



**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR  
SPENCER CREEK RESERVE HOMEOWNERS' ASSOCIATION**  
A Plat Community under RCW Chapter 64.90

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF SPENCER CREEK RESERVE HOMEOWNERS' ASSOCIATION ("Declaration") is made this 11<sup>th</sup> day of May, 2026 by PRESTON ENTERPRISES, LLC, a Washington limited liability company, and CHILTON INC., a Washington corporation (collectively, the "Declarant").

**RECITALS**

WHEREAS, Declarant is the owner, or controls, all that certain real property and improvements thereon located in the City of Kalama, Cowlitz County, Washington, legally described on the attached Exhibit A and also referred to as "Spencer Creek Reserve, a Plat Community" as recorded on 2026, in Book 15, Page 008 (Cowlitz County Auditor's File Number 3789527) (hereinafter referred to as "Spencer Creek Reserve" or the "Property"); and

WHEREAS, Declarant intends to develop the Property as a planned community known as "Spencer Creek Reserve Homeowners Association" (the "Association"), a "plat community" as defined in RCW 64.90.010(38). Declarant desires to impose these mutually beneficial covenants, conditions, restrictions, easements, assessments, and liens on the Property under a comprehensive general plan of improvement and development for the benefit of all of the Owners, the Lots, and Common Areas (each as defined herein) within the Property; and

WHEREAS, to the extent there is a conflict between this Declaration and any mandatory or nonwaivable provision of RCW 64.90, the provisions of RCW 64.90 shall control; however, to the extent there is a conflict between this Declaration and a provision of RCW 64.90 that is either not mandatory or that is waivable or alterable, the provisions of this Declaration shall control; and

WHEREAS, Declarant desires to create a homeowners association, to which will be delegated and assigned the powers and authority to own, maintain and administer the Association and the Common Areas and administer and enforce the covenants, conditions, and restrictions of this Declaration and collect and disburse the assessments and charges hereinafter created.

NOW THEREFORE, Declarant declares that the Property shall be held, transferred, sold, conveyed and occupied subject to the following covenants, conditions, restrictions, easements, charges, and liens, or as otherwise noted herein, which shall run with the land and shall be binding upon all parties having or acquiring any right, title, or interest in the Property, or any part thereof, and shall inure to the benefit of the Association and for the benefit of each Owner.

**ARTICLE 1**

**Definitions**

- 1.1 **"Architectural Review Committee"** or **"ARC"** shall mean the Declarant until Turnover and thereafter shall refer to the Board of Directors, unless the Board has appointed a separate body to carry out the functions described in Article 6 in which case "ARC" shall refer to this body.

- 1.2 **"Articles"** or **"Article of Incorporation"** shall mean the Articles of Incorporation for Spencer Creek Reserve Homeowners' Association, a non-profit corporation, as registered with the Washington Secretary of State.
- 1.3 **"Association"** shall mean and refer to Spencer Creek Reserve Homeowners Association, its successors and assigns.
- 1.4 **"Board"** or **"Board of Directors"** shall mean the Board of Directors of the Association.
- 1.5 **"Builder"** or **"Approved Builder"** shall mean a builder who has purchased one or more Lots from the Declarant, or the Declarant's assignee or successor, and is authorized to construct a Home on said Lot(s). Said Builder shares in the special Declarant rights related to construction and marketing. Once assessments have commenced, any Lot owned by a Builder will pay assessments to the Association from the date the escrow closes between the Declarant and the Builder.
- 1.6 **"Bylaws"** shall mean and refer to the Bylaws of the Association, which shall be properly adopted and recorded in Cowlitz County and attached to this Declaration as Exhibit B.
- 1.7 **"Common Areas"** shall mean and refer to any areas of land shown on the recorded Plat of the Property, excluding land within the bounds of residential Lots 1-43, but including Tracts B, C, and D as identified on the Plat, all open space and wetlands, and any entryway monument(s), if applicable, which areas of land are intended to be devoted to the common use and enjoyment of the members of the Association or areas outlined herein as the maintenance responsibility of the Association, unless otherwise provided in this Declaration.
- 1.8 **"Common Expenses"** shall mean those expenditures made or liabilities incurred in owning and maintaining the Common Areas and in operating the Association, including, but not limited to, reserves, common area maintenance and replacement costs, and insurance.
- 1.9 **"Declarant"** shall mean and refer to PRESTON ENTERPRISES, LLC, a Washington limited liability company, and CHILTON INC., a Washington corporation, collectively, their successors or assigns, or any successor or assign to any of their interests in the development of the Property. "Declarant" shall not refer to any other subsequent purchaser of a Lot or Home.
- 1.10 **"Declaration"** shall mean the covenants, conditions, restrictions, and all other provisions set forth in this Declaration of Covenants, Conditions and Restrictions for Spencer Creek Reserve Homeowners Association.
- 1.11 **"Governing Documents"** shall mean and refer to the collective of this Declaration, the Bylaws, the Plat, the Articles of Incorporation, any Rules and Regulations as may be adopted by the Board or its committee(s) (including the ARC) from time to time,

and any Amendments to the documents properly adopted by the Board, its committees, and/or the Members.

- 1.12 **"Home"** shall mean and refer to any portion of a structure situated on a Lot designed and intended for use and occupancy as a residence by a single family or household, including garage structures located on any Lot.
- 1.13 **"Lot"** shall mean and refer to residential Lots 1-43 as indicated upon the Plat, and any Lots as may be brought within the jurisdiction of the Association and be made subject to this Declaration by means of annexation to the Property.
- 1.14 **"Lot Easement Area"** shall mean and refer to those portions of any Lot subject to any easement benefiting the Association or any other party, including any government entity or agency.
- 1.15 **"Members"** shall mean and refer to the Owners of the Lots within Spencer Creek Reserve.
- 1.16 **"Occupant"** shall mean and refer to the occupant(s) of a Home who shall be the Owner, lessee, or any other person authorized by the Owner to occupy the premises.
- 1.17 **"Owners"** as further described in Section 3.2, below, shall mean and refer to the record Owner, including Declarant, of the fee simple title to any Lot whether one or more persons or entities, or a purchaser in possession under a "real estate contract" as defined by RCW 61.30.010(1). The foregoing does not include persons or entities that hold an interest in any Lot merely as security for the performance of an obligation.
- 1.18 **"Plat"** shall mean and refer to the plat of Spencer Creek Reserve recorded on \_\_\_\_\_ 2026 on Page \_\_\_\_\_ of Book \_\_\_\_\_, records of Cowlitz County and any annexation plats related thereto. A copy of the Plat is attached hereto as Exhibit C.
- 1.19 **DELETED**
- 1.20 **"Property"** shall mean and refer to the real property reflected on the Plat and any future annexations of additional lands to the Property, including the Lots, Common Areas, and all improvements located on real property as may be brought within the jurisdiction of the Association and be made subject to this Declaration.
- 1.21 **"Rules and Regulations"** shall mean and refer to the documents containing rules, regulations, and policies adopted by the Board or the ARC from time to time, and as may be amended by the Board and/or the ARC.
- 1.22 **"Stormwater Facilities"** shall mean and refer to the stormwater facilities and improvements located on the following Tracts, as shown on the Plat, which shall be owned and maintained by the Association: Tracts B, C, and D. An additional pond and

ditch located on adjacent parcel number WC1604001 and parcel number WC1604002 subject to an access and maintenance easement in favor of the Association shall also serve as Stormwater Facility for the Property.

- 1.23** **"Turnover Meeting"** shall be the meeting called by the Declarant to turn over control of the Association to the Owners as required by RCW 64.90.415 ("Turnover").

## ARTICLE 2

### Property Subject to this Declaration

- 2.1** **Real Property Identified on the Plat.** The Property which is and shall be held, transferred, sold, conveyed, and occupied subject to this Declaration is located in the City of Kalama, Cowlitz County, Washington, is legally described on Exhibit A hereto, consisting of Lots 1-43 of Spencer Creek Reserve and all Common Areas as described on the face of the Plat. Pursuant to RCW 64.90.235, the allocation of units for Common Expenses and voting is 1/43rd per unit. The formula used to allocate units is pro rata based on the number of units, and, in the event additional Lots are added or withdrawn, the allocation shall be adjusted to reflect the pro rata share of each Lot based on the new total number of Lots.
- 2.2** **Annexation.** At any time during the initial term of this Declaration, the Declarant may, at its sole option, annex to the Association additional nearby and adjacent properties identified in Exhibit D and legally described in Exhibit E, which shall be subject to the terms of the Governing Documents to the same extent as if originally included on the Plat, and subject to such other terms, covenants, conditions, easements, and restrictions as may be imposed by Declarant. Such additional property may be annexed in whole or in part. Such additional property may be developed into as many units as are permissible, up to an additional forty-five (45) Lots. No assurances are being made regarding the foregoing matters, including, without limitation, the boundaries of any Lots, the number of Lots to be developed in connection with any annexation, any phases of development, the order of development, or the timing of any development.
- (a) **Consent or Joinder Not Required.** No consent or joinder of any other party, except the Declarant and the record owner of the land being annexed, shall be necessary to affect any annexation made pursuant to this Section.
- (b) **Declaration of Annexation.** Annexation shall be evidenced by a written Declaration of Annexation executed by the Declarant, or (in the case of an annexation by action of Members) by the Board and the owners of the property being annexed, setting forth the legal description of the property being annexed and any additional covenants, conditions, and restrictions to be applied to such annexed property. Notwithstanding any provision apparently to the contrary, a declaration with respect to any annexed property may:
- (i) Establish new land classifications and types of Lots and any limitations, uses, restrictions, covenants, and conditions with respect to

those Lots as Declarant deems appropriate for the development of the annexed property;

(ii) With respect to existing land classifications, establish additional or different limitations, uses, restrictions, covenants, and conditions with respect to those Lots as Declarant deems appropriate for the development of the annexed property; and/or;

(iii) Contain provisions necessary or appropriate to comply with any condition, requirement, or imposition of any governmental or regulatory authority.

(c) Voting Rights; Allocation of Assessments. Upon annexation, additional Lots so annexed shall be entitled to voting rights based on the same formula set forth in Section 2.1, above, with an increased denominator representing the number of Lots annexed. Such annexed Lots shall be responsible for payment of assessments as required for that fiscal year. At the beginning of the next fiscal year, assessments for the general Common Areas shall be apportioned equally based upon the total number of Lots following annexation.

(d) No Duty to Annex. Nothing herein contained shall establish any duty or obligation on the part of the Declarant to annex any property to the Association and no owner of property excluded from the Association shall have any right to have such property annexed thereto.

### ARTICLE 3

#### Ownership and Easements

**3.1 Non-Severability.** The interest of each Owner shall be appurtenant to their respective Lot and shall automatically transfer the rights and duties under this Declaration without the necessity of express reference in the instrument of conveyance. No Lot shall be conveyed by an Owner separately from their interest in the Association. The ownership interests in the Common Areas and Lots described in this Declaration are subject to the easements granted and reserved in this Declaration, including any easement referenced on the Plat but not expressly referenced in this Declaration. Each of the easements reserved or granted herein shall be deemed to be established upon the recording of this Declaration and, unless abandoned, shall forever be deemed to be covenants running with the land for the use and benefit of the Owners and their Lots. Such easements shall be superior to all other encumbrances applied against or in favor of any portion of the Property.

**3.2 Ownership of Lots.** Title to each Lot shall be conveyed in fee simple to an Owner. If more than one person and/or entity owns an undivided interest in the same Lot, such person and/or entities shall constitute one Owner.

**3.3 Easements.** Individual deeds to Lots may, but shall not be required to, set forth the easements specified in this Section.

- (a) Easements on Plat. The Lots and Common Areas are subject to the easements and rights-of-way shown on the Plat.
- (b) Easements for Common Areas. Every Owner shall have a non-exclusive right and easement for use and enjoyment in and to the Common Areas, which shall be appurtenant to and shall pass with title to every Lot.
- (c) Easements Reserved by Declarant. Declarant, while owning any Lot, shall have an easement over, under, across, and through the Common Areas to carry out development and sales activities. In addition, Declarant reserves unto itself, and for its successors and assigns, a perpetual easement and right-of-way for access over, upon, across, and through the Common Areas for construction, utilities, communication lines, drainage, ingress and egress for the benefit of the Lots or other property owned by Declarant, the right to temporarily store materials thereon, and to make such other use as may be reasonably necessary or incident to the construction of any improvements on the Property or other real property owned by Declarant in such a way as to not unreasonably interfere with the occupancy, use, enjoyment or access to an Owner's Lot.
- (d) Additional Easements and Obligations. Notwithstanding anything expressed or implied to the contrary, this Declaration shall be subject to all easements, covenants, use limitations, and obligations granted, or agreed to, by Declarant for the installation and maintenance of utilities, sidewalks, pathways, access roads, Stormwater Facilities, and drainage facilities necessary for the development of Spencer Creek Reserve, including, but not limited to, a stormwater covenant, any private road maintenance agreements, as well as the easements listed in this Section 3.3. No structure, planting, or other material shall be placed or permitted to remain within any easement area which may damage or interfere with the installation or maintenance of utilities, which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements, and no act shall be taken in contravention of any wetland conservation obligations agreed to by Declarant.
- (e) Turnaround Easement. Lots 13 and 14 shall be subject to a turnaround easement as depicted on the Plat.
- (f) Shared Driveway Easements. Lots 19 and 20, Lots 22 and 23, and Lots 35 and 36 shall be subject to shared driveway easements as depicted on the Plat.
- (g) Septic Drainfield Easement. Tract C shall be subject to a septic drainfield easement in favor of Lots 13 and 14 as depicted on the Plat.
- (h) Lot 32 Access and Utility Easement. Lot 32 shall be subject to a sixty-foot (60') access and utility easement as depicted on the Plat. This easement shall provide

access to a Stormwater Facility located on adjacent property and shall also provide access to potential future phases of Spencer Creek Reserve.

- (i) Association's Easements. In addition to those specific easements included on the Plat, there are hereby reserved to the Association and its duly authorized agents and representatives such easements as are necessary to perform the duties and obligations of the Association set forth in the Governing Documents, and for the maintenance of the Common Areas:

(i) Landscaping Easement. The Association shall have an easement for landscape maintenance, upkeep, and replacement, as well as utilities pertaining to landscaping or maintenance over and across any Common Area, planter strips or islands, buffer (including wetland and stream buffers) landscaping outside the bounds of Lots 1-43, and any entry monument (even if outside of designated Common Areas). Landscaping within the bounds of Lots 1-43 shall be the Lot Owner's sole responsibility.

(ii) Maintenance Easement. The Association, its successors, assigns, contractors, agents, and employees shall have an easement over, across, under, and through each Lot and the Common Areas of the Property necessary or appropriate for the purposes of accomplishing the maintenance, repair, and replacement of Common Area improvements, should such maintenance, repair and replacement be deemed necessary in order to maintain the standards of the Association.

