



2011 6281

**Recording Requested By:**

**SNIDER, DIEHL & RASMUSSEN, LLP**

**Return To:**

**SNIDER, DIEHL & RASMUSSEN, LLP  
P.O. Box 560  
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**Document Title(s)**

**FIRST RESTATED DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR TAMARACK SPRINGS**



**RECORDING REQUESTED BY,  
AND WHEN RECORDED, MAIL TO:**

**Tamarack Springs Mutual  
Water Company, Inc.  
P.O. Box 1360  
Lodi, CA 95241-1360**

**FIRST RESTATED DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
TAMARACK SPRINGS**

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**FIRST RESTATED DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR TAMARACK SPRINGS**

That certain Declaration of Restrictions recorded on July 14, 1967 in Book 233 of Official Records, Page 442, Calaveras County Records (the Original Declaration), and the Amendment thereto recorded on December 9, 1974 in Book 389 of Official Records, Page 438, Calaveras County Records, which were executed by Tamarack Development Co. (the Developer), and the Amendment thereto recorded on June 5, 2007 as document #2007-10031, Calaveras County records, are hereby amended and restated in their entirety to read as follows:

**Recitals**

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A. Developer was the original owner of those certain real properties situated in the County of Calaveras, State of California, described as Lots 1 through 35 inclusive, as shown on that map entitled Tamarack Springs No. 1, which Map was filed for record on July 3, 1967, in Book 2, page 121 of Maps, Calaveras County Records (the 35 Lots).

B. Developer obtained certain water permits and built a water system to bring the water governed by those permits to the 35 Lots, and thereafter transferred all ownership interest in the permits and the system to The Tamarack Springs Mutual Water Company, Inc. a California Corporation (the Water Company) in consideration of the Water Company's promise to issue one share of stock to the owners of each of the 35 Lots, and to provide water for residential use to each of the 35 Lots.

C. In order to improve the access to the 35 Lots, Developer acquired an easement over five parcels (the V Lots) bordering the 35 Lots, \* ~~recorded on ----- as document # -----, Calaveras County Records.~~ Through an agreement with Developer, the Water Company was granted the easement and the owners of the V Lots were granted status as shareholders in the Water Company co-equal with the owners of the 35 Lots.

D. It was the further intention of the Developer to sell and convey residential lots to the owners, subject to the protective covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges and equitable servitudes between Developer and such owners which are set forth in this First Restated Declaration and which are intended to be in furtherance of a general plan for the subdivision, development, sale and use of the lots.

E. Developer conveyed the 35 Lots to the owners or their predecessors in interest, subject to certain easements, protective covenants, conditions, restrictions, reservations, liens and charges as set forth in the Original Declarations referred to above, all of which are for the purpose of enhancing and protecting the value,

\*pursuant to that Parcel Map recorded by Oscar Schulz on May 1, 1981 at Book 5 of Parcel Maps at Page 92, Calaveras County Official Records and related recorded documents.



desirability and attractiveness of the 35 Lots and all of which shall run with the 35 Lots and be binding on all parties having or acquiring any right, title or interest in the 35 Lots, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

F. Acting pursuant to Paragraph 3 of the Original Declaration, on or about December 4, 1974, Developer amended the Original Declaration by appointing an Architectural Control Committee (the Committee) of three persons to serve in its place in regard to the enforcement of the Original Declaration, and further provided that the Committee would consist of those persons who are the duly elected directors of the Water Company.

G. Acting pursuant to Paragraph 19 of the Original Declaration, which allowed amendment of the Original Declaration only by recordation every ten years, on May 10, 2007, the owners of a majority of the 35 Lots voted by written ballot to amend those timing requirements such that any future amendments could be made at any time.

H. Acting pursuant to Paragraph 19 of the Original Declaration, as amended above, on July 31, 2010, the owners of a majority of the 35 Lots voted to restate the Original Declaration in its entirety, all in accordance with the procedures for amendment set forth in the Original Declaration. It was the intention of the owners to replace the Original Declaration, in its entirety, with the recordation of this First Restated Declaration of Covenants, Conditions, and Restrictions for Tamarack Springs (First Restated Declaration). The owners' action to amend and restate the Original Declaration as set forth herein and the fact that the requisite percentage of affirmative votes required in the Original Declaration was achieved, is attested by the execution of this First Restated Declaration by duly authorized officers of the Water Company, as required by section 1355, subdivision (a), of the California Civil Code. As so amended and restated, the easements, covenants, restrictions and conditions set forth herein shall run with the 35 Lots and shall be binding upon all parties having or acquiring any right, title or interest in the 35 Lots or any portion thereof, and shall inure to the benefit of each owner thereof.



