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 OFFICE OF COUNTY RECORDER  
 OLMSTED COUNTY, MINNESOTA

I hereby certify that this document was filed in this office  
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W. MARK KRUPSKI - Co. Recorder by deputy: ww

Well Certificate: \_\_\_\_\_ Abstract: \_\_\_\_\_

Fee: \$46.00

TCPA  
 4111 - 11TH AVENUE SW, RM 10  
 ROCHESTER, MN 55902

PINS N/A

DECLARATION OF  
 COMMUNITY WASTEWATER TREATMENT SYSTEM FOR  
 MAYO WOODLANDS THIRD

THIS DECLARATION made this 15<sup>th</sup> day of November, 2021, by Clark  
 Development LLC, a Minnesota limited liability company (hereinafter referred to as  
 "Declarant").

RECITALS

1. Declarant is the fee owner of real property located in Olmsted County, Minnesota, to be platted as Mayo Woodlands Third, which shall include, among others, the following residential lots within Mayo Woodlands Third (hereinafter "Cluster Lots")  
 ✓ Lots 2 through 10 and lots 12 through 20, Block 2, Mayo Woodlands Third
2. Declarant desires to provide for the establishment, use, operation, maintenance, repair and replacement of a community wastewater treatment system served by a common collection system for the use and benefit of the owners (the "Owners") of the Cluster Lots;
3. Declarant intends that the Mayo Woodlands Third Association, Inc., a Minnesota nonprofit corporation (the "Association") shall be the owner of the community wastewater treatment system and common sewermain collection system;

NOW, THEREFORE, Declarant hereby imposes upon and subjects all such Cluster Lots to be served with a Community Wastewater Treatment System with a common collection system pursuant to the following terms, conditions, covenants, easements and restrictions:

1. Construction of Wastewater Treatment System. Declarant shall, at Declarant's sole cost and expense construct a community wastewater treatment systems with a common collection system, including drainfields and associated sewermain and treatment units, sufficient to provide wastewater treatment (collectively the "System") for each house on a Cluster Lot having a septic tank, in accordance with the plan and specifications (the "Operation and Maintenance Plan") prepared by WSB & Associates, Inc. ("WSB"), as approved in the Mayo Woodlands Subdivision Special District Zoning Regulation adopted by the Rochester Township Board on April 12, 2001 as amended by the Mayo Woodlands Amended Development Agreement dated June 17, 2021, and in compliance with all applicable requirements of the Minnesota Pollution Control Agency.
2. Location of Drainfields. The System drainfields shall be constructed on Outlot A, Mayo Woodlands Third, Olmsted County, Minnesota and shall serve the Cluster Lots.
3. Location of Sewermain. The common collection system (the "Sewermain") shall be located in the utility easements, roads, private or public, and in the easements within Outlots.
4. Reservation of Easements. Declarant reserves easements to include the right of ingress and egress for the purpose of locating, installing, operating, maintaining, repairing and replacing the

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System over and across utility easements, public and private roads and Outlots as indicated on the plat of Mayo Woodlands Third and any subsequent subdivision which is made subject to the Declaration of Covenants, Conditions and Restrictions for the Benefit of Mayo Woodlands Third, together with the right of ingress and egress over and across each Cluster Lot or Outlot upon which a community drainfield or sewermain is located.

5. Access to the System. Cluster Lot Owners shall not place permanent structures or erect costly or extraordinary improvements upon the location of the ingress and egress easements so as to interfere with the operation, maintenance, repair and replacement of the System.

6. Obligations of Declarant: Septic Tank and Sewer Line Installation. Declarant shall install governmentally approved and accepted septic tanks on the Community Wastewater Treatment site; and associated pump and sewer line connection from the septic tanks to the Sewermain in accordance with the specifications prepared by WSB and approved by Rochester Township.

7. Obligations of Lot Owner. Each Owner shall maintain, repair or replace the sewer service lines from the System to the septic tank to each residential dwelling on the Cluster Lot. The sewer service lines shall be the property of the Owner. Each Owner shall install low-flow/low-water use plumbing fixtures in construction of the residence as well as low-water use washers, dishwashers and water heaters. Any Owner who deposits any material or substance in the septic tank or in the System in violation of a homeowner's manual issued by the licensed and certified operation, maintenance and repair agency (the "Agency"), or in violation of any of the rules and regulations of Declarant, shall be responsible for any costs incurred by Declarant in repairing or correcting any resulting damage to the System caused by the deposit of such material or substance. If any part of the System must be replaced due to an Owner's violation of the Operation and Maintenance Plan, or Declarant's Homeowner's Manual, the Owner shall be responsible for such replacement cost.

