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DECLARATION
OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR
FANCHER HEIGHTS

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DECLARATION
OF
COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR
FANCHER HEIGHTS

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EXHIBIT A

EXHIBIT B

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DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS
FOR
FANCHER HEIGHTS

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS (the "Declaration") is made by Fancher Heights Associates, a partnership ("Developer").

This Declaration provides for an extensive degree of control in Developer, including, but not limited to, (i) control of the Association, the type, design and location of improvements which may be built upon Lots with fines up to \$10,000 for noncompliance, and the use, and limitations upon use, of the Common Areas; (ii) the right to amend this Declaration; and (iii) substantial flexibility in developing the Property. Section 13.5 hereof contains a limitation on the liability of Developer. Each Owner, by accepting title to a Lot, acknowledges, agrees to and accepts Developer's control of the Property and limited liability of Developer as provided in this Declaration. Such control is an integral part of this Declaration and the general scheme of development and operation of the Property. Capitalized terms used in this paragraph are defined in this Declaration.

1. PURPOSE

1.1 The Parcel. Developer is the record owner of those parcels of real property situated in Douglas County, Washington, described in Exhibit "A" (the "Parcel").

1.2 Parcel Subject to Declaration. Developer desires to submit and subject the Parcel, together with all buildings, improvements and other permanent fixtures of whatever kind now or hereafter located thereon, and all easements, rights, appurtenances and privileges belonging or in any way pertaining thereto (all of which constitute a part of the Property), to the covenants, conditions, restrictions, liens, assessments, easements, privileges and rights contained herein.

1.3 In Accordance With Plat. Developer desires that the Property be developed in accordance with the Plat, for residential use and related facilities.

1.4 Enhancement. Developer deems it desirable to establish covenants, conditions and restrictions upon the Property and each and every portion thereof, and certain mutually beneficial restrictions and obligations with respect to the proper use, occupancy and enjoyment thereof, all for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property and enhancing the quality of life within the Property.

1.5 Owners Association. It is desirable for the efficient management of the Property to create an owners' association, to which will be delegated and assigned the powers of maintaining and administering the Common Areas within the Property and administering and enforcing these covenants, conditions, restrictions and easements, collecting and disbursing funds pursuant to the assessments and charges created, and the performance of such other acts as are provided or which generally benefit its members, and Property, and the owners of any interests therein. Fancher Heights Owners Association, a nonprofit corporation, has been, or will be, incorporated under the laws of the State of Washington for the purpose of exercising such powers and functions.

1.6 Annexation. Prior to the Transition Date, the Developer may, but is not obligated to, annex to the Property, in addition to the Parcel, some or all of the property described in Exhibit "B", and thereby subject such property to the plan of this Declaration, and to bind the owners of any interests therein to the covenants, conditions, restrictions and easements contained in this Declaration, which owners will become members of the Association.

1.7 Beneficiaries of Declaration. Developer desires and intends that the owners, mortgagees, beneficiaries and trustees under trust deeds, occupants and all other persons hereafter acquiring any interest in the Property shall at all times enjoy the benefits of, and shall hold their interests subject to, these covenants, conditions, restrictions, liens, assessments, easements, privileges and rights, all of which are declared to be in furtherance of a plan to promote and protect the Property.

1.8 Binding Upon Successors. Developer, for the purposes above set forth, declares that the Property shall be used for Single Family Residential Use, and shall be held, transferred, sold, conveyed, leased, occupied and used subject to these covenants, conditions, restrictions, liens, assessments, easements, privileges and rights, all of which shall run with the land and be binding upon the Property and all parties having or acquiring any right, title or interest in or to the Property, or any part thereof, and shall inure to the benefit of each Owner, the Association and each Member of the Association.

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2. DEFINITIONS

Defined terms appear throughout this Declaration with the initial letter of such term capitalized. Unless the context clearly requires otherwise, the following terms used in this Declaration are defined as follows:

2.1 "Annexation Property" means any additional real property which is annexed to the Property, thereby becoming a part thereof and subject to this Declaration, in accordance with Section 12.

2.2 "Articles" means the Articles of Incorporation of the Association, as amended from time to time, or of any successor thereto.

2.3 "Assessments" include the following:

2.3.1 "Regular Assessment" means the amount which is to be paid by each Owner as such Owner's Proportionate Share of the Common Expenses of the Association, as provided in Section 6.2.

2.3.2 "Special Assessment" means a charge against a particular Owner or a Lot, directly attributable to such Owner or Lot, to reimburse the Association for costs incurred in bringing the Owner or the Lot into compliance with the provisions of this Declaration, the Articles, Bylaws, Association Rules or Design Guidelines, or any other charge designated as a Special Assessment in this Declaration, the Articles, Bylaws, Association Rules or Design Guidelines, together with attorneys' fees and other charges payable by such Owner pursuant to the provisions of this Declaration, as provided in Section 6.3.

2.4 "Association" means the Faucher Heights Owners Association, a Washington nonprofit corporation, its successors and assigns.

2.5 "Association Rules" means the rules and regulations adopted by the Association pursuant to Section 4.10.

2.6 "Board" means the Board of Directors of the Association.

2.7 "Building Envelope" means the maximum developable areas of a Lot as provided in Section 9.2.2.

2.8 "Bylaws" means the Bylaws of the Association adopted in accordance with the Articles, as amended from time to time, or of any successor thereto.

2.9 "Common Areas" means all real property and the improvements or amenities thereon which may from time to time be owned or leased by the

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Association or otherwise held by the Association for the common use and enjoyment of the Owners and Occupants. The Common Areas include, but are not limited to, the entryway, common landscape and recreational vehicle storage. Any real property, and improvements or amenities thereon, which is described as part of the "common areas" in a subsequent Declaration shall be deemed to be part of the Common Areas for the common use and enjoyment of the Owners and Occupants, as may be provided, and shall, for all purposes, be integrated into and deemed to be a part of the Common Areas subject to this Declaration.

2.10 "Common Expenses" means the actual and estimated costs incurred by the Association in administering, maintaining and operating the Property, and in owning or leasing any portions thereof, including, but not limited to, the following:

- (a) Maintenance, operation, repair, replacement and additions to the Common Areas;
- (b) Unpaid Assessments;
- (c) Costs of management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and employees;
- (d) The costs of insurance maintained by the Association as permitted herein;
- (e) Reasonable reserves for contingencies, replacements and other proper purposes, if deemed appropriate by the Association to meet the costs and expenses of maintenance, repairs and replacement of those Common Areas which must be maintained, repaired, or replaced on a periodic basis;
- (f) The costs which the Board elects to incur to bond the members of the Board, officers of the Association, any professional managing agent or any other person handling the funds of the Association;
- (g) Taxes paid by the Association;
- (h) Amounts paid by the Association for discharge of any lien or encumbrance levied against the Common Areas or portions thereof;
- (i) Costs incurred by the Design Committee;
- (j) Costs incurred by committees established by the Board or the President;
- (k) Other expenses incurred by the Association for any reason whatsoever in connection with the Common Areas, or the costs of any other item

or items designated by, or to be provided or performed by the Association pursuant to, this Declaration, the Articles, Bylaws, Association Rules or Design Guidelines, or in furtherance of the purposes of the Association or in the discharge of any duties or powers of the Association.

2.11 "Compound" means a consolidation of Lots by replatting, or a replatting of two or more contiguous Lots to permit a clustering or other relocation of dwellings. A Compound may have commonly owned amenities or other improvements as permitted in Section 10.14 and in accordance with the Design Guidelines.

2.12 "County" means Douglas County, Washington.

2.13 "Declaration" means this instrument and all Supplemental Declarations, as from time to time amended.

2.14 "Design Committee" means the committee provided for in Section 9.1.

2.15 "Design Guidelines" means the rules, regulations, restrictions, architectural standards and design guidelines from time to time adopted by the Design Committee pursuant to Section 9.2.

2.16 "Developer" means Fancher Heights Associates, a partnership.

2.17 "Fancher Heights" means that project subject to this Declaration as indicated in Section 1.

2.18 "Lot" means a subdivided lot as shown on the Plat.

2.19 "Majority of Members" means the Members holding more than 50% of the total votes entitled to be cast with respect to a given matter (not just those represented at a meeting); and any specified fraction or percentage of the Members means the Members holding that fraction or percentage of the total votes entitled to be cast with respect to a given matter. A specified fraction or percentage "of all of the Members except Developer" means that fraction or percentage of the total votes of all Members other than votes held by Developer. Unless otherwise specified, any provision herein requiring the approval of the Members means the approval of a Majority of Members.

2.20 "Member" means every Person who is a member of the Association.

2.21 "Mortgage" means any recorded, filed or otherwise perfected instrument, which is not a fraudulent conveyance under Washington law, given in good faith and for valuable consideration as security for the performance of an obligation, including without limitation a deed of trust, but shall not

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include any instrument creating or evidencing solely a security interest arising under the Uniform Commercial Code. "Mortgagee" means the holder of a note secured by a mortgage, including the trustee and beneficiary under any deed of trust. "Mortgagor" means the party executing a Mortgage as obligor. "First Mortgage" means a Mortgage which is the first and most senior of all Mortgages upon the same property. "First Mortgagee" means the holder of a First Mortgage.

2.22 "Occupant" means any Person, other than an Owner, in rightful possession of a Lot, whether as a guest, tenant or otherwise.

