



WHEN RECORDED RETURN TO:  
Adelstein, Sharpe & Serka LLP  
P. O. Box 5158  
Bellingham, WA 98227

Document title: Declaration of Covenants, Conditions, Reservations and  
Restrictions of the Plat of LABOUNTY ESTATES.  
Declarant: LaBounty Investments, LLC  
Legal Description: Plat of LABOUNTY ESTATES Lots 1-49  
Assessor's Tax Parcel ID#: 3902332304060000

DECLARATION OF COVENANTS, CONDITIONS,  
RESERVATIONS AND RESTRICTIONS FOR THE  
PLAT OF LABOUNTY ESTATES

A. RECITALS

This Declaration is made with reference to the following facts and conditions:

1. The undersigned are the owners in fee simple of the following described real property located in the City of Ferndale, Whatcom County, Washington:

THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER; THE NORTH HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER; AND THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER, ALL IN SECTION 33, TOWNSHIP 39 NORTH, RANGE 2 EAST OF W.M.

EXCEPT LABOUNTY ROAD;

EXCEPT THAT PORTION CONVEYED TO GEORGE M. TODD, ET. UX., BY DEED RECORDED UNDER AUDITORS FILE NO. 786185 AS FOLLOWS:

THE EASTERLY 210 FEET OF THE SOUTHERLY 100 FEET OF THE NORTH ONE-HALF OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 33, TOWNSHIP 39 NORTH, RANGE 2 EAST OF W.M., LESS ROADS.

EXCEPT THAT PORTION CONVEYED TO RONALD C. STUURMANS, ET. UX., BY DEED RECORDED UNDER AUDITORS FILE NO. 1023882 AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE WEST LINE OF LABOUNTY ROAD (NO. 653) NOW ESTABLISHED AND 70 FEET NORTH OF THE SOUTH LINE OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 33, TOWNSHIP 39 NORTH RANGE 2 EAST OF W.M.; THENCE SOUTH ALONG SAID WEST LINE OF LABOUNTY ROAD 200 FEET TO THE TRUE POINT OF BEGINNING; THENCE WEST ON A LINE PARALLEL WITH SAID SOUTH LINE OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER, 100 FEET; THENCE SOUTH ON A LINE PARALLEL WITH SAID

WEST LINE OF LABOUNTY ROAD 100 FEET MORE OR LESS TO THE NORTH LINE OF A TRACT CONVEYED TO GEORGE M. TODD AND THRIZA M. TODD, HIS WIFE, RECORDED DECEMBER 13, 1954, UNDER AUDITORS FILE NO. 786165; THENCE EAST ALONG SAID TODD NORTH LINE 100 FEET TO SAID WEST LINE OF THE LABOUNTY ROAD, THENCE NORTH ALONG SAID WEST LINE OF THE LABOUNTY ROAD 100 FEET MORE OR LESS TO THE TRUE POINT OF BEGINNING.

EXCEPT ALL THAT PORTION CONVEYED TO LESTER A. BEDLINGTON, ET. UX., BY DEED RECORDED UNDER A.F. NO. 1021603, AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE WEST LINE OF LABOUNTY ROAD (NO. 653) NOW ESTABLISHED AND 70 FEET NORTH OF THE SOUTH LINE OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER IN SECTION 33, TOWNSHIP 39 NORTH, RANGE 2 EAST OF W.M.; THENCE SOUTH ALONG SAID WEST LINE OF LABOUNTY ROAD 100 FEET TO THE TRUE POINT OF BEGINNING; THENCE WEST ON A LINE PARALLEL WITH SAID SOUTH LINE OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER, 100 FEET; THENCE SOUTH ON A LINE PARALLEL WITH SAID WEST LINE OF LABOUNTY ROAD 100 FEET; THENCE EAST ON A LINE PARALLEL WITH SAID SOUTH LINE OF NORTHEAST QUARTER OF THE NORTHWEST QUARTER 100 FEET TO SAID WEST LINE OF LABOUNTY ROAD; THENCE NORTH ALONG SAID WEST LINE OF LABOUNTY ROAD 100 FEET TO THE TRUE POINT OF BEGINNING.

EXCEPT ALL THAT PORTION CONVEYED TO DAVID C. FAST, ET. UX., RECORDED UNDER AF NO. 1036254, AS FOLLOWS:

THAT PORTION OF THE EAST HALF OF THE NORTHWEST QUARTER OF SECTION 33, TOWNSHIP 39 NORTH, RANGE 2 EAST OF W.M., DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT OF INTERSECTION OF THE WEST LINE OF LABOUNTY ROAD (NO. 653) NOW ESTABLISHED AND THE SOUTH LINE OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 33; THENCE NORTH ALONG THE WEST LINE OF SAID LABOUNTY ROAD, 70 FEET TO THE SOUTHEAST CORNER OF A TRACT CONVEYED TO ROBERT EUGENE SNYDAR BY DEED RECORDED UNDER AUDITORS FILE NO. 1002057 AND THE TRUE POINT OF BEGINNING OF THE TRACT HEREIN TO BE DESCRIBED; THENCE WEST ALONG THE SOUTH LINE OF SAID SNYDAR TRACT, 100 FEET; THENCE SOUTH ON A LINE PARALLEL WITH SAID WEST LINE OF LABOUNTY ROAD 100 FEET TO THE NORTHWEST CORNER OF THE TRACT CONVEYED TO LESTER A. BEDLINGTON BY DEED RECORDED UNDER AUDITORS FILE NO. 1021603; THENCE EAST ALONG THE NORTH LINE OF SAID BEDLINGTON TRACT 100 FEET TO THE SAID WEST LINE OF LABOUNTY ROAD; THENCE NORTH ALONG SAID WEST LINE 100 FEET TO THE TRUE POINT OF BEGINNING.

