



1519910

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9/6/2017 2:33 PM  
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STEVE STONER

RECORDER'S OFFICE, CASS COUNTY, ND  
I CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD THIS DATE.  
JEWEL A. SPIES, COUNTY RECORDER

9/6/2017 2:33 PM

by Shena Garza Deputy

1519910



**SECOND AMENDMENT  
TO  
DECLARATION OF RESTRICTIVE COVENANTS**

**THIS SECOND AMENDMENT TO DECLARATION OF RESTRICTIVE COVENANTS** (the "Second Amendment") is made as of the 26th day of July, 2017, by Rivers Bend Development Corporation, a North Dakota corporation.

**RECITALS**

- A. Declarant made a Declaration of Restrictive Covenants dated as of October 3, 2013, and recorded October 4, 2013, in the office of the Recorder for Cass County, North Dakota (the "Recorder") as Doc. No. 1401422 (the "Declaration"), affecting the real property described as follows:

**Lots 1-21, Block 1; and Lots 1-5 and Lot 7, Block 2; Lots 1-5 and Lots 8-17, Block 3; Lots 1-15, Block 4; Lots 1-16, Block 5; Lots 1-32, Block 6; Lot 1, Block 7; Lot 1, Block 8; and Lots 1-10, Block 9; all in River's Bend at the Preserve First Addition to the City of West Fargo, Cass County, North Dakota.**

- B. Pursuant to a First Amendment to Declaration of Restrictive Covenants dated as of January 9, 2015, and recorded April 17, 2015, in the office of the Recorder as Doc. No. 1443913 (the "First Amendment"), Declarant subjected the following described additional property to all of the terms and conditions of the Declarations and otherwise amended the Declaration:

**Lots 1-11, Block 1; Lots 1-13 and Lots 15 and 16, Block 2; Lots 1-10, Block 3; Lots 1-17, Block 4; and Lots 1-19, Block 5; all in River's Bend at the Preserve Second Addition to the City of West Fargo, Cass County, North Dakota.**



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- C. The Declaration, as amended by the First Amendment and as further amended by this Second Amendment, is referred to as and shall constitute the "Declaration".
- D. Lots 1-4 and 11 Block 3, River's Bend at the Preserve Second Addition to the City of West Fargo, Cass County, North Dakota, have been replatted as Lots 1-5, River's Bend at the Preserve Third Addition to the City of West Fargo, Cass County, North Dakota, and this Second Amendment will reflect how those Lots are now to be treated within the Declaration.
- E. Pursuant to Section 24(d) of the Declaration, Declarant wishes to add the following described property to the Association and thereby subject such following described additional property to all of the terms and conditions of the Declaration:

**Lots 1-5, Block 1, River's Bend at the Preserve Third Addition to the City of West Fargo, Cass County, North Dakota; and Lots 1-13, Block 1, Lots 1-13, Block 2, and Lots 1-31 Block 3, all in River's Bend at the Preserve Fourth Addition to the City of West Fargo, Cass County, North Dakota.**

- F. Declarant hereby otherwise amends the Declaration as set forth herein.
- G. Defined terms used but not otherwise specifically defined in this Amendment shall have the meaning ascribed to them in the Declaration, and any references herein to a particular plat or Addition shall in all instances mean and refer to such Addition to the City of West Fargo, Cass County, North Dakota.

## AGREEMENTS

In consideration of the Recitals, the Declarant hereby amends the Declaration as follows:

1. **Property.** The real property described at Recital E above is hereby included within the term "Property" as defined in, and is otherwise made subject to, the Declaration.
2. **Common Area Lots.** Section 2 of the First Amendment is deleted in its entirety and restated as follows: "Lot 17, Block 4, and Lot 19, Block 5; all in River's Bend at the Preserve 2nd Addition, are hereby included within the term 'Common Area Lots' as defined in the Declaration." As such, Lot 6, Block 3, River's Bend at the Preserve 2nd Addition is no longer a "Common Area Lot" as defined in the Declaration.
3. **Public Lots.** Lot 6, Block 3, River's Bend at the Preserve 2nd Addition, Lot 1, Block 1, River's Bend at the Preserve 3rd Addition, and Lots 30 and 31, Block 3, River's Bend at the Preserve 4th Addition, are hereby added to and included within the term "Public Lots" as defined in the Declaration.
4. **Dwelling Size.** The table set forth at Section 3(a) of the Declaration is supplemented with the following table, thus subjecting the Single Family Lots made subject to the Declaration pursuant to this Second Amendment to the following minimum square footage requirements set out below, unless waived in writing by Developer.