I. In light of the grant of water rights to the V Lots without the recordation of the Original Declaration against those properties, the members of the Water Company, by the First Restated Declaration have (1) bifurcated all rights and obligations concerning water from all other rights and obligations set forth in the First Restated Declaration, (2) assigned to The Tamarack Springs Homeowners Association (the Association) all of the rights and obligations not concerning water originally held by the Developer and the board of directors of the Water Company as its assignee, and (3) reserved to itself all of the rights and obligations concerning water.

J. Acting pursuant to their authority under the Original Declaration, the board of directors of the Water Company, on July 31 2010, adopted a resolution that (1) confirms that the required number of votes were cast in favor of the motion to amend the Original Declaration and amendments, (2) delegates to the Association the authority to promulgate rules and regulations for the use, improvement, and design of the 35 lots (Design Standards), maintain an Architectural Control Committee (the Committee) and appoint members thereof, and to impose assessments for revenue and disciplinary purposes, and (3) authorizes the officers of the Water Company to sign and record the First Restated Declaration.

K. In order to clarify certain language in the prior assignment, on \_\_\_\* the Developer recorded an assignment to the Water Company of full authority to enforce the terms of the Original Declaration.

### **Article I - Tamarack Springs Mutual Water Company, Inc.**

Section 1. Membership. All the purchasers of 35 Lots shall, at the time they acquire title, be required to become, and shall automatically become, members of the Water Company, organized for the purpose of providing water to this and adjacent areas.

Pursuant to the agreement described in Recitals, Section C, above, all purchasers of the V Lots shall, at the time they acquire title, be required to become, and shall automatically become, members of the Water Company. Membership in the said Water Company, is appurtenant to all of said lands, and transfer of ownership of said land shall automatically transfer ownership in said Water Company.

\* May 31, 2011 at document #20116011, Calaveras County Official Records



Members of the Water Company are bound by its articles of incorporation, a certified copy of which was filed in the office of the Clerk of Calaveras County, State of California, on the 23rd day of June, 1967, and the original by-laws which were recorded in the office of the County Recorder of the County of Calaveras, State of California on the 14th day of July, 1967, in Book 233 of Official Records at page 437 et seq., Calaveras County Records, as amended from time to time.

Section 2. Easements. An easement is reserved for each lot as shown on the recorded map of the 35 Lots for gas, water, sewer, lights and power installation and maintenance. No permanent structures shall be placed over such portion of said lots included within said easement lines. The cost of relocating any fence, shrubs, lawns or other improvements located within said easement lines shall be borne and paid for by the lot owner. The Developer or the Water Company may grant the right to use said utility easements to any public utility that is authorized to carry on its business under the laws of the State of California or to any mutual water company or other mutual service organization. The right is reserved by Developer or the Water Company to enter upon said easements to cut or trim trees or other growths thereupon as may be necessary for the proper maintenance of such utility and other lines for said service in the area.

Section 3. Reservation of Water Authority by the Water Company. The Water Company specifically reserves to itself and its board of directors the power to establish, fix and levy dues and fees, including hook up fees, against members for the provision of water and the maintenance and improvement of the water system, and fines for the non-payment of such dues and fees, and the power to impose liens on lots for the failure to pay such dues, fees and fines.

Section 4. Delegation of Authority to the Homeowners Association. The Homeowners Association (hereinafter "Association") shall be a committee of The Water Company and is delegated the authority: to promulgate Design Standards; to enforce the Original Declaration and First Restated Declaration, and the Design Standards; to impose assessments for the expenses of the Association and fines for



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violations of the First Restated Declaration and the Design Standards, which shall be liens against the lot as well as a personal obligation of the lot owner; to take legal actions for the enforcement of the First Restated Declaration and the Design Standards, including filing and maintaining suits for injunctive relief, damages, and the collection of assessments and fines; and to designate not less than one nor more than three the members of the Architectural Review Committee (hereinafter "Committee"), and adopt and enforce such additional regulations and procedures in furtherance of the foregoing purposes.