2.23 "Owner" means the record owner, whether one or more Persons, of fee simple title, whether or not subject to any Mortgage, of any Lot, including contract purchasers, but excluding those having such interest merely as security for the performance of an obligation. In the event that fee simple title to any Lot is vested of record in a trustee pursuant to a deed of trust, legal title shall be deemed to be in the grantor.

2.24 "Parcel" means those parcels of real property referred to in Exhibit "A".

2.25 "Person" means an individual, corporation, partnership, trustee or other entity capable of holding title to real property, and their respective heirs, personal representatives, successors and assigns.

2.26 "Plat" means the plats of subdivision of the Parcel as first recorded in the official records of Douglas County, Washington, in Book ___ of Plats, Page ___, on _____, 1987, and as thereafter from time to time amended or supplemented, together with all subsequent plats of subdivision for real property annexed to the Property. A plat may depict real property not subject to this Declaration without effecting an annexation of such property or subjecting it in any manner to the provisions hereof.

2.27 "President" means the duly elected or appointed President of the Association.

2.28 "Property" means the Parcel and any additional real property made subject to this Declaration by annexation pursuant to Section 12, but only after completion of such annexation, together with all buildings, improvements and other permanent fixtures of whatever kind now or hereafter located thereon, and all easements, rights, appurtenances and privileges belonging or in any way pertaining thereto.

2.29 "Proportionate Share" means that fraction wherein the numerator is one and the denominator is the total number of Lots in the Property.

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2.30 "Record" or "Recording" means an instrument of record in, or the act of recording an instrument with, the office of the County Auditor for Douglas County, Washington.

2.31 "Single Family Residential Use" means the non-commercial use for a single family. A family is an individual, or two (2) or more persons related by blood or marriage, or a group of not more than three (3) persons, excluding servants, who need not be related by blood or marriage, living together as a single housekeeping unit in a dwelling unit.

2.32 "Supplemental Declaration" means a declaration of covenants, conditions, restrictions and easements, or similar instrument, annexing additional real property to the Property and subjecting such real property to this Declaration as provided in Section 12.

2.33 "Transition Date" means the date set forth in Section 4.16 on which Developer's control of the Association terminates.

3. RIGHTS OF ENJOYMENT

3.1 Owner's Right of Enjoyment. Every Owner and Occupant shall have a nonexclusive easement for the use and enjoyment in and to the Common Areas, and shall be subject to all of the easements, covenants, conditions, restrictions and other provisions contained in this Declaration, including, without limitation, the following provisions:

3.1.1 The right of the Association to establish reasonable rules and regulations pertaining to or restricting the use of the Common Areas by Owners, Occupants or other Persons.

3.1.2 The right of the Association to borrow money for the purpose of improving, replacing, restoring or expanding the Common Areas or adding new Common Areas and, in aid thereof, to mortgage said property, provided that the rights of the lender thereunder shall be subordinated to the rights of the Owners.

3.2 Waiver of Use. No Owner may exempt himself, and no Owner shall be exempt, from personal liability for Assessments or release any Lot owned by him from the liens, charges and other provisions of this Declaration, the Articles, Bylaws, Association Rules or Design Guidelines, by voluntary waiver of, or suspension or restriction of, such Owner's right to the use and enjoyment of the Common Areas, or the abandonment of such Owner's Lot.

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4. ASSOCIATION

4.1 Purpose of Association. The Association has been, or will be, incorporated as a nonprofit corporation to serve as the governing body for all of the Owners for the protection, improvement, alteration, maintenance, repair, replacement, administration and operation of the Property; the assessment of expenses, payment of losses, disposition of casualty insurance proceeds; and other matters as provided in this Declaration, the Articles, Bylaws, Association Rules or Design Guidelines. The Association shall not be deemed to be conducting a business of any kind, and all funds received by the Association shall be held and applied by it for the Owners in accordance with the provisions of the Declaration, the Articles and the Bylaws.

4.2 Membership in Association. There shall be one membership in the Association with one membership vote for each Lot. An Owner shall be entitled to one membership in the Association for each Lot he owns so long as he is the Owner of the Lot. If the Owner of a Lot is other than one individual, the Owner shall specify in writing to the Association the individual who is the Member of the Association for the Lot. In the absence of such written specification, Assessments shall nevertheless be charged against the Lot and Owner thereof, but there shall be no right to vote the membership. The Member must be an individual who is either an Owner, or if the Owner is or includes a Person other than an individual, an individual who is a partner, if the Owner is or includes a partnership; or an officer of the corporation, if the Owner is or includes a corporation; or a beneficiary of the trust, if the Owner is or includes a trust; or an owner of the entity, if the Owner is or includes a Person other than an individual, a partnership, a corporation or a trust. The Member, as so specified, shall be the only Person entitled to vote for the Owner of the Lot at Association meetings and elections. An Owner may change the individual who is the Member for his Lot, provided each such individual is eligible to be a Member hereunder, in such manner and with such frequency, and subject to such reasonable processing fees, as the Board from time to time may permit.

4.3 Pledge of Voting Rights. Notwithstanding the foregoing, in the event that an Owner has granted an irrevocable proxy or otherwise pledged the voting right appurtenant to the membership with respect to his Lot to a Mortgagee as additional security, only the vote of such Mortgagee will be recognized in regard to such special matters if a copy of such proxy or other instrument pledging such vote has been filed with the Association. In the event that more than one such instrument has been filed, the Association shall recognize the rights of the first Mortgagee to so file, regardless of the priority of the Mortgagees themselves.

4.4 Developer's Voting Rights and Assignment Thereof. Notwithstanding anything to the contrary herein, Developer shall be entitled to the membership and to vote the membership vote for each Lot owned by Developer.

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If any lender to whom Developer has assigned, or hereafter assigns, all or substantially all of its rights under this Declaration as security succeeds to the interests of Developer by virtue of said assignment, the absolute voting rights of Developer as provided in Section 4.16 shall not be terminated thereby, and such lender shall hold Developer's memberships and voting rights on the same terms as they were held by Developer.

4.5 Board of Directors.

4.5.1 The affairs of the Association shall be conducted by the Board as herein provided and in accordance with the Articles and Bylaws. Except for directors elected by Developer, each director shall be a Member. If a director shall cease to meet such qualifications during his term, he will thereupon cease to be a director and his place on the Board shall be deemed vacant.

4.5.2 Developer shall have the absolute power and right to appoint and remove the members of the Board at any time and from time to time until the Transition Date. After that date, the Members of the Association shall have the power and right to appoint and remove the members of the Board as provided in the Articles and Bylaws.

4.6 Duties and Powers of the President. The powers of the President shall be as established in the Bylaws. To the extent not prohibited by law, or as otherwise expressly limited, the President of the Association may be empowered under the Bylaws to exercise control over the affairs of the Association and to act on behalf of, and bind, the Association in every instance wherein the Association is required or permitted to take any action.

4.7 Board's Determination Binding. In the event of any dispute or disagreement between or among any Owners, Members, or any other Persons subject to this Declaration, relating to the Property, or any question of interpretation or application of the provisions of this Declaration, the Articles, Bylaws, Association Rules or Design Guidelines, the determination thereof by the Board shall be final and binding on each and all of such Owners, Members or Persons. The Board, at its election, may delegate the resolution of such dispute or disagreement to the President or a committee appointed by the Board.

4.8 Approval of Members. Unless elsewhere otherwise specifically provided in this Declaration, the Articles or Bylaws, any provision of this Declaration, the Articles or Bylaws which requires the vote or written assent of the Members of the association shall be deemed satisfied by the following:

(a) The vote in person or by proxy of the specified percentage of Members at a meeting duly called and noticed pursuant to the provisions of

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the Articles or Bylaws dealing with annual or special meetings of the Members; or

(b) Written consents signed by the specified percentage of Members as provided in the Bylaws.

(c) If no percentage of Members is otherwise specified, then the vote or written assent of a Majority of Members shall be required.

4.9 Additional Provisions in Articles and Bylaws. The Articles and Bylaws may contain any provision relating to the conduct of the affairs of the Association and the rights and powers of its directors, officers, employees, agents and Members not inconsistent with law or this Declaration.

4.10 Association Rules. The Board shall be empowered to adopt, amend or repeal such rules and regulations as it deems reasonable and appropriate (the "Association Rules"), binding upon all Persons subject to this Declaration and governing the use and/or occupancy of the Common Areas and any other part of the Property consistent with this Declaration. The Association Rules may include the establishment of a system of fines and penalties enforceable as Special Assessments. The Association Rules shall govern such matters in furtherance of the purposes of the Association, including, without limitation, the use of the Common Areas; provided, however, that the Association Rules may not discriminate among Owners and Members except as expressly provided or permitted herein, and shall not be inconsistent with this Declaration, the Articles, Bylaws or Design Guidelines. The Association Rules shall have the same force and effect as if they were set forth in and were part of this Declaration and shall be binding on the Owners and Members, and all other Persons having any interest in, or making any use of, the Property. The Association Rules shall be available at the principal office of the Association to each Owner or other Person reasonably entitled thereto, upon request. In the event of any conflict between any provision of the Association Rules and any provisions of this Declaration, or the Articles, Bylaws or Design Guidelines, the provisions of the Association Rules shall be deemed to be superseded by the provisions of this Declaration, the Articles, Bylaws or Design Guidelines to the extent of any such conflict.

