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MIKE MALAIS County Recorder
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WATFORD CITY ND 58854 Watford City ND 58854
COUNTY RECORDER, MCKENZIE COUNTY, ND Page 1 of 18

I certify that this instrument was filed and recorded, 474572
Ann M. Johnsrud, County Recorder Fee \$61.00
By *Ann M. Johnsrud* Nov 12, 2014 02:33 PM

Tara Estates Homeowners Association

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I. DEFINITIONS

A. SCOPE

1. Purpose
The purpose of this declaration is to create, promote, and maintain the quiet, safe, peaceful and attractive character of residences and neighborhoods in the subdivision, to establish a preserve a harmonious design for the subdivision, to protect and promote property values and to establish procedures for the enforcement of this declaration.
2. Residential Use
All lots in the subdivision shall be used only for the construction and occupancy of single family residences. No trailer, tent, garage or outbuilding shall be used as a residence. No home shall be subject to time interval ownership.
3. Subject Property
The property that is the subject of this Homeowners Association and these CC&R's is the Tara Estates Subdivision, as currently constituted and defined in Exhibit A attached hereto, or as may be defined pursuant to any future Annexation.

B. ARCHITECTURAL CONTROL

1. Architectural Review Committee (ARC)
The Association shall establish an Architectural Review Committee of one or more persons to review and approve or disapprove proposed plans submitted to it. The members of the Review Committee need not be owners or residents within the Project and shall be appointed by and subject to removal by the Association. The purpose of the ARC is to maintain uniformity of architectural and landscaping standards throughout the subdivision and the Project, thereby enhancing the aesthetic and economic value of the Project.
2. Limits on Changes
No construction, building, shed, fence, wall, antenna, tower, cooling unit, and Construction satellite dish, changes to exterior paint colors, grading, excavation, addition or alteration of any kind to any structure, shall be commenced, erected, improved or made on any lot in the subdivision until construction or

modification plans have been approved by the ARC. No changes in or deviations from plans approved by the ARC shall be made without prior written approval by the ARC. The ARC will base its approval of plans on their consistency with the subdivision and the Project and on the acceptability and harmony of the external design of the proposed construction with respect to topography and grade, quality of materials, size, height and color.

3. Plans
All plans submitted to the ARC shall be in such form as the ARC designates. All plans approved by the ARC are not deemed to be approved for engineering, design or architectural competence. Further, by its approval, the ARC does not assume liability or responsibility for any defect in any structure constructed from such plans.
4. Guidelines and Rules
The ARC may establish and adopt design guidelines, procedural rules and regulations and may amend, supplement or review them as needed. Copies shall be provided to owners upon request.
5. Waiver
Approval by the ARC of any plans for any work, done or proposed, shall not be deemed to constitute a waiver of any right to reject or withhold approval of similar plans.
6. No Liability
No member of the ARC shall be liable to any person for decisions made or for failure to act, in making decisions as a member of the Committee.

C. PROPER MAINTENANCE

1. Homes
Each owner shall maintain the exterior of the dwelling on their lot in good condition and repair (including painting or other finishes), according to standards set and materials approved by the HOA and consistent with reasonable standards of the surrounding neighborhood. House exterior painting and decorating, landscaping or outdoor art objects which the ARC finds to be incongruent with the approved standards and surrounding neighborhood shall be subject to change as directed by the ARC. In the event that any building or structure is damaged, the owner must have it repaired within a reasonable time period or must demolish and remove it.

Upon the need for roof maintenance or replacement, each owner in a multi-unit building, i.e., duplex, shall work together to select materials from HOA-approved roofing standards. Such material replacement and schedule is subject to prior ARC plan review and approval.
2. Hardscape &
Each owner of a lot shall maintain their driveway and

Landscaping. All shrubs, trees, hedges, grass and plantings on the owner's lot and on the park strip(s) abutting such lot, shall be neatly trimmed and properly watered and such areas shall be kept free of trash, weeds and other unsightly material. Each owner shall also remove snow from walkways, sidewalks and driveways within 48 hours.

3. Mailboxes
Each owner shall maintain the mailbox for their lot to the standard as initially supplied by the Developer or as revised by the ARC.