Section 5. Reservation of Review Authority by the Water Company. The Water Company also reserves to itself and its board of directors the authority to review, and to confirm, amend or reverse, any action of the Association to which any member impacted by such action seeks appeal, all according to procedures set forth in the Water Company's By-Laws. If an appeal is made to the Water Company at any time when a V Lot owner is serving as a director of the Water Company, such director shall automatically be replaced as director, for purposes of the appeal only, by a Lot 35 owner appointed by majority vote of the remaining directors.

## **ARTICLE II - Tamarack Springs Homeowners Association**

Section 1. Objectives. (a) In addition to the objectives set forth in the Recitals above, it is the purpose of this First Restated Declaration to subject the 35 Lots to the protective covenants, conditions, restrictions, reservations, limitations, liens and charges set forth herein in order to:

- (1) Ensure the best use and the most appropriate development and improvement of each lot;
- (2) Create improvements which emphasize harmony of form, texture and color with the surrounding natural environment of the subdivision so as to blend those improvements into the natural environment of each lot in an unobtrusive way;
- (3) Protect the lot owners against such improper use of surrounding lots as will depreciate the value of their property;





- (4) Preserve, so far as practicable, the natural beauty of subdivision during and following improvement projects;
- (5) Guard against construction or installation of poorly designed or proportioned structures, and structures built of improper and unsuitable materials;
- (6) Ensure the best quality of development within the subdivision;
- (7) Encourage and secure the erection of attractive residences, appropriately located on the lots;
- (8) Prevent haphazard and inharmonious improvement of any lot;
- (9) Secure and maintain proper set backs from streets and roadways and to provide for and maintain adequate open spaces between structures; and
- (10) In general, to provide for a high type and quality of improvements within the subdivision, and thereby to enhance the values of Improvements made by lot owners.

(b) To this end and with the understanding that the Association shall promulgate further design standards, the following design standards, which were set forth in the Original Declaration, are hereby amended and reconfirmed as follows:

- (1) No owner of any lot shall directly or indirectly do or permit to be done on or in any portion of the development, or any of the lots, or in any buildings erected thereon, any act which is in violation of any law of the United States Government, the State of California or any ordinance of the County of Calaveras.
- (2) All homeowners are to abide by the California State and Local Laws with respect to Fire Protection and to good Forest Husbandry Laws, as stated by the California Department of



Forestry. In addition, cutting and removal of any living tree, of size 12 inches in diameter at a point 4 feet above the ground, outside of what is required by law, requires prior permission and approval by the Committee, except when such removal is required on an emergency basis for the protection of life or property.

(3) It is understood and agreed that cutting and/or trimming of trees necessary for the public utility to properly maintain their lines shall be allowed in order that satisfactory service may be maintained in the area.

(4) No building shall be erected or placed on any lot, nor shall the exterior of any building on any lot be altered, unless and until the plans, elevations, specification and plot plans showing the type and location of the building have been approved in writing by the Committee.

(5) No lot shall be used except for residential purposes.

(6) No structure shall be erected, altered, placed or permitted to remain on any lot other than one single family dwelling, one garage, and one shed for the protection of propane tanks without prior approval of the Committee.

(7) No outbuilding shall be constructed on any lot prior to the completion of a dwelling structure thereon without prior approval of the Committee.

(8) No tent or trailer shall be used as a dwelling house for more than 14 days per year without the prior written consent of the Committee, which consent may be refused in the absolute discretion of the Committee, and if given shall be evidenced by a written instrument duly acknowledged by an authorized officer of the Association.

(9) No permanent dwelling house shall be constructed or maintained upon any lot with less than 800 square feet of living area on the main floor of such house. The main floor is defined as the general living area wherein the kitchen, dining



and living room areas are located.

(10) No building shall be constructed or maintained on any lot which is intended for occupancy or occupied as a dwelling, unless a septic tank or other appropriate sanitary facility of a type and in a location approved by the health authorities of the State of California and/or the County of Calaveras is constructed and maintained in connection therewith.

(11) The exterior of any dwelling house or outbuilding to be erected upon any lot shall be completed within eighteen (18) months after the foundations for said house or outbuilding have been laid and constructed, except as otherwise authorized by the Committee. All lots owners shall submit to the Committee and abide by a construction time frame.