4.11 Indemnification. To the fullest extent permitted by law, every director and officer of the Association, every member of the Design Committee, and Developer (to the extent a claim may be brought against Developer by reason of its appointment, removal or control over members of the Board or the Design Committee) shall be indemnified by the Association, and every other person serving as an employee or direct agent of the Association, against all expenses and liabilities, including without limitation attorneys' fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having served in such capacity on behalf of the

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Association (or in the case of Developer by reason of having appointed, removed or controlled or failed to control members of the Board or the Design Committee), or any settlement thereof, whether or not he is a director, officer or member of the Design Committee or serving in such other specified capacity at the time such expenses are incurred, provided that the Board shall determine, in good faith, that such officer, director, member of the Design Committee or other person, or Developer, did not act, fail to act, or refuse to act with gross negligence or fraudulent or criminal intent in the performance of his duties. The foregoing rights of indemnification shall be in addition to and not exclusive of all other rights to which such persons may be entitled at law or otherwise.

4.12 Non-Liability of Officials. To the fullest extent permitted by law, neither Developer, the President, the Board, the Design Committee or any other committees of the Association or any member thereof, nor any directors or officers of the Association, shall be liable to any Member, Owner, Occupant, the Association or any other Person for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval of drawings or specifications (whether or not defective), course of action, act, inaction, omission, error, negligence or the like made in good faith and which Developer, the President, the Board, or such committees or person reasonably believed to be within the scope of their respective duties.

4.13 Easements. In addition to the blanket easements granted in Section 5.1, the Association is authorized and empowered to grant upon, across or under real property owned or controlled by the Association such permits, licenses, easements and rights-of-way for sewer lines, water lines, underground conduits, storm drains, television cable and other similar public or private utility purposes, security lines, roadways or other purposes as may be reasonably necessary and appropriate for the orderly maintenance, preservation and enjoyment of the Common Areas or for the preservation of the health, safety, convenience and welfare of the Owners, provided that any damage to a Lot resulting from such grant shall be repaired by the Association at its expense.

4.14 Accounting. The Association, at all times, shall keep, or cause to be kept, true and correct records of account in accordance with generally accepted accounting principles, which shall specify in reasonable detail all expenses incurred and funds accumulated from Assessments or otherwise.

4.15 Records. The Association shall, upon reasonable written request and during reasonable business hours, make available for inspection by each Owner and Member the books, records and financial statements of the Association, together with current copies, as amended from time to time, of this Declaration and the Articles, Bylaws, Association Rules and Design Guidelines. Notwithstanding the foregoing to the contrary, until the

Transition Date, the Association shall not be required to make its books and records available for inspection except as required by law. Developer shall be under no obligation to make its own books and records available for inspection by any Owner, Member or other person. The books and records of the Association may be audited or unaudited as the Board, from time to time, may determine.

4.16 Developer's Control of Association. Notwithstanding anything in this Declaration to the contrary, Developer shall maintain absolute control over the Association, including without limitation amendment of the Articles (through control of the Board), appointment of the President, the members of the Board, and the members of the Design Committee, until the Transition Date. Until the Transition Date, only Developer will be entitled to cast any vote with respect to the election of directors to the Board, removal of directors or any other matter requiring the approval of the Members, except a vote of the Members as required in accordance with Section 14.5. The Transition Date shall be the first to occur of (i) January 1, 2000; (ii) the day on which title to the last Lot in the Property owned by Developer is conveyed to a third party for value, other than as security for performance of an obligation; or (iii) such date as Developer requires the Members to assume control of the Association as provided in the next sentence. Developer voluntarily may (but shall not be required to) require the Members to assume control of the Association at any time.

5. EASEMENTS

5.1 Blanket Easements and Utility Construction Easements. There is hereby created a blanket easement upon, across, over and under the Property for ingress and egress for installing, constructing, replacing, repairing, maintaining and operating all utilities (whether public or private), including but not limited to water, sewer, gas, telephone, electricity, cable (including without limitation television cable), and communication lines and systems. By virtue of the easement, it shall be expressly permissible for Developer and its contractors and/or the providing utility company to construct (including, without limitation, underground installation) and maintain the necessary facilities, wires, circuits, conduits, cables and related appurtenances, facilities and equipment on the Property, including without limitation the Lots, and to enter upon said Property, including without limitation the Lots, to accomplish the foregoing.

5.2 Use of Common Areas. Each Owner shall have the nonexclusive right to use the Common Areas in common with all other Owners as required for the purposes of access and ingress to and egress from (and use, occupancy and enjoyment of) any Lot owned by such Owner or Common Areas available for the use of said Owner. Such right to use the Common Areas for purposes of access and ingress and egress shall, subject to the Association Rules, extend to each

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Owner, Occupant and the agents, servants, tenants, family members and invitees of each Owner. This right to use the Common Areas shall be appurtenant to each respective Lot, subject to and governed by the provisions of this Declaration, the Articles, Bylaws and Association Rules and such reasonable limitations and restrictions as may from time to time be contained therein.

6. ASSESSMENTS

6.1 Creation of Lien and Personal Obligation. Each Owner, by acceptance of a deed or other conveyance of an interest in a Lot and/or title thereto, is deemed to covenant and agree to pay to the Association Regular Assessments and Special Assessments to be established and collected from time to time as provided in this Declaration. The Assessments, together with interest thereon, late charges, attorneys' fees, court costs and other costs of collection shall be a continuing lien upon the Lot (or combined Lots as provided in Section 10.14) against which the Assessments are made. Each Assessment, together with such interest and other costs, shall also be the personal obligation of the Owner to whom such Assessment relates. The personal obligation for delinquent payments shall not pass to an Owner's successor in title unless expressly assumed by him.

6.2 Regular Assessments. Each Owner shall pay as his Regular Assessment for his Lot such Owner's Proportionate Share of the Common Expenses. Except as otherwise specifically provided herein, payment of Regular Assessments shall be in such amounts and at such times as may be provided in the Articles and Bylaws or as determined by the Association.

6.3 Special Assessments. Special Assessments shall be levied by the Association against an Owner and his Lot to reimburse the Association for:

6.3.1 Costs incurred in bringing an Owner or his Lot into compliance with the provisions of this Declaration, the Articles, Bylaws, Association Rules or Design Guidelines;

6.3.2 Any other charge designated as Special Assessment in this Declaration, the Articles, Bylaws or Association Rules;

6.3.3 Fines levied or fixed by the Board under Section 9.7 or as otherwise provided herein; and

6.3.4 Attorneys' fees, interest and other costs or charges provided to be paid as, or which are incurred in connection with, a Special Assessment in accordance with this Declaration, the Articles, Bylaws, Association Rules or Design Guidelines.

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6.4 Uniform Assessment. The Regular Assessment for each Lot shall be uniform.

6.5 Exempt Property. All properties dedicated to and accepted by, or otherwise owned or acquired by, a public authority shall be exempt from the Assessments created herein.

6.6 Time and Manner of Payment; Late Charges and Interest. Assessments shall be due and payable by Owners in such manner and at such times as the Association shall designate. If not paid when due but paid within ten days after its due date, each such Assessment shall have added to it a late charge equal to ten percent (10%) of the amount of Assessment, or such other charge as the Board may specify from time to time. Thereafter, any such delinquent Assessment and the applicable late charge shall bear interest from the tenth day after the date the Assessment was due at twelve percent (12%) per annum until paid. The Association may, in its discretion and without waiving the imposition of a late charge or interest in any other instance, waive the late charge and/or interest in any particular instance. A delinquent Owner shall also be liable for attorneys' fees and other related costs incurred by the Association as a result of such delinquency, and if any suit, action or arbitration proceeding is brought to collect any such Assessment or charge, then there shall be added to the amount thereof costs of suit and reasonable attorneys' fees to be fixed by the court and included in any judgment or award rendered thereon.

6.7 No Offsets. All Assessments shall be payable in the amount specified in the Assessment or notice of Assessment and no offsets against such amount shall be permitted for any reason, including, without limitation, a claim that (a) the Association, the Board, the President or Developer is not properly exercising its duties and powers as provided in this Declaration; (b) Assessments for any period exceed Common Expenses; or (c) an Owner has made, and elects to make, no use of the Common Areas.

6.8 Homestead Waiver. Each Owner, to the extent permitted by law, hereby waives, to the extent of any liens created pursuant to this Declaration, whether such liens are now in existence or are created at any time in the future, the benefit of any homestead or exemption laws of the State of Washington in effect, or in effect from time to time hereafter.

6.9 Certificate of Payment. Any Person acquiring an interest in any Lot shall be entitled to a certificate from the Association setting forth the amount of due but unpaid Assessments relating to such Lot, if any, and such person shall not be liable for, nor shall any lien attach to the Lot in excess of, the amount set forth in the certificate, except for Assessments which occur or become due after that date.

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6.10 Pledge of Assessment Rights as Security. The Association shall have the power to pledge the right to exercise its assessment powers and rights provided for in this Declaration as security; provided, however, that any such pledge occurring after the Transition Date shall require the prior affirmative vote of the holders of the majority of the votes represented at a duly noticed meeting of the Members or written assent of the Majority of Members.

