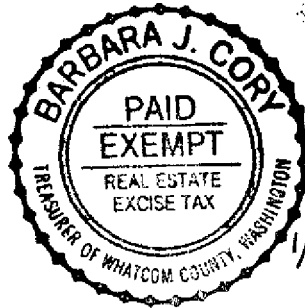


AFTER RECORDING MAIL TO:
MYERS ESTATES LLC
5977 Guide Meridian
Bellingham, WA 98226



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Whatcom County, WA

Request of: MYERS ESTATES LLC



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| TITLE OF DOCUMENT: | DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATIONS FOR MYERS ESTATES |
| GRANTOR: | MYERS ESTATES LLC. |
| GRANTEE: | THE GENERAL PUBLIC |
| ABBREV. LEGAL DESCRIPTION | MYERS ESTATES, PER PLAT AT AF# <u>2030104776</u> |

**DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS, EASEMENTS AND RESERVATIONS
OF
PLAT OF MYERS ESTATES**

THIS DECLARATION of Covenants, Conditions and Restrictions for PLAT OF MYERS ESTATES is made this 24 day of JANUARY 2003 by Myers Estates, LLC, hereinafter referred to as "Declarant".

RECITALS:

A. Declarant is the owner of the real property and improvements thereon legally described in **Exhibit "A"** attached hereto and by this reference made a part hereof as if fully set forth herein.

B. Declarant has identified the real property described in Exhibit "A" attached hereto which is the subject of this Declaration as the Plat of Myers Estates. The name "Myers Estates" throughout this Declaration is intended to mean the Plat of Myers Estates.

C. Declarant desires to declare the Plat of Myers Estates, subject to the covenants, conditions, restrictions, easements, and reservations set forth in this Declaration.

D. This Declaration is limited to the real property legally described in Exhibit "A" attached hereto, and the buildings and other improvements constructed and to be constructed thereon, and the common area, all of which shall be known as the Plat of Myers Estates.

NOW, THEREFORE, to accomplish the foregoing purposes, the Declarant hereby publishes and declares that the Plat of Myers Estates shall be held, sold, conveyed, encumbered, leased, rented, used, occupied, and improved subject to the following covenants, conditions, restrictions, easements, and reservations, all of which are for the purpose of enhancing and protecting the character, attractiveness, and desirability of Myers Estates. These covenants, conditions, restrictions, easements, and reservations shall run with the land and shall be a burden upon and a benefit to the property therein owned by the Declarant and any other person, firm, corporation, or entity of any kind whatsoever acquiring or owning an interest in Myers Estates or any part thereof, and their lessees, guests, heirs, executors, personal representatives, successors, and assigns. Acceptance of an interest in any portion of the property comprising Myers Estates shall be deemed acceptance of the terms and provisions of this Declaration.

DEFINITIONS

a) "Assessment" means all sums chargeable by the Association against a Lot including, without limitation: (a) Regular and Special Assessments for Common Expenses, charges, and fines imposed by the Association; (b) interest and late charges on any delinquent account; and (c) costs of collection, including reasonable attorneys' fees, incurred by the Association in connection with the collection of a delinquent Owner's account.

b) "Association" or "Owners' Association" or "Home Owners' Association" means the nonprofit corporation incorporated at the direction of the Declarant to manage the Common Areas of this Subdivision and enforce the provisions of the Governing Documents.

c) "Board of Directors" means the body with primary authority to manage the affairs of the Association.

d) "Common Areas" means those portions of the property within the Subdivision so designated on the Subdivision Plat, along with any other real property owned by the Association or for which the Association has maintenance responsibilities under this Declaration. Common Areas are further defined and described herein.

e) "Common Expenses" means expenditures made by or financial liabilities of the Association, together with any allocations to reserves; without limitation, such expenses include those necessary or desirable for maintaining, repairing, replacing, insuring or managing the Common Areas, along with taxes, other insurance, professional services and all other goods and services provided by the Association to its members.

f) "Common Expense liability" means the liability for Common Expenses allocated to each Lot pursuant to this Declaration.

g) "Community" means all the Property within the Subdivision, along with all the improvements constructed therein, the Association, and all other institutions and things serving the Owners of Lots therein.

h) "Conveyance" means any transfer of the ownership of a Lot, including a transfer by deed or by real estate contract, but shall not include a transfer solely for security.

i) "Declarant" means the entity, person or group of persons acting in concert who (a) executes this Subdivision Declaration, or (b) reserves or succeeds to any Special Declarant Right under the Declaration.

j) "Declarant control" means the right of the Declarant or persons designated by the Declarant to appoint and remove officers and members of the Board of Directors or to veto or approve a proposed action of the Board or Association pursuant to this Declaration.

k) "Declaration" means this document, which facilitates the creation of this Subdivision; the term also includes any lawful amendments to this document.

l) "Design Guidelines" or "Architectural Control Standards and Regulations" means the standards developed by the Board of Directors pursuant to any standards established by the Declarant.

m) "Development Plan" means any formal plan of development, however termed under the Ordinance, approved by the City of Ferndale. The term also includes any amendments thereto approved by applicable governmental entities.

n) "Foreclosure" means a forfeiture or judicial or non-judicial foreclosure of a mortgage or a deed in lieu thereof.

o) "Governing Documents," means the Declaration, the Subdivision Plat, the Bylaws of the Association along with any Rules and Regulations adopted by the Board of Directors.

p) "Improvements" shall mean and include without limitation any building, outbuilding, driveway, parking area, fencing, retaining wall, swimming pool, screening wall, ornamentation, sign, stair, deck, pole, lighting structure, hot tub, hedge, wind break, planted tree, planted shrub or any other structure or landscaping.

q) "Limited Common Expenses" are portions of the Common Expenses for which one or more, but fewer than all Lot Owners may become liable under the terms of the Governing Documents.

