

Return to:

Katy Rehan
Smith Pauley LLP
3555 Farnam Street, Suite 1000
Omaha, NE 68131

**Declaration of Covenants, Conditions, Restrictions,
and Easements of Commercial Lots 1, 2, and 44 through 49
of the Still Water Lake Development,
located in Douglas County, Nebraska**

This Declaration of Covenants, Conditions, Restrictions, and Easements of the Still Water Lake Development, Lots 1, 2, and 44 through 49, located in Douglas County, Nebraska (the "Declaration") is made by Still Water Lake, LLC, a Nebraska limited liability company (the "Declarant").

PRELIMINARY STATEMENT

The Declarant is the current "Owner" of that certain real property, to generally be known as the Still Water Lake Development (the "Commercial Lots"), located within Douglas County, Nebraska and described as follows:

See Exhibit A attached hereto and incorporated herein.

This Development is, or will be, divided into commercial lots as identified in the final plat(s), filed from time to time, and certain other adjacent parcels which intend to become part of the Development. A copy of the first and second addition final plats is attached hereto as Exhibit B and is incorporated herein (the "Plats"). Subject to the restrictions herein, the Development and property subject to these Declarations, may be expanded, reduced or otherwise modified in size by the Declarant from time to time under such terms and conditions established by the Declarant, without consent or approval of any other Owner or Lot Owner. Such expansion(s) may be affected from time to time by Declarant's recordation with the Register of Deeds of Douglas County, Nebraska, an amended Declaration of Covenants, Conditions, Restrictions and Easements or other similar agreement, executed and acknowledged, setting forth the identity of the additional commercial lots and detailing such changes or modifications to this Declaration (hereinafter the "Subsequent Phase Declaration"). Upon the recording of any Subsequent Phase Declaration which

expands the commercial lots included in the Development, the additional lots identified in the Subsequent Phase Declaration shall, unless otherwise provided in the Subsequent Phase Declaration, be considered to be and shall be included in the "Lots" for purposes of this Declaration. In the event of any conflict between this Declaration, and any Subsequent Phase Declaration, the terms and conditions of the Subsequent Phase Declaration shall control. It is recognized that the Declarant's efforts to expand the size of the lake and common areas is a benefit to all existing and future Lot Owners. Any Lot Owner, other than the Declarant, wishing to alter, modify, or otherwise divide lot boundaries must obtain the prior written approval of the Declarant.

The Owners hereby declare that each Lot shall be held, sold, distributed, and conveyed subject to the following covenants, conditions, restrictions, and easements (collectively, the "Covenants" or the "Declaration"), all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Lots, and the enjoyment of the residents of the Lots. These Covenants shall run with such Lots and shall be binding upon all parties having or acquiring any title or interest in each Lot, or any part thereof. For purposes of this Declaration, the term "Owner" of a Lot means and refers to the record Owner, whether one or more persons or entities, of fee simple title to a Lot, but excluding however those parties having any interest any of such Lots merely as a lessee or as security for the performance of an obligation (such as a contract seller, the trustee or beneficiary of a deed of trust or a mortgagee). Each Lot shall be subject to all of the following conditions set forth in the Mixed Used Development Agreement with Declarant and the City of Valley (the "Development Agreement"), a copy of which is attached hereto as Exhibit C and incorporated herein by this reference. In the event of a conflict between this Agreement and the Development Agreement, the Development Agreement shall control. Additionally, each Lot shall be subject to all of the following conditions and other terms as stated herein and as may be adopted in the future by the Declarant as allowed herein:

DEFINITIONS

1. **"Building Site"** shall mean and include any area of a Lot upon which a building, buildings or other structures are constructed or erected.
2. **"Commercial Lots"** shall mean all Commercial Lots, inclusive, as an addition to the city of Valley, Douglas County, Nebraska, as surveyed, platted and recorded.
3. **"Declarant"** shall mean Still Water Lake, LLC.
4. **"Design Documents"** shall mean all site plans, renderings, and designs required to be submitted to Declarant prior to the development of any Lot by an Owner.
5. **"Development Agreement"** shall mean the Still Water Lake, Lots 44-49 & Outlot C Mixed Use Development Agreement, approved by the City of Valley under Resolution No. 2023-40 on August 15, 2023, by and between the City of Valley and Still Water Lake LLC.
6. **"Lots" or "Lot"** shall mean any or all of Commercial Lots, as an addition to the city of Valley, Douglas County, Nebraska, as surveyed, platted and recorded.

7. **"Owner"** shall mean any individual, partnership, joint venture, corporation, trust, unincorporated association, limited liability company; governmental agency or other business entity now or hereafter holder of record ownership interest in fee in a portion or all of a Commercial Lot in the Still Water Lake Development.
8. **"Period of Declarant Control"** shall commence with the recording of this Declaration and shall continue for ten (10) years or for as long as Declarant owns at least ten (10%) percent of the Lots in the Still Water Lake Development, unless and until Declarant elects, in its discretion, to transfer, relinquish and/or surrender all of its rights and obligations in this Declaration.
9. **"Person"** shall mean and refer to a natural person, corporation, partnership, limited liability company, trust, or any other legal entity.
10. **"Site Improvement"** shall mean any building, parking, landscaping, signage, fencing or other regulated structure.

1. DEVELOPMENT, ARCHITECTURAL, AND LANDSCAPE CONTROL FOR COMMERCIAL LOTS

1.1. **Declarant Regulation of Design.** In addition to the requirements set forth in the Development Agreement, the Declarant shall establish reasonable rules, regulations, restrictions, architectural standards and design guidelines with respect to the exterior (but not the interior) of all Site Improvements on the Lots to support and promote design conformity and uphold the integrity of the Commercial Lots through quality planning and construction. The Declarant may, from time to time, in its sole and absolute discretion, amend, repeal or augment such rules, regulations, restrictions; architectural standards and design guidelines including, without limitation, requirements for construction design and installation of any Site Improvements; the regulation of all landscaping (including, without limitation, absolute prohibition of certain types of landscaping, trees and plants); and regulation of all construction, reconstruction, exterior additions, changes or alterations to, or maintenance of any building or other Site Improvement, including, without limitation, the exterior nature, kind, shape, height, material, color, surface texture and location thereof.

1.2. Architectural and Landscape Review.

1.2.1. **Standards of Review.** Building construction shall conform to the Development Agreement, to all applicable building codes and zoning regulations of the City of Valley and/or any other governmental entity having jurisdiction. All proposed plans and specifications shall be submitted to the Declarant for compliance with these Protective Covenants and conformance to the aesthetic and functional intent of the Commercial Lots. The Declarant shall have the right, in its sole and absolute

discretion, to refuse to approve any plans and specifications which are not suitable or desirable for aesthetic or other reasons.

- 1.2.2. **Design Submission.** Prior to starting excavation, fill, grading or other alteration of the topography or drainage of any Lot, the Owner shall submit the required Design Documents to Declarant for review and approval. No building improvements, landscaping, grading or drainage work shall be commenced, erected or placed on the premises without prior written approval of the Design Documents by the Declarant. Design Documents shall include the following: A site plan showing existing and proposed grades; storm drainage; all proposed Site Improvements; landscaping and building plans showing exterior elevations and exterior finish materials; signage plans; and such other plans or specifications required by the Declarant. All Design Documents shall be prepared by registered professional architects and engineers within their specific disciplines.

Submission of Design Documents shall be by e-mail. Electronic submission of the Design Documents shall be accepted only with the consent of Declarant and confirmation of receipt of the Design Documents by Declarant.

The Declarant shall issue approval or disapproval of the Design Documents within ten (10) calendar days.

- 1.2.3. **Design Review.** In reviewing all Design Documents, Declarant shall take into consideration the suitability of the proposed building or other Site Improvement in light of Declarant's developmental plans for the Lots; the harmony of external design and location in relation to surrounding structures and topography; the effect of the Site Improvement(s) as planned on the outlook from any other Lot(s) and the adjacent public ways.

The Lot Owner must pay a \$1,500 Lot Design Review Fee and a \$1,500 Cleanup Deposit to the Declarant prior to commencing the design review. The Lot Owner will also be required to pay a utility Facility Fee: \$3,300 per Acre on a Commercial lot at closing on all initial Lot purchases to the Declarant.

Declarant may, with respect to any building or other Site Improvement or an alteration of an existing building or other Site Improvement on a Lot, require reasonable evidence of financial ability (such as a construction loan commitment or completion bond) to complete the building or other Site Improvement or the alteration thereof in compliance with all requirements provided for in this Declaration.

