

AFTER RECORDING, RETURN TO:  
Law Offices of Gregory E. Thulin, PS  
2200 Rimland Drive, Suite 115  
Bellingham, WA 98226  
360-714-8599



Skagit County Auditor \$110.00  
8/21/2017 Page 1 of 37 3:19PM

**DECLARATION  
OF  
COVENANTS, CONDITIONS, RESTRICTIONS AND  
RESERVATIONS  
FOR  
FRAZIER HEIGHTS**

TITLE OF DOCUMENT:

DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND  
RESERVATIONS FOR FRAZIER HEIGHTS

GRANTOR:

FRAZIER HEIGHTS LLC

GRANTEE:

THE GENERAL PUBLIC

ABBREV. LEGAL DESCRIPTION:

LOT 3 & PTN LOT 4, SP91-044, BEING A PTN of  
SE 1/4, 2-34-3 E W.M.

FULL LEGALS APPEAR:

P. 1

TAX PARCEL NOS.:

P21047 / 340302-4-002-0005

## TABLE OF CONTENTS

ARTICLE I - IDENTIFICATION OF DECLARANT AND PROPERTY; PURPOSE .....	1
1.1. Identification of Declarant and Property .....	1
1.2. Identification of Platting Documents, Community & Property Burdened by Covenants.....	1
1.2.1. Platting Documents .....	1
1.2.2. Legal Description of Land Burdened by Covenants .....	1
1.2.3. Identification of the Community .....	1
1.3. Purpose .....	1
ARTICLE II - DEFINITIONS .....	2
ARTICLE III - DESCRIPTION OF DEVELOPMENT PLAN AND AMENITIES .....	4
3.1. Development Plan .....	5
3.2. Location and Amenities .....	5
3.3. Municipal Services .....	5
3.4. Community Association Provides Upkeep to Common Areas .....	5
3.5. Proximity to Natural Resource Lands .....	5
ARTICLE IV - RESIDENTIAL LOTS .....	6
4.1. Number and Location .....	6
4.2. Initial Construction of Dwellings and Other Improvements Within Lots .....	6
4.3. No Permanent Construction Within Easements .....	6
4.4. Upkeep of Lots .....	6
4.5. Damaged Improvements .....	6
4.6. View Protection Covenant Affecting Construction, Trees and Vegetation .....	7
4.6.1. Restrictions on Siting and Height of Improvements Within Lots .....	7
4.6.2. Restrictions on Height of Trees and Vegetation Within Lots .....	7
4.6.3. Compliance .....	7
4.7. Upkeep of Shared Driveway Area Tract "A" .....	8
ARTICLE V - COMMON AREAS .....	8
5.1. Common Areas .....	8
5.2. Limited Common Areas .....	9
5.3. No Interference with Common Areas .....	9
5.4. Upkeep By Association .....	9
5.5. Schedules for Preventative Maintenance .....	9
5.6. Trees and Vegetation in Common Areas .....	10
5.7. Facilities in Public Space - Maintained by Association .....	10
5.8. ....	10
Perpetual Existence - Rights of Skagit County .....	10
ARTICLE VI - SPECIAL USE AND UPKEEP PROVISIONS .....	10
6.1. Use and Upkeep of Community Park .....	10
6.1.1. Use of Community Park .....	10
6.1.2. Upkeep of Community Park Area .....	11
6.2. Upkeep and Use of Open Space Areas Subject to Protected Critical Area Easement .....	11
6.2.1. Use of Open Space Areas - Tracts S, V and Y .....	11
6.2.2. General Provisions affecting Open Space Areas - Tracts S, V and Y .....	11
6.2.3. Specific Provisions affecting Open Space Areas - Tracts S, V and Y .....	11
6.3. Upkeep of Stormwater System .....	12
6.4. Provisions Affecting Tract Z .....	12
ARTICLE VII - OWNERS ASSOCIATION .....	12

7.1.	Name and Form of Association .....	13
7.2.	Powers & Duties of Association .....	13
7.2.1.	Duties & Responsibility of Association .....	13
7.2.2.	Statutory Powers Exercised by Board of Directors .....	13
7.3.	Lapse of Corporate Status - Personal Lot-Owner Liability Created .....	13
7.3.1.	Association Must Remain Incorporated. ....	13
7.3.2.	Incorporation Protects Owners - Owners Personally Liable Upon Abandonment. ....	13
7.4.	Membership and Voting Rights .....	13
7.5.	Bylaws of Association .....	14
<b>ARTICLE VIII - MANAGEMENT OF ASSOCIATION .....</b>		<b>14</b>
8.1.	Management by Declarant .....	14
8.2.	Authority of the Board .....	14
8.2.1.	General Authority .....	14
8.2.2.	Incurring and Payment of Common Expenses .....	14
8.2.3.	Acquisition of Property .....	14
8.2.4.	No Business Authority .....	15
8.3.	Board as Attorney in Fact .....	15
<b>ARTICLE IX - PERMITTED USES .....</b>		<b>15</b>
9.1.	Permitted Uses .....	15
9.1.1.	Residential Use .....	15
9.1.2.	Use of Common Areas - General Provisions .....	15
9.1.3.	Trees and Vegetation - Street Trees .....	15
9.1.4.	Surface Water Run-Off .....	16
9.1.5.	Noise, Offensive or Illegal Activity .....	16
9.1.6.	Pets and Other Animals .....	16
9.1.7.	Chickens .....	16
9.1.8.	Vehicle Operation and Parking Restrictions .....	17
9.1.9.	Perimeter and Privacy Fencing .....	17
9.1.10.	Signs .....	18
9.1.11.	Underground Utilities .....	18
9.1.12.	Uses by Declarant .....	18
<b>ARTICLE X - ASSESSMENTS AND LIENS FOR COMMON EXPENSES .....</b>		<b>18</b>
10.1.	Assessments for Common Expenses .....	18
10.1.1.	Liability of Lots .....	18
10.1.2.	Assessment of Undeveloped Lots .....	19
10.1.3.	Initial Assessment Deposits - New Owners Fee .....	19
10.1.4.	Transfer Fees on Resales .....	19
10.1.5.	Timing of Payments .....	19
10.1.6.	Special Assessments .....	19
10.1.7.	Specially Allocated Assessments .....	20
10.1.8.	Owners Personally Liable for Common Expenses .....	20
10.2.	Annual Budget - Development and Ratification .....	20
10.2.1.	Budget for Common Expenses .....	20
10.2.2.	Meeting of Association to Ratify Budget .....	21
10.3.	Liability Following Conveyance of Lot .....	21
10.4.	Lien for Assessments .....	21
10.5.	Perfection of Lien .....	21
10.6.	Priority of Lien .....	21
10.7.	Enforcement of Lien .....	22
10.8.	Limitation of Lien Enforcement .....	22

10.9.	Rent Subject to Lien for Assessments- Other Remedies for Nonpayment .....	22
10.9.1.	Rent Payable to Association Upon Default of Owner.....	22
10.9.2.	Association Entitled to Appointment of Receiver.....	23
10.10.	Remedies Cumulative .....	23
<b>ARTICLE XI - INSURANCE MATTERS .....</b>		<b>23</b>
11.1.	Association's Coverage .....	23
11.2.	Deductible.....	23
11.3.	Insurance for Lot Owners.....	24
<b>ARTICLE XII - CONDEMNATION .....</b>		<b>24</b>
<b>ARTICLE XIII - COMPLIANCE WITH LAW AND COVENANTS.....</b>		<b>24</b>
13.1.	Compliance by Owners and Occupants .....	24
13.2.	Enforcement by Association.....	24
13.3.	Legal Proceedings.....	24
13.4.	Costs and Attorney's Fees.....	24
13.5.	Late Charges and Interest.....	25
13.6.	No Waiver of Rights.....	25
13.7.	Remedies Cumulative.....	25
<b>ARTICLE XIV - LIMITATION OF LIABILITY.....</b>		<b>25</b>
14.1.	Association Not a Guarantor - No Liability for Equipment Failure, Etc.....	25
14.2.	No Bailment.....	26
<b>ARTICLE XV - MORTGAGEE PROTECTION.....</b>		<b>26</b>
<b>ARTICLE XVI - EASEMENTS, SEPARATE COVENANTS AND SPECIAL DECLARANT RIGHTS .....</b>		<b>26</b>
16.1.	Easements for Lots, Lot Owners and Association Functions .....	26
16.1.1.	Easements for Lots and Lot Owners.....	26
16.1.2.	General Easements for Association Functions .....	26
16.1.3.	Easement Benefitting Lot 16 over Tract Y.....	27
16.2.	Easements Shown on Plat Map - Separate Covenants .....	27
16.2.1.	General Provisions .....	27
16.2.2.	Avigation Easement and Notice re Airport Operations .....	27
16.2.3.	Covenant for Upkeep of Tract T by Lots 28, 29 & 30 .....	27
16.2.4.	Protected Critical Area Easement - Tracts S, V and Y .....	27
16.3.	Easements for Utilities and Emergency Access .....	28
16.3.1.	Easements for Utilities .....	28
16.3.2.	Easements for Emergency Access .....	28
16.4.	Easements for Declarant.....	28
16.5.	Special Declarant Rights.....	28
16.5.1.	Reservation.....	28
16.5.2.	Status of Special Declarant Rights .....	29
<b>ARTICLE XVII - AMENDMENT OF DECLARATION OF COVENANTS.....</b>		<b>29</b>
17.1.	Procedure for Amendment of Declaration of Covenants .....	29
17.2.	Recordation Required.....	29
17.3.	Amendments by Declarant .....	29
<b>ARTICLE XVIII - MISCELLANEOUS.....</b>		<b>30</b>
18.1.	Notices for All Purposes, Delivery .....	30
18.2.	Severability.....	30

