

DECLARATION OF WELL AND WATER EASEMENT

This Declaration is made this ____ day of _____, 2021, by Clark Development LLC, a Minnesota limited liability company, hereinafter "Declarant."

WHEREAS, Declarant is the fee owner of the following described property located in Olmsted County, Minnesota, to-wit:

Lots 1 through 7, Block 1, Mayo Woodlands Third, collectively the "Lots" and each individually a "Lot"; and

WHEREAS, Declarant proposes to drill a well and pumping system (the "Well") on Lot 2, Block 1, Mayo Woodlands Third, to provide water to the Lots.

NOW, THEREFORE, in order to insure the proper use and supply of water for the Lots, Declarant hereby imposes and subjects the Lots to the following conditions, reservations, covenants, easements and restrictions:

1. Grant of Easements. Declarant hereby grants, bargains, sells and conveys to the record owners of the fee interest in the Lots, or in the case of a Lot which has been sold on a Contract for Deed, the vendee, (each an "Owner"), their heirs, successors and assigns, a perpetual right to use the Well to obtain water therefrom for household uses and other ordinary residential

uses on said Lots, together with a perpetual easement over, across and under said Lots for the construction, operation, maintenance, repair and replacement of the Well and waterlines from the Well to each of the Lots. The easements granted herein shall be over and across that portion of each Lot described on Exhibit A and depicted in Exhibit B attached hereto as the "Well Easement Area" and the "Waterline Easement Area," respectively. In the event any Owner desires to use the Well for other than residential purposes, including the maintenance of a swimming pool and the like, it shall be necessary to obtain the permission of the Owners of the other Lots.

2. Declarant's Obligations. Declarant shall construct the Well and waterlines from the Well to each of the Lots.

3. Owners' Obligations. The Owner of each Lot shall be responsible for the initial cost of constructing and installing waterlines, including a corporate stop (shutoff valve), from his/her Lot line to any improvements constructed on such Lot. Thereafter, to the extent any waterlines and other related appurtenances benefit the Owner of one Lot only, the Owner of such Lot shall maintain and repair the same at his/her sole expense, and to the extent such waterlines and other related appurtenances benefit more than one Lot, the Owners of the benefited Lots shall maintain and repair the same as their joint pro rata equal expense.

4. Operation, Maintenance, Repair and Replacement of the Well. The cost of operating, maintaining, repairing and replacing the Well shall be borne equally by the Owners, their heirs, successors and assigns, from the time said owner connects to the system. The electricity for the operation of the Well shall be centrally metered, and the Owner of each Lot shall be responsible for paying a pro rata share of the charge for electricity. To determine the pro rata share of each Lot for the charge for electricity, each Lot's consumption of water from the Well shall be

separately metered. To that end, each Owner (other than the Declarant) shall be responsible for installing a meter to measure water consumption on their Lot at the time that a Dwelling is constructed on the Lot. A Lot's monthly pro rata share of the charge of electricity to operate the Well shall be equal to such Lot's pro rata share of Well water consumed by all the Lots served by the Well each month. Each Owner shall pay his/her pro rata share of the cost of operating, maintaining, repairing and replacing the Well within 30 days after notice of cost and, if any Owner shall fail to pay his/her pro rata share of such cost within that time, it shall constitute a lien against his/her Lot and shall bear interest from the date due at the maximum provided by law. The other Owners, or any one of them, may bring an action at law against an Owner failing to pay his/her pro rata share of such cost to pay the same or foreclose the lien against the property pursuant to the statutes of the State of Minnesota relating to mortgage foreclosures by action. In the event that a majority of the Lot Owners using the Well elect to assign the responsibility for reading water meters and for calculating and collecting the charges associated with operating, maintaining, repairing and replacing the Well to the Association, the Association shall accept such assignment and upon doing so shall be entitled to: (a) assess a reasonable fee for its services against all the Lots served by the Well; and (b) pursue all the remedies for collection of Well and water charges described in this Section 4.

5. Termination of Declaration. In the event that the Well runs dry or is condemned and the use thereof prohibited by the proper authorities, this Declaration shall be null and void unless each Owner shall pay his/her pro rata share of the cost of a new well and pumping system in which case this Declaration shall remain in full force and effect and shall apply to such new well and pumping system.

6. Rights of Successors and Duration. The easements, covenants, restrictions, and

provisions of this Declaration:

- (a) are made for the direct benefit of the respective Lots and are appurtenant thereto;
- (b) create an equitable servitude upon the respective Lots;
- (c) constitute covenants running with the land;
- (d) shall bind every person or entity having any fee, leasehold or other interest in or encumbrance on any Lot at any time; and
- (e) shall continue in full force and effect perpetually.

