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Whatcom County, WA

Request of: SKAGIT STATE BANK

FILED FOR RECORD AT THE
REQUEST OF/RETURN TO:
Skagit State Bank
Business Banking Center
Attn: Geoff Wachter
121 North Spruce Street
Burlington, Washington 98233

DECLARATION OF COVENANTS, CONDITIONS,
RESERVATIONS AND RESTRICTIONS OF ROSEBERRY HEIGHTS

Grantor (s) SKAGIT STATE BANK

Grantee (s) THE PUBLIC

Additional Grantor(s) on page(s)

Additional Grantee(s) on page(s)

Abbreviated Legal: Lots 1-20 Plat of Roseberry Heights; Ptn NE, SW, S18,T39N,R2E, W.M.

Additional Legal on page(s) Exhibit "A"

Assessor's Tax Parcel No's: 390218 174215
390218 138241

A. RECITALS

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

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

See attached Exhibit "A".

SITUATE IN THE CITY OF FERNDALE, COUNTY OF WHATCOM,
STATE OF WASHINGTON.

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.

3. Declarant owns the property described in Exhibit A (Roseberry Ridge, subdivision and/or the Property). The Declarant received preliminary plat approval for Roseberry Ridge. The Declarant desires to have all lots created from the property described in the preliminary plat be subject to this Declaration. The property subject to these covenants is commonly known as "Roseberry Ridge" and shall be referred to herein by that name and/or as the "Subdivision".

B. DECLARATION

The Declarant hereby certifies and declares that the following covenants, conditions, reservations and restrictions shall inure 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 Subdivision 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 Lot. Any parcel of real property within the boundaries of the Subdivision identified by Arabic numerals and designated for the location and construction of a single-family residence.

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

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

1.4 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.

1.5 Declarant. Declarant, Skagit State Bank, a state chartered commercial bank.

1.6 Common Properties. Common properties are the following:

(a) Open Space Area Tract A, a 70,382 square foot area created and designated on the face of the plat of the Subdivision.

(b) The Declarant/Grantee's interest in all easements and maintenance agreements relating to the Plat.

and

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

1.7 Plat. The Plat of ROSEBERRY HEIGHTS, as more particularly described in Exhibit "A". The word plat shall also refer to plat maps, when recorded, for the Subdivision.

1.8 Assessable Property. Each individual lot.

1.9 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, wind breaks, plantings, planted trees, shrubs, poles, lighting, hot tubs and any other structure or landscaping.

1.10 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.

1.11 Board. The Board of Directors of the Association.

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

1.13 Subdivision. The word Subdivision shall refer to the real property described in the Recitals of this Declaration.

1.14 Declaration. This Declaration of Covenants, Conditions, Reservations, and Restrictions for the Roseberry Ridge Project.

1.15 Dedications to the City of Ferndale. By and through the recording of this Declaration, the following tracts are dedicated to the City of Ferndale:

(a) All of the roads, sidewalks and public rights of way as set forth on the face of the Plat.

1.16 ARC. The ARC is the Architectural Review Committee as fully defined in this Declaration.

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, as identified on the face of the plat. In addition, easements for the following are reserved over across and under the specific lots as shown on the face of the plat, including but not limited to:

(a) A nonexclusive utility easement (for all uses set forth in the preceding paragraph), 5 feet in width over, across and under that portion of each Lot along the inside perimeter of all Lots in the subdivision, *except*: i. Lot 12 where the width of such nonexclusive easement is set forth on the face of the subdivision; ii. the back of Lots 1-6 where the width of such nonexclusive easement is 20 feet in width; iii. the back of Lots 8 and 9 where the width of such nonexclusive easement is 15 feet. In addition, a nonexclusive utility easement 10 feet in width over, across and under that portion of each Lot abutting a public right of way which strip shall be parallel to and coincident with the boundaries of all public streets and road rights of way. All such easements are set forth on the face of the Plat. 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, U.S. West Communications, TCI Cablevision of Washington Inc., and any other purveyors of such services as herein before described, as well as any of their successors in interest.