2. CONSTRUCTION GUIDELINES

- 2.1. **Type of Construction.** Building systems and components shall reflect those systems and components commonly associated with commercial construction. Structural systems shall be comprised of structural steel (conventional and pre-engineered systems) or concrete components. Exterior wall systems shall be comprised of a combination of glass, brick masonry, decorative concrete masonry units, precast concrete wall systems, prefinished metal wall panels, plaster and synthetic plaster materials. It is encouraged to utilize materials requiring minimal maintenance and upkeep. Materials other than those mentioned above may be submitted for approval.

The exterior architecture shall utilize 50 percent on the front of the building and 25 percent on the sides of the building in glass, masonry and concrete, or combination thereof. This architecture shall be a consistent composition of building materials on all exterior elevations.

Site lighting shall be accomplished by the use of Gardco Form Ten Arm mount square fixtures on a square pole with natural anodized aluminum color, or similar design approved by Declarant

- 2.2. **Construction Restrictions.** No excavation, fill, grading or other alteration of the topography or drainage of any Lot shall be commenced and no building or other Site Improvement of whatever type other than improvements or alterations to the interior of an existing Building Site shall be constructed, erected or maintained upon any Lot, nor shall there be any addition or change to the exterior appearance or any Building Site or other Site Improvement, including, without limitation, the color (other than repainting with the same color of paint as previously existed) of exterior walls, entryways, overhangs, parapets, atriums and fences, except in compliance with Design Documents therefor, **which have been submitted to and approved in writing by the Declarant as set forth herein.** No changes or deviations in or from such plans and specifications contained in the Design Documents, once approved, shall be made without the prior written approval of the Declarant.

No loading dock shall be erected on any Building Site abutting any streets, unless the front of such loading platform or dock shall be set back at least sixty-five feet (65') from all abutting street right-of-way lines.

Once a Lot is improved, Owner shall maintain all improvements and landscaping in a first-class manner.

- 2.3. **Building Setbacks, Side Yard, Height and Use.** The applicable zoning regulations shall govern the height, side yard, rear yard and building setback requirements and also the permitted use of the premises except that no part of the premises may be used for residential purposes; however, the minimum side and rear yard setback will be twenty-five feet (25') from the respective Lot line and the minimum building set-back will be

thirty-five feet (35') from abutting streets and no structure will exceed forty-five feet (45') in height. Where two buildings abut a rear lot line, it is a five foot (5') setback per lot.

Every use shall be operated within a completely enclosed structure, and no noxious or offensive activities shall be conducted which may become a nuisance to the occupants of other Building Sites within the Business Park by reason of sound, vibration, heat, glare, radiation, fumes, odor, dust or smoke. The permitted uses will be those applicable to City of Valley, Douglas County, Nebraska Zoning Ordinance as a Clustered/Mixed Use Development (CMD) as set forth in Exhibit D of the Development Agreement.

Each built upon Lot shall be either (a) planted and maintained in grass and shrubbery as a lawn area, or (b) shall be surfaced with walks, driveways, or parking area constructed of asphalt or concrete. Said Lot area must be fully improved with one of the above two choices or a combination of the two above choices within sixty (60) days after completion of the exterior of the building upon such Lot. All Lot areas that are not maintained as a lawn or surfaced with asphalt or concrete shall be enclosed by fencing approved by the Declarant.

- 2.4. **Building Envelope.** All buildings must have a minimum first floor square footage of at least 1,600 square feet.
- 2.5. **Grading/Landscaping.** The Developer shall have the exclusive right to establish grades and slopes for all Lots within the property and to fix the grade at which any building or other improvement shall be placed or constructed upon any Lot, in conformity with the general plan for the development of the property.

Grading and drainage shall be designed in accordance with the Final Plat plan and meet the City of Valley standards. The use of retaining walls is discouraged. Where required, retaining walls shall be poured concrete, a masonry retaining wall system such as Keystone or Versa-Lok. Graded slopes shall have a maximum slope of 3:1 and shall be landscaped to prevent erosion.

Landscaping shall meet the requirements of the City of Valley Zoning Ordinance for mixed use zoned areas. Landscaped areas shall be designed to project an attractive image with trees, shrubs, lawn, etc., and shall be properly maintained in a well-kept condition. Plant material that is diseased, destroyed, etc., shall be replaced with new plant material during the next planting season.

The landscape plan, including any proposed lawn space, must include \$1,000 worth of trees and shrubs and be submitted to the Declarant for approval. Minimum of one tree, 3" caliper, installed on front street side. Only lawn sod as opposed to natural seeding shall be permitted. Sod shall be installed on the front, side(s), and the rear of the building. Seeding is allowed on the first 20 feet from the Lake shoreline or a portion of the shoreline may be sand and native plant material (deep rooted water grasses) to minimize shoreline erosion. This will also help promote the growth of other aquatic plants at the water's edge which

will further minimize shoreline erosion. It will also provide habitat for other aquatic life. In order to protect the lake ecosystem, Lot Owners must use only non-phosphate fertilizers

- 2.6. Assignment of Declarant's Rights and Duties.** The applicable zoning regulations shall govern the height, side yard, rear yard and building setback requirements.

Any and all of the rights, powers and reservations of Declarant herein contained may be assigned by Declarant from time to time, in its sole discretion, any Person who will assume the duties of Declarant pertaining to the particular rights, powers, and reservations assigned.

Upon such assignment, any such Person assuming such duties (and its heirs, successors and assigns) shall have, to the extent of such assignment, the same rights and powers and shall be subject to the same obligations and duties as are given to and assumed by Declarant in this Declaration. Any assignment made under this Section shall be in recordable form and shall be recorded in the Office of the Register of Deeds of Douglas County, Nebraska.

Notwithstanding any provision of this Declaration to the contrary, Declarant may, at any time and from time to time without the consent of Owners, temporarily or permanently relieve itself of all or a portion of its rights and obligations under this Declaration by filing in the Register of Deeds of Douglas County, Nebraska, a notice stating that Declarant has surrendered the rights and obligations specified therein, to an identifiable Person, and upon the recording of such notice, said powers and obligations so specified shall immediately vest in said Person, temporarily, unless otherwise specified therein.

2.7. Exterior Materials/Design Style.

- 2.7.1. Masonry.** Unless a waiver is provided by the Declarant, the front façade of all buildings are required to be finished per City of Valley Design Standards. The masonry must be present on the front street side.
- 2.7.2. Stucco/EIFS.** Shall be permitted in combination with the minimum requirements for masonry.
- 2.7.3.** Cement Board Products, LP Smartside, or Real Wood Siding shall be permitted in combination with the minimum requirements for masonry and trim.
- 2.7.4.** Exterior LED lighting installed on any Lot shall either be indirect or of such a controlled focus and intensity as not to disturb other Lot owners or those using the lake at night. Each building shall have 12" Tall, appropriately downlighted street addresses displayed on the building's exterior.

2.7.5. **Windows/Doors.** Windows and doors must be of aluminum clad or vinyl construction. Windows are to be organized with regulating lines to form well-proportioned compositions.

2.7.6. **Roofs.** The roof of each building may incorporate a pitch as dictated by the style of the building, utilizing heavy composite asphalt (min. 30-year warranty), concrete, clay tile or galvalume metal standing seam. No exposed metal pipe chimneys allowed on outside of buildings.

2.7.7. **Garages & Accessory Buildings.** Garages and accessory buildings must be finished in materials of a similar quality and complementary to the building, as approved by the Declarant. Traditional Morton buildings or Tuff Shed's, for example, would not be approved.

2.8. **Use Restrictions.** Lots shall not be permitted to conduct retail petroleum sales in the Development.

2.9. **Other Provisions.**

2.9.1. **City Requirements.** All buildings within the Subdivision shall be constructed in conformity with the requirements of the applicable building codes of the City of Valley, Nebraska. Public 5' sidewalks shall be installed during the construction of the building as required by the City of Valley, Nebraska. Pursuant to the Development Agreement, all sidewalks, handicap accessible ramps, and crosswalks shall be designed and constructed in accordance with PROWAG. For reference, an external sidewalk system is shown in Exhibit B to the Development Agreement, attached hereto.

2.9.2. **Outside Storage and Exterior Maintenance.** Subject to the provisions of the Development Agreement, specifically, Section 3, no article of merchandise or other material shall be kept, stored, or displayed in front or outside the confines to the walled building unless it be enclosed by a wall or fence at least six feet (6') high, provided however that any storage area shall be shielded from the line-of-sight view of any street by either (a) concrete or masonry wall, or (b) earth berm, or (c) approved impervious fencing. Chain link fencing of any kind will not be permitted.