EXCEPT ALL THAT PORTION CONVEYED TO S.A. BERRY, ET. UX., BY DEED RECORDED UNDER AUDITORS FILE NO. 1288756, AS FOLLOWS:

THE NORTH 125 FEET OF THE SOUTH 195 FEET OF THE EAST 100 FEET OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 33, TOWNSHIP 39 NORTH, RANGE 2 EAST OF W.M., EXCLUSIVE OF ROADS;

EXCEPT THOSE PORTIONS CONVEYED TO THE STATE OF WASHINGTON FOR HIGHWAY PURPOSES BY DEEDS RECORDED UNDER AUDITORS FILE NOS. 1104867 AND 1104671.

EXCEPT THE EAST 19 FEET OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 33, TOWNSHIP 39 NORTH, RANGE 2 EAST OF W.M.

ALL SITUATE IN WHATCOM COUNTY, WASHINGTON.

SUBJECT TO AND TOGETHER WITH ALL EASEMENTS, COVENANTS, RESTRICTIONS AND/OR AGREEMENTS OF RECORD OR OTHERWISE.

Hereunder referred to as the "Plat"

2. The Declarant desires to provide the means to enforce the rights, reservations, easements, liens and charges provided in this Declaration to provide for necessary maintenance and enhancement of the Subdivision and to provide for the formation of a Community Association in the form of a non-profit corporation which includes as its members those persons who purchase any Lot within the Subdivision.

**B. DECLARATION**

The Declarant hereby certifies and declares that the following covenants, conditions, reservations and restrictions shall endure and be binding upon the respective owners of each Lot or Parcel within the Subdivision, and the Declarant further declares that all of the real property within the Subdivision described herein is held and shall be held, conveyed, encumbered, leased, rented, used, occupied and improved subject to the following covenants, conditions, reservations and restrictions for the purpose of enhancing and protecting the value, desirability and attractiveness of the Subdivision and every part thereof. All of the following covenants, conditions, reservations and restrictions shall run with the land and shall be binding upon all parties having or acquiring any right, title or interest in the Plat or any part thereof.

**1. LAND CLASSIFICATION AND DEFINITIONS**

The following words and classifications of land shall have the following meanings under this Declaration:

1.1 ARC. The architectural review coordinator appointed pursuant to Article V of this Declaration.

1.2 Association. The community association of all Lot owners, as more fully described in paragraph 6 hereof, which is being created concurrent with the execution hereof in the form of a Washington nonprofit corporation.

1.3 Assessable Property. Each individual Lot.

1.4 Board. The Board of Directors of the Association.

1.5 Common Properties. Common properties are the following:

(a) Easements for the benefit of the Association created herein or on the Plat for the Subdivision.

(b) Tract 'A' – Open Space Corridor, as more specifically described in Paragraph 2.4 and subject to the covenants and restrictions hereunder.

(c) Tract 'B' – Stormwater Facility, as more specifically described in Paragraph 2.5.

(d) Open space and easements created in subsequent phases.

1.6 Declarant. LaBounty Investments, LLC, a Washington Limited Liability Company.

1.7 Declaration. This Declaration of Covenants, Conditions, Reservations and Restrictions for the Plat of LaBounty Estates.

1.8 Improvements. Improvements shall mean and include, without limitation, any buildings, out-buildings, private roads, driveways, parking areas, fencing, retaining walls, swimming pools, screening, walls, ornamentation, signs, stairs, decks, hedges, windbreaks, plantings, planted trees, shrubs, poles, lighting, hot tubs and any other structure or landscaping.

1.9 Lot. Any parcel of real property within the boundaries of the Subdivision identified by number and designated for the location and construction of a single-family residence.

1.10 Owner. Any person holding either fee title or a vendees interest under a Real Estate Contract as shown by the records of the Auditor of Whatcom County, Washington, in a Lot.

1.11 Parcel. Any parcel of real property within the boundaries of the Subdivision except Lots and real property dedicated to the City of Ferndale.

1.12 Person. Any individual, firm, corporation, partnership, association, unincorporated association or other legal entity.

1.13 Plat. Plat of LaBounty Estates, filed under Whatcom County Auditor's file number 2050900662. The word Plat shall also refer to plat maps, when recorded, for the Subdivision.

1.14 Resident. (a) Each person lawfully residing on or in any part of any Lot; and (b) members of the immediate family of each such person actually living in the same household with such person.

## 2. RESERVATIONS AND EASEMENTS

2.1 Reservation of Easements. Easements for drainage, sewers, water pipes

and utilities, facilities and services (including, but not limited to, water supply, electricity, gas, telephone and television) are hereby reserved over, under, upon, in and through all roadways and walkways, and over, under, upon, in and through those certain portions of Lots which are necessary for existing facilities and equipment serving the Subdivision, together with the right to enter upon such easements for their installation and repair. This reservation of easements is for the benefit of the Declarant and its assignee, as well as for the benefit of the City of Ferndale, Puget Sound Energy, Cascade Natural Gas Company, Verizon Communications, Comcast Cable, and any other purveyors of such services as herein before described, as well as any of their successors in interest.