6.11 Exemption of Unsold Lots. Notwithstanding anything in this Section 6 to the contrary, prior to the year 2000, or, if earlier, the Transition Date, no Assessments shall be levied upon, or payable with respect to, any Lot owned by Developer, or an affiliate of Developer, or by any trustee for any of the aforesaid Persons, until such Lot has been conveyed by the Developer or trustee to a non-affiliated purchaser.

7. INSURANCE

7.1 Authority to Purchase. The Association shall have the power and authority to purchase and maintain such public liability, casualty, officers' and directors' liability and indemnity, workmen's compensation and other insurance, and such fidelity bonds as the Board shall deem necessary or appropriate from time to time. Such policies shall be on such terms and conditions as the Board shall direct. All such policies and claims thereunder shall be administered by the Board. To the extent reasonably available, the Association shall maintain at least \$1,000,000 (combined limits) of insurance against liability incurred as a result of death or injury to persons or damage to property on the Common Areas. The Association shall make available to Owners information regarding the coverage of said policies in order to permit the Owners to determine which particular items are included within the coverage so that the Owners may insure themselves as they see fit if certain items are not insured by the Association.

7.2 Owner's Responsibility. It shall be each Owner's responsibility to provide any insurance on his own Lot, additions and improvements thereto, furnishings and personal property therein, his personal property stored elsewhere within the Property, his personal liability to the extent not covered by public liability insurance obtained by the Association, and such other insurance as the Owner desires.

7.3 Non-Liability of Association, Board and Officers. Neither the Association nor any Board member nor officer of the Association nor Developer shall be liable to any Owner, Mortgagee or other Person if any risks or hazards are not covered by insurance or if the amount of insurance is not adequate, and it shall be the responsibility of each Owner to ascertain the coverage and protection afforded by the Association's insurance and to procure

and pay for such additional insurance coverage and protection as the Owner may desire.

7.4 Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense, except that the amount of increase over any annual or other premium occasioned by the use, misuse, occupancy or abandonment of a Lot or its appurtenances, or of the Common Areas, by an Owner or Occupant or the agent, employee or invitee of either, shall be assessed against that particular Owner as a Special Assessment.

7.5 Insurance Claims. The Association, through such persons as the Board may delegate to represent the Owners in connection therewith, is hereby irrevocably appointed and authorized, subject to the provisions contained herein, to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims, and to do all other acts reasonably necessary to accomplish any of the foregoing. The Board, at its discretion, may appoint an authorized representative, or enter into an insurance trust agreement wherein the trustee shall have authority, to negotiate losses under any policy purchased by the Association.

7.6 Benefit. Except as otherwise provided herein, all insurance policies purchased by the Association shall be for the benefit of, and any proceeds of insurance received by the Association or any insurance trustee shall be held or disposed of for the Association and the Owners, as their interests may appear.

8. MAINTENANCE, REPAIRS AND REPLACEMENTS

8.1 Owner's Responsibility. Each Owner shall furnish and be responsible for, at his own expense, all of the maintenance, repairs and replacements within his own Lot.

8.2 Maintenance of Common Areas. Except as otherwise provided herein to the contrary, maintenance, repairs and replacements of the Common Areas shall be furnished by the Association as part of the Common Expenses, subject to the Bylaws and Association Rules. If, due to the act or neglect of an Owner or Occupant of such Owner's Lot, or the invitee, guest or other authorized visitor of either, damage shall be caused to the Common Areas or to a Lot or Lots owned by others, or maintenance, repairs or replacement shall be required which would otherwise be a Common Expense, then such Owner shall pay for the damage and for such maintenance, repairs and replacements as may be determined necessary or appropriate by the Association, to the extent not covered by the Association's insurance. Such obligation shall be a Special Assessment secured by the lien provided for in Section 6.

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8.3 Right of Access. An authorized representative of the Association, and all contractors, repairmen or other agents employed or engaged by the Association, shall be entitled to reasonable access to each of the Lots as may be required in connection with maintenance, repairs or replacements of or to the Common Areas or any equipment, facilities or fixtures affecting or serving other Lots and the Common Areas, or to perform any of the Association's duties or responsibilities, including without limitation the administration and enforcement of the Design Guidelines.

9. ARCHITECTURAL AND LANDSCAPE CONTROL

9.1 Appointment of Design Committee. The Association shall have a Design Committee consisting of that number of persons, no fewer than three, as specified from time to time in the Design Guidelines by resolution of the Board. Developer initially shall appoint the members of the Design Committee. Developer shall retain the right to appoint, augment or replace all members of the Design Committee until the Transition Date. Thereafter, members of the Design Committee shall be appointed by the Board. Persons appointed to the Design Committee, other than those persons appointed by Developer, must satisfy such requirements as may be set forth in the Design Guidelines. Developer voluntarily may (but shall not be required to) permit Members to appoint one or more members of the Design Committee at any time.

9.2 Design Guidelines. The Design Committee shall establish reasonable procedural rules, regulations, restrictions, architectural standards and design guidelines (the "Design Guidelines"), which the Design Committee may, from time to time in its sole discretion, amend, repeal or augment. The Design Guidelines shall be deemed to be a part of this Declaration and shall be binding on all Owners, Members or other Persons. A copy of the current Design Guidelines shall at all times be a part of the Association's records. The Design Guidelines may include, among other things, those restrictions and limitations set forth below:

9.2.1 Time limitations for the completion, within specified periods after approval, of the improvements for which approval is required pursuant to the Design Guidelines.

9.2.2 Designation of a "Building Envelope" within a Lot, thereby establishing the maximum developable area of the Lot.

9.2.3 Procedures for assuring conformity of completed improvements to drawings and specifications approved by the Design Committee; provided, however, as to purchasers and encumbrancers in good faith and for value, unless notice of noncompletion or nonconformance identifying the violating Lot and specifying the reason for the notice, executed by the Design Committee, shall be recorded with the County Auditor of Douglas County,

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Washington, and given to the Owner of such Lot within one year of the expiration of the time limitation described in Section 9.2.1 above, or, if later, within one year following completion of the improvement, or unless legal proceedings shall have been instituted to enforce compliance or completion within said one-year period, the completed improvements shall be deemed to be in compliance with plans and specifications approved by the Design Committee and in compliance with the architectural standards of the Association and this Declaration, but only with respect to purchasers and encumbrancers in good faith and for value.

9.2.4 Such other limitations and restrictions as the Board or Design Committee in its reasonable discretion shall adopt, including, without limitation, the regulation of all landscaping (including without limitation absolute prohibition of certain types of landscaping and trees), construction, reconstruction, exterior addition, change or alteration to or maintenance of any building, structure, wall or fence, including, without limitation, the nature, kind, shape, height, materials, exterior color, surface texture, and location of any such improvement.

9.3 General Provisions.

9.3.1 The Design Committee may assess reasonable fees in connection with its review of drawings and specifications.

9.3.2 The Design Committee may delegate its drawings and specifications review responsibilities, except final review and approval as may be required by the Design Guidelines, to one or more of its members or architectural consultants retained by the Design Committee. Upon such delegation, the approval or disapproval of drawings and specifications by such member or consultants shall be equivalent to approval or disapproval by the entire Design Committee.

9.3.3 The address of the Design Committee shall be the address established for giving notice to the Association, unless otherwise specified in the Design Guidelines. Such address shall be the place for the submittal of drawings and specifications and the place where the current Design Guidelines shall be kept.

9.3.4 The establishment of the Design Committee and the procedures herein for architectural approval shall not be construed as changing any rights or restrictions upon Owners to maintain or repair their Lots as may otherwise be specified in this Declaration, the Bylaws or Association Rules.

9.3.5 The Design Committee shall approve or disapprove any drawings and specifications submitted to it in accordance with the Design Guidelines within such period as may be specified in the Design Guidelines.

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9.3.6 The Design Committee, at the request of an Owner (including without limitation the Developer) may, but shall have no obligation to, (a) change the size, configuration or location of any Building Envelope on the Owner's Lot, or (b) approve the changing of the natural grade of a Lot, or portions thereof, by cut, fill or similar procedures.

9.4 Approval and Conformity of Drawings and Specifications. No building, fence, wall or other structure or improvement of whatever type shall be commenced, erected or maintained upon the Property, nor shall there be any addition to or change to the exterior of any residence or other structure of improvement upon a Lot or the Building Envelope, landscaping, grading or drainage thereof, including, without limitation, the painting (other than painting with the same color and type of paint as previously existed) of exterior walls, patio covers and fences, except in compliance with drawings and specifications therefor which have been submitted to and approved by the Design Committee in accordance with the Design Guidelines as to harmony of external design and location in relation to surrounding structures and topography.

