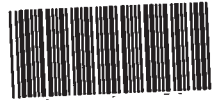


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**CANCELLATION OF PRIOR COVENANTS
AND DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF
SHEPHERD MEADOWS ADDITION TO THE CITY OF MOORHEAD, MN**

This cancellation and declaration is made by Gust G. Johanson and Brenda K. Rivelli, husband and wife, and Mathew J. Torgerson and Jane A. Williamson, both single persons, constituting all of the owners of the following described real property:

Lots 1-22, Block 1 and Lots 1-6, Block 2, Shepherd Meadows First Addition to the City of Moorhead, Clay County, Minnesota;

and State Bank of Hawley, Mortgagee, and Shepherd Meadows, LLC, an inactive Minnesota limited liability company, have consented to this cancellation and declaration.

RECITALS

WHEREAS, Gust G. Johanson owns the following described property:

Lots 1-20, Block 1 and Lots 1-6, Block 2, Shepherd Meadows First Addition to the City of Moorhead, Clay County, Minnesota

which is subject to a mortgage in favor of State Bank of Hawley dated December 23, 2008 recorded January 7, 2009 as Document 663853;

WHEREAS, Mathew J. Torgerson and Jane A. Williamson own the following described property:

Lots 21 and 22, Block 1, Shepherd Meadows First Addition to the City of Moorhead, Clay County, Minnesota;

WHEREAS, Shepherd Meadows, LLC is identified as the "Land Developer" in that certain Declaration of Covenants, Conditions and Restrictions of Shepherd Meadows Addition to the City of Moorhead dated March 21, 2008 recorded March 26, 2008 as Document 653533;

WHEREAS, Dietrich Homes, Inc. was identified as the "Project Developer" in that certain Declaration of Covenants, Conditions and Restrictions of Shepherd Meadows Addition to the City of Moorhead dated March 21, 2008 recorded March 26, 2008 as Document 653533 but pursuant to Section 34 of said Declaration, Shepherd Meadows, LLC replaced Dietrich Homes,

Inc. as the Developer under the terms of said Declaration and has all the rights of the Developer under said Declaration; and

WHEREAS, the parties desire to cancel, in its entirety, the Declaration of Covenants, Conditions and Restrictions of Shepherd Meadows Addition to the City of Moorhead dated March 21, 2008 recorded March 26, 2008 as Document 653533 and, pursuant to this agreement, adopt new covenants and restrictions;

NOW, THEREFORE, it is hereby agreed by and between Gust G. Johanson and Brenda K. Rivelli, husband and wife, Mathew J. Torgerson and Jane A. Williamson, both single persons, that the *“Declaration of Covenants, Conditions and Restrictions of Shepherd Meadows Addition to the City of Moorhead dated March 21, 2008 recorded March 26, 2008 as Document 653533”* is hereby canceled in its entirety and the following is hereby adopted and shall be in full force and effect after the execution of this agreement:

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF SHEPHERD MEADOWS ADDITION OT THE CITY OF MOORHEAD, MN

Gust G. Johanson and Brenda K. Rivelli, husband and wife, Mathew J. Torgerson and Jane A. Williamson, both single persons, hereby declare that the property hereinafter described shall be subject to the restrictions and conditions hereinafter set forth and that such restrictions and conditions shall apply to and be part of every conveyance or deed to said property or any part thereof, the same as though fully incorporated in any deed or conveyance thereof. The said restrictions and conditions shall be deemed and considered as covenants running with the land when conveyed or deeded and shall be binding on the heirs, executors, administrators, successors and assigns of any person to whom said land may have been conveyed until November 30, 2039, on which date these covenants, conditions, reservations, and restrictions shall be automatically extended for a term of 10 years and thereafter in successive 10 year terms unless on or before the end of any such extension period or the initial period by a vote of a majority the then owners shall be by written instrument, duly recorded, declare a termination, change or modification of these restrictive covenants and conditions. Although these covenants, conditions, reservations, and restrictions may expire and any and all remedies for breach of these convents, conditions, reservations, and restrictions committed or suffered prior to the expiration shall be absolute.

Section 1. LAND TO WHICH THESE COVENANTS APPLY. These Covenants shall apply to the following listed lots in the Shepherd Meadows First Addition to the City of Moorhead, Clay County, Minnesota and any subsequent re-plats of the Shepherd Meadows First Addition: **Lots 1-22, Block 1 and Lots 1-6, Block 2.**

Section 2. DEFINITIONS.