2.2 Conveyance of Common Properties. The Common Properties shall be conveyed by the Declarant to the Association at such time as determined in the sole discretion of the Declarant, but in any event no later than the date upon which Declarant achieves the sale to owners of at least eighty percent (80%) of the Lots within the Subdivision.

2.3 Reservation of Drainage Easement and the Right to Drain. The Declarant hereby reserves the right to drain all roadways, walkways, easement ways and areas over and across any Lot or parcel within the Subdivision where water might take a natural course after the grading of such Lot or parcel. The Association shall be responsible for the maintenance and upkeep of Common Areas thereof, including regular cleaning to remove sediments, the replanting of grass and the replacement of rock as necessary to insure the effective operation thereof.

2.4 Tract A, Open Space Corridor. Identified as 'Tract A' on the Plat subject to a 30' wide easement in favor of Terasen Pipeline Company. Subject to the exceptions provided in this Section 2.4, no improvements are to be made and/or allowed on this easement including, but not necessarily limited to, the construction of any structures and/or the planting of any trees or other vegetation. Notwithstanding the above, the Association may clear above-ground brush and/or other type vegetation. Furthermore, the Association may construct a pedestrian walkway and/or authorize the placement of playground equipment on Tract A, provided that the Association attains the written approval of the Terasen Pipeline Company prior to the commencement of the construction of such walkway or placement of playground equipment. The contact information for the Terasen Pipeline Company at the time of this Declaration being recorded is as follows: Patrick Davis - Terasen Pipeline (360) 398-1541; David Berrouard - Terasen Pipeline (866) 268-3001.

2.5 Tract B (Stormwater Facility). Identified as 'Tract B' on the Plat, located in the northwest corner of LaBounty Estates.

The Association shall be required to engage a registered engineer to inspect the Stormwater Facility on no less than an annual basis and submit a written report detailing the findings of the inspection to the Public Works Director of the City of Ferndale, provided that in the event the Washington State Department of Ecology conducts an

inspection of the Stormwater Facility in any given year and provides a written report detailing its findings, the Association may submit the Department of Ecology report to the City of Ferndale in lieu of engaging a private engineer to inspect and submit a report. The Association will use reasonable efforts to conduct the Stormwater Facility inspection during the time period beginning May 1st and ending September 30<sup>th</sup> of each year.

The Association will remain solely responsible for all expenses attributable to the Stormwater Facility, including but not limited to, expenses attributable to annual inspections and all required maintenance. The construction stormwater permit # is SO3005641. The contact information for the Department of Ecology at the time of this Declaration being recorded is as follows:

**State of Washington – Dept. of Ecology (Linda Matlock)  
Water Quality Program – Construction Stormwater  
P.O. Box 47696  
Olympia, WA 98504-7696  
(360) 407-6437 or (360) 407-6000**

2.6 Easement Restoration. Any work done on any easement created by this Declaration or by the Plat shall be done in a prompt and workmanlike manner and the property shall be restored as nearly as is reasonably practical to its condition prior to work within the easement.

2.7 Conditional Use Parcel. Identified as 'Mini-Storage (Conditional Use)' on the Plat, located in the northeast corner of LaBounty Estates.

Subject to the right of the Declarant to amend this Declaration as set forth in Section 11, this Conditional Use Parcel will not be subject to the covenants, conditions, reservations and restrictions applicable to Lots under this Declaration. All parties to this Declaration acknowledge that Declarant, or its successor in interest, shall have the right to develop the Conditional Use Parcel for any purpose allowed by law. Notwithstanding any provision in this Declaration to the contrary, the Association and each Lot owner hereby agrees to hold harmless and waive any and all legal recourse and/or right to protest the use or development in the event the Declarant elects to use the Conditional Used Parcel for residential construction or otherwise.

It is the understanding of all parties hereto that the Conditional Use Parcel will at all times maintain the right to connect to, and use for its benefit, Tract B (Stormwater Facility) as described in Section 2.5 hereunder. To compensate the Association for its share of the annual maintenance and inspection costs attributable to Tract B (Stormwater Facility), the Declarant, or its successor or assignee in interest, shall pay the Association an annual fee of \$50.00. Notwithstanding anything contained herein to the contrary, the obligation of the Declarant described in the preceding sentence shall

terminate upon the Declarant exercising its right under Section 11 hereunder to amend this Section 2.7 to provide that all or part of the Conditional Use Parcel become subject to covenants, conditions, reservations and restrictions applicable to Lots under this Declaration.

2.8 Signage Easement. The Declarant and Association shall retain a 20 foot by 20 foot signage easement in the southeastern most corner of the Parcel described in Paragraph 2.7 of this Declaration, provided that any sign shall subject to a maximum height restriction of 4 feet. It is the intention of the Declarant and the Association that a sign identifying LaBounty Estates will be located within the easement created by this Section 2.8.

### 3. GENERAL USE RESTRICTIONS AND REQUIREMENTS

3.1 Permanent Residential Purposes. All Lots within the Subdivision shall be used exclusively for permanent residential purposes.

3.2 Recreational Vehicles. All boats, utility trailers, trucks of more than one-ton rating, campers, recreational vehicles, travel trailers, motor homes and similar items or vehicles maintained or kept upon any Lot within the Subdivision shall at all times be enclosed within a garage, or other structure approved by the ARC that is located behind the rear wall of the residence and screens the motor home from view from the street and other homes in the Subdivision. No such items or vehicles shall be parked on the street within the Subdivision overnight. An owner or out-of-county guests of an owner may, with such owner's permission, park a recreational vehicle or travel trailer completely within the respective Lot(s) driveway for up to a maximum of two (2) weeks within any calendar year without being in violation of this section.