(12) No fence, boundary wall, or hedge shall be erected without the prior written approval of the Committee.

(13) No livestock of any kind, including horses, cows, goats, hogs, pigs, rabbit, pigeons, chickens, or poultry shall be kept or permitted on any lot, provided however, that this restriction shall not prohibit the keeping of a reasonable number of dogs, cats or other ordinary household pets.

(14) No signs, except customary "for sale" signs, 18 inches by 24 inches, shall be displayed on any dwelling, building or lot without the prior written approval of the Committee.

(15) No lot shall be subdivided for the purpose of building another dwelling. Only one dwelling shall be constructed on each lot.

(16) No owner or occupant of any lot shall dump or dispose of any cans, refuse or garbage upon any part or portion of the development, and each shall provide for the regular removal of any accumulation thereof.

(17) Each Owner shall be responsible for the maintenance and repair of his residence and lot. The Owner of any Lot within



the Properties shall maintain the Lot and all landscaping and Improvements located thereon in a good, neat and attractive condition. The Owner shall promptly repair any damage to any Improvement.

(18) In the event of damage or destruction by fire or other casualty affecting a residence, the Owner thereof shall, within twelve months thereafter, either: (a) diligently commence to rebuild the residence in accordance with the terms hereof; or (b) clear and level the lot, removing all wreckage, debris, and remains of the residence and leaving the same in a level, clean condition.

The Committee's approval or disapproval as required in this Declaration shall be in writing. In the event the Committee or its designated representative fails to approve or disapprove within ninety days after plans and specifications have been submitted to it or in any event, if no suit to enjoin the construction has been commenced prior to the completion thereof, approval will not be required and the required covenants shall be deemed to have been fully complied with.

Section 2. Homeowners Association. In order to assure, to the greatest extent possible, that the plan of development and maintenance of the 35 Lots will be achieved, each of the 35 Lots shall be subject to the strict application and enforcement of the Original Declaration, this First Restated Declaration, the Design Standards, and the rules and regulations adopted by the Committee and the Association, acting through its board of managers or any committee created by the board of managers.

### Section 3. Membership.

All owners of the 35 Lots shall, at the time they acquire title, be required to become and shall automatically become, members of the Association. Membership in the Association is appurtenant to all of said lands, and transfer of ownership of said land shall automatically transfer ownership in the Association. Only members of the Association may serve as managers of the Association. Ownership of a V Lot confers no membership rights in the Association.



Section 4. Powers and Authority of the Association. The Association shall have such duties and responsibilities as may be imposed on the Association by this First Restated Declaration, the Design Standards, and rules and regulations as adopted by the as Board of Managers, all as amended from time to time, ("the Governing Documents"). The Association shall act through its Board of Managers which shall be composed of five owners from the 35 lots owners elected for staggered three year terms by the 35 Lots owners. The Association and its board of managers, acting through itself or any sub-committee empowered by the board of managers, shall have the power to do any and all lawful things which may be authorized, required or permitted to be done under and by virtue of the Governing Documents, and to do and perform any and all acts which may be necessary or proper for, or incidental to, the exercise of any of the express powers of the Association for the peace, health, comfort, safety or general welfare of all the 35 Lot owners.

Section 5. Association Rule Making Power.

(a) The Association Board of Managers may, from time to time and subject to the provisions of this First Restated Declaration, propose, enact and amend rules and regulations of general application to the 35 Lot owners. Such rules may concern, but need not be limited to:

- (i) architectural control and the design standards of the Committee;
- (ii) the conduct of disciplinary proceedings;
- (iii) interpretation and application of the property use restrictions;
- (iv) promulgation of minimum standards for the maintenance of landscaping or other improvements on any lot; and
- (v) any other subject or matter within the jurisdiction of the Association as provided in the Governing Documents;

all pursuant to the Association's by-laws.

Any rule established must be approved by a majority of the membership of the Homeowners Association.

(b) Notwithstanding the foregoing grant of authority, the Association rules and regulations shall not be inconsistent with or materially alter any provision of the other Governing Documents or the rights, preferences and privileges of Owners thereunder. In the event of any material conflict between any Association rule or



regulation and any provision of the other Governing Documents, the conflicting provisions contained in the other Governing Documents shall be deemed to prevail.