8. Residential Use Only. The System shall be used solely for normal residential purposes.

9. Obligations of Association/Agency. Upon completion of the initial construction of the System, Declarant shall transfer ownership of the System to the Association. The Association shall contract with an Agency (the "Agency") licensed with the State of Minnesota to operate, maintain, repair and monitor the System. In addition to the operation, maintenance, repair, the Agency shall also be responsible for the monitoring of the System, including the septic tank, pump and service connection from the septic tank to the Sewermain on each Cluster Lot or housing unit, involving the periodic pumping of each septic tank, all in accordance with the Operation and Maintenance Plan. The Association and Agency shall have the right of ingress and egress on each Cluster Lot surrounding the septic tank and the service connection line to the Sewermain pipe for the operation, maintenance, repair and replacement of the System in Mayo Woodlands.

10. System Property of Association. The System shall remain the property of Association for the life of the development or upon connection to another central or municipal utility system. Should the Association elect to sell, transfer or exchange the system, the Association shall follow the following procedures:

- a. The Association shall provide to the Rochester Township Board written notice of any sale, transfer or exchange of the System to another entity at least six (6) months prior to any change of ownership closing date;
- b. The Association shall only sell, transfer or exchange the System to a qualified entity properly licensed with the State of Minnesota. Any sale, transfer or exchange shall be reviewed by the Rochester Township Board;
- c. An Agreement shall be executed between the Association, the Agency and the Cluster Lot Owner reflecting the responsible party for the System. This Agreement shall be kept on file with the Association.

11. Rates and Charges. The Association shall assess each Cluster Lot a one

eighteenth (1/18<sup>th</sup>) share of the cost of repair, maintenance, operation and improvement (and replacement, if necessary) of the Community Wastewater Treatment System (collectively, hereinafter the "Costs"). The Association shall establish the fore going share as a monthly assessment for the Costs. The Association shall provide each Owner a monthly statement indicating the assessment amount from that Owner for System usage during the previous month. The amount indicated in the statement shall be due and payable within 30 days of the date of such statement. In the event that such payment is not made within such 30-day period, the Association shall have the right to add a five percent (5%) late charge for that month to the Owner's next monthly bill.

12. The Agency shall exercise reasonable care and diligence in the operation, maintenance, repair and replacement of the System. In no event shall Declarant nor, Association be liable for any damage resulting from the curtailment, interruption or apportionment of service occasioned by necessary maintenance, repair or replacement of the System.

13. Rules and Regulations. Each Owner shall comply with all reasonable rules and regulations adopted by Association and Agency from time to time concerning the use and operation of the System.

14. Termination. This Declaration may be terminated by Declarant or Association upon the occurrence of any of the following:

- (a) the System being taken over by or sold or assigned to a governmental authority or a public utility (regulated and controlled as to rates and services by a duly constituted public regulatory body or commission) for maintenance and operation, as part of a larger public wastewater distribution system; or
- (b) the provision of other adequate wastewater treatment service by a governmental authority or public utility (regulated and controlled as to rates and services by a duly constituted public regulatory body or commission) through means other than the System.

15. Definition of Owner. Owner means the owner of a Cluster Lot. Whenever a Cluster Lot has multiple owners, they are collectively the Owner of that lot and must act as a single Owner for all purposes under this Declaration. The multiple Owners of a given Cluster Lot are jointly and severally liable for the financial obligations of the Owner of their Cluster Lot(s).

16. Binding Effect. The afore described rights, duties and obligations of the Declarant and Owner as described in this Declaration shall be appurtenant to and run with the Cluster Lots and shall be binding upon, and shall inure to the benefit of the Declarant and Owners and their respective successors and assigns.

17. Enforcement. The Declarant or any future Owner shall have the right to enforce the provisions hereof by proceedings at law or in equity against any person or persons violating or attempting to violate any provisions of this Declaration; either to restrain violation or recover damages, or both. The prevailing party shall be awarded attorney's fees and costs in connection therewith.


18. Severability. Invalidation of any of the provisions in this Declaration by judgment or court order shall in no way affect any of the other provisions, which other provisions shall remain in full force and effect.

19. Modification or Termination. This Declaration may be amended or terminated at any time by recording an instrument duly executed by the record Owners and record Mortgagees (at such time) of at least Eighty Percent (80%) of the Cluster Lot Owners,

provided further that the Declarant must be one of the concurring parties so long as it is a record Owner of any part of Mayo Woodlands Third or as a result of the decision of any judgment or court order under the foregoing Paragraph 17.

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

Clark Development LLC

By:   
Edward D. Clark  
Its: Manager

STATE OF MINNESOTA  
COUNTY OF OLMSTED

On this 15<sup>th</sup> day of November, 2021, the foregoing instrument was executed, by Edward D. Clark, as the Manager of Clark Development LLC.

  
NOTARY PUBLIC

This instrument was drafted by  
Frank J. McNulty  
1801 Greenview Dr. SW Suite 102  
Rochester, MN 55902