Each Owner, tenant or occupant of any Building Site shall keep said Building Site and the buildings, improvements and appurtenances thereon properly maintained and repaired and in a safe, clean, neat, wholesome condition, and shall comply in all respects with all governmental statutes, ordinances, regulations, health and police and fire requirements.

Each such Owner, tenant, or occupant shall remove, at its own expense, any rubbish or trash of any character which may accumulate on its Lot and shall keep landscaped areas maintained. Rubbish, trash, garbage or other waste shall be kept

only in sanitary containers. All equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition. Rubbish and trash shall not be disposed of on the premises by burning in open fires.

- 2.9.3. **Temporary Structures and Buildings.** No trailer, tent, shack, garage, barn or any temporary structure moved onto any Lot or erected thereon shall be used for temporary or permanent operation of the proposed occupant's business or permitted to remain on any Lot unless and until such structure and the duration of its use on the Lot has been approved in writing by the Declarant.
- 2.9.4. **Moving Existing Structures.** No building constructed in another area or addition may be moved onto or permitted to remain on any Lot in this Subdivision without prior written approval of Declarant.
- 2.9.5. **Parking Facilities.** All vehicular parking (customer, visitor, and employee), truck maneuvering and unloading must be on the Lot and in accordance with the Development Agreement and subject to the requirements of the Valley Zoning Ordinance Article 7 Parking Requirements.

All exterior lighting that is located on the building or in the parking areas will be directed to the Lot on which it is located.

In no case shall any storage, servicing or dismantling of automobiles or other vehicles be permitted in the parking areas or any area except in an enclosed structure out of public view.

- 2.9.6. **Signage.** No Owner, tenant or occupant shall use any part of the Lot(s) for erection of signs, billboards, or displays other than those directly advertising the business conducted on such Lot(s). Neither flashing lighted signs or lights on the signs which shine other than on the face of the sign will be permitted. Also, no signs will be permitted to be erected on the roofs of buildings or on the top of the facade of buildings. Written approval of the Declarant is required prior to the erection of any sign. If approved, all signs must be installed subject to a sign permit from the City of Valley and in accordance with the Development Agreement.

Other signage permitted to remain on any Lot is advertising a Lot as "For Sale," consisting of not more than three square feet.

- 2.9.7. **Maintenance of Undeveloped Areas.** That portion of each Lot (including parking) which is not improved by the construction of buildings, approved surfacing, enclosed yards or lawn area, or other Site Improvement as heretofore provided, shall be sodded, mowed and maintained with a cover planting which grows to a height not to exceed eighteen inches (18"). At no time shall any part of the land be planted to cultivated row crops.

- 2.9.8. **Street Line-of-Sight Obstructions.** No fence, wall, hedge, shrub, plant, or tree which obstructs sight lines at elevations between two feet (2') and eight feet (8') above any roadway shall be placed or permitted to remain on any corner of any Lot within the triangular area formed by Corner Lot lines adjacent to the streets forming the intersection and a line connecting them at points twenty-five feet (25') from the intersection of the street lines.
- 2.9.9. **Damage to roads by trucks and equipment used in construction is the responsibility of the Lot Owner.** To minimize damage to the road, we are requiring that all construction vehicles and equipment shall have a suitable staging area provided by each Lot Owner on the Lot Owner's property. Notwithstanding the foregoing, the Lot Owner shall indemnify and hold harmless the Declarant ("Indemnitee") for any and all damages to the Indemnitee's property, or for any costs or expenses caused by Lot Owner, the Lot Owner's contractors, agents, or others constructing the Lot Owner's building or for any construction-related activities commenced on the Lot Owner's behalf.
- 2.9.10. Fences will only be allowed in the back of lot and must be no more than 20' from the building envelope with a 4' entrance gate. Fence material must be wrought iron looking black aluminum. All fencing must conform to applicable City and County codes.
- 2.9.11. Each Lot Owner is responsible for all sediment and erosion control on their Lot. Material (dirt or sand) shall not be allowed to wash into the lake or street. Each Lot Owner shall direct all drainage on their Lot to the lake or street. Unless waived by the Declarant, all down spouts and other storm water collection points must be piped to the lake to minimize erosion via an at least 4-inch PVC or similar high quality non-corrugated smooth interior drainage pipe on each side of a Lot. Lot Owners are encouraged to work with neighboring lot to share drainage solutions on common lot lines and shall cooperate with neighboring lot owners in the event any repairs or other similar improvement efforts require reasonable access on boundary lines. Any proposed joint or shared draining solutions must still be approved by the Declarant prior to construction.
- 2.9.12. Repair of any boats, automobiles, motorcycles, trucks, trailers, or other vehicles between 8:00 p.m. and 6:00 a.m. shall be prohibited. Broken down vehicles, boats, etc., shall not be visibly stored, parked, or abandoned on any Lot.
- 2.9.13. No incinerator or trash burner shall be permitted on any Lot. No standard refuse totes, garbage or trash cans or similar containers shall be permitted in the front of the lot, except for pickup purposes. No garden, lawn, or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside of any building, except when in actual use. No garbage, refuse, rubbish, or cuttings shall be dumped on any street, road, Lot, outlot, or common area. All trash and refuse must be disposed in accordance with the rules and regulations of the Development,

including limiting use to any approved vendors of the Development. Non-approved vendors will not be permitted access to the Subdivision.

- 2.9.14. No stable or other shelter for any animal, livestock, fowl, or poultry shall be erected, altered, placed, or permitted to remain on any Lot. No dog runs or kennels may be constructed or installed on any Lot.
- 2.9.15. No invasive grasses, weeds, or other vegetation will be grown or otherwise permitted to commence or continue on any Lot so as to constitute an actual or potential public nuisance, create a hazard or undesirable proliferation, or detract from a neat and trim appearance. No dangerous, diseased, or otherwise objectionable shrubs or trees will be maintained on any Lot so as to constitute an actual or potential public nuisance, create a hazard or undesirable proliferation, or detract from a neat and trim appearance. Vacant Lots, outlots, and common areas shall not be used for dumping of earth or any waste materials, unless designated by Declarant, and invasive grasses, weeds, or similar vegetation must be controlled on vacant Lots and shall not be allowed to reach a height in excess of twelve (12) inches.
- 2.9.16. No structure of a temporary character, carport, trailer, or outbuilding shall be erected upon or used on any Lot at any time, either temporarily or permanently. A temporary job trailer will be allowed during construction of the Lot Owner's building.
- 2.9.17. All Commercial Lot Owners will not be allowed to utilize the lake. Use of the lake and common facilities by the Commercial Lot Owners and their guests, agents, or invitees, is not permitted.
- 2.9.18. All Owners and any other person or entity using or entering the Subdivision shall be responsible for taking reasonable steps to ensure the safety of all Members and guests. Any condition or obstruction within the Subdivision that may pose a risk of safety to the Owners or their guests shall be reported to Declarant immediately. Furthermore, each Owner shall take reasonable steps to warn or otherwise abate the condition or obstruction until the Declarant has had time to address the situation.
- 2.9.19. No grading or excavating equipment, tractors or semi-tractors/trailers shall be stored, parked, kept, or maintained in any yards, driveways, or streets. However, this shall not apply to trucks, tractors, or commercial vehicles that are necessary for the construction of buildings or other Improvements during the period of construction.
- 2.9.20. Each Lot Owner is required to carry a \$1 Million Umbrella Liability Policy, naming the Declarant, Hampton Development Services, Inc., and each entities respective officers and directors as additional insureds.

- 2.9.21. No buildings or Lot shall be rented or leased for any consideration whatsoever to any other person, firm, or corporation for a period of less than one (1) year. Additionally, no lot shall be sub-divided or otherwise modified without prior, written approval from the Declarant, which shall be determined in its sole discretion.
- 2.9.22. In order to keep a stable ecosystem in the lake, do not dump bait or introduce any foreign fish such as minnows into the lake, heat pump discharge into the lake is permitted. Special attention must be made not to bring Zebra Mussels into the Lake.
- 2.9.23. In the event of a fire emergency, Lot Owners will allow the fire department access to the lake via their property.
- 2.9.24. **Failure to Maintain.** In addition to any other remedy available to the Declarant, in the event any Owner of a Lot fails or refuses to perform any required maintenance or upkeep of any landscape screen or general maintenance obligations, the Declarant after seven (7) days' notice to the Owner in default, may perform the required work or maintenance. The actual cost of performing the work or maintenance together with a 15 percent (15%) administration fee shall be the personal obligation of the Owner who is or was the Owner of such Lot at the time of such failure to maintain, and shall bear interest at the rate of 14 percent (14%) per annum and a lien may be assessed on the Lot.
- 2.9.25. **Damage.** If all or any portion of a building is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner, with all due diligence, to rebuild, repair, or reconstruct such building in a manner which will substantially restore it to its appearance and condition immediately prior to the casualty. Reconstruction shall be undertaken within two (2) months after the damage occurs unless prevented by causes beyond the control of the Owner.
- 2.9.26. **Solar Panels.** No solar panels shall be allowed unless the panels are located and mounted flat against the roof.
- 2.9.27. **Antennas:** No satellite dish, wiring or antennas for electrical power, telephone, television, radio or similar purpose shall be permitted above ground, except where such wiring, antenna or satellite dish is enclosed within a structure.

