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CUB CREEK DEVELOPMENT LLC

RECORDER'S OFFICE, CASS COUNTY, ND

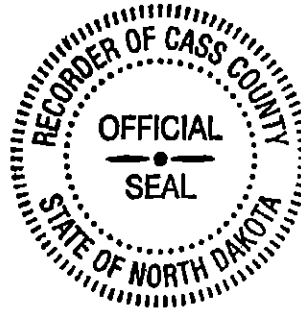
I CERTIFY THAT THIS INSTRUMENT WAS FILED FOR RECORD THIS DATE.

DEBORAH A. MOELLER, COUNTY RECORDER

4/29/2024 11:28 AM

by Shena Garcia, Deputy

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CUB CREEK 2ND ADDITION TO THE CITY OF HORACE

DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS, RESERVATIONS, EASEMENTS, LIENS AND CHARGES



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CUB CREEK DEVELOPMENT LLC

CUB CREEK 2ND ADDITION TO THE CITY OF HORACE

**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS, RESERVATIONS, EASEMENTS, LIENS AND CHARGES**

THIS DECLARATION is made effective the 26th day of April, 2024
by CUB CREEK DEVELOPMENT, LLC, a North Dakota limited liability company
(hereinafter, the "Developer").

RECITATIONS:

A. This is the Declaration of Covenants, Conditions, Restrictions, Reservations, Easements, Liens and Charges for Cub Creek 2nd Addition to the City of Horace.

B. Cub Creek Development, LLC is the Owner and Developer pursuant to the terms of this Declaration.

NOW, THEREFORE, the Developer declares the Property is and shall be held, transferred, sold, conveyed and occupied subject to the Covenants set forth in this Declaration.

**ARTICLE I.
DEFINITIONS**

Unless the context shall prohibit, the following terms, when used in the Declaration, shall have the following meanings:

"Architectural Review Committee" or **"ARC"** shall mean the Developer or the Developer's representative until such time as the Developer divests itself of the authority to act as the Architectural Review Committee using the procedures set forth in Section 3.1. The Architectural Review Committee may also establish Architectural Guidelines with which Owners must comply.

"Building Plot" shall mean and consist of one or more Lots or one Lot and a portion or portions of adjacent Lots which have the same Owner. A Building Plot may never consist of less than one entire Lot as set forth in the Plat of Cub Creek 2nd Addition to the City of Horace, recorded as Document No. 1681784 with the Cass County Recorder.

"Covenants" shall mean the covenants, conditions, restrictions, reservations, easements, liens and charges set forth in this Declaration, as may from time to time be amended.



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"Declaration" shall mean this Declaration of Covenants, Conditions, Restrictions, Reservations, Easements, Liens and Charges may from time to time be amended.

"Developer" shall mean and refer to Cub Creek Development LLC, its successors and assigns, if any successors or assigns shall acquire a majority of the undeveloped Lots for the purpose of development.

"Easements" Includes those easements as noted on the Plat of Cub Creek 2nd Addition; easements referred to in Exhibit A-1; the easements referred to in the documents attached as Exhibit A-2; easements of record affecting the Property; and easements referred to and/or created by this Declaration and/or attachments to this Declaration.

"Family" shall mean one or more persons living in a residential building as a single housekeeping unit and shall exclude a group or groups of persons where three (3) or more persons thereof are not related by blood, adoption or marriage.

"Limited Use Area" refers to that area 20 feet in width located between lines drawn 115 feet and 135 feet westerly of and as part of the 135-foot drainage easement referred to in the Easement recorded with the Cass County Recorder as Document No. 1564477 and/or Document No. 1678246. Examples of the Limited Use Area are set forth on sheet 7 of 9 of the Easement Exhibits prepared by Moore Engineering, Inc. attached hereto as Exhibit A-2.

"Building Control Line" is located along the west line of the Limited Use Area, which is 135 feet from the edge of the drainage easement areas and runs parallel to the drainage easement areas. For example, on sheet 7 of 9 prepared by Moore Engineering, Inc. attached hereto as Exhibit A-2, the Building Control Line is on the west side of the Limited Use Area that runs through Lots 2 through 30, Block 5, Cub Creek 2nd Addition to the City of Horace, North Dakota.

"Lot" shall mean a Lot as set forth in the Plat of Cub Creek 2nd Addition to the City of Horace recorded with the Cass County Recorder as Document No. 1681784. ~~A copy of the plat is attached as Exhibit B.~~ All references to multiple Lots are inclusive of all Lot numbers recited.

"Owner" shall mean and refer to the record owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of the Property, including contract sellers, but excluding those having an interest merely as security for the performance of an obligation.

"Prairie Area" refers to the Easement Area set forth in the Easements recorded with the Cass County Recorder as Document No. 1564477 and/or Document No. 1678246. The Prairie Area is intended to be maintained as a grass area with prairie grass, if possible. The Prairie Area is defined as the area east of the Building Control Line 135 feet in width easterly to Drain No. 27. This may be seen, in part, on sheet 7 of 9 from Moore Engineering, Inc. attached hereto.



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"Property" shall mean that real property described more specifically in Article II of this Declaration and not excepted and/or excluded. The Property was platted as part of Cub Creek 2nd Addition to the City of Horace.

"Residential Lots" or **"Lots"** shall mean all Lots within Cub Creek 2nd Addition to the City of Horace, as shown on the Plat of Cub Creek 2nd Addition to the City of Horace, as Residential Lots except for those excepted and/or excluded as set forth in Article II.

ARTICLE II.

PROPERTY SUBJECT TO THIS DECLARATION

The Property which is and shall be held, transferred, sold, conveyed and occupied subject to this Declaration as Residential Lots is described as follows:

- Lots 2-29; Block 5; Lots 1-59, Block 6; Lots 2-14, Block 8; Lots 1-26 Block 9; Lots 1-23, Block 10; Lots 1-23 Block 11; Lots 2-10, Block 12.

All of the real property which is not excepted and excluded as set forth above shall hereinafter be called the "Property."

ARTICLE III.

ARCHITECTURAL CONTROL

Section 3.1. Cub Creek 2nd Addition Architectural Review Committee. The Cub Creek 2nd Addition Architectural Review Committee (or "ARC") is hereby established for the Property. The ARC shall be comprised of the Developer or its appointed representative until the earlier of the time that residences have been constructed and completed on all Residential Lots in the Property; or until such time as Developer decides to divest itself of responsibility for functioning as the ARC. When such control is relinquished in writing, the responsibility shall be vested in a committee comprised of three Owners of Residential Lots, who shall be elected by a majority of the Residential Lot Owners whether at a meeting or by written ballot. The elected committee shall, at that time, adopt a meeting schedule and rules of operation. It shall be conclusively presumed that there has been no construction completed upon all Residential Lots and that the Developer has not divested itself of responsibility for Architectural Control until and unless there is a sworn affidavit placed of record with the Cass County Recorder from the Developer stating that one or the other of said factual circumstances exists and Developer is no longer the Architectural Review Committee. Whenever there is a



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reference in these documents to "Architectural Review Committee," "Review Committee" or "ARC," such reference shall include either the Developer or the elected committee, whichever is acting at that time.

Section 3.2. Procedure for Submission of Plans and Specifications. Two (2) paper copies (or one electronic copy in a format provided by and completed in a manner acceptable to the ARC) of the Plans and Specifications for any planned structure (for which receipt by the ARC must be acknowledged in writing or electronically for the 30-day period to commence) must be submitted to the ARC and approved prior to the commencement of any construction, including any excavation. Approval or disapproval of these plans and specifications will be made in writing within thirty (30) days after acknowledgement of receipt of these plans and specifications. Approval shall be in the sole discretion of the ARC to grant or deny, with the standard being in the sole discretion of the ARC. No grant or denial will be construed or considered to be arbitrary. The purpose of the ARC is to establish a high quality residential community of homes that are (i) similar in size, style and workmanship; (ii) free from objectionable or value-destroying features; and (iii) in conformity with the governing zoning codes, building codes and other applicable regulations then in force. All approvals or disapproval/denial from the ARC will be in writing.

Section 3.3. Construction Time and Requirements; New Construction. Construction of all primary structures shall be substantially completed within twelve (12) months after issuance of any building permit for the structure. No outside storage of building materials shall be permitted on any Lot after the 12-month construction period. All improvements constructed on Lots shall be new construction and no buildings or other structures shall be moved from other locations onto any Lots. Construction of improvements on any Lot must commence within twenty-four (24) months of conveyance of the Lot by Developer. In the event construction of improvements does not commence within this time frame, Developer will have the option to purchase the Lot back from the Owner upon payment to the Owner of ninety percent (90%) of the price originally paid to Developer for the Lot.

Section 3.4. Architectural Control. No building, fence, wall, deck, stairs, landscaping feature, pool, play structure, patio, gazebo, sport court, ice rink, trellis, pergola, driveway, sidewalk or any other structure shall be commenced, erected or maintained on the Lots, nor shall any exterior addition to or change or alteration thereto be made to any buildings on the Lots until the plans and specification for the same have been submitted to and approved in writing by the ARC or its appointed representative.

Section 3.5. Plans and Specifications. Plans submitted for approval shall include the following:

Section 3.5.1. Two (2) complete sets of house plans, if submitted in paper form, or one complete set submitted electronically in a readable format using the form supplied by the ARC, and a completed application form.



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Section 3.5.2. The house plan and application form must indicate construction materials and specifications, roofing material, exterior finishes, colors and any proposed fencing.

Section 3.5.3. The site plan must indicate the basement outline with projections shown as a dotted line. The garage footprint and exterior steps, patios or decks must be indicated. The main floor proposed grade and the basement floor grade must be clearly shown. The site plan must clearly indicate the finished landscape grade at each corner of the building as well as those adjacent to any unusual indentations within an elevation. The site plan should indicate sidewalk, walkway and driveway locations and sizes.

Section 3.5.4. Accessory structures such as pools, pool houses, gazebos, sheds, sport courts, ice rinks, trellises, pergolas, patios, utility buildings, storage buildings (site-built or pre-manufactured), additional garages, decks and play structures should be indicated on the site plan and must be approved by the ARC or its appointed representative in its sole discretion. Sheds, if authorized by the ARC, shall not exceed 10'x10' in size and not be higher than nine (9) feet at peak height. Sheds, if permitted, must be constructed of the same materials and colors as the primary residential structure on the Lot and not exceed one hundred (100) square feet of ground surface area. No additional structures or accessory structures made of plastic or composite materials used as bins or sheds outside of the principal residence structure are allowed, except with ARC written approval.

Section 3.5.5. Any and all solar heating or energy devices or satellite dishes larger than 30" in length or diameter and all TV and radio antennae must be approved by the ARC or its architect. Any satellite dishes or antennae must be mounted on the main residential building on the Property, unless location on another structure on the Lot is approved by the ARC or its appointed representative.

Section 3.5.6. Each Lot will be restricted to construction of one single family detached residence with a two or three car attached garage.

Section 3.5.7. All Lots in Cub Creek 2nd Addition to the City of Horace not excepted as set forth in Article II shall have residential structures that are a minimum of the square footage set forth below:

- (i) Lots 1-59, inclusive Block 6; Lots 2-14, inclusive Block 8; Lots 1-26, inclusive Block 9; Lots 1-23, inclusive Block 10; Lots 1-23, inclusive Block 11; Lots 2-10, inclusive Block 12:
 - 1100 square feet for a standard one story rambler (square feet above grade);
 - 1600 square feet for a standard two story or a one and one-half story (square feet above grade);



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- 1600 square feet for a bi-level (including both floors);
- 1700 square feet for a three or more level split.

(ii) Lots 2-29, inclusive Block 5:

- 1300 square feet for a standard one story rambler (square feet above grade);
- 2100 square feet for a standard two story or a one and one-half story (square feet above grade);
- 2000 square feet for a bi-level (including both floors);
- 2500 square feet for a three or more level split.

Section 3.5.8. A reduction of the square footage with respect to any of the Lots may be granted by the Developer or the ARC, but only in special circumstances. Any reduction shall be evidenced by a written certificate of variance issued by the ARC.

Section 3.5.9. No residence shall exceed two stories in height when viewed from the street or adjacent property. Roof slopes of not less than 3 in 12 are required, roof slopes of 6 in 12 and greater are encouraged. Flat roofs will be considered on a case by case basis by the ARC.

Section 3.5.10. All residences must have ten percent (10%) hard surface coverage which would include brick, manufactured or natural stone, dryvit or similar type materials.

Section 3.5.11. No Residential Lot in Cub Creek 2nd Addition to the City of Horace may be subdivided to create a new Residential Lot not set forth in the Plat of Cub Creek 2nd Addition to the City of Horace. A Residential Lot in Cub Creek 2nd Addition to the City of Horace may be added together with an adjacent Lot in Cub Creek 2nd Addition to the City of Horace to form one Residential Lot. A Residential Lot may be divided between Owners on each side of that Lot to increase the size of the Residential Lots on each side of the Lot being divided. However, no Residential Lot may be decreased in size and remain a buildable Residential Lot unless it becomes a part of an adjacent Residential Lot which has not been reduced in size.