(iii) Sidewalk Easement. The Association shall have a Sidewalk Easement upon, across, under, and through the locations specified on the Plat and also upon, across, under, and through the exterior six feet (6') of the front boundary lines of all Lots adjacent to public or private roads and public or private sidewalks for the purpose of installing, constructing, maintaining, or replacing any sidewalk within Spencer Creek Reserve, to ensure compliance with this Declaration and any applicable law, code, rule, or ordinance, and any ADA requirement.

- (j) Easement to Governmental Entities. There is hereby reserved and granted a non-exclusive easement over the Common Areas to the City of Kalama and/or Cowlitz County and all government and quasi-government entities, agencies, utilities, and their agents, for the purposes of performing their duties within Spencer Creek Reserve, including, but not limited to the following:

(i) Public Utility Easements. A "Public Utility Easement" under, upon, across, and through the exterior five feet (5') at the front boundary line of all Lots adjacent to any right-of-way, whether public or private, for the installation, construction, renewal, operation, and maintenance of electric, telephone, TV, cable, water, and sanitary sewer services. No Home or structure shall be placed or located on or in a Public Utility Easement.

- (ii) Stormwater Facilities Easement. An easement over, under and through Tracts B, C, and D where Stormwater Facilities have been, or will be, constructed, for any purpose, including accessing and inspecting the Stormwater Facilities as may be necessary from time to time.
- (iii) Water Reservoir Easement. An easement over, under and through Tract A, where a water reservoir has been, or will be, constructed, for any purpose, including accessing and inspecting the water reservoir as may be necessary from time to time until such time as Tract A may be dedicated or otherwise conveyed to the City of Kalama.
- (k) Maintenance Obligations/Owner Restrictions. Except as specifically noted in this Declaration, each Owner, at such Owner's expense, shall maintain, repair, and remain liable for replacement of the improvements and utility installations in any Lot Easement Area and shall hold the Association harmless from any such costs.
- (l) Stormwater Facilities Maintenance. The Association shall own and maintain the Stormwater Facilities, whether constructed prior to the recording of the final Plat or thereafter, and shall be responsible for periodic inspections, together with replacement of storm filtration cartridges and cleaning of vaults.
- (m) Retaining Walls. Retaining walls may be constructed upon the Property, and those walls constructed by Declarant may not in all cases be located on a Lot line. The location of a retaining wall (or the construction by an Owner of any improvements on or near a retaining wall) shall not constitute evidence of the intended location of a Lot line or provide grounds for any claim of adverse possession or prescriptive easement. Each Lot upon which any portion of a retaining wall is located shall be subject to an easement, for the benefit of all other Lots, for the purposes of support by and natural drainage from such wall. Retaining walls may or may not have been designed by a professional engineer, and no Owner shall take any action to add, construct or place any improvement on the Lot which may, in the judgment of the Association: result in disturbance of, weakening of, or damage to the retaining walls; increase any engineered load or alter design criteria; or cause damage to the wall and surrounding properties. Any improvements on a Lot with a potential impact on a wall will require prior approval of the ARC. Regardless of such approval, any Owner who takes action and causes damage shall be responsible for all resulting costs of repair and restoration. Owners of Lots with retaining walls, and their duly authorized agents or contractors, have a temporary five-foot easement across an adjacent Lot, as measured from the common property line, to maintain and repair the retaining wall on their Lot, as necessary. The Association also has a temporary five-foot easement across a Lot with a retaining wall and the adjacent Lot, as measured from the common property line, to complete maintenance and repair of a retaining wall if the responsible Owner fails to do so, and the Association may assess a Special Assessment against the responsible Owner for the cost of maintenance and repair. Any landscaping damaged or destroyed as a result of

such maintenance or repair must be restored by the Owner, or the Association who caused the damage to as nearly as possible to its pre-replacement or pre-repair condition as soon as practicable. The easement areas that are referenced in this subsection do not extend to the land area under any dwelling.

#### **ARTICLE 4 Lots and Homes**

**4.1 Residential Use.** Lots shall be used for residential purposes only. Except with the prior written consent of the Board of Directors, no trade, craft, business, profession, commercial or similar activity of any kind shall be conducted on any Lot, nor shall any goods, equipment, vehicles, materials, or supplies used in connection with any trade, service, or business be kept or stored on any Lot. Nothing in this paragraph shall be deemed to prohibit the following:

(a) **Certain Commercial Activities Within Individual Residences.** The right of the Owner of a Lot to maintain a professional or personal library, keep personal business or professional records or accounts, handle personal business or professional telephone calls, or confer with business or professional associates, clients or customers, inside the residence, provided that such activity does not significantly increase parking or vehicular traffic, and is not in violation of applicable local government ordinances. Merely parking a vehicle bearing the name of a business on a Lot or in the street shall not, in and of itself, constitute a violation of this provision. The Board of Directors shall not approve commercial activities otherwise prohibited by this paragraph unless the Board determines that only typical residential activities would be observable outside of the residence and that the activities would not be in violation of applicable local government ordinances. Neither the Association, the Board of Directors, nor a managing agent shall be held responsible for any loss of wages, income, or computer connectivity if telephone, computer, or internet service is interrupted by the Association, an Association vendor, utility, or the management agent.

**4.2 Construction.** Except for construction performed or contracted for by Declarant or an Approved Builder, no construction, reconstruction, or exterior alterations, shall occur on any Lot, unless approval of the ARC is first obtained pursuant to Article 6. Considerations such as siting, shape, size, color, design, height, solar access, or material may be considered by the ARC in determining whether to consent to any proposed work. Such work includes, but is not limited to, Homes, storage shelters, swimming pools, spas, landscaping, greenhouses, patios, fencing, affixed basketball hoops, or remodeling. The intent of this covenant is to ensure quality of workmanship and material, and harmony of external design with the existing and planned structures regarding location, visual compatibility, and finish grade elevations. Original construction designs, materials, and product specifications by Declarant or an Approved Builder may not vary from any or all specified in this document except with the express written approval of the ARC. All construction performed or contracted for by Declarant or by an Approved Builder shall be presumed to have met these minimum requirements.

- 4.3 View Preservation.** No Home or other structure or improvement on a Lot may exceed twenty-five (25) feet in height measured vertically from the natural grade at the base of the structure. No trees, shrubs, or other vegetation may exceed twenty-five (25) feet in height measured vertically from the natural grade at the base of the vegetation. For purposes of this Section, "natural grade" means the elevation of the undisturbed natural surface immediately prior to construction or planting, before any excavation, fill, or landscaping. Height shall be measured from the natural grade on the uphill side at the base of the structure or vegetation to its highest point, including architectural features, chimneys, or treetops. All trees, shrubs, or other vegetation of any kind shall be kept neat and orderly and trimmed so as not to block or materially impair another Lot's view. The ARC shall include in its review of any proposed construction plans or proposed landscaping plans a review of the impact of any proposed construction or landscaping on the views of any other Lots in violation of this Section 4.3.
- 4.4 Builders.** No Home or other structure on a Lot may be constructed except by a builder licensed as a general building contractor by the State of Washington, who performs his or her services under a general contractor's bond as required by the State. All builders must be approved by the Board before any construction is performed on any Lot. No unlicensed or unbonded person is permitted to be responsible for the actual construction of a dwelling, and it will not be an exception to the licensed, bonded, builder requirement that the Owner is doing the work or is responsible for the construction of the dwelling, unless the Owner meets the requirements of this section.
- 4.5 Building Restrictions.** All Homes, or garage or any part, or any other structure must be constructed in conformity with all local building codes and regulations of the City of Kalama and/or Cowlitz County, Washington, and in compliance with the conditions noted on the Plat. No dwelling may be constructed or permitted upon any Lot other than one single-family dwelling for a single-family occupancy only, not to exceed two stories in height above grade. No structure of a temporary character, basement only, tent, shack, garage, barn, prefabricated structure or other outbuildings, or mobile home or trailer may be used as a residence, even on a temporary basis during the course of construction.
- 4.6 Square Foot Minimum — Dwellings.** The ground floor area of the dwelling structure, exclusive of basements, open or screened porches and garages, may not be less than 2,800 square feet for a one-story dwelling, or at least 2,000 square feet for the ground floor area of a two-story dwelling, at least 3,200 square feet total square feet for a two-story dwelling.
- 4.7 Roof.** All roofs must be of minimum thirty-year architectural roof and may not consist of Lifetime shingles. All roofs must be approved by the ARC.
- 4.8 Color.** Unless otherwise approved by the ARC, only semi-transparent or solid paints or stains in earth-tone hues, or black/white color schemes, are acceptable. The color combination for the body and trim of a dwelling may not be repeated by

any two dwellings sharing a common side-yard boundary or by any dwellings on Lots across the street from each other. Lots are across the street from each other if the two lots front the same street, and if a straight line, perpendicular to the street, can be drawn across the street between any point on one Lot to any point on the other Lot, excluding the panhandle portions of Lots 36 and 37. In approving a paint color, the ARC has the discretion to determine if the intent of this section to break up the color scheme is met even if there is not strict compliance. All color schemes must be receive written approval from the ARC before being implemented.

- 4.9 Siding.** Unless approved otherwise by the ARC, all elevations of each dwelling must be of cedar, redwood, fiber cement product, lap siding, or board and batten pattern, with shakes or shingles, or such other equivalent accents. Vinyl siding is not allowed.
- 4.10 Garages.** Each dwelling must include an attached garage designed to enclose a minimum of two (2) passenger vehicles. Each dwelling's attached garage may not include more than three (3) passenger vehicle bay doors facing the street, or two (2) passenger vehicle bay doors and one (1) RV-style bay door facing the street. Any RV-style bay must be fully enclosed. Covered RV storage that is not enclosed is not permitted. Tandem vehicle parking inside the enclosed garage (e.g., one vehicle in front of the other) is allowed. Additional vehicle bay doors may be allowed if not facing the street. Carports are not permitted. Garage doors must be painted or stained and not left factory primed.
- 4.11 Pools.** No above-ground pools may be approved for any Lot, except that the ARC may approve an above-ground pool if it is enclosed on all sides with composite decking and is otherwise in harmony with the surrounding structures and grounds as determined by the ARC.
- 4.12 Deck and Patio Covers.** All covers for decks and patios must be of complementary design and be constructed of the same materials as dwellings. Covers of metal (unless matching the dwelling roof) and plastic sheathing are prohibited.
- 4.13 Mobile/Manufactured Homes.** "Mobile homes" and "manufactured homes," as defined in RCW 46.04.302, are strictly prohibited within Spencer Creek Reserve.
- 4.14 Completion of Construction.** The construction of a Home or any later-approved project on any Lot, including painting and all exterior finish, shall be completed within twelve (12) months from foundation excavation to present a finished appearance when viewed from any angle. In the event of undue hardship, including inclement weather conditions, this provision may be extended for a reasonable length of time upon written approval from the ARC. The Lot shall be kept reasonably clean and in workmanlike order and free of litter during the construction period, with a garbage disposal facility located on site during such construction period.
- 4.15 Landscaping.** Each Owner shall be responsible for installing and maintaining landscaping on the Owner's Lot in a neat and well-kept condition. No Owner may remove

street trees or other landscaping within private or public easement areas, or within the Common Areas, without the prior written approval of the ARC. No weeds, noxious plants, or unmaintained vegetation shall be planted or allowed to grow on any Lot. No tree on any Lot measuring over six inches (6") in diameter (measured from a point 48" above adjacent grade) may be removed without the prior approval of the ARC. Any street tree approved for removal must immediately be replaced with a tree of equivalent size as the street tree originally planted by Declarant.

**4.16 Rental of Homes.** An Owner shall be entitled to rent or lease the Home, subject to the following:

- (a) **Written Rental Agreements.** A written rental or lease agreement is required, specifying that (i) the tenant shall be subject to all provisions of the Governing Documents, and (ii) failure to comply with any provision of the Governing Documents shall constitute a default under the rental agreement.
- (b) **Minimum Rental Period.** The period of the rental or lease is not less than one-hundred and eighty (180) days. For avoidance of doubt, no Home or Lot may be leased on a short term basis for vacation or any other use. The permission granted herein to lease a Home is intended for long term residential tenancies, subject to the terms of this Section 4.16.
- (c) **Tenant Must Be Given Documents.** The Owner gives each tenant a copy of the Governing Documents, whether in electronic or paper form; and
- (d) **Owner Responsibility.** The Owner shall be responsible for any violations by their tenants and shall be solely responsible for either correcting or eliminating such violations, or ensuring tenant's compliance with same.

**4.17 Animals.** No animals, livestock, or poultry of any kind shall be raised, bred, kept, or permitted within any Lot other than a reasonable number of domestic household pets which shall not be kept, bred, or raised for commercial purposes and which are reasonably controlled so as not to be a nuisance. Any inconvenience, damage, or unpleasantness caused by such pets, including noise, shall be the responsibility of the respective Owners thereof. No dogs shall be permitted to roam the Property unattended, and all pets shall be kept on a leash while outside the Owner's Lot. An Owner may be required to remove a pet from the Property upon the receipt of the third notice, in writing, from the Board of Directors of violation of any provision of the Governing Documents governing pets within the Property.

**4.18 Nuisance.** No noxious, harmful, or offensive activities shall be carried on within the Property, nor shall anything be done within the Property which interferes with an Owner's use and enjoyment of their Lot, or which is a source of annoyance to other Owners or Occupants.