7. Modification. No amendment, change or addition to this Declaration shall be effective unless in writing signed by the respective owners of each Lot.

8. Waiver. No waiver of any breach of the easements, rights, obligations, covenants or provisions herein shall be construed or constitute a waiver of any breach, or waiver or consent to further or succeeding breaches of the same or any other provision hereof.

9. Construction. This Declaration shall be construed and enforced in accordance with the laws of the State of Minnesota.

10. Headings. The headings herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope or intent of this document nor in any way affect the terms and provisions hereof.

IN WITNESS WHEREOF, Declarant has caused this Declaration to be executed the day and year first above written.

CLARK DEVELOPMENT LLC

By _____
Edward D. Clark
Its Manager

EXHIBIT A
WELL SYSTEM A
(Lots 1, 2, 3, 4, 5, 6, and 7, Block 1)

Well Easement Description

The Southerly 60 feet of the Easterly 50 feet of Lot 2, Block 1, MAYO WOODLANDS THIRD, Olmsted County, Minnesota.

Water Line Easement Descriptions

That part of Lot 1, Block 1, MAYO WOODLANDS THIRD, Olmsted County, Minnesota, lying within a distance of 5.00 feet to the left and 5.00 feet to the right of the following described centerline:

Commencing at the southeast corner of said Lot 1; thence North 86 degrees 47 minutes 01 second West, assumed bearing, along the south line of said Lot 1, a distance of 26.85 feet for the point of beginning of the centerline to be described; thence North 06 degrees 01 minute 31 seconds East, 8.56 feet; thence northwesterly 31.47 feet along a nontangential curve, concave northeasterly, central angle of 04 degrees 30 minutes 13 seconds, radius of 400.34 feet and a chord which bears North 31 degrees 50 minutes 31 seconds West, 31.46 feet and there terminating.

ALSO

That part of Lot 2, Block 1, MAYO WOODLANDS THIRD, Olmsted County, Minnesota, lying within a distance of 5.00 feet to the left and 5.00 feet to the right of the following described centerline:

Commencing at the northeast corner of said Lot 2; thence North 86 degrees 47 minutes 01 second West, assumed bearing, along the north line of said Lot 2, a distance of 26.85 feet for the point of beginning of the centerline to be described; thence South 06 degrees 01 minute 31 seconds West, 6.36 feet and there terminating.

ALSO

The Northwesterly 10 feet of the Southeasterly 20 feet of Lot 2, Block 1, MAYO WOODLANDS THIRD, Olmsted County, Minnesota.

ALSO

The South 10 feet of the East 10 feet of Lot 2, Block 1, MAYO WOODLANDS THIRD, Olmsted County, Minnesota.

ALSO

The Westerly 10 feet of the Easterly 20 feet of Lot 3, Block 1, MAYO WOODLANDS THIRD, Olmsted County, Minnesota.

ALSO

The Southwesterly 10 feet of the Northeasterly 20 feet of Lot 4, Block 1, MAYO WOODLANDS THIRD, Olmsted County, Minnesota.

ALSO

The Westerly 10 feet of the Southerly 10 feet of the Northerly 20 feet of Lot 5, Block 1, MAYO WOODLANDS THIRD, Olmsted County, Minnesota.

ALSO

The Northerly 10 feet of the Easterly 10 feet of the Westerly 20 feet of Lot 6, Block 1, MAYO WOODLANDS THIRD, Olmsted County, Minnesota.

ALSO

That part of Lot 7, Block 1, MAYO WOODLANDS THIRD, Olmsted County, Minnesota, lying within a distance of 5.00 feet to the left and 5.00 feet to the right of the following described centerline:

Commencing at the southwest corner of said Lot 7; thence South 78 degrees 18 minutes 20 seconds East, assumed bearing, along the southerly line of said Lot 7, a distance of 15.10 feet for the point of beginning of the centerline to be described; thence North 05 degrees 02 minutes 03 seconds East, 46.72 feet; thence northerly 22.51 feet along a tangential curve, concave easterly, central angle of 04 degrees 57 minutes 37 seconds, and a radius of 260.00 feet; thence North 80 degrees 00 minutes 20 seconds West, not tangent to said curve, 15.00 feet to the westerly line of said Lot 7 and there terminating. The sidelines of said easement are to be prolonged or shortened to terminate on said westerly line.

EXHIBIT B



