



MISC 2016093200



NOV 07 2016 14:57 P 4

Fee amount: 28.00
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COMP: LC

Received - DIANE L. BATTIATO
Register of Deeds, Douglas County, NE
11/07/2016 14:57:16.00



2016093200

RETURN TO:

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Myron J. Kaplan
MCGILL, GOTSDINER, WORKMAN & LEPP, P.C., L.L.O.
11404 W. Dodge Rd., Suite 500
Omaha, NE 68154-2584

NOTICE OF APPOINTMENT OF SUCCESSOR DECLARANT AND TERMINATION OF STATUS AS DECLARANT

THIS NOTICE OF APPOINTMENT OF SUCCESSOR DECLARANT AND TERMINATION OF STATUS AS DECLARANT (the "Assignment") is made effective the 1st day of November, 2016 by DEER CREEK HOLDINGS, LLC, a Nebraska limited liability company ("Assignor") and HORIZON LAND CORPORATION, a Nebraska corporation (Assignee").

W I T N E S S E T H:

WHEREAS, Assignor is the current Declarant under that certain Declaration of Covenants, Conditions, Restrictions And Easements for Lots 1 through 137 Inclusive in Deer Creek Highlands, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska (the "Phase I Declaration"), which was filed for record in the office of Register of Deeds of Douglas County, Nebraska, on March 4, 2005, as Instrument No. 2005024306, and the Declaration of Covenants, Conditions, Restrictions And Easements for Lots 142 through 229 Inclusive in Deer Creek Highlands, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska (the "Phase II Declaration") which was filed for record in the office of the Register of Deeds of Douglas County, Nebraska on May 11, 2006, as Instrument No. 2006052541, collectively, the "Declarations". As a consequence of the foreclosure of the Deed of Trust, Security Agreement and Assignment of Rents executed by Deer Creek Highlands, LLC, a Nebraska limited liability company, Trustor, to Janice M. Woolley, a member of the Nebraska state bar association, as Trustee for the benefit of Gateway Community Bank, a division of Northwest Federal Savings Bank, Beneficiary, recorded in the Mortgage Records as Instrument Number 2004-099257 in the Office of the Register of Deeds of Douglas County, Nebraska, as amended by First Amendment to Deed of Trust, Security Agreement and Assignment of Rents and Leases recorded December 15, 2004, in the Mortgage Records as Instrument No. 2004-16896 in the Office of the Register of Deeds of Douglas County, Nebraska (as amended, the

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"Trust Deed"); as further amended by a substitution of trustee under which Gateway Community Bank was substituted as trustee, recorded on March 24, 2006, as Instrument No. 2006-032433 in the office of the Register of Deeds of Douglas County, Nebraska, as assigned pursuant to an Assignment of Beneficial Interest under Deed of Trust dated September 29, 2008, recorded in the office of the Register of Deeds of Douglas County, Nebraska, on December 22, 2008, as Instrument No. 2008120262, whereby Deer Creek Holdings, LLC, a Nebraska limited liability company, was assigned the beneficial interest arising under and pursuant to the Trust Deed, as further amended by a Substitution of Trustee under which Janice M. Woolley, a member of the Nebraska State Bar Association, was substituted as Trustee, recorded on February 26, 2009, as Instrument No. 2009-017501 in the office of the Register of Deeds of Douglas County, Nebraska, encumbering the real estate described in the Declarations ("Subject Property") now described as set forth in the attached Exhibit "A" and the Trustee's Deed given for the subsequent purchase by Assignor of the Subject Property at a Trustee's sale held on May 8, 2009, which Trustee's Deed is recorded in the office of the Register of Deeds of Douglas County, Nebraska on May 13, 2009 as Instrument No. 2009047317, and a Corrective Trustee's Deed recorded on June 30, 2010 in the office of the Register of Deed of Douglas County, Nebraska as Instrument No. 201005763; and

WHEREAS, Assignor desires to appoint a successor Declarant and to terminate its status as Declarant under the Declarations and Assignee agrees to accept its appointment as such successor Declarant.

NOW THEREFORE, Assignor and Assignee hereby declare and agree as follows:

1. Assignor appoints Assignee as successor Declarant and such appointee shall hereafter serve as Declarant under the Declarations with the same authority and powers under the Declarations as original Declarant.
2. Assignor terminates its status as Declarant under the Declarations and Assignee accepts its appointment as successor Declarant.
3. Assignor and Assignee agree to perform, execute and deliver (or cause to be performed, executed and delivered) any and all such further acts, instruments, and assurances as may be reasonably required to effectuate this Assignment.
4. This Assignment may be executed in one or more counterparts, each of which shall be deemed an original instrument and all of which combined shall constitute one and the same instrument. Signatures transmitted by electronic means, including, without limitation, email or pdf formats, shall be treated as original signatures.
5. This Assignment shall inure to the benefit of and be binding upon Assignor, Assignee and their respective successors and assigns.
6. This Assignment shall be governed by the substantive laws of the state of Nebraska, without regard to principles of conflicts of laws.

IN WITNESS WHEREOF, the undersigned has executed this Notice of Appointment of Successor Declarant and Termination of Status on the date(s) hereafter set forth to be effective as of the date first set forth above.

Date: November 1, 2016

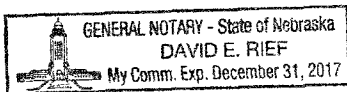
DEER CREEK HOLDINGS, LLC
a Nebraska limited liability company

By: 

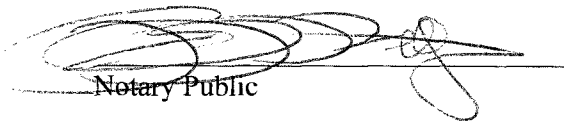
Nyle Johnson, Attorney in Fact

STATE OF NEBRASKA)
)ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 1 day November, 2016, by Nyle Johnson, as, Attorney in Fact for Deer Creek Holdings, LLC, a Nebraska limited liability company, on behalf of the company.



Date: November 1, 2016


Notary Public

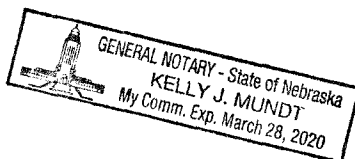
HORIZON LAND CORPORATION
a Nebraska corporation

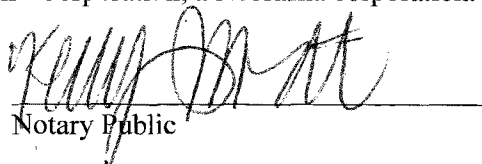
By: 

James W. Spivey, President

STATE OF NEBRASKA)
)ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 1st day of November, 2016, by JAMES W. SPIVEY President of Horizon Land Corporation, a Nebraska corporation.




Notary Public

LEGAL DESCRIPTION

0J-08795

Lots 9 through 137, inclusively and Lots 142 through 229, inclusively, Deer Creek Highlands, Douglas County, Nebraska.

AND

0J-08797

Lots 1 through 6 inclusively, Deer Creek Replat 12, Douglas County, Nebraska.

AND

0J-08818

Lots 1 and 2, Deer Creek Replat 17, Douglas County, Nebraska.