Section 2.1. "**Owner**" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any of the separate lots previously described, including contract sellers or contract purchasers, but excluding those having any interest merely as security for the performance of any obligation.

Section 2.2. "**Lot**" shall mean and refer to each lot within Shepherd Meadows First Addition: Lots 1-22, Block 1 and Lots 1-6, Block 2.

Section 2.3. "**Developer**" shall mean and refer to Gust G. Johanson, his heirs and assigns.

Section 3. DWELLING SIZE, QUALITY AND DRAINAGE

Section 3.1. No building shall be erected on any lot unless the design, location, materials, and workmanship are in harmony with existing structures and locations in the residential portions of the Development and such building must conform to these restrictive covenants.

Section 3.2. All structures shall be erected or altered with front yard and side yard set backs in compliance with the zoning ordinance of the City of Moorhead as existing on the date thereof.

Section 3.3. Any dwelling structure on the lots within the Development (excluding porches, decks, basements and garages) shall have a minimum structural area outlined as follows:

Lake Lots	All Other Lots	
<u>1700 sq. ft.</u>	<u>1400 sq. ft.</u>	Rambler and 1½ Story home.
<u>2200 sq. ft.</u>	<u>1700 sq. ft.</u>	Standard 2 Story home
<u>Not Allowed</u>	<u>Not Allowed</u>	Bi-Level home.
<u>2400 sq. ft.</u>	<u>2000 sq. ft.</u>	Split-Level home (excluding lowest basement level)
<u>Not Allowed</u>	<u>1300 sq. ft.</u>	Rambler per side for twin homes on those lots designed by the Developer for the twin home use
<u>Not Allowed</u>	<u>1700 sq. ft.</u>	2 Story per side for twin homes on those lots designed by the Developer for the twin home use
<u>Not Allowed</u>	<u>Not Allowed</u>	Bi-Level / Split-Level twin home

Section 3.4. Within twelve (12) months of occupancy, all lots in the Development shall have trees on the boulevards according to the requirements of the City of Moorhead zoning ordinances as existing on the date hereof and all lots shall have not less than one (1) tree in the front of the lot with a diameter of not less than one and one-half (1½) inches and shall have a sodded or seeded yard with sidewalks where required by the City of Moorhead.

Section 3.5. All plans and specifications for the erection or alteration of each dwelling house require approval from the Developer. The Developer may grant variances from literal compliance with these restrictive covenants in writing. In the event that Developer does not disapprove any plans within fifteen (15) working days from the day that the Developer receives the plans said plans shall be considered as approved. No construction shall be permitted during the fifteen (15) day review period. Requirement for pre-approval of plans by the Developer shall cease and become null and void when all of the lots in Shepherd Meadows First Addition are improved and occupied or when Developer gives notice that approval is no longer required by Affidavit recorded with the Clay County Recorder.

Section 3.6. Plans submitted for approval shall include the following:

Section 3.6.1. One complete set of floor plans, elevations, sections, one site plan, one landscaping plan and material samples if requested.

Section 3.6.2. The dwelling plans should indicate construction materials and specifications, roofing material, and exterior finishes and colors.

Section 3.6.3. The site plans should indicate the basement outline with projections shown as a dotted line. The garage "footprint" and exterior steps or decks should be indicated. The site plan should indicate sidewalks, walkways, driveway location, and sizes. Accessory Structures such as pools, pool houses, gazebos, decks, play structures, and kennels should be indicated on the site plan.

Section 3.7. The top of the foundation or lowest opening of all residential structures within the Development shall be not less than 900 feet above sea level or 2' feet above the top of the curb directly in front of the structure, whichever is higher.

Section 4. CONSTRUCTION TIME AND REQUIREMENTS. No white or light colored roofs shall be permitted unless approved by the Developer. No evaporative cooler shall be placed, installed, or maintained on the roof or wall of any building structure. All coolers shall be concealed. Construction of all primary structures shall be substantially completed within nine (9) months after issuance of any building permits for the structure. Landscaping shall be completed as soon as weather permits following substantial completion of the primary structure, but in any event, within 12 months of issuance of the Certificate of Occupancy. No outside storage of building materials shall be permitted on any lot after the nine (9) month construction period.