(c) Distribution of Rules. A copy of the Association rules and regulations, as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each owner. A copy of the Association rules and regulations shall also be available for inspection at the principal office of the Association and shall be posted to the Associations' Website within 45 days of issuance.

Section 6. Persons Subject to Governing Documents. (a) All present and future owners, tenants and occupants of the 35 Lots shall be subject to, and shall comply with, each and every provision of the Governing Documents, as the same or any of them shall be amended from time to time. The acceptance of a deed to any of the 35 Lots, the entering into a lease, sublease or contract of sale with respect to any of the 35 Lots, or the occupancy of any of the 35 Lots shall constitute the consent and agreement of such owner, tenant or occupant that each and all of the provisions of this First Restated Declaration, as the same or any of them may be amended from time to time, shall be binding upon him or her and that he or she will observe and comply with the Governing Documents. An owner of any of the 35 Lots shall have the power and authority to enforce any term of this First Restated Declaration and be entitled to the remedies herein.

(b) Rental of Lots. Any rental of any of the 35 Lots shall be subject to the provisions of the Governing Documents all of which shall be deemed incorporated by reference in the lease or rental agreement. Each owner-landlord shall have available to any tenant a current copy of all Governing Documents or a summary of those Governing Document provisions most relevant to residency within the 35 Lots if such a summary is produced by the Association. Owners who rent their lots shall be responsible for compliance by the owner's tenant with all of the provisions of the Governing Documents during the tenant's occupancy and use of the lot.

(c) Discipline of Lessees. Subject to observance of the disciplinary procedures set forth in the Governing Documents, in the event that



any tenant or guest fails to honor the provisions of any Governing Document, the Association shall be entitled to take such corrective action as it deems necessary or appropriate under the circumstances, which may include the imposition of fines and penalties against the owner, lessor or tenant.

Section 7. Breach of Rules or Restrictions. Any breach of the Association rules or of any other Governing Document provision shall give rise to the rights and remedies set forth herein and in the Governing Documents.

Section 8. Remedy at Law Inadequate. Except for the nonpayment of any assessment, it is hereby expressly declared and agreed that the remedy at law to recover damages for the breach, default or violation of any of the covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges or equitable servitudes contained in this First Restated Declaration and set forth in the Design Standards are inadequate and that the failure of any owner, tenant, occupant or user of any lot to comply with any provision of the Governing Documents may be enjoined by appropriate legal proceedings instituted by any owner, by the Association, its officers or board of directors, or by the respective successors in interest of any of them.

Section 9. Nuisance. Without limiting the generality of the foregoing Section 8, the result of every act or omission whereby any covenant contained in this First Restated Declaration and the Governing Documents is violated in whole or in part is hereby declared to be a nuisance, and every remedy against nuisance, either public or private, shall be applicable against every such act or omission.

Section 10. Costs and Attorneys' Fees. In any action brought because of any alleged breach or default of any owner or other party hereto under this First Restated Declaration or any Governing Document, the court may award to the prevailing party to such action such attorneys' fees and other costs as it may deem just and reasonable.

Section 11. Cumulative Remedies. The respective rights and remedies provided by this First Restated Declaration or by law shall



be cumulative, and the exercise of any one or more of such rights or remedies shall not preclude or affect the exercise, at the same or at different times, of any other such rights or remedies for the same or any different default or breach or for the same or any different failure of any owner or others to perform or observe any provision of this First Restated Declaration or any Governing Document.

### Section 12. Rights and Remedies of the Association.

In the event of a breach or violation of any Association rule or regulation, or of any of the restrictions contained in any Governing Documents by an owner, the owner's family, or the owner's guests, employees, invitees, licensees, or tenants, the board, for and on behalf of all lot owners, may enforce the obligations of each owner to obey such rules, covenants, or restrictions through the use of such remedies as are deemed appropriate by the board and available in law or in equity, including but not limited to the hiring of legal counsel, the imposition of fines and monetary penalties, the pursuit of legal action, provided, however, the Association's right to undertake disciplinary action against its members shall be subject to the conditions set forth in this Article. The decision of whether it is appropriate or necessary for the Association to take enforcement or disciplinary action in any particular instance shall be within the sole discretion of the board or its duly authorized enforcement committee. If the Association declines to take action in any instance, any owner shall have such rights of enforcement as exist by virtue of section 1354 of the California Civil Code or otherwise by law. Owners may also act independently of the Association to enforce their rights and the obligations of other owners under this First Restated Declaration and the other Governing Documents.

