

**CERTIFICATION
OF DECLARATION**

STATE OF ILLINOIS)
) SS:
COUNTY OF DUPAGE)

I, Julie Clark, City Clerk of Warrenville, a municipal corporation in said County and State as aforesaid, do hereby certify that the foregoing is a full, true, complete and correct copy of:

**DECLARATION OF OWNERSHIP AND MANAGEMENT, AND
MAINTENANCE COVENANTS, CONDITIONS, AND RESTRICTIONS**

Property Address: 28301 Ferry Road, Warrenville, IL 60555

P.I.N. No.: 07-02-201-020, 07-02-201-019, 07-02-201-018, 07-02-201-017

Applicant: John Schiess

As it appears from the records in my office.

Given under my hand and corporate seal of said City this 1st day of November, 2021.

(Seal)





Julie Clark
City Clerk

CHARGE TO ACCOUNT NO. 125

PREPARED BY/RETURN TO:
Marie Lupo
City of Warrenville
3S258 Manning Avenue
Warrenville, IL 60555

**DECLARATION OF OWNERSHIP AND MANAGEMENT, AND MAINTENANCE
COVENANTS, CONDITIONS, AND RESTRICTIONS**

THIS DECLARATION OF OWNERSHIP, MANAGEMENT, AND MAINTENANCE AGREEMENT COVENANTS, CONDITIONS, AND RESTRICTIONS ("Declaration") is made and entered into as of 26 day of October, 2021, by **Cantera Apartments, LLC**, an Illinois limited liability company ("Declarant"), the owner of certain real estate generally situated at the northeast corner of Ferry Road and Torch Parkway in Warrenville, Illinois, County of DuPage, State of Illinois, which real estate is legally described in **Exhibit A**, together with all improvements and fixtures thereon ("Property").

NOW, THEREFORE, THE DECLARANT DECLARES that the Property and all portions thereof and improvements thereon are and will be held, transferred, sold, conveyed, used, and occupied subject to the covenants set forth in this Declaration, which covenants are for the purpose of protecting the value and desirability of the Property and other properties in the City of Warrenville ("City").

Section 1. Recitals.

A. On May 3, 2021, the City Council adopted Ordinance No. O2021-15 ("Approval Ordinance"), approving a final planned unit development plan ("Final PUD Plan") and a special use permit for a planned unit development ("Special Use Permit") for the Property for (i) the construction of sixty townhome buildings (the townhome buildings are the "Townhome Buildings" and the individual townhome units are the "Townhome Units"); and (ii) the installation of sidewalk along the entire Townhomes frontage along Torch Parkway and landscaping and open space improvements (collectively, "Landscaping") as depicted on the Landscape Plan, consisting of three sheets, prepared by Lannert Group, and dated April 7, 2021 ("Landscape Plan") (collectively, items (i) through (iii) are the "Townhome Development").

B. The Final PUD Plan, as defined in Section 2 of the Approval Ordinance consists of: (i) the Phase II Townhomes Site Plan, consisting of eight sheets, prepared by A Studio Architects, and dated April 7, 2021 ("Phase II Site Plan") attached as Exhibit B to the Approval Ordinance; and (ii) the documents referred to collectively as the "Final Phase II PUD Documents" and listed on Exhibit C to the Approval Ordinance, which include, without limitation, the Landscape Plan.

C. Pursuant to Section 5.B.18 of the Approval Ordinance, the approval by the City Council of the Final PUD Plan and the Special Use Permit is conditioned upon the Declarant's recordation of certain covenants prohibiting the sale of individual Townhome Buildings or Townhome Units, or any portion of the Property less than the entire Property, to one or more different owners unless and until all of the following occur:

1. The Owner submits and receives City approval of a plat of resubdivision that creates individual lots for each Townhome Building or Townhome Unit as may be applicable.

2. The City Council approves a minor amendment to the Final Phase II PUD Plan that permits the Townhome Buildings and Townhome Units to be sold as individual units or buildings.

3. The Owner establishes a homeowner's association for the Townhome Development in a form and substance acceptable to the City for Phase II.

4. The recordation of a comprehensive set of homeowner's association covenants, conditions, and restrictions for Phase II prepared by the Owner and reviewed and approved by the City.

D. The Declarant and each of its successors and assigns recognize the special nature of the terms and conditions of this Declaration, and each of them, with the independent and informed advice of legal counsel, freely accepts these terms and conditions, including those terms and conditions that may affect the leasing and resale of the Property.