3. PROPERTY RIGHTS

- 3.1. The Express Representation that neither Declarant, nor any other party including but not limited to Hampton Development Services, Inc., Robert D. Hampton, or any division or affiliate thereof, makes no express or implied warranty and each of them expressly disclaims warranties of any kind that any mining or industrial activities, the construction of the water areas, or placement of stripping dirt and fine sand in or on the Property is suitable for the construction of buildings or other improvements or for any other use whatsoever including but not limited to recreational use or that the Property meets or complies with any federal, state, or local regulation, statute, ordinance, or guideline regarding the use of any portion of the Property. Owners expressly release and shall hold Declarant, Hampton Development Services, Inc., Robert D. Hampton, and any division or affiliate of each of them, including any successor and assign of each of them, harmless from any and all claims, actions, judgments, liability and costs arising or of any use or development or attempted use or development of the Property by any person. The hold harmless obligations provided for in this paragraph shall also include an obligation to hold harmless from any and all claims, actions, suits, and costs incurred by Declarant, Hampton Development Services, Inc., Robert D. Hampton, or any division or affiliate or successor of any of them, for any claim, assertion, suit, or action relating to or in any way attendant to personal injuries or damages, arising from or related in any way to any activities permitted as a result of the easements or access granted by these Covenants.

4. EASEMENTS

- 4.1. A perpetual license and easement is hereby reserved to erect and operate, maintain, repair, and renew buried or underground sanitary sewers, storm sewers, roads and common driveways, water and gas mains and cables, lines or conduits and other electric current for light, heat, and power; for all telephone, telegraph, and message services; for the transmission of signals and sounds of all kinds, including signals provided by a cable television system; and for the reception on, over, through, under, and across land abutting boundary lines of the Lots, as platted and recorded.
- 4.2. **Access Easements.** A nonexclusive easement in, to, over and across the Common Areas for vehicular and pedestrian ingress and egress.
- 4.3. **Term of Easements.** The easements set forth herein shall continue in favor of the respective grantees in perpetuity. By taking title subject to this Declaration, each subsequent Owner shall be deemed to have joined in the grant of the easements set forth herein.
- 4.4. **Construction Easements.** Declarant shall have the right to grant nonexclusive easements over any portion of the Common Areas or other portions of the property owned

by Declarant for the purpose of storing materials and performing any work to the extent reasonably necessary to permit the construction, maintenance, repair, replacement, restoration or reconstruction of any and all improvements on the Common Area or other portions of the property, subject to such reasonable limitations imposed by Declarant on the exercise of such easement rights.

- 4.5. **Shoreline Easements.** A 20' easement will exist along all shorelines and will be maintained by the HOA. All shore walls installed by the Lot Owner must be maintained by the Lot Owner.
- 4.6. **Common Utility Lines.** When any utility line shall be constructed on two or more adjoining Lots with the property, each Owner who is the titleholder of one of the adjoining Lots shall have an easement for the maintenance, repair, and replacement of the utility line upon all of the adjoining Lots, which easement shall be appurtenant to the Lot. Any expense of maintenance, repair, or replacement of the utility line shall be borne equally by the Owners of the adjoining Lots. The provisions of this Article 4 shall not operate to relieve any Owner from any liability which such Owner may incur by reason of negligent or willful acts or omissions resulting in damage to the utility line.
- 4.7. **Reservation of Utility Easements.** Declarant hereby reserves for its own use and benefit, and for the use and benefit of each Owner, perpetual easements for the location, installation and maintenance of utilities of convenience or necessity as may be requested or required by Declarant, or by an Owner with the prior written approval of Declarant during the Period of Declarant Control. However, any such easement cannot be imposed against any Lot area on which a building has been constructed or has been approved for construction by Declarant.

Upon approval of an easement area, the benefited Owner, or Declarant during the Period of Declarant Control, whichever is applicable, shall have the right at all reasonable times to enter upon the Lot covered by said easements and to install, maintain, repair, replace, and service utilities thereon as approved by Declarant; provided, however, that any such Owner shall comply with any requirements imposed by Declarant, as a condition to its approval, and shall promptly restore said Lot and any Site Improvements, at said Owner's expense, in a good and workmanlike manner and free of liens to substantially the same condition as existed prior to such entry.

The Owner of any Lot shall have the right to assign the benefit and use of any such easement to any electric company, gas company, telephone company, flood control district, or other utility company for the purpose of installing, operating and maintaining utilities and enforcing the current easement rights. For the purpose hereof, "utilities" or "utility" shall include electricity, gas mains and lines, water distribution lines, storm water sewers, sanitary sewers, cable television lines and cables, telephone lines and cables, and other similar or related facilities commonly regarded as utilities.

No utility easement shall (i) unreasonably interfere with the operation and use of any Lot; (ii) no permanent building, structures, trees or other improvements (excluding improvements typically found in common areas of similar developments, such as surface parking and drive-lanes) shall be placed over or encroach upon such installations; (iii) relocation of such installations shall be allowed where the work will be at the requesting Owner's sole cost and expense, utility services will not be unreasonably interrupted, and the relocation affecting any Lot or utility services thereto shall be performed with the prior written consent of the Owner of such affected Lot; (iv) once commenced, time is of the essence, and any construction shall be diligently prosecuted to completion to minimize any interference with the business at a parcel; (v) except in an emergency, the right of entry upon a Lot of another Owner, or to prosecute work if the same interferes with utility or other easements, shall be conducted in a manner to minimize interference with the business at any such Lot; (vi) no monetary obligation shall be imposed upon the other Owner, and the Owner undertaking such work shall with due diligence repair at its sole cost any damage caused by such work and restore the affected portion of the Lot; (vii) the Owner undertaking such work shall pay all costs associated therewith and shall indemnify the other Owners from all damages attributable to such work.

No conveyance by Declarant of any Lot, or any interest therein, shall be deemed to be or construed as a conveyance or release of the easements herein reserved. Notwithstanding the foregoing, Declarant reserves the right unto itself, by express language to such effect from time to time in any deed or other recorded instrument, to release any Lot or portions thereof from any of the above reserved easements.

5. GENERAL PROVISIONS

- 5.1. **Duration.** These Covenants and restrictions contained in this declaration shall be binding upon and inure to the benefit of the Owners of the Lots subject to these Covenants, and their respective heirs, representatives, successors and assigns, for a period of twenty (20) years from the date hereof, after which time they shall be automatically extended for successive periods of ten (10) years each unless an instrument executed by seventy percent (70%) of the then Owners execute the appropriate documentation terminating these Covenants and files the same prior to the commencement of such successive ten (10) year period.

If the parties hereto, or any of them, or their heirs, successors or assigns shall violate any of the Covenants, conditions or restrictions herein, it shall be lawful for the Declarant or Owners owning any Lot covered by these Covenants, to prosecute any proceedings at law or inequity against the persons violating or attempting to violate any such Covenant, condition or restriction, either prevent him or them from so doing or to recover damages and other dues for such violations for both.

- 5.2. **Amendments and Terms.** These Covenants may be amended at any time during the initial twenty (20) year term by an instrument signed by Owners of not less than ninety

percent (90%) of the Lots subject to these Covenants, and thereafter by an instrument signed by the Owners of not less than eighty percent (80%) of the Lots covered by the Covenants. The Declarant shall have the right to amend these Covenants in its sole discretion during the initial ten (10) year term of these Covenants, and thereafter, the Declarant shall have the right to amend these Covenants or waive provisions of these Covenants for good cause, hardship, unusual circumstances, or as special situations may warrant.

