
9. Soil and Water Degradation. Owner and Association shall not engage in activities or uses that cause or are likely to cause soil degradation, erosion, or water pollution, either on the surface or underground, except for activities or uses reasonably required in the course of agricultural operations permitted by Paragraph 7.
10. Waste Removal. Owner and Association shall not dump or dispose of refuse or other waste material on the Protected Land although, subject to applicable laws and regulations, Owner and Association may dispose of brush and other plant material from the Protected Land by burning or composting if such material results from agricultural operations permitted by Paragraph 7 or other activities or uses permitted by this Amended and Restated Open Space Easement. Subject to the applicable laws and regulations, Owner and Association may store and make use of agricultural products and by-products including, without limitation, crops, silage, fertilizers, Lime, and manure on the Protected Land if such material results from or is to be used in agricultural operations permitted by Paragraph 7.
11. Water Bodies and Courses. Owner and Association shall not alter existing bodies of water or water courses or construct new bodies of water or water courses on the Protected Land except as reasonably required for the activities or uses permitted by the terms of this Amended and Restated Open Space Easement or to enhance wildlife habitat or water quality.
12. Trees, Shrubs, and Vegetation. Owner and Association shall not remove, destroy, cut, mow, or alter trees, shrubs, and other vegetation except (i) for areas immediately adjacent to buildings or improvements permitted by Paragraph 5, (ii) as reasonably required for agricultural operations permitted by Paragraph 7, (iii) to prevent or control insects, noxious weeds, diseases, fire, personal injury, or property damage, (iv) for firewood or construction material intended for

residential use on the protected Land or adjacent land (v) as reasonably required to construct and maintain the trails permitted in Paragraph 13, (vi) selective cutting for harvest pursuant to sound forest management practices, and (vii) for other activities or uses permitted by the terms of this Amended and Restated Open Space Easement, including surface alteration permitted by Paragraph 8

13. Recreational Uses. Owner and Association may establish and maintain trails for fire breaks, walking, horseback riding, cross-country skiing, and other non-motorized recreational activities on or across the Protected Land. Owner and Association shall not use or allow others to use motorcycles, all-terrain vehicles, or other motorized vehicles on the Protected Land except as reasonably required for other activities or uses permitted by the terms of this Amended and Restated Open Space Easement.
14. Signs. Owner and Association shall not erect or install any signs or billboards on the Protected Land without consent of the City.
15. City's Approval. The Owner and Association may not change the use of the Protected Land as described in the City's Development file without prior written approval of the City so that the City may determine if the proposed change is consistent with this Amended and Restated Open Space Easement and maintains or enhances the Conservation Values of the Protected Land. Owner and Association shall submit a request in writing to the City at least ninety (90) days prior to the proposed date of commencement of the use in question. The request shall set out the use for which approval is sought, its design and location, the impact of the proposed use on the Conservation Values of the Protected Land, and other material information in sufficient detail to allow the City to make an informed judgment that the proposed use is or is not consistent with this Amended and Restated Open Space Easement or would adversely affect the Conservation Values of the Protected Land. The City shall notify Owner and Association in writing of its decision within sixty (60) days of its receipt of Owner or Association's request. Where the proposed use or modification of use requires a development permit or other approval from the City pursuant to the City's Development Regulations, the Owner and Association shall follow the process described in such regulations and the City shall notify the Owner and Association of its decision within sixty (60) days of receipt of a completed application from the Owner and Association. The City may withhold its approval only on a reasonable determination that the proposed use would be inconsistent with this Amended and Restated Open Space Easement, impairs the Conservation Values of the Protected Land, results in violation of any law or regulation or that it lacks information in sufficient detail to reach an informed judgment that the proposed use is or is not consistent with this Amended and Restated Open Space Easement. The City may condition its approval on the Owner or Association's acceptance of modifications which, in the City's judgment, would make the proposed use, as modified consistent with this Amended and Restated Open Space Easement or protects the Conservation values of the Protected Land.