Section 3.5.12. Lots 2 through and including Lot 29, Block 5, Cub Creek 2nd Addition to the City of Horace, North Dakota, are located along a drainage easement area created by a Permanent Easement Agreement recorded with the Cass County Recorder as Document No. 1564477 and/or by Document No. 1678246, and by other easements as referred to herein. The Easements are granted to Southeast Cass Water Resource District and will be referred to as the "Easement." There is a Limited Use Area running through all of these Lots and referred to in the Easement Exhibits, including Exhibit A-2. No structure may be



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erected within the easement areas, which includes the 20-foot Limited Use Area and the 135-foot drainage easement area in the documents referred to. No sprinkler system may be constructed within these areas. No landscaping may be done in these areas, other than planting grass and light vegetation. Fences may be allowed only as set forth in Section 4.6 and never to the east of the Limited Use Area. Additional restrictions are set forth in the Easements. .

Section 3.5.13. No fences of any kind are allowed, except as set forth in Section 4.6. No fencing is allowed in the easement area east of the Limited Use Area.

ARTICLE IV. RESTRICTIONS

The Property shall be subject to the following restrictions:

Section 4.1. Land Use and Building Type. All Residential Lots zoned R6 shall be used for single family purposes only. No building, fence, wall, deck, stairs, landscaping feature, pool, play structure, patio, gazebo, sport court, ice rink, trellis, pergola, driveway, sidewalk or any other structure, other than a private residential dwelling house, ARC-approved outbuildings, garages, swimming pools and fences as approved in writing (subject to limitations set forth herein and subject to any limitations or requirements placed by the Developer or the ARC on the Lot as part of the approval process), may be erected, placed or maintained on any Lot or Building Plot within the Property. See also the requirements in Section 3.4 and Section 3.5.7.

Section 4.2. Building Location. No building or structure shall be erected on any Lot unless the building or structure is in compliance with the City of Horace zoning ordinances for residential zoning districts, including setbacks, unless variances are approved in writing by the ARC and the City of Horace. Eaves and steps shall also be constructed in such a way as to comply with such zoning ordinances and restriction, provided, however, that this shall not be construed to permit any portion of a building on a Lot to encroach upon another Lot. Any storage shed approved by the ARC may not be greater than 10'-width X 10'-depth X 9'-height and must comply with all setback regulations.

Section 4.3. Lot Drainage Control. All Lots shall be graded and finished to comply with the Drainage Plan approved by Developer. Positive drainage is required to divert water away from the residence and to prevent standing water and soil saturation which may be detrimental to structures and enjoyment of use of the Property and/or neighboring Property. The Developer or its engineer will provide a Drainage Plan which must be complied with for every structure being built. The top of the foundation wall must be at least twenty-four (24) inches above the grade of the top of the street curb in front of the Lot. Neither the City of Horace nor the Developer will have any responsibility for the proper grading and drainage of each Lot. Proper grading and drainage will be the sole responsibility of the Lot Owner. If an Owner buys a Lot for which the grading and drainage



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are already finished but the grading and/or drainage is not in compliance with the Drainage Plan, the purchasing Lot Owner will be responsible for correcting the grading and/or drainage issues if the selling Owner does not make the necessary corrections while the selling Owner owns the Lot. If the selling Owner does not correct the deficiency, it must be corrected by the purchasing Lot Owner at the purchasing Lot Owner's expense.

Section 4.4. Sump Lines. It is required that every residential building have a properly designed and installed sump line with one or more sump pits and one or more sump pumps. Sump water may not be discharged in the front yard or over the front sidewalk or into the street in front of the house. All sump lines must be buried and must drain towards the back of the Lot. There will be a common sump line to which the individual sump line(s) for a home may be connected. Any damage done to the common sump line is the responsibility of the party causing the damage. The common sump line is installed by the City of Horace. The Developer is not responsible for locating or installation of the common sump line.

Section 4.5. Utility Easement. A utility easement for the back (non-street side) of each Lot for utilities is created for each Lot. The common sump line will run in this easement area. The easement area is generally five feet in width, but may exceed this. For some Lots, the utility easement may be located elsewhere, such as the front or side of a Lot as shown herein and/or as provided in the Easements. Access for utility easements located along the front or the back or the side of a Lot includes a right of ingress and egress to that area to work on the utilities. If two Lots have backyards which run against each Lot, the easement is generally ten feet in width, with five feet located on each Lot.

Section 4.6. Fencing and Easement to Prairie Area. All fencing provided by the Owner, the builder for the Owner or anyone else other than the Developer shall require the written approval of the ARC prior to installation.

Section 4.6.1. No fencing shall be permitted to extend beyond the front of the primary structure facing the front (street side) of the Lot. An exception is granted on corner Lots that may have a different fence configuration, if approved in writing by the ARC. No open picket aluminum fence, if allowed, shall exceed five (5) feet in height. No privacy fence, if allowed, shall exceed six (6) feet in height. Privacy fences shall not be allowed on corner Lots. Chain link fences and natural wood fences are prohibited. Privacy fences, if allowed at all, shall not be allowed on corner Lots. Any allowed fence must be an open picket black aluminum fence or grey variegated panels, posts and beams maintenance-free vinyl or composite fence. All aspects of permission for a fence and the restrictions on the fence will continue to exist, with written permission from the ARC being required for any fence installation or modifications.

Section 4.6.2. The exterior (outside of the exterior walls of a residential structure) may not have any fenced in dog retention areas, dog runs or dog kennels which are restricted areas for one or more dogs. Dog kennels are any fences or



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enclosures intended to keep or allow a dog outside of a building but within a particular confined area. No commercial kennels are allowed.

Section 4.6.3. Fences shall not prohibit or interfere with Developer or its successor, including the Association, having access to the Prairie Area for maintenance of the Prairie Area. The Developer and its successors have a perpetual easement to cross all of the property east of the Building Control Line for access to the Prairie Area for maintenance of the Prairie Area.

Section 4.6.4. Lots 2 through 29 inclusive Block 5 are "Creek Lots" adjacent to the Easement running along Drain No. 27. Side and rear Lot fencing for all Creek Lots, if permitted, must be of black aluminum open picket design and constructed so as to not block the view corridors to the creek from adjacent Lots. Aluminum composition open picket fencing, black in color, is required if fencing is permitted. No fencing is permitted in the easement area to the east of the Limited Use Area. Any fence located within the Limited Use Area which interferes with maintenance of the Prairie Area may be removed by Developer or its successor, with all costs for removal and/or reinstallation, if permitted, being the responsibility of the Lot Owner.

Section 4.6.5. Developer may install a split rail fence by entrances to the Cub Creek 2nd Addition development. Any such fences will be decorative and not designed to exclude motor vehicle traffic or pedestrians.

Section 4.7. Landscaping. The front and side Lots of each Property shall be sodded or seeded prior to the end of the first summer construction season that the home is completed. If a Property is completed in the winter, it shall be sodded or seeded prior to the end of the following summer. If a Property is completed in the same year, the rear Lot shall be seeded or sodded within one year of occupancy of the completed residence. Boulevard trees must be installed within twelve (12) months of occupancy in accordance with the requirements of the City of Horace, North Dakota. All landscaping must be approved in writing by the ARC.

Section 4.8. Diseases and Insects. No Owner shall permit any thing or condition to exist upon any Lot which shall induce, breed or harbor infectious plant diseases or noxious insects.

Section 4.9. Antennas. To the extent permitted by applicable law, the installation of antennas, satellite dishes or other devices for the transmission or reception of TV or radio signals or any other form or electromagnetic radiation shall be subject to the prior written approval of the ARC. Therefore, no antenna, satellite or microwave dish or other device for the transmission or reception of television or radio signals shall be constructed, installed, erected, used or maintained on any Lot without the prior written approval of the ARC unless applicable law prohibits the ARC from requiring such approval. Any such antennas must be installed in accordance with the guidelines set forth by the ARC.



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Section 4.10. Trash Containers and Collection. No garbage or trash shall be placed or kept on any Lot except in covered containers of a type, size and style which are approved by the ARC. In no event shall such containers be maintained so as to be visible from the street or neighboring property except to make the same available for collection and then only for the shortest time reasonably necessary to effect such collection. All rubbish, trash or garbage shall be removed from Lots and shall not be allowed to accumulate thereon. No outdoor incinerators shall be kept or maintained on any Lot. All garbage or trash shall be collected by a garbage or trash collection service as designated by the City of Horace. Garbage or trash may be put out for collection in an approved container. That container must be kept inside the dwelling or the garage of the dwelling, except that it may be put out for collection the night before the scheduled collection date and put away by 8:00 a.m. the day following the scheduled collection date.

Section 4.11. Rooftop HVAC Equipment Prohibited. No heating, ventilating, air conditioning or evaporative cooling units or equipment related thereto may be mounted, installed or maintained on the roof of any Residential Unit, Garage, shed or other structure so as to be visible from neighboring property.

Section 4.12. Basketball Goals and Backboards. No basketball goal or backboard shall be attached to a Residential Unit or other building. Basketball goals and backboards attached to a freestanding pole may be installed on a Lot, provided the location, design and appearance of the basketball goal and backboard is approved in writing by the ARC.

Section 4.13. Animals. Other than household pets kept for non-commercial uses (limited to dogs, cats and birds), no animals, livestock, poultry or insects of any kind shall be raised, bred or maintained on any of the Lots. Pets will be restricted to the pet owner's Lot, must not be a nuisance and will not be allowed to stray to adjacent property. The Owner of the Lot with a dog or cat present is responsible for immediately picking up after the dog or cat. No chickens, roosters or domesticated or kept birds of any type are allowed on a Lot.

Section 4.14. Kennels. No kennels or other facility for raising or boarding dogs or other animals are allowed unless approved in writing by the ARC and maintained in compliance with all ARC requirements.

Section 4.15. Mailboxes. The United States Postal Service has determined that mail delivery services to homes in Cub Creek 2nd Addition to the City of Horace shall be to Centralized Box Units (CBUs). The location of the CBUs has been predetermined by the Postal Service with the approval of the Developer and the City of Horace. Each Owner should contact the Postal Service in Horace prior to moving in to coordinate lock keys and start of delivery service. Developer will cause installation of the initial CBUs required by the Postal Service. The Developer will have no responsibility for the repair or replacement of any CBUs if they become damaged. The damaging party will have primary responsibility for repairing or replacing a damaged CBU. If there is a failure by the party primarily responsible for repairing or replacing the CBU, the Homeowners Association will have the expense, which may be assessed against individual Lot Owners.



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Section 4.16. Clotheslines. Exterior clotheslines are not permitted.

Section 4.17. Vehicle Parking, Storage. No commercial vehicles, motorhomes, boats, travel trailers, personal watercraft, recreational vehicles, snowmobiles, ATVs, side-by-sides, 4-wheelers, flat bed trailers, storage trailers, storage containers, car trailers or construction equipment shall be permitted on any Lot in the subdivision, except within a garage with the garage doors closed except when in use. Construction equipment will be allowed during the normal course of construction. Motorhomes, 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 by visitors to the Lots for a maximum of seventy-two (72) hours, a maximum of once every fourteen (14) days. These vehicles may not be parked anywhere else in the Development, including on streets or public right-of-way. 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 not exceeding thirty (30) days per year are excepted.

Section 4.18. Signs. No billboards or advertising signs of any kind of character shall be erected, placed, permitted or maintained on any Lot except as herein expressly permitted. A name and address sign used solely for the purpose of identification of the dwelling house occupants may be placed on the Property by its occupants provided the sign is no more than two feet square maximum and the design of the sign is approved by the ARC prior to installation. The provisions of the paragraph may be waived by the ARC only when, in its discretion, the same is necessary to promote the sale of the Property in the area of promotion of the premises. The ARC may erect, place and maintain such sign structures as it deems necessary for the operation or identification of the Cub Creek 2nd Addition to the City of Horace. Nothing in this Declaration shall be deemed to prevent or prohibit Developer from installing and using sign structure to promote Cub Creek 2nd Addition to the City of Horace and/or the sale or marketing of Lots and/or houses by Developer or contractors, or other developers, building homes for sale within Cub Creek 2nd Addition to the City of Horace. One (1) professionally manufactured and maintained real estate "For Sale" sign as used by area real estate agents, not larger than 2' X 2', may be placed on a Residential Lot that is for sale.

Section 4.19. Nuisance. No noxious or offensive trade or activity shall be carried on upon any Lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood. Such restrictions shall include, but not be limited to, using the Lot as a dumping ground for rubbish, garbage, trash or other waste materials, the placing thereon of unsightly piles of dirt, lumber or other material except during construction, and then only during the course of construction. Such restrictions shall also include not allowing noxious weeds to occur on the Lot either during or after the period of construction of the home.

Section 4.20. Dirt Removal. No topsoil or excavation material may be removed from the Development property. When there occurs an excess of soil or excavation material as a result of basement excavation or Lot grading, permission to remove that material must be obtained from the Developer or its engineer. Otherwise the Developer



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will direct where the excess excavation, or soil, if any, is to be disposed of at the Lot Owner's expense on the Cub Creek 2nd Addition property.