(b) Based upon the Declarant's construction of the expansion of the storm water facility located to the west of the Plat on Nicholas Drive, and Declarant's contribution to the City of Ferndale for the use of the same, the Plat's storm water shall flow to and be managed via that offsite storm water facility, which facility is owned and maintained by the City of Ferndale.

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 the last of the lots owned by Declarant 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 as noted on the face of the plat, identified herein and/or 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 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 Easement Restoration. Any work done within 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.

2.5 Obligation to Maintain. The Association shall be obligated to operate, repair, maintain and preserve all of the Common Properties consistent with the purpose of and easement restrictions affecting each parcel.

3. GENERAL USE RESTRICTIONS AND REQUIREMENTS

3.1 Allowed Uses--Permanent Residential Purposes. All lots within the Subdivision shall be used exclusively for permanent single family residential purposes. No business or commercial

activity (including but not limited to home care facilities, domestic shelters, day care and/or pre-schools) shall be maintained, occur or be allowed on any lot or common area within the Subdivision. Only one single family dwelling is allowed to be constructed and/or maintained on each lot.

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 otherwise neatly stored behind the front wall line of the residence and reasonably screened from view from the street, nor shall any such items or vehicles be parked on any street within the Subdivision overnight. Out-of-county guests of an owner may, with such owner's permission, park a recreational vehicle or travel trailer on lots for up to a maximum of one (1) week 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 Signs. No signs or billboards shall be placed on any lot, except one identification sign bearing the owner's name and address may be placed upon the owner's lot. In addition thereto, the Declarant and any owner or such owner's agent, may subsequently advertise any lot for sale; and furthermore, an owner may display signs of a political nature, promoting a candidate or a political proposition, during periods of political campaigns.

3.6 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.

3.7 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. Non-muffled motorcycles, motorbikes, trail bikes, snowmobiles and similar vehicles shall not be operated on any portion of the Subdivision (and the roads therein) whether licensed or not. Parking anywhere of any vehicle that does not have current license tabs and registration or that is not capable of immediately moving under its own power for any period of time in excess of seven (7) days shall be prohibited. No repair, maintenance or body work may be conducted on any vehicle, boat, trailer or other such object anywhere on any lot unless such vehicle and work is concealed in a fully enclosed, permanent garage. No owner shall keep more than four (4) vehicles on the owner's lot at any time, not including vehicles that are fully concealed within a permanent garage. Owners shall provide off street parking for their personal and recreational vehicles. All vehicles must be parked on a driveway or parking area made of concrete, asphalt or other such impermeable material.

Without in any way limiting the generality of the preceding sentence, vehicles shall never be parked upon grassed or landscaped areas.

3.8 Antennas. No television, radio or satellite antenna, receivers, dishes or other telecommunication devices shall be installed on any portion of any lot unless contained entirely within the interior of a building or in the backyard, reasonably screened from the view of all neighbors.

3.9 Fences and Hedges. Wire and chain link fencing is prohibited. Other types of fencing are generally permitted only in the rear yards. The rear yard of any lot shall be defined as including any part of the yard that is located beyond the front wall of any dwelling or outbuilding. No fence or hedge shall exceed six (6) feet in height from the finished lot grade. Side yard fences shall not project beyond the front walls of any dwelling or outbuilding.

3.10 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 and a building permit is obtained from the City of Ferndale. 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.

3.11 Roofing & Siding. Roofing materials are limited to natural cedar shakes or shingles, concrete or clay tiles, slate or textured twenty-five (25) year plus mineral surfaced composition shingles. All roofs shall have a minimum of a 4-12 pitch. All siding shall be lap siding, brick, rock or other materials approved by the Declarant or the ARC.

3.12 Chimney Design. To the extent possible, exposed metal chimneys shall be situated on the portion of the roof of any structure that faces away from the road.

3.13 Driveways and Walkways. Driveways shall not exceed forty (40) feet in width. All driveways and sidewalks shall be constructed from poured concrete or such other substance as is approved by the Declarant or ARC.