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<b>Lots</b>	<b>Three or More Level Split</b>	<b>Rambler or Single Level</b>	<b>Two Story</b>	<b>Bi-Level</b>
<b>E.</b> Lots 2-5, Block 1, River's Bend at the Preserve 3rd Addition; and Lots 8-13, Block 1, Lots 1 and 2, Block 2, and Lots 27-29, Block 3, all in River's Bend at the Preserve 4th Addition.	Not Permitted	2,000 sq. ft. on level entirely above grade	1,300 sq. ft. on first level entirely above ground grade or total of 2,400 sq. ft. on all levels entirely above grade	Not Permitted
<b>F.</b> Lots 1-7, Block 1; Lots 3-13, Block 2, and Lots, 1-3, Block 3, all in River's Bend at the Preserve 4th Addition.	Not Permitted	2,200 sq. ft. on level entirely above grade	1,300 sq. ft. on first level entirely above ground grade or total of 2,600 sq. ft. on all levels entirely above grade	Not Permitted
<b>G.</b> Lots 4-26, Block 3, in River's Bend at the Preserve 4th Addition.	Not Permitted	2,400 sq. ft. on level entirely above grade	1,400 sq. ft. on first level entirely above ground grade or total of 2,800 sq. ft. on all levels entirely above grade	Not Permitted

5. **Fences.** Section 14 of the Declaration is deleted in its entirety and restated as follows:

14. **FENCES.** A Single Family Lot owner may construct a fence or fences on portions of a Lot to the rear of the two corners of the residential dwelling that are closest to the front and side yards of a Single Family Lot. The Association may construct such fences as it deems reasonable or necessary on the Common Area Lots. Subject to any limitations in other portions of this Section 14, any/all fences shall be constructed only of synthetic or metallic material (no cedar, treated wood or other wood fences allowed), and shall at all times consist of only white or earth tone



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colors, and may incorporate powder coated ornamental aluminum or iron, or black or brown vinyl coated chain link, elements. Any broken or fallen portions of fences shall be promptly repaired with matching materials. If any fence is of a type where the posts or rails are exposed on only one side of the fence, all such posts or rails shall face inward towards the Lot on which the fence is constructed. Developer shall install a fence along the rear lots lines of Lots 2-21, Block 1, and Lots 1-5 and Lot 7, Block 2, River's Bend at The Preserve 1st Addition; Lots 15 and 16, Block 2, Lots 7-10, Block 3, and Lots 1-16, Block 4, River's Bend at The Preserve 2nd Addition; and Lots 1-13, Block 1, and Lots 26-29, Block 3, River's Bend at The Preserve 4th Addition. Following such installation, the Owner of any such Lot shall be responsible to promptly repair, maintain and, if and as necessary, replace the portion of such fence located on the Owner's Lot to keep such fence in good operating condition, structurally sound and neat in appearance; all elements of materials requiring replacement shall be new materials, of similar or better quality and substantially identical in appearance to the materials requiring replacement. Notwithstanding anything in this Declaration to the contrary, all fences located on Lots 1-3 and 15-18, Block 5, River's Bend at the Preserve 2nd Addition, and Lots 1-8, Block 2, River's Bend at the Preserve 4th Addition, shall conform to the following specifications: all above-grade fence materials shall be entirely comprised of black or other very dark-hued aluminum or other non-corrosive metal; the maximum height of any portion of the fence shall not exceed 60 inches; fence posts shall not have a width or depth greater than 3.0 inches; fence spindles shall not have a width or depth greater than 1.0 inches; and the open-air gap between fence spindles shall be equal to or greater than 3.5 inches.