Section 2. Ownership of the Property. The Declarant covenants, warrants and represents that the Property, and all structures and improvements thereon including, without limitation, the Property and the Townhome Development, shall be owned as a unified whole by the same owner. The Townhome Buildings and Townhome Units and all other improvements on the Property shall not be conveyed or transferred individually or separately from one another, nor shall any portion of the Property less than the entire Property be sold, unless the all of the requirements of Section 1.C of this Agreement are met prior to any such transfer or sale.

Section 3. Maintenance and Management of the Property.

A. In accordance with Section 4.B.11 of the Approval Ordinance, the Declarant covenants, warrants and represents that the Property and the Townhome Development, including, without limitation, the Townhome Buildings, Townhome Units, and Landscaping, and other structures and improvements on the Property, shall be maintained in a first-class condition in accordance with the Final PUD Plan, including, without limitation, the Landscape Plan.

B. The Property and the Townhome Development, including the Townhome Buildings and Landscaping, and other structures and improvements on the Property, shall be operated and managed as a unified whole by a single, experienced multi-family development management company.

C. The Declarant shall maintain the Property and all structures and improvements thereon, including, without limitation, the Townhome Buildings, Townhome Units, and Landscaping, in first-class condition, in accordance with the Final PUD Plan, and in compliance with all laws, regulations, ordinances, codes and orders, now existing or herein after enacted, including the Approval Ordinance.

D. The Declarant understands and agrees that the Declarant is fully responsible for the management and continued maintenance of the Property and all structures and improvements thereon, including, without limitation, the Townhome Buildings, Townhome Units, and Landscaping, in accordance with this Agreement, the Approval Ordinance, and the Final PUD Plan at Declarant's sole cost.

Section 4. Enforcement.

A. Any Action at Law or in Equity. The Declarant recognizes and agrees that the City has a valid interest in ensuring that this Declaration is properly adhered to and therefore does hereby grant the City, in addition to the rights granted in Section 4.B of this Declaration, the right to enforce this Declaration by any proceeding at law or in equity against any person or persons attempting to violate any restriction contained herein, either to restrain violations, to compel affirmative action, or to recover damages.

B. City's Right to Enter and Perform Maintenance. The City shall have the right to enter the Property to inspect and evaluate the maintenance of the Landscaping. In the event the City determines, in its sole and absolute discretion, that prior maintenance of the Landscaping has not be performed in accordance with this Declaration, the Approval Ordinance, or the Final PUD Plan, the City, after 30 days prior written notice to the Declarant, may, but shall not be obligated to, enter upon the Property for the purpose of performing maintenance work on and to the Landscaping. In the event that the City shall cause to be performed any work pursuant to this Section 4.B of this Declaration, the City shall have the right to charge the Declarant an amount sufficient to defray the entire cost of such work or action, including administrative costs, either before or after such cost is incurred. If the amount so charged is not paid by the Declarant within 30 days following a demand in writing by the City for such payment, such charge, together with interest and costs of collection, shall become a lien upon the Property and the City shall have the right to collect such charge, with interest and costs, and to enforce such lien as in foreclosure proceedings as permitted by law.

C. Indemnification. The Declarant hereby agrees to pay, indemnify and hold the City harmless from any and all reasonable costs, expenses and fees, including all reasonable attorneys' fees which may be incurred by the City in enforcing or attempting to enforce this Declaration, together with all reasonable costs, fees and expenses which may be incurred in connection with any amendment to this Declaration or otherwise by the City at the request of the Declarant.

Section 5. Exercise of City Rights; Waiver. The City is not required to exercise the rights granted herein except as it shall determine to be in its best interest. Failure by the City to exercise any right herein granted shall not be construed as a waiver of that right or any other right. Nothing herein shall be deemed or construed to constitute a dedication of any real property to the City.

Section 6. Term. This Restrictive Covenant shall be effective from its Effective Date through and until such time as the Proposed Development is located on the Property.

Section 7. Release, Modification, or Amendment. This Declaration may be revised, amended or annulled only upon the express, prior approval of the City Council and recordation by the City Clerk. The Declarant shall duly record such release, modification or amendment, including said approval of the City Council, with the DuPage County Recorder of Deeds and bear the costs of such recordation.

Section 8. Covenants Running With The Land. The Declarant intends, declares and covenants, on behalf of itself and all future owners and occupants of the Property during the term of this Declaration, that this Declaration and the covenants and restrictions set forth in this Declaration regulating and restricting the ownership, management, and maintenance of the Property (i) shall be covenants running with the Property, encumbering the Property, for the term

of this Declaration, binding upon the Declarant and its successors in title and all subsequent owners and occupants of the Property, including any purchaser, grantee, owner or lessee of the Property and any other person or entity having any right, title or interest therein and upon the respective heirs, executors, administrators, devisees, successors and assigns of any such purchaser, grantee, owner or lessee and of any such other person or entity having any right, title or interest therein, for the term of this Declaration, and (ii) are not merely personal covenants of the Declarant, and (iii) shall bind the Declarant (and the benefits shall inure to the City) and their respective successors and assigns during the term of this Declaration. The Declarant, for itself and its successors and assigns, agrees that any and all requirements of the laws of the State of Illinois to be satisfied in order for the provisions of this Declaration to constitute deed restrictions and covenants running with the Property shall be deemed to be satisfied in full, and that any requirements of privity of estate are intended to be satisfied, or in the alternate, that an equitable servitude has been created to ensure that these restrictions run with the land.