9.5 Non-Liability for Approval of Drawings and Specifications. Drawings and specifications shall be approved by the Design Committee as to style, exterior design, appearance and location, and are not approved for engineering design or for compliance with zoning and building ordinances, and by approving such drawings and specifications neither the Design Committee, any member thereof, the Association, any Member, the Board, any officer or director of the Association, nor Developer assumes any liability or responsibility therefor, or for any defect in any structure constructed from such drawings and specifications. Neither the Design Committee, any member thereof, the Association, any Member, the Board, any officer or director of the Association, nor Developer shall be liable to any Owner or other Person for any damage, loss or prejudice suffered or claimed on account of (1) the approval or disapproval of any drawings and specifications, whether or not defective, (2) the construction or performance of any work, whether or not pursuant to approved drawings and specifications, (3) the development, or manner of development of any property within the Property, (4) the change in the size, configuration or location of any Building Envelope or the changing of the natural grade of any Lot, or (5) the execution and filing of an estoppel certificate pursuant to the Design Guidelines, whether or not the facts therein are correct; provided, however, that such action, with the actual knowledge possessed by him, was taken in good faith. Approval of drawings and specifications by the Design Committee, or the approval of any change in the size, configuration or location of any Building Envelope, or a change in the natural grade of any Lot is not, and shall not be deemed to be, a representation or warranty that said drawings, specifications or changes comply with applicable governmental ordinances or regulations including, but not limited to, zoning ordinances and building codes.

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9.6 Inspection and Recording of Approval. Any member or authorized consultant of the Design Committee, or any authorized officer, director, employee or agent of the Association, may at any reasonable time enter, without being deemed guilty of trespass, upon any Lot, after reasonable notice as provided herein to the Owner, in order to inspect improvements constructed or being constructed on such Lot, or any changes in the grade thereof, to ascertain that such improvements or changes have been or are being built or changed in compliance with the Design Guidelines and this Declaration. The Design Committee shall cause such an inspection to be undertaken within 30 days of a request therefor from any Owner as to his Lot, and if such inspection reveals that the improvements or changes located on such Lot have been completed in compliance with this Section 9 and the Design Guidelines, the Design Committee shall provide to such Owner a notice of such approval in recordable form which, when recorded, shall be conclusive evidence of compliance with the provisions of this Section 9 and the Design Guidelines as to the improvements or changes described in such recorded notice, but as to such improvements or changes only.

9.7 Additional Powers of the Board. The Board may promulgate as a part of the Design Guidelines such additional architectural and landscape standards, rules and regulations as it deems to be appropriate and as are not in conflict with this Declaration. WITHOUT LIMITING THE GENERALITY OF THE PRECEDING SENTENCE, THE BOARD MAY FIX A FINE OF UP TO \$10,000 FOR FAILURE TO OBTAIN REQUIRED APPROVAL FROM THE DESIGN REVIEW COMMITTEE AND MAY REQUIRE SECURITY DEPOSITS TO ASSURE COMPLIANCE WITH THESE REQUIREMENTS.

10. USE AND OCCUPANCY RESTRICTIONS

10.1 Residential Use. Each Lot may be used only for residential purposes and none other. No business or commercial building may be erected on any Lot and no business or commercial enterprise or other nonresidential use may be conducted on any part thereof. No temporary buildings, structures or trailers may be erected, placed or maintained on any Lot except as expressly permitted by, and in compliance with, the Design Guidelines.

10.2 Violation of Law or Insurance. No Owner shall permit anything to be done or kept in or upon his Lot or in or upon any Common Areas which will result in the cancellation, or increase in premium, or reduction in coverage of insurance carried by the Association or which would be in violation of any law.

10.3 Signs. No sign of any kind shall be displayed to the public view or from any Lot or any Common Area without the approval of the Association or the Design Committee, except: (a) such signs as may be used by Developer in connection with the development and sale or leasing of Lots and other property in Fancher Heights in general; (b) such signs as may be

required by legal proceedings, or the prohibition of which is precluded by law; (c) such signs as may be required for traffic control and regulation of Common Areas; (d) as may be approved by Developer or the Board, street and directional signs and signage in the area of any entryway serving the Property; and (e) one "For Sale" or "For Rent" notice in a form approved by the Board.

10.4 Animals. No animals shall be allowed except commonly accepted household pets. No animals shall be kept, bred or raised within the Property for commercial purposes. No pet shall be allowed to run free away from its owner's Lot, or conduct itself so as to create an unreasonable annoyance.

10.5 Nuisances; Construction Activities. No Owner shall permit or suffer anything to be done or kept about or within his Lot, or on or about the Property, which will obstruct or interfere with the rights of other Owners, Occupants or Persons authorized to the use and enjoyment of the Common Areas, or annoy them by unreasonable noises or otherwise, nor shall an Owner commit or permit any nuisance or commit or suffer any illegal act to be committed therein or thereabout. Each Owner shall comply with the Association Rules and the requirements of all health authorities and other governmental authorities having jurisdiction over the Property. Normal construction activities and parking in connection with the building of improvements on a Lot shall not be considered a nuisance or otherwise prohibited by this Declaration, but Lots shall be kept in a neat and tidy condition during construction periods, trash and debris shall not be permitted to accumulate, and supplies of brick, block, lumber and other building materials will be piled only in such areas as may be approved by the Design Committee. In addition, any construction equipment and building materials stored or kept on any Lot during construction of improvements may be kept only in areas approved by the Design Committee, which also may require screening of the storage areas. The Board, in its sole discretion, shall have the right to determine the existence of any unreasonable annoyance or nuisance under this Declaration.

10.6 Boats and Motor Vehicles. Boats, trailers, busses, motor homes and campers shall be parked or stored on the recreational vehicle storage area or in a garage. No vehicle shall be repaired, serviced or rebuilt in any Lot or upon the Common Areas. The Board may remove, or cause to be removed, any unauthorized vehicle at the expense of the owner in any manner consistent with law.

10.7 Lights. No spotlights, flood lights or other high intensity lighting shall be placed or utilized upon any Lot which in any manner will allow light to be directed or reflected on any other Lot, except as may be expressly permitted by the Board or the Design Guidelines.

10.8 Antennas. No radio, television or other antennas of any kind or nature, or device for the receipt or transmission of radio, microwave or

other similar signals, shall be placed or maintained upon any Lot except as may be permitted by the Association Rules or in accordance with the Design Guidelines.

10.9 Garbage. No garbage or trash shall be kept, maintained or contained in any Lot so as to be visible from another Lot or the Common Areas, except temporarily in containers approved by Association Rules for pickup. No incinerators shall be kept or maintained in any Lot. No refuse pile, garbage or unsightly objects shall be allowed to be placed, accumulated or suffered to remain anywhere on a Lot.

10.10 Mining. No portion of the Property shall be used in any manner to explore for or remove any water, oil or other hydrocarbons or minerals of any kind or earth substance of any kind.

10.11 Safe Condition. Without limiting any other provision in this Section 10, each Owner shall maintain and keep his Lot at all times in a safe, sound and sanitary condition and repair and shall correct any condition or refrain from any activity which might interfere with the reasonable enjoyment by other Owners of their respective Lots or the Common Areas.

10.12 Fires. Other than barbecues, in properly constructed barbecue pits or grills, and fire pits in compliance with the Association Rules and the Design Guidelines, or as otherwise expressly permitted in the Association Rules, no open fires shall be permitted on the Lots nor shall any other similar activity or condition be permitted which would tend to increase the insurance rates for the Common Areas or for other Owners.

10.13 Clothes Drying Area. No portion of any Lot shall be used as a drying or hanging area for laundry of any kind. All such facilities shall be provided within the buildings to be constructed on each Lot.

10.14 No Further Subdivision; Compounds. No Lot shall be divided or subdivided. An Owner may own more than one Lot which, if contiguous, may be combined into a single homesite with the consent of the County and the Design Committee; provided, however, that the single homesite shall have only one vote and be subject to only one assessment. Notwithstanding anything herein to the contrary, the Owners of two or more contiguous Lots may, with the consent of the County and Design Committee, replat such Lots as a Compound which may include and provide for the construction of common recreational facilities on such Lots, including, for example, a swimming pool, in accordance with the Design Guidelines. The lien provided in Section 6 as to each replatted Lot shall also extend to the interest of the Owner in any such common facilities.

10.15 No Obstructions to Drainage. No Owner shall erect, construct, maintain, permit or allow any fence or other improvement or other

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obstruction which would interrupt the normal drainage of the land or within any area designated on a Plat, or other binding document, as a "drainage easement," except that, with the prior consent of the County and the Design Committee, nonpermanent structures, including fences, may be erected in those areas which contain only underground closed conduit storm drainage facilities.

10.16 Rental of Lots. An Owner who leases or otherwise grants occupancy rights to his Lot to any Person shall be responsible for assuring compliance by the Occupant with all of the provisions of this Declaration, the Articles, Bylaws, Association Rules and Design Guidelines, all as amended and supplemented from time to time, and shall be jointly and severally responsible for any violations by the Occupant thereof.

10.17 Enforcement. The Association or its authorized agents may enter any Lot in which a violation of these restrictions exists and may correct such violation at the expense of the Owner of such Lot. Such expenses, and such fines as may be imposed pursuant to the Bylaws, Association Rules or Design Guidelines, shall be a Special Assessment secured by a lien upon such Lot enforceable in accordance with the provisions of Section 6 hereof. All remedies described in Section 13 and all other rights and remedies available at law or equity shall be available in the event of any breach by any Owner, Member, Occupant or other Person of any provision of this Section 10.

10.18 Tennis Courts. Tennis courts, and other racquet, paddle and handball courts and the like, will be permitted on Lots, so long as they are within the Building Envelope and meet any other Design Committee requirements.

10.19 Modification. The Board may modify or waive the foregoing restrictions or otherwise restrict and regulate the use and occupancy of the Property and Lots by reasonable rules and regulations of general application adopted by the Board from time to time which shall be incorporated into the Association Rules.