r) "Lot" means a physical portion of the Subdivision designated for separate ownership, the boundaries of which are depicted on the Subdivision Plat.

s) "Lot Owner" or "Owner" means the Declarant or any other person who owns a Lot, but does not include a person who has an interest in a Lot solely as security for an obligation. "Lot Owner" means the vendee, not the vendor, of a Lot under a real estate contract.

t) "Mortgage" means a mortgage, deed of trust or real estate contract.

u) "Person" means a natural person, corporation, partnership, limited partnership, trust, governmental subdivision or agency, or other legal entity.

v) "Property" or "the Property" means all the real property described as being contained within the Subdivision Plat and, where appropriate, includes all real property, which may be from time to time either added to the Subdivision by the Declarant or acquired by the Association pursuant to this declaration.

w) "Purchaser" means any person, other than the Declarant or a dealer, who by means of a disposition acquires a legal or equitable interest in a Lot other than (a) a

leasehold interest, including renewal options, of less than twenty years at the time of creation of the Lot, or (b) as security for an obligation.

x) "Real property" means any fee, leasehold or other estate or interest in, over, or under land, including structures, fixtures, and other improvements thereon and easements, rights and interests appurtenant thereto which by custom, usage, or law pass with a conveyance of land although not described in the contract of sale or instrument of conveyance. "Real property" includes Lots and other parcels within the Property, with or without upper or lower boundaries, and spaces that may be filled with air or water.

y) "Residential purposes" means use as a permanent, as opposed to transient, personal residence.

z) "Utility Easement" shall refer to any non-exclusive easement established for utility access as required by the City of Ferndale for maintenance as noted on the face of the Plat.

aa) "Special Declarant Rights" means rights reserved for the benefit of the Declarant to: (a) Complete improvements indicated on the Subdivision Plat; (b) maintain sales offices, management offices, signs advertising the Subdivision, and models; (c) use easements through the Common Areas for the purpose of making improvements within the Subdivision; (d) appoint or remove any officer of the Association or any member of the Board of Directors; or (e) to veto or approve a proposed action of the Board or Association during any period of Declarant Control reserved in this Declaration. In this Subdivision, Special Declarant Rights are described herein.

bb) "Upkeep" means care, inspection, maintenance, operation, repair, repainting, remodeling, restoration, improvement, renovation, alteration, replacement and reconstruction.

ARTICLE I TERMINATION OF DEVELOPMENT PERIOD RESERVED RIGHTS DURING DEVELOPMENT PERIOD

Myers Estates LLC, a Washington Limited Liability Company, hereinafter referred to as the "Declarant," is the owner in fee simple of the land described in this declaration, together with all improvements, easements, rights and appurtenances thereunto belonging (all collectively referred to hereinafter as "the Property"). Declarant has submitted the Property to the provisions of the Ferndale Municipal Code (hereinafter referred to as the "Ordinance"), and has thus created from such Property a Subdivision known as "Myers Estates".

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Section 1.1: Development Period.

The Myers Estates development period (also referred to as the Declarant Control Period) shall mean that period of time from the date of recording this Declaration until the date when one hundred percent (100%) of all the proposed lots within Myers Estates (42 lots) have been sold. Notwithstanding the foregoing, the Declarant, at its option, may elect to terminate the development period at any time.

Section 1.2: Declarant's Reservation of Authority During Development Period.

The Declarant hereby reserves for itself, its successors or assigns, during the development period, all of the rights, powers, and functions of the Association, or the Board itself, which shall be exercised and/or performed by the Declarant, including but not limited to the adoption of Design Guidelines or Architectural Control Standards and rules and regulations and the designation of an architect.

1.2.1: Special Declarant Rights. The Declarant has reserved the following Special Declarant Rights for the purpose of furthering and completing the development of the Subdivision: To complete any improvements indicated on the Subdivision Plat or described earlier in the Declaration; to maintain sales offices, management offices, signs advertising the Subdivision, and models on the Property, all in such location or locations as the Declarant may unilaterally determine; to use easements through the Common Areas for the purpose of making improvements within the Subdivision; and to appoint or remove any officer of the Association or any member of the Board of Directors, or to veto or approve a proposed action of the Board or Association during the Declarant Control Period herein; the Declarant shall be deemed to hold a proxy from all Lot Owners during the Declarant Control Period for such purposes.

ARTICLE II MYERS ESTATES OWNERS' ASSOCIATION

Section 2.1: Formation.

The name of the Association shall be the "Myers Estates Owners' Association." The Association has been or will be incorporated by the Declarant as a non-profit corporation under the laws of the State of Washington. The rights and duties of the members and of said corporation shall be governed by the provisions of the Homeowners Association Act, the Articles of Incorporation, the By-Laws and this Declaration. In case of any conflict between Chapter 24.06 RCW, the Nonprofit Miscellaneous and Mutual Corporations Act, and the Homeowners Association Act, Chapter 64.38 RCW, the Homeowners Association Act shall control. There shall be one (1) membership in the Association for each lot located within Myers Estates and one (1) vote for each membership. Each membership shall be appurtenant to and run with each lot, and shall

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not be assigned, transferred, pledged, hypothecated or conveyed in any way except upon the transfer of each said lot, and then only to the new Lot Owner. The term "member" shall mean and refer to every Lot Owner, whether one or more persons or entities, excluding those having an interest in any lot merely as security for the performance of an obligation, and who, as a result of such ownership, holds a membership in the Association.

The Association shall, through its Board of Directors, perform all powers available to homeowners associations under the Homeowners Association Act, and such additional powers as may be prescribed in the Bylaws of the Association. Membership and voting rights are specified in the Bylaws of the Association

Bylaws for the administration of the Association and the Property, and for other purposes not inconsistent with the Homeowners Association Act and this Declaration have been or will be prepared by the Declarant, subject to the approval of the initial Board of Directors of the Association.

Section 2.2: Transfer of Control.