- 5.3. **Waiver of Default.** No waiver of any default by any Owner or Declarant will be implied from the failure by any Owner or Declarant to take any action in respect of such default. No express waiver of any default will affect any default or extend any period of time for performance other than as specified in such express waiver. One or more waivers of any default in the performance of any provision of this Declaration will not be deemed a waiver of any subsequent default in the performance of the same provision or any other provision. The consent to or approval of any act or request by any Owner or Declarant will not be deemed to waive or render unnecessary the consent to or approval of any subsequent similar act or request. The rights and remedies provided by this Declaration are cumulative and no right or remedy will be exclusive of any other, or of any other right or remedy at law or in equity which any Owner or Declarant might otherwise have by virtue of a default under this Declaration; and the exercise of any right or remedy by any Owner or Declarant will not impair such Owner's or Declarant's standing to exercise any other right or remedy.
- 5.4. **Severability.** If any paragraph or part thereof of this instrument shall be invalid, illegal or inoperative for any reason, the remaining parts so far as possible and reasonable shall be effective and fully operative.
- 5.5. **Governing Law.** This Declaration shall be construed in accordance with the laws of the State of Nebraska.
- 5.6. **Captions.** The captions of the paragraphs of this Declaration are for convenience only and are not intended to affect the interpretation or construction of the provisions herein contained.
- 5.7. **Time.** Except as otherwise provided in this Declaration, time is of the essence.
- 5.8. **Merger.** This Declaration and the easements and rights created herein shall not be subject to the doctrine of Merger.
- 5.9. **Binding Effect.** The provisions of this Declaration shall be binding on the Declarant and the Owners and their respective successors, assigns, heirs, personal representatives, mortgagees, and beneficiaries under deeds of trust. If Owners, tenants, or other occupants of any said Lots, or their grantees, heirs, or assigns shall violate or attempt to violate any of these Covenants, it shall be lawful for any other Owner owning any part of said real estate to prosecute any proceedings at law or in equity against the person or persons violating, or attempting to violate, any such


Covenant and either to prevent him or them from so doing or to recover damages or other dues for such violation.

- 5.10. Except for the authority and powers specifically granted to the Declarant, the Declarant or any Owner of a Lot named herein shall have the right to enforce by any proceeding at law or in equity, all covenants, conditions, restrictions, and easements now or hereinafter imposed by the provisions of this Declaration either to prevent or restrain any violation or to recover dues or damages for such violation.
- 5.11. FAILURE BY THE DECLARANT OR BY ANY OWNER TO ENFORCE ANY COVENANT, CONDITION, RESTRICTION, OR EASEMENT HEREIN CONTAINED SHALL IN NO EVENT BE DEEMED A WAIVER OF THE RIGHT TO DO SO THEREAFTER.
- 5.12. THE COVENANTS, CONDITIONS, RESTRICTIONS, AND EASEMENTS OF THIS DECLARATION SHALL RUN WITH AND BIND THE LAND IN PERPETUITY. THIS DECLARATION MAY BE AMENDED BY DECLARANT IN ANY MANNER WHICH IT MAY DETERMINE TO BE NECESSARY IN ITS FULL AND ABSOLUTE DISCRETION FOR ANY REASON FOR FIVE (5) YEARS FROM FILING OF THIS DECLARATION, AND THEREAFTER THE DECLARANT SHALL HAVE THE RIGHT TO AMEND UNTIL ALL LOTS HAVE BEEN SOLD AND THE DECLARANT FILES A STATEMENT EXPRESSING DECLARANT'S ELECTION TO RELINQUISH ALL RIGHTS AS THE DECLARANT, OR FOR A PERIOD OF TWENTY (20) YEARS FROM THE DATE HEREOF, WHICHEVER FIRST OCCURS (THE PERIOD OF "DECLARANT CONTROL"). FOR PURPOSES OF THIS PARAGRAPH, ALL "LOTS SOLD BY DECLARANT" SHALL NOT INCLUDE LOTS SOLD TO CONTRACTORS FOR FUTURE CONSTRUCTION OF BUILDINGS. THEREAFTER THIS DECLARATION MAY BE AMENDED BY AN INSTRUMENT SIGNED BY THE OWNERS OF NOT LESS THAN SEVENTY-FIVE (75) PERCENT OF THE LOTS COVERED BY THIS DECLARATION.
- 5.13. Still Water Lake, LLC, its successors, or assigns shall have the right to transfer status as Declarant to a successor or assign. Still Water Lake, LLC, its successors, or assigns may terminate its status as Declarant under this Declaration, at any time, by filing a Notice of Termination of Status as Declarant.
- 5.14. All affiliates and divisions of the Declarant, Hampton Development Services, Inc., and Robert D. Hampton are intended to be third party beneficiaries of these Covenants and all references to the Declarant shall include the affiliates and divisions of Declarant, or Hampton Development Services, Inc. and each of them as if each was the same party.
- 5.15. INVALIDATION OF ANY COVENANT, CONDITION, RESTRICTION, OR EASEMENT SHALL IN NO WAY AFFECT ANY OF THE OTHER PROVISIONS HEREOF, WHICH SHALL REMAIN IN FULL FORCE AND EFFECT.

5.16. Not Public Dedication. Nothing herein contained shall be deemed to be a gift or dedication of any portion of the Property to the general public or for the general public or for any public purpose whatsoever, it being the intention of the Developer that this Declaration shall be strictly limited to and for the purposes herein expressed.

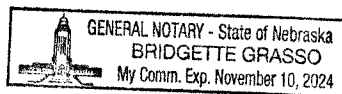
IN WITNESS WHEREOF, the Declarant has caused these presents to be executed this 25 day of JANUARY, 2024.

STILL WATER LAKE, LLC,
a Nebraska limited liability company, Declarant

By: 
Robert D. Hampton, Manager

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

On this 25th day of January, 2024, before me, the undersigned, a Notary Public in and for the State of Nebraska, personally appeared Robert D. Hampton as Manager of Still Water Lake, LLC, to me personally known, who being by me duly sworn, executed the foregoing instrument.



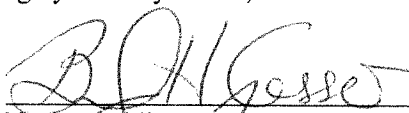

Notary Public

EXHIBIT "A"

THAT PART OF THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP 16 NORTH,
RANGE 10 EAST OF THE 6TH P.M., DOUGLAS COUNTY, NEBRASKA, DESCRIBED AS
FOLLOWS:

Exhibit “B”
PLATS

Exhibit "C"

Mixed Use Development Agreement with Still Water Lake LLC and the City of Valley

RESOLUTION NO. 2023-40

WHEREAS, the City of Valley, Nebraska, proposes to enter into a Mixed Use Development Agreement with Still Water Lake LLC; and

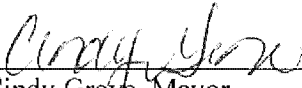
WHEREAS, proposed Mixed Use Development Agreement with Still Water Lake LLC, has been submitted; and


WHEREAS, the Valley City Council met in regular session on August 15, 2023 and reviewed said agreement.

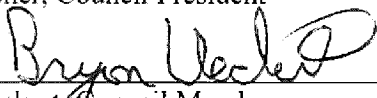
NOW, THEREFORE, BE IT RESOLVED, that the Valley City Council authorizes Mayor Cindy Grove to execute the Mixed Use Development Agreement with Still Water Lake LLC, on behalf of the City of Valley, copies of which are marked Exhibits "A" and attached hereto and made a part hereof by reference.

DATED this 15th day of August, 2023.

CITY OF VALLEY,
DOUGLAS COUNTY, NEBRASKA


Cindy Grove, Mayor

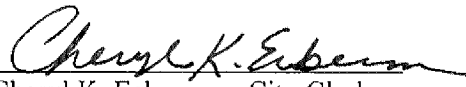

John Batcher, Council President


Bryon Ueckert, Council Member

Linda Lewis, Council Member


Chris TenEyck, Council Member

ATTEST:


Cheryl K. Eckerman, City Clerk

(Space above line for recording information)

**STILL WATER LAKE, LOTS 44-49 & OUTLOT C
MIXED USE DEVELOPMENT AGREEMENT**

THIS MIXED USE DEVELOPMENT AGREEMENT (hereinafter "Agreement") made pursuant to the Zoning Ordinance of the City of Valley, made and entered into this 21 day of August, 2023, by and between THE CITY OF VALLEY, NEBRASKA, a municipal corporation, (hereinafter "City") and STILL WATER LAKE, LLC, a NEBRASKA LIMITED LIABILITY COMPANY (hereinafter "Developer").