16. **Public Access.** No right of access by the public to any portion of the Protected Land is conveyed by this Amended and Restated Open Space Easement, except that the public shall have access to the trails to be constructed over Outlot J, Wildflower at Lake Elmo 1st Addition..
17. **Reserved Rights.** Owner and Association reserve all rights accruing from their ownership of the Protected Land including, without limitation, the right to engage in or allow others to engage in all activities or uses of the Protected Land that are not prohibited or limited by this Amended and Restated Open Space Easement or the City's Development Regulations, the right to exclude all or any of the public from the Protected Land and to sell or transfer all or part of the Protected Land subject to this Amended and Restated Open Space Easement. Owner and Association shall inform all others who exercise any right by or through it on the Protected Land of the terms of this Amended and Restated Open Space Easement. Owner and Association shall incorporate by reference the terms of this Amended and Restated Open Space Easement in all deeds or other legal instruments by which they transfer any interest, including a leasehold interest, in all or part of the Protected Land. Owner and Association shall give sixty (60) days prior written notification to the City of a transfer of all or any part of fee title to the Protected Land.
18. **Costs and Liabilities.** Owner and Association retain all obligations and shall bear all costs and liabilities of any kind accruing from their ownership of the Protected Land including the following responsibilities:
- a. Owner and Association shall remain solely responsible for the operations, upkeep, and maintenance of the Protected Land. Owner and Association shall keep the Protected Land free of all liens arising out of work performed for, materials furnished to, or obligations incurred by Owner and Association.
 - b. Owner and Association shall pay all taxes, special assessments and other assessments levied against the Protected Land.
 - c. Owner and Association shall remain solely responsible for maintaining liability insurance for their uses of the Protected Land. Liability insurance policies maintained by the Owner and Association covering the Protected Land will name the City as an additional named insured. Owner and Association shall hold harmless, indemnify, and defend the City from and against all liabilities, penalties, costs, Losses, damages, expenses, causes of action, claims, demands or judgments, including, without limitation, reasonable attorney's fees, arising out of or relating to (i) personal injury, data or property damage resulting from an act, omission, or condition on or about the Protected Land, unless due solely to the negligence or willful act of the City, (ii) the obligations retained by Owner and Association to maintain the Protected Land and pay taxes in Paragraphs 18(A) and (B) , and (iii) the existence of this Amended and Restated Open Space Easement.

19. **Enforcement.** If the City finds at any time that Owner and/or Association have breached or may breach the terms of this Amended and Restated Open Space Easement, the City may give written notice of the breach to Owner and Association and demand action to cure the breach including, without limitation, restoration of the Protected Land. If Owner and Association do not cure the breach within thirty (30) days of notice, the City may commence an action to (i) enforce the terms of this Amended and Restated Open Space Easement (ii) enjoin the breach, ex parte if needed, either temporarily or permanently, (iii) recover damages, (iv) require restoration of the Protected Land to its condition prior to Owner and/or Association's breach, and (v) pursue any other remedies available to it is law or equity. If the City determines that immediate action is needed to prevent or mitigate significant damage to the Protected Land, the City may pursue its remedies under this Paragraph without written notice or giving Owner and Association time to cure the breach
20. **Costs of Enforcement.** If the City prevails in an action brought under Paragraph 19, Owner and/or Association shall reimburse the City for all costs incurred by the City in enforcing the terms of this Amended and Restated Open Space Easement including, without limitation, costs of suit, reasonable attorney's fees, and costs of restoration. If Owner and/or Association prevails and the District Court finds that the City brought the action without reasonable cause or in bad faith, the City, as determined by the Court, shall reimburse Owner and/or Association's costs of defense including, without limitation, costs of suit and reasonable attorney's fees.
21. **Waiver.** The enforcement of the terms of this Amended and Restated Open Space Easement is subject to the City's discretion. A decision by the City not to exercise its respective rights of enforcement in the event of a breach of a term of this Amended and Restated Open Space Easement shall not constitute a waiver by the City of such term, or of any subsequent breach of the same or any other term, or any of the City's rights under this Amended and Restated Open Space Easement. The delay or omission by the City to discover a breach by Owner or Association or to exercise a right of enforcement as to such breach shall not impair or waive its rights of enforcement against Owner or Association.
22. **Acts Beyond Owner and Association's Control.** The City shall not exercise its respective rights of enforcement against Owner and Association for injury or alteration to the Protected Land resulting from causes beyond the reasonable control of Owner and Association including, without limitation, fire, flood, storm, and earth movement, or from any prudent action taken by Owner or Association under emergency conditions to prevent, abate, or mitigate significant injury or alteration to the Protected Land resulting from such causes.
23. **Extinguishment.** If, in the judgment of the City, subsequent unexpected changes in the conditions surrounding the Protected Land make it impossible to preserve and protect the Conservation Values of the Protected Land, this Amended and Restated Open Space Easement can be extinguished, either in full or in part, by proceedings in a court having jurisdiction. The City agrees that it will not

