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Polk County Iowa  
JULIE M. HAGGERTY RECORDER  
File# 2014-00028784

BK 14973 PG 200-217

THIS DOCUMENT PREPARED BY AND WHEN RECORDED RETURN TO:  
RETURN TO: James M. Gocke, 210 N.E. Delaware Avenue, Suite 200, Ankeny, Iowa 50021; (515) 964-8777

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF BRIDGE CREEK PLAT 3,  
A SUBDIVISION IN GRIMES, POLK COUNTY, IOWA**

THIS DECLARATION, made this 28<sup>th</sup> day of August, 2013.

**PRELIMINARY STATEMENT**

WHEREAS, The Declarant is the Owner of certain real property platted and known as Bridge Creek Plat 3, located within the City of Grimes, County of Polk, in the State of Iowa, the legal description of which is:

    Lots 4 through 20 Bridge Creek Plat 3, an Official Plat, now included in and forming a part of the City of Grimes, Polk County, Iowa.

WHEREAS, The Declarant desires to provide for the preservation of the values and amenities of Bridge Creek Plat 3, for the maintenance of the character and residential integrity and for the purpose of enhancing and protecting the desirability and attractiveness of the Lots contained therein.

NOW, THEREFORE, the Declarant hereby declares that Lots 4 through 20 (each a "Lot" and together, the "Lots"), inclusive, in Bridge Creek Plat 3 shall be held, sold, and conveyed subject to the following restrictions, covenants, conditions and easements, 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 restrictions, covenants, conditions and easements shall run with such Lots and shall be binding upon all parties having or acquiring any right, title or interest in each Lot, or any part thereof, as is more fully described herein. The Lots are, and each Lot is and shall be subject to all and each of the following conditions and other terms, except as may otherwise to be provided herein:

ARTICLE I  
DEFINITIONS

- A. **“Association”** shall mean and refer to the Bridge Creek Homeowners’ Association, a non-profit corporation organized pursuant to the Revised Iowa Nonprofit Corporation Act, as well as any of its successors or assigns.
- B. **“Declarant”** shall mean and refer to Bridge Creek, L.L.C., its successors, or assigns pursuant to a recorded assignment.
- C. **“Developer”** shall mean and refer to Bridge Creek, L.L.C., its successors or assigns pursuant to a recorded assignment.
- D. **“Owner”** shall mean and refer to the record Owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of the Bridge Creek Plat 3 other than streets or out lots.

ARTICLE II  
GENERAL RESTRICTIONS AND COVENANTS RELATING  
TO LOTS WITHIN THE PLAT

- A. Each Lot shall be used exclusively for single family residential purposes, however, any two (2) or more Lots owned by the same Owner may be developed with the residence wholly located on one (1) Lot and the additional Lot(s) may remain undeveloped so long as the Lot(s) is/are maintained in a manner compatible with the neighboring landscape.
- B. No advertising signs, billboards, including signs of any nature, kind or description that identify, advertise, or in any way describe the existence or conduct of a home occupation, or any unsightly objects or nuisances shall not be displayed on any Lot; provided, however, that an Owner shall be entitled to display one (1) “for sale” sign of standard and customary size and materials in connection with attempts by the Owner to market a Lot. Nothing in this Article shall affect the rights of Declarant.

Declarant, however, reserves the right to maintain the improvements on one or more Lots as a model or as a sales and display office for itself or for its sales agents or assigns; to display or post signs of any type or size which are a part of the development and marketing of the development or houses for sale; and, to have agents and employee equipment and material on any Lot used for a model or sales office. The Declarant shall pass these above mentioned rights onto any Builder that purchases a lot and constructs a home for resale.

- C. No home occupation shall be conducted or maintained on any Lot other than one which is incident to a business, profession or occupation of the Owner or occupant of any such Lot and which is generally or regularly conducted in another location away from such Lot. Nor shall the premises be used in any way for any purpose, which may endanger the health or unreasonably disturb the owner or owners of any Lot or any resident thereof.

Nothing contained herein shall be construed or interpreted to affect the activities of Declarant in the sale of Lots or dwellings.