6. **Storage Shed Restrictions.** The following is added as a new Section 31 of the Declaration:

31. **STORAGE SHEDS.** Outbuildings, storage sheds and the like located on any Single Family Lot in River's Bend at the Preserve 3rd Addition and River's Bend at the Preserve 4th Addition, shall: (a) be of substantially similar style and constructed of substantially similar exterior materials (e.g., as to style, texture and color of siding and roofing) as the primary residential structure located on the Single Family Lot; (b) be confined to the rear yard (and may not be placed in the front or side yards); and (c) not have any part thereof located more than 30 feet distant from the rear-most part of the primary residential structure, and for this purpose, patios, decks, landscaping features and the like, even if attached to residential structure, shall not be considered part of the primary residential structure.

7. **Certain Additional Building Restrictions.** The following is added as a new Section 32 of the Declaration:

32. **CERTAIN ADDITIONAL BUILDING RESTRICTIONS.** The West line of Section 20, Township 139 North, Range 49 West, Cass County, North Dakota (the "Section Line") passes through Lots 9-15, Block 3, River's Bend at the Preserve 4th Addition (and certain other Single Family Lots). No houses, sheds, or other enclosed structures shall be



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constructed, installed, placed or stored, even temporarily, West of the Section Line on said Lots 9-15.

8. **Effect.** Except as expressly amended hereby, the terms and conditions of the Declaration remain unmodified and in full force and effect.

IN WITNESS WHEREOF the Declarant has executed this Second Amendment as of the date first above written.

RIVERS BEND DEVELOPMENT  
CORPORATION

By: \_\_\_\_\_

Its: \_\_\_\_\_

Secretary

STATE OF NORTH DAKOTA )

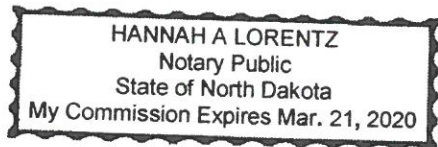
COUNTY OF CASS )

ss.

On this 6 day of September, in the year 2017 before me personally appeared Steve Stoner known to me to be the Secretary of the corporation that is described in and that executed the within instrument, and acknowledged to me that such corporation executed the same.

(SEAL)

Notary Public





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by Shena Garcia Deputy

1519911



### ACKNOWLEDGMENT AND CONSENT

**THIS ACKNOWLEDGMENT AND CONSENT** (the "Consent") is made as of the 26<sup>th</sup> day of July, 2017, by Ryan Truax and Lindsay Truax, husband and wife (collectively, "Truax"), Titan Homes, Inc., a North Dakota corporation ("Titan"), and Brian Hicks and Joanne Hicks, husband (collectively, "Hicks").

### RECITALS

- A. Truax owns the real property described as Lot 3, Block 5, River's Bend at the Preserve Second Addition to the City of West Fargo, Cass County, North Dakota.
- B. Titan owns the real property described as Lot 17, Block 5, River's Bend at the Preserve Second Addition to the City of West Fargo, Cass County, North Dakota.
- C. Hicks owns the real property described as Lot 18, Block 5, River's Bend at the Preserve Second Addition to the City of West Fargo, Cass County, North Dakota.
- D. Truax, Titan and Hicks shall, collectively, be referred to as "Owners", and the three such Lots owned by the Owners shall, collectively, be referred to as the "Transferred Lots".
- E. Rivers Bend Development Corporation, a North Dakota corporation ("Declarant"), made a Declaration of Restrictive Covenants dated as of October 3, 2013, and recorded October 4, 2013, in the office of the Recorder for Cass County, North Dakota (the "Recorder") as Doc. No. 1401422 (the "Declaration"), as amended by a First Amendment to Declaration of Restrictive Covenants dated as of January 9, 2015, and recorded April 17, 2015, in the office of the Recorder as Doc. No. 1443913 (the "First Amendment").
- F. The Declaration and First Amendment were recorded prior to the time Owners took title to the Transferred Lots.
- G. The Declarant made a Second Amendment to Declaration of Restrictive Covenants dated as of July 26, 2017, and recorded September 6, 2017, in the office of the Recorder as Doc. No. 1519910 (the "Second Amendment"), which was recorded after the time Owners took title to the Transferred Lots.