The Declarant shall designate and appoint a Board of Directors of the Association during the development period until such time as one hundred percent (100%) of the lots in Myers Estates are sold or sooner upon the election of the Declarant to terminate the development period, at which time control of the Association shall be turned over to its members. Once control is turned over, the Association's members may elect the Board of Directors from their numbers at large, as provided in the Articles of Incorporation and/or Bylaws; and the Declarant will, on an ongoing basis, retain one (1) vote for each lot which it continues to own.

2.2.1: Authority of the Board. The Board, for the benefit of the Property and the Owners, shall have the authority, but not the obligation to enforce the provisions of the Governing Documents and shall have all powers and authority granted to the Board or the Association under the Homeowners Association Act and this Declaration which are not expressly subject to the approval of the Owners.

2.2.2: Incurring and Payment of Common Expenses. The Board shall acquire and shall pay for, as Common Expenses, all goods and services deemed necessary or desirable for the proper functioning of the Association. Without limitation, this shall be deemed to include all costs of necessary maintenance to the drainage facilities and open space tract within the Property.

2.2.3: Acquisition of Property. The Board may acquire and hold in the name of the Association, for the benefit of the Lot Owners, tangible and intangible personal

property and real property and interests therein, and may dispose of the same by sale or otherwise. Such property shall thereafter be held, sold, leased, rented, mortgaged or otherwise dealt with for the benefit of the Association as the Board may direct.

2.2.4: No Business Authority. Nothing herein contained shall be construed to give the Board authority to conduct an active business for profit on behalf of all of the Owners or any of them.

2.2.5: Board as Attorney in Fact. Each Owner, by the act of becoming an Owner of a Lot, shall be deemed to have irrevocably appointed the Board of Directors as his or her attorney-in-fact, with full power of substitution, to take such actions as are reasonably necessary to perform the duties of the Association and Board hereunder, including, but not limited to, the duties to maintain, repair and improve the Property, to grant licenses and easements, and to secure and distribute condemnation awards and/or insurance proceeds affecting the Common Areas.

Section 2.3: Architectural Control Standards and Regulations.

The Association shall adopt from time to time such architectural control standards and necessary rules and regulations that will impose building, landscaping and use controls and restrictions on the lots within Myers Estates. The architectural control standards and rules and regulations will be commonly referred to as the Architectural Control Standards and Regulations (hereinafter referred to as "ACSR" or "Design Guidelines") and each lot in Myers Estates will be subject to the ACSR and any changes or amendments thereto as adopted by the Association. In addition, the Association will designate as provided in the ACSR, a coordinating architect as its agent to be responsible for assistance in reviewing all plans submitted by lot owners to insure compliance with the ACSR.

The Board of Directors shall have the power to impose reasonable application fees and charges for the costs of reports, analyses or changes proposed by an Owner. Such fees shall be specially assessed against the Owner. The Board of Directors may adopt Design Guidelines to provide guidance to Owners and their contractors and design professionals in tailoring construction of improvements to the overall appearance of the Community. Design Guidelines approved by the Board of Directors shall be enforceable as if set forth herein in full.

2.3.1: Authority to Grant Variances. The Board of Directors shall have the authority, either by act or omission, to waive enforcement of or grant variances from any written Design Guidelines without a specific finding that enforcement of such guidelines would impose an unfair burden on such Owner, but describing the variance and the reasons therefore in a written instrument which shall be part of the records of the

Association. Upon such written approval of any specific variance or exception from the requirements of the Design Guidelines, all development conforming to such variance or exception shall be deemed to comply.

2.3.2: No Liability for Architectural Review. Neither the Declarant nor the Association shall be liable to any party for any good faith action or failure to act under the provisions of this Declaration.

Section 2.4: Conveyances.

The Declarant shall transfer and convey by quit claim deed all common areas, parking areas, parks, paths, walkways, improvements and equipment specified in Myers Estates to the Association subject to the reservation imposed on these properties by this Declaration. This conveyance shall be made after the Association has been formed and all necessary improvements have been completed.

Section 2.5: Purpose.

Among the objectives and purposes of the Association shall be the furtherance and promotion of the common welfare of the owners of lots located within Myers Estates; the adoption and enforcement of a set or sets of architectural control standards and rules and regulations the Association deems necessary for the governing of the development and use of each lot within Myers Estates and the ownership, regulation, care, construction, repair, maintenance, use, operation and preservation of all Common Areas, storm drainage retention facilities, walkways, easements, improvements and equipment within Myers Estates. This care and maintenance requirement will extend to all landscaping and above grade landscape-related improvements which may be located within the public road rights-of-way such as, but not limited to, the medians, cul-de-sac islands, areas between the front lot lines and roadway curbs and the subdivision entryway monumentation.

Section 2.6: Assessments - Authority.

The Association shall be empowered to establish and collect dues, assessments and special assessments upon the lots located within Myers Estates for the common benefit of all such lots to cover all of the costs of its activities outlined in Section 2.5 herein and to promote the goals established by this declaration. The method and manner of collection of said dues and assessments and remedies for non-payment shall be determined by the Bylaws of the Association and this declaration, in a manner consistent with RCW 64.38.025(3).

Section 2.7: Manner of Assessment.

Association dues shall be assessed and collected fairly and uniformly among lot owners on a basis established by the Association from time to time. Initially, the method

of assessment will be that each lot located within Myers Estates will be equally assessed and only assessed for Association costs related solely to the property. Thereafter, if any additional plats become governed by these covenants, conditions and restrictions, dues will be assessed to the property owners in an equitable manner as established by the Association. No lot owner may exempt himself from liability for his contribution toward the common expenses by waiver of the use and enjoyment of the Commons Areas or by abandonment of his lot.

Section 2.8: Establishment and Assessment of Charges.