## ARTICLE III

### Mortgages and Liens

All mortgages and deeds of trust recorded subsequent to the recordation of the Original Declaration shall be junior and subject to this First Restated Declaration save and except that a breach of any provision of the Governing Documents shall not defeat or affect a mortgage or deed of trust made in good faith and for valuable consideration. The rights and remedies granted herein to the Water Company, the Association, or a 35 lot owner, and all persons or entities claiming under them during the terms of the restrictions of





the Govern Documents may be enforced against a 35 Lot owner, notwithstanding such mortgage or deed of trust, which shall continue unaffected, but the purchaser at any trustee of sheriff's sale upon foreclosure shall be bound by the covenants of the Governing Documents.

#### **ARTICLE IV**

##### **No Public Rights in the Properties**

Nothing contained in this First Restated Declaration shall be deemed to be gift or dedication of all or any portion of the 35 Lots and V Lots to the general public or for any public use or purpose whatsoever.

#### **ARTICLE V**

##### **Notices**

Section 1. Mailing Addresses. Any communication or notice of any kind permitted or required herein shall be in writing and may be served, as an alternative to personal service, by mailing the same as follows: If to any owner: to the street address he or she may from time to time designate in writing to the Association. If to the Association: to the principal office of the Association (or to such other address as the Association may from time to time designate in writing to the owners)

Section 2. Personal Service Upon Co-Owners. Personal service of a notice or demand to one of the co-owners of any lot, to any general partner of a partnership which is the owner of record of the lot, shall be deemed delivered to all such co-owners or to such partnership as the case may be.

Section 3. Deposit in United States Mails. All notices and demands served by mail shall be by first-class or certified mail, with postage prepaid, and shall be deemed delivered four days after deposit in the U.S. Mail.

#### **ARTICLE VI**

##### **Amendment of Declaration**

Section 1. Amendment in General. This First Restated Declaration may be amended or revoked in any respect at any time by the vote or assent by written ballot of not less than a majority of the 35 Lots.



Section 2. Effective Date of Amendment. The amendment will be effective upon the recording a Certificate of Amendment, duly executed and certified by the president and secretary of the Water Company, setting forth in full the amendment so approved and that the approval requirements of section 1 above have been duly met. Notwithstanding anything to the contrary herein contained, no such amendment shall affect the rights of the holder of any first deed of trust or Mortgage Recorded prior to the Recording of such amendment. If the consent or approval of any governmental authority, Mortgagee, or other entity is required pursuant to this First Restated Declaration to amend or revoke any provision of this First Restated Declaration, no such amendment or revocation shall become effective unless such consent or approval is obtained.

Section 3. Reliance on Amendments. Any amendments made in accordance with the terms of this First Restated Declaration shall be presumed valid by anyone relying on them in good faith.

## **ARTICLE VII**

### **General Provisions**

Section 1. Term. The covenants, conditions, restrictions, limitations, reservations, grants of easement, rights, rights-of-way, liens, charges and equitable servitudes contained in this First Restated Declaration shall run with, and shall benefit and burden the lots and as herein provided, and shall inure to the benefit of and be binding upon the owners, the Water Company, the board of directors, officers and agents of the Water Company, the Association, the board of managers of the Association, and the members of the Committee, and the successors in interest of each of them, in perpetuity or until such time as this instrument is revoked in accordance with Article VII, Section 1.

Section 2. Annexation of Additional Property.

(a) Membership Approval Required. Additional real property may be brought within the general plan and scheme of this First Amended Declaration upon the approval by vote or written consent of owners of 66 2/3 percent of the 35 Lots. Upon obtaining the requisite



approval pursuant to this section, the owner of any real property who desires to add such property to the general plan and scheme of this First Restated Declaration and subject that property to the jurisdiction of the Water Company and the Association, shall record a declaration of annexation as more particularly described in subsection (b) below.