- 4.19 Firearms, Explosives, and Other Weapons.** The discharge of firearms, propulsion weapons, fireworks, and explosives the Property is prohibited, except that fireworks are permitted on July 4 and New Year's Eve, provided that fireworks are permitted by state law and local ordinance.
- 4.20 Parking.**
- (a) All Lots shall provide a minimum of two (2) off-street parking spaces which shall be maintained by the respective Owner. Parking on an Owner's Lot shall be restricted to garages and driveways. No portion of the vehicle may be in, on, or overhang the Owner's yard public streets, turnarounds, shared driveways, sidewalks, other pathways, or Common Areas. The parking of vehicles is prohibited within the Property in any area marked "No Parking" by the Association, where curbs are painted by the Association to restrict parking, or as otherwise prohibited by state law or county ordinance. Any car parked illegally may be towed and reclamation will be at the Owner's expense, without recourse to the Association or any managing agent.
  - (b) Non-commercial passenger vehicles under 10,000 lbs. such as cars, trucks, SUVs, and motorcycles, licensed for use on public streets, may park in public view as permitted under Article 4.10(a). Campers, boats, trailers of any kind, recreational vehicles, watercraft, commercial vehicles, or other types of non-passenger vehicles, equipment, implements, or accessories may only be stored or kept within an enclosed garage.
  - (c) Campers, boats, trailers, recreational vehicles, watercraft, commercial vehicles, or other types of non-passenger vehicles, equipment, implements, or accessories may be temporarily parked within the Property, or on a paved driveway located on a Lot, for a period not to exceed forty-eight (48) hours for the purposes of cleaning, preparation for use, and unloading.
- 4.21 Vehicles in Disrepair.** No Owner shall permit any vehicle, which is not currently licensed or is in a state of disrepair, to be abandoned or to remain parked upon any Lot for a period in excess of forty-eight (48) hours, nor in the Common Areas for any length of time. A vehicle shall be deemed in a "state of disrepair" when the Board of Directors reasonably determines that its presence offends the Owners and Occupants. Should any Owner fail to remove such vehicle within five (5) days following the date on which notice is mailed or personally delivered by the Association, the Association may have the vehicle removed from the Property and charge the expense of such removal to the Owner. Oil or grease left on roadways or driveways by an Owner shall be cleaned up immediately.
- 4.22 Maintenance or Repair of Vehicles.** Any maintenance or repair of vehicles or other machinery or equipment must take place entirely within the enclosed garage on a Lot.
- 4.23 Signs.** Any exterior artwork, decoration, or display of any kind to be placed in public view must be approved by the ARC. All signs must comply with local applicable sign ordinances. No sign, banner, or billboard of any kind may be kept or placed on any Lot

or mounted, painted, or attached to any Home, fence, or other improvement so as to be visible from public view on the Property or an adjacent public street, nor carried by any person or by any other means displayed within the Property, except as provided below:

- (a) "For Sale" and "For Rent" signs. An Owner may erect one (1) sign not exceeding two feet (2') by three feet (3') in dimension, fastened only to a stake in the ground and extending not more than five feet (5') above the surface of the ground advertising the property for sale or for rent.
- (b) Political signs. Political signs may be erected upon a Lot by the Owner of such Lot advocating the election of one or more political candidates, or the sponsorship of a political party, issue, or proposal, provided that such signs shall not be erected more than ninety (90) days in advance of the election to which they pertain and are removed within five (5) days after such election.
- (c) Flags. The foregoing restrictions shall not be deemed to prohibit the display of the flag of the United States by an Owner or occupant of a Lot if the flag is displayed in a manner consistent with applicable federal flag display laws, *i.e.*, 4 U.S.C. § 1 et seq. and RCW 64.90.510.
- (d) Declarant and Approved Builder Signs. Declarant and an Approved Builder may erect signs and banners in the Common Areas and on any Lot or Home owned thereby if such signs and/or banners are erected for the purpose of marketing and selling Homes, subject to rules and restrictions established by Declarant and/or the Association from time to time.

**4.24 Rubbish and Trash.** No Lot or part of the Common Areas shall be used as a dumping ground for trash or rubbish of any kind. All garbage and other waste shall be kept in appropriate containers for timely and proper disposal, and out of public view. Yard rakings, dirt, and other material resulting from landscaping work, shall not be dumped onto streets, the Common Areas, or any other Lots. Should any Owner fail to remove any trash, rubbish, garbage, yard rakings, or any such materials from any Lot, any roadways, or Common Areas where deposited by such Owner within five (5) days following the date on which notice is mailed or personally delivered to them by the Board of Directors, the Association may have such materials removed and charge the expense of such removal to the Owner. Each Owner is responsible for trash disposal and shall retrieve individual trash containers within twelve (12) hours of collection. No trash and/or storage containers shall be visible from any adjacent street or neighboring Lot and shall not be allowed to emit any odors or attract insects or rodents.

**4.25 Fences and Hedges.** Other than installation by the Declarant or an Approved Builder, no fences or boundary hedges shall be installed without prior written approval of the ARC. All fences must comply with the specifications adopted by the ARC and the placement of all fences and boundary hedges shall comply with any applicable county or municipal code and the requisite setbacks as may be noted by such code or on the Plat. Without limiting the foregoing, all fences shall not extend streetward past the front

face of the Home; shall not be taller than six feet (6'); shall not be vinyl, chain link, or split rail; and shall be compatible with fences installed on adjacent properties. Hedges shall be kept neat and trimmed and shall not exceed feet six (6') in height. Fences may be built up to, but not within, any Easement, wetland, wetland buffer, or slope setback area. No fencing shall be installed on any Common Areas, except by the Declarant or the Association, which Common Areas fencing will be maintained by the Association. Any fencing installed on an Owner's Lot, either by the Owner, a Builder, or the Declarant, shall be maintained by the Owner in a condition acceptable to the Board and the ARC.

- 4.26 Service Facilities and Utilities.** Service facilities (*e.g.*, garbage containers, clotheslines, air conditioning compressors, etc.) shall be screened such that they are not visible at any time from any street or first floor of a neighboring Home. The exterior location of any heating and air conditioning compressors or heat pumps must be approved in advance by the ARC, taking into consideration the noise and view from adjacent Homes. Window air-conditioning and heating units are prohibited. No overhead wire, service drop, or other facility for the distribution of electric energy or telecommunication purposes, nor any pole, tower, or other structure supporting outdoor overhead wires, shall be erected, placed, or maintained within the Property unless such structure is depicted on the Plat. Unless depicted on the Plat, all Owners shall use underground service wires to connect their premises and the structure built thereon to the underground electric, telephone, utility, or cable television facilities provided, except as mandated by Cowlitz County or a utility company. All utility lines shall be maintained, repaired, and replaced by the Owner at their sole expense; the Association is not responsible for the maintenance of any utility, cable, service, or facility.
- 4.27 Antennas and Satellite Dishes.** No Owner may erect or maintain a TV or radio receiving or transmitting antenna, satellite dish, or similar implement, apparatus, or equipment, upon any Lot without the ARC's prior written consent. Placement shall be restricted to building surfaces not considered part of the front plane of the residence. No installations shall be lower than the first level ceiling height. The preferred location shall be the barge rafter or gabled ends of any living unit. Notwithstanding the foregoing, exterior satellite dishes with a surface diameter of eighteen inches (18") or less may be placed on any Lot so long as they are not visible from the street. Approved installation locations shall in no way violate current Federal Communications Commission ("FCC") rules or regulations.
- 4.28 Setback, Maximum Height, and Minimum Yard Requirements.** Each Lot shall be subject to: (1) all setback and minimum yard requirements shown for such Lot on the Plat; (2) all setback height, and minimum yard requirements as established by the City of Kalama or Cowlitz County, as applicable; and (3) any land use review procedure established by the City of Kalama or Cowlitz County for review and approval of variance from any such governmental requirements. All setback areas shall be kept perpetually free of structures, debris, or other obstructions. The ARC, upon application from a Member, may, in its discretion, waive any violation of this Section which it finds to have been inadvertent, provided the same would not constitute a violation of local, state, or federal law, rule, or regulation.

**4.29 Solar Energy Panels.** Except as otherwise provided by applicable law, including, but not limited to, RCW 64.90.510, no Solar Energy Panel (as defined below) may be erected, constructed, or placed on any Lot or Home. With the prior written consent of the ARC, an Owner may install a ground-mounted or roof-mounted Solar Energy Panel on its Lot, provided that all of the following conditions are satisfied:

- (a) If ground-mounted, then the Solar Energy Panel may only be located in the rear yard of a Lot and must be screened from public view by a fence or landscaping approved by the ARC, unless the screening materially affects the economic installation of the Solar Energy Panel (as determined by the ARC in its reasonable discretion) or degrades the operational performance quality of the Solar Energy Panel by more than ten percent (10%).
- (b) If roof-mounted, then (i) no part of the Solar Energy Panel may extend above the roof line of the Home on which it is installed, (ii) no Solar Energy Panel may be installed on any roof facing a street unless the Solar Energy Panel conforms to the slope of the roof and the top edge of the Solar Energy Panel is parallel to the roof ridge, and (iii) the Solar Energy Panel frame, support brackets, and visible piping and wiring are painted to coordinate with the roofing materials; and
- (c) The Solar Energy Panel meets applicable health and safety standards and requirements imposed by state and local permitting authorities.

The ARC may adopt additional Rules and Regulations governing the installation, safety, placement, and screening of a Solar Energy Panel, provided that such rules and regulations do not conflict with RCW 64.90.510 or other applicable laws. For purposes of this Section, "Solar Energy Panel" means a panel device or system, or combination of panel devices or systems, that relies on direct sunlight as an energy source, including a panel device or system, or combination of panel devices or systems, that collects sunlight for use in: (a) the heating or cooling of a structure or building; (b) the heating or pumping of water; (c) industrial, commercial, or agricultural processes; or (d) the generation of electricity.

**4.30 Window Treatments.** Aluminum foil, reflective film, newspapers, or similar treatments shall not be placed on windows or glass doors.

**4.31 Exterior Lighting or Noisemaking Devices.** Except with the consent of the ARC, no exterior lighting or noisemaking devices shall be installed or maintained on any Lot, other than security and fire alarms. Seasonal holiday lighting and decorations are permissible if consistent with any applicable Rules and Regulations and if installed no more than forty-five (45) days before the celebrated holiday and removed within thirty (30) days after the celebrated holiday.

**4.32 Fire Sprinkler Systems.** Homes are required to have fire sprinkler systems installed, and approved, if so indicated on the Plat and/or required by the City of Kalama. Each Owner shall be responsible for testing and maintaining the sprinkler system within their

Home. False alarms of security and fire systems shall not be allowed to occur repeatedly.

- 4.33 Mailboxes and Other Delivery Boxes.** Mailboxes shall be installed only in groups of boxes in accordance with the requirements of the United States Postal Service and as noted on the Plat. Individual mailboxes are prohibited. Newspaper boxes and any other delivery boxes may not be installed unless first approved by the ARC as to location and design.
- 4.34 Grades, Slopes, and Drainage.** There shall be no interference with the established drainage patterns or systems over or through any Lot within the Property so as to affect any other Lot, Common Area, or any area outside the Property, unless adequate alternative provisions are made for proper drainage and are approved by the ARC. The term "established drainage" shall mean any wall, drainage swales, conduits, inlets or outlets designed and constructed on the Property.
- 4.35 Damage or Destruction to Home and/or Lot.** If all or any portion of a Lot or Home is damaged by fire or other casualty, the Owner shall restore the damaged improvements subject to the provisions of any applicable insurance policies. Restoration must be performed so that the improvements are in substantially the same condition in which they existed prior to the damage, subject to current government regulations, building codes, and provisions of Article 6 of this Declaration. Following receipt of proceeds from an insurance claim for damages, the Owner must commence the work as soon as possible and must complete the work within a reasonable time thereafter.
- 4.36 Detached Buildings.** No permanent or removable detached accessory buildings, including, but not limited to, storage buildings, greenhouses, children's playhouses, and similar structures, shall be built without the ARC's prior written consent. Heavy duty rubber, unbreakable plastic, or composite storage sheds that are portable and temporary in nature, may be approved by the ARC, provided that they are: (a) screened or hidden from the view of neighboring Lots and Common Areas; (b) aesthetically harmonious with the Home in terms of color, texture, and finish; (c) not used as additional living space; and (d) do not contain any plumbing.
- 4.37 Owner's Maintenance Obligations.** Each Owner shall maintain the Owner's Lot and improvements thereon in a clean and attractive condition, in good repair, and in such fashion as not to create an unsightly appearance, or fire or other hazard. Such maintenance shall include, without limitation, exterior painting, repair, replacement and care for roofs, drainage systems, including gutters and downspouts, exterior building surfaces, walks, lights, fences and other exterior improvements and glass surfaces. All repainting, re-staining, and exterior remodeling shall be subject to prior review and written approval by the ARC. In addition, each Owner shall keep all sidewalks, shrubs, trees, grass, and plantings of every kind on the Owner's Lot maintained and neatly trimmed, properly cultivated, and free of trash, weeds, and other unsightly material. Damage caused by fire, flood, storm, earthquake, riot, vandalism, or other causes shall likewise be the

responsibility of each Owner and shall be restored within a reasonable period of time as set forth in Section 4.25.

- 4.38 Right of Maintenance and Entry by Association.** If an Owner fails to perform maintenance and/or repair to which the Owner is obligated pursuant to this Declaration, and if the Board determines, after notice and a hearing (given pursuant to the provisions of the Bylaws), that such maintenance and/or repair is necessary to preserve the attractiveness, quality, nature and/or value of the Property, the Board may cause such maintenance and/or repair to be performed. The Board may enter a Lot when entry is necessary for the performance of any maintenance or construction which the Board is authorized to undertake. Entry shall be made with as little inconvenience to an Owner as practicable, and only after advanced written notice of not less than forty-eight (48) hours, except in emergency situations. Such right of maintenance shall include, but shall not be limited to, street trees, front, rear, and side yards, and the exterior of Homes. All maintenance performed on behalf of Owners shall be at the Owner's sole expense.
- 4.39 Association Rules and Regulations.** The Board of Directors, from time to time, may adopt, modify, or revoke Rules and Regulations governing the conduct of persons and the operation or use of Lots and Common Areas, as it may deem necessary or appropriate to assure the peaceful and orderly use and enjoyment of the Property. A copy of any Rules and Regulations, upon adoption, amendment, modification, or revocation thereof, shall be delivered by the Board of Directors promptly to each Owner and shall be binding upon all Owners and Occupants of all Lots upon the date of delivery or actual notice thereof. The method of adoption of such Rules and Regulations shall be provided in the Bylaws.
- 4.40 Ordinances and Regulations.** The standards and restrictions of this Article 4 shall be the minimum required. To the extent any applicable government ordinance or regulation is more restrictive, or provides for a higher or different standard, such Codes, ordinance, or regulation shall prevail.
- 4.41 Violation.** The Association may impose a fine, charge, or penalty for any violation of this Declaration, the Bylaws, or Rules and Regulations after reasonable notice of the violation and a reasonable opportunity for a hearing which shall serve as a lien upon the property, together with attorney fees or costs incurred in addressing the violation. Additionally, the Association may seek injunctive or other equitable relief, or may file an action for money damages owing, from such violations. The prevailing party in any such action shall be entitled to recover its reasonable attorney fees and costs.
- 4.42 Security.** The Association is not responsible for security of the Homes, Lots, or Common Areas. Owners are exclusively responsible for security of their Lot, Home, and personal property. **Neither the Association, any managing agent retained by the Association, Declarant, nor any successor Declarant or Approved Builder, shall in any way be considered insurers, sureties, or guarantors of security within the Property, nor shall any of them be held liable for any loss or damage by reason of failure to provide adequate security, or of ineffectiveness of security measures undertaken. No representation or warranty is made that any fire protection,**

**burglary, or other security system or measures, cannot be compromised or circumvented, nor that any such systems or measures undertaken will prevent loss or provide the detection or protection for which the system is designed or intended. Each Owner acknowledges, understands, and covenants to inform its tenants that the Association, its Board, and committees, any managing agent retained by the Association, Declarant, and any successor Declarant or Approved Builder, are not insurers, that each person using the Property assumes all risks for loss or damage to persons and property, and releases such parties from any and all liability for damage resulting from acts of third parties.**

## **ARTICLE 5 Common Areas**

- 5.1 Use of Common Areas.** Use of Common Areas is subject to the Governing Documents. There shall be no use of the Common Areas except by Owners and their invitees. Unless authorized by the Board, there shall be no obstruction of any part of the Common Areas, and nothing shall be stored or kept in the Common Areas without the Board's prior written consent. No alterations or additions to the Common Areas shall be permitted without the Board's prior written approval. Any work so authorized shall be considered a temporary easement over the Common Areas for the purpose specified by such written authorization. Nothing shall be stored or kept on the Lots, in the Homes, or in Common Areas which will increase the rate of insurance on the Common Areas, or other Association insurance, without the Board's prior written consent. No tents, camping equipment, or fires are allowed on or within the Common Areas.
- 5.2 Maintenance of Common Areas.** The Association shall be responsible for maintenance, repair, replacement, and upkeep of the Common Areas, including, but not limited to the Tracts, Private Roads, mailboxes, entry monuments and structures, and any other improvements that may be included in the Common Areas, or as set forth in this Declaration or on the Plat. The Association shall keep the Common Areas and improvements in good condition and repair, provide for all necessary services and cause all acts to be done which may be necessary or proper to assure the maintenance of the Common Areas in neat condition.
- 5.3 Alterations to Common Areas.** Only the Association may construct or alter any improvement within the Common Areas. A proposal for any construction, alteration, maintenance, or repair of a Common Area improvement may be made at any Association meeting. The Board, in its sole discretion, may adopt such proposal, subject to the limitations contained in the Governing Documents.
- 5.4 Funding.** Expenditures for alterations, maintenance, or repairs to the Common Areas for which a reserve has been collected shall be made from the Reserve Account. Pursuant to Article 10, the Board may levy a special assessment to fund Common Area maintenance or any construction, alteration, repair, or maintenance of an improvement for which no reserve has been collected, or for which the Reserve Account is insufficient.