Section 4.21. Appearance During Construction. All Lots are to be kept clean during construction. This means that all trash, rubbish, containers and wrapping is to be collected on a daily basis and garbage is to be stored in appropriate containers out of sight, to the extent possible. Failure to keep the Lot free of debris during construction will result in a \$1,000 fine, plus costs of removal and disposal, if the Lot is not promptly cleaned in response to a warning from the Developer or the ARC. Dumping any construction materials, packaging, landscaping materials or debris on a Lot is prohibited and will result in a fine of up to \$1,000 together with the cost of removal of the unwanted items. This will be a lien assessed by the Developer or the ARC. This may be collected as a lien against Owner and the Lot. The Lot Owner is responsible for weed control on the Lot from the time of purchase through the time of construction. Once construction has commenced, it must be diligently pursued to completion of the construction on the Lot.

Section 4.22. Storm Water. Each Lot shall be kept and maintained to be in compliance with current storm water regulations until such time as turf has been established on the Lot, either as the result of sodding or grass establishing itself on the Lot.

Section 4.23. Propane Tanks. No combustible liquid or gas tanks, exposed to view from the public street, shall be allowed on the Lots except for a 5-gallon tank used with an exterior gas grill. Exceptions may be granted by Developer during construction periods.

Section 4.24. Temporary Residence. No trailer, basement, tent, shack, garage, barn or other outbuilding erected on the tract shall at any time be used as a residence, nor shall any residence of a temporary character be permitted on any Residential Lot.

Section 4.25. Easements. The easements for the installation and maintenance of utility and drainage facilities include those shown on the recorded plat of Cub Creek 2nd Addition recorded as Document No. 1681784 and/or on the Permanent Easement Agreement recorded as Document No. 1564477 with the Cass County Recorder. Within the area of easements no structures, planting, fencing or other materials shall be placed, erected or permitted to remain which may damage or interfere with the flow of water through drainage channels or swales in the easements. The easement areas of each Lot and all improvements on it shall be maintained continuously by the Owner except for the improvements for which the public authority or utility company is responsible. See also Section 3.5.12 and Section 4.3.

Section 4.26. Claim Release. All claims for damages, if any, arising out of the construction, maintenance and repair of the utility, drainage facility or easement area or on account of temporary or other inconvenience caused thereby, which claim may otherwise have been asserted against the Developer, the utility provider, the City of Horace or the Horace Park District or any of its agents, contractors or servants, are hereby



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released by each Owner of a Lot in Cub Creek 2nd Addition to the City of Horace and the successors and assigns of each Owner acquiring an interest in any Lot.

Section 4.27. Mining and Wind Towers. No derrick or other structure designed for use in exploring for oil or natural gas shall be erected, placed or permitted upon any part of the Lots, nor shall any oil, natural gas, petroleum, asphalt or hydrocarbon products or minerals of any kind be produced or extracted anywhere in the Lots. No oil drilling, oil development operation, oil refining, quarrying or mining operations of any kind shall be permitted on any Lot of any part of the properties nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted on part of the Lots. No wind towers are allowed.

Section 4.28. Power and Communication Lines. For all Lots, temporary overhead, distribution and service lines are permitted until permanent underground facilities are installed. Otherwise overhead lines are prohibited except during emergencies and repairs.

Section 4.29. Structural Changes. No house or structure shall be moved onto any of the Lots unless it is a new structure built to meet all of the current codes and specifically approved in writing by the ARC. No structure once erected shall at any time be altered or changed so as to permit its use to be in violation of these restrictions and conditions.

Section 4.30. Mortgages. The breach of any of the foregoing covenants, conditions, reservations or restrictions does not defeat or render invalid any lien, mortgage or deed of trust made in good faith for value as to any Lot or Lots or portion of Lots in the Development; but his Declaration shall be binding upon, and effective against, any mortgagee, trustee or owner, whose title or whose grantor's title is or was acquired by foreclosure, trustee sale or otherwise.

Section 4.31. Driveways and Sidewalks. Driveways and parking areas must be hard surfaces. All driveway approaches located within the City of Horace right-of-way must be cast in place concrete. All driveways (other than the approaches) must be constructed with either interlocking paving stones or cast in place concrete. Driveways may not extend beyond the width of the garage. No additional parking slabs are permitted.

Section 4.32. Mowing and Weed Control. The Owner is responsible for the mowing and weed control of the Lot which the Owner purchases from and after the closing of the purchase. This will involve the regular mowing of the Lot and appropriate treatment to keep weeds under control, but not to kill grass on the Lot unless it part of a plan to reseed or sod the Lot. A failure to mow or control weeds after written notice will result in Developer or its contractor performing these functions, with the cost being assessed against the Owner. Any assessed cost billed to Owner not paid within thirty (30) days will become a lien against the Lot, with all costs, including attorneys' fees and costs, being the responsibility of the Owner, together with interest at the rate of twelve percent (12%) per annum and a late payment fee of \$100.



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Section 4.33. Burning. No burning of garbage, trash, trees, leaves, branches, construction materials or similar items will be permitted. Fire pits shall be allowed, provided they comply with all applicable City of Horace ordinances and laws.

Section 4.34. Solar Panels. No solar panels may be constructed on a Lot, including on a building on a Lot, without the express written consent of the ARC.

ARTICLE V.

CUB CREEK 2ND ADDITION HOMEOWNERS ASSOCIATION

Section 5.1. Membership in Association. Upon the completion of construction of a residence on each Residential Lot on the Property, or in the sole discretion of Developer at any time, governing control of the Declaration, including covenants and restrictions, shall be transferred to Cub Creek 2nd Addition to the City of Horace Homeowners Association (the "Association"). Immediately upon transfer, the Association shall elect a board of three (3) Lot Owners who shall constitute the governing Board of the Association (the "Board") and oversee enforcement of the Declaration. Every Owner of any Lot which is subject to the Declaration is subject to assessment by the Association and shall be a mandatory member of the Association. There shall be one (1) vote per Lot on all matters calling for a vote of the members. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. All members of the Association shall be governed and controlled by the Articles of Incorporation and by the Bylaws thereof adopted by the Association which may not conflict with the provisions of this Declaration. Prior to the commencement of the Association, the authority to create and enforce assessments is with the Developer. The Developer or the Association, after transfer to the Association, may determine the Property will become part of an association involving adjoining property or other property in the Cub Creek Additions or other area additions.

Section 5.2. Creation of a Lien and Personal Obligation and Assessments. The Developer hereby covenants, and each Owner of any Lot by acceptance of a deed thereof, whether or not so expressed in such deed, is deemed to covenant and agrees to pay the Association or a fund established by the Developer annual general assessments or charges, and special assessments for capital improvements. All assessments shall be a charge on the Lot and shall be a continuing lien upon the property (Lot) against which each such assessment is made. Each such assessment shall also be the personal obligation of the Owner of such property at the time when the assessment initially became due.

Section 5.3. Method of Assessment. The Developer or the Association shall fix the annual assessment upon the basis provided herein, provided, however, that the annual assessment shall be sufficient to meet the obligations imposed by this Declaration. The Developer or the Association shall set the date(s) such assessments shall become due. The Developer or the Association may provide for collection of assessments annually or in monthly, quarterly, or semi-annual installments, provided, however, that upon default of the payment of any one or more installments, the entire balance of said



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assessment may be accelerated, at the option of the Association, to be declared due and payable in full.

Section 5.4. General Assessment. The general assessment levied by the Developer or the Association shall be used exclusively to promote the improvements, maintenance and operation of the roads, signage, mailboxes, common areas, parks (if any), perimeter landscapes and entrance to Cub Creek 2nd Addition to the City of Horace. Each Residential Lot, whether improved or unimproved, shall be assessed at a uniform rate with the assessment commencing on a date and for an amount determined necessary by the Developer or the Association.

Section 5.5. Special Assessment for Capital Improvements. In addition to the annual assessments authorized above, the Developer or the Association may levy, in any assessment year, a special assessment applicable for that year and for not more than the next four succeeding years for the purpose of defraying in whole or in part, the cost of any construction, reconstruction, repair or replacement of capital improvements located within the development, including roads, paving of roads, common areas (if any), parks (if any), entrances and the landscaped area or areas of entrance, street lighting, banners or other decorations to enhance the aesthetic value of the subdivision, sidewalks or any other improvement, including fixtures and personal property related thereto, providing that any such assessment shall require the approval of a majority of the Owners who are voting in person or by proxy at a special meeting duly called for that purpose. So long as Developer owns any Lot, any special assessment must also be approved in writing by the Developer. Any special assessment shall be levied in an equal amount for each Residential Lot.

Section 5.6. Surplus Funds. The Developer or the Association shall not be obligated to spend in any year all the Assessments and other sums received by it in such year, and may carry forward as surplus any balances remaining. The Developer or the Association shall not be obligated to reduce the amount of the Annual Assessment in the succeeding year if a surplus exists from a prior year, and the Developer or the Association may carry forward from year to year such surplus as the Board, in its discretion, may determine to be desirable for the greater financial security of the Association and the accomplishment of its purposes.

Section 5.7. Enforcement of Liens and Covenants.

Section 5.7.1. All delinquent assessments, together with interest thereon at ten percent (10%) per annum and costs of collection thereof as herein provided, including reasonable attorneys' fees and costs, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each assessment is made. Each such assessment, together with interest thereon, attorney's fees and costs of collection thereof, shall also be the personal obligation of the person who was the owner of such Lot(s) at the time when the assessment fell due.

Section 5.7.2. If the Developer or the Association elects to claim a lien for non-payment of assessments, it shall, at any time within thirty (30) days after the



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occurrence of default, make a demand for payment to the defaulting Owner. Said demand shall state the date and amount of delinquency. If such delinquency is not paid within ten (10) days after delivery of such notice, the Developer or the Association may elect to file a claim of lien against the Lot of such delinquent Owner. Such claim of lien shall state:

1. The name of the delinquent Owner;
2. The legal description of the Lot against which the claim of lien is made;
3. The amount claimed to be due and owing;
4. That the claim of lien is made by the Developer or the Association pursuant to the terms of this Declaration;
5. That the lien claimed against the Lot is in an amount equal to the amount of the stated delinquency; and
6. Due demand has been made upon the defaulting or delinquent Owner pursuant to this Declaration, and that said amount was not paid within the required time period after such demand.

Upon recordation of a duly executed and acknowledged original of such claim of lien by the Cass County Recorder, the lien claimed therein shall immediately attach to the real property and become effective subject to the limitations hereinafter set forth. Each default shall constitute a separate basis for a claim of lien or a lien, but a number of defaults may be included within a single claim of lien. Any such lien may be foreclosed by appropriate action in court or in the manner provided by law for the foreclosure of real estate mortgages pursuant to the statutes of the State of North Dakota.

The lien of the assessments provided for above shall be subordinate to the lien of any first mortgage, first purchase money security deed, or security deed representing a first lien on said property and including the improvement note and mortgage of the Developer. Sale or transfer of any Lot pursuant to foreclosure shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall release such Lots from liability for any assessments thereafter becoming due or from the lien thereof.

Section 5.7.3. In addition to lien rights, the Developer or Association, as the case may be, shall have the authority to levy fines upon any homeowner who remains in default of these covenants after written notice of default. The amount of such fines shall be adjusted on a periodic basis by the Developer or Association, but the minimum amount per violation shall be set at \$50.00. Any fine not paid shall be a charge on the Lot; a continuing lien on the Lot; and an obligation of the Owner of the Lot, and will include attorney's fees and the cost of recording the lien to completely satisfy and be released. Any amount not paid when due will bear



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interest at the rate of ten percent (10%) per annum or the highest interest rate allowed by law, whichever is less.

Section 5.7.4. The Bylaws of the Homeowners Association are attached hereto as Exhibit C. These Bylaws will apply to all Lots within Cub Creek 2nd Addition to the City of Horace, except for those Lots excluded as stated in Article II of this Declaration.

Section 5.7.5. In the event of conflict between the terms of the Bylaws of Cub Creek 2nd Addition Homeowners Association and Article V of this Declaration, Article V of this Declaration shall control.

ARTICLE VI.

MAINTENANCE

Section 6.1. Areas of Association Responsibility. The Developer, until the Association is formed and then the Association, or its duly delegated representative, shall be responsible for the management and maintenance of the signage, mail boxes, parks, perimeter landscape, maintenance and improvement of the Prairie Area and entrance to Cub Creek 2nd Addition to the City of Horace, and all improvements located thereon, except for any part thereof which any governmental entity is maintaining or is obligated to maintain. The cost of this maintenance may be assessed as set forth in Article V and/or Article VI. The Developer or the Board of the Association shall be the sole judge as to the appropriate maintenance of all common areas. The Developer does not need the approval of the Board. No Owner, resident or other person shall obstruct or interfere with the Developer or the Association in performance of the Association's management or maintenance of the common areas and the improvements located thereon.

Section 6.2. Lots. Each Owner of a Lot shall be responsible for the maintenance of his/her Lot, and all buildings, landscaping or other improvements situated thereon. All buildings, landscaping and other improvements shall at all times be kept in good condition and repair. All grass, hedges, shrubs, vines, trees and plants of any type on a Lot shall be irrigated (except where prohibited by Easements), mowed, trimmed and cut at regular intervals so as to be maintained in a neat and attractive manner. Trees, shrubs, vines, plants, and grass which die shall be promptly removed and replaced with living foliage of like kind, unless different foliage is approved in writing by the ARC. No yard equipment, wood piles or storage areas may be maintained so as to be visible from neighboring property or streets. All Lots upon which no Residential Units, buildings or other structures, landscaping or improvements have been constructed shall be maintained in a weed-free and attractive manner once sold by Developer.