18.3.	No Right of First Refusal .....	30
18.4.	Effective Date .....	30

UNOFFICIAL DOCUMENT

ARTICLE I

IDENTIFICATION OF DECLARANT AND PROPERTY; PURPOSE

1.1. Identification of Declarant and Property.

FRAZIER HEIGHTS LLC, a Washington Limited Liability Company hereinafter referred to as the "Declarant," is the owner in fee simple of certain land in unincorporated Skagit County, Washington more particularly described in Section 1.2 hereof, together with all improvements, easements, rights and appurtenances thereunto belonging (all collectively referred to hereinafter as "the Property").

1.2. Identification of Platting Documents, Community & Property Burdened by Covenants.

1.2.1. Platting Documents.

The Declarant has recorded with the Auditor of Skagit County, Washington a certain subdivision plat map showing the location and dimensions of various lots and/or tracts and Common Areas within the Property, together with other necessary information; this plat map is hereinafter referred to as the "Plat Map"; the Plat Map is recorded at Auditor's File No. 201708210208, Records of Skagit County, Washington.

1.2.2. Legal Description of Land Burdened by Covenants.

The land burdened by this Declaration of Covenants includes the Lots and Tracts included in the Plat Map described above; the land included within the Plat Map is legally described as follows:

Lots 1 through 32, inclusive, and Tracts S, T, U, V, W, X, Y and Z, Plat of Frazier Heights, as per the map thereof recorded August 21, 2017 under Auditor's File No. 201708210208, records of Skagit County, Washington.

1.2.3. Identification of the Community.

All such Lots and the Common Areas identified in the Plat Map shall be known collectively as the "Community," which also shall be known as Frazier Heights.

1.3. Purpose.

This Declaration of Covenants, together with the Plat Map referred to herein, state covenants, conditions, restrictions and reservations intended by the Declarant to effect a common plan for the development of the Property mutually beneficial to all of the described Lots. These covenants, conditions, restrictions, reservations and plan are intended to become, and by the recordation of this instrument shall be conclusively deemed to be legal and equitable servitudes which shall run with

the land of the Property and shall be binding upon the entire Property and upon each such Lot therein as a parcel of realty, and upon its Owners, their family members, their heirs, personal representatives, successors and assigns, and their tenants, licensees and other lawful Occupants, through all successive transfers of all or part of the Property or any security interest therein, without requirement of further specific reference or inclusion in deeds, contracts or security instruments, and regardless of any subsequent forfeiture, foreclosures, or sales of Lots under security instruments, or of any forfeiture, foreclosures, or sales instituted for nonpayment of government tax, levy or assessment of any kind.

## ARTICLE II

### DEFINITIONS

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

2.2. "Association" or "Owners Association" means the nonprofit corporation described in Article VII, to be incorporated at the direction of the Declarant to manage the Common Areas of this Community and enforce the provisions of the Governing Documents.

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

2.4. "Common Areas" means those portions of the property within the Community so designated on the Plat Map, along with any other real property owned by the Association or for which the Association has maintenance responsibilities under this Declaration of Covenants, including areas of land within the right of way of public streets serving the Community. Common Areas are typically denoted as "Tracts" on the Plat Map, including areas of land, along with specific facilities and improvements. To the extent that some Common Areas may be depicted within the boundaries of any Lot within this Community, such Common Areas consist of easements burdening such Lot for the benefit of the Association or other Owners and Occupants of the Property within this Community. Common Areas are further defined and described in Article V hereof.

2.5. "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.

2.6. "Common Expense liability" means the Lot's proportionate share of the Association's Budget for Common Expenses, which is allocated to each Lot pursuant to Section 10.1 of this Declaration of Covenants.

2.7. "Community" means all the Property described in Section 1.2 hereof, along with all the improvements constructed therein, the Association, and all other institutions and things serving the Owners of Lots therein.

2.8. "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.

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

2.10. "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 Sections 8.1 and 16.5 of this Declaration of Covenants.

2.11. "Declaration of Covenants" means this document, which facilitates the creation of this Community; the term also includes any lawful amendments to this document.

2.12. "Development Plan" means any formal plan of development, however termed under the Ordinance described in Section 3.1 hereof, approved by Skagit County. The term also includes any amendments thereto approved by applicable governmental entities.

2.13. "Dwelling" means the principal housing structure constructed on a Lot by or under the direction of the Declarant.

2.14. "Foreclosure" means a forfeiture or judicial or nonjudicial foreclosure of a mortgage or a deed in lieu thereof.

2.15. "Governing Documents" means the Declaration of Covenants, the Plat Map, the Bylaws of the Association along with any Rules and Regulations adopted by the Board of Directors.

2.16. "Governing Law" means the Washington Homeowners Association Act (Chapter 64.38 RCW, the "Act") or any successor statute, and any amendments thereto.

2.17. "Limited Common Area" means a portion of the Common Areas which is designed to serve one or more but fewer than all the Lots in the Community. The costs of Upkeep to a Limited Common Area are to be borne exclusively by the Owners of the Lot(s) served by such Limited Common Area, pursuant to Section 10.1.7 hereof.

2.18. "Lot" means a physical portion of the Community designated for separate ownership, the boundaries of which are depicted on the Plat Map.

2.19. "Lot 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.

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

2.21. "Person" means a natural person, corporation, partnership, limited partnership, trust, governmental Community or agency, or other legal entity.

2.22. "Property" or "the Property" means all the real property described as being contained within the Plat Map and, where appropriate, includes all real property which may be from time to time either added to the Community by the Declarant or acquired by the Association pursuant to Section 8.2.3 hereof.

2.23. "Residential purposes" means use for dwelling and human habitation, whether on an ownership, rental or lease basis and for reasonable social, recreational or other uses normally incident to such purposes.

2.24. "Special Declarant Rights" means rights reserved for the benefit of the Declarant: (a) to complete improvements indicated on the Plat Map; (b) to maintain sales offices, management offices, signs advertising the Community, and models; (c) to use easements through the Common Areas for the purpose of making improvements within the Community; (d) to 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 of Covenants. Special Declarant Rights are described in Section 16.6 hereof.

2.25. "Specially Allocated Assessment" means an assessment made by the Association against one or more but fewer than all of the Lots pursuant to Section 10.1.7 of this Declaration of Covenants.

2.26. "Upkeep" means any care, inspection, maintenance, operation, repair, repainting, remodeling, restoration, improvement, renovation, alteration, replacement and reconstruction that is required to maintain property in a decent, safe and sanitary condition, in keeping with the high standards of the Community.

### ARTICLE III

#### DESCRIPTION OF DEVELOPMENT PLAN AND AMENITIES

3.1. Development Plan.

The Lots in this Community were authorized to be created by Skagit County under Chapter 14.18 Skagit County Code [the “Subdivision Ordinance”], subject to certain conditions established in Skagit County File No. PL15-0465. Several of such conditions are reproduced in the text of the Covenants that follow.

3.2. Location and Amenities.

The Community contains 32 platted lots and is located westerly of Avon Allen Road and northerly of Ovenell Road. The Skagit Regional Airport is located to the northwest. A Community Park located within Tract W is designed to provide open space and recreational values to the Community. Valley views are provided over Tract S, a stream buffer tract, and Tract X, a stormwater pond.