11. RIGHTS OF MORTGAGEES

11.1 General Provisions. Notwithstanding and prevailing over any other provisions of this Declaration, the Articles, Bylaws, Association Rules or Design Guidelines, the following provisions shall apply to and benefit each holder of a First Mortgage (and, in the case of Sections 11.4 and 11.6, to the holder of any Mortgage) upon a Lot.

11.2 Subordination of Lien. Any lien which arises against a Lot by reason of the failure or refusal of an Owner to make timely payment of any Assessment shall be subordinate to the lien of a prior recorded First Mortgage on the Lot, acquired in good faith and for value, except to the extent said

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lien secures the amount of any unpaid Assessment (together with any interest, costs, reasonable attorneys' fees and any late charges related thereto) which accrues from and after the date on which a First Mortgagee comes into possession of or acquires title to the Lot, whichever occurs first, and if any lien for unpaid Assessments which become payable after recordation of the First Mortgage, and prior to the date the First Mortgagee comes into possession of or acquires title to the Lot, is not extinguished, to the extent it secures said unpaid Assessments, by the process by which such First Mortgagee acquired title to the lot, neither such First Mortgagee nor a third party purchaser shall be liable for said unpaid Assessments, and, upon written request to the Association by such First Mortgagee or purchaser, such lien shall be released in writing by the Association to the extent it secures said unpaid Assessments. Nevertheless, in the event the Owner against whom the original Assessment was made is the purchaser or redemptionor, the lien shall continue in effect and may be enforced by the Association, or by the Board, for the respective Lot's Assessment which was due prior to the final conclusion of any such foreclosure or equivalent proceedings. Further, any such unpaid Assessment shall continue to exist as the personal obligation of the defaulting Owner of the respective Lot to the Association, and the Board may use reasonable efforts to collect the same from said Owner even after he is no longer the Owner of the Lot. Any unpaid Assessments which are extinguished pursuant to this Section 11.2 may also be reallocated by the Association among all Owners as part of the Common Expenses. Except as above provided (and except for liens for taxes and other public charges which by applicable law are made prior and superior), the lien provided for in Section 6 shall be prior and superior to any and all charges, liens or encumbrances which hereafter in any manner may arise or be imposed on any Lot.

11.3 No Personal Liability. A First Mortgagee shall not in any case or manner be personally liable for the payment of any Assessment or charge, nor the observance or performance of any covenant, restriction, or rule and regulation of the Association, or any provision of the Articles or Bylaws, or any management agreement, except for those matters which are enforceable by injunctive or other equitable actions, not requiring the payment of money, except as specifically provided in this Section 11.

11.4 Enforcement After Foreclosure Sale. An action to abate the breach of any of the covenants, conditions, restrictions, and reservations in this Declaration may be brought against the purchasers who have acquired title through foreclosure of a Mortgage and the subsequent foreclosure or trustee's sale (or through any equivalent proceedings), and the successors in interest to said purchasers, even though the breach existed prior to the time said purchaser acquired an interest in such Lot.

11.5 Exercise of Owner's Rights. During the pendency of any proceedings to foreclose a First Mortgage (including any period of redemption) or from the time a trustee under a first deed of trust has given notice of

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sale pursuant to power of sale conferred under a deed of trust and pursuant to law, the Mortgagee, or a receiver appointed in any such action, may, but need not, exercise any or all of the rights and privileges of the Owner in default, including, but not limited to, the right to vote as a Member of the Association in the place and stead of the defaulting Owner.

11.6 Subject to Declaration. At such time as a Mortgagee shall come into possession of or become record Owner of a Lot, whichever first occurs, the Mortgagee shall be subject to all of the terms and conditions of this Declaration, including, but not limited to, the obligation to pay all assessments and charges accruing thereafter, in the same manner as any other Owner.

12. ANNEXATION OF ADDITIONAL PROPERTY

Prior to the Transition Date, some or all of the real property described in Exhibit "B" may be annexed to and become subject to this Declaration as set forth in this Section 12. Developer may amend Exhibit "B" at any time to delete property described thereon.

12.1 Annexations. Developer may elect to annex some or all of the real property described in Exhibit "B" in increments of any size whatsoever, or to annex more than one such increment at any given time and in any given order. Developer is not obligated to annex any of said property, and none of said property shall become subject to this Declaration unless and until a Supplemental Declaration shall have been recorded as herein provided.

12.2 Supplemental Declaration. A Supplemental Declaration shall be a writing in recordable form which annexes additional real property (the "Annexation Property") to the plan of this Declaration and which incorporates by reference all of the covenants, conditions, restrictions, easements and other provisions of this Declaration and shall contain such other provisions as are set forth in this Declaration relating to Supplemental Declarations. Supplemental Declarations may contain such complementary additions and modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the Annexation Property and as are not inconsistent with the plan of this Declaration. In no event, however, shall any such Supplemental Declaration revoke, modify or add to the covenants established by this Declaration with respect to the Property already subject to this Declaration.

12.3 Annexation Without Approval of Association. The Annexation Property may be annexed to and become subject to this Declaration and subject to the jurisdiction of the Association without the approval, assent or vote of the Association or its Members, provided that a Supplemental Declaration covering the Annexation Property shall be recorded by Developer. The

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recordation of said Supplemental Declaration shall constitute and effectuate the annexation of the Annexation Property described therein, unless a later effective date is specified in the Supplemental Declaration, making said real property subject to this Declaration and subject to the functions, powers and jurisdiction of the Association, and thereafter said Annexation Property shall be part of the Property for all intents and purposes of this Declaration and all of the Owners of Lots in the Annexation Property shall automatically be Owners in accordance with Section 3.

13. REMEDIES

13.1 General Remedies. In the event of any default by any Owner, Occupant or other Person under the provisions of this Declaration, the Articles, Bylaws, Association Rules or Design Guidelines, the Association, or its successors or assigns, or its agents, or Developer shall have each and all of the rights and remedies which may be provided for in this Declaration, the Articles, Bylaws, Association Rules or Design Guidelines, or which may be available at law or equity, and may prosecute any action or other proceedings against such defaulting Owner, Occupant or other Persons for an injunction, whether affirmative or negative, or for enforcement or foreclosure of the lien herein provided in the manner provided under the laws of the State of Washington, and the appointment of a receiver for the Lot, or for damages or specific performance, or for judgment for payment of money and collection thereof, or the right to take possession of the Lot and to rent the Lot and apply the rents received to payment of unpaid Assessments and interest accrued thereon, and to sell the same as in this Section 13.1 provided, or for any combination of remedies or for any other relief, all without notice and without regard to the value of the Lot or the solvency of such Owner. The proceeds of any such rental or sale shall first be paid to discharge court costs, other litigation costs, including without limitation reasonable attorneys fees, expert witness fees, and all other expenses of the proceeding and sale, and all such items shall be taxed against the defaulting Owner in a final judgment. Any balance of proceeds after satisfaction of such charges and any unpaid Assessments hereunder or any liens shall be paid to the Owner. Upon the confirmation of the sale, the purchasers thereupon shall be entitled to a deed to the Lot and to immediate possession of the Lot and may apply to the court for a writ of restitution for the purpose of acquiring such possession, and it shall be a condition of any such sale, and the judgment shall so provide, that the purchaser shall take the interest in the property sold subject to this Declaration.

13.2 Expenses of Enforcement. All expenses of the Association or Developer, or other Person granted rights of enforcement hereunder, in connection with any action or proceeding described or permitted by this Section 13, including court costs, reasonable attorneys' fees, expert witness fees and other fees and expenses, and all damages, liquidated or otherwise,

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together with interest thereon until paid at twelve percent (12%) per annum, shall be charged to and assessed against such defaulting Owner and shall be a Special Assessment against such Owner and his Lot and the Association shall have a lien as provided in Section 6 therefor. In the event of any such default by any Owner or other Person, the Association and Developer, and the manager or managing agent of the Association, if so authorized by the Board, shall have the authority to correct such default and to do whatever may be necessary for such purpose, and all expenses in connection therewith shall be charged to and assessed against such defaulting Owner and his Lot as a Special Assessment, which shall constitute a lien against the defaulting Owner's Lot as provided in Section 6. Any and all such rights and remedies may be exercised at any time and from time to time, cumulatively or otherwise, by the Association or Developer.

13.3 Legal Action. In addition to any other remedies available under this Section 13, if any Owner (either by his conduct or by the conduct of any Occupant of his Lot or family member, guest, invitee or agent) shall violate any of the provisions of this Declaration, or the Articles, Bylaws, Association Rules or Design Guidelines, as then in effect, then the Association, Developer or any affected or aggrieved Owner, shall have the power to file an action against the defaulting Owner for a judgment or injunction against the Owner or such other Person requiring the defaulting Owner or other Person to comply with the provisions of this Declaration, or the Articles, Bylaws, Association Rules or Design Guidelines, and granting other appropriate relief, including money damages.

13.4 Effect on Mortgage. Notwithstanding anything to the contrary herein, any breach of any of the covenants, restrictions, reservations, conditions and servitudes provided for in this Declaration, or any right of reentry by reason thereof, shall not defeat or adversely affect the lien of any Mortgage upon any Lot, but, except as herein specifically provided, each and all of said covenants, restrictions, reservations, conditions and servitudes shall be binding upon and effective against any lessee or Owner of a Lot whose title thereto is acquired by foreclosure, trustee's sale, sale, deed in lieu of foreclosure or otherwise.