D. LIMITS ON USES

1. Legal Activities
No activity in the subdivision may be conducted in violation of city, county, state or federal laws. If a conflict exists between such laws and this declaration, the more restrictive shall apply.
2. Erosion Control
Wells, tunnels, shafts, or mining excavations are not permitted. No landscape or structures that concentrate or divert the flow of water onto adjacent lots, property or streets are allowed.
3. Vehicle Parking
No vehicles shall be parked or stored on any street in the subdivision for a continuous period of more than forty-eight (48) hours. Visitor vehicles shall be parked in the driveway of the dwelling being visited. No vehicle in obvious state of disrepair or disassembly or incapable of moving under its own power may be parked on a street or driveway. Such vehicles must be placed in a garage or on a screened area away from neighborhood view, or will be subject to towing. The screening must be approved by the ARC.
4. Recreational Vehicle Parking
All recreational vehicles shall be parked inside a garage or in a location screened from the street. The acceptability of the screening must be approved by the ARC. A recreational vehicle may be parked on the street for a period no longer than forty-eight (48) hours, which will allow for loading and unloading.
5. Business Use
Residents shall be permitted to conduct a licensed craft, trade or business that is clearly incidental and secondary to residential use subject to all of the following:
 - a) activity is performed solely by residents of the property;
 - b) there is no outside storage or exterior indication of the activity;
 - c) there is no use of heavy equipment or power tools not common to residential neighborhoods;
 - d) the business does not use or store any hazardous materials;

- e) there is no impact or intrusion on neighbors with respect to noise, odor, heat, glare or other pollution;
- f) there is no increased demand for on-street parking;
- g) no noticeable additional traffic is created in the neighborhood;
- h) no sign or other indication of the business is displayed;

No residence shall be used as transient lodging, such as a boarding house, "bed and breakfast" or accommodation for travelers.

6. Storage Piles,
Rubbish & Trash

Woodpiles or storage piles must be screened from the view of neighboring property and the street and kept at least two (2) feet from the home. All rubbish, trash or garbage must be kept in containers out of view of the neighborhood.

7. Heating/
Cooling Units

Heating, cooling or air-conditioning units placed outside a dwelling shall be screened or concealed from neighboring properties and streets. All such screening and concealment must be approved by the ARC prior to construction. Units must operate at a noise level acceptable to surrounding neighbors.

8. Model Homes

The provisions in this declaration which prohibit non-residential use of lots and parcels and regulate parking of vehicles shall not prohibit the construction and maintenance of model homes by persons engaged in the construction of residential dwellings in the Project or parking incidental to the visiting of such model homes so long as the location of such model homes is approved by the ARC. The ARC may also permit other areas to be used for parking in connection with the showing of model homes. Any homes constructed as model homes shall cease to be used as model homes at any time the builder thereof is not actively engaged in the construction and sale of single family residences. No home shall be used as a model home for the sale of homes not located in the Project.

9. Animals/Pets

No animals, livestock, poultry, fish, birds or reptiles may be bred or kept on any lot, except commonly accepted household pets, in accordance with HOA rules and regulations and city ordinances. No pets may be kept, bred or maintained for any commercial purpose.

10. Recreational
Equipment

Temporary athletic or recreational devices, backboards, or skate ramps, toys and other play items must be removed from front yards and driveways when not in use. The location of permanent basketball backboards or other recreational structures must be approved by ARC before installation.

11. Hazardous Materials No fuel oil, gasoline, propane or other fuel storage tanks in excess of five (5) gallons may be installed or maintained on any lot. Storage of explosives or other chemicals or hazardous materials not common to household use is prohibited.

12. Annoyance of Neighbors No noxious or offensive activity is permitted that disturbs neighbors or is an annoyance or nuisance to the neighborhood. No activity will be permitted that creates measurable electromagnetic interference with neighbors. Exterior lighting must have placement and intensity so as not to interfere with the neighbors' reasonable enjoyment of their property. This lighting must be approved by the ARC.

13. "For Sale" Signs Signs used to advertise a lot or home for sale, lease or rent are limited to one per lot and six (6) square feet in size. Upon sale of lot or home, all signs must be removed within a 48-hour period. The Developer or its authorized agents, however, may erect and maintain structures or signs in excess of this restriction to advertise homes, lots or parcels as long as such structures or signs do not unreasonably interfere with a resident's enjoyment of their property.

14. Political Signs Temporary political signs are permitted for a three-week period prior to any local, state or federal election but must be removed two (2) days following the election. Any sign that offends the sensibility of the neighborhood as judged by the ARC must be removed immediately.