commence proceedings in such court to extinguish this Amended and Restated Open Space Easement without providing notice of the City's intent to the Owner and the Association under Section 25 (Notices) at least 120 days in advance thereof.

24. Assignment of Easement. The City may transfer its rights and obligations in this Amended and Restated Open Space Easement only to a qualified conservation organization, as provided in Section 170 (h) of the Internal Revenue Code, which may hold Open Space Easements, as provided in Minnesota Statutes Sect. 84C.01(2) (1992). As a condition of such transfer, the City shall require the continued enforcement of this Amended and Restated Open Space Easement unless the Amended and Restated Open Space Easement has been extinguished.
25. Notices. Any notice or other communication that either party wishes to or must give to the other shall be in writing and either served personally or sent by first class mail, postage prepaid, to the following addresses or such other address as any party shall designate by written notice to the others:

OWNER:

Robert Engstrom Companies
4801 West 81st Street Suite 101
Minneapolis, MN-55437

CITY:

City of Lake Elmo
3800 Laverne Avenue North
Lake Elmo, MN 55042
ATTN: City Administrator

ASSOCIATION:

The Fields of St. Croix Community Association
PO Box 56
Lake Elmo, MN 55042

26. Governing Law and Construction. This Amended and Restated Open Space Easement shall be governed by the laws of the Minnesota. Nothing contained in this Amended and Restated Open Space Easement shall be construed to allow any use or development of the Protected Land in a manner which is not in compliance with the City's Development Regulations or to allow the use or development of the Protected Land without obtaining all permits required by the City's Development Regulations. Where inconsistencies occur between the provisions of state law, city regulations, or the terms of this Amended and Restated Open Space Easement, the most restrictive regulation shall apply.
27. Entire Agreement. This Amended and Restated Open Space Easement sets forth the entire agreement of the parties and supersedes all prior discussions.

28. Amendment. The parties may amend this Amended and Restated Open Space Easement provided that such amendment shall not impair or threaten the Conservation Values of the Protected Land and shall not affect the perpetual duration of this Amended and Restated Open Space Easement. Any purported amendment to this Agreement shall be in writing and shall be executed by all of the Parties hereto.
29. Binding Effect. The covenants, terms, conditions, and restrictions of this Amended and Restated Open Space Easement shall bind and inure to the benefit of the parties, their personal representatives, heirs, successors, assigns, and all others who exercise any right by or through them and shall run in perpetuity with the Protected Land. Notwithstanding anything to the contrary contained herein, the rights and obligations of the Owner and Association shall relate solely to the property which is owned by the Owner and Association. The Association shall have no obligations with regard to Owner's property and the Owner shall have no obligation with regard to Association's property.

[Signature pages follow]

OWNER:

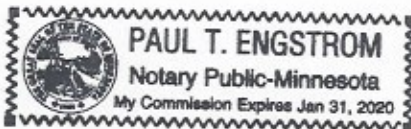
Robert Engstrom Companies, a Minnesota Corporation

By: Robert E. Engstrom
Its: President

STATE OF MINNESOTA)
)ss.
COUNTY OF Hennepin)

On this 21st day of July, 2015, before me a, notary public within and for said county, personally appeared Robert E. Engstrom, to me known to be the President of the above described corporation, and he executed the foregoing instrument and acknowledged that he executed the same by authority of and on behalf of Robert Engstrom Companies.