- D. No exterior television or radio antenna, satellite receiving disc, or exterior solar heating or cooling device of any sort shall be permitted on any Lot except satellite discs may be attached to the residence that do not exceed twenty-four inches (24") in diameter and are not located on the front of the residence.
- E. No repair of any boat, automobile, motorcycle, truck, camper or similar vehicle requiring a continuous time period in excess of forty-eight (48) hours shall be permitted on any Lot at any time; nor shall vehicles offensive to the neighborhood be visibly stored, parked or abandoned on any Lot except during actual building operations.
- F. No boat, snowmobile, recreational vehicle, camper, trailer, auto-drawn, or mounted trailer of any kind, mobile home, truck, aircraft, camper truck, or similar chattel shall be maintained or stored on any Lot (other than in an enclosed structure) for more than seven (7) days within a calendar year. No motor vehicle may be parked or stored outside on any Lot, except vehicles driven on a regular basis by the occupants of the dwelling located on such Lot. No grading, excavating equipment, commercial vehicles, trucks, truck tractors, or semi-tractor/trailers shall be parked, stored, kept, or maintained in any yards, driveways or street. However, this section shall not apply to pick-up trucks or other sport utility vehicles (SUV). In addition to the foregoing, trucks, tractors or commercial vehicles which are necessary for the construction of residential dwellings or other improvements during the period of construction.
- G. No incinerator or trash burner shall be permitted on any Lot. No garbage or trash can or trash container shall be permitted unless completely screened from view, except for trash pickup purposes. No garden, lawn or maintenance equipment of any kind whatsoever shall be stored or permitted to remain outside the dwelling, except when in actual use. No garbage, refuse, rubbish, or cutting shall be deposited on any street, road or Lot. Only retractable or collapsible clothes lines are permitted. Such clotheslines shall be located in the rear yard area and not visible from the street. All clotheslines shall be retracted or collapsed when not in use. Produce or vegetable gardens shall be located in the rear yards only and not be any larger in size than  $\frac{1}{4}$  of the rear yard area, excluding any easement areas.
- H. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that no more than two (2) dogs and two (2) cats may be kept, provided that they are not kept, bred or maintained for any commercial purposes. Any dog run or doghouse must be constructed up against the house in the rear yard and must be screened from neighbors' view.
- I. No noxious or offensive activities not involving the maintenance of the Lots shall be carried on upon any Lot nor shall anything be done thereon that may be or may become an annoyance or a nuisance to the neighborhood. Nor shall any Lot be used for any

unlawful purpose. Nor shall any Owner cause, or suffer or harbor the source of, any noise or activity that disturbs the peace, comfort, and quiet enjoyment of other Owners.

- J. The Owner of each Lot shall keep the same free of weeds and debris. No grass, weeds, shrubs, trees, or other vegetation will be allowed to remain on any Lot that constitutes an actual or potential public nuisance, create a hazard or undesirable proliferation or detract from a neat and trim appearance. Vacant Lots shall not be used for dumping of earth, concrete remains, or any waste materials, brush, or any other debris.
- K. No temporary structure, trailer, tent, shack, garage, barn, or other building shall be used on any Lot at any time as a residence, either temporarily or permanently.
- L. Garage doors shall be kept closed except during times of access and use of the garage.
- M. Below grade swimming pools shall be allowed. Proper fencing surrounding the pool must be installed as per the building code and per Article III(A)(4). Above ground swimming pools shall not be allowed.
- N. No residence, building, fence, wall, driveway, patio, patio enclosures, swimming pool, hot tub, pool house, landscaping, or other external improvement, above or below the ground (herein all referred to as any "Improvement") shall be constructed, erected, placed or permitted to remain on any Lot, nor shall any grading or excavation for any Improvement be commenced until the owner has confirmed compliance with this declaration.
- O. Exterior lighting installed on any Lot shall either be indirect or such a controlled focus and intensity as not to disturb the residents of adjacent Lots.
- P. Subject to the provisions of sub-paragraph II(A) above, construction of a residence on any Lot purchased must commence within twelve (12) months of purchase or Declarant shall have the right to purchase the Lot at eighty percent (80%) of the price the Owner paid for the Lot.