New Construction: All improvements constructed on Lots shall be new construction framed completely on site and no buildings or other structures shall be moved from other locations onto any Lot. Construction shall commence after plan approval within six (6) months of closing of the Lot.

Section 5. GARAGES AND OUTBUILDINGS. All homes shall have an attached garage capable of storing a minimum of 2 conventional automobiles. Accessory Structures such as pools, pool houses, gazebos, decks, play structures, and kennels should be indicated on the site plan. Outbuildings including but not limited to sheds, detached garages, and other storage type buildings shall be not be allowed.

Section 6. BASKETBALL BACKBOARDS AND HOOPS. No basketball backboards or hoops shall be attached to a dwelling structure on any Lot. A separate pole for installation of such equipment erected and maintained at the expense of the lot owner shall be permitted.

Section 7. DRAINAGE. Drainage ways shall conform to requirements of the City of Moorhead and of all lawful public authorities including the engineer or other appropriate authority of Clay County, Moorhead, Minnesota having jurisdiction thereof.

Section 8. OCCUPANCY. No private dwelling house erected upon any lot shall be occupied in any manner while in the course of construction or at any time prior to full completion as indicated by a Certificate of Occupancy. Nor shall any residence, when completed, be in any manner occupied until made to comply with the approved plans and covenants, conditions, reservations, and restrictions herein set forth. No temporary house, temporary dwelling, temporary garage, temporary outbuilding, trailer home, recreational vehicle or other temporary structure shall be placed or erected upon any lot unless approved by the Developer.

Section 9. LETTER AND DELIVERY BOXES. The Developer shall determine the location, color, size, lettering, and all other particulars of all mail or delivery boxes, standards, brackets, and name signs for such boxes. No delivery boxes other than boxes for the U.S. Mail shall be permitted on any lot or abutting any such lot without written authorization of the Developer. Developer may locate such delivery boxes, or clusters of delivery boxes on any one or more lots.

Section 10. TANKS AND STORAGE. No elevated tanks of any kind shall be erected, placed or permitted on any part of the Development or lots located therein. Any tanks used in connection with any residence shall be located inside of the primary structure or buried or walled sufficiently to conceal them from view of the neighboring lots, roads, or streets. The Developer must approve plans for all enclosures of this nature.

Section 11. VEHICLE PARKING, STORAGE. No commercial vehicles or construction equipment shall be permitted on any lot in the Development except during the normal course of business provided by such vehicles. Motor homes, travel trailers and like vehicles shall be temporarily permitted on the lots for the purpose of loading and unloading such vehicles or for temporary visits of less than two (2) weeks by visitors to the lots. Recreation vehicles, boats,

travel trailers and like vehicles may be stored on the lots only if they are stored in a garage. All motor vehicles kept on or about a property shall be currently licensed and shall be maintained in an operable condition at all times, temporary mechanical difficulties and breakdowns excepted.

Section 12. HORSES AND PETS. No horses shall be kept or stabled on any of the lots within the Development. No animals of any kind other than customary household pets (including birds) shall be kept or allowed on any part of the Development or any lots thereof.

Section 13. UTILITY LINES, RADIO, AND TELEVISION ANTENNAS. All electrical service and telephone lines shall be placed underground and no outside electrical lines shall be placed overhead. There shall be no free standing antennae and any satellite dish attached to a roof shall not be more than two (2) feet above the roof, not including the height of the chimney. Satellite dishes over 20" in diameter are not permitted unless approved by the Developer.

Section 14. SIGNS. No billboards or advertising signs of any kind or character shall be erected, placed, permitted, or maintained on any lot or improvement unless the same is a "for sale" sign modest in the customary size of a realtor or except as herein expressly permitted. A name and address sign used solely for the purpose of identification of dwelling occupants may be placed on the lot by said occupants provided that the design of the sign is approved by the Developer prior to installation. The provisions of this paragraph may be waived by the Developer when in its discretion the same is necessary to place or maintain such a sign structure, or structures as it deems necessary for the operation or identification of the Development.