For the purpose of providing funds for the uses specified herein, the Association shall have the authority to assess yearly dues against each recorded lot of record on the final plat of Myers Estates through the Budget approval process established in Sections 8.6 and 8.7 of the By-Laws, provided that during the development period there shall be no assessments on the Declarant's inventory of lots within the plat, and further provided that assessments shall be assessed and prorated on an annual basis upon termination of the development period or sooner upon the sale by the Declarant of any such lot.

Section 2.9: Special Assessments.

The Association may levy such other special assessments for capital improvements upon the Common Areas, or for such other purposes and in such manner as shall be provided in this Declaration, the Bylaws or other rules and regulations of the Association.

Section 2.10: Default in Payment of Assessment -- Remedies.

Each Assessment shall be the joint and several obligation of the Owner(s) of the Lot to which the same are assessed as of the time the Assessment is due. Suit to recover a personal judgment for any delinquent Assessment shall be maintainable in any court of competent jurisdiction without foreclosing or waiving the lien securing such sums. No Lot Owner may exempt himself or herself from liability with respect to the Common Expenses by waiver of the enjoyment of the right to use any of the Common Areas or by leasing, rental or abandonment of his or her Lot or otherwise. The failure or delay of the Board of Directors to adopt the Annual Budget for any year shall not constitute a waiver or release in any manner of a Lot Owner's obligation to pay his or her allocable share of the Common Expenses as herein provided, and in the absence of an Annual Budget or adjusted Annual Budget, each Owner shall continue to pay (with or without notice) an Assessment at the rate established for the preceding fiscal year..

If any assessment, annual or special, is not paid within thirty (30) days after it is first due and payable, the assessment shall bear interest from the date on which it was due until paid at the highest rate permitted by law or, if no limitation is imposed by law, at the rate of twelve percent (12%) per annum or such other legal rate of interest as may be

determined by the Association from time to time. If any owner fails to pay any assessment within ninety (90) days of its due date, the Association shall have the right to bring an action at law or equity against the person or entity personally obligated to pay the same and obtain a personal judgment against such person or entity; and/or foreclose the lien of the assessment in the manner provided for foreclosure of real estate mortgages. In this event, the designated legal representative of the Association will be deemed the trustee or successor trustee for purposes of foreclosure. The Association may elect at its option either alternative remedy or such other remedy legally available at law. In the event of any such action to collect delinquent assessments, the defaulting lot owner shall be liable for the Association's costs, reasonable attorney's fees, title reports and delinquent interest and all such sums shall be included in any judgment or foreclosure.

In addition to the above remedies, the Association reserves the right to suspend members' voting rights and right to use the Common Areas during any period that the lot owner is in default in payment of dues and assessments; provided that any such suspension shall not waive any right the Association has to collect such dues and assessments.

2.10.1: Timing of Payments. Until changed by resolution of the Board of Directors, the annual Assessment against each Lot for its share of the Common Expenses shall be due and payable on the first day of the month of February of each year. The Board may adopt further payment policies, which permit payment in installments under conditions to be determined by the Board.

2.10.2: Liability Following Conveyance of Lot. A selling Lot Owner shall not be liable for the payment of any part of the Common Expenses assessed against his or her Lot subsequent to a sale, transfer or other conveyance by him of such Lot. The purchaser of a Lot shall be jointly and severally liable with the selling Lot Owner for all unpaid Assessments against the Lot up to the time of the conveyance without prejudice to the purchaser's right to recover from the selling Lot Owner the amounts paid by the purchaser therefore. The holder of a mortgage or other purchaser of a Lot who obtains the right of possession of the Lot through foreclosure shall not be liable for Assessments that became due prior to such right of possession. Such unpaid Assessments shall be deemed to be Common Expenses collectible from all the Lot Owners, including such mortgagee or other purchaser of the Lot. Foreclosure of a mortgage does not relieve the prior Owner of personal liability for Assessments accruing against the Lot prior to the date of such sale as provided above.

2.10.3: Statement of Unpaid Assessments. The Association, upon written request, shall furnish to a Lot Owner or a mortgagee a statement signed by an officer or

authorized agent of the Association setting forth the amount of unpaid Assessments against that Lot.

2.10.4: Lien for Assessments. The Association shall have a lien on a Lot for any unpaid Assessments levied against a Lot from the time the Assessment is due. If an Assessment is payable in installments, the Association has a lien for the full amount of the Assessment from the time the first installment thereof is due.

2.10.5: Perfection of Lien. Recording of this Declaration constitutes record notice and perfection of the lien for Assessments. While no further recording of any claim of lien for Assessments shall be required to perfect the Association's lien, the Association may record a notice of claim of lien for Assessments under this section in the real property records of the county in which the Subdivision is located.

2.10.6: Priority of Lien. A lien under this Section shall be prior to all other liens and encumbrances on a Lot except: (a) Liens and encumbrances recorded before the recording of the Declaration; (b) a mortgage on the Lot recorded before the date on which the Assessment sought to be enforced became delinquent; and (c) liens for real property taxes and other governmental assessments or charges against the Lot.

2.10.7: Enforcement of Lien. The Association or its authorized representative shall have the power to purchase the Lot at the foreclosure sale and to acquire, hold, lease, mortgage, or convey the same. Upon an express waiver in the complaint of any right to a deficiency judgment in a judicial foreclosure action, the period of redemption shall be eight months. The Association may elect to take a deed in lieu of foreclosure in any such proceeding.

2.10.8: Limitation of Lien Enforcement. A lien for unpaid Assessments and the personal liability for payment thereof is extinguished unless proceedings to enforce the lien are instituted within six years after the amount of the Assessments sought to be recovered becomes due.