ARTICLE III  
RESTRICTIONS AND COVENANTS RELATING TO  
SITE DEVELOPMENT

- A. No fences, walls, hedges or barriers shall be permitted upon or adjoining Lot lines except as follows:
  - 1. Hedges not exceeding three feet (3') in height are permitted along front Lot lines and side property lines in the front yard setback areas. Any hedges must be trimmed and kept neat in appearance and not allowed to grow unevenly.
  - 2. Walls, fences and hedges not exceeding six feet (6') in height are permitted along rear Lot lines and side Lot lines behind the centerline of the house built on a Lot.

3. The fence material shall be mounted on the exterior face of the fence posts.
4. Approved fencing material shall be limited to black wrought iron. The Declarant must approve all fences and any other materials other than those listed that may be contemplated.
5. Decorative brick or stone columns with wrought iron fencing shall be allowed along the front property line and at driveway entrance.
6. Driveways must be cut in. Curb grinding is not permitted. Where required, truncated domes at sidewalk ramps must match existing.
7. Buyer and/or Contractor are responsible for all utility connection fees, including:

Water, estimated at \$500.00 per dwelling  
Sanitary, estimated at \$750.00 per dwelling

B. Landscaping.

1. All minimum landscaping requirements must be installed within one hundred fifty (150) days of occupancy.
2. The Owner of each Lot will, at their cost, provide and plant two (2) trees in the front yard only. All trees and any replacements thereof shall have a minimum two inches (2") trunk diameter, measured six inches (6") vertically from ground level when planted.
3. Shrubs and foundation plantings will address at least the front and front corners of the house.
4. Lot areas not occupied by structures, walks, drives or landscaping shall be sodded (not seeded) within one hundred fifty (150) days after occupancy of the structure. Hydro-seeding will be allowed only in the rear yard and only those areas greater than seventy-five feet (75') from the rear of the house. In the case of wooded lots or terrain that does not allow for a sodded area, these areas should be left in a natural state and only seeded or sodded as necessary to prevent erosion.
5. There may be public utility and drainage easements across various Lots as may be shown on the recorded plat. Drainage is not to be altered so as to impede the natural flow of surface water once the Lot grade is established or as shown on the Final Plat. No fencing or obstructions of any kind will be allowed to be constructed across any areas on the Lots which are shown as drainage easements on the Final Plat. Any surface water drainage easement areas will naturally be wet during rainy seasons and in addition will carry away the excess water from

the yards due to irrigation of the yards. This is to be anticipated by the Lot Owners.

- 6. Any field tile which is broken during construction shall be replaced so as to maintain continuous uninterrupted operation; and shall be routed into the nearest storm sewer, or other approved drain tile.
- 7. Before construction of any residence, each Lot Owner or Builder should inspect the Final Plat to obtain the "minimum water entry level" elevation as shown on the Final Plat. No opening to any basement level such as the walk-out basement floor elevation, daylight window elevation or window well elevation shall be below the minimum elevations as shown on the Plat.
- 8. Wood kept on the premises for use in domestic fireplaces shall be neatly stacked behind the dwelling out of sight from public view and shall not consist of more than one such stack which shall not be in excess of 4' x 4' x 8' in size.
- 9. The size, type, location, design, color, and materials used for all mailboxes shall conform to the specifications established by the Declarant and/or the U.S. Post Office.

C. All parking and drives shall be hard-surfaced using Portland cement, approved brick pavers or stamped concrete.

D. Minimum Setbacks:

- 1. Front Yard: 35 feet (35') or as shown on the final plat.
- 2. Side Yards: 9 feet (9') minimum on one side, 19 feet (19') total
- 3. Rear Yard: Lots shall be 35 feet (35'), except for any lots that have a Conservation Easement. See the Final Plat to determine exact rear yard setback.

Minimum setbacks shall be measured from the foundation of the residence which has a structure attached to it, to the property line from which the setback is being measured.