Section 6.3. Assessment of Certain Costs of Maintenance and Repair. In the event that the need for maintenance of a common area is caused through the willful or negligent act of any Owner, his family, tenants, guests or invitees, the cost of such maintenance or repair shall be paid by such Owner to the Association upon demand and payment of such amounts shall be secured by the Assessment Lien.



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Section 6.4. Improper Maintenance and Use of Lots. In the event any portion of any Lot is so maintained as to present a public or private nuisance, or as to substantially detract from the appearance, quality or value of the surrounding Lots or other areas of the Project which are substantially affected thereby or related thereto, or in the event any portion of a Lot is being used in a manner which violates this Declaration, or in the event the Owner of any Lot is failing to perform any of its obligations under the Declaration or Association Documents, the Developer or the Board may make a finding to such effect, specifying the particular condition or conditions which exist, and pursuant thereto give notice thereof to the offending Owner that unless corrective action is taken within fourteen (14) days, the Developer or the Board may cause such action to be taken at said Owner's expense. If, at the expiration of the fourteen day period of time, the requisite corrective action has not been taken, the Board shall be authorized and empowered to cause such action to be taken and the cost thereof shall be paid by such Owner to the Association upon demand and payment of such amounts shall be secured by the Assessment Lien.

Section 6.5. Installation of Trees. If any tree required by the City of Horace to be planted on a Lot is not timely planted, Developer will plant the tree(s) and assess the Lot Owner \$1,000.00 per tree for supplying and planting the tree.

ARTICLE VII. GENERAL PROVISIONS

Section 7.1. Enforcement. If any party shall violate or attempt to violate any of the Covenants contained in this Declaration, it shall be lawful for the Developer, the Board (if then established) or any Owner to prosecute proceedings at law or in equity against the person or persons violating or attempting to violate the Declaration and either prevent him/her or them from violating the Declaration and/or recover damage for such violation. Recovery may include the Developer or the Board placing a lien against any one or more Lots violating this Declaration and enforcing that lien the same as a mortgage may be enforced under North Dakota law.

Section 7.2. Right to Enforce. Failure to enforce any of the Covenants now or hereafter imposed pursuant to the covenants or restrictions should not be deemed a waiver of the right to do so thereafter, nor shall it be construed as an act of acquiescence or approval on the part of the Owners.

Section 7.3. Developer Assessments. The Developer, its successors and assigns shall have the right to assess the Lots within the Development annual general assessments or charges, and special assessments for capital improvements to be used exclusively to promote the improvement, maintenance and the operation of the signage, mailboxes, common areas, drainage areas and easements, parks, utility easements, perimeter landscaping, Development fencing (if any), Prairie Area maintenance and improvement and/or the entrance(s) to the Development. Each Lot, whether improved or unimproved, shall be assessed at a uniform rate. If a Residential Lot is situated upon more than Lot, the two or more Lots upon which the residential unit is situated shall be



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assessed according to the percentages of square footage of any partial Lot which is part of a full Lot. No assessments may be made against Lots owned by Developer during the time Developer owns one or more Lots. The Developer, its successors or assigns, may place a lien upon any Lot which has not paid its assessment, when due, except that no lien may be placed upon a Lot owned by Developer. Any lien placed against a Lot may be foreclosed in the same manner as a mortgage may be foreclosed under North Dakota law.

Section 7.4. Duration. The Covenants of this Declaration shall run with and bind the Property and shall inure to the benefit of and be enforceable by heirs, devisees, successors and assigns for a term of thirty (30) years from the date this Declaration is recorded. After which time said covenants, conditions, restrictions, reservations, easements, liens and charges shall be automatically extended for successive periods of ten (10) years unless an instrument signed by at least eighty percent (80%) majority of the Lots by the then-Owners has been recorded, agreeing to modify said covenants and restrictions in whole or in part, provided, however, the easements created are perpetual and run with the real property and Lots involved, regardless of amendment or termination.

Section 7.5. Severability. The invalidation of any one of these covenants, conditions, restrictions, reservations, easements, liens and charges by Judgment or Court Order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 7.6. Amendments. This Declaration may be amended by Developer until Developer divests itself of the responsibility for acting as the Architectural Review Committee. It shall be conclusively presumed that the Developer has not divested itself of control of the Architectural Review Committee unless there is a sworn affidavit of record with the Cass County Recorder so stating, signed by Developer or its legal representative. Before and after that affidavit has been recorded. Sections 3.5.7, 3.5.11, 3.5.12 and 4.25 may only be amended at any time with the written consent of Developer. This Declaration may be amended by an instrument signed by the Owners of not less than eighty (80%) percent of the Lots in Cub Creek 2nd Addition to the City of Horace after Developer has divested itself of responsibility for architectural control by a recorded affidavit. Any instrument amending, modifying or cancelling this Declaration must be properly filed and recorded with the Cass County Recorder before it shall be effective.

Section 7.7. Additional Lands. The Developer may add additional land to be subject to this Declaration. The rights reserved to the Developer to subject additional land to this Declaration shall not be implied or construed so as to impose an obligation upon the Developer to subject any of such additional land to this Declaration or to the jurisdiction of the Owners. If such additional land is not subjected to this Declaration, the Developer's reserved rights shall not impose any obligation on the Developer to impose any covenants and restrictions similar to those contained herein upon such additional land nor shall such rights in any manner limit or restrict the use to which such additional land may be put by the Developer or any subsequent owner thereof, whether such uses are consistent with the covenants and restrictions imposed hereby or not.



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Section 7.8. Developer. Cub Creek Development, LLC, and its successors and assigns, is the Developer and the Declarant described herein. The Developer shall have the right to grant and convey all of its rights to enforce these declarations, covenants, conditions, reservations, easements, liens and charges described herein. The Developer shall have the right to grant and convey all of its rights to enforce these declarations, covenants, conditions, reservations, restrictions, easements, liens and charges to such community association or other entity as may be organized or established for such purposes at such time as in the sole discretion and judgment of the Developer, such entity is able to enforce the restrictions herein contained. If no community association or other entity is organized, the rights of the Developer shall vest in the Owners of the Lots when all Lots of any property are sold, or on July 1, 2034, whichever occurs last.

Any amount not paid when due will bear interest at the rate of ten percent (10%) per annum or the highest interest rate allowed by law, whichever is less.

[Signature Page to Follow]



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CUB CREEK DEVELOPMENT LLC

IN WITNESS of its terms and conditions, the undersigned, with the authority to amend as set forth in Section 7.6 of this Declaration, has caused this Declaration to be executed this 26th day of April, 2024.

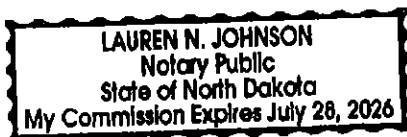
DEVELOPER:

CUB CREEK DEVELOPMENT, LLC
a North Dakota limited liability company


By: Donald A. Dabbert, Jr.
Its: Managing Member

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

On this 26th day of April, 2024, before me personally appeared DONALD A. DABBERT, JR., the Managing Member of CUB CREEK DEVELOPMENT, LLC, the entity that is described and that executed the within instrument, and acknowledged to me that such entity executed the same.




Notary Public

*(Signature Page to Cub Creek 2nd Addition to the City of Horace
Declaration of Covenants, Conditions, Restrictions, Reservations, Easements, Liens and Charges)*



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CONSENT TO SUBMISSION OF PROPERTY TO DECLARATION

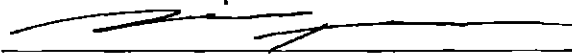
Thomsen Homes LLC does hereby consent to having its property subject to the terms of this Declaration of Covenants, Conditions, Restrictions, Reservations, Easements, Liens and Charges (the "Declaration") and all parts thereof, including all Exhibits attached to the Declaration.

The real property of Thomsen Homes LLC which is subject to the Declaration located in Cass County, North Dakota is described as follows:

Lots 2-10, inclusive, Block 6, and Lots 8 and 9, Block 5, Cub Creek 2nd Addition to the City of Horace.

Dated: 4/29/24.

THOMSEN HOMES LLC



By: Niels Thomsen

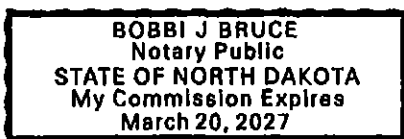
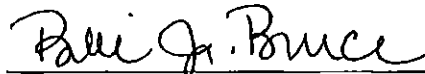
Its: President

STATE OF NORTH DAKOTA)

: ss.

COUNTY OF CASS)

On this 29th day of April, 2024, before me personally appeared NIELS THOMSEN, the President of THOMSEN HOMES LLC, the entity that is described and that executed the within instrument, and acknowledged to me that such entity executed the same.

Notary Public



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EXHIBIT A-1

PERMANENT EASEMENT AGREEMENTS

- Permanent Easement Agreement recorded as Document No. 1564477 with the Cass County Recorder on June 18, 2019.
- Permanent Easement Agreement recorded as Document No. 1678246 with the Cass County Recorder on October 25, 2022.

These Permanent Easement Agreements are incorporated by reference.



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EXHIBIT A-2

EASEMENT EXHIBITS

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EXHIBIT A-2

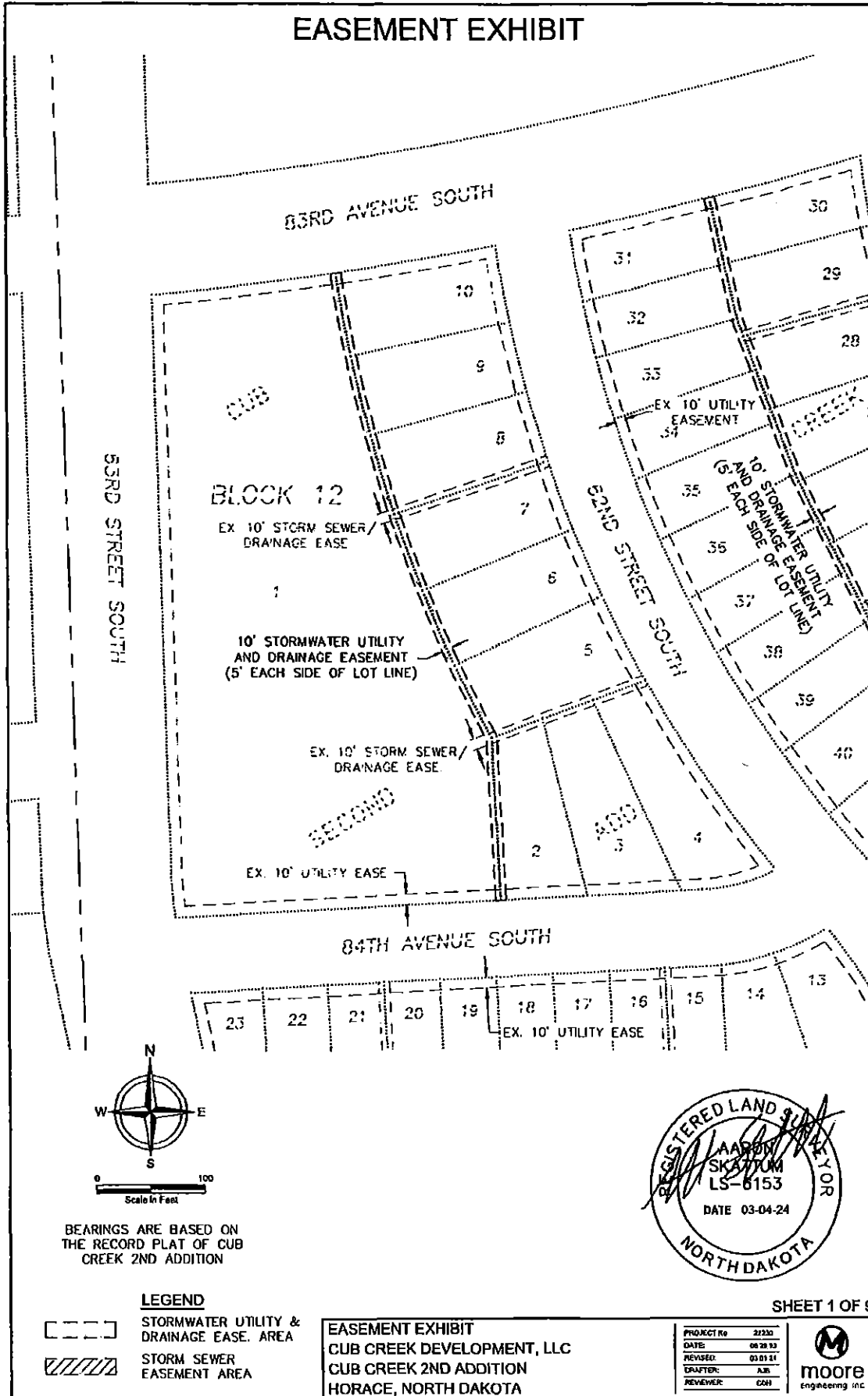
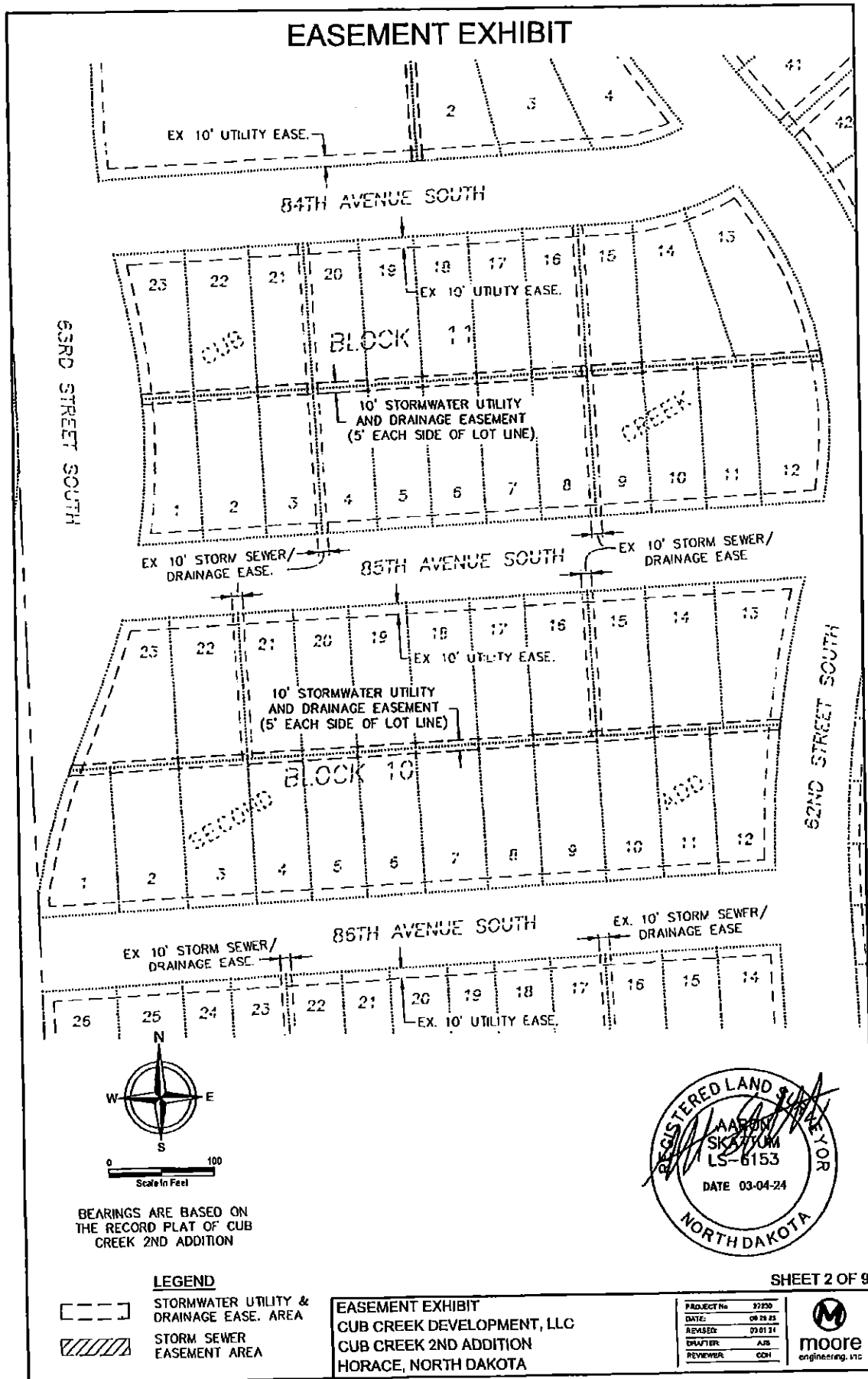