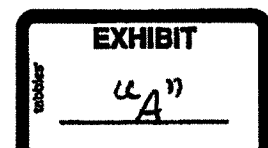
WITNESSED:

WHEREAS, Developer is the legal owner of the real estate described on the attached Exhibit "A", which is incorporated herein by this reference and desires to establish and develop such property according to the provisions of the City Zoning Ordinance for the development of Still Water Lake.

WHEREAS, Developer desires to establish and develop such Property according to the provisions of the City Zoning Ordinance for the development of Still Water Lake (hereinafter the "Project");

WHEREAS, in accordance with the requirements of the City Code, Developer has presented a site plan attached hereto as Exhibit "B" and incorporated herein by this reference (hereinafter the "Development Plan");

WHEREAS, City, in the interest of maintaining the public health, safety, and welfare, desires to assure that the Project is developed substantially in accordance with the Development Plan and therefore considers this Agreement to be in the best interests of the City;



WHEREAS, Developer is willing to commit itself to the development of the Project substantially in accordance with the Development Plan and desires to have a reasonable amount of flexibility to carry out the Project and therefore considers this Agreement to be in its best interests; and

WHEREAS, City and Developer desire to set forth in this Agreement their respective understandings and agreements with regard to the Project; and

WHEREAS, this Agreement shall apply only to Lots 44-49 and Outlot C, Still Water Lake, a Subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, the parties agree as follows:

Section 1 Definitions

For the purposes of this Agreement the definitions in the City of Valley Zoning Ordinance, shall apply. In addition, the definitions found in Exhibit "C" are incorporated into and made a part of this Agreement including all exhibits to this Agreement.

Section 2 Development Plan

- A. Except as otherwise permitted in this Agreement, the Project shall be developed in accordance with the City of Valley Zoning and Subdivision regulations, the terms and conditions of this Agreement, and the Development Plan.
- B. It is intended that this Development Plan be a general schematic of the development indicating the manner in which Developer intends to meet the requirements of this Agreement. All parties recognize that from time to time for good and sufficient reasons it may be necessary for Developer to alter the size, location, use, or type of the buildings or other site improvements.
- C. Developer reserves the right to modify the Development Plan by minor amendment provided that such modifications conform to the provisions of the applicable site development regulations of the C-3 Highway Commercial District, associated HO Highway Corridor Protection District (Overlay District), and CMD Clustered/Mixed Use Development District. All changes not conforming to the provisions of the C-3 Highway Commercial District, associated HO Highway Corridor Protection District (Overlay District), and CMD Clustered/Mixed Use Development District, as amended by this Agreement, shall be considered major amendments to be reviewed by the Planning Commission and approved by the City Council. The Building and Zoning Official of the City of Valley is authorized at his/her discretion to approve minor amendments to this Agreement; provided that:

1. A written request is filed with the Building and Zoning Official, along with information specifying the exact nature of the proposed amendment;
 2. The amendment is deemed by the Building and Zoning Official to be consistent with the provisions of Valley Municipal Code; and
 3. The Building and Zoning Official determines that the amendment does not alter the approved site regulations of the Development Plan or this Agreement and does not materially alter other aspects of the Development Plan, including traffic circulation, mixture of use types, and physical design.
- D. In the event there is a conflict between the dimensions shown on the Development Plan and the regulatory terms of this Agreement relating to site development, parking, landscaping, or signage regulations, the more restrictive standard, as determined by the Building and Zoning Official, shall apply, unless such discrepancy is specifically agreed to in this Agreement or the Exhibits attached hereto.

Section 3 Permitted Uses

The Project shall be developed and used in accordance with the applicable permitted uses set forth in Exhibit "D" attached hereto and incorporated herein.

Notwithstanding anything herein or in the applicable site development regulations of the C-3 Highway Commercial District, associated HO Highway Corridor Protection District (Overlay District), and CMD Clustered/Mixed Use Development District, no outdoor storage shall be permitted within the Project.

Section 4 Site Development Regulations

- A. Except as otherwise permitted in this Agreement, the Project shall be developed in accordance with the applicable site development regulations of the C-3 Highway Commercial District, associated HO Highway Corridor Protection District (Overlay District), and CMD Clustered/Mixed Use Development District except as modified by the terms of this Agreement, specifically including those Amendments stated in Exhibit "E" attached and incorporated (the "Site Development Regulations").
- B. As long as the Site Development Regulations are not violated, Developer may alter the location, physical shape, or exterior dimensions of any structure shown on the Development Plan, within the boundaries of any platted lot subject to the following limitations:
1. The changes shall be determined by the Building and Zoning Official to be consistent with the Site Development Regulations.

2. Any changes determined by the Building and Zoning Official to be inconsistent with the Site Development Regulations shall be considered a major amendment to this Agreement and will require review by the Planning Commission and approval by the City Council.
- C. So long as the Site Development Regulations are not violated (except for any side yard setback or landscape buffering requirements, which may be modified in the event of a lot revision, combination, or division), Developer may reduce or increase the number of lots as shown on the Development Plan by revising lot lines, combining, or dividing lots.
1. City may, by administrative subdivision, grant any such revisions, combinations, or divisions as necessary to carry out the Development Plan, subject to approval of the Building and Zoning Official.
 2. An application for an administrative subdivision to make such changes shall include as an attachment a revision to the Development Plan.

Section 5 Parking

- A. Parking for the Project shall be in accordance with the requirements of the Valley Zoning Ordinance Article 7 Parking Requirements. The attached Development Plan is included as an example of required parking.
- B. As long as the parking design standard regulations are not violated, Developer may alter the location, physical shape or exterior dimensions of any parking area shown on the Development Plan, within the boundaries of any platted lot.
- C. Parking shall be allowed in Outlot "C" as shown on Exhibit "B" and subject to the requirements of the Valley Zoning Ordinance Article 7 Parking Requirements.

Section 6 Landscaping and Screening

- A. Landscaping for the Project shall be in accordance with the requirements of the Valley Zoning Ordinance Article 12: Site Design Standards. The attached Development Plan is included as an example for required landscaping.
- B. The development in its entirety shall not exceed an impervious coverage of seventy- five percent (75%).

Section 7 Sidewalks and Pedestrian Features

All sidewalks, handicap accessible ramps, and crosswalks shall be designed and constructed in accordance with PROWAG. An external sidewalk system is shown on Exhibit "B".

Section 8 Signage

- A. Signage for the Project shall be in accordance with Article 8 of the City of Valley Zoning Ordinance, except as modified by the Amendments and the Signage Design Criteria attached hereto as Exhibit "F" and incorporated herein by this reference. Minor modifications may be made by Developer consistent with the standards established in the Development Plan without prior approval.
- B. All signs will be installed subject to a sign permit from the City of Valley. Unless provided for in this Agreement, all other provisions and regulations governing signs in effect at the time of application for a sign permit shall apply.

Section 9 Miscellaneous Provisions

- A. Application. This Agreement shall apply only to Lots 44-49 and Outlot C, Still Water Lake, a Subdivision as surveyed, platted and recorded in Douglas County, Nebraska. The development of any additional lots will require an amendment to this Mixed Use Development Agreement.
- B. Administration. The Building and Zoning Official of the City of Valley or his or her designee, shall have the authority to administer this Agreement on behalf of City and to exercise discretion with respect to those matters contained herein so long as the development proceeds in general accord with the Development Plan and with regard to those matters not fully determined at the date of this Agreement. The provisions of this Agreement shall run with the land in favor of and for the benefit of City and shall be binding upon present and all successor owners of the real estate described in the attached Exhibit "A".
- C. Incorporation of Recitals. The recitals set forth above are, by this reference, incorporated into and deemed part of this Agreement.
- D. Headings. The section headings appearing in this Agreement are inserted only as a matter of convenience and in no way define or limit the scope of any section.

- For Developer:** **Still Water Lake LLC**
4089 S 84th Street, Ste 302
Omaha, NE 68127
Attn: Robert Hampton

WITH A COPY TO: Rembolt Ludtke LLP
1128 Lincoln Mall, Suite 300
Lincoln NE 68508
Attn: Ann K. Post

For City: City Clerk
City of Valley

203 N. Spruce Street
Valley, NE 68046

WITH A COPY TO:
Building and Zoning Official
City of Valley
203 N. Spruce Street
Valley, NE 68046

Such addresses, names, or titles may be changed from time to time by written notice to the other Party.