- 5.5 Condemnation of Common Areas.** If all or any portion of the Common Areas are taken for any public or quasi-public use under any statute, by right of eminent domain, or by purchase in lieu of eminent domain, the entire award shall be received and expended by the Board in a manner which, in its sole discretion, is in the best interest of the Association. The Association shall represent the interest of all Owners in any negotiations, suit, action, or settlement in connection with such matters.
- 5.6 Damage or Destruction of Common Areas.** In the event any Common Areas is damaged or destroyed by an Owner or its Occupants, guests, tenants, licensees, agents, or members of the Owner's family, in a manner that would subject such Owner to liability for the damage under RCW 64.90 *et. seq.*, such Owner authorizes the Association to repair the damage caused with the reasonable cost of the repairs becoming a special assessment (and a lien if unpaid) upon the Lot of the Owner who caused or is responsible for such damage.

**ARTICLE 6**  
**Architectural Review Committee**

- 6.1 Architectural Review.** Except for initial construction by Declarant and its Approved Builders, no improvement shall be commenced, erected, placed, or altered on any Lot until construction plans and/or specifications showing the nature, shape, materials, colors, and proposed location of the improvement have been submitted to, and approved in writing by, the ARC. It is the intent and purpose of this Declaration to assure quality of workmanship and materials, and to assure harmony of exterior design with the existing improvements and landscaping within Spencer Creek Reserve.
- 6.2 Duties.** The ARC shall consider and act upon the proposals and/or plans submitted pursuant to this Article. The ARC, from time to time, at its sole discretion and subject to Board approval, may adopt architectural, construction, and design criteria, rules, regulations, and guidelines and aesthetic standards ("Architectural Standards"). The Architectural Standards shall interpret and implement the provisions of this Declaration for architectural review, and guidelines for architectural design, placement of buildings, color schemes, exterior finishes and materials, and similar features which may be used within the Property.
- 6.3 Architectural Review Committee—Appointment and Removal.** The Declarant reserves the right to appoint all members of the ARC and all replacements thereto until the Turnover Meeting; initially, the Declarant may appoint a single person to serve as the ARC. Following turnover, the ARC shall consist of three (3) to five (5) members, as the Board may appoint from time to time. The terms of office for each member of the ARC shall be for one (1) year, unless lengthened by the Board at the time of appointment or unless the Board serves as the ARC, in which case the terms of the ARC members shall run concurrent with their terms as Board members. The Board may appoint any or all of its members for the ARC and there is no mandate that a non-Board member be a member of the ARC, however, at least two members of the ARC must be Board members.

- 6.4 Applications and Proposals.** All plans and specifications for approval by the ARC must be submitted at least forty-five (45) days prior to the proposed construction start date.
- 6.5 Majority Action.** Except as otherwise provided in this Declaration, a majority of the members of the ARC shall have the power to act on behalf of the ARC. The ARC shall render its decision only by written instrument, setting forth the action taken by the members consenting thereto.
- 6.6 ARC Discretion.** The ARC may, at its sole discretion, withhold consent to any proposed work if the ARC finds the proposed work would be inappropriate for the particular Lot, or incompatible with the design standards intended for Spencer Creek Reserve. The ARC may consider siting, shape, size, color, design, height, solar access, or other effect on the enjoyment of other Lots or Owners, and any other factors which the ARC reasonably believes to be relevant in determining whether to approve work proposed by any Owner.
- 6.7 ARC Decision.** The ARC should render its written approval or denial decision, with respect to the construction proposal, within thirty (30) days after it has received all submissions required by it with respect to the application. In the event the ARC fails to render its decision of approval or denial in writing within forty-five (45) days of receiving all material required by it with respect to the proposal, the application shall be deemed approved. Approval by the ARC does not imply or grant government approval which an Owner may need prior to performing work otherwise approved by the ARC. Seeking and obtaining such government approval is the sole responsibility of the Owner.
- 6.8 Non-waiver.** Consent by the ARC to any matter proposed to it, or within its jurisdiction, shall not be deemed to constitute a precedent or waiver impairing the ARC's right to withhold approval as to any similar matter thereafter proposed or submitted to it for consent.
- 6.9 Effective Period of Consent.** The ARC's consent to any proposed work shall be automatically revoked six (6) months after the date of issuance, unless construction of the work has commenced, or the Owner has applied for, and received, an extension of time from the ARC.
- 6.10 Determination of Compliance.** The ARC may, from time to time, inspect work in progress or recently completed work to determine whether it is in substantial compliance with the approval granted.
- 6.11 Notice of Non-compliance.** If the ARC finds that any work was not performed in substantial conformance with the approval granted, or if the ARC finds that the approval required was not obtained, the ARC shall notify the Owner, in writing, of the noncompliance. The notice shall specify the particulars of any noncompliance and shall require the Owner to take the necessary action to bring the work into compliance with the Governing Documents and such ARC approval, if any.

- 6.12 Non-Compliance Hearing.** Should an Owner fail to respond or remedy non-compliant work within a reasonable time after receiving notice as set forth above, then the ARC shall provide a notice of a hearing to consider the Owner's continuing non-compliance. The hearing shall be set not more than twenty (20) days from the date of the notice of non-compliance. If the ARC finds that there is no valid reason for the continuing non-compliance, the ARC shall determine the estimated costs of correcting it. The ARC shall then require the Owner to remedy or remove the same within a reasonable period following the date of the ARC's determination. If the Owner does not comply with the ARC's ruling within such period, or within any extension of such period as the ARC, in its sole discretion, may grant, the Association may remove the noncomplying improvement, remedy the non-compliance, or file suit to compel compliance. The costs of such action shall be assessed against the Owner and such Owner's Lot, including all attorneys' fees and other costs expended and incurred to enforce compliance, either before any suit or action is filed, during civil litigation, and on any appeal or review therefrom.
- 6.13 Estoppel Certificate.** Within twenty (20) days after written request is delivered to the ARC by an Owner, and upon payment to the ARC of a reasonable fee fixed by the ARC to cover costs, the ARC shall provide such Owner with a certificate executed and acknowledged by the Chairman of the ARC (who must be a Board member), certifying with respect to any Lot owned by the Owner, that as of the date thereof, either (a) all improvements made or done upon or within such Lot comply with the Governing Documents and Architectural Standards; or (b) such improvements do not so comply, in which event, the certificate shall also identify the noncomplying improvements and set forth, with particularity, the nature of such noncompliance. The certificate shall be conclusive as between the Declarant, ARC, Association, all Owners, and all such persons deriving an interest through any of them.
- 6.14 ARC Limitations.**
- (a) **Common Area Considerations.** The ARC will have authority to make decisions related to the Lots, but not related to the Common Areas. Any architectural or design considerations regarding the Common Areas will be within the sole power and discretion of the Board. Construction by the Declarant is presumed to have been approved by the Board and is thereby exempt. In all cases where ARC consent is required, the provision of this Article shall apply. The ARC and the Board are hereby granted an easement over the Lots only to enable the ARC to carry out its designated functions.
  - (b) **Municipal Regulations.** The ARC is not responsible for determining compliance with structural and building codes, solar ordinances, zoning codes, or other governmental regulations, all of which are the responsibility of the Owners.
  - (c) **Defect Liability.** PLANS AND SPECIFICATIONS ARE NOT APPROVED FOR ENGINEERING, STRUCTURAL DESIGN, OR QUALITY OF MATERIALS, AND BY APPROVING SUCH PLANS AND SPECIFICATIONS, NEITHER THE ARC, BOARD, MEMBERS, MANAGING AGENT, NOR ASSOCIATION ASSUMES LIABILITY OR RESPONSIBILITY FOR THESE MATTERS, NOR

FOR ANY DEFECT IN ANY CONSTRUCTION OR IMPROVEMENT FROM SUCH PLANS AND SPECIFICATIONS. THE OWNER IS SOLELY RESPONSIBLE FOR ALL IMPROVEMENTS, PERMITS, AND COSTS OF SAID WORK.

- (d) General Liability. Neither the ARC, the Board, their agents, nor any member thereof, shall be liable to any Owner, Occupant, or Builder for any damage, loss, or prejudice suffered or claimed, or claimed to be suffered, arising from any act or omission by the ARC or a member thereof, provided that the ARC member has acted in good faith in accordance with the actual knowledge possessed by such member at that time.

## ARTICLE 7

### Spencer Creek Reserve Homeowners Association

- 7.1 **Association Powers.** The Association shall be a non-profit, mutual benefit, corporation established under Washington law, having all powers granted to it by law, including RCW 64.90.405.
- 7.2 **Members.** Each Owner shall be a mandatory member of the Association. Membership in the Association shall be appurtenant to, and may not be alienated from, ownership of any Lot. Transfer of ownership of a Lot automatically transfers membership in the Association. Without any other act or acknowledgement, Occupants and Owners shall be governed and controlled by the Governing Documents.
- 7.3 **Proxy.** When applicable, each Owner may vote in person, pursuant to a written proxy executed by the Owner, or by written ballot. An Owner may not revoke a proxy given pursuant to this Section except by actual notice or revocation to the person presiding over a meeting of the Association. A proxy shall not be valid if it is undated or purports to be revocable without notice. Unless expressly providing for a shorter term, all proxies shall terminate one (1) year after the date of execution.
- 7.4 **Procedure.** All meetings of the Association, Board, ARC, and Association committees shall be conducted with such rules of order as the Board may adopt from time to time. Notwithstanding which rules of order are adopted, the President shall be entitled to vote on all matters, not merely to break a tie vote. A tie vote does not constitute a majority, nor an approval of any motion or resolution.
- 7.5 **Contracts Entered Into by Declarant Before the Turnover Meeting.** Notwithstanding any other provision of this Declaration, any management, service, or employment contracts entered into by Declarant or the Board on behalf of the Association before the Turnover Meeting shall have a term of not more than three (3) years. In addition, any such contract shall provide that it may be terminated, without cause or penalty, by the Association or its Board upon not less than thirty (30) days' notice to the other party given within sixty (60) days of the Turnover Meeting.

## ARTICLE 8

### **Declarant's Rights**

- 8.1 Interim Board and Officers.** Declarant hereby reserves administrative control of the Association. The Declarant, in its sole discretion, shall have the right to appoint and remove members of the Interim Board which shall manage the affairs of the Association, and which shall be vested with all powers and rights of the Board. The Interim Board shall consist of one (1) to three (3) Directors.
- 8.2 Turnover Meeting.** Pursuant to RCW 64.90.415, Declarant control shall terminate, and Declarant shall call a meeting for the purpose of turning over administrative control of the Association from the Declarant to the Owners no later than the earliest of:
- (a) Sixty (60) days after conveyance of seventy-five percent (75%) of the Lots that may be conveyed to Owners other than Declarant.
  - (b) Two years after the last conveyance of a Lot, except to a dealer.
  - (c) Two years after any right to add new Lots was last exercised; or
  - (d) The day the Declarant, after giving notice to all Owners, records an amendment to the Declaration voluntarily surrendering all rights to appoint and remove Officers and Board members.

The Declarant shall give notice of the meeting to each Owner as required by RCW 64.90.415 and RCW 64.90.445(1)(c). If the Declarant does not call the meeting required under this Section, any Owner may do so. At the Turnover Meeting, the Board elected by the Owners must be elected in accordance with RCW 64.90.410(2). There is no quorum requirement for the Turnover Meeting.

- 8.3 Board of Directors.** Following the Turnover Meeting, the Board shall be comprised of no less than three (3) directors. The Directors elected by the Owners at the Turnover Meeting shall serve for terms as set forth in the Bylaws.

### **ARTICLE 9**

#### **Declarant's Special Rights**

- 9.1 General.** Declarant is undertaking the work of developing Lots and other improvements within Spencer Creek Reserve. The completion of the development work and the marketing and sale of the Lots is essential to the establishment and welfare of the Property as a residential community. Until the Homes on all Lots on the Property have been fully completed and sold, with respect to any Common Areas and each Lot on the Property, the Declarant and any Approved Builder shall have the special rights set forth in RCW 64.90.010(52), this Article 9, and as otherwise provided in this Declaration.
- 9.2 Marketing Rights.** Declarant, its assignees, and Approved Builders shall have the right to maintain a sales office and model on one or more Lots owned by that party, to be

staffed by its employees or any licensed real estate sales agent(s) and shall have the right to use and occupy the sales office and models during reasonable hours any day of the week. The Declarant and Approved Builder may maintain a reasonable number of "For Sale" signs at locations throughout the Property and Common Areas.

- 9.3 **Declarant's Easements.** Declarant reserves those easements over the Property as more fully described in Article 3, above.
- 9.4 **Appearance and Design of Spencer Creek Reserve.** Declarant shall not be prevented from changing the exterior appearance of any Common Area, including the landscaping, entryway monument, or any other matter directly or indirectly connected with Spencer Creek Reserve, provided that the Declarant obtains the requisite government consents. Declarant and its Approved Builders may change the exterior designs of Homes and Lots from initial plans and provisions in this document without notice to Owners. This may include designs, colors, and type of materials, provided Declarant and its Approved Builders obtain any required government consent.
- 9.5 **Construction by Declarant or Approved Builders.** All construction by Declarant and Approved Builders is presumed to have been approved by the ARC and to have met any Architectural Standards.