3.14 Clothesline Restrictions. Clotheslines are only permitted in the backyard of a lot.

3.15 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.

3.16 Damaged Improvements.

(i) The Owner, its agents, employees, independent contractors, guest or invitees shall not damage any of the common areas, easement areas and/or land dedicated to the City, or any of the improvements located thereon. If any such property is so damaged, the Owner causing the same shall immediately repair the same (subject to consent of the Association to proceed and receipt of any required regulatory approval, including but not limited to building permits). If an Owner fails to repair damage cause by such Owner (and/or the Owner's agents, employees, independent contractors, guest or invitees), the Association may (but it not obligated to) repair the same. The cost for all such repairs shall then be entered as a special assessment against that Owner's lot as provided for below.

(ii) No improvement on any Lot 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 four months from the date of such partial or total destruction. Corrective construction or reconstruction shall be required to commence within such four month period and shall be completed in accordance with the timeframe for construction of improvements as provided in this Declaration; provided, however, that such four month 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.

3.17 Landscaping. Within twelve (12) months after commencement of construction on any lot, the owner of such lot shall fully complete all landscaping for the lot. All landscaping shall be subject to approval from 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 this Declaration.

3.18 Setbacks. All set backs shall be consistent with setbacks required by the City of Ferndale.

3.19 House & Outbuilding Size. Houses shall be of a minimum of 1,100 square feet. A maximum of two (2) accessory buildings may be erected for purposes such as a shop or garden shed, storage of a boat, vehicles and/or camping trailer kept for the personal use or for storage or other such use. However, accessory buildings are only allowed on the conditions that the location of such structure is in conformity with all applicable governmental regulations, is compatible in design and decoration with the residence constructed on such lot (specifically utilizing siding and construction of same color, materials and design as the residence located on the lot), and if the total footprint square footage of all outbuildings does not exceed a footprint square footage greater than 50% of the footprint square footage of the residence located on the lot and does not unreasonably obstruct or obscure the view of another owner.

3.20 Garage. All houses shall have no less than a two car garage.

3.21 Mobile Homes & Manufactured Homes. No mobile homes shall be allowed to be placed or located upon any lot in the Subdivision. A mobile home is defined as a home constructed elsewhere and transported to the lot in the Subdivision, which home has metal siding, is constructed and transported in a single section or which was manufactured more than five (5) years prior to the date that it was placed on the lot. Pre-manufactured homes shall be allowed upon any Lot in the Subdivision, as long as the home is a minimum of twenty four feet deep and forty feet wide and such home was manufactured no more than five years prior to its placement on the lot.

3.22 Foundation. No home shall be constructed upon any lot without a concrete or stem wall foundation or foundation of other such material which is approved by the ARC. No home may be constructed on any lot that does not have a foundation and which uses skirting for enclosure of the base of the home.

3.23 Propane Tanks. No propane tanks shall be allowed on any lot unless such tank is buried so that no part of the tank is visible above the ground.

3.24 Offensive Activity. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be, or may become, through noise, dust, emission, sight or smell, an annoyance or a nuisance to other owners.

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 nine (9) months from the date construction commences, which is defined as the date building materials are first delivered to the lot for such purpose. 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 Regulatory Compliance. Any Owner undertaking construction upon any Lot shall comply with all regulatory obligations related to such activity, including but not limited to obtaining a valid building permit from the City of Ferndale (and compliance with the same). Each Owner is further obligated to comply with all NPDES General Permits for Construction Activities or similar permits, which apply to the Plat, and shall indemnify and hold the Declarant and the Association harmless from any and all claims arising out of or related to compliance with such NPDES Permit.

5. ARCHITECTURAL REVIEW COMMITTEE

5.1 General. Construction of improvements on any lot within the Subdivision shall be subject to the prior approval of an Architectural Review Committee ("ARC"), that shall consist of three individuals appointed by the Declarant. The initial ARC shall consist of Gary Medcalf, Geoff Wachter and Tim Fitzgerald. 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 have been approved by the ARC. 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 topography and finish grade, view protection and compliance with the Declaration as determined by the ARC.