13.5 Limitation on Developer's Liability. Notwithstanding anything to the contrary herein, it is expressly agreed, and each Owner, by accepting title to a Lot and becoming an Owner, acknowledges and agrees that neither Developer (including without limitation any assignee of the interest of Developer hereunder) nor any director, officer or shareholder of Developer (or any partner or shareholder in any such assignee) shall have any personal liability to the Association, or any Owner, Member or other Person, arising under, in connection with, or resulting from (including without limitation resulting from action or failure to act with respect to) this Declaration or the Association except, in the case of Developer (or its assignee), to the extent of its interest in the Property; and, in the event of a judgment, no

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execution or other action shall be sought or brought thereon against any other assets, nor be a lien upon such other assets, of the judgment debtor.

14. AMENDMENT

14.1 Amendment to Declaration. Amendments to this Declaration shall be made by an instrument in writing entitled "Amendment to Declaration" which sets forth the entire amendment. Except as otherwise specifically provided in this Declaration, any proposed amendment must be approved by a majority of the Board prior to its adoption by the Members. Amendments may be adopted at a duly held meeting of the Members upon the approval thereof of a Majority of Members, or without any meeting if all Members have been duly notified and if a Majority of Members consent in writing to such amendment. In all events, the amendment, when adopted, shall bear the signature of the President and shall be attested by the secretary of the Association, who shall state whether the amendment was properly adopted, and shall be acknowledged by them as officers of the Association. Amendments, once properly adopted, shall be effective upon recording of the Amendment to Declaration in the appropriate governmental offices, or at such later date as may be specified in the Amendment.

14.2 Effect of Amendment. It is specifically covenanted and agreed that any properly adopted amendment to this Declaration will be completely effective to amend any and all of the covenants, conditions, restrictions and easements contained herein which may be affected and any or all clauses of this Declaration or the Plat, unless otherwise specifically provided in the section being amended or the amendment itself.

14.3 Amendment of Plat. Except as otherwise provided herein, the Plat may be amended by revised versions or revised portions thereof referred to and described as to effect an amendment to this Declaration adopted as provided for herein. Such amendment to the Plat shall be effective, once properly adopted, upon recordation in the appropriate governmental office in conjunction with the Declaration amendment.

14.4 Required Approvals. Notwithstanding the provisions of the foregoing subsections of this Section 14:

(a) If this Declaration or any applicable provision of law requires the consent or agreement of all Members and/or all Owners and/or all lienholders and all trustees and/or beneficiaries under trust deeds, or a specified percentage thereof, for any action specified in this Declaration, then any instrument changing, modifying or rescinding any provision of this Declaration with respect to such action shall be signed by all of the Members and/or all Owners and/or all lienholders and trustees and/or beneficiaries

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under trust deeds, or the specified percentage thereof, as required by this Declaration or by said law.

(b) Until the year 2000, this Declaration may not be amended by the Members pursuant to Section 14.1 without the written consent of Developer, which may be withheld for any reason in the sole and absolute discretion of Developer, and the following provisions of this Declaration may not be amended at any time (including after the year 1999) without the written consent of Developer: Sections 4.4, 4.11, 4.12, the third sentence of 9.1, 9.2, 9.3.1, 9.3.6, 9.4, 9.5, 9.7, 10.3, 10.14, 11.2, 11.3, 13.5, 14.4, 15, 18 and 19.

14.5 Developer's Right to Amend. Notwithstanding any other provision of this Section 14, until the year 2000, Developer reserves the right to amend this Declaration or the Plat without the approval of the Board or the Members; provided, however, that no such amendment shall have the effect of changing the boundaries of an Owner's Lot without the consent of the Owner; and provided, further, that after the conveyance of the first Lot to an Owner, Developer may not amend the following provisions of this Declaration without the approval at a duly held meeting of the Members of a majority of all of the Members except Developer, or without a meeting if the consent of said majority is obtained in writing: this Section 14.5 to decrease the rights of Members hereunder; or Section 15 to decrease the initial effective period of this Declaration.

15. TERM; TERMINATION

This Declaration shall be effective upon the date of recordation hereof and, as amended from time to time, shall continue in full force and effect for 20 years from the date of its recordation, and thereafter shall continue for consecutive periods of 10 years each, unless there is an affirmative vote, not more than 360 days prior to the date otherwise scheduled for commencement of the next extension of the term of this Declaration, to terminate this Declaration by a vote of a Majority of Members at a duly held meeting of the Members, or without any meeting if all Members have been duly notified and if a Majority of Members consent in writing to such termination within said 360-day period. If the necessary votes and consents are obtained, the Board shall cause to be recorded with the County Auditor of Douglas County, Washington, and/or other appropriate governmental offices, a Certificate of Termination, duly signed by the President or a vice president of the Association and attested by the secretary or an assistant secretary of the Association, with their signatures acknowledged. Thereupon, this Declaration, as of the date the next extension of the term of this Declaration would otherwise have commenced, shall have no further force and effect, and the Association shall be dissolved.

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16. GENERAL PROVISIONS

16.1 Notices. Notices to the Association provided for in this Declaration, the Bylaws, or Association Rules, shall be in writing and shall be addressed to the Association at the address specified in the Bylaws. The Association may designate a different address or addresses for notice by giving written notice of such change of address to all Owners at such time. All notices to Owners shall be to their respective Lots or the last address shown on the records of the Association. Any Owner may designate a different address or addresses for notices to him by giving written notice of his change of address to the Association. Notices addressed as above shall be deemed delivered when mailed by United States registered or certified mail, or when delivered in person. Any notice to an Owner also shall constitute notice to the Member entitled to exercise the Association membership rights for that Owner's Lot.

16.2 Captions and Exhibits; Construction. Captions given to various Sections herein, and the Table of Contents for this Declaration, are for convenience only and are not intended to modify or affect the meaning of any of the substantive provisions. Any exhibits referred to are incorporated as though fully set forth where such reference is made. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of the Property as set forth.

16.3 Severability. If any provision of this Declaration, the Articles, Bylaws, Association Rules or Design Guidelines, or any section, clause, sentence, phrase or word, or the application thereof in any circumstances, is held invalid, the validity of the remainder of this Declaration, the Articles, Bylaws, Association Rules or Design Guidelines, and of the application of any such provision, section, sentence, clause, phrase or word in any other circumstances, shall not be affected thereby, and the remainder of this Declaration, the Articles, Bylaws, Association Rules and Design Guidelines shall be construed as if such invalid part was never included.

16.4 Mortgage of Lots. Each Owner shall have the right, subject to the provisions hereof, to make separate Mortgages for his respective Lot. No Owner shall have the right or authority to make or create or cause to be made or created any Mortgage, or other lien or security interest, on or affecting the Property or any part thereof, except only to the extent of his Lot.

16.5 Power of Attorney. Unless otherwise specifically restricted by the provisions of this Declaration, in any instance in which the Association is empowered to take any action or do any act, including but not limited to action or acts in connection with the Common Areas or sale thereof, which may at any time be deemed to require the act of an Owner or Member, the

Owners and Members and each of them hereby constitute and appoint the Association as their attorney-in-fact, as may be appropriate, for the purposes of taking such action or doing such acts, including but not limited to executing, acknowledging and delivering any instruments or documents necessary, appropriate or helpful for such purposes. It is acknowledged that this power of attorney is irrevocable and coupled with an interest, and by becoming an Owner or a Member of the Association or by the acceptance of a deed for a Lot or by signing a contract for purchase of a Lot or by succeeding in any other manner to the ownership of a Lot, or any interest therein, or a membership in the Association, each Owner and Member shall be deemed and construed to have ratified and expressly granted the above power of attorney.

16.6 Gender. Masculine, feminine and neuter references herein each shall include the others as the context requires.

17. RIGHTS AND OBLIGATIONS

Each grantee of Developer, and each Owner, by the acceptance of a deed of conveyance, or each purchaser under any contract for such deed of conveyance, or each purchaser under any agreement of sale, or each person acquiring a membership in the Association, and the heirs, successors and assigns of the foregoing Persons, accepts the same subject to all restrictions, conditions, covenants, reservations, easements, liens and charges, and the jurisdiction, rights and powers created or reserved by this Declaration, and all rights, benefits and privileges of every character hereby granted, created, reserved or declared, and all impositions and obligations hereby imposed shall be deemed and taken to be covenants running with the land and equitable servitudes, and shall bind any Person having at any time any interest or estate in said land, and shall inure to the benefit of any such person in like manner as though the provisions of this Declaration were set forth in every deed of conveyance, purchase contract or instrument evidencing or creating such interest.

18. NO COVENANTS OR RESTRICTIONS; ZONING AND MASTER PLAN

18.1 No Express or Implied Covenants or Restrictions. Nothing in this Declaration shall create, or be deemed to create, any express or implied covenants or restrictions with respect to any real property, including without limitation the property described in Exhibit "B", not annexed in the manner provided in Section 12. Without limiting the generality of the preceding sentence, nothing in this Declaration shall limit or restrict, or be deemed to limit or restrict, the use of any real property not annexed in the manner provided in Section 12.