EXHIBIT A-2

CUB CREEK DEVELOPMENT LLC

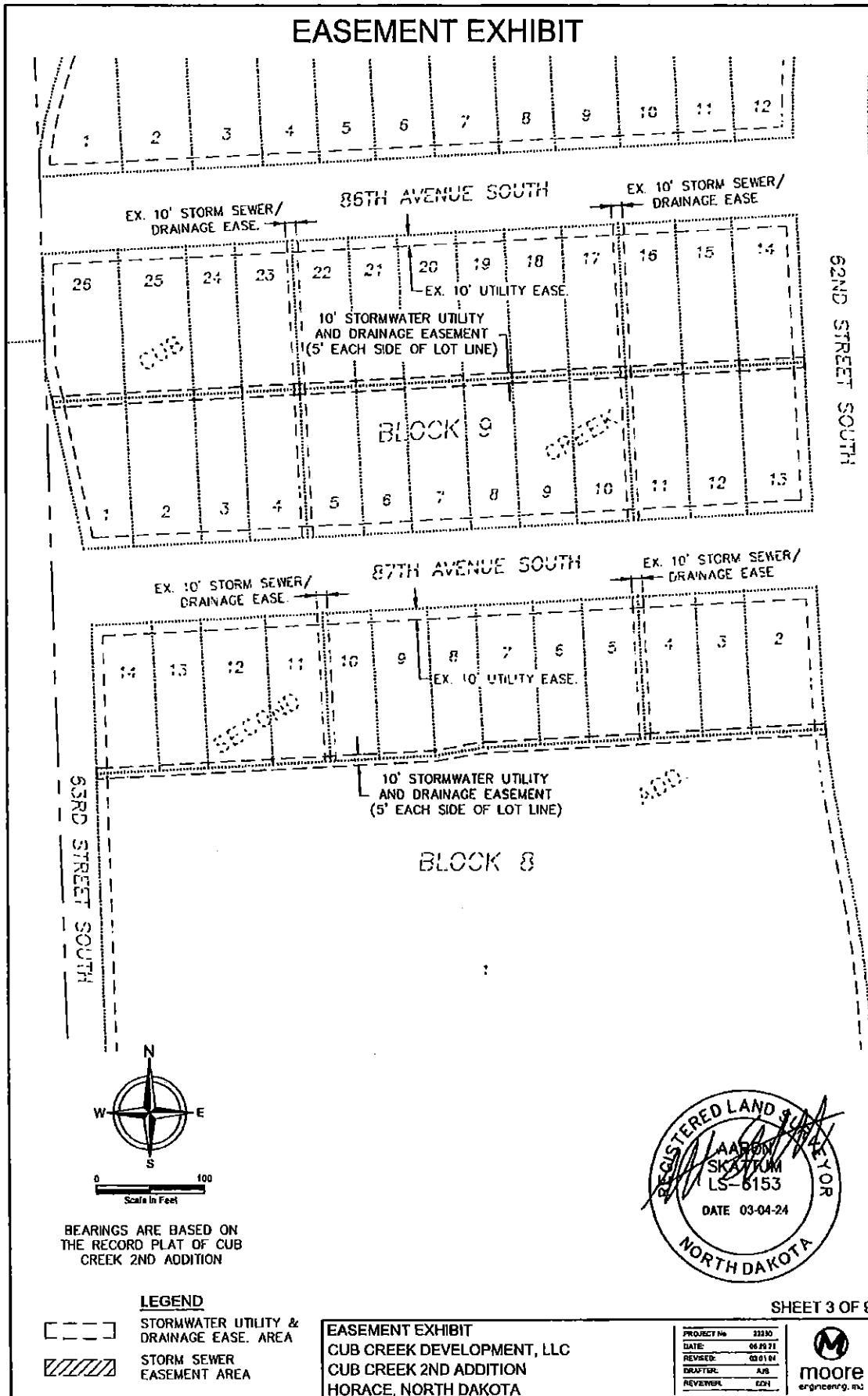


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EASEMENT EXHIBIT



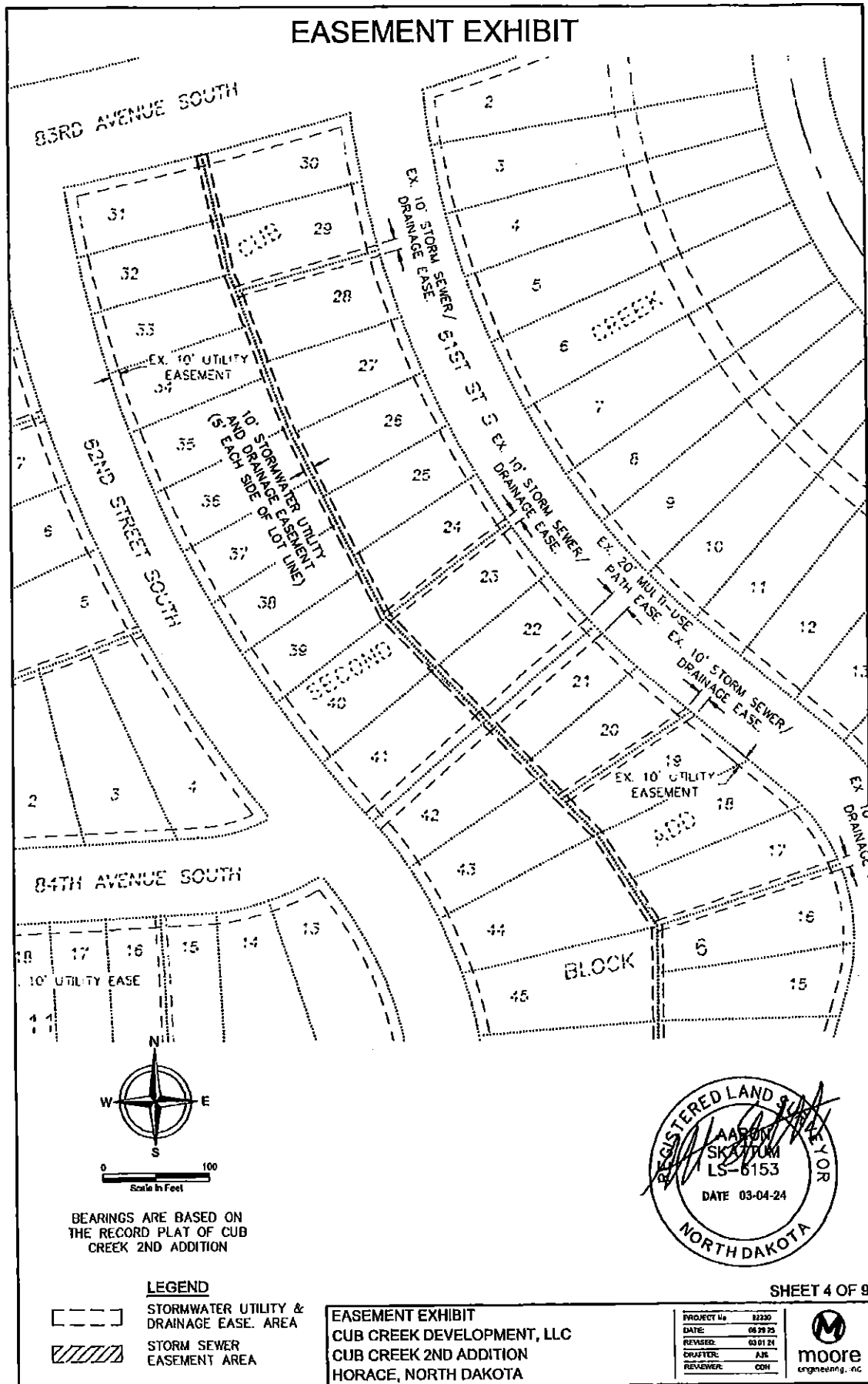
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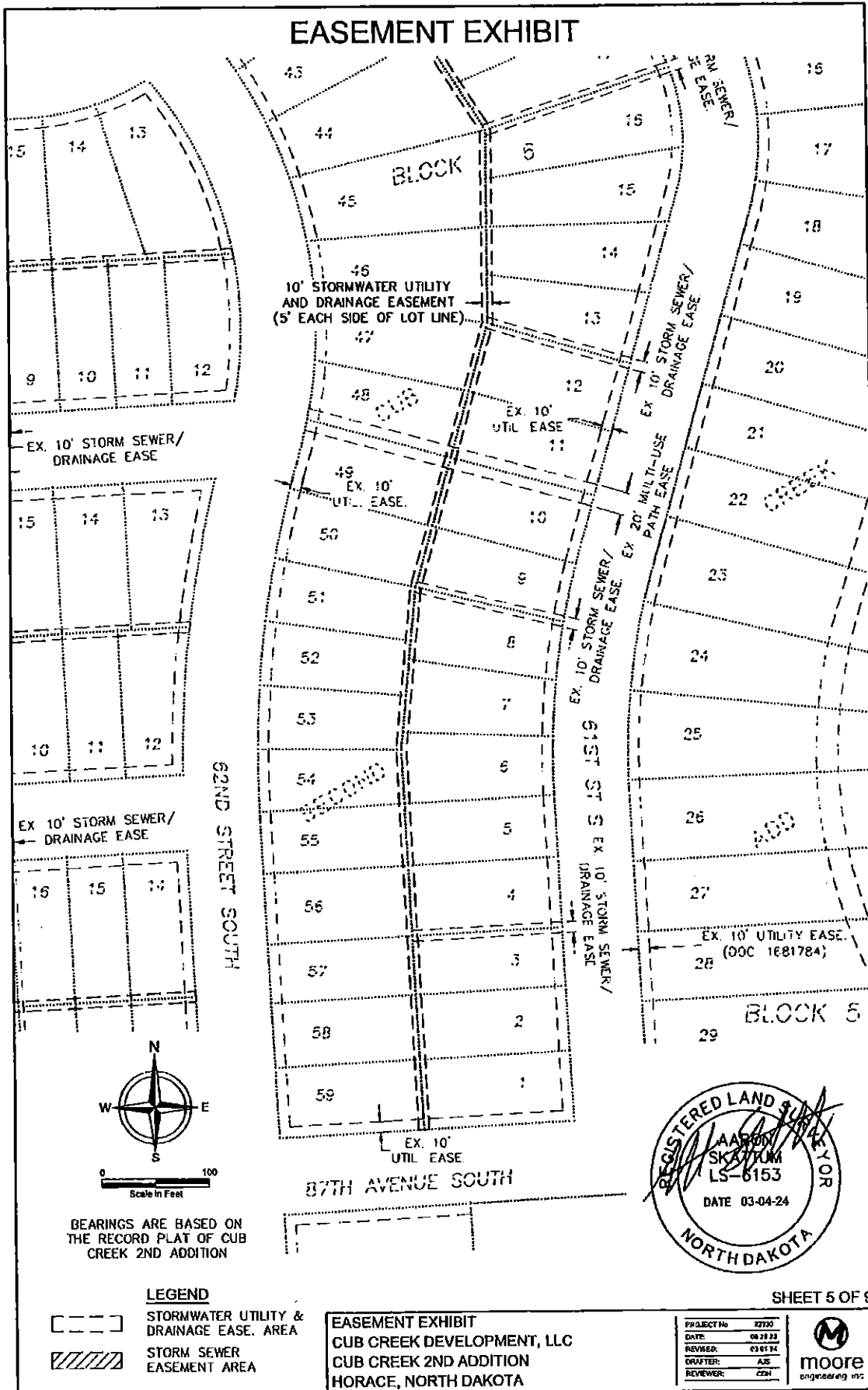
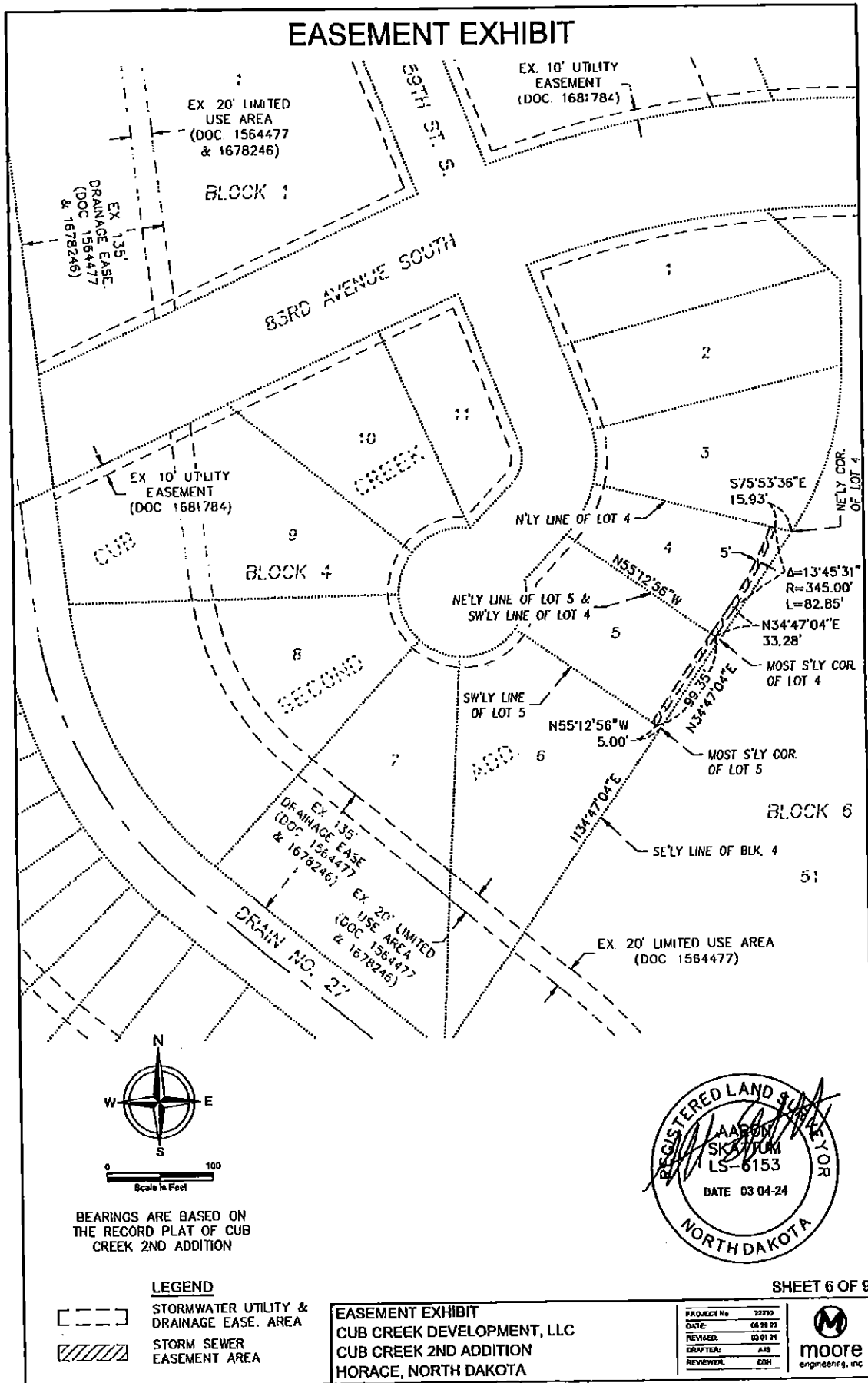


EXHIBIT A-2

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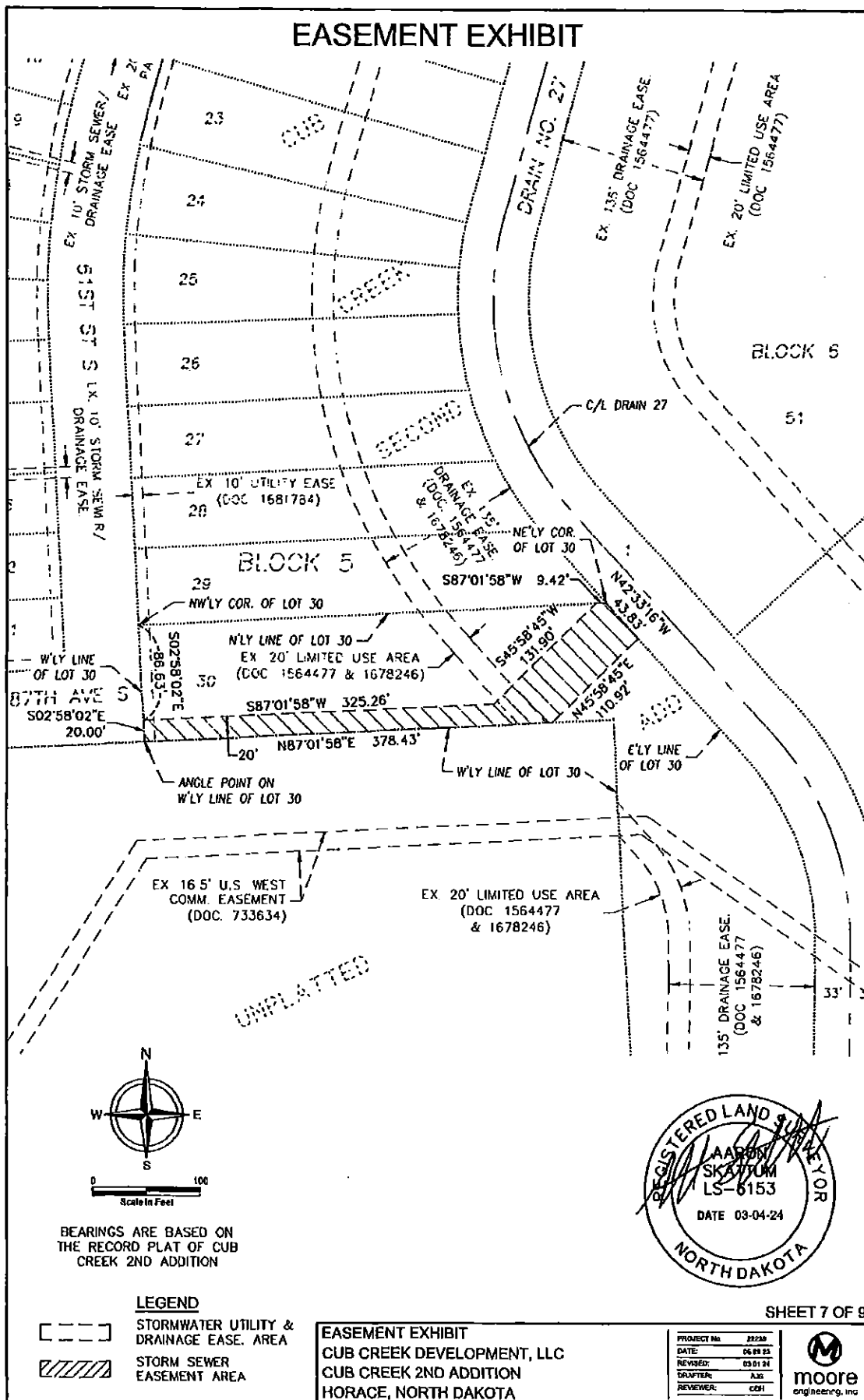
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EXHIBIT A-2



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EASEMENT EXHIBIT

STORMWATER UTILITY & DRAINAGE EASEMENT DESCRIPTIONS

The westerly 5.00 feet of Lots 1 through 30, Block 6 of CUB CREEK SECOND ADDITION to the city of Horace, Cass County, North Dakota, according to the recorded plat thereof, as measured at right angles to, and parallel with the westerly lines of said Lots 1 through 30.

AND

The easterly 5.00 feet of Lots 31 through 59, Block 6 of said CUB CREEK SECOND ADDITION, as measured at right angles to, and parallel with the easterly lines of said Lots 31 through 59.

AND

The north 5.00 feet of Lot 1, Block 8 of said CUB CREEK SECOND ADDITION, as measured at a right angle to, and parallel with the north line of said Lot 1.

AND

The south 5.00 feet of Lots 2 through 14, Block 8 of said CUB CREEK SECOND ADDITION, as measured at right angles to, and parallel with the south lines of said Lots 2 through 14.

AND

The north 5.00 feet of Lots 1 through 13, Block 9 of said CUB CREEK SECOND ADDITION, as measured at right angles to, and parallel with the north lines of said Lots 1 through 13.

AND

The south 5.00 feet of Lots 14 through 26, Block 9 of said CUB CREEK SECOND ADDITION, as measured at right angles to, and parallel with the south lines of said Lots 14 through 26.