#### ARTICLE 10 Funds and Assessments

- 10.1 **Purpose of Assessment.** The assessments levied and held by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners and Occupants, and for the improvement, operation and maintenance of the Common Areas owned by the Association, including maintenance, administrative, and insurance costs. Common Expenses incurred by the Association for the benefit of Owners within Spencer Creek Reserve shall be separately budgeted for and allocated among all Owners.
- 10.2 **Covenants to Pay.** Declarant, on behalf of each and every subsequent Owner of any Lot, covenants and agrees that each Lot will pay the Association the assessments and any additional charges levied pursuant to this Article 10. Upon the sale or transfer of any Lot, the Owner's interest in the funds shall be deemed (i) automatically transferred to their successor in interest; and (ii) non-refundable.
- 10.3 **Basis of Assessments and Commencement of Assessments.** The amount and date of commencement of the initial annual assessment will be determined by Declarant. Assessments are to be levied against all Lots in accordance with their allocated interests for Common Expense liabilities.
- 10.4 **Annual Assessments.** Annual assessments for each fiscal year shall be established when the Board approves the budget for that fiscal year. Annual assessments shall be levied on a fiscal year basis, aligned with the calendar year. Unless otherwise specified

by the Board, annual assessments shall be due and payable in annual installments on the 30<sup>th</sup> day of January each year during the term of this Declaration.

- 10.5 Budget.** Each year the Board shall prepare, approve and make available to each Member a pro forma operating statement (budget) containing: (a) the projected income to the Association by category; (b) the projected Common Expenses and those specially allocated expenses that are subject to being budgeted, both by category; (c) the amount of the assessments per Lot and the date the assessment is due; (d) the current amount of regular assessments budgeted for contribution to the Reserve Account; (e) a statement of whether the Association has a reserve study that meets the requirements of RCW 64.90.550 and, if so, the extent to which the budget meets or deviates from the recommendations of that reserve study; and (f) the current deficiency or surplus in reserve funding expressed on a per Lot basis.

The Board shall annually distribute a copy of the budget to each Member, together with written notice of the amount of the annual assessments to be levied against the Owner's Lot, pursuant to the Bylaws and within thirty (30) days after adoption of any proposed budget. At that time, the Board shall set a date for a meeting of the Owners to consider ratification of the budget, to occur not less than fourteen (14) nor more than thirty (30) days after providing the budget. Whether or not a quorum is present, the budget and the assessments against the Lots included in the budget shall be ratified, unless the budget is rejected by the Owners of Lots to which a majority of the votes in the Association are allocated. If the proposed budget is rejected, or the required notice is not given, the periodic budget last ratified by the Owners shall continue until the Owners ratify a subsequent budget proposed by the Board. The assessments in the budget are to be collected at intervals, as determined by the Board, and may include both operating and reserve funds.

- (a) Allocation of Assessments. The total amount in the budget shall be charged against all Lots as annual assessments, with all Lots sharing equally in the Common Expenses of the Association.
- (b) Non-Waiver of Assessments. If before the expiration of any fiscal year the Association fails to fix annual assessments for the next fiscal year, the annual assessments established for the preceding year shall continue until a new annual assessment is fixed, pursuant to the Bylaw's terms.

**10.6 Reserve Funds.**

- (a) Reserve Fund for Replacing Common Elements. The Declarant and the Association shall comply with the provisions of RCW 64.90.535 - RCW 64.90.560 with respect to Reserve Accounts and reserve funds. Declarant shall establish a reserve fund in the name of the Association for replacement, in whole or in part, of any completed improvements within the Common Areas for which the Association is responsible, which improvement will normally require replacement in more than three (3) and fewer than thirty (30) years for which reserves are required by the Governing Documents ("Reserve Fund"). The

Reserve Fund need not include those items that could reasonably be funded from the maintenance fund or operating assessments, or for which one or more Owners are responsible for maintenance and replacement under the provisions of the Governing Documents. For purposes of funding the Reserve Fund, the Declarant initially and thereafter the Association, shall impose an assessment to be called the "Reserve Fund Assessment" equally against each Lot. The Reserve Fund Assessment shall be based on the reserve study, and updates thereto. Nothing herein shall limit the authority of Declarant or the Association to establish other separate and unrelated reserve funds that are funded by assessments for reserves that are in addition to the Reserve Fund or that relate only to a particular type or category of the Property. While annual assessments may include Common Expenses and Reserve Funds, Reserve Funds shall be maintained in an account separate from other funds and may be used only for the purposes for which reserves have been established as specified in this Section, although the Board may borrow funds with a specified repayment program.

Required Reserve Fund Assessments for completed improvements shall begin accruing from the date the first Lot is conveyed. Declarant or an Approved Builder may elect to defer payment of the Reserve Fund Assessments due on Lots it owns until the date of the conveyance of the Lot to an Owner. However, the Declarant may not defer such payment beyond the date of the Turnover Meeting. The records of the Association shall reflect the amount owing from the Declarant for all Reserve Fund Assessments.

The Board may adjust the amount of the Reserve Fund Assessments as indicated by any reserve study or update, and provide for other reserve items that the Board, in its discretion, may deem appropriate. In addition, after the first anniversary of the turnover meeting, the Association may elect to reduce or increase future Reserve Fund Assessments by a 75% vote of the Owners.

Any funds established for any of the purposes mentioned in this Section shall be deemed to be within the Reserve Fund, notwithstanding that it may not be so designated by the Board. The amount of the Reserve Fund shall constitute an asset of the Association and shall not be refunded or distributed to any Owner.

- (b) Reserve Study and Maintenance Plan. So long as required by Washington law, the Board shall engage a reserve study professional, as defined in RCW 64.90.480(48), to conduct a reserve study no less than every three (3) years and shall annually review and update the existing study upon any Association owned Common Areas to determine the requirements of the Reserve Fund described above. The reserve study shall comply with the requirements set forth in RCW 64.90.550, and shall include (a) identification of all items for which reserves are required to be established; (b) the estimated remaining useful life of each item as of the date of the reserve study; (c) the estimated cost of maintenance, repair, or replacement of each item at the end of its useful life; and (d) a thirty (30) year plan with regular and adequate contributions, adjusted by estimated inflation and interest earned on the reserve fund, to meet the maintenance, repair, and replacement schedule.

Annually, in concurrence with the reserve study review, the Board shall also review and update, as necessary, the maintenance plan for the Association to reflect, at a minimum, recent maintenance that has taken place, changes in the physical status of a reserve component, or the addition of a physical component that has come to the Board's attention.

**10.7 Special Assessments.** The Board shall have the power to either levy or propose for adoption as authorized by RCW 64.90.525(3) special assessments against an Owner, or all Owners, in the following manner for the following purposes:

- (a) Deficits in Operating Budget. To correct a deficit in the operating budget, by vote of a majority of the Board.
- (b) Breach of Documents. To collect amounts due to the Association from an Owner for breach of the Owner's obligations under the Governing Documents, by vote of a majority of the Board. All provisions of this Section shall be interpreted by any applicable provisions of RCW 64.90, relative to the imposition of fines and penalties.
- (c) Repairs. To make repairs or renovations to the Common Areas, including the Tracts and Private Roads, if sufficient funds are unavailable from the operating budget or reserve accounts, by vote of a majority of the Board; or
- (d) Capital Additions. To make capital acquisitions, additions, or improvements, by vote of at least seventy-five percent (75%) of all votes allocated to the Lots. Any special assessments shall be owned solely by the Association regardless of their purpose, and the individual Owners so assessed shall have no rights or interests in said funds.

**10.8 Accounts.**

- (a) Types of Accounts. Assessments collected by the Association will be deposited into at least two (2) separate accounts with a bank, which accounts shall be designated as (i) the "Current Operating Account," and (ii) the "Reserve Account." Those portions of the assessments collected for current maintenance and operations shall be held in the Current Operating Account and those portions of the assessments collected as reserves for replacement and deferred maintenance of capital improvements shall be held in the Reserve Account. Special Assessments shall be deposited into one of the two accounts, whichever is deemed by the Board to be appropriate. Withdrawal of funds from the Association's Reserve Account shall require the signatures of two (2) Directors, or Board approval in the written minutes of the Association.
- (b) Reserve Account. The Association shall pay out of the Reserve Account only those costs that are attributable to the maintenance, repair, or replacement of capital improvements for which reserves have been collected and held. After the Turnover

Meeting, the Board may borrow funds from the reserve account to meet high seasonal demands on the regular operating funds or to meet unexpected increases in expenses. Funds borrowed must be authorized by a resolution passed by the Board, which also outlines the manner of repayment from later assessments. Such resolution may be an annual, continuing, resolution, authorizing the borrowing of funds. Not later than the adoption of the budget for the following year, the Board shall adopt by resolution a written payment plan for repayment of the borrowed funds within a reasonable period.

- (c) Current Operating Account. All ordinary maintenance and operating expenses shall be paid from the Current Operating Account.

**10.9 Default in Payment of Assessments, Enforcement of Liens.**

- (a) Personal Obligation. All assessments properly imposed under the Governing Documents shall be the joint and several personal obligations of all Owners of the Lot to which such assessment pertains. In a voluntary conveyance (that is, one other than through foreclosure or a deed in lieu of foreclosure) the grantees shall be jointly and severally liable with the grantor(s) for all Association assessments imposed through the recording date of the instrument affecting the conveyance. Said provisions shall be in accordance with the provisions of RCW 64.90. A suit for a money judgment may be initiated by the Association to recover such assessments without either waiving or foreclosing the Association's lien.
- (b) Application. All payments shall be applied first to delinquent assessments, then to collection costs, then to late charges, and then to interest.
- (c) Association Lien. If any amount owed by an Owner (of any type provided for by the Governing Documents) or any assessment or installment thereof is unpaid, the Association, by and through its Board or its agent, may file a notice of lien in the deed records of Cowlitz County, Washington, against the Lot in respect to which the delinquency pertains. Once filed, such lien shall accumulate all future assessments or installments, interest, late fees, penalties, fines, attorneys' fees (whether or not suit or action is instituted) and other appropriate costs properly chargeable to an Owner by the Association, until such amounts are fully paid. The provisions regarding the attachment, notice, recordation, priority, and duration of liens established on real property under RCW 64.90, as the same may be amended, shall apply to the Association's lien. The lien shall be foreclosed in accordance with the provisions regarding the foreclosure of liens under RCW 64.90.
- (d) Interest; Fines; Late Fees; Penalties. The Board, in its reasonable discretion, may from time to time adopt resolutions to set the rate of interest, and to impose late fees, fines, and penalties on delinquent assessments or for violations of the provisions of the Governing Documents. The adoption of such impositions shall be communicated to all Owners in writing not less than thirty (30) days before the effective date by a notice mailed to the assessment billing addresses of the Owners. Such impositions

shall be considered assessments which are lienable and collectible in the same manner as any other assessments.

- (e) **Acceleration of Assessments.** In the event an Owner is delinquent in payment of any assessment, or payment or any installment on an assessment, the Association, upon not less than fifteen (15) days written notice to the Owner, may accelerate the due date of the full annual assessment for that fiscal year and all future installments of any special assessments.

## **ARTICLE 11**

### **Insurance**

- 11.1 Types of Insurance.** For the benefit of the Association and the Owners, the Board shall obtain, maintain, and pay for out of the Current Operating Account, the types of insurance described herein. Such policies shall be issued by reputable insurance companies authorized to do business in the State of Washington. Such policies shall provide that coverage thereunder cannot be canceled or substantially modified without at least ten (10) days' written notice to the Association. The named insured on the policy shall read: Spencer Creek Reserve Homeowners Association.
- 11.2 Liability Insurance.** The Association shall maintain comprehensive general liability insurance coverage, including medical payment insurance, insuring the Declarant, the Association, the Board, and the managing agent, against liability to the public, or to Owners and their invitees or tenants, incident to the operation, maintenance, ownership or use of the Common Areas, including legal liability arising out of lawsuits related to employment contracts of the Association. There may be excluded from such policy or policies coverage of an Owner (other than as a member of the Association or Board) for liability arising out of acts or omissions of such Owner and liability incident to the ownership and/or use of the part of the Property as to which such Owner has the exclusive use or occupancy:
- (a) Limits of liability under such insurance shall not be less than One Million Dollars (\$1,000,000.00) on a combined single-limit basis; and
  - (b) Such policy or policies shall be issued on a comprehensive liability basis and shall provide a cross-liability endorsement wherein the rights of named insureds under the policy or policies shall not be prejudiced with respect to its/their action against another named insured.
- 11.3 Property Damage Insurance.** The Association shall obtain and maintain fire and extended coverage casualty insurance (including coverage for damage resulting from vandalism and malicious mischief) with respect to the Common Areas (including any insurable improvements in the Common Areas) in an amount equal to 100% of the replacement cost thereof and subject to the following terms:
- (a) The casualty coverage may be obtained on a "blanket" basis.

(b) The casualty insurance shall include the following terms if the Board determines they are reasonably available: (i) a waiver of subrogation by the insurer as to any claims against the Board, any Owner, or any guest of an Owner; (ii) a waiver by the insurer of its right to repair and reconstruct instead of paying cash; (iii) a provision that no policy may be canceled, invalidated, or suspended because of the action of an Owner; (iv) a provision that no policy may be canceled, invalidated, or suspended because of the conduct of any director, officer, or employee of the Association unless the insurer gives the Association a prior written demand that the Association correct the defect and allows the Association a reasonable time to make the correction; and (v) a provision that any "other insurance" clause in any policy shall exclude from its coverage all owners' policies.

**11.4 Workers' Compensation Insurance.** The Association shall maintain workers' compensation insurance if, or to the extent, necessary to comply with any applicable laws.

**11.5 Fidelity Insurance.** The Association shall maintain blanket fidelity insurance for all officers, directors, trustees, management agent, and employees of the Association and all other persons handling or responsible for funds of, or administered by, the Association. If the Association has retained a management agent, the Board may require such agent to maintain fidelity bonds for its officers, employees, and agents handling or responsible for funds, or administered on behalf, of the Association. The cost of such insurance, if any, shall be borne entirely by the Association.

(a) The total amount of fidelity insurance coverage required shall be based upon the Board's best business judgment.

(b) Such fidelity insurance shall name the Association as obligee and shall contain waivers by the issuers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions. The insurance shall provide that such policy may not be canceled or substantially modified (including cancellation for nonpayment) without at least ten (10) days' prior written notice to the Association.

**11.6 Insurance by Owners.** Each Owner shall be responsible for obtaining, at the Owner's sole expense, homeowner's insurance covering all improvements on the Owner's Lot and liability resulting from use or ownership of the Lot. The insurance coverage maintained by the Association shall not be brought into contribution with any Owner's homeowner's policy.