5.2 ARC Fee. In addition to the construction plan, specifications, site plan and landscaping plan, the owner shall give to the ARC Two Hundred Dollars (\$200.00) for each approval requested. A significant change to plans shall be deemed to be a new set of plans and shall require an additional One Hundred Dollar (\$100.00) fee. The ARC is not obligated to commence review until the above specified fees have been paid. The fees for ARC review shall be considered an assessment and enforced as provided in this Declaration. The Declarant shall not be obligated to pay any fee identified in this Section.

5.3 Approval/Disapproval. The ARC shall approve or disapprove the construction plans, specifications and site plan, including specified color finish, within fifteen (15) 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 twenty (20) days following the date of receipt thereof shall be deemed approved as submitted, unless within such twenty (20) day period the ARC has sought, in writing, clarifying information concerning the same. Two sets of construction plans, specifications (including exterior color finish detail), site plan and landscaping 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 the character of the Subdivision, and/or to 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 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 nor the Declarant, 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.

6. COMMUNITY ASSOCIATION

The Declarant shall form a Community 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 "Roseberry Ridge Estates Homeowner's Association" and shall be authorized to enforce the terms and conditions herein.

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 preservation of landscaping and irrigation systems located in the Subdivision; the maintenance and repair of light standards for the street lighting within the Subdivision to the extent that the standards deviate from City standards that were in effect at the time of their installation; 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 and/or as hereinafter amended.

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. Upon the acceptance and recording of the plats of Subsequent Phases, each owner of a lot thereof shall also become 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 all of its lots within the Subdivision. When all 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 all of its lots within the Subdivision to transfer control of the Association to the members thereof.

6.4 Required Maintenance. The Association shall perform all reasonable and necessary maintenance of the following:

i. Wetland Mitigation Monitoring and Maintenance: The Association is obligated to monitor and maintain all of the wetland mitigation improvements located in Tract A and that portion of Lot 1 of the Whiskey Creek LLA (as provided for in that Easement and Maintenance Agreement for Wetlands recorded with the Whatcom County Auditor's Office). Such monitoring/inspections shall occur not less than once per year. The monitoring and maintenance shall be completed in accordance with the Roseberry Heights Wetland Mitigation Project (dated 11/30/06) and the Contract and Landowner Agreement (dated February 21, 2007) and the attachments thereto.

ii. Storm Water System Maintenance. The Association is obligated to monitor and maintain the Cartridge Media Filter storm water facility (located in the public right of way in the southwest corner of Lot 17). Such monitoring and maintenance shall be conducted as an annual

inspection completed pursuant to the Roseberry Heights Plat Operation and Maintenance Plan for Storm Water Facilities owned by the Homeowners Association (dated Oct. 2007).

iii. Storm Water Drainage Easement Areas. The Association is obligated to maintain the storm water drainage ditches, located within the easement areas located on the west 20 feet of Lots 8 and 9, and a portion of the west 20 feet of Tract A, and within the easement areas located on the south 20 feet of Lots 1-6 (all as shown on the face of the Plat).

iv. Common Areas. The Association is obligated to maintain all of the Common Areas in a manner consistent with the intended purpose of those areas. All expenses related thereto shall be paid by the Association. The Association shall be authorized to require reimbursement for all expenses incurred in repairing or restoring the foregoing (apart from maintenance due from ordinary wear and tear) from any party causing the damage that required the repair or restoration.

6.5 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, road maintenance, drainage, property protection, landscaping, insurance, maintenance, improvements, payment of taxes upon Common Properties, the holding of ownership or a leasehold interest therein, for any other common purposes or for collecting fines attorneys fees and/or recovering money expended, all as determined pursuant to this Declaration and the Articles of Incorporation and By-laws of the Association.

(c) Personal Obligation and Lien Foreclosure. Dues, assessments and all other amounts to which an owner may become obligated under this Declaration and/or the Articles of Incorporation and/or By-laws of the Association 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. The Association may choose to record notice of such lien with the Whatcom County Auditor's office and the cost of preparation and recording of such notice shall be chargeable to the owner of the lot against which the lien is filed. Such lien may be enforced by the Association in the same form and manner of procedure as a non-judicial foreclosure under the laws of the State of Washington, RCW 61.24 et seq. as now written and as subsequently amended.