2.10.9: Rent Subject to Lien for Assessments. From the time of commencement of an action by the Association to foreclose a lien for nonpayment of delinquent Assessments against a Lot that is not occupied by the Owner thereof, the Association shall be entitled to the appointment of a receiver to collect from the lessee thereof the rent for the Lots as and when due. If the rental is not paid, the receiver may obtain possession of the Lot, refurbish it for rental up to a reasonable standard for rental Lots in this type of project, rent the Lot or permit its rental to others, and apply the rents first to the cost of the receivership and attorneys' fees thereof, then to the cost of refurbishing the Lot, then to applicable charges, then to costs, fees, and charges of the foreclosure action, and then

to the payment of the delinquent Assessments. Only a receiver may take possession and collect rents under this subsection, and a receiver shall not be appointed less than ninety days after the delinquency. The exercise by the Association of the foregoing rights shall not affect the priority of preexisting liens on the Lot.

2.10.10: Remedies Cumulative. The remedies provided are cumulative and the Board may pursue them concurrently, along with any other remedies, which may be available under the law although not expressed herein.

2.11: Authority to Maintain Surplus. The Association shall not be obligated to spend in any particular time period all of the sums collected by it in such time period or remaining from any previous 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 charge in any year.

ARTICLE III EASEMENTS

Section 3.1: Reservation of Easement.

There is reserved to Declarant and to the Association, their agents and employees, an easement over each and every lot within Myers Estates for entry and access in a reasonable manner and at reasonable times and places for performance generally of all their rights and duties as provided in this Declaration, ACSR, and Rules and Regulations as may be adopted by the Association.

Section 3.2: General Easements.

Each Lot has an easement in and through each other Lot and the Common Areas for utilities and for lateral and/or subjacent support. Easements for drainage, curtain drains, sewers, water pipes and utilities, facilities and service (including but not limited to water supply, electricity, gas, telephone, television) are hereby reserved over, under, upon, and in and through certain portions of lots, tracts or parcels as shown on the final plat map of Myers Estates, in which to install, lay, construct, repair, renew, operate, maintain and inspect underground pipes, sewers, conduits, cables, wires and all necessary facilities and equipment for the purpose of serving said plat, together with the right to enter upon said easement areas, lots, tracts, parcels, roads and walkways for or pertaining to the aforesaid. All utility systems shall be underground exclusively. This reservation of easement is for the benefit of the Declarant and its successors in interest, City of Ferndale, Puget Power, Cascade Natural Gas, telephone and cablevision providers and others.

3.2.1: Easements for Declarant. The Declarant reserves to itself and its any lawful successors an easement through the Common Areas for any and all activities necessary or desirable to complete the development of the Community or for exercising Special Declarant Rights.

3.2.2: Easement for Association Functions. There is hereby granted and reserved to the Association, or its duly authorized agents and representatives, such easements as are necessary to perform the duties and obligations of the Association as are set forth in the Declaration, the Bylaws, or the Rules and Regulations.

ARTICLE IV DRAINAGE MAINTENANCE

Section 4.1: Maintenance Agreement and Guidelines. All costs of maintaining, repairing, restoring, improving or costs otherwise connected with any drainage courses, including wetlands, or storm drainage biofiltration swales within any indicated easements of the Plat of Myers Estates shall be borne by the Association. The Association shall inspect the entire detention pond facility as per the Detention Pond Maintenance Requirements for The Plat of Myers Estates as developed by Madrona Engineering, 2113 Tuttle Lane, Lummi Island, Washington 98262. See attached Addendum 1A.

In addition to the required inspections and maintenance procedures contained in the above report, the Association shall annually hire a registered engineer to inspect and certify the adequacy of the storm water treatment and conveyance systems. A copy of this certification shall be submitted to the City of Ferndale, Public Works Director. If the inspection should determine that there are deficiencies, correction measure shall be identified and carried out by the homeowners' association in a timely manner.

The Association shall also, at intervals not to exceed 3 years, employ the services of a qualified biological professional to certify that the wetlands contained in the Common Area Reserve Tract, (Tract B) are being protected. This certification shall be submitted to the City of Ferndale, Public Works Director. If the assessment should determine that restoration measures are needed, these measures will be specified and carried out by the homeowners' association in a timely matter.

ARTICLE V
PROPERTY RIGHTS IN THE COMMON AREA

Section 5.1: Identification of Common Areas:

These areas listed on the Plat as Tracts A, B, C, & D.

Section 5.2: Lot Owner's Easement of Enjoyment in and to the Common Areas.

Every lot owner shall have non-exclusive right and easement of enjoyment in and to the Common Areas owned by the Association, and such easement shall be appurtenant to and conveyed with the ownership of every lot, even though such easement is not expressly mentioned or described in the conveyance or other instrument, subject to the following restrictions:

5.2.1 The right of the Association to make on behalf of its members any rules and regulations pertaining to the use of the Common Areas and restrictions on the use of the Common Areas.

5.2.2 The right of the Association to the exclusive use and management of said Common Areas for utilities such as pumps, pipes, wire, conduits, and other utility equipment, supplies, and material.

5.2.3 The rights reserved to the Declarant in the Declaration.

5.2.4 The right of the Association to suspend the voting rights and right to use of the common area by an owner for any period during which any assessment against his lot remains unpaid.

5.2.5 The right of the Association to dedicate or transfer all or any part of the common area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Association. After the termination of the development period, no such dedication or transfer shall be effective unless an instrument agreeing to such declaration or transfer, signed by seventy-five percent (75%) of all members has been recorded.

5.2.6 The other restrictions, limitations, and reservations contained or provided for in this Declaration, the ACSR, the Bylaws and other rules and regulations of the Association.

5.2.7 The Board of Directors of the Association shall have the right to adopt more comprehensive standards from time to time, and to adopt reasonable regulations and restrictions for the maintenance of the Common Areas.

Section 5.3: Title to Common Area.

After conveyance by Declarant, title to the Common Areas shall be held by the Association.

5.3.1: No Partition. The Common Areas shall remain undivided and shall not be abandoned by act or omission, and no Lot Owner or other person may bring any action for partition or division of the Common Areas.