3.3. Municipal Services.

The Lots in the Community are served by public roads known as Frazier Heights Place and Frazier Heights Loop. Electric power is provided by Puget Sound Energy. Telecommunications facilities will be provided. Fire protection is provided by Skagit County Fire Protection District 6. Police protection is provided by the Skagit County Sheriff’s Office. Water is supplied by Skagit Public Utility District #1. Sanitary sewerage services will be provided by the City of Burlington. Stormwater collection and treatment are provided by an engineered system to be maintained by the Association and Skagit County, described more fully in Section 6.3 hereof.

3.4. Community Association Provides Upkeep to Common Areas.

The Association described in Section 7.1 hereof is charged with responsibility to provide Upkeep to the Community Park, the Stormwater facilities described above, along with other Common Areas more completely described in Section 5.1 hereof.

3.5. Proximity to Natural Resource Lands.

The land within this Community lies with an area or within 500 feet of an area designated as Natural Resource Lands (Agricultural, Forest and Mineral Resource Lands of Long-Term Commercial Significance) in Skagit County. A variety of Natural Resource Land Commercial Activities occur or may occur in the area that may not be compatible with non-resource uses and may be inconvenient or cause discomfort to area residents. This may arise from the use of chemicals, or from spraying, pruning, harvesting, or mineral extraction with associated activities, which occasionally generate traffic, dust, smoke noise and odor. Skagit County has established natural resource management operations as a priority use on designated Natural Resource Lands, and area residents should be prepared to accept such incompatibilities, inconveniences, or discomfort from normal, necessary natural resource land operations when performed in compliance with best management practices and local, State, and Federal law. In the case of mineral lands, application

might be made for mining-related activities including extraction, washing, crushing, stockpiling, blasting, transporting and recycling of minerals. In addition, greater setbacks than typical may be required from the resource area, consistent with SCC 14.16.810. The Skagit County Planning and Permit Center should be contacted for further details.

#### ARTICLE IV

#### RESIDENTIAL LOTS

##### 4.1. Number and Location.

The Community contains thirty-two (32) Lots zoned for residential use that are depicted on the Plat Map. The location of those Lots and their dimensions are shown on the Plat Map.

##### 4.2. Initial Construction of Dwellings and Other Improvements Within Lots.

Dwellings and related improvements, including fencing and accessory structures, will be constructed within the Lots by or under the direction of the Declarant, according to a common design scheme established by the Declarant. No manufactured homes are permitted. Any addition, alteration or improvement upon any Lot shall be consistent with the Declarant's original scheme, and shall be constructed in accordance with the building code and other ordinances of Skagit County.

##### 4.3. No Permanent Construction Within Easements.

No permanent building, deck or other structure shall be constructed within the easement areas on the Lots depicted on the Plat Map other than the Avigation Easement described in Section 16.2.2 hereof.

##### 4.4. Upkeep of Lots.

Each Lot Owner, at his or her sole expense, shall have the right and the duty to keep the Lot, its Dwelling and all other improvements in good order, condition and repair and shall do all Upkeep, decorating, landscaping and painting at any time necessary to maintain its good appearance and condition. Each Owner shall perform this Upkeep responsibility in such manner as shall not unreasonably disturb or interfere with the other Owners.

##### 4.5. Damaged Improvements.

If a Dwelling or other major improvement located upon a Lot is damaged or destroyed, the Owner thereof shall restore the site either (i) by repairing or reconstructing such building or improvement in a manner generally consistent with the architectural appearance of the structure prior to its loss or damage, or (ii) by clearing away the debris and restoring the site to an acceptable condition compatible with the remainder of the Property. Unless the Board of Directors permits a

longer time period, such work must be commenced within four months after the casualty and be substantially completed within twelve months after the casualty. The four-month period may be extended for a reasonable period thereafter in the event that repairs or reconstruction have not commenced because of factors beyond the control of the Owner, provided that the Owner has exercised and does thereafter continue to exercise due diligence in commencing any required work.

4.6. View Protection Covenant Affecting Construction, Trees and Vegetation.

4.6.1. Restrictions on Siting and Height of Improvements Within Lots.

Scenic views available from Lots 1 through 16 and Lots 31 and 32 shall be protected through the positioning of the Dwellings on the other Lots by the Declarant in locations that minimize the impact of other Dwellings in the Community on views otherwise available from Lots lying further uphill, and by restricting the height and other features of the Dwellings on Lots 17 through 30. See Section 5.6 for further detail. The Declarant's decisions in regard to the siting of Dwellings and placing limits on the height of Dwellings and other structures within a Lot shall be conclusive and not appealable. The locations of improvements and any height limitations approved by the Declarant and incorporated into initial construction of Dwellings and other structures may not be altered by an Owner, following the initial construction of improvements within a Lot, that interferes with scenic views from other Lots, in the absence of the advance written consent of all affected Lot Owners. A failure to abide by the terms of this Covenant is expressly declared to be a nuisance.

4.6.2. Restrictions on Height of Trees and Vegetation Within Lots.

Following the construction of a Dwelling structure on a Lot, its Owner(s) shall properly maintain any landscaping vegetation on the Lot, so as to enhance the appearance and value of the Lots in the Community and to prevent the spread of noxious weeds. The maximum height of trees or other landscape vegetation planted within Lots 17 through 30, by or on behalf of an Owner, shall be 25 feet or the ridge of the roof of the Dwelling on the Lot, whichever is greater. Such provisions are consistent with the terms of the Avigation Easement described in Section 16.2.2 hereof.

4.6.3. Compliance.

The provisions of this Section 4.6 shall be construed so as to be consistent with the terms of the Avigation Easement described in Section 16.2.2 hereof. Any violation of these provisions is expressly declared to be a nuisance. The Association and/or any affected party may maintain an action in a court of competent jurisdiction to abate or enjoin any such violation; the prevailing party in any such action shall be entitled to an award of attorneys' fees and costs.

4.7. Upkeep of Shared Driveway Area Tract "T".

Lots 28, 29 and 30 are served by a private Driveway, depicted on the Plat Map as Tract T. Under a separate Covenant described with greater particularity in Section 16.2.3 hereof, the Owners of Lots 28, 29 and 30 are obligated to perform periodic Upkeep to the Driveway. In the event that such Owners fail to properly perform such Upkeep, the Association is authorized to treat Tract T as a Limited Common Area and perform any necessary Upkeep on behalf of such Owners; any and all costs so incurred by the Association shall constitute Specially Allocated Assessments against such Lots, as provided in Section 10.1.7 hereof. The Association shall have an easement over Tract T for ingress and egress to provide Upkeep to Tracts X and Z.

ARTICLE V

COMMON AREAS

5.1. Common Areas.

The Common Areas of the Community consist of the following:

5.1.1. Tracts S, U, V, W, X, Y and Z, which have been designed to perform various functions, as described in more detail below.

5.1.2. The Community's identification signage facilities, if any, and associated entry landscaping lying within Tract U.

5.1.3. The Community Park [Tract W], with its play structure, picnic tables, benches, lawn area and landscaping.

5.1.4. The estate fence constructed upon the property line north of Frazier Heights Place from its intersection with Avon-Allen Road westerly to its intersection with the off-site wetland buffer, the split rail fence built upon the property line between the estate fence and the east corner of Lot 6, the split-rail fence built upon the property line between Tract S and Tract X and the split rail fence around Tract V.

5.1.5. The stormwater detention pond [Tract X] and conveyance ditches, wherever situated, which are subject to maintenance requirements set forth in Section 6.3 hereof.

5.1.6. The Stream buffer area [Tract S], the Critical Area buffer area [Tract V] and the Utility and Access area [Tract Y] and any structures or facilities located therein, portions or all of which are subject to the terms of a Protected Critical Area Easement described in Section 6.2.2 hereof, and are subject to maintenance requirements set forth in Section 16.2.4 hereof.

5.1.7. The Gas Line Easement area [Tract Z], which is described in greater detail in Section 6.4 hereof.

5.1.8. The mailbox kiosk located in the right of way of Frazier Heights Place adjacent to Lot 31, near the intersection with Frazier Heights Loop.

5.1.9. The street trees within public rights-of-way of any street or roadway within the Community shall be maintained by the Owners of the Lots adjoining such trees, in accordance with the provisions of Section 9.1.3 hereof.

5.1.10. Any landscaping located within the rights-of-way of public roads serving the Community and not adjoining any Lot shall be treated as Common Areas which shall be maintained in accordance with the provisions of Section 5.6 hereof.

5.1.11. The street lighting fixtures within public rights-of-way as depicted on the attached Exhibit "A," shall be treated as Common Areas which shall be maintained in accordance with the provisions of Section 5.7 hereof.

5.2. Limited Common Areas.

The Limited Common Areas of the Community consist of a private driveway [Tract T] serving Lots 28, 29 & 30, for which maintenance standards are established in Sections 4.7 and 16.2.3 hereof. Costs of any Upkeep related thereto constitute Specially Allocated Assessments to and against the Lots served thereby, under the provisions of Section 10.1.7 hereof.