3.3 Explosives. No firearms or explosives shall be discharged within the boundaries of the Subdivision.

3.4 Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot, except that dogs, cats or other household pets may be kept, provided that they are not kept, bred or maintained for commercial purposes.

3.5 Noise and Odors. All members of the Association acknowledge & accept, and hereby waive any and all legal recourse against the Declarant, Association and/or the City of Ferndale, insomuch that the location of Labounty Estates is located near a variety of land uses and zoning allowances including, but not necessarily limited to Highway Commercial, Light Industrial and/or Residential Office, which may produce excessive noise, odors, and other similar type nuisances.

3.6 Signs. Except as otherwise provided in this Section 3.6 and Section 2.8, no signs or billboards shall be placed on any Lot except as provided herein. Lot owners, including the Declarant, may (i) display a sign bearing the Lot owner's name and address, and/or (ii) a display sign indicating that the property is for sale. In no

event shall the size of any sign or billboard exceed 5 square feet in size. Lot owners may also display signs of a political nature in connection with an upcoming election or ballot measure, provided that the signs are not displayed any earlier than nine (9) months prior to the relevant election date, are removed within fifteen (15) days after the relevant election date or ballot measure, and do not exceed 5 square feet in size.

3.7 Garbage/Refuse. No owner shall deposit or permit the accumulation of any trash, ashes, garbage or other refuse or debris on or about such owner's Lot or any other property within the Subdivision, except in appropriate covered trash receptacles. Each owner shall keep such owner's Lot neat and orderly in appearance and shall not cause or permit any noxious or odorous conditions to exist, nor maintain any tangible objects which are unsightly in appearance to exist, on any Lot within the Subdivision.

3.8 Vehicles. All automobiles and all other permitted vehicles, if kept or parked on any Lot or otherwise within the Subdivision, shall be in good order and in working condition. Partially wrecked vehicles, discarded vehicles, unlicensed vehicles or vehicles which are in a state of disrepair shall not be kept on any Lot or street in the Subdivision, unless enclosed in a garage or otherwise completely screened from view from outside the Lot.

3.9 Antennas. No television, radio or satellite antenna, receivers, dishes or other telecommunication devices shall be installed on any portion of any Lot unless (i) such device does not exceed 18 inches in diameter, and (ii) are contained entirely within the side yard or backyard, and are reasonably screened from the view of all neighbors.

3.10 Fences. Wire and chain link fencing is prohibited. Other types of fencing are generally permitted only in the rear & side yards. The determination as to what constitutes the rear & side yard of any house shall be made by the ARC. The construction of any fence shall be subject to the prior approval by the ARC.

3.11 Retaining Walls. Retaining walls shall not exceed a height of four (4) feet unless they are designed and installed consistent with plans produced by a licensed civil engineer. Retaining walls shall be constructed only of the following materials: stone, heavy timber, concrete with brick, stone or wood facing or concrete with high quality exposed aggregate finish. No retaining wall shall be constructed until it has received all required permits from the City of Ferndale. All retaining walls shall be approved by the ARC.

3.12 Roof Materials. Exterior faces of all roofs shall be a minimum 30 year laminated composition shingles, tiles or wood shakes. The color, pitch and roofing type of all roofs is subject to the prior written approval by the ARC.

3.13 Roof Pitch. The minimum roof pitch required is six to twelve. The roof pitch and design of any roof is subject to prior written approval by the ARC.

3.14 Chimney Design. Exposed metal chimneys are not permitted.



3.15 Driveways and Walkways. Driveways and walkways shall be constructed of concrete, brick pavers or paving stones. Asphalt and other materials are not permitted. All driveways and walkways shall be subject to the prior written approval by the ARC.

3.16 Clothesline Restrictions. Clotheslines are only permitted in the backyard of a Lot completely screened from view at any point along street or streets in the Subdivision.

3.17 Surface Water Run-Off. No Lot shall be improved in such a way as to cause excess surface water run-off that may damage or inconvenience other Lots or contiguous properties and the owners thereof.

3.18 Damaged Improvements. No improvement which has been partially or totally destroyed by fire, earthquake or any other cause shall be allowed to remain in a state of disrepair for a period in excess of one-hundred and twenty (120) days from the date of such partial or total destruction. Corrective construction or reconstruction shall be required to commence within such one-hundred and twenty (120) day period and shall be completed in accordance with the provisions of Paragraph 4.1 hereof; provided, however, that such one-hundred and twenty (120) day period shall be extended for a reasonable period thereafter in the event that corrective construction or reconstruction has not commenced as a result of factors beyond the control of the subject owner and in the event that the subject owner has exercised and does thereafter continue to exercise due diligence in an effort to eliminate such factors causing such delay in commencement.

3.19 Landscaping. All Lots shall be fully landscaped within twelve (12) months of the commencement of construction. All landscaping shall be subject to the approval of the ARC. If the owner of the Lot fails to properly maintain landscaping, then the Association may perform the work described in the approved landscaping plan and charge the owner of the Lot for the cost of such work. The Association may collect this charge pursuant to the authority granted in Section 6.6 of this Declaration.

3.20 Height Restrictions. The ARC may impose height restrictions on a Lot-by-Lot basis in order to ensure views from other Lots in the Subdivision.