5.3.2: No Interference with Common Areas. No Lot Owner shall obstruct any of the Common Areas nor shall any Lot Owner place or cause or permit anything to be placed on or in any of the Common Areas without the approval of the Board. Nothing shall be altered or constructed in or removed from the Common Areas except with the prior written consent of the Board of Directors.

5.3.2.1 Exceptions. The owners of Lots 27 and 28 are granted an easement over the common areas of Tract D for the purpose of installation and maintenance of side yard fences (if desired) to attach to the front entrance fence. Prior to installation of any fencing, the owners shall seek architectural review approval as provided in the architectural control standards.

5.3.3: Right of Access. Each Lot Owner shall afford to the Association, and to its agents or employees, access through the Owner's Lot as may be reasonably necessary for the purposes of maintenance, repair and replacement of the Common Areas. If damage is inflicted on the Lot as a result of such activities, the Association shall be liable for the repair thereof.

ARTICLE VI USE OF PROPERTY

Section 6.1: Business and Commercial Use of Property Prohibited.

All lots within Myers Estates shall be used exclusively for permanent, single-family residences and for no other purposes. No lot within Myers Estates is eligible for the development of a detached accessory dwelling unit nor an accessory apartment. No temporary structures, mobile homes, trailers, tents or shack shall be placed on any lot, except upon written approval of the Coordinating Architect. No trade, craft, business, commercial or manufacturing enterprise or business or commercial activity of any kind shall be conducted or carried on upon any lot or within any unit, nor shall any goods, equipment, vehicles or materials or supplies used in connection with any trade, service, or business or used for private purposes, be kept, parked, stored, dismantled or repaired outside on any lot or any street within Myers Estates, nor shall anything be done on any

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lot which may be or may become an annoyance or nuisance to any other lot owner. No short-term rental or subletting of any lot or residence thereon shall be permitted (short-term meaning any rental or subletting for a period of less than six month intervals), and no Bed & Breakfast facilities or transient rental of residential structures shall be permitted. The above restrictions will not prohibit physicians, lawyers, writers, artists or other professionals from having their offices or studios in their house, employing not more than two individuals who are not living in the house.

Section 6.2: Nuisance Prohibited.

No noxious or offensive activity shall be carried on, in, or upon any lot, nor shall anything be done therein which may be or become an annoyance or nuisance to other owners. No rubbish, debris or unsightly materials of any kind shall be placed or be permitted to accumulate on any portion of a lot, nor shall any odors or loud noises be allowed to emanate from any lot, which are offensive or detrimental to any persons occupying any other lots located within Myers Estates. No exterior speakers, horns, whistles, bells or other sound devices except security and fire alarm devices used exclusively for such purposes, and no plant, animal, device or other thing whose normal activity or existence is in any way noxious, dangerous, unsightly or unpleasant or the nature of which might significantly diminish the enjoyment of neighboring residents shall be permitted or maintained on any lot.

Section 6.3: Lot Owners' Responsibilities.

Each lot owner covenants and agrees to maintain his respective lot(s) and improvements thereon in the same condition as a reasonably prudent homeowner would maintain his own home so that the entire real property will reflect a high pride of ownership and further, to maintain and prune bushes, shrubs and other landscaping so as to prevent view obstruction. The standards and conditions as to the pruning and the height of the bushes, shrubs and other landscaping shall be provided in the ACSR. If any lot owner shall fail to provide the initial landscaping or to maintain his lot or the building(s) or landscaping located thereon to the standards set forth this Declaration and the ACSR, the Association shall have the right to notify said lot owners, in writing, of the maintenance required. If said notice is delivered to the non-performing lot owner and no action is taken for a period of sixty (60) days, the Association shall have the right, through its agents and employees to enter upon said lot and provide such maintenance, and to levy an assessment against the non-performing lot owner and his lot for the cost of providing said maintenance. Said assessment shall constitute a lien against the lot owned by the non-performing lot owner, and may be collected in the same manner as provided for delinquent assessments in Section 2 herein.

6.3.1: Effect on Insurance. Nothing shall be done or maintained in any Lot or in the Common Areas which will increase the rate of insurance on the Common Areas or

Lots without the prior written consent of the Board. No Owner shall permit anything to be done or maintained in his or her Lot or in the Common Areas, which will result in the cancellation of insurance on any Lot or any part of the Common Areas.

6.3.2: 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 the Owners thereof.

6.3.3: Signs. No sign of any kind shall be displayed to the public view on or from any Lot or Common Areas without the prior consent of the Board; this section shall not apply to Declarant or Declarant's agents, nor shall it be deemed to prohibit the Owner of a Lot from displaying a reasonable sign on such Lot for a period of time in which the Owner's Lot is for sale or rent.

6.3.4: Compliance with Environmental Laws. Use of the Lots and Common Areas of this Subdivision may be subject to various federal, state and local laws, regulations and guidelines now in effect and/or hereafter enacted, relating to or affecting the Property, concerning the impact on the environment of construction, land use, and the maintenance and operation of structures located thereon. No Lot Owner shall cause, or permit to be caused, any act or practice by negligence, or omission, or otherwise, that would adversely affect the environment or do anything or permit anything to be done that would violate any of the said laws, regulations or guidelines. The foregoing shall cover all requirements whether or not foreseeable at the present time and regardless of their expense.

6.3.5: Lease Restrictions. With the exception of an institutional lender in possession of a Lot following a default under a first mortgage, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure, no Lot Owner shall be permitted to lease all or any portion of a Lot for periods of less than thirty days. Any lease agreement shall be required and deemed to provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration, the Bylaws and Rules and Regulations, and that any failure by the Lessee to comply with such provisions shall be a default under the lease, entitling the Association to enforce such provisions as a real party in interest. All leases shall be in writing. A lease, as defined herein, shall include month-to-month rentals. Any tenant or subtenant of any portion of a Lot shall be deemed to have assumed all the responsibilities of an Owner under this Section of the Declaration.