Section 15. NUISANCES, REFUSE CONTAINERS, AND RECYCLING. No lot shall be used in whole or in part for storage of rubbish of any kind whatsoever nor for the storage of any property or things that will cause such lot to appear untidy, unclean, or obnoxious to the human eye; nor shall any substance, thing or material be kept on any lot that will emit foul or obnoxious odors, or that will cause any noise that will or might disturb the peace, quiet, comfort or serenity of the occupants of the surrounding property. Collection and disposal of trash, garbage, and recycling shall be in compliance with the City of Moorhead. Storage of any and all refuse and recycling containers shall be walled in to conceal them from view of neighboring lots, roads, streets, parks, or ponds or stored in the homes garage except for the day they are emptied by the City of Moorhead.

Section 16. DIVISION OF LOTS OR USE OF MORE THAN ONE LOT. No lots shall be subdivided except as approved by the Developer. All transfers of less than the entire lot shall be prohibited without a prior written approval of the Developer. If more than one lot is used for erection of a single primary structure the two or more lots thus used shall be considered as a single lot.

Section 17. FENCES. All fencing provided by any owner or person other than the Developer shall be approved by the Developer prior to installation. In the event fencing material is utilized on any lot lines bordering the pond or city park, a split rail natural wood with optional brown dipped plastic liner fence is required, with the top rail being no more than 42" off of the ground and the above ground post height measuring no higher than 48". Split rail fencing shall

not be stained or painted. Any other fencing must be made from cedar or redwood board-on-board fencing material no more than six (6) feet high. In the event facing material is utilized on lot lines connected to fenced lot lines bordering the pond or city park, the last 25' of the higher fence shall be tapered to dip to the height of the shorter, split rail fence. No fence shall be constructed to extend beyond the front of the primary structure facing the front of the lot (that side of the lot facing a street) except on corner lots as approved by the Developer. Any fencing shall be maintained in good condition by the lot owner and in a condition maintaining its original appearance.

Section 18. REMOVAL OF DIRT. When excavating for structures, leveling of lots or doing any dirt work, no earth or soil shall be removed from the Development except with the written consent of the Developer and then only to such places as directed by such written consent.

Section 19. MINING. No derrick other structure designed for the use of burrowing for oil, or natural gas shall be erected, placed or permitted upon any part of the Development nor shall any oil, natural gas, petroleum, asphalt, or hydrocarbon products or minerals of any kind be produced or extracted anywhere in the Development. No oil drilling, oil development operation, oil refining, quarrying, or mining operations of any kind shall be permitted on any lot or any part of the Development nor shall oil wells, tanks, tunnels, mineral excavation or shafts be permitted on any part of the Development.

Section 20. BASEMENTS. No basement shall be constructed for temporary residential purposes and no basement structure shall be used for residential purposes unless and until the entire primary structure has been erected thereon and complies with the building code of the City of Moorhead, nor shall any trailer, tent, shack, garage, barn or other outbuilding erected on any lot at any time be used as a residence, temporary or permanent, nor shall any structure of a temporary character be used as a residence.

Section 21. SUBSEQUENT TRANSFERS. No house or structure shall be moved in on any of the lots located in the Development and no structure, when erected, shall be at any time altered or changed so as to permit its use in any manner that would be in violation of these restrictions and conditions.

Section 22. EASEMENTS. Easements are established for the installation and maintenance of public utilities. The easements for public utilities in the Development are hereby dedicated and made a part hereof as easements and restrictions on the use of property in the Development. Within these easements no structure, planting, or other materials shall be placed or permitted or interfere with the installation and maintenance of public utilities except as permitted by the public utility using such easement. The easement area and all improvements thereon shall be maintained continuously by the owner of the lot, except for those Improvements for which a public authority or utility is responsible. Perpetual easements for the above and within described Development are granted over, across and under the respective lots and parcels of land in the locations set forth on the plat of Shepherd Meadows First Addition filed and recorded with the office of the Clay County Recorder on December 28, 2007, and recorded as Document Number

650946, which is made a part hereof as if fully set for herein. All claims for damages, if any, arising out of the construction, maintenance and repair of the utilities or on account of temporary or other inconvenience caused thereby against the Developer, or any utility company or municipality or any of its agents or servants are waived by the owners. Developer reserves the right to change, layout new or discontinue any street, avenue, or way shown on the plats of the Development not necessary for ingress or egress to and from a lot or premise subject to the approval of the appropriate governing authority of the City of Moorhead if such approval is required.

Section 23. PRIVATE WATER AND SEWER. No private septic tank, drain fields, private or community wells shall be permitted in the Development or on any lot consisting a part thereof.