3.21 Setbacks. Setbacks, as specifically shown on the face of the Plat, shall be a minimum of 8 feet from each side of each Lot, a minimum of 20 feet from the front boundary of each Lot that abuts the street and a minimum of 15 feet from the rear boundary of each Lot. Each such setback shall be measured in relation to the closest point of the dwelling foundation wall or deck structure, provided that driveways and/or cement patios will not be considered a dwelling foundation or deck structure to the extent no structures are constructed upon them.

3.22 Minimum House Size. Houses shall meet the following minimum size

requirements, exclusive of any basements constructed either in part or in full below ground, patios, walkways and garages:

(a) A ranch style or single-floor type house shall have a minimum of 1,600 square feet of total finished square footage.

(b) A two-story house shall have a minimum of 1,900 square feet of total finished square footage.

3.23 Garages. All houses shall have a minimum two (2) car garage. Detached garages are permitted, subject to the prior written approval of the ARC.

3.24 Siding Material. Neither any form of vinyl siding nor T-111 siding shall be permitted on any structure. The siding material is subject to approval by the ARC.

3.25 Stone/Brick/Rock Accents. All homes are required to have at least 80 square feet of exterior stone, rock or brick coverage on the front elevation of the home. Cultured stone is encouraged. This coverage and material type are subject to of the ARC.

3.26 Subdividing. No Lot shall be subdivided.

3.27 Exterior Appliances. No heating, air conditioning or other mechanical appliances may be located on any roof, unless completely screened from view of other Lots. Heating, air conditioning units and other appliances located outside of the house or structure shall be screened such that they are not visible and sound generated by them does not reach neighboring Lots.

3.28 Outdoor Lighting. All outdoor lighting shall be directional and, in all instances, shall not be directed in a manner that is unreasonably disruptive to occupants of other Lots.

3.29 Parking. All parking shall be within Lots and, except as specifically provided in Section 3.2, there shall be no long-term parking except within garages.

3.30 Residential Structures. There shall be permitted only one (1) residential structure within any Lot.

3.31 Color. Exterior colors are encouraged to be of earth tones, whites, and grays, and all exterior colors shall be subject to the approval of the ARC. The ARC may also grant variances from this restriction for trim or accent colors.

3.32 Vacant Lots. Vacant Lots shall be kept free of unsightly debris and shall not be used for storage or parking or any other purpose until commencement of construction on the Lot. Vacant Lots shall be regularly mowed and all shrubs, grasses and weeds shall be kept at a height of 18 inches or less.

3.33 Playground Equipment. All playground equipment shall be located within the backyard of every Lot, provided that the Association may authorize in writing playground equipment to be located on Common Areas. Notwithstanding the preceding, the Association shall not allow playground equipment to be placed upon Tract A without the prior written approval of the Terasen Pipeline Company (see Section 2.4).

3.34 Portable Basketball Hoops. Portable basketball hoops are prohibited on any public street or sidewalk.

#### 4. CONSTRUCTION

4.1 Time For Completion. Construction of all improvements shall be prosecuted diligently from the date of commencement of work until the exterior is completed and painted or finished and all sanitation and health requirements have been fulfilled. Furthermore, the maximum time limit for the completion of construction of an improvement shall be twelve months from the date construction commences. For avoidance of doubt, the "date construction commences" shall be deemed to occur on the earlier of (i) the date that building materials are first delivered to the Lot for such purpose, or (ii) the date on which any excavation or similar type preparation activity commences. Construction shall not be deemed to be completed until all improvements are finished, the Lot has been cleaned of construction debris and the Lot has been landscaped consistent with approved plans.

4.2 Condition of Lots. On site improvements to the Plat have generated clean fill from utility trenching activities. This fill is non-structural and has been dispersed onto many Lots and the amount of fill may vary from Lot to Lot. Lot owners and prospective Lot owners hereby acknowledge the existence of any such fill and agree to use their own discretion and due diligence to determine a workable elevation of hard pan, foundation and any other such construction decision that may be effected by soil condition (e.g., additional excavation, additional construction costs, etc.). Lot owners agree to hold harmless and waive any and all legal recourse against Declarant, ARC or the Community Homeowner's Association for any causes of action based upon the existence of such fill on any Lot.

#### 5. ARCHITECTURAL REVIEW COORDINATOR

5.1 General. Construction of improvements on any Lot within the Subdivision shall be subject to the prior approval of an Architectural Review Coordinator ("ARC"). The ARC shall be initially comprised of Troy A. Strong and Henry M. Schroder. Upon the resignation of Troy A. Strong and Henry M. Schroder, the Association shall select three individuals who are members of the Association to comprise the ARC, provided that such individuals shall not be members of the Association's board of directors. No improvements shall be erected, placed or altered on any Lots until the construction plan,

specification, site plan and landscaping plan, showing the location of all proposed improvements on the Lot in a form established by the ARC, have been approved. The approval or disapproval of the ARC as to such construction plan, specifications, site plan and landscaping plan, shall be based upon the quality of materials utilized in the construction, the harmony of the external design and color scheme of the proposed improvements with other existing improvements within the Subdivision, bulk and location of improvements with respect to typography and finish grade, view protection and compliance with the Declaration and the standards to be developed and made available to owners by the ARC. The restrictions imposed in this Declaration and those imposed by the ARC are not intended to prevent or impair innovative or eclectic design, as long as designs are of high quality and done in a tasteful manner.