- K. No Waiver of Regulations. This Agreement only waives those portions of the Zoning Ordinance explicitly referenced herein. None of the foregoing provisions shall be construed to grant or imply any other waiver of any other portions of the Zoning Ordinance or any section of the Valley Municipal Code.
- L. Counterparts. This Agreement may be signed in counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one executed instrument.
- M. Severability. In the event that any provision of this Agreement proves to be invalid, void, or illegal by a court of competent jurisdiction, such decision shall in no way affect, impair, or invalidate any other provisions of this Agreement, and such other provisions shall remain in full force and effect as if the invalid, void, or illegal provision was never part of this Agreement.
- J. Exhibits. The following Exhibits are made a part of this Agreement and have been attached to this Agreement prior to its execution.

Exhibit "A" - Legal Description (Final Plat)

Exhibit "B" - MU Development Site Plan

Appendix "B" - Lot Regulators Calculations Table

Exhibit "C" - Definitions

Exhibit "D" - Permitted Uses

Exhibit "E" - Amendments

Exhibit "E-1" - Overhead Door Architectural Design Criteria

IN WITNESS WHEREOF, the undersigned have executed this Agreement
on or before the day and year first above written.

CITY OF VALLEY, NEBRASKA

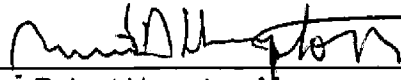
By Cindy Gore
Cindy Gore, Mayor

Attest:

By Cheryl K. Eckerman
Cheryl K. Eckerman, City Clerk

DEVELOPER:

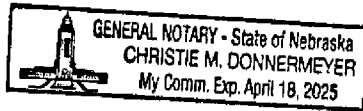
Still Water Lake LLC a Nebraska limited liability company

By: 
Robert Hampton, Manager

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

Before me, a notary public, in and for said county and state, personally came Robert Hampton, Manager of Still Water Lake LLC, Nebraska limited liability company, known to me to be the identical person who executed the above instrument and acknowledged the execution thereof be of his voluntary act and deed on behalf of said corporation.

Witness my hand and Notarial seal this 21st day of August, 2023.



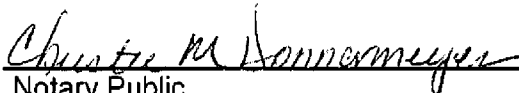

Notary Public

Exhibit B
MU Development Site Plan

Lot Calculations Table

Lot #	Size (SF)		Max. Bldg Coverage (SF) = 40%	Max. Impervious Coverage (SF) = 75%	Min Trees (Based on 20% LS at 1/1600 SF)	* Conceptual Bldg Coverage		* Conceptual Pavement Coverage	* Conceptual Impervious Coverage		* Conceptual Required Parking Stalls (As per 7.04)			* Conceptual Use Type
	AC	SF	SF	SF		%	SF	SF	%	SF	Requirement	Req'd	Shown	
44-45	0.956	41,647	16,659	31,235	5	31%	13,000	11,790	60%	24,790		8	16	Condo Garage / Flex Space
46	0.502	21,887	8,755	16,415	3	37%	8,100	6,600	67%	14,700	1 space / 2 Employees (Shift)	5	10	Contractors w/ Upper Story Housing
47	0.504	21,941	8,776	16,456	3	17%	3,800	6,500	47%	10,300	1 space / 1 Employee	8	16	Daycare
48	0.504	21,953	8,781	16,465	3	35%	7,600	6,700	65%	14,300	1 Space / Bay	6	6	Condo Garage
49	0.513	22,332	8,933	16,749	3	20%	4,500	5,900	47%	10,400	1/400 SF	11	12	Office
Outlot C	0.247	10,739	-	-	1	-	-	3,500	33%	3,500	-	-	10	Parking
Outlot A**	6.897	300,427	-	-	-	-	-	-	-	-	-	-	-	Open Water

Requirements are based upon C3 Highway Commercial Zoning

* Based Upon Exhibit B - MU Plan - Actual Use and Size will Vary

** Outlot A was Platted in Phase 1

Exhibit C

Definitions

Appearance. The outward aspect visible to the public.

Appropriate. Sympathetic, or fitting, to the context of the site and the whole community.

Appurtenances. The visible, functional objects accessory to and part of buildings.

Architectural concept. The basic aesthetic idea of a building, group of building or structures, including the site and landscape development, that produces the architectural character.

Architectural feature. A prominent or significant part or element of a building, structure, or site.

Architectural Style. The characteristic form and detail, as of buildings of a particular historic period.

Attractive. Having qualities that arouse interest or pleasure in the observer.

Berm. A raised form of earth to provide screening or to improve the aesthetic character.

City. City of Valley

Code. The Municipal Code of the City of Valley.

Cohesiveness. Unit of composition between design elements of a building and the landscape development.

Compatibility. Harmony in the appearance of two or more external design features in the same vicinity.

Conservation. The protection and care that prevent destruction or deterioration of historical or otherwise significant structures, buildings, or natural resources.

Cornice. A horizontal molded projection that crowns or completes a building or wall.

Eclectic. Choosing what appears to be the best from diverse sources, systems, or styles.

E.I.F.S. Exterior Insulation and Finish Systems, also called synthetic stucco, and refers to any similar multi-layered exterior finish.

Exterior building component. An essential and visible part of the exterior of a building.

External design feature. The general arrangement of any portion of a building, sign, landscaping, or structure and including the kind, color, and texture of the materials of such portion, and the type of roof, windows, doors, lights, attached or ground signs, or other fixtures appurtenant to such portions as will be open to the public view from any street, place, or way.

Flex. A use characterized by low traffic, no outdoor storage, and minimal outdoor activity, or demand for utilities. This includes but is not limited to storage, including indoor storage of watercraft, boats, recreational vehicles, and other personal property that may incorporate compartmentalized and controlled access stalls or lockers for storage. Any Flex use that incorporates compartmentalized and controlled access stalls or lockers for storage shall meet the requirements of Valley Zoning Ordinance Section 9.11.

Graphic element. A letter, illustration, symbol, figure, insignia, or other device employed to express and illustrate a message or part thereof.

Condo Garage. Real estate, a portion of which is designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions, pursuant to the Nebraska Condominium Act. Use of the individual unit may be any use permitted pursuant to Valley Zoning Ordinance and this Agreement except that residential uses, except upper story housing, are prohibited.

Landscape. Plant materials, topography, and other natural physical elements combined in relation to one another and to man-made structures.

Light cut-off angle. An angle from vertical, external downward from a luminary, which defines the maximum illumination outward at the ground plane.

Logic of design. Accepted principles and criteria of validity in the solution of the problem of design.

Masonry. Shall include brick, cast stone, and decorative masonry units. Concrete wall form liners may be approved by the Building and Zoning Official if it is determined they adequately simulate approved masonry materials.

Mechanical equipment. Equipment, devices and accessories, the use of which relates to water supply, drainage, heating, ventilating, air conditioning, and similar purposes.

Miscellaneous structures. Structures, other than buildings, visible from public ways. Examples are: memorials, staging, antennas, fences and walls, transformers, drive-up facilities.

Plant materials. Trees, shrubs, vines, ground covers, grass perennials, annuals, and bulbs.

Proportion. Balanced relationship of parts of a building, landscape, structures, or buildings to each other and to the whole.

Scale. Proportional relationship of the size of parts to one another and to the human figure.

Screening. Structure of planting that conceals from view from public ways the area behind such structure of planting.

Shrub. A multi-stemmed woody plant other than a tree.

Site break. A structural or landscape device to interrupt long vistas and create visual interest in a site development.

Street hardware. Man-made objects other than buildings that are part of the streetscape. Examples are: lamp posts, utility poles, traffic signs, benches, litter containers, planting containers, letter boxes, fire hydrants.

Streetscape. The scene as may be observed along a public street or way composed of natural or man-made components, including building, paving, planting, street hardware, and miscellaneous structures.

Utilitarian structure. A structure or enclosure relating to mechanical or electrical services to a building or development.

Utility hardware. Devices such as poles, cross arms, transformers, and vaults, gas pressure regulating assemblies, hydrants, and buffalo boxes that are used for water, gas oil, sewer, and electrical services to a building or a project.

Utility services. Any device, including wire, pipe, and conduit, which carries gas, water, electricity, oil and communications into a building or development.