Section 24. DRIVEWAYS. All driveways must be hard surface. Permitted materials for driveway constructions include interlocking paving stones and cast in place concrete. No pre-cast concrete slab pavers are permitted as the city approach or front yard sidewalk.

Section 25. MORTGAGES. The breach of any of the foregoing covenants, conditions, reservations, or restrictions shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value as to any lot or portions of lots in the Development but these covenants, conditions, reservations, and restrictions shall be binding upon and effective against any mortgage or trustee or owner, whose title or whose grantors title is or was acquired by foreclosure, trustee sale or otherwise.

Section 26. WAIVER. No delay or omission on the part of the Developer or the owners of any lots in the Development in exercising any right, power or remedy herein provided, in the event of any breach of the covenants, conditions, reservations, or restrictions herein contained, shall be construed as a waiver thereof or acquiesce therein and no right of action shall accrue nor shall any action be brought or maintained by anyone whatsoever against the Developer for or on account of its failure to bring any action on account of any breach of these covenants, conditions, reservations, or restrictions or for imposing restrictions herein which may be unenforceable by the Developer or and other party.

Section 27. RIGHT TO ENFORCE. The restrictions set forth shall run with the land and bind the present owner or owners heirs, executors, administrators, successors, and assigns and all parties claiming by, through or under them, all such parties shall hold and hereby; agree and covenant and assigns, and with each of them, for themselves and their successors, to confirm to and observe said restrictions as to the use of said lots hereby restricted and construction of improvements thereon. No restrictions, however, shall be personally binding on any person except in respect to breaches committed during his or their ownership of the particular property upon which such violations occurred. For any violation of the restrictions herein set forth the Developer or the owner or owners of any lots shall have the right to sue for and obtain an injunction to prevent the breach of or to enforce any of the restrictions herein set forth at the time of the violation. Any delay in doing so shall in no event be deemed a waiver of the right to do so thereafter.

Section 28. SEVERABILITY. In the event any one or more of the foregoing covenants, conditions, reservations, or restrictions is declared for any reason by a court of competent jurisdiction to be null and void the judgment or decree shall not in any manner whatsoever affect, modify, change, or nullify any of the covenants, conditions, reservations, or restrictions not declared to be void or unenforceable but all of the remaining covenants, conditions, reservations, or restrictions not expressly held to be void or unenforceable shall continue unimpaired and in full force and effect.

Section 29. DEDICATED RIGHT. The Development shall be subject to any and all rights and privileges which the City of Moorhead or the County of Clay or the State of Minnesota may have acquired through dedication or the filing or recording of maps or addition plats as authorized by law and provided further that no covenants, conditions, reservations or restrictions or acts performed shall be in conflict with any zoning ordinance, land use law, building code or applicable law of the City of Moorhead, County of Clay or State of Minnesota.

Section 30. AMENDMENTS. This Declaration of Restrictive Covenants and Reservation of Public Utility Easements may be amended by the Developer at any time until it divests itself of the responsibility for architectural control. It shall be conclusively presumed that the Developer has not divested itself of responsibility for architectural control unless there is a sworn affidavit of record so stating. After that time, this Declaration may be amended by an instrument signed by the owners of not less than 80 percent of the lots. Any instrument, modifying or canceling this Declaration must be properly recorded before it shall be effective.

Section 31. PARTY WALLS.

Section 31.1. Each wall which is built as a part of the original construction of the homes upon the properties and placed on the dividing line between any lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 31.2. The cost of reasonable repair and maintenance of a party wall shall be shared by the owners who make use of the wall in proportion to such use.

Section 31.3. If a party wall is destroyed or damaged by fire or other casualty, any owner who has used the wall may restore it, and if the other owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 31.4. Notwithstanding any other provision of this Article, an owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

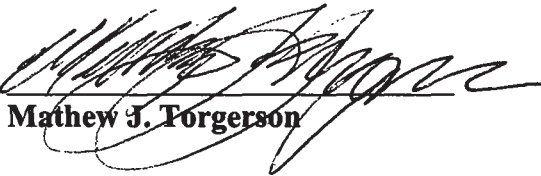
Section 31.5. The right of any owner to contribution from any other owner under this Article shall be appurtenant to the land and shall pass to such owner's successors in title.