15. Subdivision or Change of Use Without the prior approval of the ARC, there shall be:

- a) no further subdivision of any lot in the subdivision; and
- b) no transfer or conveyance of any easement in the subdivision; and
- c) no application for rezoning or variances for any lot in the subdivision.

E. HOMEOWNERS ASSOCIATION

1. Organization of Association The Developer shall establish and organize the Association. The Association shall be a non-profit North Dakota corporation charged with the duties and invested with the powers allowed by law and set forth in its Articles of Incorporation, and this declaration.

2. Board of Trustees And Officers The affairs of the Association shall be conducted by the Board and such officers, manager and committees as the Board may appoint from time to time who shall, subject to the direction of the Board, be responsible for the day-to-day operations of the Association.

3. Rules and Regulations

The Board may cause the Association, from time to time, to adopt, amend and repeal Rules and Regulations for the following: the administration of the Association, the use and enjoyment of common areas or property owned by the Association, and to interpret any provision of this declaration. Such rules and regulations shall be known as the Tara Estates Rules & Regulations. Upon adoption, the Tara Estates Rules & Regulations shall have the same force and effect as if they were set forth in and were part of this declaration.

4. Personal Liability

No member of the Board or of any committee of the Association, nor any officer, manager or employee of the Association shall be personally liable to any member, owner or any other person (including the Association) for itself, for any damage, loss or prejudice suffered or claimed on account of any act or omission of the Association, the Board, any manager, any representative or employee of the Association or any committee, committee member or officer of the Association. These limitations shall not apply when such act or omission constitutes gross negligence or intentional misconduct.

5. Owners are Members

Each owner of a lot or parcel which is subject to assessment shall be a member of the Association. Each such membership shall be appurtenant to and may not be separated from ownership of the lot or parcel to which the membership is attributable. Joint ownership or ownership of an undivided interest in any lot or parcel shall not cause there to be more memberships than the number established for purposes of this Paragraph 31. Each owner shall have the following number of memberships in the Association:

- a) Each owner of a lot which is not exempt property, shall have one membership for each such lot; and
- b) Unless otherwise provided in the applicable plat, each owner of an undeveloped parcel or non-residential parcel which is not exempt property, shall have one membership.
- c) For purposes of determining the number of memberships held in the Association, the owner of each lot which is not an exempt property, shall have one vote and thereby one membership.

6. Voting

The Association shall have two classes of memberships. The Developer shall have Class A Memberships, which allow for 500 votes per lot. The Owners will have Class B Memberships, which allow for 1 vote per lot. Voting rights and procedures for exercising voting rights, for transferring memberships in the Association and all other regulations regarding memberships in the Association shall be determined solely by the Board.

F. ASSESSMENTS

1. **Obligations for Assessments**

Developer, as the original owner of all lots and parcels in the subdivision (other than exempt property) at the time the plat for the subdivision was recorded, hereby covenants and agrees, and each owner, by purchase or acquisition of a lot or parcel in the subdivision (whether or not so expressed in the purchase of the contract, deed or similar document), is deemed to covenant and agree to pay to the Association assessments and charges assessed by the Association against such lot or parcel (together with late charges, interest, costs and reasonable attorney's fees on delinquent assessments as provided in this declaration).
2. **Limits on Assessment**

The assessments on each lot will be determined by the Association as it relates to the expenses incurred by the Development. The Association, at its sole discretion will determine the manner in which the Assessments are collected.
3. **Budgets and Annual Assessments**

Assessments by the Association shall be made annually based on an annual budget approved by the Board. The budget shall be based on projections of estimated costs according to information readily available to the Board. In addition, special one-time assessments may be made where warranted by the circumstances.
4. **Lien**

Each assessment, together with late charges, interest, costs and reasonable attorney's fees on delinquent assessments shall be a charge, continuing servitude and lien upon each lot and parcel (and the improvements thereon) against which such assessment is made. Such lien shall be for the benefit of the Association.
5. **Personal Obligation**

In addition to being a charge against a lot or parcel, each such assessment (together with interest, costs and reasonable attorney's fees) shall also be the personal obligation of the owner of such lot or parcel at the time the assessment is due. However, such personal obligation for the delinquent assessments shall not pass to the successors in title of such owner.
6. **Purpose of Assessments**