Exhibit D
Permitted Uses

STILLWATER – CLUSTERED MIXED USE MATRIX

Land Use Categories/Matrix

P = Permitted C = Conditional Use Permit T = Temporary N = Not permitted F = Floodplain regulations that be met													Additional Requirements	
Use Category	Use Type	TA	RS	R-1	R-2	R-3	RM	C-1	C-2	C-3	L-1	L-2	L-3	
Residential a i Living	Upper story housing	-	-	-	-	-	-	-	-	P	-	-	-	
Residential/ Commercial Institutions	Adult care homes	-	-	-	-	-	-	-	-	C	-	-	-	
	Assisted Living Facilities	-	-	-	-	-	-	-	-	C	-	-	-	
	Emergency Residential Services/Shelters	-	-	-	-	-	-	-	-	C	-	-	-	
	Group Care Home	-	-	-	-	-	-	-	-	C	-	-	-	
	Group Home	-	-	-	-	-	-	-	-	C	-	-	-	
	Hospice	-	-	-	-	-	-	-	-	C	-	-	-	
	Life Care Facility	-	-	-	-	-	-	-	-	C	-	-	-	
Community Services/ Civic Uses	Fire and Rescue facilities	-	-	-	-	-	-	-	-	P	-	-	-	
	Fraternal Organization	-	-	-	-	-	-	-	-	C	-	-	-	
	Governmental offices and uses	-	-	-	-	-	-	-	-	P	-	-	-	
	Law enforcement centers	-	-	-	-	-	-	-	-	P	-	-	-	
	Public Libraries and museums	-	-	-	-	-	-	-	-	P	-	-	-	
	Philanthropic Organizations	-	-	-	-	-	-	-	-	C	-	-	-	
	Senior citizen centers	-	-	-	-	-	-	-	-	C	-	-	-	
Day-Care, Public & Private Schools	Child Care Center	-	-	-	-	-	-	-	-	C	-	-	-	
	Daycare centers	-	-	-	-	-	-	-	-	C	-	-	-	
Public Parks & Open Space	Arboretums	-	-	-	-	-	-	-	-	P	-	-	-	
	Nature centers	-	-	-	-	-	-	-	-	P	-	-	-	
Public Utilities	Wireless telecommunication facilities sys. - new tower	-	-	-	-	-	-	-	-	C	-	-	-	See Section 9.03
	Wireless telecommunication facilities sys. - collocated	-	-	-	-	-	-	-	-	C	-	-	-	See Section 9.03

	Radio and tower transmitter (Shortwave and Ham operations)	-	-	-	-	-	-	-	-	-	C	-	-	-	See Section 9.19

P = Permitted C = Conditional Use Permit T = Temporary "-" = not permitted * = Roadblock regulations shall be met															
Use Category	Use Type	TA	RS	R-1	R-2	R-3	RM	C-1	C-2	C-3	L	L-1	L-2	L-3	Additional Requirements
Animal Care	Pet grooming, Pet training	-	-	-	-	-	-	-	-	P	-	-	-	-	
Business Household Services	Building maintenance & cleaning services	-	-	-	-	-	-	-	-	P	-	-	-	-	
	Copying, printing, mailing, & packaging services	-	-	-	-	-	-	-	-	C	-	-	-	-	
	Lawn, garden & yard maintenance services	-	-	-	-	-	-	-	-	P	-	-	-	-	
	Locksmiths and key duplication	-	-	-	-	-	-	-	-	P	-	-	-	-	
	Print control services	-	-	-	-	-	-	-	-	C	-	-	-	-	
	Small appliances & household equipment repair	-	-	-	-	-	-	-	-	P	-	-	-	-	
Financial Services	Brokerages	-	-	-	-	-	-	-	-	P	-	-	-	-	
	Insurance offices	-	-	-	-	-	-	-	-	P	-	-	-	-	
	Financial advisory services	-	-	-	-	-	-	-	-	P	-	-	-	-	
	Specialty loan services	-	-	-	-	-	-	-	-	P	-	-	-	-	
Food And Beverage Services	Catering service	-	-	-	-	-	-	-	-	P	-	-	-	-	
General Commercial	Artisan production shop	-	-	-	-	-	-	-	-	P	-	-	-	-	
	Artist Studio	-	-	-	-	-	-	-	-	P	-	-	-	-	
	Condominiums	-	-	-	-	-	-	-	-	P	-	-	-	-	
Medical Uses	Acupuncture offices	-	-	-	-	-	-	-	-	P	-	-	-	-	
	Chiropractor offices	-	-	-	-	-	-	-	-	P	-	-	-	-	
	Dental offices incl. orthodontics	-	-	-	-	-	-	-	-	P	-	-	-	-	
	Massage therapy	-	-	-	-	-	-	-	-	P	-	-	-	-	
	Medical offices	-	-	-	-	-	-	-	-	P	-	-	-	-	
	Optical sales & services	-	-	-	-	-	-	-	-	P	-	-	-	-	
	Laser treatment	-	-	-	-	-	-	-	-	P	-	-	-	-	
	Rehabilitation facilities including out-patient services	-	-	-	-	-	-	-	-	P	-	-	-	-	

Office Uses	Accountant and investment counseling	-	-	-	-	-	-	-	-	P	-	-	-
	Business offices	-	-	-	-	-	-	-	-	P	-	-	-
	Consultant offices	-	-	-	-	-	-	-	-	P	-	-	-
	Lawyer/Attorney offices	-	-	-	-	-	-	-	-	P	-	-	-
	Photographic studios	-	-	-	-	-	-	-	-	P	-	-	-
	Real Estate offices	-	-	-	-	-	-	-	-	P	-	-	-
	Utility and telephone company offices	-	-	-	-	-	-	-	-	P	-	-	-
		-	-	-	-	-	-	-	-		-	-	-

STILLWATER – CLUSTERED MIXED USE MATRIX

P = Permitted C = Conditional Use Permit T = Temporary - = not permitted * = Floodplain regulations shall be met														
Use Category	Use Type													Additional Requirements
		TA	RS	R-1	R-2	R-3	RM	C-1	C-2	C-3	L-1	L-2	L-3	
Warehousing & Storage	Mini-warehouses & self-service storage	-	-	-	-	-	-	-	-	C	-	-	-	See Section 9.11
Contractors, Contractor Yards, Storage & Supply	Carpenters	-	-	-	-	-	-	-	-	P	-	-	-	
	Electricians	-	-	-	-	-	-	-	-	P	-	-	-	
	Heating & ventilating contractors	-	-	-	-	-	-	-	-	P	-	-	-	
	Masons & bricklayers	-	-	-	-	-	-	-	-	P	-	-	-	
	Plumbers	-	-	-	-	-	-	-	-	P	-	-	-	
	Trade shops (incl. cabinet makers)	-	-	-	-	-	-	-	-	P	-	-	-	

Exhibit E
Amendments

Amendments or modification to application of City of Valley Zoning Ordinance

Front Façade

The front façade shall include windows, arcades, awnings, projecting canopies, covered walkways, porticos, or other acceptable features along at least 60 percent of the front façade length and over at least 25 percent of the front façade area. Overhead doors may be acceptable features, if approved by the Building and Zoning Official, and provided that the overhead doors are designed and constructed in accordance with the specific Overhead Door Architectural Design Criteria attached hereto as Exhibit "E-1" and incorporated herein by this reference.

Landscape Buffer.

The areas zoned C-3 subject to this Agreement do not have rear yards, and therefore shall not require a landscape buffer of evergreens along the property line to screen service areas and rear facades from the adjacent property; said areas shall be subject to all other requirements of the Valley Zoning Ordinance Article 12: Site Design Standards.

Maximum Parking.

This development is not subject to maximum parking restrictions.

Condo Garage Parking Requirements

The minimum parking requirements for the Condo Garage use shall be one stall per bay. This requirement may be met by an 9'x18' paved surface in front of the garage door as long as the total paving allows for a minimum 12' drive aisle adjacent to the parking stall.

Façade Materials and Color.

Not less than 50 percent of the front of the building and 25 percent of the sides of the building shall be brick, stone textured CMU, cement board siding, architectural siding panels, brick and stone urethane panels, or other acceptable durable modern materials as approved by the City.

In the event the City of Valley Zoning Ordinance is amended to require a lesser percentage of any façade be the above listed materials, the lesser required percentage shall apply.

Amenities.

No public gathering space, public space amenities or landscaped site for public artwork shall be required in this development.

Exhibit E-1
Overhead Door Architectural Design Criteria

The frame or paneling of any overhead doors shall be of a contrasting color from adjacent building panels or façade and shall not be white.

A minimum of fifty percent (50%) of any overhead door shall be glass or resemble glass (e.g. acrylic or polygal are also permitted) and may be transparent, tinted, frosted, or opaque. The color or appearance of the glass or glass resembling material must contrast from the color of the frame or paneling of the overhead door.

Exhibit F
Signage Design Criteria

Signage shall meet the minimum requirements of the City of Valley Zoning Ordinance, Article 8: Sign Regulations.

Animated Signs, On-Premises Billboard Signs, and Electronic Message Board Signs shall be prohibited.