(d) Amounts Included. Each owner and each party hereinafter owning or claiming an equity interest in a lot agrees that in the event of any action to collect assessments and/or foreclose a lien securing the same involving such lot, the owner or owners of such affected lot 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 action, and/or the collection of any passed due assessment (whether or not litigation or foreclosure is instituted to collect such amounts). 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. First mortgage liens placed upon any of the lots created shall be superior to any and all charges, assessments, and liens thereafter asserted pursuant to this Declaration.

6.6 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 amount of the first year dues to be paid. Until the Declarant provides notice otherwise, dues shall be \$100 per lot, per year. 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. In consideration of the contributions made to the Association by the Declarant, the Declarant shall not be required to make payment of any assessments for lots held by the Declarant.

6.7 Special Assessment. The Association may make special assessments against any lot and lot owner for violating the terms of this Declaration, or if such owner is responsible for damage to the common properties. The Association may make special assessments against all lots for unforeseen or emergency expenditures.

6.8 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 charge. This requirement shall not apply until the Declarant has elected to assess lots in the Subdivision.

6.9 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 a rate equal to the lesser of: (i) 12% per annum; or (ii) the maximum legal rate then in effect. All such amounts due shall thereafter accrue interest until paid and shall also bear a penalty in such amount as shall be determined by the Board of the Association.

6.10 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.

6.11 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.

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

6.13 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 of any and all improvements, including, but not limited to landscaping, fences, roads, 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.

6.14 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 first position 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.

8. TENANTS AND INVITEES

Tenants, invitees, employees, agents, contractors and guests of the owners or residents of the Subdivision shall be bound by the terms and conditions of this Declaration, as well as Rules and Regulations adopted by the Board of the Association.

9. ENFORCEMENT

The Association, the Declarant and any owner shall have the right to enforce, by any proceedings at law or in equity, all covenants, conditions, restrictions, reservations, 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 failure of the Association or of the Declarant to enforce this Declaration shall not be grounds for any action against the Association or the Declarant. 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 of ten (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 covenant may be amended by an instrument adopted by the Board and signed by not less than seventy-five (75%) percent of the owners of all lots within the Subdivision. The Declarant shall retain the right to amend this Declaration in any manner that it determines, in its sole and absolute discretion, until such time as the Declarant sells the last lot owned by Declarant. Any lots that are sold by Declarant shall be subject to any subsequent amendments to this Declaration made by Declarant. Any such amendment(s) shall take effect upon being recorded with the Whatcom County Auditor.

No Amendment or termination of this Declaration shall affect, change, or terminate any of the easements described in this Declaration. The maintenance requirements imposed on the Association in Section 6.4 of this Declaration shall not be amended without the prior written consent of the City of Ferndale.

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.

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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.

DATED this 7 day of April, 2009.

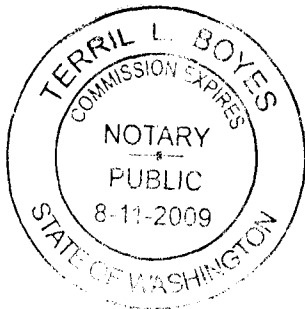
SKAGIT STATE BANK

By: [Signature]

Its: VICE PRESIDENT

State of Washington)
) ss
County of Skagit)

I certify that I know or have satisfactory evidence that Gary McDuff is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the Vice President of SKAGIT STATE BANK to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.



Dated: April 7, 2009
Terril L. Boyes
(Signature)
NOTARY PUBLIC
Terril L. Boyes
Print Name of Notary
My appointment expires: 8-11-09

Exhibit "A"
Legal Description

Lots 1 - 20, Plat of Roseberry Heights, as per plat approved on April 15, 2009
and recorded on April 15, 2009, in the records of the Whatcom County
Auditor under Auditor's File No. 2090402462.