5.2 ARC Application Fee. In addition to the construction plan, specifications & site plan, the owner shall submit an application fee of fifty dollar (\$50.00) for each approval requested. A significant change to plans shall be deemed to be a new set of plans and shall require submission of an additional fifty dollar (\$50.00) fee. The ARC is not obligated to commence review until the application fee has been paid in full.

5.3 Approval/Disapproval. The ARC shall approve or disapprove the construction plans, specifications and site plan, including specified color finish, within ten (10) days following receipt of a complete duplicate set thereof from the submitting Lot owner or prospective Lot owner. Any complete submission of construction plan, specifications, site plan and landscaping plan on which no action is taken by the ARC for fifteen (15) days following the date of receipt thereof shall be deemed approved as submitted, unless within such fifteen (15) day period the ARC has sought, in writing, clarifying information concerning the same. Two sets of construction plans, specifications (including exterior color finish detail), and site plan must be submitted to the ARC. One such complete set shall be returned to the submitting Lot owner or prospective Lot owner with the approval or disapproval endorsed upon such complete set by the ARC. The other complete set shall be retained by the ARC for its permanent files.

The ARC shall have the right to disapprove any construction plans, specifications and/or site plan in the event the same are not in accordance with the provisions of this Declaration, if the design or exterior color scheme of the proposed improvements is not in harmony with the general surroundings of the Subdivision or with the adjacent improvements, if the proposed improvements interfere with views from other Lots in the Subdivision, if the construction plan, specification, site plan and landscaping plan are incomplete, or if the ARC determines that the construction plans, specifications and site plan, or any portion of them, are contrary to the interest, welfare and/or rights of the owners of other Lots within the Subdivision.

5.4 Variance. In order to preserve views, resolve problems relating to unique and difficult topographical problems or in other extraordinary circumstances, the ARC shall have the right to grant a variance from the standards created by the ARC and from those restrictions relating to improvements set forth in Section 3 of this Declaration. Any

variance from the restrictions contained in this Declaration shall be made in recordable form and shall be placed of record on the Lot by the ARC.

5.5 Conditional Approval. Any approval given by the ARC may be conditioned upon compliance by the applicant with any reasonable condition which the ARC deems appropriate, including, without limitation, the posting of bonds or other acceptable security in order to insure performance by the applicant in accordance with the construction plan, specifications, site plan and landscaping plan being approved.

5.6 No Liability. Neither the ARC, nor any member thereof nor any successor thereto, shall be liable to any person for any action taken by the ARC or for any failure to act by it under or pursuant to the provisions of this Declaration, so long as the ARC, and any successors thereto act in good faith and without malice.

5.7 Expiration. The Declarant may remove and replace the ARC at the Declarant's sole discretion. This right to appoint and remove the ARC shall not expire until the Declarant no longer owns any Lots in the Subdivision. Upon expiration of the Declarant's right to appoint the ARC, the Association shall appoint a Design Review Committee ("DRC") that have all of the powers of the ARC except the power to grant variances in the restrictions contained in Section 3 of this Declaration. The DRC shall consist of three (3) members appointed by the Board. All decisions of the DRC shall be made by a majority vote.

## 6. COMMUNITY HOMEOWNERS ASSOCIATION

The Declarant shall form a Community Homeowners Association, designated herein as the Association, to include as its members all owners of any Lot within the Subdivision. This organization shall be a nonprofit corporation pursuant to Title 24 of the Revised Code of Washington and shall be known as "LaBounty Estates Homeowners Association."

6.1 Purpose. The purpose of the Association shall include, without limitation, the furtherance and promotion of the common welfare of the owners of any Lot or parcel within the Subdivision; the regulation, use, care, construction, operation, repair, maintenance and preservation of the Common Properties within the subdivision for which there is a private maintenance obligation to be shared in common by the Association members; the maintenance; and the preservation of the open space; the regulation, maintenance and repair of facilities thereon and such other facilities, equipment, activities, objects and purposes pertaining to the welfare, enjoyment, social well-being, protection and benefit of the members and of their Lots within the Subdivision, including, but not limited to, the operation, maintenance and use of property held or controlled by the Association; payment of taxes, if imposed, on Common Properties and improvements; and the protection and preservation of the interests of the Lot owners for the common good.

6.2 Meetings. All meetings shall be conducted as required by RCW 64.38.035.

6.3 Creation and Transfer of Control. The Association shall be organized at the instance of the Declarant, and each Lot owner shall be a member of the Association. The Declarant shall designate and appoint a governing Board of the Association until such time as the Declarant has sold eighty (80%) percent of its Lots within these Subdivisions. When eighty (80%) percent of such Lots owned by the Declarant have been sold by the Declarant, the control of the Association shall be turned over to the members, and the members shall elect from their number the governing Board of the Association, as determined by the Articles of Incorporation and By-laws of the Association. Irrespective of the foregoing, the Declarant, at its sole and exclusive option, may elect at any time prior to the sale of eighty (80%) percent of its Lots within these Subdivisions to transfer control of the Association to the members thereof.

6.4 Assessments and Liens.

(a) Authority. The Association during the period of Declarant control and at all times thereafter shall be empowered to establish and to collect dues and assessments upon Lots in the Subdivision for the common benefit of such Lots.