Notary Public



ASSOCIATION:

The Fields of St. Croix Community Association, Minnesota non Profit Corporation

By:

John W. Hodler

Its:

John W Hodler
President

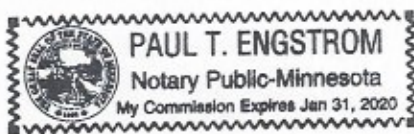
STATE OF MINNESOTA)

)ss.

COUNTY OF Hennepin)

On this 21ST day of JULY, 2015, before me a, notary public within and for said county, personally appeared JOHN HODLER, to me known to be the PRESIDENT of the above described non-profit corporation, and he executed the foregoing instrument and acknowledged that he executed the same by authority of and on behalf of The Fields of St. Croix Community Association.

Notary Public



Drafted by:
Netzell Legal Services, PLLC
7900 International Dr.
Suite 300
Bloomington, MN 55425

CITY:

City Of Lake Elmo, A Minnesota statutory city

By: _____

Its: _____

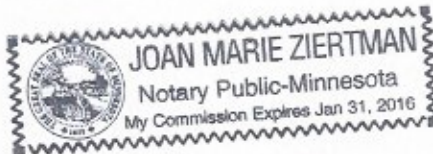
STATE OF MINNESOTA)

)ss.

COUNTY OF Washington)

On this 16th day of September, 2015, before me a, notary public within and for said county, personally appeared Mike Pearson, to me known to be the Mayor of the above described Minnesota statutory city, and he executed the foregoing instrument and acknowledged that he executed the same by authority of and on behalf of the City of Lake Elmo.

Notary Public




**CONSENT TO AMENDED AND RESTATED OPEN SPACE EASEMENT
THE FIELDS OF ST. CROIX 2ND ADDITION**

PREMIER BANK, a Minnesota corporation, as mortgagee under that certain (i) \$2,100,000.00 Mortgage, Security Agreement, Fixture Financing Statement and Assignment of Leases and Rents from Robert Engstrom Companies, a Minnesota corporation, as mortgagor, to the undersigned, as mortgagee, dated June 30, 2014 and recorded in the Office of the County Recorder, Washington County, Minnesota on July 11, 2014 as Document No. 3993489; (ii) UCC-1 Financing Statement naming Robert Engstrom Companies, a Minnesota corporation, as debtor, and the undersigned, as secured party, recorded in the Office of the County Recorder, Washington County, Minnesota on July 11, 2014 as Document No. 3993490, and (iii) \$4,569,000.00 Mortgage, Security Agreement, Fixture Financing Statement and Assignment of Leases and Rents from Robert Engstrom Companies, a Minnesota corporation, as mortgagor, to the undersigned, as mortgagee, dated May 5, 2015 and recorded in the Office of the County Recorder, Washington County, Minnesota on May 6, 2015 as Document No. 4024575 and recorded in the Office of the Registrar of Titles, Washington County, Minnesota on May 6, 2015 as Document No. 1233835, hereby consents to the recording of the attached Amended and Restated Open Space Easement (the "Amended and Restated Open Space Easement"), and agrees that in the event of the foreclosure of any of said Mortgages, or other sale of the real estate covered by and pursuant to any of the above described Mortgages under judicial or non-judicial proceedings, the same shall be sold subject to this Amended and Restated Open Space Easement, and to all terms, provisions, conditions, covenants and restrictions contained therein.

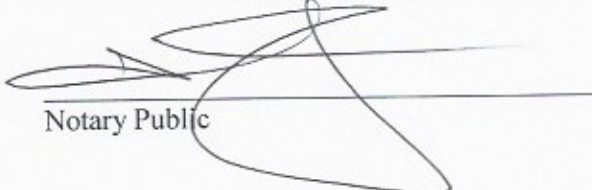
IN WITNESS WHEREOF, the undersigned has executed this Consent on this 1 day of OCTOBER, 2015.

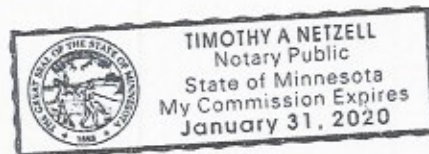
PREMIER BANK

By: 
Andrew D. Nath
Its: Executive Vice President

STATE OF MINNESOTA)
COUNTY OF Ramsey) ss.