Assessments by the Association can be made against lots and parcels to pay for the costs of:

 - a) repair, maintenance, alteration or re-construction and property taxes of any property in the Project owned by the Association including, but not limited to: park strips, roundabouts, Project entrances, neighborhood entrances, sewer lift stations, landscape areas, parks, open spaces and waterways, drainage areas and water retention areas, and any other purpose deemed necessary for the common good of the owners;

- b) purchase, repair, maintenance and operating any equipment acquired or owned by the Association;
- c) salaries, wages, payroll taxes and benefits of employees of the Association;
- d) fees for accountants, attorneys or other professionals hired by the Association or any committee thereof;
- e) supplies and services needed by the Association;
- f) obtaining and maintaining liability, fire and casualty insurance;
- g) management of Association reserves funding;
- h) utilities and other public services required by the Association;
- i) security for the Project;
- j) providing communication or dissemination of information concerning the Project; and
- k) indemnification of trustees, officers, employees and agents of the Association.

7. Billing and Collection
 Procedures for billing and collecting assessments shall be determined by the Association.

8. Right to Carry Forward Balances
 The Association shall not be obligated to spend, in any year, all sums received by it in such year, whether from assessments or otherwise, and may carry forward as surplus any balance remaining. Further, the Association shall not be obligated to reduce the amount of assessments in a succeeding year if a surplus exists in a prior year.

9. Late Charges and Interest
 Assessments not paid when due shall be subject to late charges determined by the Board to defray the costs of handling the delinquent payment and shall also bear interest at the rate of a 10% per annum until paid.

10. Reserves Mandate and Annual Report
 The Association is obligated to properly mandate assessment reserves so such reserves will be spent in an appropriate manner on needs of the Development. The Association will provide an annual budget showing an accounting of how all funds were spent during that year. In addition, the Association will provide a budget for the following year showing where the reserves will be spent. This budget will be sent to all owners for review and comment before final vote to approve.

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G. ENFORCEMENT

1. Enforcement Remedies
Enforcement of provisions of this declaration, including collection of assessments, may be accomplished by the Association through any lawful means including, but not limited to, the following:
 - a) an assessment of \$100 per day for each violation that continues after notice from the Association;
 - b) a proceeding at law or in equity against any person(s) violating or attempting to violate any provision, either to restrain violations or to recover damages;
 - c) an action at law to recover judgment against the person obligated to pay an assessment;
 - d) foreclosure of any assessment lien against the lot or parcel under applicable prevailing local, state or federal law relating to foreclosure, deeds of trust and mortgages on real estate (including, where applicable, the right to recover any deficiency) and, if foreclosed as a mortgage, the lot or parcel may be redeemed after foreclosure sale as provided by law.

2. Foreclosure of Lien
To evidence a lien for sums assessed pursuant to the declaration, the Association or its agent shall prepare a written notice of lien which sets forth the amount of the assessment, the date of assessment, the amount remaining unpaid, the name of the owner of the lot or parcel subject to assessment and a description of the lot or parcel. Such notice, once signed by a person authorized by the Association, shall be recorded in the office of the County Recorder and a copy mailed to the owner. The lien may be foreclosed at any time after recording the notice of lien according to the procedures for exercise of powers of sale under deeds of trust or other liens for foreclosure of mortgages under local, state or federal law or any other manner permitted by law. Under such procedures, the owner shall pay all costs and expenses including, but not limited to, recording fees, filing fees, publications costs, court costs and reasonable attorney's fees. All such costs and fees shall be secured by the lien, whether or not set forth in the notice of lien.

3. Enforcement by Developer or Association
As long as the Developer is a member of the Association, the shall have the full power and authority to enforce all provisions of this declaration, as provided in Paragraph 43, for a member of the Association on behalf of the Association, including the full power to delegate and substitute another in its place. After the Developer ceases to be a member of the Association, the Association shall have the full power and authority to enforce any provision of this declaration, as provided in Paragraph 43, on its own behalf.