(b) Purposes. The purposes for which dues and assessments may be established and collected include, without limitation, making provision for the payment of charges associated with utilities, drainage, property protection, landscaping, insurance, maintenance, improvements, payment of taxes upon Common Properties, the holding of ownership or a leasehold interest therein, enforcement of this Declaration, for any other common purposes or for collecting fines or recovering money expended on the landscaping of a Lot pursuant to Section 3.18 of this Declaration, all as determined pursuant to the Articles of Incorporation and By-laws of the Association.

(c) Personal Obligation and Lien Foreclosure. Dues and assessments shall constitute a personal obligation of any owner of record of a Lot on the due date thereof and shall also constitute a lien on the Lot assessed. Such lien may be enforced by the Association in the same form and manner of procedure as foreclosure of real property mortgages under the laws of the State of Washington.

(d) Amounts Included. Each owner and each party hereinafter owning or claiming an equity interest in a Lot agrees that in the event of such foreclosure action involving such Lot, the owner or owners thereof or other party asserting an equity interest therein will pay the Association's expenses of title examination and insurance, the cost of attorney's fees incurred by the Association and court costs, as well as all other costs reasonably and necessarily incurred in such foreclosure action. In any such action, delinquent assessments shall bear interest at the rate of 12% per annum from the date the same became due until the date of the entry of the judgment of foreclosure thereon.

(e) Other Liens and Foreclosure Actions. The method and manner

provided for foreclosure of liens set forth in this paragraph shall pertain to all liens referred to in this Declaration.

6.5 Establishment and Assessment of Charges. For the purpose of providing funds for uses specified herein the Board of the Association shall for each year, charge yearly dues against all Lots. The Declarant shall determine the first year dues shall be paid. Until dues are assessed, the Declarant shall be responsible for payment of expenses of the Association. Each Lot shall be assessed an equal amount for each calendar year for all expenses common to all Lots. Assessments shall be adopted pursuant to the requirements set forth in RCW 64.38.025.

6.6 Special Assessment. The Association may make special assessments against all Lot owners (on an equal basis) to the extent the Association elects to improve a Common Area. In addition, the Association may adopt rules and regulations for the establishment of fines for violations of the conditions, covenants, restrictions and reservations set forth in this Declaration.

6.7 Annual Statement. As soon as shall be practical in each calendar year, the Association shall send a written statement to each owner setting forth the dollar amount of the assessment for such Lot for such calendar year. The Association may, in its sole discretion, provide for payment of such assessments on a periodic basis during such calendar year, with or without a service charges. This requirement shall not apply until the Declarant has elected to assess Lots in the Subdivision.

6.8 Penalty on Delinquent Assessments. If an owner shall fail to pay any installment of an annual assessment within thirty (30) days from the date the same is due, then the entire annual assessment for such Lot shall be delinquent and shall become immediately due and payable, shall bear interest at the rate of 12% per annum thereafter until paid and shall also bear a penalty in such amount as shall be determined by the Board of the Association.

6.9 Delinquency For More Than Ninety Days. If the owner of any assessable Lot shall be delinquent in the payment of the annual assessment, or any installment thereof, for more than ninety (90) days following the date the same is due, then the Association shall have the right to commence legal action seeking a personal judgment against such owner and, in addition thereto, shall have the right to foreclose its lien upon such Lot. The total amount due from such owner shall be such sums as provided in paragraphs 6.4 and 6.5(d), plus any penalty imposed under paragraph 6.8 hereof.

6.10 Rules and Procedures for Billing and Collecting Assessments. The Board of the Association shall have the power and authority to adopt rules and procedures respecting the billing and collecting of annual assessments, which shall be binding upon all Lot owners.

6.11 Increase in Assessments. Increase and assessments shall be made pursuant to RCW 64.38.025.

6.12 Application of Assessment. The Association shall apply all funds received by it pursuant to this Declaration in the following order:

(a) Administrative costs and expenses incurred by the Association in the exercise of its powers, authority and duties described in its Articles of Incorporation and By-Laws;

(b) The promotion of the recreation, health, safety, enjoyment and welfare of the users of the Common Properties, and the enhancement of the values of the Common Properties by means of construction, repair, maintenance, operation and administration of the Common Properties, including, but not limited to, the payment of taxes and insurance premiums on the Common Properties.

(c) The service, repair, maintenance and/or replacement to Common Areas of any and all improvements, including, but not limited to landscaping, fences, paths, drainage facilities and lighting belonging to the Association.

(d) As to monies received on special assessments, to fulfill the purpose of the special assessment.

6.13 Authority to Maintain Surplus. The Association shall not be obligated to spend in any particular time period all of the sums collected or received by it during such time period or any other time period. The Association may carry forward, as surplus, any balances remaining. The Association shall not be obligated to apply any such surplus to the reduction of the amount of the annual assessment in any future year.

7. Protection of Mortgage or Deed of Trust Holder. No violation or breach of any covenant, condition, reservation or restriction contained in this Declaration, or in any supplement hereto, and no action to enforce the same, shall defeat, render invalid or impair the lien of any mortgage or deed of trust taken in good faith and for value against any title or interest in any Lot which is the subject of an action arising from such violation or breach. A purchaser of any such Lot at a trustee's sale, Sheriff's sale or Tax Foreclosure sale shall take title to such Lot free and clear of any violations or breaches which have occurred on such Lot, or by the previous owner thereof, prior to such foreclosure, but such purchaser shall nevertheless take subject to this Declaration and to any supplements hereto any and delinquent monthly or special assessments.

8. Tenants and Invitees. Tenants and Invitees of the owners or residents of the Subdivision shall be bound by the terms and conditions of this Declaration.