The foregoing instrument was acknowledged before me this 1 day of OCTOBER, 2015 by Andrew D. Nath, the Executive Vice President of Premier Bank, a Minnesota corporation, on behalf of the corporation.


Notary Public





Certified Filed and/or recorded on:

10/8/2015 12:00 PM

4043704

Office of the County Recorder
Washington County, MinnesotaJennifer Wagenius, County Recorder
Kevin Corbid, Auditor/TreasurerReturn to:
ASSURE TITLE
LLC/NETZELL LEGAL
SERVICES PLLC
7900 International Drive
#300
Bloomington MN 55425

EASEMENT AGREEMENT

This **Easement Agreement** ("Agreement") is entered into this 29 day of SEPTEMBER, 2015, by and between Robert Engstrom Companies, a Minnesota corporation (hereinafter "REC") and Richard R. Smith, a single person (hereinafter "Smith").

RECITALS

WHEREAS, REC is the fee owner of certain real property located in Washington County, Minnesota, legally described as Outlot O, Wildflower at Lake Elmo 1st Addition (the "REC Property"); and

WHEREAS, Smith is the fee owner of that certain real property legally described as shown on the attached Exhibit "A", (the "Smith Property"); and

WHEREAS, REC desires to grant to Smith an easement for ingress and egress purposes, as more fully described in this Agreement; and

NOW THEREFORE, in consideration of all good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Smith and REC agree as follows:

- 1. Grant of Ingress and Egress Easement to Smith.** REC hereby grants to Smith, his successors and assigns, as an easement appurtenant to the Smith Property, a perpetual, non-exclusive easement for the purposes of ingress and egress, including but not limited to vehicular access, over and across that portion of the REC property described in the attached Exhibit "B" and depicted on the attached Exhibit "C" (the "Access Easement"). Smith, for himself and his successors and assigns, accepts the grant of the Access Easement, subject to all matters of record and existing facilities and structures within the Access Easement area, if any, as of the date of this Agreement.
- 2. Improvements.** REC shall construct a bituminous surfaced driveway, within the Access Easement area, for the benefit of Smith (the "Improvements"), which shall connect to the easement over Outlot G. All costs and expenses incurred in the construction of the Improvements shall be borne by REC.

3. **Maintenance of Access Easement.** All maintenance obligations and costs thereof, including but not limited to maintenance and repairs of the Improvements, shall be the responsibility of Smith.
4. **Reservation of Rights.** REC reserves the right, to itself and to its successors and assigns, to have the full use and enjoyment of the Access Easement area, subject to the rights and obligations of Smith. Each party shall have the full right to access and use the Access Easement area, and shall not impair or inhibit the use and enjoyment of the Access Easement area by the other party.
5. **Indemnification.** Smith agrees to indemnify, defend and hold REC harmless from any and all losses or damage to property, or injury to or death of any and all persons, or from any suits, claims, liability or demand in connection therewith resulting directly or indirectly by reason of Smith's exercise of any of his rights or use of the Access Easement, unless the same is caused by the negligence or willful act of REC. REC agrees to indemnify, defend and hold Smith harmless from any and all losses or damage to property, or injury to or death of any and all persons, or from any suits, claims, liability or demand in connection therewith resulting directly or indirectly by reason of REC's exercise of any of its rights or use of Access Easement, unless the same is caused by the negligence or willful act of Smith.
6. **Term.** Notwithstanding anything to the contrary contained herein, this Agreement shall automatically expire, and be of no force or effect, upon the recording of the plat of Wildflower at Lake Elmo 2nd Addition, which includes the dedication of public right of ways and easements, as approved by the City of Lake Elmo, which shall connect to the easement over Outlot G. Said plat shall be deemed recorded upon assignment of a document number to the plat by the office of the Washington County Recorder and/or Washington County Registrar of Titles. Upon improvement of the roadway REC shall connect the bituminous surfaced driveway to the dedicated roadway. At such time as the roadway is improved work shall be performed in such a manner that Smith shall at all times have access to his property by conventional automobile.
7. **Ratification of Recitals.** REC and Smith ratify and affirm as a material part hereof, the RECITALS set forth in the opening paragraphs of this Agreement and represent and warrant to the other that the RECITALS are in all respects true and correct.
8. **Smith and REC further agree as follows:**
 - a. All of the easements, covenants, agreements, benefits and burdens set forth in this Agreement are intended to and shall be construed as covenants running with the land, binding upon, and inuring to the benefit of and enforceable by the parties hereto and their respective successors and assigns. Upon any party's conveyance of all of its interest in its respective parcel (or any portion thereof), the transferring party shall be relieved of any further liability (as to the parcel transferred), arising under this Agreement on or after the date of said transfer and such transferee shall be deemed to have assumed all obligations of the transferor hereunder.