6.3.6: Assignment or Subletting. The assignment or subleasing of a Lot shall be subject to the same limitations as are applicable to the leasing or renting thereof. An Owner or tenant may not exempt himself or herself from any liability under this

Declaration or the Bylaws or Rules and Regulations by assigning or subleasing the occupancy rights to his or her Lot.

ARTICLE VII GENERAL PROTECTIVE COVENANTS

Section 7.1: Access to Lots.

Access to all lots within Myers Estates shall be by way of Myers Drive and Wiley Court.

Section 7.2: Compliance with Covenants, Conditions and Restrictions.

All construction and landscaping work carried out on any lot located within Myers Estates must be in complete conformity with this Declaration and with the ACSR related to such lot as established by the Association from time to time, and must be in strict compliance with the plans which have been approved in accordance with such standards.

Section 7.3: Association's Authority and Agents.

The Association has the authority to make all decisions required pursuant to this Declaration and the ACSR, and has appointed a Coordinating Architect as its agent with the authority to make decisions on its behalf concerning certain of these standards. The Association retains the right to change Coordinating Architects or to appoint any other agent, nominee or person from time to time to act on its behalf with regard to decisions to be made pursuant to these covenants, conditions and restrictions, the ACSR or other regulations as may be adopted by the Association. Decisions made by such approved agent(s) will be fully binding as if they had been made directly by the Association.

Section 7.4: Waiver.

The failure of the Association or the Declarant or of any of their duly authorized agents or any of the owners to insist in any one or more instances upon the strict performance of or compliance with this Declaration, the ACSR, or any of the Bylaws or rules or regulations of the Association, or to exercise any right or option contained therein, or to serve notice or to institute any action or summary proceedings, shall not be construed as a waiver or relinquishment of such right for the future, and such right to enforce any of the provisions of this Declaration, the ACSR, the Bylaws or rules or regulations of the Association shall continue and remain in full force and effect. No waiver of any provision of this Declaration, the ACSR or the Bylaws, rules or regulations of the Association shall be deemed to have been made, either expressly or implied, unless such waiver shall be in writing and signed pursuant to authority contained in a resolution of the Board. The Association and its agent(s) does, however, reserve the right to vary or waive any of the provisions contained in the ACSR as to a particular lot or lots, and shall

in no way be liable to any owner or anyone else for damages or otherwise as a result of their decisions in this regard. Moreover, no owner has any right to override or overturn any waiver by the Association of a condition contained in the ACSR pertaining to any other owner or lot.

Section 7.5: Liability.

Nothing contained in this Declaration or the ACSR shall be construed or implied as imposing on the Association or its agents any liability to any party for any action or failure to act in regard to any provisions of this Declaration, the ACSR or any other rules and regulations adopted by the Association, including damages resulting from structural defects in any structure erected on any lot, and any person submitting plans, specifications or details to the Association or its agent(s) expressly waives any claim for damages or compensation arising from breach of contract, negligence or otherwise, unless the Association or its agent(s) have proceeded in bad faith or with malice.

Each owner covenants and agrees for himself and his successors that the Declarant, the Association and its agent(s) shall not be liable for damages and injuries caused by windfall from trees, geologic hazards, adjacent steep slopes or deficiencies in the design or construction of the subdivision.

Any owner found to be in breach of any of the provisions of this Declaration or the ACSR will indemnify and save harmless any other owners of lots negatively affected from and against any and all reasonable losses, costs, claims and damages including attorneys' fees actually paid, arising as a result of any such breach or the enforcement of any such provisions.

7.5.1: No Liability for Utility Failure, Etc. Except to the extent covered by insurance obtained by the Board, neither the Association nor the Board nor the Declarant shall be liable for any failure of any utility or other service obtained by the Board, or for injury or damage to person or property caused by the elements, or for inconvenience or discomfort resulting from any action taken to comply with any law, ordinance or orders of a governmental authority. No diminution or abatement of liability for Common Expense Assessments shall be claimed or allowed for any such injury or damage, or for such inconvenience or discomfort.

7.5.2: No Bailment. Neither the Board of Directors, the Association, any Owner nor the Declarant shall be considered a bailee of any personal property stored or placed on the Common Areas (including property located in vehicles parked on the Common Areas), whether or not exclusive possession of the particular area is given to an Owner for parking or otherwise, nor shall they be responsible for the security of such personal

property or for any loss or damage thereto, whether or not due to negligence, except to the extent covered by insurance in excess of any applicable deductible.

Section 7.6: Enforcement.

If any owner of a lot shall violate or allow the violation of any of the provisions of this Declaration or the ACSR or rules or regulations adopted by the Association, it shall be lawful for the Association, the Association's agent(s), as well as any owner of any other lot or City of Ferndale, where applicable, to prosecute and proceed at law or in equity against such violating owner to correct or enjoin the violation or to recover damages related thereto, notwithstanding the fact that such errant owner may have ceased to hold title to a lot located within Myers Estates.

In the event the Association or its agent(s) takes enforcement action provided above, all reasonable costs including attorneys' fees incurred as a result of such action shall be paid by the errant owner, and such costs shall bear interest as provided for delinquent assessments and shall constitute a lien against the lot.

Section 7.7: Grantee's Acceptance and Amendments.

The grantee of any lot located within Myers Estates by acceptance of a deed conveying title thereof, or the execution of a contract for the purchase thereof, whether from the Declarant or a subsequent owner of such lot, shall accept such deed or contract upon and subject to each and all of the provisions contained in this Declaration, the ACSR and other rules and regulations related to such lot, and the jurisdiction, rights and powers of the Association and its agent(s), and by such acceptance shall for himself/herself, his/her heirs, personal representatives, successors and assigns, consent and agree to and with the Association to keep, observe, comply with and perform all of the provisions of this Declaration, the ACSR and other rules and regulations related to his/her lot and any Amendments thereto.