Section 31.6. In the event of any dispute concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators. All arbitration shall be in Clay County, Minnesota and the parties shall share in the cost of the neutral arbitrator. The parties to the arbitration will equally share in the cost of arbitration. Each party will be responsible for the costs of its own representation in arbitration.

Dated this 26 day of February, 2010.

Gust G. Johanson

Brenda K. Rivelli


Mathew J. Torgerson


Jane A. Williamson

STATE OF MINNESOTA)
) ss.
COUNTY OF CLAY)

The instrument was acknowledged before me on _____, 2010,
by **Gust G. Johanson, husband of Brenda K. Rivelli, Declarant.**

NOTARIAL STAMP OR SEAL

SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT

STATE OF MINNESOTA)
) ss.
COUNTY OF CLAY)

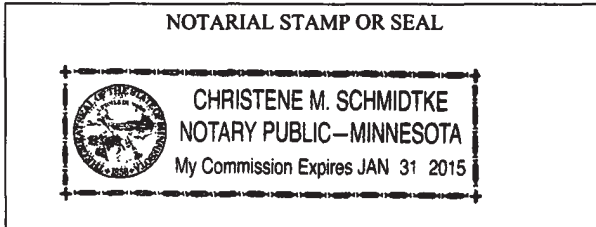
The instrument was acknowledged before me on _____, 2010,
by **Brenda K. Rivelli, wife of Gust G. Johanson, Declarant.**

NOTARIAL STAMP OR SEAL

SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT

STATE OF MINNESOTA)
) ss.
COUNTY OF CLAY)

The instrument was acknowledged before me on February 26, 2010,
by **Mathew J. Torgerson and Jane A. Williamson**, both single persons, Declarant.



Christene M. Schmidtke
SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT

CONSENT

State Bank of Hawley, mortgagee, and Shepherd Meadows, LLC, a Minnesota limited liability company, hereby consent to the foregoing **CANCELLATION OF PRIOR COVENANTS AND DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF SHEPHERD MEADOWS ADDITION TO THE CITY OF MOORHEAD, MN.**

STATE BANK OF HAWLEY,

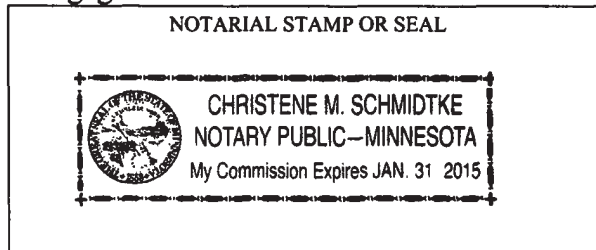
By: Bruce Tellefson
Bruce Tellefson, its President

SHEPHERD MEADOWS, LLC

By: Gust Johanson
Gust Johanson, its Chief Manager

STATE OF MINNESOTA)
) ss.
COUNTY OF CLAY)

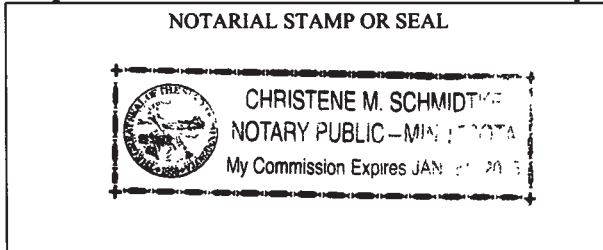
The instrument was acknowledged before me on April 2, 2010,
by Bruce Tellefson, the President of State Bank of Hawley,
mortgagee.



Christene M. Schmidtke
SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT

STATE OF MINNESOTA)
) ss.
COUNTY OF CLAY)

The instrument was acknowledged before me on February 22, 2010,
by Gust Johanson, the Chief Manager of Shepherd Meadows, LLC, the original developer of
Shepherd Meadows First Addition to the City of Moorhead



Christene M. Schmidt
SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT

THIS INSTRUMENT WAS DRAFTED BY:

Dan D. Plambeck
STEFANSON LAW
403 Center Avenue, Ste 302
P.O. Box 1287
Moorhead, MN 56561-1287
(218) 236-1925

Transaction#: 105977

RECORDING FEE

\$46.00

681509



Recorded on: 4/5/2010 04:05PM

By: KSS, Deputy

dnis

Return to:
CLAY COUNTY ABSTRACT CO
403 CENTER AVE
STE 600
MOORHEAD, MN 56560

J. Bonnie Rehder, Recorder
CLAY County, MN