AND

The north 5.00 feet of Lots 1 through 12, Block 10 of said CUB CREEK SECOND ADDITION, as measured at right angles to, and parallel with the north lines of said Lots 1 through 12.

AND

The south 5.00 feet of Lots 13 through 23, Block 10 of said CUB CREEK SECOND ADDITION, as measured at right angles to, and parallel with the south lines of said Lots 13 through 23.

AND

The north 5.00 feet of Lots 1 through 12, Block 11 of said CUB CREEK SECOND ADDITION, as measured at right angles to, and parallel with the north lines of said Lots 1 through 12.

AND

The south 5.00 feet of Lots 13 through 23, Block 11 of said CUB CREEK SECOND ADDITION, as measured at right angles to, and parallel with the south lines of said Lots 13 through 23.

AND

The east 5.00 feet of Lot 1, Block 12 of said CUB CREEK SECOND ADDITION, as measured at a right angle to, and parallel with the east line of said Lot 1.

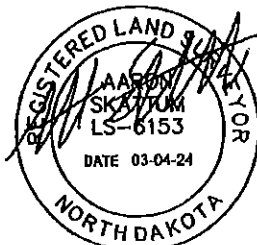
AND

The west 5.00 feet of Lot 2, Block 12 of said CUB CREEK SECOND ADDITION, as measured at a right angle to, and parallel with the west line of said Lot 2.

AND

The west 5.00 feet of Lots 5 through 10, Block 12 of said CUB CREEK SECOND ADDITION, as measured at right angles to, and parallel with the west lines of said Lots 5 through 10.

The above-described easements contain a combined 1.16 acres and are subject to all easements, restrictions, reservations, and rights-of-way of record, if any.



SHEET 8 OF 9

EASEMENT EXHIBIT
CUB CREEK DEVELOPMENT, LLC
CUB CREEK 2ND ADDITION
HORACE, NORTH DAKOTA

PROJECT No.	07930
DATE:	08-20-23
REVISED:	03-01-24
DRAWN BY:	AJB
REVIEWER:	COM


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engineering, inc.