4. Enforcement by an Owner
An owner, not at the time in default under this declaration, shall have the right, at the owner's expense, to enforce the provisions of this declaration by an appropriate action, whether in law or in equity.
5. Cumulative Remedies
Each remedy provided in this declaration shall be cumulative and not exclusive or exhaustive. A suit to recover a money judgment may be maintained without foreclosure and without waiving the lien securing the same.
6. Rights of Entry
During reasonable hours and upon reasonable notice to the owner or other occupant of a lot or parcel, any member of the Board or Review Committee, or any authorized representative of either of them, shall have the right to enter upon and inspect any lot or parcel, and the improvements thereon, except for the interior portions of any completed residence, for the purpose of ascertaining whether or not the provisions of this declaration or submitted ARC plans are in compliance. Such person shall not be deemed guilty of trespassing by reason of such entry.
7. Attorney Fees and Costs
Any legal costs and expenses, including reasonable attorneys fees, incurred in enforcing the provisions of this declaration, shall be paid by the person against whom such provisions were enforced.

H. GENERAL PROVISIONS

1. Binding Clause
The provisions of this declaration shall run with the land and shall be binding on all owners and on all persons claiming under them.
2. Interpretation
The HOA/ARC shall have the exclusive right to interpret provisions of this declaration with its decisions being final, conclusive and binding. Invalidation of any provision of this declaration by court order shall not affect any other provisions, which shall remain in full force and effect.
3. Amendment
This declaration may be amended as follows:
 - a) For so long as it possesses any Class B membership, the Developer shall be entitled to unilaterally amend this declaration, to correct minor errors and omissions, to clarify provisions and to make this declaration consistent with similar declarations for other subdivisions in the Project.
 - b) The restrictions in Section D "LIMITS ON USES" (Paragraphs 12-26 inclusive) of this declaration may be amended by any amendment approved in writing by the owners of not less than 75% of the lots in the subdivision at the time of such amendment. All other provisions of this

declaration may be amended if approved by the Association and if approved in writing by the owners of not less than 75% of the lots in the subdivision at the time of such amendment.

- c) Notwithstanding the foregoing, the Developer may at any time amend this declaration to qualify the subdivision with lending institutions until all lots in the subdivision have been improved with residences and sold to an occupant of such residence, which date will be the date upon which a deed conveying the lot is recorded.
- d) Each amendment to this declaration shall be recorded in the official Records of the McKenzie County Recorder.
- e) Developer reserves the right to amend all or any part of this declaration to such an extent and with such language as may be requested by the Federal Housing Administration, Veterans Administration, Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, or any other governmental agency, to further amend to the extent requested by and Federal, state or local government agency which requests such an amendment as a condition precedent to such agency's approval of this declaration; or by a Federally or state-chartered lending institution as a condition precedent to lending funds upon the security of any lot of parcel in the subdivision, or any portion thereof.

4. Termination
The Developer may terminate this declaration at any time that the Developer possesses or holds any Class B membership in the Association by signing and filing for record a certificate of termination in the official Records of the McKenzie County Recorder.

5. Duration
This declaration shall continue in full force and effect until fifty (50) years from the date hereof, after which time the same shall be automatically renewed and extended for successive periods of ten (10) years each, unless a certificate of termination is recorded in the official Records of the McKenzie County Recorder.

6. Retained Rights
In addition to any other rights the Developer has reserved under this declaration, the Developer retains the following rights with respect to the subdivision and the Project:

- a) To delegate or transfer any of its rights or powers under this declaration to another person by assignment, transfer, deed or other writing, provided notice of the same is given to the Association. If the Developer transfers all of its rights under this declaration to another person, notice of such transfer shall be recorded in the official Records of the McKenzie County Recorder.
- b) To modify the Project as may be required from time to time in the judgment of the Developer, to respond to

market changes, to preserve financial resources, to generate greater expected profits from future development, or for other reasons.

- c) To withdraw undeveloped land from the Project and to plan, develop and improve parcels of undeveloped land as a separate development project, if deemed necessary by Developer.
- d) To annex additional property into the Association. Such additional property would be subject to all of the same rules and conditions as Tara Estates Phase 1.
- e) To change the style, size and quality of homes in future portions of the Project to obtain market acceptability and marketability.
- f) To transfer its rights without consent of the Association, with such transferee to have the right to continue the Project and to exercise the Developer's rights hereunder to the same extent that the Developer could exercise such rights.
- g) To Annex additional property into the Homeowners Association, and have it included with and subject to the rules of the HOA.

7. Successor to
Developer

No successor in interest to the Developer's rights under the Project and under this declaration shall be liable for any liabilities of the Developer or predecessor Developer, except those acknowledged in writing by the successor Developer. This same principle shall apply to any lender which takes over all or part of the Project on foreclosure or by deed in lieu of foreclosure.