9. Enforcement. The Association, the Declarant and any Lot owner shall have the right to enforce, by any proceedings at law or in equity, violations of all covenants, conditions, restrictions, and reservations imposed by this Declaration. The Association and Declarant shall have the sole and exclusive right to enforce any liens



and charges now or hereafter imposed by this Declaration. The failure of the Association, of the Declarant or of any owner to enforce any rights hereunder shall not be deemed to constitute a waiver of the right to do so thereafter. The prevailing party in any litigation involving the enforcement of any provision of this Declaration shall be entitled to judgment for the reasonable attorney's fees and costs incurred in such litigation by such prevailing party.

10. Grantee's Acceptance. The grantee of any Lot subject to this Declaration shall, by the acceptance of a deed conveying title thereto or by the execution of any contract for the purchase thereof, whether from Declarant or any subsequent owner of such Lot, accept such deed or contract upon, and subject to, each and every provision of this Declaration and the provisions contained herein, including the jurisdiction, rights and powers of Declarant, and by such acceptance shall, for himself, his heirs, personal representatives, successors and assigns, covenant, consent and agree to and with Declarant and to and with the grantees and subsequent owners of each of the Lots within the Subdivision, to keep, observe, comply with and perform all obligations set forth herein. Each such grantee also agrees, by such acceptance, to assume, as against Declarant, its successors or assigns, all of the risks and hazards of ownership and occupancy attendant to such Lot, including, but not limited to, its proximity to any Common Properties, public paths, streams or other water courses.

11. Amendment to Declaration. Each and every provision of this Declaration shall run with and bind the land and shall inure to the benefit of, and be enforced by, the Association, the Declarant, the owners of any Lots subject hereto, their respective legal representatives, heirs, successors and assigns, for a period of ten (10) years from the date that this Declaration is recorded, after which time this Declaration shall be automatically extended for successive periods often (10) years, unless an instrument terminating or amending this Declaration is signed by not less than seventy-five (75%) percent of the owners of all Lots, which instrument shall then be filed of record with the Whatcom County Auditor. During the first ten (10) year term hereof, this Declaration may be amended by an instrument adopted by the Board and signed by not less than seventy (70%) percent of the owners of all Lots within the Subdivision. Any such amendment shall take effect upon being recorded with the Whatcom County Auditor. No Amendment or termination of this Declaration shall affect, change or terminate:

- (a) any of the easements described in subparagraphs 2.1, 2.3 and 2.4 of this Declaration;
- (b) Section 5 relating to the ARC without the prior written consent of the Declarant; or
- (c) Section 6 as it relates to Declarant's right to control the Association.

Notwithstanding any provision in this Declaration to the contrary, the Declarant will, at all times, retain exclusive authority to amend Section 2.7 of this Declaration to provide that all or part of the Conditional Use Parcel, and any lots identified by the

Declarant for residential purposes and contained within the Conditional Use Parcel, become subject to all covenants, conditions, reservations and restrictions applicable to Lots under this Declaration.

12. Severability. In the event that any provision hereof is deemed by proper judicial decree to be invalid, then the remaining portion of this Declaration shall in no way be affected.

13. Paragraph Headings. The paragraph headings in this Declaration are for convenience only and shall not be considered in construing this Declaration.

14. No Waiver. The failure of any party entitled to enforce any provision hereof to take steps to enforce such provision shall not, in any fashion, operate or be deemed to be a waiver of any such provision or of any other provision hereof.

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DATED this 6<sup>th</sup> day of September, 2005.

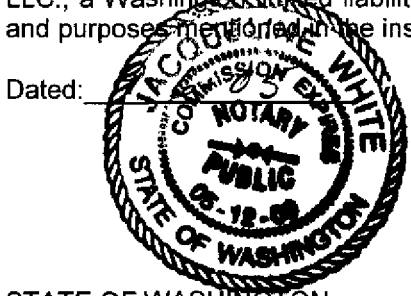
LaBounty Investments, LLC

By: Troy A. Strong  
Troy A. Strong

By: Henry M. Schroder  
Henry M. Schroder

STATE OF WASHINGTON )  
 )ss.  
COUNTY OF Whatcom )

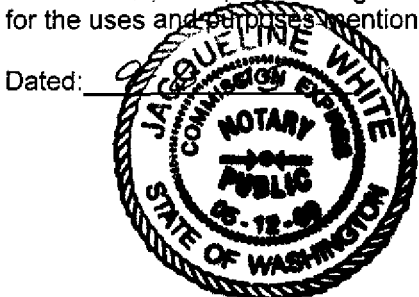
I certify that I know or have satisfactory evidence that Troy A. Strong is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Manager of LaBounty Investments, LLC., a Washington limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.



Dated: \_\_\_\_\_  
Jacqueline White  
NOTARY PUBLIC, in and for the State of  
Washington, residing at: Bellingham  
Printed Name: JACQUELINE WHITE  
My Commission expires: 5-12-09

STATE OF WASHINGTON )  
 )ss.  
COUNTY OF Whatcom )

I certify that I know or have satisfactory evidence that Henry M. Schoder is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Manager of LaBounty Investments, LLC., a Washington limited liability company, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.



Dated: \_\_\_\_\_  
Jacqueline White  
NOTARY PUBLIC, in and for the State of  
Washington, residing at: Bellingham  
Printed Name: JACQUELINE WHITE  
My Commission expires: 05-12-09