5.3. No Interference with Common Areas.

No Lot Owner or Occupant 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.

5.4. Upkeep By Association.

Except as otherwise provided herein, the Association, through its Board of Directors, is responsible for all necessary inspections, maintenance, repair, and replacement of the Common Areas, including the PCAE Tracts described in Sections 6.2 and 16.2.4. Provisions relating to Upkeep of the most important Common Areas, known as "Principal Common Amenities," appear in Article VI hereof.

5.5. Schedules for Preventative Maintenance.

The Board, with the assistance of the Association's Manager and/or other competent professionals, shall develop a schedule of routine Preventative Maintenance for all components of

the Common Areas which require same, establishing appropriate times during each year when such maintenance should occur, and identifying qualified employees, agents or contractors to conduct such inspections and Preventative Maintenance.

5.6. Trees and Vegetation in Common Areas.

Trees and vegetation located in the Common Areas shall be maintained by the Association such that they shall not be permitted to grow to heights that are greater than [a] a height which would interfere with scenic views available to any Lot in the Community, or [b] a height that would violate the provisions of the Avigation Easement described in Section 16.4 hereof. Presumptively, a maximum height of twenty-five feet (25') would apply to any and all such trees and vegetation located within the Community Park. Trees and vegetation lying within the Stream Buffer area [Tract S] shall be left undisturbed and may attain any height to which they may grow, consistent with the terms of the Protected Critical Area Easement described in Section 16.2.4 hereof. No trees or shrubs shall be planted in Tracts V, X and Z. Tract V includes a Critical Area Wetland Buffer associated with the off-site Category III wetland to the north; vegetation within Tract V thus require protection under the Protected Critical Area Easement, but no enhancement thereof is required.

5.7. Facilities in Public Space - Maintained by Association.

A condition for the approval of the development of the Community was a requirement imposed on the Declarant that is binding on the Association, i.e. to assure in perpetuity the maintenance and operation of certain street lights existing in locations depicted on the attached Exhibit "A." The Declarant will have had such street lights installed and subject to one or more maintenance contracts prior to selling the first Lot in the Community. The Association shall assume such responsibilities in order to maintain compliance with the County's platting requirements.

5.8. Perpetual Existence - Rights of Skagit County.

The restrictions contained in this Article VI shall exist in perpetuity. No changes in the uses described herein for any of the Common Areas may occur without the advance written approval of Skagit County. The County reserves the right to enter upon the Property to inspect the stormwater system and to perform necessary maintenance thereto should the Association fail to do so.

ARTICLE VI

SPECIAL USE AND UPKEEP PROVISIONS

6.1. Use and Upkeep of Community Park.

6.1.1. Use of Community Park .

The Community Park [Tract W], including its play structure, picnic tables, benches, lawn area and landscaping, is designed to promote low impact recreational activities for lawful Occupants of the Community, and to preserve and enhance the aesthetic and environmental values of the Community. Owners and Occupants of the Community may use the open portions of the Park for wildlife viewing, picnicking and other low-impact recreational uses. Reasonable rules and regulations adopted by the Board may further restrict the use of all or any portion of the Park in order to promote its open space value to the Community. The dumping of debris, yard waste or organic matter in this area is prohibited.

6.1.2. Upkeep of Community Park Area.

The Association shall continuously provide Upkeep to the play structure, picnic tables, benches, lawn area and landscaping within the Community Park. Trees and other vegetation located within the Community Park shall not be permitted to exceed the height limits described in Section 5.6 hereof.

6.2. Upkeep and Use of Open Space Areas Subject to Protected Critical Area Easement.

6.2.1. Use of Open Space Areas - Tracts S, V and Y.

Except for the walking path within the Stream Buffer area [Tract S], the remainder of the land within the Stream Buffer Area, the Protected Critical Area Wetland buffer [Tract V] and the Access and Utility Easement [Tract Y] are generally not designed for any sort of use by Owners and Occupants of Lots in the Community. See Section 16.2.4 for further details concerning the Protected Critical Area Easement that contains these provisions.

6.2.2. General Provisions affecting Open Space Areas - Tracts S, V and Y.

Critical areas and/or buffers occur in Tract S, Tract V and Tract Y. Tract S includes a 112.5' Critical Area Stream Buffer corridor that is to be enhanced; Tract V includes a Critical Area Wetland Buffer associated with the off-site Category III wetland to the north upon which no enhancement is proposed nor required; and the Critical Area in Tract Y consists of 100 feet of the southerly panhandle of Tract Y that will otherwise remain as an existing access and a utility easement. All costs associated with the evaluation, removal and/or replanting of any vegetation shall be borne by the Association, and not by the County. Terms and conditions affecting Tracts S, V and Y appear in the Protected Critical Areas Easement [PCAE] described in greater detail in Section 16.2.4 hereof. The County shall have the right, but not the obligation, to enforce requirements, terms and conditions of the PCAE easement, by any method available under law.

6.2.3. Specific Provisions affecting Open Space Areas - Tracts S, V and Y.

The land within the Stream Buffer Area [Tract S] and the Protected Critical Area Wetland buffer [Tract V] shall be maintained so as to preserve native vegetation and enhance stream and wetland functionality. With the exception of the allowed 25-foot-wide maintenance

access/corridor and the separate pedestrian trail constructed within Tract S, no other human uses are allowed within Tract S and/or Tract V. The mitigation plan for enhancement of Tract S must be monitored for a period of a minimum of five years. The monitoring must be completed by a qualified wetland professional. During the fall of each monitoring year, a written report describing the monitoring results must be submitted to the County. These reports must include contingency elements if necessary. Final inspection will occur five years after completion of the project (ending Fall 2022). The consulting wetland professional will prepare a report and determine if the project has achieved success. Remedial work shall be performed by the Association in the event that such monitoring reveals one or more failures of the mitigation plan. Drainage District No. 19 also has Upkeep responsibility for other portions of Tract S as more completely detailed in the PCAE described in Section 16.2.4 hereof. Tracts V and Y shall be maintained to similar standards but, under the terms of the PCAE easement, the Drainage District has no Upkeep responsibilities with respect to Tract V. Portions of Tract Y not burdened by easements shall be maintained by planting in grass and mowing periodically.

6.3. Upkeep of Stormwater System.

All necessary Upkeep of Tract X, including its engineered treatment facilities, along with any drainage ditches, pipes or swales serving to the Stormwater System but located within any Lots in the Community shall be performed by the Association in accordance with provisions of the Operations and Maintenance Manual prepared by Ravnik & Associates, dated May 3, 2017, and otherwise in accordance with the DOE Stormwater Management Manual for Western Washington [“DOE Stormwater Manual”], as the same may be updated from time. The County’s maintenance responsibilities for stormwater conveyance and collection facilities in Frazier Heights Place and Frazier Heights Loop end at the edge of the right-of-way of each such roadway. The Association shall consistently engage the services of qualified personnel to perform Upkeep to those portions of the Stormwater System within its control, and shall maintain provisions in its Budget to ensure that adequate funding shall always exist for such purposes.

6.4. Provisions Affecting Tract Z.

The Gas Line Easement area [Tract Z] is burdened by an easement recorded at Auditor’s File No. 8211180027, records of Skagit County, Washington, exists to permit Cascade Natural Gas Corporation, its successors and assigns the rights to construct, maintain, inspect, operate, protect, repair, replace, alter and remove a pipeline or pipelines for the transportation of oil, gas and the products thereof. Tract Z is a hazardous area, having been designated as a “Pipeline Consultation Area” under Skagit County Code § 4.16.835. Individual Occupants of the Community generally have no rights of ingress or egress to Tract Z, except as may be permitted by the Board of Directors in Rules and Regulations. The Association will mow the grass in this Tract on an as-needed basis.

ARTICLE VII

OWNERS ASSOCIATION

7.1. Name and Form of Association.

The name of the Association shall be the "Frazier Heights 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 its Articles of Incorporation, the provisions of the Ordinance and of the Governing Documents. The Association shall remain organized as a profit or nonprofit corporation. In case of any conflict between Chapter 24.06 RCW, the Nonprofit Miscellaneous and Mutual Corporations Act, and the Governing Law, the Governing Law shall control.

7.2. Powers & Duties of Association.

7.2.1. Duties & Responsibility of Association.

The business of the Association shall be to maintain, repair, replace and manage the Common Areas of the project, to provide necessary insurance coverage, and to enforce provisions of the Governing Documents to preserve the long-term value of the Property for the benefit of the Lot Owners.