**11.7 Planned Community Requirements.** The insurance maintained by the Association shall comply with the requirements of Washington state law including those set forth in RCW 64.90.

**ARTICLE 12**  
**General Provisions**

**12.1 Records.** The Board shall preserve and maintain all records required by RCW 64.90.495(1), including the minutes of any meeting of the Association, the Board, and any committees. The Board shall also keep detailed financial records including individual assessment accounts of Owners, the balance sheet, and income and expense statements. Individual assessment accounts shall designate the name and address of the Owner or Owners of the Lot, the amount of each assessment as it becomes due, the amounts paid on the account, and the balance due on the assessments. The minutes of the Association and financial records shall be reasonably available for review and copying by the Owners. A reasonable charge may be imposed by the Association or its Agent for providing copies of such corporate records.

- (a) Inspection by Members and Mortgagees. Subject to RCW 64.90.495(2)-(4), the Governing Documents, membership register, books of account, and minutes of meetings shall be made available for inspection and copying by any Member, or such Member's duly appointed representative, and by any holder, insurer, or guarantor of a first mortgage (each, a "Requesting Party"). Records shall be made available at such reasonable time and place as determined by the Board and upon proper prior written request in the form and manner required by the Bylaws. Access shall be limited to purposes reasonably related to the Requesting Party's interest as a Member or holder, insurer, or guarantor of a first mortgage..
- (b) Rules for Inspection. The Board may establish reasonable rules with respect to: (1) notice to be given to the custodian of the records; (2) hours and days of the week when such an inspection may be made; and (3) payment of the cost of reproducing copies of documents.
- (c) Inspection by Directors. Every director on the Board shall have the right, for a proper purpose of the Association, at any reasonable time to inspect all books, records, and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make extra copies of documents at the reasonable expense of the Association.

**12.2 Indemnification of Directors, Officers, Employees, and Agents.** To the fullest extent allowed by applicable Washington law, the Association shall indemnify any director, officer, employee, or agent, who was or is a party, or is threatened to be made a party, to any threatened, pending, or completed action, suit, or proceeding, whether civil, criminal, administrative, or investigative (other than an action by the Association) by reason of the fact that they are or were a director, officer, employee, committee member, or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee, or agent of another entity, trust, or other enterprise, against expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement actually and reasonably incurred by said person in connection with such suit, action or proceeding if they acted in good faith and in a manner reasonably believed to be in, or not

opposed to, the best interest of the Association, and, with respect to any criminal action or proceedings, had no reasonable cause to believe the conduct was unlawful. The termination of any action, suit, or proceeding, by judgment, order, settlement, conviction, or with a plea of *nolo contendere* or its equivalent, shall not of itself create a presumption that a person did not act in good faith and in a manner which they reasonably believed to be in, or not opposed to, the best interest of the Association, and with respect to any criminal action or proceedings, had reasonable cause to believe the conduct was unlawful. Payment under this clause may be made during the pendency of such claim, action, suit, or proceeding, as and when incurred, subject only to the right of the Association to reimbursement of such payment from such person should it be proven at a later time that such person had no right to such payments. All persons who are ultimately held liable for their actions on behalf of the Association as a director, officer, employee, or agent shall have a right of contribution over and against all other directors, officers, employees or agents and Members of the Association who participated with, or benefited from, the acts which created said liability.

- 12.3 Actionable Nuisance.** In addition to those acts described in Section 4.18, above, every act or omission in violation of the Governing Documents is hereby declared to be an "Actionable Nuisance" and may be enjoined or abated, whether the relief sought is for negative or affirmative action by Declarant, the Association, any Owner, or their agent or representative.
- 12.4 Enforcement; Attorneys' Fees.** Declarant, an Approved Builder, the Association, or any Owner shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges, now or hereafter imposed by the provisions of the Governing Documents or amendments thereto. All pre-litigation attorneys' fees and costs incurred by the Association in pursuing enforcement of any provision of the Governing Documents shall be paid by the Owner who is the subject of the enforcement action. Should an enforcement action proceed to litigation, the prevailing party shall be entitled to an award of attorney's fees and costs, including the costs of depositions and expert witness fees (consulting and testifying). Failure by the Declarant, the Association, or by any Owner to enforce any provision of the Governing Documents shall in no event be deemed a waiver of the right to do so thereafter.
- 12.5 Jurisdiction and Venue.** Any action, proceeding, claim, or dispute arising out of, or relating in any way to, the Governing Documents, including the enforcement thereof, shall be brought in Cowlitz County Superior Court and shall be governed by Washington law. By purchasing a Lot within Spencer Creek Reserve, the Owner irrevocably submits to such jurisdiction and venue which shall be exclusive for any such action, proceeding, claim, or dispute.
- 12.6 Agreements.** Subject to the prior approval of Declarant (so long as Declarant owns any property for development and/or sale within the Property) all agreements and determinations, including settlement agreements regarding litigation involving the Association, shall be binding upon all Owners, their heirs, legal representatives,

successors, assigns, and others having an interest in the Property or the privilege of possession and enjoyment of any part thereof.

- 12.7 Implied Rights.** The Association may exercise any right or privilege given to it expressly by the Governing Documents and every other right or privilege reasonably implied by, or necessary to effectuate, any such right or privilege.
- 12.8 Variances.** Notwithstanding anything to the contrary contained herein, the Board, or its designee, shall be authorized to grant individual variances from any of the provisions of the Governing Documents if it determines that waiver of application or enforcement of the provision in a particular case would not be inconsistent with the overall scheme of development for Spencer Creek Reserve. A grant of such variance does not ensure compliance with any applicable law, ordinance, rule or regulation which may govern the subject matter (real or personal property, or a specific use thereof) of the variance requested.
- 12.9 Severability.** Invalidation of any one of these covenants, conditions or restrictions by judgment or court order shall not affect the remaining provisions herein which shall remain in full force and effect.
- 12.10 Duration.** The covenants, conditions and restrictions of this Declaration shall run with, and bind, the land for a term of thirty-five (35) years from the date of this Declaration being recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless rescinded by a vote of at least ninety percent (90%) of the Owners and ninety percent (90%) of the first mortgagees. However, amendments and restatements which do not constitute rescission of the planned development may be adopted as provided in the following Section 12.11. Additionally, any such rescission that affects the Common Areas shall require the prior written consent of Cowlitz County and/or other applicable government agency with an interest in the Property at that time.
- 12.11 Amendment and Restatement.** Except as otherwise provided elsewhere herein, this Declaration may be amended or restated (collectively referred to as an "Amendment") at any time by an instrument approved by not less than seventy-five percent (75%) of the total votes for all Lots subject to this Declaration. Any change must be executed, recorded, and certified as provided by law, and a copy provided to all Owners of record at least thirty (30) days prior to the effective date of such change; provided, however, that no change to this Declaration shall affect an amendment or restatement of the Bylaws or Articles without compliance with the provisions of such documents and RCW 64.90 *et. seq.* Provided further that, so long as the Declarant or an Approved Builder owns any Lot, no Amendment affecting the general plan and development, or any other right of the Declarant herein contained, may be affected without the express written consent of the Declarant, its successors and assigns, or an Approved Builder. Additionally, any such Amendment that affects the Common Areas or a Lot Easement Area within any Lot shall require the prior written consent of the City of Kalama and/or other applicable government agency with an interest in the Property, or relevant portion thereof.

- 12.12 Unilateral Amendment by Declarant.** Prior to Turnover, and upon thirty (30) days advance notice to all Owners, the Declarant may, without a vote of the Owners or approval by the Board, unilaterally adopt, execute, and record an Amendment or supplement to the Governing Documents for any reason, including the correction of a mathematical mistake, an inconsistency, or a scrivener's error, or to clarify an ambiguity in the Governing Documents with respect to an objectively verifiable fact including, without limitation, recalculating the undivided interest in the Common Areas and liability for those expenses. No such amendment or supplement may materially: reduce the obligations of the Declarant or increase the obligations of the Owners.
- 12.13 Release of Right of Control.** The Declarant may give up its right of control, in writing, at any time by giving notice to the Association, subject to any applicable code, ordinance, rule, or law, and subject to the Turnover provisions set forth herein.
- 12.14 Resolution of Document Conflicts.** In the event of a conflict among any of the provisions of the Governing Documents of the Association, such conflict shall be resolved by looking to the following documents in the order shown:
- (1) the Plat;
  - (2) Declaration of Covenants, Conditions and Restrictions;
  - (3) Articles of Incorporation;
  - (4) Bylaws; and
  - (5) Rules and Regulations.

*Signature on following page*

**DECLARANT:**

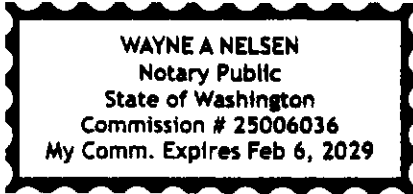
PRESTON ENTERPRISES, LLC,  
a Washington limited liability company

*Dana Preston*

By: *Dana Preston*  
Its: *Managing Member*  
Date: *5/11/2026*

STATE OF WASHINGTON )  
 ) ss.  
County of *Cowlitz* )

This record was acknowledged before me on *May 11*, 2026 by  
*Dana Preston* as *Managing Member* of PRESTON  
ENTERPRISES, LLC.



*Wayne A. Nelsen*  
NOTARY PUBLIC FOR WASHINGTON  
My Commission Expires: *Feb. 6, 2029*

Unofficial Copy

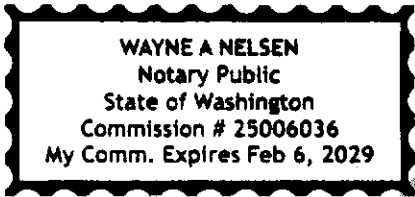
CHILTON INC.,  
a Washington corporation

*C. W. Nelson*

By: *Craig Chilton*  
Its: *President*  
Date: *May 11, 2026*

STATE OF WASHINGTON )  
County of *Cowlitz* ) ss.

This record was acknowledged before me on *May 11*, 2026 by  
*Craig Chilton* as *President* of CHILTON INC.



*Wayne A. Nelson*  
NOTARY PUBLIC FOR WASHINGTON  
My Commission Expires: *Feb. 6, 2029*

Unofficial Copy

**EXHIBIT "A"**

**Lot 2 as shown on Page 3 of Record of Survey of City of Kalama Boundary Line Adjustment No. BLA-24-0003 filed under Auditor's File Number 3764287, in Volume 45, Page 152, Records of Cowlitz County, Washington.**

**TOGETHER WITH AND SUBJECT TO easements, covenants, conditions, restrictions, and reservations of record.**

Unofficial Copy

**EXHIBIT "B"**

**BYLAWS**

**OF**

**SPENCER CREEK RESERVE HOMEOWNERS' ASSOCIATION**

**ARTICLE 1**

**Definitions**

- 1.1 **Act.** "Act," as referred to in these Bylaws, means the Washington Uniform Common Interest Ownership Act, RCW 64.90, *et. seq.*
- 1.2 **Incorporation by Reference.** Except as otherwise provided herein, the terms that are defined in Article 1 of the Declaration are used in these Bylaws as therein defined.

**ARTICLE 2**

**Membership**

- 2.1 **Membership.** Every Owner of one (1) or more Lots within the Property shall be a Member of the Association immediately upon creation of the Association and thereafter during the entire period of such ownership. Membership shall commence, exist, and continue simply by virtue of ownership, shall expire automatically upon termination of ownership, and need not be confirmed or evidenced by any certificate or acceptance of membership.
- 2.2 **Membership List.** The Secretary of the Association shall maintain, at the principal office of the Association, a membership list showing the name and address of the Owner of each Lot. The Secretary may accept as satisfactory proof of such ownership a duly executed and acknowledged conveyance, a title insurance policy, or other evidence reasonably acceptable to the Board.

**ARTICLE 3**

**Meetings and Voting**

- 3.1 **Place of Meetings.** Meetings of the Members of the Association shall be held at such reasonable place convenient to the Members as may be designated in the notice of the meeting.
- 3.2 **Annual Meeting.** The annual meeting of the Members for the election of directors and for the transaction of such other business as may properly come before the meeting shall be held at a reasonable hour and on a reasonable day as may be established by the Board, or if the Board should fail to designate a date by the first day of September of each calendar year, then at 6:30 p.m. on the second Thursday in October of that calendar year. The first annual meeting shall be held within one (1) year of the Turnover Meeting.

**3.3 Special Meetings.** A special meeting of the Association may be called at any time by the President or by a majority of the Board. A special meeting shall be called upon receipt of a written request stating the purpose of the meeting from Members having at least thirty percent (30%) of the voting rights entitled to be cast at such meeting. Business transacted at a special meeting shall be confined to the purposes stated in the notice of meeting.

**3.4 Notice of Meeting.**

(a) Written or printed notice stating the place, day, and time of the meeting, the items on the agenda, including the general nature of any proposed amendment to the Governing Documents, any budget changes, any proposal to remove a director or officer, and in case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered not less than fourteen (14) nor more than fifty (50) days before the date of the meeting. The notice shall be given either personally, by mail or, to the extent permitted by law, by electronic mail, or other form of electronic communication acceptable to the Board, by or at the direction of the President, the Secretary, or the persons calling the meeting, to each Member entitled to vote at the meeting, and to all mortgagees who have requested such notice. If mailed, such notices shall be deemed to be delivered when deposited in the United States mail, with postage fully prepaid thereon, addressed to the Member's most recent address as it appears on the records of the Association, or to the mailing address of such Member's Lot.

(b) For a period of seven (7) years following the recording of the Declaration, notices of meetings (including agendas) shall also be given to Declarant (or any designee of Declarant specified in any written notice to the Association) in the same manner as given to Owners, and Declarant or a representative of Declarant shall be entitled to attend meetings.

(c) When a meeting is adjourned for thirty (30) days or more, or when a redetermination of the persons entitled to receive notice of the adjourned meeting is required by law, notice of the adjourned meeting shall be given as for an original meeting. In all other cases, no notice of the adjournment or of the business to be transacted at the adjourned meeting need be given other than by announcement at the meeting at which such adjournment is taken.

**3.5 Quorum.** At any meeting of the Association, Members having at least twenty percent (20%) of the voting rights entitled to be cast at such meeting, present in person, by proxy, or by absentee ballot (if permitted by the Board), shall constitute a quorum, except when a larger quorum is required by the Declaration. When a quorum is once present to organize a meeting, it cannot be broken by the subsequent withdrawal of a Member or Members. If any meeting of Members cannot be organized because of a lack of quorum, the Members who are present, either in person or by proxy, may adjourn the meeting, from time to time, not less than forty-eight (48) hours nor more than thirty (30) days from the time the original meeting was called, until a quorum is present.