E. Storm Water Pollution Prevention Plan.

- 1. Upon taking possession of a Lot, the Owner agrees to comply with all erosion control requirements applying to their Lot including but not limited to:
  - i. Owners, their agents, assigns, heirs and/or building contractors shall take all necessary precautions to properly and lawfully manage storm water runoff; to prevent, stabilize, and/or control erosion; to prevent sediment migration and soil erosion from extending beyond the boundaries of the

Lot and in the event of any of the above requirements are not met, to promptly clean up all eroded sediment and to restore all affected areas to their original condition and take all remedial steps required pursuant to applicable law, including City of Grimes requirements.

- ii. Owners shall comply with all applicable Federal, State and local erosion control ordinances and permits which pertain to the Property, including, but not limited to, becoming a transferee of the Iowa Department of Natural Resources NPDES General Permit No. 2 (the permit) and having in place a Storm Water Pollution Prevention Plan (SWPPP) as required by the Environmental Protection Agency (EPA).
- iii. If the Declarant or a Lot Owner is cited for or notified about an alleged violation or any erosion control provision or storm water management requirements which occurs after an Owner takes possession of a Lot by a governmental authority including the City of Grimes, for a condition existing on or coming from the Owner's Lot or migrating beyond the Lot or other violation of law, the Owner shall promptly take the remedial action and corrective measures requested by the governmental authority and the Owner shall also indemnify and hold the Declarant harmless from and against any and all claims, damages, fines, attorney fees, assessments, levies and/or costs incurred by the Declarant related to the citation or notice caused by the Owner's action or inaction.
- iv. If in the opinion of the Declarant or the Association, erosion is not properly controlled, corrective action may be taken by the Declarant or the Association, and an automatic easement granted to implement the corrective action, and the actual costs thereof plus an administrative fee, as determined by the Declarant or Association, shall be assessed against the offending Lot.
- v. Drainage and water runoff from an Owner's Lot shall not adversely affect any other Owner or Street and each Owner shall indemnify and hold harmless all other Owners, the Declarant and the Association from and against any and all damages or liability caused by an Owner's violation of this paragraph regarding drainage and water runoff.

ARTICLE IV  
RESTRICTIONS AND COVENANTS RELATING TO  
BUILDING STANDARDS

Good aesthetic design is a very important covenant for residences within Bridge Creek Plat 3. The highest standards of architectural quality are encouraged.

A. Criteria and Guidelines:

1. At least thirty-five percent (35%) of the front elevation of any residence must be comprised of brick, stone or stucco.
  2. Side exterior foundations exposed above finish grade, which are not faced with brick or stone, must be painted. Front foundation must be faced with brick, stone or stucco.
  3. Vinyl or steel sidings shall not be allowed.
  4. Roof materials shall be a minimum of 30-year warranty. Such shingles shall be of architectural grade laminated or textured shingles. Wood shakes, wood shingles, slate or concrete barrel tile are also allowed. Roof protrusions, such as vents, flues, etc., to be painted to match color of roof.
  5. All brick, stone, sidings, shingles, and paint colors must be compatible with other dwellings in Bridge Creek Plats 1, 2, and 4 and should be neutral or earth tones.
  6. All dwellings shall have at least a three (3) car attached garage. Side load garages are preferred whenever possible.
  7. Any roof gables facing the street must have a minimum roof pitch of 6/12.
  8. Any additional storage shed, outbuildings or detached structure, shall be constructed of similar materials and of the same roof pitch and shingles as the residence and must be located in the rear yard of the residence and must be a minimum of 10 feet (10') from any lot line. Temporary sheds, metal sheds or any structure that does not fit in with the neighborhood will not be allowed.
  9. No prefabricated, mobile home, modular home, pre-built home, or any type of home brought to the lot by truck or trailer, substantially constructed and set upon the lot by crane or otherwise will be allowed within Bridge Creek Plat 3. The preceding paragraph does not intend to disallow the use of pre-fabricated roof trusses, components, or panelized sections of a home constructed off-site.
  10. No "American Home" concept buildings or buildings where Owner is acting as his/her own general contractor shall be allowed. Construction of a house by Owners shall be allowed if home building is the primary occupation of the Owner.
- B. No dwelling shall be constructed or permitted to remain upon any Lot in this subdivision unless it meets the following ground floor area requirements:
1. One story dwellings must have a main floor finished area of not less than 1,750 square feet.
  2. All multi-level dwellings including, but not limited to, split-levels, two-story dwellings and dwellings having more than two stories (but excluding one and



one-half story dwellings), must have finished areas of not less than 2,300 square feet with 1,350 square feet on the main floor.