(b) Declaration of Annexation. Any annexations of real property authorized under subparagraph (a), above, shall be effected by recording a declaration of annexation, or other similar instrument, with respect to the additional real property. The declaration of annexation: (i) shall be executed by the owner(s) of the subject property; (ii) shall extend the general plan and scheme of this First Restated Declaration to such real property; and (iii) may contain such additions to, and modifications of, the covenants, conditions and restrictions contained in this First Restated Declaration as may be necessary to reflect the different character, if any, of the added real property, so long as the supplemental restrictions are approved by the Association's board of directors and is otherwise consistent with the general plan and scheme of this First Restated Declaration and all applicable laws and governmental regulations. Any such supplemental declaration shall be distributed to all owners at their principal residence address at least 60 days before any vote of the owners is solicited pursuant to section 2(a) above. The supplemental declaration may set forth use restrictions and the design and building standards which shall apply to the annexed parcel in question or may give blanket approval for development of that parcel in accordance with specific architectural plans and drawings which are signed, dated and incorporated by reference in the supplemental declaration. The filing of a declaration of annexation shall constitute and effectuate the annexation of the additional real property described therein, and thereupon that real property shall become and constitute a part of the 35 Lots, and be subject to, and encompassed within, the general plan and scheme of this First Restated Declaration. The owners of lots within the annexed real property shall automatically become members of the Association, subject to all of the requirements thereof, including the payment of dues.

Section 3. Construction.



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(a) Restrictions Construed Together. All of the covenants, conditions and restrictions of this First Restated Declaration shall be liberally construed together to promote and effectuate the fundamental concepts of the development of Tamarack Springs as set forth in the Recitals of this First Restated Declaration. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce that provision in a subsequent application or any other provision hereof.

(b) Restrictions Severable. Notwithstanding the provisions of subparagraph (a) above, the covenants, conditions and restrictions of this First Restated Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

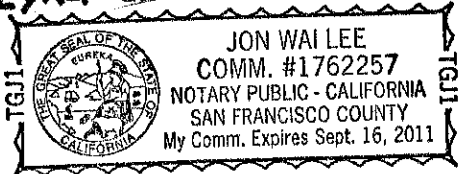
(c) Singular Includes Plural. The singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine or neuter shall each include the masculine, feminine and neuter, as the context requires.

(d) Captions. All captions or titles used in this First Restated Declaration are intended solely for convenience of reference and shall not affect the interpretation or application of any of the substantive terms or provisions of this First Restated Declaration.

DATED: 27 May 2011  
TAMARACK SPRINGS MUTUAL WATER COMPANY, INC.

*Wayne De Jong*  
Wayne De Jong, President

*Lynn E. Stutz*  
Lynn E. Stutz, Secretary



State of California )  
County of San Francisco )  
On 5-27-11 before me, *Jon Wai Lee*, Notary Public, personally appeared  
Wayne De Jong

\_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

19 of 19 Signature \_\_\_\_\_

SEE ATTACHED  
ACKNOWLEDGEMENT  
FROM NOTARY



**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

State of California

County of Santa Clara

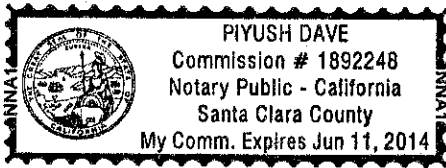
On 6/1/2011 before me, Piyush Dave, Notary Public  
Date Here Insert Name and Title of the Officer

personally appeared Lynn C Stutz  
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



Place Notary Seal Above

Signature [Signature]  
Signature of Notary Public

**OPTIONAL**

*Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.*

**Description of Attached Document**

Title or Type of Document: First Restated Declaration of Covenants

Document Date: 6/1/2011 Number of Pages: 19

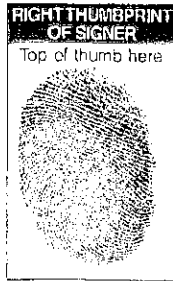
Signer(s) Other Than Named Above: \_\_\_\_\_

**Capacity(ies) Claimed by Signer(s)**

Signer's Name: Lynn C Stutz

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_



Signer's Name: \_\_\_\_\_

- Individual
- Corporate Officer — Title(s): \_\_\_\_\_
- Partner —  Limited  General
- Attorney in Fact
- Trustee
- Guardian or Conservator
- Other: \_\_\_\_\_

Signer Is Representing: \_\_\_\_\_