Each and every contract, deed or other instrument hereafter executed covering or conveying the Property or interest therein shall contain an express provision making such conveyance subject to the covenants, restrictions, charges and easements contained herein; provided, however, that any such contract, deed or other instrument shall conclusively be held to have been executed, delivered and accepted subject to such covenants, restrictions, charges and easements regardless of whether or not such covenants, restrictions, charges and easements are set forth or incorporated by reference in such contract, deed or other instrument.

If any of the privileges or rights created by this Declaration would otherwise be unlawful or void for violation of (1) the rule against perpetuities or some analogous statutory provision, (2) the rule restricting restraints on alienation, or (3) any other statutory or common law rules imposing time limits, then the affected privilege or right will continue only until 21 years after the death of the last survivor of the now living lawful descendants of the current President of the United States, or for any shorter period that may be required to sustain the validity of the affected privilege or right.

In the event of transfer of fee simple title to the Property in accordance with this Declaration, the transferor shall not be liable or responsible for the performance of any term or provision of this Declaration arising after such transfer, and the transferee shall be liable and responsible for the performance of all such terms and provisions of this Declaration after such transfer, it being agreed that the obligations and liabilities arising under this Declaration shall be binding upon the owner of the Property as Declarant only to the extent that they arise while such owner owns fee simple title to the Property.

Section 9. Recordation. This Declaration shall be recorded with the Recorder of Deeds of DuPage County, Illinois, and all contracts and deeds of conveyance relating to the Property shall be subject to the provisions of this Declaration.

Section 10. Headings. The headings of the Sections herein are intended for reference only and are not intended to alter, amend or affect any of the terms or provisions of this Declaration.

Section 11. Survival of Enforcement Rights. Notwithstanding the definition of Declarant contained in this Declaration, the rights of enforcement for violations of this Declaration shall survive any subsequent sale or transfer of the Property.

Section 12. No Subordination. The rights and obligations created by this Declaration are intended to never, under any circumstance, be subordinate to or capable of subordination to the financial or other property interest of any third-party acquiring rights in the Property after the recording of this Declaration.

Section 13. Severability. Invalidation of any one of these covenants and restrictions by a judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 14. Notice. Any notice to the Declarant under this Declaration shall be given to the last name and address shown on the most recent real estate tax bill issued by the County Treasurer. Any notice to the City under this Declaration shall be given to:

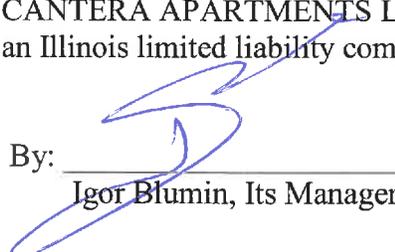
City of Warrenville
28 W 701 Stafford Place
Warrenville, Illinois 60555
Attention: Community and Economic Development Director

or to such other address at which the principal administrative offices of the City are located from time to time.

Section 15. Governing Law. This Declaration shall be governed by the laws of the State of Illinois.

IN WITNESS WHEREOF, the Declarant has executed or caused this Declaration to be executed by its duly authorized representative.

CANTERA APARTMENTS LLC,
an Illinois limited liability company

By: 
Igor Blumin, Its Manager

STATE OF ILLINOIS)
) SS
COUNTY OF DU PAGE)

I, the undersigned, a Notary Public in and for said County, in the State aforesaid, **DO HEREBY CERTIFY** that Igor Blumin, Manager of Cantera Apartments, LLC, personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person, and acknowledged that he signed, sealed and delivered the said instrument as his/her free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and official seal, this 26th day of October, 2021.

My Commission expires: 07/02/2022
 Alina Sandal
NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES 07/02/22

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

LOT 3 IN PLAT OF RESUBDIVISION CANTERA SUB-AREA "C," LOT 2 SUBDIVISION OF PART OF THE NORTHEAST ¼ OF SECTION 2, TOWNSHIP 38 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNTY, ILLINOIS, AND THEN RECORDED IN DUPAGE COUNTY AS DOCUMENT NUMBER R _____ - _____ ON _____, 2021.

PIN(S): 07-02-201-018