- 3. One and one-half story dwellings must have finished areas of not less than 2,000 square feet with 1,250 square feet on the main floor.
- 4. No split foyer dwellings are permitted.

In the computation of ground floor area, the same shall not include any porches, breezeways, or attached or built-in garages. The computation of finished areas shall not include basements or lower levels.

In order to preserve the general design for the development of the whole of Bridge Creek Plat 3 as a fine residential section of Grimes, no building, structure or improvement of any kind, or any addition thereto, shall be erected upon any Building Plot in Bridge Creek Plat 3 unless the plan, design, building materials and location thereof shall have been first approved by the Declarant or such person or persons or corporate entity designated by it for this purpose. Approval of a plan shall not be unreasonably withheld.

C. Architectural Styles

- 1. Architectural designs should be customized for each home site to maximize the natural features that exist, especially the heavily wooded nature of much of the area. Traditional styles such as Colonial, English Country or French Country are preferred. Contemporary styling is also acceptable when it is consistent with traditional features such as rooflines and materials.

ARTICLE V

MEMBERSHIP AND VOTING RIGHTS IN THE ASSOCIATION

A. Membership and Voting

Every Lot Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated and ownership of any Lot that is subject to assessment hereunder. Ownership of a Lot shall be the sole qualification for membership. Subject to provisions of Section B of the Article, the Owners of a Lot shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any Lot.

B. Declarant as Sole Voting Member

The Declarant, its successors or assigns shall serve as the Board of Directors and shall be the sole voting member of the Association until such time as Declarant no longer owns an interest in any of the Lots in Bridge Creek Plat 3 or until such time as Declarant waives,

in writing, its right to be the sole voting member. Upon Declarant waiving its right to be the sole voting member, Declarant shall elect the initial Board of Directors. Until such time as Declarant establishes a Board of Directors, all required submittals shall be made to the Declarant and Declarant shall have sole authority of approving or disapproving all required submittals and shall be given full authority established herewith. Each Owner by acceptance of a deed to a Lot shall be deemed to have released Declarant from all claims with respect to actions taken or not taken while Declarant controls the Association.

C. Board of Directors

Once the Declarant establishes the Board of Directors, it shall consist of five (5) members initially appointed by Declarant, its successors or assigns. Subsequently, the voting Members shall elect a Board of Directors as prescribed by the Bylaws of the Association. The function of the Board shall be to interpret, apply and enforce these covenants and to approve or disapprove all new construction, remodeling, modification, improvement or alteration on or to any residential lot within the plat. In addition, the Board of Directors shall carry out and manage the affairs of the Association and providing for the maintenance of the common amenities.

D. Suspension of Voting Rights

The Association shall suspend the voting rights of a Member for any period during which any Assessment hereunder against his/her/its Lot remains unpaid and for a period not to exceed sixty (60) days for any infraction of the published rules and regulations of the Association.

E. Notice of Meetings of Members

Unless the Articles of Incorporation or the Bylaws otherwise provide, written notice stating the place, day and hour of the meeting and in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered no less than five (5) nor more than fifty (50) days before the date of the meeting. If mailed, such notice shall be deemed to be delivered when deposited in the United States Mail addressed to the Member at his/her/its address as it appears on the records of the Association, with postage thereon prepaid.

F. Duration

No dissolution of the Association shall occur without the prior approval and consent of the City of Grimes, Iowa.

ARTICLE VI  
COVENANT FOR MAINTENANCE ASSESSMENTS

A. Creation of the Lien and Personal Obligation of Assessments

The Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

(1) annual assessments or other charges, (2) special assessments for capital improvements and operating deficits to be established and collected as hereinafter provided. The annual and special assessments or other charges, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment shall also be the joint and several personal obligation of each person who was the Owner of such property at the time when the assessment became due.