Any of the provisions contained in this Declaration may be amended at any time. Amendments to the Declaration shall be made by an instrument in writing entitled "Amendment to Declaration" which sets forth the entire amendment. Except as otherwise specifically provided for in this Declaration, any proposed amendment must be approved by a majority of the Board prior to its adoption by the Owners. Except in cases of amendments that may be adopted by the Declarant unilaterally pursuant to this declaration, amendments may be adopted only at a meeting of the Owners if at least sixty-seven percent (67%) of the votes in the Association are cast for such amendment, or without any meeting if all Owners have been duly notified and Owners holding at least sixty-seven percent (67%) of the votes in the Association consent in writing to such amendment. In all cases, the amendment when adopted shall be presented to the Board of Directors who shall approve the Amendment as to form and bear the acknowledged

signature of the President of the Association. The President shall certify that the amendment was properly adopted and such certification shall be recorded.

7.7.1: Amendments by Declarant. The Declarant may unilaterally adopt and file amendments to the Declaration and to the Subdivision Plat for so long as the Declarant is the Owner of any Lot in the Subdivision or until the expiration of the time limit for the exercise of any Development Rights or Special Declarant Rights reserved by the Declarant, in order to conform them to the actual location of any of the constructed improvements and to establish, vacate and relocate utility easements, access road easements and parking areas, to satisfy the requirements of any title insurance company or institutional lender, or to correct any nonmaterial technical errors contained in the Subdivision Instruments or clarify provisions of same.

7.7.2: Recordation Required. Every amendment to the Declaration must be recorded with the County Auditor and is effective only upon recording. An amendment shall be indexed in the name of the Subdivision and shall contain a cross-reference by recording number to the Declaration and each previously recorded amendment thereto.

Section 7.8: Protection of Holder of Mortgage or Deed of Trust.

No violation or breach of any provision contained in this Declaration and the ACSR and no action to enforce the same shall defeat, render invalid or impair in any way the lien of any mortgage or deed of trust held on any lot located within Myers Estates, or the title or interest of the holder thereof, or the title acquired by any purchaser upon foreclosure of any such mortgage or deed of trust. Any such purchaser shall, however, acquire title to any such lot subject to the provisions of this Declaration and the ACSR related to such lot.

Section 7.9: Sales Office/Model Home.

The Declarant reserves the right to maintain a sales office/model home on a lot or lots to be designated within Myers Estates for the purpose of selling and re-selling lots within the plat or within neighboring plats. The Declarant reserves the right to place and maintain "for sale" signs on any lot within Myers Estates.

Section 7.10: Damages.

Each owner agrees that being in violation of the restrictions herein set forth may constitute an injury or damage to some or all of the other owners, which shall be deemed to be impossible to quantitatively measure. As a result, any or all of the other owners or the Association, in addition to all of the other remedies at law and at equity, will be entitled to a decree or other restraining or legally prohibiting any breach of any of the provisions of this Declaration and the governing ACSR, and any owner in breach of any

such provisions hereby agrees that he/she will not plead in defense thereto that there would be an adequate remedy in damages.

Section 7.11: No Waiver of Other Laws:

The provisions contained in this Declaration and the ACSR shall not relieve any owner of the requirement to observe the Bylaws, ordinances and other requirements of City of Ferndale, all development agreements between the Declarant and the City, and the obligations and liabilities imposed by statute or common law on the owners and occupants of the lots, all of which must be duly observed and complied with.

Section 7.12: Failure to Enforce.

Failure to enforce any provision of this Declaration or the ACSR shall not operate as a waiver of any such provision or of any other provisions contained herein.

Section 7.13: Severability.

If any provision of this Declaration or the ACSR is determined to be void or unenforceable in whole or in part, it shall not be deemed to affect or impair the validity or enforceability of any other provision contained therein.

Section 7.14: Time of Essence.

Time shall be of the essence of this Declaration and the ACSR.

Section 7.15: Liability and Hazard Insurance.

The Association shall have authority to and shall obtain insurance as considered appropriate. All such insurance coverage shall be written in the name of the Association.

7.15.1: Deductible. The deductible, if any, on any policy of insurance purchased by the Board of Directors, shall be paid by the Association as a Common Expense. Funds to cover the deductible should be included in the Association's operating reserve account.

Section 7.16: Association Control.

The Association is hereby authorized and empowered to adopt rules and regulations governing the use of the Plat of Myers Estates and the personal conduct of the members and their guests, and to establish penalties for infraction thereof. All lot owners shall be given written notice of said rules and regulations.

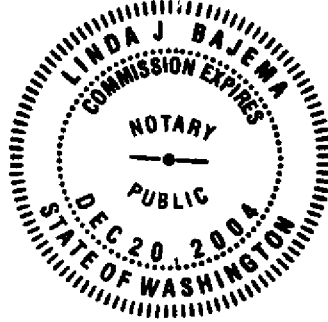
Section 7.17: Remedies.

The remedies provided herein and in the Bylaws of the Association for collection of any assessment or other charge or claim against any member, for and on behalf of the

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corporation for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



Linda J. Bajema
NOTARY PUBLIC in and for the
State of Washington, residing
at Lynden, WA
My commission expires: 12-20-04

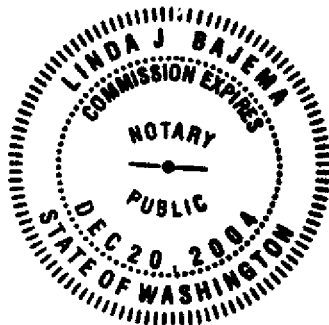
STATE OF WASHINGTON)

) ss.

County of Whatcom)

On this 23rd day of January, 2003, before me personally appeared ROGER ROOSEENDAAL, to me known to be a member of Myers Estates, LLC, the Limited Liability Corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.



Linda J. Bajema
NOTARY PUBLIC in and for the
State of Washington, residing
at Lynden, WA
My commission expires: 12-20-04

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