- b. This Agreement shall be effective upon full execution of this Agreement by all parties hereto and recording with the Washington County Recorder's office. This Agreement may be terminated by a written instrument signed by all of the then owners of the Smith Property and the REC Property. Any purported attempt to terminate this Agreement in any other manner shall be null and void.
- c. This Agreement shall be governed and construed in accordance with the laws of the State of Minnesota.
- d. No agreement or amendment shall be effective to add to, change, modify, waive or discharge this Agreement in whole or in part, unless such agreement or amendment is in writing and signed by all parties bound hereby, and recorded with the Washington County Recorder's office.
- e. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision.
- f. Nothing contained herein will be deemed to be a gift or dedication of any portion of the Smith Property or the REC Property to the general public, or for the general public, or for any public purpose whatsoever, it being the intention of the parties that this Agreement will be strictly limited to Smith and REC and the respective successors and assigns of each for the purposes expressed herein.
- g. The paragraph captions of this Agreement are inserted for convenience and reference only and shall not be deemed to define, limit or construe the provision hereof.
- h. To induce each other to enter into this Agreement, REC and Smith each represent and warrant to each other that (i) they are duly authorized and empowered to enter into this Agreement and to perform fully their respective obligations hereunder; and (ii) such obligations constitute the valid and binding obligations of such party, enforceable in accordance with their terms.
- i. Nothing in this Agreement creates or shall be deemed to create a relationship of partnership, joint venture or association between Smith and REC.

IN WITNESS WHEREOF, Smith and REC have executed this Agreement on the date first above written.

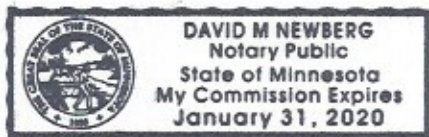

Richard R. Smith

Robert Engstrom Companies


Robert E. Engstrom
Its President

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this 5th day of October, 2015, by Richard R. Smith, a single person.




Notary Public

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by Robert E. Engstrom, the President of Robert Engstrom Companies, a Minnesota corporation, on behalf of the corporation.

Notary Public

This Instrument was drafted by:

Robert Engstrom Companies

Robert E. Engstrom
Its President

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this 29 day of September, 2015, by Richard R. Smith, a single person.

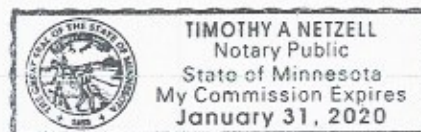
Notary Public

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this 29 day of September, 2015, by Robert E. Engstrom, the President of Robert Engstrom Companies, a Minnesota corporation, on behalf of the corporation.

[Signature]
Notary Public

This Instrument was drafted by:
Netzell Legal Services, LLC
7900 International Drive
Suite 300
Bloomington, MN 55425