B. Purpose of Assessments

The assessments levied by the Association shall be used exclusively to promote the health, safety and welfare of the residents in the Properties and for the improvement and maintenance of the Common Amenities situated on the Properties and for carrying out the business of the Association as well as other purposes specifically provided herein. More specifically, the Association shall be responsible for maintaining the landscaped areas at the entries to the development and any other areas the Declarant or Association may decide to landscape. In addition the Association shall be responsible for all entry features, which may be located on the corner lots as you enter the development, including all masonry columns, walls, fencing, signage, and lighting including the electric bills for such lighting that was installed by the Developer.

C. Maximum Annual Assessments

The initial assessment shall be Fifty-five and No/100 Dollars (\$55.00) per Lot. Thereafter, the annual assessment may be adjusted effective January 1 of each year, but if any increase such increase shall not be more than ten percent (10%) greater than the maximum assessment for the previous year without the vote of a majority of Members who are voting in person or by proxy at a meeting duly called for this purpose.

A portion of such annual assessments shall be set aside or otherwise allocated in a reserve fund for the purpose of providing repair and replacement of the Common Amenities and any capital improvement that the Association is required to maintain.

At the closing of a Lot, either by transfer of title or in the event of a contract sale, the initial year's annual assessment shall be due. In subsequent years, each annual year's assessments shall be due on January 10<sup>th</sup> for the following year.

Declarant shall not be liable for annual or special assessments upon Lots owned by it. Declarant is not responsible for the establishment of a budget as long as Declarant is the sole voting member of the Association.

The Association and Declarant are not required to submit statements for assessments to any Owner. All annual assessment payments shall be made by January 10<sup>th</sup> or each year.

D. Assessments for Insurance

The Association shall purchase a master comprehensive liability insurance policy in such amounts as the Board of Directors shall deem appropriate from time to time. Such comprehensive public liability insurance policy shall cover the Association, its Board of Directors, any committee or organization of the Association, its agents or employees, the Owners and all other persons entitled to occupy any Lot.

E. Special Assessments for Capital Improvements and Operating Deficits

In addition to the annual assessment authorized above, the Association may levy a special assessment for the purpose of defraying in whole or part, the cost of any construction, reconstruction, repair or replacement or a capital improvement that the Association is required to maintain or for operating deficits that the Association may from time to time incur, provided that any such assessment shall have the assent of a majority of the Members who are voting in person or by proxy at a meeting called for this purpose.

F. Uniform Rate of Assessment

Both the annual and special assessments must be fixed at a uniform rate for all Lots.

G. Effect of Nonpayment of Annual and Special Assessments or Other Charges: Remedies of the Association

Any assessment or other charges not paid within thirty (30) after the due date shall bear interest from the due date at the rate of fifteen percent (15%) per annum or at the highest rate allowed by Iowa law, whichever is lower. The Association may bring an action at law against the Owner of a Lot personally obligated to pay the same, or foreclose the lien against the property in the manner provided for foreclosure of a mortgage, or both, and there shall be added to the amount of said assessment or other charges all cost and expenses incurred by the Association in collecting said assessments or other charges, including reasonable attorney's fees, whether or not legal action is required in connection therewith. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Amenities or abandonment of the Owner's Lot.

H. Subordination of Assessment Liens

The lien of the assessments provided herein shall be subordinate to the lien of any first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof. Provided, however, the sale or transfer of any Lot pursuant to the foreclosure of any first mortgage on such Lot (without the necessity of joining the Association in any such foreclosure action) or any proceedings or deed in lieu of thereof shall extinguish the lien of all assessments becoming due prior to the date of such sale or transfer. The failure of an Owner to pay assessments as provided in this Article shall not constitute default under a mortgage insured by the Federal Mortgage Agencies.

ARTICLE VII  
ENFORCEMENT OF COVENANTS

The Covenants shall be deemed to run with the land to which they apply, and the Declarant, the Bridge Creek Homeowners' Association or any Owner may bring an action in any court of competent jurisdiction to enforce these Covenants and enjoin their violation or for damages for the breach thereof, or for any other remedy or combination of remedies recognized at law or in equity.