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CUB CREEK DEVELOPMENT LLC

EASEMENT EXHIBIT

STORM SEWER EASEMENT DESCRIPTIONS

That part of Lot 30, Block 5 of CUB CREEK SECOND ADDITION to the city of Horace, Cass County, North Dakota, according to the recorded plat thereof, described as follows:

Commencing at the northwesterly corner of said Lot 30; thence South 02 degrees 58 minutes 02 seconds East on a record bearing along the westerly line of said Lot 30 a distance of 86.63 feet to the point of beginning; thence continuing South 02 degrees 58 minutes 02 seconds East along the westerly line of said Lot 30 a distance of 20.00 feet to an angle point on the westerly line of said Lot 30; thence North 87 degrees 01 minute 58 seconds East continuing along the westerly line of said Lot 30 a distance of 378.43 feet; thence North 45 degrees 58 minutes 45 seconds East a distance of 110.92 feet to the easterly line of said Lot 30; thence North 42 degrees 33 minutes 16 seconds West along the easterly line of said Lot 30 a distance of 43.83 feet to the northeasterly corner of said Lot 30; thence South 87 degrees 01 minute 58 seconds West along the northerly line of said Lot 30 a distance of 9.42 feet; thence South 45 degrees 58 minutes 45 seconds West a distance of 131.80 feet to a point on a line which is 20.00 feet northerly of, as measured at a right angle to, and parallel with the westerly line of said Lot 30; thence South 87 degrees 01 minute 58 seconds West along said parallel line a distance of 325.26 feet to the point of beginning,

AND

That part of Lot 5, Block 4 of said CUB CREEK SECOND ADDITION, being a strip of land 5.00 feet wide, as measured at a right angle to, parallel with, and lying to the left side of the following described line:

Commencing at the most southerly corner of said Lot 5; thence North 65 degrees 12 minutes 56 seconds West along the southwesterly line of said Lot 5 a distance of 5.00 feet to the point of beginning of the line to be described; thence North 34 degrees 47 minutes 04 seconds East parallel with the southeasterly line of said Lot 5 a distance of 99.35 feet to the northeasterly line of said Lot 5, and said line there terminates,

AND

That part of Lot 4, Block 4 of said CUB CREEK SECOND ADDITION, being a strip of land 5.00 feet wide, as measured at right angles to, parallel with, and lying to the left side of the following described line:

Commencing at the most southerly corner of said Lot 4; thence North 55 degrees 12 minutes 56 seconds West along the southwesterly line of said Lot 4 a distance of 5.00 feet to the point of beginning of the line to be described; thence North 34 degrees 47 minutes 04 seconds East parallel with the southeasterly line of said Lot 4 a distance of 33.28 feet; thence northeasterly 82.85 feet along a tangential curve, concave northwesterly, having a radius of 345.00 feet and a central angle of 13 degrees 45 minutes 31 seconds to the northerly line of said Lot 4, and said line there terminates, from said point of termination the northeasterly corner of said Lot 4 bears South 75 degrees 53 minutes 36 seconds East a distance of 15.93 feet, as measured along the northerly line of said Lot 4. The left side line of said strip is to be shortened to terminate on the northerly line of said Lot 4.

The above-described easements contain a combined 14,339 square feet and are subject to all easements, restrictions, reservations, and rights-of-way of record, if any.

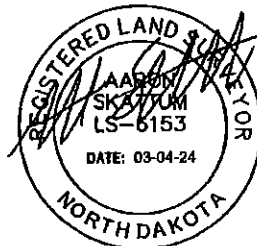
CERTIFICATION

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Registered Land Surveyor under the laws of the State of North Dakota.

Aaron Skattum

Aaron Skattum, R.L.S.
N.D. License No. LS-6153

Date: March 4, 2024



State of North Dakota
County of Cass

On this 4th day of March, 2024 before me, a Notary Public in and for said county and state, personally appeared Aaron Skattum, Registered Land Surveyor, known to me to be the person described in and who executed the foregoing certificate and acknowledged to me that he executed the same as his free act and deed.

Alex Thiel
Notary Public, Cass County, North Dakota

ALEX THIEL
Notary Public
State of North Dakota
My Commission Expires 11/01/2025

SHEET 8 OF 9

EASEMENT EXHIBIT
CUB CREEK DEVELOPMENT, LLC
CUB CREEK 2ND ADDITION
HORACE, NORTH DAKOTA

PROJECT No. 2230
DATE: 04/29/24
REVISION: 03/01/24
DRAFTER: AJS
REVIEWER: CCH

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engineering, inc.



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CUB CREEK DEVELOPMENT LLC

EXHIBIT C

BYLAWS OF CUB CREEK 2ND ADDITION HOMEOWNERS ASSOCIATION



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CUB CREEK DEVELOPMENT LLC

BYLAWS

CUB CREEK 2ND ADDITION HOMEOWNERS ASSOCIATION

CUB CREEK 2ND ADDITION HOMEOWNERS ASSOCIATION, a North Dakota nonprofit corporation (the "Association") organized under N.D.C.C. Chapter 10-33 (the "Act"), the Articles of Incorporation (the "Articles") which have been filed with the Office of the North Dakota Secretary of State, has agreed to and adopted the following Bylaws:

ARTICLE I. DEFINITIONS

Section 1.1. Definitions. Any words or terms used in these Bylaws which are defined in the Declaration of Covenants, Conditions, Restrictions, Reservations, Easements, Liens and Charges filed with the Cass County Recorder in Cass County, North Dakota (the "Declaration") will have the meaning described in the Declaration.

ARTICLE II. MEMBERS AND VOTING

Section 2.1. Members. Each Owner of a Single Family Lot in the Property shall be a Member of the Association, and no other person or entity shall be entitled to membership. The Declarant, or its successors in interest or assigns, shall be entitled to membership in the Association only so long as the same is the Owner of one or more Single Family Lots in the Property. There is one class of Members in the Association. These Bylaws shall apply to all Lots in Cub Creek 2nd Addition.

Section 2.2. Transfer of Membership. Each membership is appurtenant to the Single Family Lot on which it is based and shall transfer automatically by voluntary or involuntary conveyance of the ownership of that Single Family Lot. It shall be the responsibility of each Owner, upon becoming entitled to membership, so to notify the Association in writing, and until so notified, the Association may continue to carry the name of the former Owner as a Member, in its sole discretion. In the event the Owner of any Single Family Lot should fail or refuse to transfer the membership to the transferee of title of such Single Family Lot, the Association shall have the right to record the transfer upon the books of the Association and issue a new membership to the transferee, and thereupon the old membership outstanding in the name of the transferor shall be null and void as though the same had been surrendered.

Section 2.3. Multiple Owners. When more than one person holds an ownership interest in a Single Family Lot, the vote for such Single Family Lot shall be exercised as they between or amongst themselves determine and jointly signify in writing to the Secretary of the Association, but in no event shall more than the assigned voting power be cast with respect to any Single Family Lot, nor shall the voting power allocated



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to a Single Family Lot be split or otherwise cast separately by the several Single Family Lot Owners. In the event multiple Owners of a Single Family Lot cannot agree on the exercise of voting power for such Single Family Lot, any one of the Owners may apply to the Board of Directors of the Association, which, after hearing all parties at a special meeting, shall determine the manner of exercise of the voting power for said Single Family Lot by a majority vote of the Directors voting at the special meeting. A Director shall not vote upon such determination with respect to a Single Family Lot of which said Director is one of the multiple Owners.

Section 2.4. Voting. Each Single Family Lot shall be entitled to one (1) vote. Cumulative voting shall not be permitted. A majority of those voting shall govern all determinations of the Single Family Lot Owners, except where a greater vote is required by the Declaration or these Bylaws. No vote shall be cast with respect to any Single Family Lot while it is owned by the Association. During any period when the assessments against a Single Family Lot are unpaid for more than sixty (60) days after due and payable, the Single Family Lot's voting rights may be suspended by the Association.

Section 2.5. Quorum. Except as otherwise provided in these Bylaws, the presence in person or by proxy of Owners representing fifty percent (50%) of the voting power of the Association shall constitute a quorum. If the voting power of a Single Family Lot is suspended by reason of delinquency in payment of assessments, such voting power shall be deducted from the quorum requirement.

Section 2.6. Proxies. Votes may be cast in person or by proxy. Proxies must be filed with the Secretary of the Association before the appointed time of each meeting. A person designated by a proxy to act for a Member need not be a Member.

ARTICLE III.

MEETINGS

Section 3.1. Place of Meetings. Meetings of the Association shall be held at the Property or such other suitable place within the City of Horace and convenient to the Single Family Lot Owners as may be designated by the Board of Directors.

Section 3.2. Annual Meetings. The first annual meeting shall be set by the Board of Directors. At such first annual meeting of the Members, the Members may designate a regular date for successive annual meetings. If the Members fail to designate such a regular date, the Board of Directors may continue to designate the date of the next annual meeting until such a designation is made by the Members. If any designated date falls upon a legal holiday, it shall be understood that the actual date of the meeting shall be the next business day succeeding such designated date. At such meetings in accordance with the requirements of Section 4.4 of these Bylaws, the Directors shall be elected by ballot of the Single Family Lot Owners. The Single Family Lot Owners also may transact such other business of the Association as properly may come before them. In all events, a meeting of the Members shall be held at least once each year. If a regular



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meeting of the Members has not been held during the preceding fifteen (15) months, ten percent (10%) or more of the Members with voting rights may demand a meeting.

Section 3.3. Special Meetings. It shall be the duty of the President of the Association to call a special meeting of the Members as directed by resolution of the Board of Directors or upon the presentation to the Secretary of the Association of a petition therefor signed by ten percent (10%) or more of the Members with voting rights, or by two (2) Directors. The notice of any special meeting shall state the time and place of such meeting and the purpose thereof. No business shall be transacted at a special meeting except as stated in the notice unless all of the Members with voting rights have waived notice of the meeting under the Act. One or more special meetings may be held before there has been a first annual meeting.

Section 3.4. Notice of Meetings. It shall be the duty of the Secretary of the Association to send to each Single Family Lot Owner at least twenty-one (21) days and not more than sixty (60) days in advance of a an annual meeting of the Single Family Lot Owners, and not less than seven (7) days and not more than thirty (30) days in advance of any other meeting, notice of the date, time, place and a complete agenda of the meeting and the procedures for appointing proxies. The notice shall be hand delivered or sent by United States mail, postage prepaid, to all Single Family Lot Owners of record at the address of their respective Single Family Lots, or to such other address or addresses as any of them may have designated in writing to the Secretary of the Association.

Section 3.5. Adjourned Meetings. If any meeting of Single Family Lot Owners cannot be organized because a quorum is not present, the Single Family Lot Owners who are present, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours, nor more than sixty (60) days, from the time the original meeting was called, with no further notice than that given at such adjourned meeting, and the quorum at such adjourned meeting shall be one-half of the ordinary quorum.

Section 3.6. Order of Business. The order of business at all annual meetings of Single Family Lot Owners shall be as follows:

- (a) Roll call.
- (b) Proof of notice of meeting or waiver of notice.
- (c) Reading of minutes of preceding meeting.
- (d) Report of officers.
- (e) Report of committees.
- (f) Designation of regular date for annual meetings (if necessary).
- (g) Election of Board of Directors.
- (h) Unfinished business.



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- (i) New business.
- (j) Open forum.
- (k) Announcement of date, time and place of organization meeting of new Board of Directors.
- (l) Announcement of members of Nominating Committee.
- (m) Adjournment.

Section 3.7. Fair Voting Procedures. The following shall be considered minimum standards to assure fair voting procedures:

- (a) All proxies should be available for inspection prior to and during a meeting of the Members so that a reasonable opportunity is afforded to challenge and count proxies.
- (b) All mail ballots and all proxies cast at a meeting should be first opened at the time the votes on an election or issue are counted and tallied.
- (c) In the case of an election of a Director, every candidate or designee of a candidate may observe the counting and tallying of votes; and on any other issue, a reasonable number of observers from both sides of each issue shall observe the counting and tallying of votes.
- (d) The vote count on each election and issue shall be announced before adjournment of the meeting and shall be available to all Members in written form, signed by the Secretary of the Association, within seven (7) days of the meeting.
- (e) A Member who is delinquent in payment of assessments may reinstate voting rights for a meeting by payment of the delinquency by delivering a check to the Secretary, Treasurer or President of the Association before the meeting is called to order, unless a different requirement is adopted by the Board and the delinquent Member is given written notice thereof at least fifteen (15) days before the meeting.

ARTICLE IV. **BOARD OF DIRECTORS**

Section 4.1. First Board of Directors. The first Board of Directors shall consist of three (3) persons designed in the Articles, who need not be Single Family Lot Owners and who shall serve until the first annual meeting of the Members or until their successors are elected and qualified. Should any vacancy occur in the first Board of Directors, it shall be filled by Declarant. The first Board of Directors shall have the power to adopt the Bylaws of the Association, to elect officers, to establish a schedule of assessments which



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shall be effective until December 31st of the year in which the first annual meeting of the Association occurs, and shall have generally the powers and duties as set forth in Section 4.5.