- 3.6 Voting Rights.** The Association shall have one class of voting membership. Every Owner, including Declarant, shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be Members; however, the vote for the Lot shall be exercised as they, among themselves, determine, but in no event shall more than one (1) vote be cast with respect to any Lot.
- 3.7 Fiduciaries and Joint Owners.** An executor, administrator, guardian, or trustee may vote or grant consent with respect to any Lot owned or held in such capacity, whether or not the specific right shall have been transferred to their name; provided that such person shall satisfy to the Secretary that he or she is the executor, administrator, guardian, or trustee, holding the Lot in that capacity. Whenever any Lot is owned by two or more persons jointly, according to the records of the Association, the vote of such Lot may be exercised by any of the Owners individually, in the absence of explicit, written, protest by a co-owner. In the event of disagreement among the co-Owners, the vote of such Lot shall be disregarded completely unless a valid court order establishes the authority of a co-Owner to vote.
- 3.8 Tenants and Contract Vendors.** Unless otherwise expressly stated in the rental agreement or lease, and a copy thereof is provided to the Association, all voting rights allocated to a Lot shall be exercised by the Owner. Likewise, unless otherwise stated in a real estate contract (as defined by RCW 61.30.010(1)), all voting rights allocated to a Lot shall be exercised by the purchaser/vendee of such real estate contract on the Lot.
- 3.9 Casting of Votes and Consents.** The voting rights or consent of an Owner may be cast in person at a meeting of the Association or, at the discretion of the Board, by proxy in accordance with paragraph (a) of this Section, by absentee ballot in accordance with paragraph (b) of this Section, by written ballot in accordance with paragraph (c) of this Section, or by any other method specified in the Governing Documents or the Act.
- (a) **Proxies.** A proxy must be dated and signed by the Owner, is not valid if it is undated or purports to be revocable without notice, and terminates one (1) year after its date unless the proxy specifies a shorter term. The Board may not require that a proxy be on a form prescribed thereby. An Owner may not revoke a proxy given pursuant to this paragraph except by actual notice of revocation to the person presiding over a meeting of the Association, or to the Board, if a vote is being conducted by written ballot in lieu of a meeting. A copy of a proxy in compliance with this paragraph provided to the Association by electronic mail or other means of electronic communication utilized by the Board is valid.
- (b) **Absentee Ballots.** An absentee ballot, if authorized by the Board, shall set forth each proposed action and provide Owners an opportunity to vote for or against each proposed action. All solicitations for votes by absentee ballot shall include instructions for delivery of the completed absentee ballot, including the delivery location and instructions about whether the ballot may be canceled if the ballot has not been delivered according to the instructions. An absentee ballot shall be counted as an Owner present for the purpose of establishing a quorum. Even if an absentee ballot has

been delivered to an Owner, the Owner may vote in person at a meeting if the Owner has returned and cancelled the absentee ballot, if cancellation is permitted in the instructions given under this paragraph.

- (c) **Ballot Meetings.** Pursuant to the limitations of RCW 64.90.445(2)(k) ("a board member may not vote by proxy or absentee ballot"), and at the discretion of the Board, any action that may be taken at any annual, regular, or special meeting of the Association's Owners may be taken without a meeting by written ballot to the extent and in the manner provided in RCW 64.90.445 - 64.90.455.
  - (d) **Electronic Ballots.** To the extent authorized by the Board and permitted by the Act, any vote, approval, or consent of an Owner may be given by electronic ballot.
  - (e) **Mortgages.** An Owner may pledge or assign such Owner's voting rights to a Mortgagee. In such a case, the Mortgagee or its designated representative shall be entitled to receive all notices to which the Owner is entitled under these Bylaws, and to exercise the Owner's voting rights after the Mortgagee has served written notice of such pledge or assignment on the Board. Any first Mortgagee may designate a representative to attend any meetings of the Association.
- 3.10 Majority Vote.** The vote of a majority of the voting rights entitled to be cast by the Members present, or represented by absentee ballot or proxy, at a meeting at which a quorum is present, shall be necessary for the adoption of any matter voted upon by the Members, unless a greater proportion is required by law or the Governing Documents.
- 3.11 Rules of Order.** Unless other rules of order are adopted by resolution of the Association or the Board, all meetings of the Association shall be conducted according to the latest edition of *Robert's Rules of Order*, published by The Robert's Rules Association.

#### ARTICLE 4

##### Directors: Management

- 4.1 Number and Qualification.** The affairs of the Association shall be governed by a Board of Directors of three (3) to five (5) persons. All directors, other than interim directors appointed by Declarant, shall be Owners or co-Owners of Lots. For purposes of this section, the officers of any corporate Owner, the members of any limited liability company, and the partners of any partnership, shall be considered co-Owners of any Lots owned by such corporation, company, or partnership.
- 4.2 Interim Directors.** Upon the recording of the Declaration, Declarant shall appoint an interim board of one (1) to three (3) directors who shall serve until replaced by Declarant, or until their successors have been replaced by the Owners as provided herein.
- 4.3 Director Turnover Events.** Not later than sixty (60) days after conveyance of twenty-five percent (25%) of the units that may be conveyed to Owners other than a Declarant, at

least one (1) member, and not less than twenty-five percent (25%) of the members, of the Board must be elected by Owners other than the Declarant. Not later than sixty (60) days after conveyance of fifty percent (50%) of the units that may be conveyed to Owners other than a Declarant, not less than thirty-three and one-third percent (33.3%) of the members of the Board must be elected by Owners other than the Declarant. Until such members are elected and take office, the existing Board may continue to act on behalf of the Association.

**4.4 Election and Tenure of Office.**

- (a) At the Turnover Meeting, any remaining interim directors shall resign, and the Owners shall elect three (3) directors, two (2) to serve for two (2) years and one (1) to serve for one (1) year. The two nominees receiving the greatest number of votes shall serve for two (2) years. In the event of a tie, terms shall be randomly selected. Thereafter, the successors to each director shall serve for terms of two (2) years each.
- (b) Upon a majority vote of the voting rights entitled to be cast by the Members present, or represented by absentee ballot or proxy, at a meeting or ballot meeting at which a quorum is present, the Board may be increased from three (3) directors to five (5) directors. At the next annual meeting, or a special meeting called for such purpose, two (2) additional directors shall be elected, one (1) to serve for a two-year term and one (1) to serve for a one-year term. Term selection shall be in the same manner provided in paragraph (a), above.
- (c) All directors shall hold office until their respective successors are elected by the Owners. Election shall be by the plurality system.

**4.5 Vacancies.**

- (a) A vacancy in the Board shall exist upon the death, resignation, or removal of any director, or if the authorized number of directors is increased, or if the Members fail, at any annual or special meetings of the Members at which any director or directors are to be elected, to elect the full authorized number of directors to be voted for at that meeting. Vacancies in interim directors shall be filled by Declarant.
- (b) Vacancies in the Board, other than interim directors, may be filled by a majority of the remaining directors, even though less than a quorum, or by a sole remaining director. Each director so elected shall hold office for the balance of the unexpired term and until their successor is elected.

**4.6 Removal of Directors.** All or any number of the directors, other than interim directors, may be removed, with or without cause, at any meeting of Members at which a quorum is present, by a vote of a majority of the number of votes entitled to be cast at an election of directors. No removal of a director shall be effective unless the matter of removal was an item on the agenda and stated in the notice of the meeting as provided in these Bylaws.

**4.7 Powers.** The Board shall have all the powers and duties necessary for the administration of the affairs of the Association, except to the extent such powers and duties may not be delegated to the Board by the Owners or as prohibited by law or the Governing Documents. The Board may delegate responsibilities to committees or a managing agent but shall retain ultimate control and supervision of the Association and its property. The powers and duties to be exercised by the Board shall include, but not be limited to, those set forth in the Declaration and the following:

- (a) Carry out the program for maintenance, upkeep, repair, and replacement of Common Areas and any other property required to be maintained by the Association as described in the Declaration and these Bylaws.
- (b) Determine the amounts required for operation, maintenance, and other affairs of the Association, and the making of such expenditures.
- (c) Prepare a budget for the Association, and assessment and collection of the Assessments, pursuant to RCW 64.90.525.
- (d) Employ and dismiss such personnel as may be necessary for such maintenance, upkeep, and repair.
- (e) Employ legal, accounting or other personnel, for reasonable compensation, to perform such services as may be required for the proper administration of the Association; provided, however, the Board may not incur or commit the Association to incur legal fees in excess of \$10,000 for any specific litigation, claim, or matter, nor enter into any contingent fee contract on any claim in excess of \$100,000, unless the Owners have enacted a resolution authorizing the incurring of such fees by a vote of seventy-five percent (75%) of the voting rights of the Association. These limitations shall not be applicable to legal fees incurred in defending the Association or the Board from claims or litigation brought against them. The limitations set forth in this paragraph shall increase by ten percent (10%) on each fifth (5<sup>th</sup>) anniversary of the recording of the Declaration. To the extent required by the Act, the Board shall notify the Owners before instituting litigation or administrative proceedings. Regarding any pending litigation involving the Association, the Board shall periodically report to the Owners as to the status (including settlement offers), progress, and method of funding such litigation. Nothing in this paragraph shall be construed as requiring the Board to disclose any privileged communication between the Association and its counsel.
- (f) Open bank accounts on behalf of the Association and designating the signatories required therefor.
- (g) Prepare and file, or cause to be prepared and filed, any required income tax returns or forms for the Association.
- (h) Purchase Lots at foreclosure or other judicial sales in the name of the Association, or its designee.

- (i) Sell, lease, mortgage, vote the votes appurtenant to (other than for the election of directors), or otherwise deal with Lots acquired by the Association or its designee.
- (j) Obtain insurance or bonds pursuant to the provisions of these Bylaws and review such insurance coverage at least annually.
- (k) From time to time, adopt, modify, or revoke such rules and regulations governing the details for the operation of the Association, the conduct of persons, and the operation and use of the Lots and Common Areas as the Board may deem necessary or appropriate to ensure the peaceful and orderly use and enjoyment of the Property. Such action may be overruled or modified by vote of not less than seventy-five percent (75%) of the Owners present, in person or by proxy, at any meeting, the notice of which shall have stated that such modification or revocation of rules and regulations will be under consideration.
- (l) Enforce by legal means the provisions of the Governing Documents.
- (m) In the name of the Association, maintain a current mailing address of the Association, file annual reports with the Washington Secretary of State, and maintain and keep current the information required to enable the Association to comply with RCW 64.90.495.
- (n) Enter into management agreements with professional management firms as required by the Governing Documents.

#### **4.8 Meetings.**

- (a) Board meetings shall be held at such place as may be designated from time to time by the Board or other persons calling the meeting.
- (b) Annual Board meetings shall be held within thirty (30) days following the adjournment of the annual meetings of the Members.
- (c) Special Board meetings for any purpose or purposes may be called at any time by the President or by any two directors.
- (d) Unless other rules of order are adopted by resolution of the Association or the Board, all Board meetings shall be conducted according to the latest edition of *Robert's Rules of Order*, published by The Robert's Rules Association.

#### **4.9 Open Meetings.**

- (a) All Board meetings shall be open to Owners except that, in the discretion of the Board, the following matters may be considered in executive session: (i) consultation concerning legal rights and duties of the Association regarding

existing or potential litigation, or criminal matters; (ii) personnel matters, including salary negotiations and employee discipline; (iii) negotiation of contracts, leases, and other commercial transactions with third parties; (iv) collection of unpaid assessments; and (v) matters which the Board reasonably determines would, if disclosed, violate the privacy of any person. Except in the case of an emergency, the Board shall vote in an open meeting whether to meet in executive session. If the Board votes to meet in executive session, the presiding officer shall state the general nature of the action to be considered, as precisely as possible, when and under what circumstances the deliberations can be disclosed to Owners. The statement, motion, or decision to meet in executive session shall be included in the minutes of the meeting, and any contract or action considered in executive session shall not become effective unless the Board, following the executive session, reconvenes in open meeting and votes on the contract or action, which shall be reasonably identified in the open meeting and included in the minutes.

- (b) The Board may meet by telephonic, video, or other conferencing process if: (i) the meeting notice states the conferencing process to be used and provides information explaining how unit owners may participate in the conference directly or by meeting at a central location or conference connection; and (ii) the process provides all unit owners the opportunity to hear or perceive the discussion and to comment as provided in RCW 64.90.445(2)(e). The meeting and notice requirements of this Section may not be circumvented by chance, social meetings, or by any other means.

#### **4.10 Notice of Meetings.**

- (a) Unless the meeting is included in a schedule given to the unit owners, the secretary or other officer specified in the organizational documents must provide notice of each board meeting to each director and to the unit owners. The notice must be given at least 14 days before the meeting and must state the time, date, place, and agenda of the meeting. Notwithstanding the foregoing, notice of a meeting to address an event or condition that could not have been reasonably foreseen and for which it is impracticable to provide notice as otherwise required by this chapter must be given at least seven days before the meeting and by means of electronic communication to unit owners whose electronic address or phone number is known to the association.
- (b) Attendance of a director at a meeting shall constitute a waiver of notice of such meeting except when a director attends a meeting for the express purpose of objecting to the transaction of any business because the meeting was not lawfully called or convened.

#### **4.11 Quorum and Vote.**

- (a) A majority of the directors shall constitute a quorum for the transaction of business. A minority of the directors, in the absence of a quorum, may adjourn, from time to time, but may not transact any business.

- (b) The action of a majority of the directors present at any meeting at which there is a quorum shall be the act of the Board, unless law or the Governing Documents require a greater number.
- (c) A director who is present at a Board meeting at which action is taken on any Association matter, is presumed to have assented to the action unless the director votes against the action or abstains from voting on the action because the director claims a conflict of interest. When action is taken on any matter at a Board meeting, the vote or abstention of each director present must be recorded in the minutes of the meeting, except that officers may be elected by secret ballot.

**4.12 Liability.** Neither a Board member nor an officer of the Association shall be named in a lawsuit by any Owner nor be liable to the Association, any Owner, or third party for any damage, loss, or prejudice suffered or claimed on account of any act or omission in the performance of duties, so long as the individual acted in good faith, believed that the conduct was in the best interests of the Association, or at least was not opposed to its best interests, and in the case of criminal proceedings, had no reason to believe the conduct was unlawful. In the event any Board member or any officer of the Association is threatened with, or made a party to, any proceeding because the individual was, or is, a director or officer of the Association, the Association shall defend such individual against such claims and indemnify such individual against liability and expenses incurred to the maximum extent permitted by law. The managing agent of the Association, and its officers and employees, shall not be liable to the Association, the Owners, or any third party on account of any act or omission in the performance of its duties as managing agent, except for acts of gross negligence or intentional acts, and the Association shall indemnify the managing agent, its officers, and employees from any such claims, other than for gross negligence or intentional misconduct.