7.2.2. Statutory Powers Exercised by Board of Directors.

The Association, through its Board of Directors, shall have all powers available to homeowners' associations under the Governing Law. Such powers are set forth with particularity in the Bylaws of the Association.

7.3. Lapse of Corporate Status - Personal Lot-Owner Liability Created.

7.3.1. Association Must Remain Incorporated.

The Association shall have perpetual existence. The Lot Owners shall not permit its corporate charter to be dissolved or abandoned, nor may the Association's obligations under this Declaration of Covenants with respect to the Common Areas be altered or abandoned.

7.3.2. Incorporation Protects Owners - Owners Personally Liable Upon Abandonment.

Should the corporate charter for the Association be dissolved for any reason in violation of the foregoing, the Lot Owners shall become jointly and severally liable for all obligations imposed upon the Association under these Covenants. The corporate status of the Association exists to protect Lot Owners from personal liability, to the fullest extent provided by law.

7.4. Membership and Voting Rights.

The Owner of each Lot in the Community shall be a member of the Association, and such membership shall be an inseparable appurtenance to the Owner's Lot. Membership and voting rights are further specified in the Articles of Incorporation and Bylaws of the Association. Each Lot is entitled to one vote in the Association.

7.5. Bylaws of Association.

Bylaws for the administration of the Association and for other purposes not inconsistent with the Homeowners Association Act and this Declaration of Covenants shall be adopted by the initial Board of Directors of the Association.

ARTICLE VIII

MANAGEMENT OF ASSOCIATION

8.1. Management by Declarant.

The Declarant has reserved Special Declarant Rights to (a) appoint and remove the Officers and members of the Board of Directors of the Association, and (b) veto or approve a proposed action of the Board or the Association, for a period of three (3) years, or until all Lots in the Community are sold to purchasers unrelated to the Declarant. See Section 16.6 for further details.

8.2. Authority of the Board.

8.2.1. General Authority.

The Board, for the benefit of the Community and the Owners, shall perform all Upkeep for the Common Areas, shall 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 of Covenants which are not expressly subject to the approval of the Owners.

8.2.2. 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.

8.2.3. Acquisition of Property.

The Board may acquire and hold in the name of the Association, for the benefit of the 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.

8.2.4. 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.

8.3. 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.

ARTICLE IX

PERMITTED USES

9.1. Permitted Uses.

9.1.1. Residential Use.

The Lots in this Community are intended to be used for residential purposes, whether on an ownership, rental or lease basis and for common social, recreational or other reasonable uses normally incident to such purposes. Parts of a Dwelling may be used for a professional office or other low impact commercial use, provided that such use is consistent with all applicable laws, ordinances and regulations of any governmental authority, and so long as such use does not generate any appreciable levels of client or customer traffic, noise or other disturbance to other lawful Occupants of the Community.

9.1.2. Use of Common Areas - General Provisions.

The Common Areas shall be used only for the furnishing of such services and facilities for which the same are reasonably suited and which are incident to the use and occupancy of the Lots. The improvements located on the Common Areas shall be used only for their intended purposes. Except as otherwise expressly provided in the Governing Documents or Rules and Regulations adopted by the Board, no Owner shall make any private, exclusive or proprietary use of any of the Common Areas.

9.1.3. Trees and Vegetation - Street Trees.

Following the construction of a dwelling structure on a Lot, its Owner(s) shall properly maintain any landscaping vegetation and trees on the Lot, so as to enhance the appearance

and value of the Lots in the Community and to prevent the spread of noxious weeds. Nevertheless, the provisions of Section 4.6 will limit the height of vegetation on Lots in the Community. The Owner of each Lot shall be responsible for maintaining any street tree adjoining the Lot in the public right of way. If the Owner fails to do so, the Association may perform any necessary trimming or replacement at the expense of the Owner, pursuant to Section 10.1.7 hereof.

9.1.4. 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 or the owners thereof.

9.1.5. Noise, Offensive or Illegal Activity.

No person shall cause any unreasonably loud noise anywhere in the Community, nor shall any person permit or engage in any noxious, offensive or illegal activity, practice or behavior causing annoyance, discomfort or disturbance to any person lawfully present on any portion of the Property. Quiet hours shall be observed from 11:00 p.m to 6:00 a.m., during which only minimal noise shall be permitted to emanate from any Lot.

9.1.6. Pets and Other Animals.

The maintenance, keeping, boarding and/or raising of animals or fowl other than as permitted below, or livestock or reptiles of any kind regardless of number, shall be and is prohibited within any Lot or upon the Common Areas. The keeping of well-behaved dogs and/or cats, small birds, aquarium fish, up to five rabbits, and other well-behaved animals that do not normally leave the Lot is permitted, subject to Rules and Regulations adopted by the Board of Directors. Provisions for the keeping of chickens appear in Section 9.1.7. The owner of any animal maintained on the Property shall exercise appropriate control over the animal, and shall clean up after such animal and shall not permit deposits of fecal matter, urinary residue or foodstuffs from or for such animal to remain anywhere on the Common Areas. Any Lot Owner who keeps or maintains any animal upon any portion of the Property shall be deemed to have indemnified and agreed to hold the Association, each Lot Owner and the Declarant free and harmless from any loss, claim or liability of any kind or character whatever arising by reason of keeping or maintaining such animal within the Community. All animals shall be registered and inoculated as required by law. The Board may at any time require the removal of any animal which it finds is or has become an unreasonable source of annoyance, and may exercise this authority for specific animals even though other animals are permitted to remain.

9.1.7. Chickens.

Up to five (5) hens may be kept in an enclosed backyard area, subject to any and all regulations imposed by Skagit County on the raising of fowl. No roosters are permitted. Chickens shall be maintained in coops or runs or behind appropriate fences to ensure that they do not escape the confines of the Lot. Any coop or chicken yard must be located at least ten (10) feet from any property line and ten (10) feet from the Dwelling within the Lot. A coop or chicken yard shall be

no more than 120 square feet in size, shall be enclosed and rodent proof, and must be kept clean at all times to avoid rodents and flies, the presence of which is declared to be a nuisance. Hens must be contained at all times inside a fenced area, and are not allowed to free range. The general provisions of Section 9.1.6 also apply to the keeping of chickens.

9.1.8. Vehicle Operation and Parking Restrictions.

9.1.8.1. General Restrictions.

Vehicle parking is permitted on portions of the Lot which have been improved for such purposes. A minimum of two off-street parking spaces is required per Lot, in addition to the garage structure within the Lot, which can be accomplished by using the driveway area in front of the garage associated with each Dwelling.

9.1.8.2. R.V. Parking.

Except as hereinafter provided, junk vehicles (as defined in RCW 46.55.010), Recreational Vehicles (including without limitation camper-trailers, mobile homes, motor homes, "fifth-wheels" off-road vehicles, boats, airplanes or etc.), large commercial-style vehicles (including without limitation trucks, tractors, large vans or other types of vehicles or equipment which either require a commercial vehicle operator's license or which exceed 8,000 lbs in gross vehicle weight) or any other type of vehicle or equipment which exceeds 24 feet in length may not be stored, kept or maintained anywhere within the Community. Nevertheless, a Recreational Vehicle may be maintained within a Lot, if it is fully enclosed within a garage or an approved accessory structure. The Board may require removal of any vehicle or equipment not authorized by this Section; if it is not so removed, the Board may cause its removal at the risk and expense of the owner thereof, under such reasonable procedures as may be consistent with the provisions of RCW 46.55. Failure of an Owner or other Occupant to remove such a vehicle or equipment from a Lot or the Common Areas may result in any or all remedies available to the Association under the Governing Documents. The Board may adopt additional rules and regulations regarding parking and storage of Recreational Vehicles.

9.1.8.3. Power to Regulate Vehicle Speed and Operation.

The Board shall have the authority to regulate the speed and other aspects of vehicle operation on Frazier Heights Place and Frazier Heights Loop, notwithstanding that both Frazier Heights Place and Frazier Heights Loop are public thoroughfares.

9.1.9. Perimeter and Privacy Fencing.

Fences are permitted but must conform to the style installed by the Declarant, consistent with such further standards as required by Skagit County. Any perimeter fencing installed by the Declarant shall be maintained in good condition by the abutting Lot Owners within the Community in a manner that preserves a common external appearance to the Community. Any

privacy fencing installed by a Lot Owner shall be maintained in good condition by the abutting Lot Owners who, in absence of an agreement to the contrary between them, shall equally share the costs of any necessary Upkeep thereto.