Section 4.2. Number and Qualification. The number of Directors constituting the Board of Directors after the first Board of Directors shall be three (3); provided, however, that the number of Directors may be increased to five (or thereafter decreased back to three) by affirmative vote of the majority of all Owners of Single Family Lots at any annual meeting of the Members, subject to any limitations in the Articles. All Directors elected by the Single Family Lot Owners shall themselves be Single Family Lot Owners, officers or employees of a corporate Single Family Lot Owner, partners or employees of a partnership Single Family Lot Owner, or members or employees of a limited liability company Single Family Lot Owner.

Section 4.3. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations also may be made by any two Members in a written nomination to the Secretary of the Association or by motion and second from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more Members of the Association. The Nominating Committee shall be appointed by the Board prior to each annual meeting of the Members, to serve from the close of such annual meeting until the close of the next annual meeting, and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled.

Section 4.4. Term and Election. The term of office of each Director shall be fixed at one (1) year. Directors shall be elected by plurality. Each Director shall hold office until his or her respective successor has been elected.

Section 4.5. Powers and Duties. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of those Lots commonly referred to as CUB CREEK 2ND ADDITION, and may act on behalf of the Association and do all such things and all such acts and things except as by the Act or by the Declaration or by these Bylaws may not be delegated to the Board of Directors by the Single Family Lot Owners.

Section 4.6. Vacancies. Any vacancy in the Board arising by death or resignation of a Director elected or appointed by Declarant shall be filled only by appointment made by Declarant. Any other vacancy shall be filled by act of the remaining Directors, whether or not constituting a quorum, and a Director so appointed shall serve for the unexpired term of the Director's predecessor in office.

Section 4.7. Removal of Directors. At any regular or special meeting of the Single Family Lot Owners duly called, any one or more of the Directors may be removed, with or without cause, by a majority of the Single Family Lot Owners authorized to elect such Director, present in person or by proxy, and a successor may then and there be



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elected to fill the vacancy thus created. Any Director whose removal has been proposed by the Single Family Lot Owners shall be given an opportunity to be heard at the meeting.

Section 4.8. Organization of Meeting. The first meeting of the Board of Directors each year following the annual meeting of Single Family Lot Owners shall be held within ten (10) days after the annual meeting of Single Family Lot Owners, and if the date, time and place are announced at the annual meeting of Single Family Lot Owners, no further notice shall be necessary.

Section 4.9. Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place within the City of Horace, State of North Dakota, as shall be determined from time to time by a majority of the Directors, but at least two (2) such meetings shall be held during the each calendar year. Written notice of regular meetings of the Board of Directors shall be given to each Director at least ten (10) days prior to the day named for such meeting.

Section 4.10. Special Meetings. Special meetings of the Board of Directors may be called by the President on not less than seven (7) days written notice to each Director, which notice shall state the time and place within the City of Horace, State of North Dakota, and the purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in a like manner and on like notice on the written request of at least two (2) Directors.

Section 4.11. Open Meetings. Except as otherwise provided In the Act or the Declaration, meetings of the Board of Directors must be open to the Single Family Lot Owners. To the extent practicable, the Board shall give reasonable notice to the Single Family Lot Owners of the date, time and place of a Board meeting. If the date, time and place of meetings are announced at a previous meeting of the Board, posted in a location accessible to the Single Family Lot Owners and designated by the Board from time to time, or if an emergency requires immediate consideration of a matter by the Board, notice is not required.

Section 4.12. Telephone Conference. A meeting of the Directors or any committee of the Board may be conducted by a telephone conference or any means of communication through which the participants may simultaneously hear each other during the meeting, if notice of the meeting has been given as would be required for a meeting and if the number of persons participating in the conference is sufficient to constitute a quorum. Participating in a conference constitutes personal presence at the meeting. A Director may participate in a Board meeting by means of communication through which the Director, other Directors participating and all other Directors physically present at the meeting may simultaneously hear each other during the meeting. Participation in a meeting by this means constitutes personal presence at the meeting.

Section 4.13. Waiver of Notice. Before or at any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting, and such waiver shall be deemed equivalent to the giving and receipt of such notice. Attendance by a Director at any meeting of the Board shall be a waiver of notice by such Director of the



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time, place and purpose thereof. If all the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 4.14. Board of Directors Quorum and Voting. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of a majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors, there is less than a quorum present, the meetings may be adjourned from time to time until a quorum is present. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 4.15. No Proxies. Directors shall not vote by proxy.

Section 4.16. Action Without a Meeting. Any action that could be taken at a meeting of the Board of Directors may be taken without a meeting when authorized in a writing signed by all of the Directors.

Section 4.17. Compensation. The Directors will receive no compensation for their services as Directors. However, when authorized by the Board, Directors and Officers may be reimbursed for actual expenses incurred in connection with the business of the Association, and officers may be compensated for bookkeeping or recordkeeping functions.

ARTICLE V. OFFICERS

Section 5.1. Designation. The principal officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer. All principal officers shall be elected by and from the Board of Directors. Any two or more of the offices of Vice President, Treasurer and/or Secretary may be filled by the same person. The Board may from time to time appoint an assistant Secretary and such other officers with such duties as, in their judgment, may be desirable, and such officers need not be Directors.

Section 5.2. Election of Officers. The principal officers of the Association shall be elected annually by the Board of Directors at the organization meeting of each new Board. All officers shall hold office at the pleasure of the Board.

Section 5.3. President. The President of the Association shall be the chief executive officer of the Association and shall preside at all meetings of the Association and of the Board of Directors. The President shall see that all orders and resolutions of the Board are carried out and shall sign all leases, mortgages, deeds and other written instruments (except to the extent that the Board of Directors authorizes or mandates the delegation of such authority otherwise).



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Section 5.4. Vice President. The Vice President of the Association shall act in the place of the President and perform the President's duties whenever the President shall be absent or unable to act. If neither the President nor the Vice President is able to act, the Board of Directors shall appoint some other Director to act on an interim basis. The Vice President also shall perform such other duties as shall from time to time be required by the Board of Directors.

Section 5.5. Secretary. The Secretary of the Association shall keep the minutes of all meetings of the Board of Directors and the minutes of all meetings of the Association. If the Association adopts a seal, the Secretary shall keep the corporate seal of the Association and affix it on all papers requiring a seal. The Secretary shall give notice of all meetings of the Board and of the Members, shall keep appropriate current records showing the Members of the Association, together with their addresses, and shall perform such other duties as may be required by the Board.

Section 5.6. Treasurer. The Treasurer shall have responsibility for Association funds and securities and shall be responsible for keeping full and accurate accounts of all receipts and disbursements in the books belonging to the Association. The Treasurer shall sign all checks and shall be responsible for the deposit of all monies and valuable effects in the name and to the credit of the Association in such depositories as may from time to time be designated by the Board of Directors, except to the extent that the Board of Directors authorizes or mandates the delegation of such authority to a manager or agent.

Section 5.7. Committees. The Board shall appoint members of a Nominating Committee, as provided in these Bylaws. In addition, the Board of Directors may establish other committees and appoint their members as deemed appropriate in carrying out its purposes.

ARTICLE VI. ANNUAL REPORT

Section 6.1. Annual Reports. The Association shall prepare and provide to each Single Family Lot Owner at or prior to each annual meeting a report of the affairs of the Association, including at least the following information:

- (a) A statement of any capital expenditures in excess of \$500 approved by the Association for the current year or succeeding two fiscal years.
- (b) A statement of the balance of any reserve or replacement fund and any portion of the fund designated for any specified project by the Board of Directors.
- (c) A copy of the statement of revenues and expenses for the Association's last fiscal year, and a balance sheet as of the end of said fiscal year.



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- (d) A statement of the status of any pending litigation or judgments to which the Association is a party.
- (e) A statement of the insurance coverage provided by the Association; and
- (f) A statement of the total past due assessments on all Single Family Lots, current as of not more than sixty (60) days prior to the date of the meeting.

ARTICLE VII. MISCELLANEOUS

Section 7.1. Right of Corporate or Partnership or Limited Liability Company Single Family Lot Owner to Substitute. Whenever a Director or officer of the Association is an officer or employee of a corporate Single Family Lot Owner, or a partner or employee of a partnership Single Family Lot Owner, or a member or employee of a limited liability company Single Family Lot Owner, the respective corporation, partnership or limited liability company may, by written notice to the Association, remove such Director or officer of the Association and designate another such person to serve the unexpired balance of the term.

Section 7.2. Indemnification of Officers and Directors. To the fullest extent permitted by the Act, as amended from time to time, or by other provisions of law, each person who was or is a party, or is threatened to be made a party, to any proceeding by reason of a former or present official capacity in the Association, shall be indemnified.

Section 7.3. Notice. The term "notice" has the meaning given in § 10-33-01 of the Act.

Section 7.4. Amendments to Articles and Bylaws. Until the second Board has been constituted pursuant to these Bylaws, an amendment to the Articles and these Bylaws shall be considered and adopted upon its receiving an unanimous vote of the Directors constituting the first Board at a meeting thereof, notice of which containing the proposed amendment having been given to each of said Directors at least twenty-four (24) hours prior to said meeting. After the second Board has been constituted pursuant to these Bylaws, an amendment to the Articles or these Bylaws shall be adopted upon its receiving an affirmative vote of the Members who have authority to cast at least seventy-five percent (75%) of the total votes in the Association, in writing, at any regular, special or annual meeting of the Association. The provisions of this Section 7.4 are subject to any approval rights of Eligible Mortgagees and the Declarant as provided in the Declaration.

Section 7.5. Conflicts. If any of these Bylaws conflict with the provisions of the Act, the provisions of the Act will apply. If any of these Bylaws conflict with the provisions of the Declaration or the Articles, the provisions of the Declaration or Articles will apply.



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Section 7.6. Inspection of Books and Records. Current copies of the Declaration, Bylaws and other rules concerning the Association and the planned community, and the books, records and financial statements of the Association shall at all times, during reasonable and normal business hours, be available for inspection by any Single Family Lot Owner, prospective purchaser, Single Family Lot lender or the holder, insurer and guarantor of a mortgage on any Single Family Lot at the principal office of the Association, and copies of the same may be purchased at reasonable cost.

Section 7.7. Financial Statements. The Association shall make a reviewed statement for the preceding fiscal year available to the holder, insurer or guarantor of any first mortgage that is secured by a Single Family Lot in the planned community upon submission of a written request for it. The reviewed financial statement shall be available within 120 days after the Association's fiscal year end. Any financial statement shall be furnished free of charge within a reasonable time upon request from any such Owner, lender, holder, insurer or guarantor or any prospective Owner, lender, holder, insurer or guarantor.

Section 7.8. Notice to Association. An Owner who mortgages the Owner's Single Family Lot shall notify the Association through the management agent, if any, or the President or the Board of Directors in the event there is no management agent, of the name and address of the mortgagee, and the Association shall maintain such information in a book entitled "Mortgagees of Single Family Lots."

Section 7.9. Compliance. Each Single Family Lot Owner, and any lender or holder of any mortgage that is secured by a Single Family Lot, shall be governed by and shall comply with the terms, conditions, obligations and provisions of the Act, the Declaration, the Articles, these Bylaws and the Rules and Regulations of the Association, as any of the same may be amended from time to time.

Section 7.10. Rules and Regulations. The Board may, from time to time, promulgate such rules and regulations as it deems reasonable and necessary governing the administration, management, operation and use of the Common Elements and any other areas, facilities and improvements which Members of the Association are entitled to use so as to promote the common use and enjoyment thereof by Single Family Lot Owners, and for the protection and preservation thereof, and may, in addition, adopt such reasonable rules and regulations as it may deem necessary with respect to Single Family Lot Owners, including, without limiting the generality of the foregoing, the right to adopt such rules and regulations with reference to children, animals and leases. Copies of such rules and regulations, and any amendments thereto, shall be furnished to all Members, and a copy shall be posted or otherwise made available to Members at the office of the Association. However, failure to furnish or post such rules or regulations shall not affect their validity or enforceability. Subject to obtaining any required consent of Declarant pursuant to the Declaration, any such rule or regulation may be amended, modified or revoked, and new and additional rules and regulations may be adopted by the Members at an annual or special meeting of the Members.



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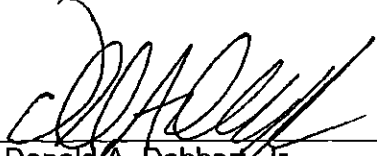
CUB CREEK DEVELOPMENT LLC

pursuant to the Declaration, any such rule or regulation may be amended, modified or revoked, and new and additional rules and regulations may be adopted by the Members at an annual or special meeting of the Members.

THE UNDERSIGNED hereby certifies that the foregoing are Bylaws of Cub Creek 2nd Addition Homeowners Association, adopted on 4/26/2024.

**CUB CREEK 2ND ADDITION
HOMEOWNERS ASSOCIATION**


By: CUB CREEK DEVELOPMENT, LLC


By: Donald A. Dabbert, Jr.
Its: Managing Member

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

On this 26th day of April, 2024, before me personally appeared DONALD A. DABBERT, JR., the Managing Member of CUB CREEK DEVELOPMENT, LLC, the entity that is described and that executed the within instrument, and acknowledged to me that such entity executed the same.

LAUREN N. JOHNSON
Notary Public
State of North Dakota
My Commission Expires July 28, 2026


Notary Public