ARTICLE VIII  
AMENDMENTS TO COVENANTS

These Covenants may be amended from time to time by the affirmative vote of not less than three-fourths (3/4) of the owners of property in Bridge Creek Plat 3 to which these covenants apply; but the owner or owners of such property shall be entitled to cast, in the aggregate, only one (1) vote on account of each Lot owned thereby. Notwithstanding the above, the Declarant retains the sole right to amend or revise these covenants at any time without the consent of any other lot owner so long as Declarant owns an undeveloped lot within Bridge Creek Plats 1 - 4.

ARTICLE IX  
PERIOD OF COVENANTS

All of the foregoing Covenants, Conditions, and Restrictions set forth in this Declaration shall continue and remain in full force and effect at all times and as to the Property, regardless of how title was acquired, from the date of filing of this Declaration until the 1<sup>st</sup> day of June, 2034, unless amended by an affirmative vote of three-fourths (3/4) of the Lots within the Property, excluding Common Areas (with each Lot entitled to one (1) vote), on which date these Covenants, Conditions and Restrictions shall automatically be extended an additional ten (10) years (and extended for successive ten (10) year terms thereafter in the same fashion) unless three-fourths (3/4) of the Lot Owners within the Property (excluding Common Areas) in writing consent to terminate this Declaration or any part thereof, in which event this Declaration, or part thereof, shall be null and void effective as of the date when the Consent is filed with the

Recorder of Polk County, Iowa. Any Amendment or Consent shall be accompanied by an Affidavit by any officer of the Homeowners' Association certifying that three-fourths (3/4) of the Lot Owners within the Property (excluding Common Areas) have so consented as disclosed by the records of the Association. In determining ownership for purposes of consent, the records of the Association shall be conclusive. Either Declarant or the Homeowners' Association shall be the attorney in fact vested with authority to file any extension of these Covenants, Conditions and Restrictions with the Polk County Recorder if required by law to extend them beyond their initial twenty-one (21) year term.

ARTICLE X  
ENFORCEABILITY AND WAIVER

- A. No delay or omission on the part of any owner of land to which these covenants, conditions, regulations, and restrictions apply in exercising any rights, power or remedy herein allowed in the event of any breach of the covenants, conditions, regulations or restrictions herein contained, shall be construed as a waiver thereof or acquiescence therein. No right or action shall accrue and no action shall be brought or maintained by anyone whomsoever against Bridge Creek, L.L.C., its successors or assigns, or any member thereof for or on account of any action or inaction taken or not taken thereby in connection herewith.
- B. In the event that any one or more of the foregoing covenants, conditions, regulations, or restrictions shall be declared for any reason, by a court of competent jurisdiction, to be null and void, such judgment or decree shall not in any manner whatsoever affect, modify, change, abrogate or nullify any of the covenants, conditions, regulations, and restrictions not so expressly held to be void and the remainder thereof shall remain in full force and effect.
- C. In the event the provisions hereunder are declared void by a court of competent jurisdiction by reason of the period of time herein stated for which the same shall be effective, then and in that event, such terms shall be reduced to a period of time which will not violate the rule against perpetuities as set forth in the laws of the State of Iowa, and as shall be determined by the court as being reasonable.
- D. All property subject hereto shall also be subject to any and all rights and privileges of the City of Grimes, Iowa, and/or Polk County, Iowa, acquired or hereafter acquired by said town or county by dedication, conveyance, filing or recording of plats or covenants as authorized by law. Wherever there is a conflict as between these covenants and/or the zoning ordinance or law of the city, county or state within which the subject property is located, that which is most restrictive shall be binding.

ARTICLE XI  
EASEMENTS

A. Drainage and Utility Easements

As noted on the recorded Plat of the Properties, Declarant has reserved certain areas of the Lots for public utility, drainage, conservation easements and Common Amenities easements. In doing so, it is the intention of Declarant to provide the needed flexibility, for the benefit of all Lots and Owners, to properly install and allow to be maintained all electrical, telephone, cable TV, water, gas, sewer, storm sewer, and other utility service (including all lines, pipes, wires, cables, ducts, etc.) to the Lots. No other improvements or permanent structures (excluding walkways, driveways) shall be placed within such easements and any fences installed shall be subject to the rights (including the right to remove where reasonably necessary without duty of replacement or reimbursement) of any public or private utility to construct, maintain, repair, or remove any necessary facilities and the right of Declarant and the property owners to provide for and maintain appropriate drainage. No fence shall be installed across any drainage easement or across any Conservation Easement. Regardless of whether shown on the recorded plat, each Lot shall accept surface water drainage from adjacent properties whether or not located within the Properties and each Lot shall have the right to drain its surface water to the adjacent Lots located within the Properties.