9.1.10. Signs.

The monument sign for the Community located within Tract U, if any, will be maintained by the Association. Initially, no other sign of any kind, shall be displayed to the public view on or from any Lot or the Common Areas without the prior consent of the Board; provided that 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 sign for a period of time in which the Lot is for sale or rent. The Board may by resolution establish further policies regarding signs, to reflect the sentiments of the Community while giving due regard to traditional democratic rights of free speech, religion and expression of Persons owning or occupying Lots in the Community. The Board's judgment in such matters shall be conclusive, except to the extent governed by applicable state or federal law.

9.1.11. Underground Utilities.

All utilities are required to be located underground.

9.1.12. Uses by Declarant.

Nothing in the Governing Documents shall be construed to prohibit the Declarant or its designees from using any Lot owned by the Declarant (or any other Lot with the permission of the Owner thereof) or any portion of the Common Areas for promotional, marketing, display or customer service purposes (such as a visitors' center) or for the closing of sales of Lots. Further, the Declarant specifically reserves the right to operate a construction office or a rental, brokerage and management office at any time on Lots owned or leased by the Declarant (or any other Lot with the permission of the Owner thereof) and on any portion of the Common Areas, to the extent permitted by law. The Declarant may assign its rights under this subsection to or share such rights with one or more other persons, exclusively, simultaneously or consecutively with respect to the Common Areas and Lots owned or leased by the Declarant or such persons.

ARTICLE X

ASSESSMENTS AND LIENS FOR COMMON EXPENSES

10.1. Assessments for Common Expenses.

10.1.1. Liability of Lots.

Except as provided in Sections 10.1.2 and 10.1.7 hereof, the total amount of the estimated funds required to pay the Common Expenses of the Association set forth in the Annual

Budget adopted by the Board of Directors for the fiscal year shall be assessed equally against the Lots in the manner prescribed in Section 10.2 hereof.

10.1.2. Assessment of Undeveloped Lots.

Until the Dwelling on a Lot is substantially completed and sold to a purchaser other than the Declarant, such Lot shall be subject to only 20% of the assessment liability allocated to a Lot containing completed improvements.

10.1.3. Initial Assessment Deposits - New Owners Fee.

An initial assessment deposit known as the "New Owners Fee," in the amount of \$250.00, shall be payable to the Association by the purchaser of each Lot at the time of the Closing of the initial sale of the Lot from the Declarant; this initial New Owners Fee may be used by the Association to defray expenses in its operating budget or to fund the Association's reserves, at the discretion of the Board of Directors.

10.1.4. Transfer Fees on Resales.

A New Owners Fee equal to three (3) months' worth of the annual assessment against the Lot shall continue to be due and owing to the Association upon the transfer of title of a Lot upon its resale to a subsequent purchaser. The Resale New Owners Fee shall be collected at the Closing of a Lot's resale in addition to any outstanding assessment obligations affecting the Lot, to fund the Association's reserves so as to enhance the Association's ability to maintain, repair, replace, manage and improve the Common Areas of the project, for the common benefit of all the Lot Owners.

10.1.5. 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 monthly or quarterly installments under conditions to be determined by the Board. Until changed by resolution of the Board of Directors, Assessments against each Lot for its share of the Common Expenses shall be due and payable on the first day 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.

10.1.6. Special Assessments.

The Board of Directors may levy a Special Assessment for the purpose of defraying the cost of any unexpected repair or other nonrecurring contingency, or to meet any other deficiencies in operations or reserves occurring from time to time, but by statute, the Budget Ratification process described in Section 10.2 must be undertaken by the Board with respect to any such Assessment.

#### 10.1.7. Specially Allocated Assessments.

All costs and expenses associated with Upkeep performed by the Association to or within a Lot shall constitute a Specially Allocated Assessment against such Lot. All costs and expenses associated with Upkeep performed by the Association to a private road or other Limited Common Areas shall constitute Specially Allocated Assessments against each Lot served by such Limited Common Area, to be apportioned equally among such Lots. If any Common Expense is caused by the negligence or misconduct of a Lot Owner, the Association may, subject to the provisions of the Bylaws, levy a Specially Allocated Assessment for that expense against the Owner's Lot; see Sections 4.7 and 16.2.3 in this regard. Any other costs, fees, charges, or fines imposed or incurred by the Association associated with a Lot, along with any costs and/or attorney's fees recoverable under the Governing Documents, and interest on any delinquent account shall also be deemed a Specially Allocated Assessment. Further, by resolution supported by a majority of all possible votes in the Association, the Association may require that any Common Expense or portion thereof benefitting fewer than all of the Lots shall be assessed exclusively against the Lots benefitted.

#### 10.1.8. Owners Personally Liable for Common Expenses.

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 until an Assessment is made under a current Annual Budget or adjusted Annual Budget and notice thereof has been sent to the Lot Owner.

### 10.2. Annual Budget - Development and Ratification.

#### 10.2.1. Budget for Common Expenses.

Not less than 45 days prior to the Annual meeting of the Association, or at such other time as may be deemed necessary or desirable by the Association's accountant, the Board shall prepare an Annual Budget which shall estimate the Common Expenses, described generally in the Covenants, to be paid during such year. The Budget shall also contain provisions for creating, funding and maintaining reasonable reserves for capital improvements, major repairs and replacements of components of the project for which the Association is responsible, and the amount of any deductible under any insurance policy obtained by the Association. The Budget shall further take into account any expected income and any surplus available from the prior year's operating fund.

**10.2.2. Meeting of Association to Ratify Budget.**

Within thirty days after adoption of any proposed regular or special budget for the Association, the Board of Directors shall provide a summary of the budget to all the Lot Owners and shall set a date for a meeting of the Lot Owners to consider ratification of the budget not less than fourteen nor more than sixty days after mailing of the summary. Unless at that meeting the Owners of Lots to which a majority of the votes in the Association are allocated reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected or the required notice is not given, the periodic budget last ratified by the Lot Owners shall be continued until such time as the Lot Owners ratify a subsequent budget proposed by the Board of Directors. Pursuant to RCW 64.38.025(3), this procedure shall be deemed to govern both general assessments and special assessments, this Section of these Covenants may not be amended without the advice of counsel, since its terms are controlled by law.

**10.3. 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.

**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.

**10.5. Perfection of Lien.**

Recording of this Declaration of Covenants 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 Community is located.

**10.6. Priority of Lien.**

10.6.1. 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 of Covenants, (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.

10.6.2. The Association's lien shall also be prior to the mortgages described in subpart (b) of Section 10.6.1 hereof, to the extent of the "priority amount," that is, an amount equal to (1) the Common Expense Assessments against the Lot, excluding any amounts for capital improvements, based on the periodic Budget adopted by the Association which would have become due in the absence of acceleration during the six months immediately preceding the institution of proceedings to foreclose either the Association's lien or a lien described in Subsection 10.6.1(b) hereof; and (2) the Association's actual costs and reasonable attorney's fees incurred in foreclosing its lien up to the time when any person pays to the Association the full priority amount described above, including the Association's attorneys' fees and costs. The term "institution of proceedings," as used herein, shall mean either: (i) the date of recording of a notice of trustee's sale by a deed of trust beneficiary; (ii) the date of commencement, pursuant to applicable court rules, of an action for judicial foreclosure either by the Association or by the holder of a recorded mortgage; or (iii) the date of recording of a notice of intention to forfeit in a real estate contract forfeiture proceeding by the vendor under a real estate contract.

#### 10.7. Enforcement of Lien.

The lien arising under this section shall be enforced judicially by the Association or its authorized representative in the manner set forth in chapter 61.12 RCW. 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.

#### 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.

#### 10.9. Rent Subject to Lien for Assessments- Other Remedies for Nonpayment.

##### 10.9.1. Rent Payable to Association Upon Default of Owner.

If a Lot is rented or leased by its Owner, and if the Owner becomes delinquent in the payment of assessments for more than 90 days, the Association may collect the delinquent amount from the tenant, who shall pay over to the Association so much of the rent for such Lot as is required to pay such delinquency, plus interest, attorneys' fees and other costs of collection. In order to avail

itself of the remedy contained in this Subsection, the Association shall first send a notice jointly to the Owner and the Tenant by First Class U.S. Mail, advising both parties [a] of the Owner's delinquency in assessments [b] of the tenant's obligations under this Subsection of the Declaration, and [c] notifying both parties that if such delinquency is not cured within ten (10) days of mailing, the tenant must commence paying rent to the Association until the delinquency has been cured. The tenant shall not have the right to question payment to the Association, and such payment shall discharge both the tenant's duty to pay rent to the Lot Owner and the Lot Owner's obligation to pay assessments, *pro tanto*. The Association shall not resort to this remedy where a receiver has been appointed and is collecting such rents, as provided immediately below in Section 10.10.2.