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- H. The Second Amendment changes certain requirements regarding fences as pertains to the Transferred Lots, and Owners are signing this Consent to memorialize that they acknowledge and agree to be bound by the Second Amendment.
- I. Defined terms used but not otherwise specifically defined in this Amendment shall have the meaning ascribed to them in the Declaration.

### AGREEMENTS

In consideration of the Recitals, the Owners hereby acknowledge, agree and consent as follows:

1. **Bound by Second Amendment.** The Owners acknowledge, agree and consent to be bound by the Second Amendment. This Consent shall bind the Owners and their successors and assigns and shall run with and bind the Transferred Lots.

2. **Amendments.** The Consent may not be terminated or amended except in a writing signed by all Owners and Declarant, and any such termination or amendment shall not be effective unless and until recorded against the Transferred Lots.

**IN WITNESS WHEREOF** the Owners have executed this Consent as of the date first above written.

*[the remainder of this page intentionally left blank – signature pages follow]*



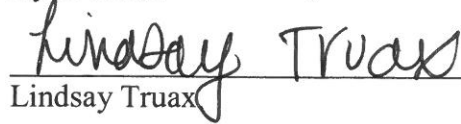
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TRUAX

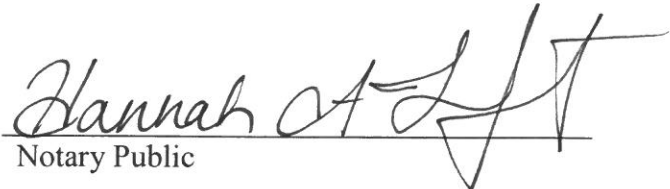
  
Ryan Truax

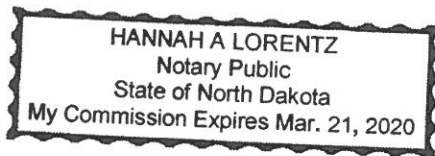
  
Lindsay Truax

STATE OF NORTH DAKOTA    )  
  ) ss.  
COUNTY OF CASS            )

On this 15 day of August, in the year 2017 before me personally appeared Ryan Truax and Lindsay Truax, husband and wife, known to me to be the persons who are described in and who executed the within instrument, and acknowledged to me that they executed the same.

(SEAL)

  
Notary Public





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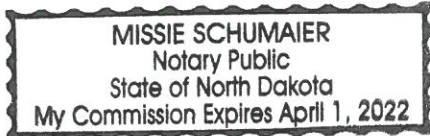
STEVE STONER

TITAN HOMES, INC.

By: Angel Kuznia  
Its: President

STATE OF NORTH DAKOTA )  
COUNTY OF CASS ) ss.

On this 10<sup>th</sup> day of August, in the year 2017 before me personally appeared Angel Kuznia known to me to be the President of the corporation that is described in and that executed the within instrument, and acknowledged to me that such corporation executed the same.



(SEAL)

Missie Schumaier  
Notary Public



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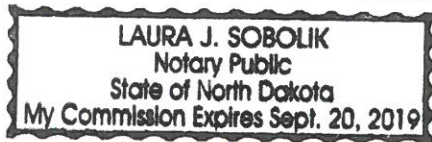
HICKS

  
\_\_\_\_\_  
Brian Hicks

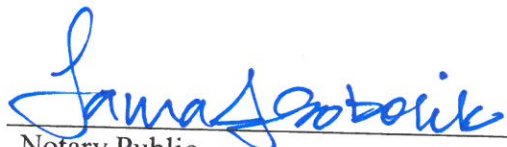
  
\_\_\_\_\_  
Joanne Hicks

STATE OF NORTH DAKOTA    )  
  ) ss.  
COUNTY OF CASS            )

On this 23 day of August, in the year 2017 before me personally appeared Brian Hicks and Joanne Hicks, husband and wife, known to me to be the persons who are described in and who executed the within instrument, and acknowledged to me that they executed the same.



(SEAL)

  
\_\_\_\_\_  
Notary Public