I. DEFINITIONS

- “Assessment” means any assessment levied and assessed pursuant to paragraphs 33, 34 and 35 hereof.
- “Annexation” means the addition of property to the Tara Estates Homeowners Association.
- “Association” means the Tara Estates Homeowners Association, a North Dakota non-profit corporation.
- “Board” means the Board of Trustees of the Association.
- “City” means the City of Watford City.
- “Declaration” means this declaration of protective covenants, conditions, restrictions, reservations, easements, assessments and liens as amended or supplemented from time to time.
- “Developer” means Tara Estates Phase I, LLC, and its successors and assigns.

- “Exempt Property” means all land and improvements within the Project:
- a) owned by or dedicated to and accepted by the United States of America, State of North Dakota, McKenzie County, Watford City or any political subdivision of any of them for as long as any such entity or political subdivision is the owner thereof and for so long as such ownership or dedication remains effective;
 - b) owned by the Association (for so long as the Association is the owner thereof) including, but not limited to park strips, roundabouts, Project entrances, neighborhood entrances, sewer lift stations, landscape areas, parks, open spaces and water retention areas;
- “Laws” means laws, regulations, rulings and ordinances.
- “Lot” means any area of real property within the Project designated as a lot on any recorded plat and limited to either single family residential use or cluster residential use.
- “Plans” means written plans, drawings, sketches, descriptions and specifications.
- “Rules” means the rules and regulations adopted by the Association to interpret this declaration and restrict and govern the use of any property owned by the Association.
- “Owner” means the record holder of legal title to the fee simple interest in any lot parcel, but excluding those who hold such title merely as security for the performance of an obligation. In the case of a lot or parcel, the fee simple title to which is vested of record in a seller under a valid and outstanding contract of sale, legal title shall be deemed to be the purchaser under such contract of sale for purposes of this declaration. An owner shall include any person who holds an undivided fee interest in any lot or parcel.
- “Parcel” means all contiguous areas of real property (except for lots) within the Project which is owned by the same person.
- “Park strip” means the area of each lot between the street pavement and the inside edge of the sidewalk.
- “Person” means individual, firm, corporation, partnership, limited liability company, association, estate, trust, pension or profit sharing plan or other entity.
- “Plat” means a subdivision plat or other instrument which, when recorded, subdivides real property into two or more parts.

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- “Project” means Tara Estates.
- “Recreational Vehicles” means and includes 3-wheelers, 4-wheelers, motorcycles, wave-runners, snowmobiles, boats, motor homes, campers, camping trailers, house trailers, trailers used to transport recreational items and all other motorized recreational items.
- “Architectural Review Committee” means the committee designated by the Association, pursuant to Paragraph 3 hereof.
- “Subdivision” means the subdivision identified at the beginning of this declaration.
- “Vehicle” means cars, trucks, bicycles, any motorized vehicles (i.e., motorcycles, Vespas, scooters, etc.) and recreational vehicles.

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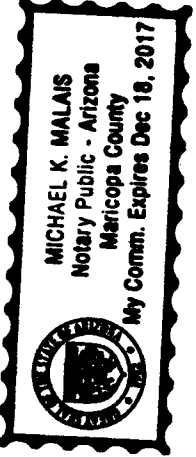
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IN WITNESS WHEREOF, the Owner of Tara Estates has caused its name to be signed by the signature of its duly authorized representative as indicated below.

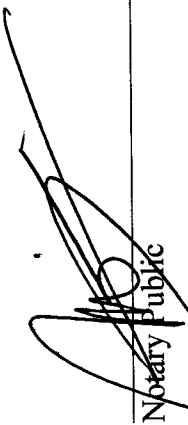
Tara Estates Phase 1, LLC, a Nevada limited liability company


Stephen A Kohner, Manager



State of Arizona)
)
County of Maricopa)

The foregoing instrument was acknowledged before me this 11 day of November, 2014 by **Stephen A Kohner, Manager.**



Notary Public

My Commission Expires:

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Exhibit A

Lots 1-24, Block 1, Lots 1-40, Block 2, Lots 1-15, Block 3, and Lots 1-4,
Block 4, Tara Estates, Watford City, McKenzie County Document No. 469204

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