10.9.2. Association Entitled to Appointment of Receiver.

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 Lot as and when due. If the rent 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. The exercise by the Association of the foregoing rights shall not affect the priority of preexisting liens on the Lot.

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.

ARTICLE XI

INSURANCE MATTERS

11.1. Association's Coverage.

The Board of Directors shall obtain and maintain liability insurance and, if necessary, property insurance, under such terms and for such amounts as shall be deemed necessary by the Board of Directors. Levels of coverage shall be determined annually by the Board of Directors with assistance from the agent of the insurance company affording such coverage

11.2. 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.

11.3. Insurance for Lot Owners.

Each Lot Owner should obtain property and personal liability insurance covering the Dwelling and other insurable improvements on the Lot, and providing liability coverage for the Lot and any portions of the Common Areas not covered by the Association's insurance policy

ARTICLE XII

CONDEMNATION

In the event that Common Areas of the Community are become subject to eminent domain proceedings, the Association shall be a necessary party to such proceedings.

ARTICLE XIII

COMPLIANCE WITH LAW AND COVENANTS

13.1. Compliance by Owners and Occupants.

Each Owner and Occupant of a Lot shall comply strictly with the provisions of the Governing Documents. All remedies provided the Association in this Article may be enforced against any tenant or other Occupant of a Lot.

13.2. Enforcement by Association.

The Board of Directors shall have primary responsibility for maintaining and enforcing compliance with the covenants, conditions and restrictions contained in the Governing Documents.

13.3. Legal Proceedings.

Failure to comply with any of the terms of the Governing Documents shall be grounds for legal relief, including without limitation, actions to recover any sums due for money damages, injunctive relief, foreclosure of the lien for payment of Assessments, or any combination thereof and any other relief afforded by a court of competent jurisdiction, all of which relief may be sought by the Association or, if appropriate, by any aggrieved Owner, and shall not constitute an election of remedies.

13.4. Costs and Attorney's Fees.

The Association shall be entitled to recover any costs and reasonable attorneys' fees incurred in connection with the collection of delinquent Assessments, whether or not such collection activities result in suit being commenced or prosecuted to judgment. In addition, the Association shall be entitled to recover costs and reasonable attorneys' fees if it prevails on appeal and in the enforcement of a judgment. In any other proceeding arising out of an alleged default by an Owner, the prevailing party shall be entitled to recover the costs of the proceeding, and such reasonable attorney's fees as may be determined by the court. In the event that the prevailing party is the Association, the costs and attorney's fees so awarded shall constitute a Special Assessment against the Owner's Lot.

13.5. Late Charges and Interest.

The Board may impose and collect reasonable late charges to encourage prompt payment of Assessments. Until changed by resolution of the Board with advice of counsel, the Board may collect a late charge: (a) when any Assessment or installment thereof is received by the Association more than ten (10) days beyond the due date of such Assessment or installment; (b) in an amount not to exceed the greater of \$25.00 or ten percent (10%) of the amount of said Assessment or installment. Delinquent Assessments shall bear interest from the date of delinquency at the rate of 12% per annum, or the maximum rate permitted under RCW 19.52.020 on the date on which the Assessments became delinquent.

13.6. No Waiver of Rights.

The failure of the Association, the Board of Directors or of an Owner to enforce any right, provision, covenant or condition which may be granted by the Governing Documents or the Act, shall not constitute a waiver of the right of the Association, the Board or the Owner to enforce such right, provision, covenant or condition in the future.

13.7. Remedies Cumulative.

A suit to recover a money judgment for unpaid Assessments may be maintained without foreclosing or waiving the lien securing the same, and a foreclosure may be maintained notwithstanding the pendency of any suit to recover a money judgment. All rights, remedies and privileges granted to the Association, the Board of Directors or any Owner pursuant to any term, provision, covenant or condition of the Governing Documents or the Act shall be deemed to cumulative and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other privileges as may be granted to such party by the Governing Documents or the Act or at law or in equity.

ARTICLE XIV

LIMITATION OF LIABILITY

14.1. Association Not a Guarantor - No Liability for Equipment Failure, Etc.

Except to the extent covered by insurance obtained by the Board pursuant to Article XI, neither the Association nor the Board nor the Declarant shall be liable for any failure of any equipment or services 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.

14.2. 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.

ARTICLE XV

MORTGAGEE PROTECTION

Any representative of a Mortgagee or the institutional insurer of any mortgage may attend and address any meeting which a Lot Owner may attend.

ARTICLE XVI

EASEMENTS, SEPARATE COVENANTS AND SPECIAL DECLARANT RIGHTS

16.1. Easements for Lots, Lot Owners and Association Functions.

16.1.1. Easements for Lots and Lot Owners.

Each Lot has an easement in and through each other Lot and the Common Areas for utilities and for lateral and/or subjacent support. Lot Owners in Good Standing, and their family members, guests and lawful tenants, have rights to use the Community Park and its any recreational facilities.

16.1.2. General Easements 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 Governing Documents.

16.1.3. Easement Benefitting Lot 16 over Tract Y.

Lot 16 shall enjoy an easement on, over and across portions of Tract Y for secondary rights of ingress and egress, subject to all preexisting rights burdening Tract Y.

16.2. Easements Shown on Plat Map - Separate Covenants.

16.2.1. General Provisions.

Easements shown on the Plat Map are hereby confirmed. Any easement shown on the Plat Map which benefits one or more Lots in the Community, or which benefits any third parties or any real property not included within the Project, confers various rights and benefits upon such third parties or owner(s) of any such real property, and may also impose obligations upon the Association. Reference should be made to the Plat Map.

16.2.2. Avigation Easement and Notice re Airport Operations.

The Community is subject to the terms of an Avigation Easement benefitting the Port of Skagit County and the municipal airport that it operates that adjoins the Community to the northwest. The Avigation Easement is designed to promote the free and unobstructed passage of aircraft in and through the airspace over the Community, together with the right of aircraft to cause noise that may ensue from their operation. The Avigation Easement is recorded at Auditor's File No. 201612300086, Records of Skagit County, Washington. This easement limits the overall height of building structures and vegetation within the Community. A separate Notice, warning property owners that the property within the Community "will experience aircraft noise, exhaust fumes, vibration, glare and invasion of quiet enjoyment resulting from propeller-driven and jet aircraft," is recorded at Auditor's File No. 201612300065, Records of Skagit County, Washington.

16.2.3. Covenant for Upkeep of Tract T by Lots 28, 29 & 30.

Tract T is designed to function as a private driveway serving Lots 28, 29 & 30, as provided in Section 4.7 hereof. Provisions for joint use and joint maintenance of the driveway area, to assure its perpetual maintenance, repair and replacement at the sole cost of the owners of such Lots 28, 29 & 30, appear in an instrument recorded at Auditor's File No. 20170820212, Records of Skagit County, Washington (the "Joint Maintenance Covenant"). In the event that the owners of such Lots 28, 29 & 30 fail to adhere to maintenance standards established in the Joint Maintenance Covenant, the Association may treat Tract T as an "Limited Common Area" as described in Section 2.17 hereof, and provide any necessary Upkeep to the driveway at the sole expense of the all the Owners of such Lots pursuant to Section 10.1.7 hereof. The Association shall have an easement over Tract T for ingress and egress to provide Upkeep to Tracts X and Z.

16.2.4. Protected Critical Area Easement - Tracts S, V and Y.

A Protected Critical Area Easement has been granted to Skagit County and has been recorded at Auditor's File No. \_\_\_\_\_, Records of Skagit County, Washington (the "PCAЕ"). The PCAЕ is designed to protect certain natural features in the Stream Buffer Area [Tract S], the Protected Critical Area Wetland buffer [Tract V], which shall be maintained so as to preserve native vegetation and enhance stream and wetland functionality. The southerly 100 feet of Tract Y shall also be maintained to similar standards. A general description of such requirements appears in Section 6.2 hereof, but reference should be made to the PCAЕ for complete details.

16.3. Easements for Utilities and Emergency Access.

16.3.1. Easements for Utilities.

A non-exclusive perpetual blanket easement is hereby granted over and through the Property for ingress, egress, installation and Upkeep of any utility lines, pipes, wires, ducts, conduits and/or other facilities and equipment for providing to any portion of the Property utilities of any type, whether public or private; such easement is hereby granted to any person installing or providing Upkeep for such utilities. Any pipes, conduits, lines, wires, transformers or any other apparatus necessary for the provision or metering of any utility may be installed, maintained or relocated where permitted by the Declarant or where approved by resolution of the Board of Directors. See the Plat Map for further details.