**CONSENT TO EASEMENT AGREEMENT
WILDFLOWER AT LAKE ELMO 1ST ADDITION**

PREMIER BANK, a Minnesota corporation, as mortgagee under that certain (i) \$2,100,000.00 Mortgage, Security Agreement, Fixture Financing Statement and Assignment of Leases and Rents from Robert Engstrom Companies, a Minnesota corporation, as mortgagor, to the undersigned, as mortgagee, dated June 30, 2014 and recorded in the Office of the County Recorder, Washington County, Minnesota on July 11, 2014 as Document No. 3993489; (ii) UCC-1 Financing Statement naming Robert Engstrom Companies, a Minnesota corporation, as debtor, and the undersigned, as secured party, recorded in the Office of the County Recorder, Washington County, Minnesota on July 11, 2014 as Document No. 3993490, and (iii) \$4,569,000.00 Mortgage, Security Agreement, Fixture Financing Statement and Assignment of Leases and Rents from Robert Engstrom Companies, a Minnesota corporation, as mortgagor, to the undersigned, as mortgagee, dated May 5, 2015 and recorded in the Office of the County Recorder, Washington County, Minnesota on May 6, 2015 as Document No. 4024575 and recorded in the Office of the Registrar of Titles, Washington County, Minnesota on May 6, 2015 as Document No. 1233835, hereby consents to the Easement Agreement to which this Consent is attached (the "Easement Agreement"), and agrees that in the event of the foreclosure of any of said Mortgages, or other sale of the real estate covered by and pursuant to any of the above described Mortgages under judicial or non-judicial proceedings, the same shall be sold subject to the Easement Agreement, and to all terms, provisions, conditions, covenants and restrictions contained therein.

IN WITNESS WHEREOF, the undersigned has executed this Consent on this 1 day of OCTOBER, 2015.

PREMIER BANK

By: _____

Andrew D. Nath

Its: Executive Vice President

STATE OF MINNESOTA)

COUNTY OF RANSBY) ss.

The foregoing instrument was acknowledged before me this 1 day of OCTOBER, 2015 by Andrew D. Nath, the Executive Vice President of Premier Bank, a Minnesota corporation, on behalf of the corporation.

Notary Public

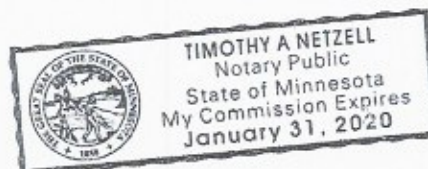


EXHIBIT "A"
SMITH PROPERTY

X All that part of the Northeast 1/4 of the Southwest 1/4 of Sec. 12, Twp. 29, Range 21, Washington County, Minnesota, described as follows: Beginning at the center of said Sec. 12; thence due South along the East line of said Northeast 1/4 of Southwest 1/4 a distance of 1240.5 feet, thence at right angles due West a distance of 200 feet; thence N. 55 degrees 00' West a distance of 270 feet; thence due North a distance of 617 feet; thence at right angles due East a distance of 147 feet; thence at right angles due North a distance of 466 feet more or less to the North line of said Northeast 1/4 of Southwest 1/4; thence Easterly along the North line of said Northeast 1/4 of Southwest 1/4 a distance of 274.17 feet the place of beginning.

EXHIBIT "B"
ACCESS EASEMENT

That portion of Outlot O, Wildflower at Lake Elmo 1st Addition described as follows:

A 60.00 foot wide easement for roadway purposes lying over, under and across Outlot O, WILDFLOWER AT LAKE ELMO 1ST ADDITION, according to the recorded plat thereof, Washington County, Minnesota, the northerly line of said easement is described as follows: Beginning at the most northerly corner of said Outlot O; thence southeasterly along said northerly line a distance of 100.37 feet along a curve concave to the southwest, having a radius of 430.00 feet, a central angle of 13 degrees 22 minutes 26 seconds and a chord bearing of South 68 degrees 51 minutes 09 seconds East (for the purposes of this description the east line of Lot 9, Block 1 of said WILDFLOWER AT LAKE ELMO 1 ST ADDITION has an assumed bearing of North 00 degrees 15 minutes 02 seconds West); thence South 62 degrees 09 minutes 56 seconds East along said northerly line tangent to said curve, a distance of 49.61 feet; thence southeasterly along said northerly line a distance of 102.41 feet along a tangential curve concave to the southwest, having a radius of 280.00 feet, a central angle of 20 degrees 57 minutes 18 seconds, and there terminating.

EXHIBIT "C"
DEPICTION OF ACCESS EASEMENT