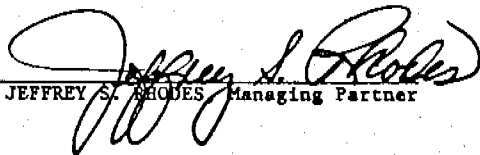
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18.2 Zoning and Master Plan. Each Owner, by accepting title to a Lot and becoming an Owner, acknowledges awareness that Fancher Heights is an extensive project, the development of which is likely to extend over many years, and agrees, so long as he is the Owner of the Lot, not to protest or otherwise object to (a) zoning or changes in zoning or to uses of, or changes in density of, the property in Fancher Heights (other than the Property), or (b) changes in any conceptual or master plan for property in Fancher Heights (other than the Property); provided, in either case, said zoning, use, density, or conceptual or master plan revision is or would be lawful (including without limitation lawful by special use permit, variance or the like).

19. ROAD IMPROVEMENT DISTRICT

19.1 Obligation. Each Owner, by accepting title to a Lot and becoming an Owner, agrees not to protest the creation of a Road Improvement District (RID), pursuant to RCW Chapter 36.88, to improve Badger Mountain Road.

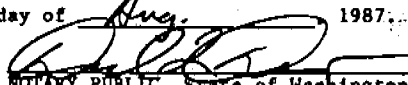
FANCHER HEIGHTS ASSOCIATES

By 
JEFFREY S. RHODES, Managing Partner

STATE OF WASHINGTON)
COUNTY OF Chelan) ss.

I certify that I know or have satisfactory evidence that JEFFREY S. RHODES signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the MANAGING PARTNER of FANCHER HEIGHTS ASSOCIATES to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED this 20th day of Aug. 1987.


NOTARY PUBLIC, State of Washington

My Commission Expires: 3/28/88



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AUG 25 1987

FANCHER HEIGHTS ASSOCIATION
PHASE I
LEGAL DESCRIPTION

A parcel of land in the northeast quarter Section 35 and the northwest quarter Section 36, Township 23 North, Range 20 East, W.M., Douglas County, Washington; being described as follows:

Beginning at the southeast corner of the southwest quarter of the northwest quarter of Section 36, thence South $89^{\circ}44'14''$ West along the center section line 1273.88 feet to the west quarter corner of said Section 36; thence North $48^{\circ}18'12''$ West, 199.95 feet; thence North $26^{\circ}50'47''$ West, 730.05 feet; thence North $23^{\circ}36'31''$ West, 363.26 feet; thence North $15^{\circ}36'16''$ West, 253.76 feet; thence North $81^{\circ}52'12''$ West, 2002.25 feet; thence South $83^{\circ}05'29''$ East, 2527.35 feet; thence South $13^{\circ}01'23''$ East, 150.88 feet; thence North $85^{\circ}49'31''$ East, 137.36 feet; thence North $73^{\circ}44'23''$ East, 25.00 feet; thence South $40^{\circ}36'05''$ East, 101.42 feet; thence North $20^{\circ}37'48''$ West, 181.65 feet; thence North $88^{\circ}51'15''$ East, 200.04 feet; thence South $85^{\circ}38'05''$ East, 131.38 feet; thence South $49^{\circ}31'09''$ East, 206.41 feet; thence South $09^{\circ}44'53''$ East, 395.71 feet; thence South $06^{\circ}10'48''$ West, 157.92 feet; thence South $42^{\circ}46'08''$ East, 54.49 feet; thence North $58^{\circ}36'02''$ East, 180.42 feet; thence North $80^{\circ}36'52''$ East, 122.64 feet; thence North $89^{\circ}12'48''$ East, 437.04 feet; thence South $20^{\circ}42'15''$ East, 135.77 feet; thence South $12^{\circ}17'58''$ East, 352.08 feet; thence South $28^{\circ}51'46''$ East, 145.01 feet; thence South $68^{\circ}36'10''$ West, 254.82 feet; to the TRUE POINT OF BEGINNING.

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EXHIBIT A

FANCHER HEIGHTS SUBDIVISION
PRELIMINARY PLAT
LEGAL DESCRIPTION

In The County of Douglas, State of Washington

PARCEL "A"

The northwest quarter; the North half of South half of the northeast quarter of the southwest quarter and the North half of the northeast quarter of the southwest quarter of Section 36, Township 23 North, Range 20, E.W.M., Douglas County, Washington, EXCEPT the Pangborn-Herndon Memorial Park located in that portion of the southwest quarter of the southwest quarter of the northwest quarter of Section 36, Township 23 North, Range 20 East, W.M., Douglas County, Washington, more particularly described as follows:

Commencing at the West quarter corner of said Section 36; thence South $89^{\circ}50'00''$ East along the center of section line for a distance of 212.19 feet; thence North $0^{\circ}10'00''$ East for a distance of 181.01 feet to the True Point of Beginning; thence continue North $0^{\circ}10'00''$ East for a distance of 147.58 feet; thence South $89^{\circ}50'00''$ East for a distance of 147.58 feet; thence South $0^{\circ}10'00''$ West for a distance of 147.58 feet; thence North $89^{\circ}50'00''$ West for a distance of 147.58 feet to the True Point of Beginning.

PARCEL "B"

All that part of Lot 17 in Haskells Plat of the northeast quarter of Section 35, Township 23 North, Range 20 East, W.M., Douglas County, Washington, according to the plat thereof recorded in Volume B2 of Plats, Page 9, located within the East half of the East half of the northeast quarter of the Northeast quarter of said Section 35.

PARCEL "C"

The southwest quarter of Section 25, Township 23 North, Range 20 East, W.M., Douglas County, Washington, EXCEPT the following two parcels:

Parcel 1:

A parcel of land in the southwest quarter of Section 25, Township 23 North, Range 20 East, W.M., Douglas County, Washington, more particularly described as follows:

Commencing at the southwest corner of said Section 25 and running thence North $65^{\circ}00'00''$ East for 885.1 feet to the True Point of Beginning of this description; thence turn an angle to the right of $32^{\circ}27'$ and run South $82^{\circ}33'00''$ East for 473.0 feet; thence turn an angle to the left of $25^{\circ}24'$ and run North $72^{\circ}04'00''$ East for 482.4 feet; thence turn an angle to the left of $82^{\circ}43'$ and run North $10^{\circ}39'$ West for 296.0 feet; thence turn an angle to the right of $29^{\circ}50'$ and run North $19^{\circ}11'00''$ East for

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EXHIBIT B

1,640 feet; thence turn an angle of 131°00' to the left and run South 68°11' West for 571.0 feet; thence turn an angle of 23°31' to the right and run North 83°18' West for 163.0 feet; thence turn an angle of 6°15' to the right and run North 77°1'00" West for 201 feet; thence turn an angle of 26°20' to the right and run North 50°41'00" West for 262 feet; thence turn an angle of 4°57' to the right and run North 45°44'00" West for 223.0 feet; thence turn an angle of 116°56' to the left and run South 17°20'00" West for 1615.7 feet; thence turn an angle of 45°44' to the left and run South 28°24'00" East for 202 feet; thence turn an angle of 1°17' to the left and run South 30°41'00" East for 442 feet to the True Point of Beginning of this description, EXCEPT that portion described as follows:

Commencing at the southwest corner of said Section 25; thence South 88°36'00" East along the South line of said Section 25 for 811.0 feet; thence due North for 373.9 feet to the True Point of Beginning for this description; thence South 81°06'15" East for 150.00 feet; thence North 47°32'15" West for 361.4 feet; thence South 28°09'45" East for 250.0 feet to the True Point of Beginning.

Parcel 2:

A parcel of land in the southwest quarter of Section 25, Township 23 North, Range 20 East, W.M., Douglas County, Washington, more particularly described as follows:

Commencing at the southwest corner of said Section 25; thence South 88°36'00" East along the South line of said Section 25 for 811.0 feet; thence due North for 373.9 feet; thence South 80°06'15" East for 472.5 feet; thence North 73°31'00" East for 479.2 feet; thence North 9°11'00" West for 296.2 feet to the True Point of Beginning for this description; thence North 20°39'00" East for 1655.2 feet; thence North 83°14'15" East for 368.5 feet to a point on the North-South centerline of said Section 25; thence South 30°48'45" West for 1853.9 feet to the True Point of Beginning.

PARCEL "D"

The southeast quarter of Section 26, Township 23 North, Range 20 East, W.M., Douglas County, Washington, EXCEPT the North 600 feet of the West 1452 feet thereof, AND EXCEPT the southwest quarter of the southwest quarter thereof.

PARCEL "E"

A parcel of land in the northeast quarter of Section 35, Township 23 North, Range 20 East, W.M., Douglas County, Washington, more particularly described as follows:

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PARCEL "E" (continued)

Beginning at the East quarter corner of said Section 35, thence North 48°18'13" West for 199.96 feet; thence North 26°50'47" West for 730.05 feet; thence North 23°36'31" West for 363.26 feet; thence North 15°36'16" West for 626.76 feet; thence North 11°09'21" West for 349.54 feet; thence North 8°50'27" West for 520.24 feet; thence North 6°05'49" West for 73.85 feet to the North line of said Section 35; thence South 89°27'04" East along said North line for 521.02 feet; thence South 1°59'58" East for 1323.47 feet; thence South 89°38'13" East for 328.35 feet; thence South 2°17'46" East, for 1322.64 to the Point of Beginning.

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