16.3.2. Easements for Emergency Access.

A non-exclusive perpetual easement is hereby granted on, over, under and across the Common Areas to all police, fire, ambulance and other rescue personnel for the lawful performance of their functions during emergencies.

16.4. 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.

16.5. Special Declarant Rights.

16.5.1. Reservation.

The Declarant has reserved the following Special Declarant Rights for the purpose of furthering and completing the development of the Community: To complete any improvements indicated on the Plat Map or described earlier in this Declaration of Covenants; to maintain sales offices, management offices, signs advertising the Community, 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 Community; and to appoint or remove any Officer or Director of the Association, or to veto or approve a proposed action of the

Board or of the Association during the Declarant Control Period described in Section 8.1 hereof; the Declarant shall be deemed to hold a proxy from all Lot Owners during the Declarant Control Period for such purposes.

16.5.2. Status of Special Declarant Rights.

Each Special Declarant Right reserved by Declarant in this Declaration of Covenants has been, is and shall remain an equitable servitude burdening all lands subject thereto and running with such lands, for so long as Declarant owns a Lot in the Community. Each Special Declarant Right shall exist for the benefit of the Declarant and/or any assignee of Declarant and/or any successor declarant. Declarant has and shall retain, with respect to each Special Declarant Right, a power coupled with Declarant's interest in said lands.

ARTICLE XVII

AMENDMENT OF DECLARATION OF COVENANTS

17.1. Procedure for Amendment of Declaration of Covenants.

Amendments to the Declaration of Covenants shall be made by an instrument in writing entitled "Amendment to Declaration of Covenants" which sets forth the entire amendment. Except as otherwise specifically provided for in this Declaration of Covenants, 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 Section 17.3 hereof, amendments may be adopted only at a meeting of the Owners if at least 67% percent 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 67% of the votes in the Association consent in writing to such amendment. No provision of this Declaration of Covenants that expressly benefits Skagit County shall be amended without the advance written consent of Skagit County. In all cases, the amendment when adopted shall bear the acknowledged signature of the President of the Association.

17.2. Recordation Required.

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

17.3. Amendments by Declarant.

The Declarant may unilaterally adopt and file amendments to the Declaration of Covenants for so long as the Declarant is the Owner of any Lot in the Community.

ARTICLE XVIII

MISCELLANEOUS

18.1. Notices for All Purposes, Delivery.

18.1.1. Any notice permitted or required to be delivered under the provisions of the Declaration of Covenants or the Bylaws may be delivered either personally or by mail, addressed to the person entitled to such notice at the most recent address given by such person to the Board in a Record, or to the most recent address known to the Board. Notice to the Owner of any Lot shall be sufficient if mailed to his or her Lot if no other mailing address has been given to the Board. With the advance written consent of any Owner, required notice may be provided electronically. Mailing addresses may be changed from time to time by notice provided by the Owner in a Record to the Board. Notice to be given to the Association may be given to the President or Secretary of the Association, or to its Registered Agent. Notice also may be provided to any person in any manner permitted by statute.

18.1.2. New Lot Owners must supply their names and addresses, telephone numbers and, if so desired in order to receive notices from the Association, e-mail addresses, to the Secretary of the Association promptly after conveyance.

18.2. Severability.

The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof, if the remainder complies with the Governing Law and furthers the common plan of this Subdivision.

18.3. No Right of First Refusal.

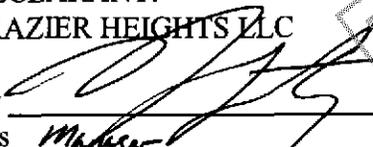
There is no right of first refusal in the Association limiting or restricting the right of any Lot Owner to sell, transfer or convey his or her Lot.

18.4. Effective Date.

This Declaration of Covenants shall take effect upon recording.

DATED this 15<sup>TH</sup> day of August, 2017.

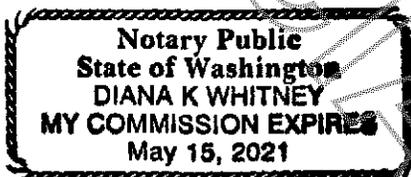
DECLARANT:  
FRAZIER HEIGHTS LLC

By   
its Madison

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF SKAGIT )

I hereby certify that I know or have satisfactory evidence that BRIAN GENTRY  
\_\_\_\_\_ is the person who appeared before me, and said person acknowledged that he signed this  
instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as  
the MANAGER of the Declarant, FRAZIER HEIGHTS LLC, to be the free and voluntary  
act of such party for the uses and purposes mentioned in the instrument.

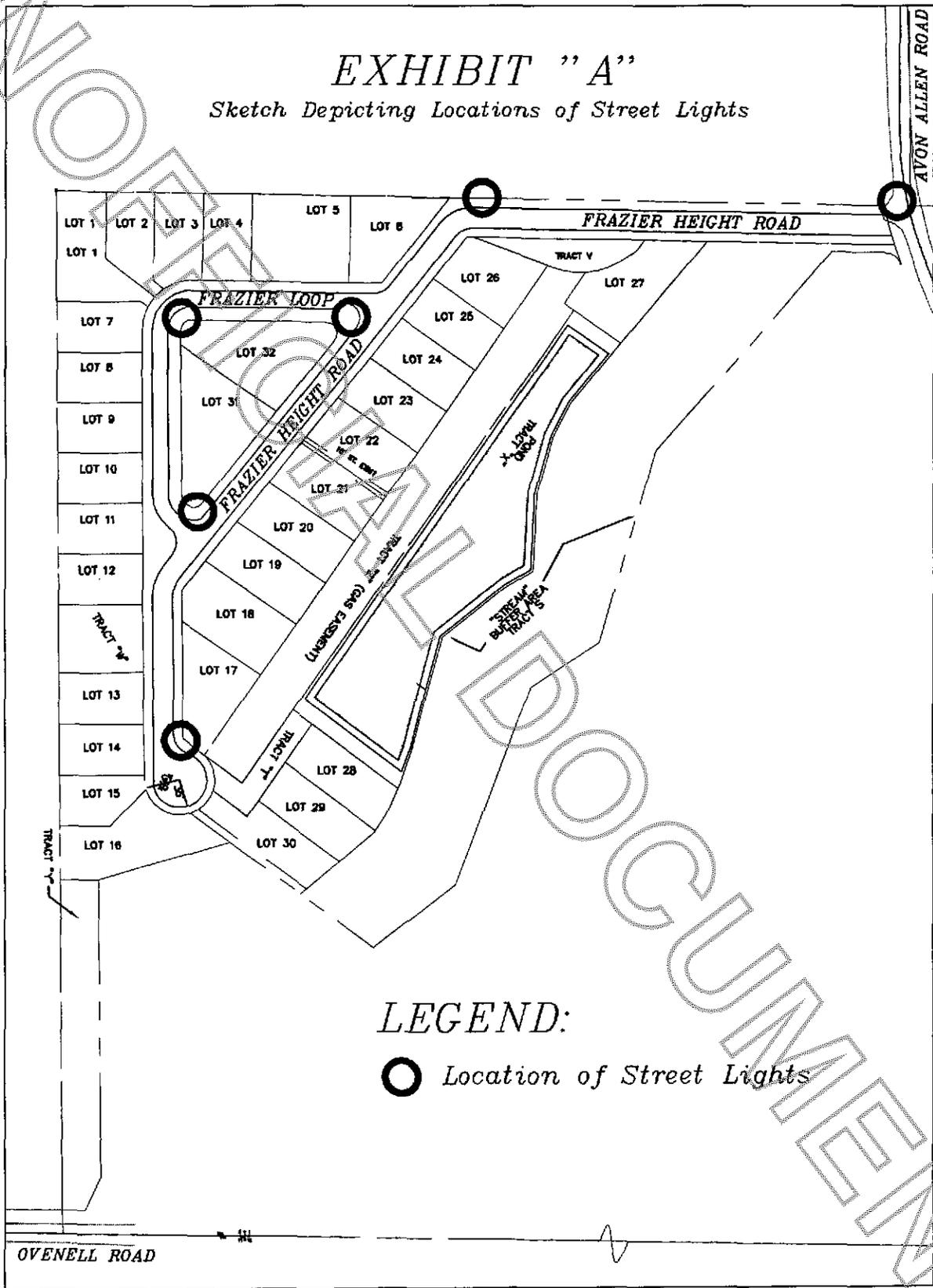
DATED: AUGUST 15<sup>th</sup>, 2017.



Diana K. Whitney  
NOTARY PUBLIC for the State of Washington  
Residing at BOW  
My Commission expires 15 MAY 2021

# EXHIBIT "A"

Sketch Depicting Locations of Street Lights



## LEGEND:

○ Location of Street Lights