B. Additional Easement Rights

Declarant reserves unto itself, for the benefit of all Lots and Owners, an easement right, title, and authority to relocate, alter or otherwise change the location of any drainage, utility or sewer easement and to grant such further easements, licenses, and rights-of-way, temporary or permanent, exclusive or non-exclusive, surface or otherwise, as Declarant may deem necessary or appropriate, for ingress, egress, utility and similar purposes on or within any Lot or Lots or any portion of the Properties. Declarant further reserves the right to more specifically describe or to change the description of any such drainage, utility and sewer easement, or other easement, license or right-of-way by written instrument, or amendment to the Plat recorded in the Office of the Recorder of Polk County, Iowa. Each Owner shall take title subject to the right and easements reserved herein; provided, however, the rights reserved in this Section B shall not be exercised in a manner which unreasonably and adversely affects any Building or portion thereof located upon any Lot or any Owner's use or enjoyment thereof or which unreasonably restricts the rights of ingress or egress to any Lot. The rights and easements reserved by Declarant in this Section B shall run with the land.

C. Easement for Emergency Purposes

An easement is hereby dedicated and granted for use in the case of an emergency by emergency vehicles such as fire trucks, police cars, ambulances, etc., and emergency personnel, public and private, over and upon all Lots and any pedestrian walkways or sidewalks.

D. General Easements

Each Lot is burdened with an easement of ingress and egress for maintenance, repair and replacement of public utilities as may be shown upon any subdivision plat.

ARTICLE XII  
ADDITION AND REMOVAL OF PROPERTY

A. Subjecting Additional Land to Declaration

Declarant shall have the irrevocable right to subject additional land to the terms of this Declaration at any time in the future without the consent of the Property Owners of Bridge Creek Plat 3. The additional land shall be automatically subject to the applicable terms and conditions of this Declaration. Declarant shall signify the addition of land by filing an amendment to this Declaration with the Recorder of Polk County, Iowa. No approval of the Property Owners or any other person shall be necessary.

B. Removing Land from Operation of Declaration

Declarant shall have the right now and in the future to remove any portion of the Property from the operation of this Declaration provided that the portion so removed has not yet been platted into individual lots and a plat for that portion has not been filed of record with the Auditor of Polk County, Iowa. Declarant shall signify any removals by filing an amendment to this Declaration with the Recorder of Polk County, Iowa. No approval of the Property Owners or any other person shall be necessary.

ARTICLE XIII  
MISCELLANEOUS

A. Contractors

Contractors are reminded of the requirement to keep sites clean. **Weekly cleanup is required.** The street right-of-way is also to be maintained and kept free of mud and debris. Silt fencing must be installed to prevent runoff into the street or onto neighboring property. If sites are not kept up or any damage to adjoining property or Common Areas occurs through the construction process, the owner will be notified by phone or letter of the violations by the Association. Owners or their contractors will have three (3) days to respond before the work is performed by the Association, the cost of which will be collected from the owner or contractor or assessed against the owner's lot as permitted by the Covenants.

C. Remodeling and Additions

Remodeling and additions to existing improvements are required to meet the same criteria as new construction. All criteria concerning aesthetics, color, site location, architecture, landscaping, grading and excavations, roofs, height limit, solar collectors, satellite television,



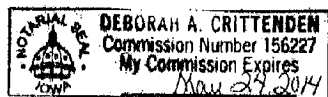


Consented to by Valley Bank

By: Dennis H. Hanson  
Dennis H. Hanson, Regional President

STATE OF IOWA )  
                          ) ss:  
COUNTY OF POLK )

This instrument was acknowledged before me on this 21<sup>st</sup> day of August, 2013, by Dennis H. Hanson, as ~~Regional~~ President of Valley Bank.



Deborah A. Crittenden  
Notary Public in and for the State of Iowa

29444.08-Covenants