**4.13 Compensation.** No director shall receive any compensation from the Association for acting as such.

**4.14 Executive, Covenants, and Other Committees.** Subject to Washington law and the Governing Documents, the Board may appoint an Executive Committee, a Covenants Committee to be responsible for covenant enforcement, and such other standing or temporary committees as may be necessary from time to time. Committees authorized to exercise any power reserved to the Board must include at least two Board members who have exclusive voting power for that Committee. Committees that are not so composed may not exercise the authority of the Board and are advisory only.

**4.15 Enforcement Procedures.** The Association shall have the power, as provided in the Declaration, to impose sanctions for any violation of the Governing Documents. To the extent specifically required by the Declaration, the Board shall comply with the following procedures prior to the imposition of sanctions:

- (a) Notice. The Board or its delegate shall serve the alleged violator with written notice describing (i) the nature of the alleged violation, (ii) the proposed sanction to be

imposed, (iii) a statement that the alleged violator shall have fourteen (14) days to present a written request for a hearing before the Board, or a Committee appointed by the Board, if any; and (iv) a statement that the proposed sanction may be imposed as contained in the notice unless a hearing is requested within fourteen (14) days of the notice.

- (b) **Response.** The alleged violator shall respond to the notice of the alleged violation in writing within such fourteen (14) day period, regardless of whether the alleged violator is challenging the imposition of the proposed sanction. If the alleged violator cures the alleged violation and notifies the Board, in writing, within such fourteen (14) day period, then the Board may, but shall not be obligated to, waive the sanction. Such waiver shall not constitute a waiver of the right to sanction future violations of the same or other provisions by any Owner. If a timely request for a hearing is not made, the sanction stated in the notice shall be imposed; provided, however, that the Board or Committee may, but shall not be obligated to, suspend any proposed sanction if the violation is cured within the fourteen (14) day period. Any response or request for a hearing shall be delivered to the Association's manager, President, or Secretary, or as otherwise specified in the notice of violation. Under no circumstances may the Board suspend an Owner's right to vote in response to a violation, notice thereof, or other enforcement action.
- (c) **Proof of Notice.** Prior to the effectiveness of sanctions imposed pursuant to this section, proof of proper notice shall be placed in the minutes of the Board or Committee, as applicable. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator, or their representative, requests a hearing or appears thereat.
- (d) **Hearing.** If a hearing is requested within the allotted fourteen (14) day period, the hearing shall be held before the Board or its Committee, as applicable. The alleged violator shall be afforded a reasonable opportunity to be heard. The minutes of the meeting shall contain a written statement of the results of the hearing (*i.e.*, the decision) and the sanction, if any, to be imposed.
- (e) **Appeal.** Following a hearing before the any Committee, if applicable, the violator shall have the right to appeal the decision to the Board. To exercise this right, the violator must deliver a written notice of appeal to the Association's manager, President, or Secretary within ten (10) days after the hearing date.
- (f) **Enforcement Policies.** The Board, by Resolution, may adopt additional policies and procedures governing enforcement of the Governing Documents.

## **ARTICLE 5**

### **Officers**

- 5.1 Designation and Qualification.** The officers of the Association shall be the President, the Secretary, the Treasurer, and such Vice Presidents and subordinate officers as the Board shall, from time to time, appoint. Each officer shall be a member of the Board.

Any two offices, except the offices of President and Secretary, may be held by the same person.

**5.2 Election and Vacancies.** At the annual meeting, the new Board shall elect officers of the Association to serve for one (1) year or until their respective successor officers are elected. If any office shall become vacant by reason of death, resignation, removal, disqualification, or any other cause, the Board shall elect a successor to fill the unexpired term at any Board meeting.

**5.3 Removal and Resignation.**

(a) Any officer may be removed upon the affirmative vote of a majority of the directors whenever, in their judgment, the best interests of the Association will be served thereby. The removal of an officer shall be without prejudice to the contract rights, if any, of the officer so removed.

(b) Any officer may resign at any time by giving written notice to the Board, the President, or the Secretary of the Association. Any such resignation shall take effect upon receipt of such notice, or at any later time specified therein. Unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective, provided, however, that the Board may reject any postdated resignation by notice in writing to the resigning officer. The effectiveness of such resignation shall not prejudice the contract rights, if any, of the Association against the officer so resigning.

**5.4 President.** The President shall be the chief executive officer of the Association and shall, subject to the control of the Board, have powers of general supervision, direction, and control of the business and affairs of the Association. The President shall preside at all meetings of the Members and of the Board. They shall be an *ex officio* member of all standing committees (including the executive committee), if any, and shall have the general powers and duties of management usually vested in the office of president of a nonprofit corporation, along with such other powers and duties as may be prescribed by the Board or Governing Documents.

**5.5 Vice President.** The Vice President(s), if any, shall perform such duties as the Board shall prescribe. In the absence or disability of the President, the President's duties and powers shall be performed and exercised by the Vice President.

**5.6 Secretary.**

(a) The Secretary shall keep or cause to be kept a book of minutes of all meetings of directors and Members showing the time and place of the meeting, whether it was regular or special, and if special, how authorized, the notice given, the names of those present at directors' meetings, the number of memberships present or represented at Members' meetings, and the proceedings thereof.

(b) The Secretary shall give or cause to be given such notice of the meetings of the Members and of the Board of Directors as is required by these Bylaws or by law. The Secretary

shall keep the seal of the Association, if any, and affix it to all documents requiring a seal, and shall have such other powers and perform such other duties as may be prescribed by the Board or these Bylaws.

- (c) If there are no Vice Presidents, then in the absence or disability of the President, the President's duties and powers shall be performed and exercised by the Secretary.

**5.7 Treasurer.** The Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the Association, including accounts of its assets, liabilities, receipts, and disbursements. The books of accounts shall, at all reasonable times, be open to inspection by any director. The Treasurer shall deposit, or cause to be deposited, all moneys and other valuables in the name, and to the credit, of the Association with such depositories as may be designated by the Board. The Treasurer shall disburse, or cause to be disbursed, the funds of the Association as may be ordered by the Board, shall render to the President and directors, whenever they request it, an account of all the Treasurer's transactions as Treasurer and of the financial condition of the Association, and shall have such other powers and duties as prescribed by the Board or these Bylaws.

**5.8 Compensation of Officers.** No officer who is a member of the Board shall receive any compensation from the Association for acting as an officer, unless such compensation is authorized by a resolution duly adopted by the Members.

## ARTICLE 6

### Assessments, Records, And Reports

**6.1 Assessments.** The Association, through its Board, shall:

- (a) Assess and collect Assessments from Owners.
- (b) Keep all funds received as Assessments, other than reserves described in the Declaration, in the Current Operating Account, and keep all reserves collected pursuant to the Declaration in the Reserve Account and/or Fund, using such funds only for the purposes described in the Declaration. All assessments shall be deposited in the name of the Association in a separate federally insured account at a Qualified Financial Institution as defined in RCW 64.90.010 and dictated under RCW 64.90.530. All expenses of the Association shall be paid from the Association's bank account.
- (c) From time to time, and at least annually, prepare a budget for the Association, estimating the expected common expenses to be incurred, with adequate allowance for reserves based upon the reserve study required by the Declaration, determining whether the Annual Assessment should be increased or decreased. Within thirty (30) days of adopting a proposed annual budget, the Board shall provide all Owners a summary of the budget. If the Board fails to adopt a budget, the last adopted annual budget shall remain in effect. Fix the amount of the Annual Assessment against each Lot at least thirty (30) days in advance of each Annual Assessment period. Written

notice of any Assessment shall be sent to every Owner subject thereto, and to any first mortgagee requesting such notice. The due dates shall be established by the Board which may fix a regular flat Assessment payable on a monthly, quarterly, semiannual, or annual basis. The Board shall cause to be prepared a roster of the Lots, showing Assessments applicable to each Lot. The roster shall be kept in the Association office and shall be subject to inspection by any Owner or mortgagee during regular business hours. Within ten (10) business days after receiving a written request, and for a reasonable charge, the Association shall furnish to any Owner or mortgagee a recordable certificate setting forth the unpaid Assessments against such Owner's Lot. Such certificate shall be binding upon the Association, the Board, and every Owner as to the amounts of unpaid Assessments.

(d) Enforce the Assessments in the manner provided in the Declaration.

(e) Keep records of the receipts and expenditures affecting the Current Operating Account, Reserve Account, and Reserve Fund, and make the same available for examination by Members and their mortgagees at convenient hours, maintain an Assessment roll showing the amount of each Assessment against each Owner, the amounts paid upon the account and the balance due on the Assessments, give each Member written notice of each Assessment at least thirty (30) days before the time when such Assessments shall become due and payable; and for a reasonable charge, promptly provide any Owner or mortgagee who makes a written request with a written certificate of such Owner's unpaid Assessments.

**6.2 Records.** The Association shall keep within the State of Washington correct and complete financial records sufficiently detailed for proper accounting purposes, keep minutes of the proceedings of its Members, Board, and committees having any of the authority of the Board, and retain all documents, information, and records turned over to the Association by Declarant. All such documents, information, and records shall be kept within the State of Washington in the manner, and for the time periods, specified in RCW 64.90.495.

**6.3 Statement of Assessments Due.** The Association shall provide, within ten (10) business days after receipt of a written request from an Owner, a written statement that provides: (a) the amount of assessments due from the Owner and unpaid at the time the request was received, including regular and special assessments, fines, and other charges, accrued interest, and late-payment charges; (b) the percentage rate at which interest accrues on assessments that are not paid when due; and (c) the percentage rate used to calculate the charges for late payment, or the amount of a fixed-rate charge for late payment. The Association is not required to comply with this section if the Association has commenced litigation by filing a complaint against the Owner, and the litigation is pending when the statement would otherwise be due.

**6.4 Inspection of Books and Records.** Except as otherwise provided in RCW 64.90.495 and the Declaration, the Board, by resolution, may adopt reasonable rules governing the frequency, time, location, notice, and manner of examination and duplication of Association records and the imposition of a reasonable fee for furnishing copies of such

documents, information, or records. The fee may include reasonable personnel costs for furnishing the documents, information, or records.

**6.5 Execution of Documents.** The Board may, except as otherwise provided in the Governing Documents, authorize any officer or agent to enter any contract or execute any instrument in the name, and on behalf, of the Association. Such authority may be general or confined to specific instances. Unless so authorized by the Board, no officer, agent, or employee shall have any power or authority to bind the Association by any contract or engagement, to pledge its credit, or to render it liable for any purpose or for any amount.

**6.6 Reports and Audits.** An annual financial statement consisting of a balance sheet and an income and expense statement for the preceding year shall be rendered by the Board to all Owners and to all mortgagees who have requested the same within ninety (90) days after the end of each fiscal year. If the total Annual Assessments exceed \$50,000 for the year, then the Board shall cause such financial statements to be reviewed within ninety (90) days after the end of the fiscal year by an independent certified public accountant licensed in Washington. If the Annual Assessments are less than \$50,000, an annual audit is required, but may be waived annually by the Owners, other than the Declarant, of Lots to which a majority of the votes in the Association are allocated. From time to time, the Board, at the expense of the Association, may obtain an audit of the books and records pertaining to the Association, furnishing copies thereof to the Members. At any time, any Owner or holder of a mortgage may, at their own expense, cause an audit or inspection to be made of the books and records of the Association.

#### **ARTICLE 7 Insurance**

**7.1 Types of Insurance.** For the benefit of the Association and the Owners, the Board shall obtain, maintain, and pay for out of the Current Operating Account, the types of insurance described in Article 11 of the Declaration.

#### **ARTICLE 8 General Provisions**

**8.1 Waiver of Notice.** Whenever any notice to any Member or director is required by the Act, other law, or the Governing Documents, a written waiver of notice signed at any time by the person entitled to notice shall be equivalent to the giving of said notice.

**8.2 Action Without Meeting.** To the extent authorized by the Act, any action that the Act or Governing Documents require or permit the Members or directors to take at any meeting may be taken without a meeting or ballot meeting if a written consent setting forth the action so taken is signed by all of the Members, or those Members entitled to vote on the matter. The consent, which shall have the same effect as a unanimous vote of the Members or directors, shall be filed in the records of minutes of the Association.

- 8.3 **Conflicts.** These Bylaws are intended to comply with the Act, Washington Nonprofit Corporation Law codified in RCW 24.03, the Declaration, and the Articles of Incorporation. In case of any irreconcilable conflict, such statutes and documents shall control over.

## **ARTICLE 9**

### **Amendments to Bylaws**

- 9.1 **How Proposed.** Amendments to, or restatements of, these Bylaws (collectively called "Amendments") shall be proposed by the Board or by Members holding at least thirty percent (30%) of the voting rights entitled to be cast for such Amendment. The proposed amendment must be reduced to writing and shall be included in the notice of any meeting at which action is to be taken thereon or be attached to any request for consent to the amendment.
- 9.2 **Adoption.**
- (a) **Resolution.** Subject to the terms of the Declaration, a resolution adopting a proposed Amendment may be proposed by either the Board or by the Members and may be approved by the membership at a meeting called for such purpose or by written consent of the Members. Members not present at the meeting considering such Amendment may express their approval in writing or by proxy. Any resolution must be approved by Owners holding a majority of the voting rights. Amendment or repeal of any provision of these Bylaws that is also contained in the Declaration must be approved by the voting requirement for Amendment of such provision as set forth in the Declaration.
  - (b) **Amendment by Declarant.** Notwithstanding the provisions of the preceding paragraph, until the Turnover Meeting has occurred, Declarant shall have the right to Amend these Bylaws, including those required to comply with the requirements of the Federal Housing Administration, the United States Department of Veterans Affairs, the Farmers Home Administration of the United States, the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Home Mortgage Loan Corporation, any department, bureau, board, commission or agency of the United States or the State of Washington, or any corporation wholly owned, directly or indirectly, by the United States or the State of Washington that insures, guarantees, or provides financing for a planned community, or lots in a planned community. After the Turnover Meeting, any such Amendment shall require the approval of a majority of the voting rights of the Association, voting in person, by proxy, or by ballot, at a meeting or ballot meeting of the Association at which a quorum is represented.
- 9.3 **Relationship to Declaration.** If a provision required to be in the Declaration under Washington law is included in these Bylaws, the voting requirements for Amending the Declaration shall instead govern the amendment of the provision in these Bylaws.

EXHIBIT "C"

SEE BOOK 15 OF PLATS AT

PAGE 8-17 , AFN 3789527

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**9.4 Execution and Recording.** An Amendment shall not be effective until certified by the President and Secretary of the Association as being adopted in accordance with these Bylaws and Washington law, acknowledged and recorded in the Deed of Records of Cowlitz County, Washington.

Adopted by the Initial Board of Directors as named in the Articles of Incorporation filed with the Washington Secretary of State on the \_\_\_\_ day of \_\_\_\_\_, 202\_.

SPENCER CREEK RESERVE HOMEOWNERS' ASSOCIATION,  
A Washington nonprofit corporation.

\_\_\_\_\_  
By:  
Its:  
Date:

Unofficial Copy

EXHIBIT "D"

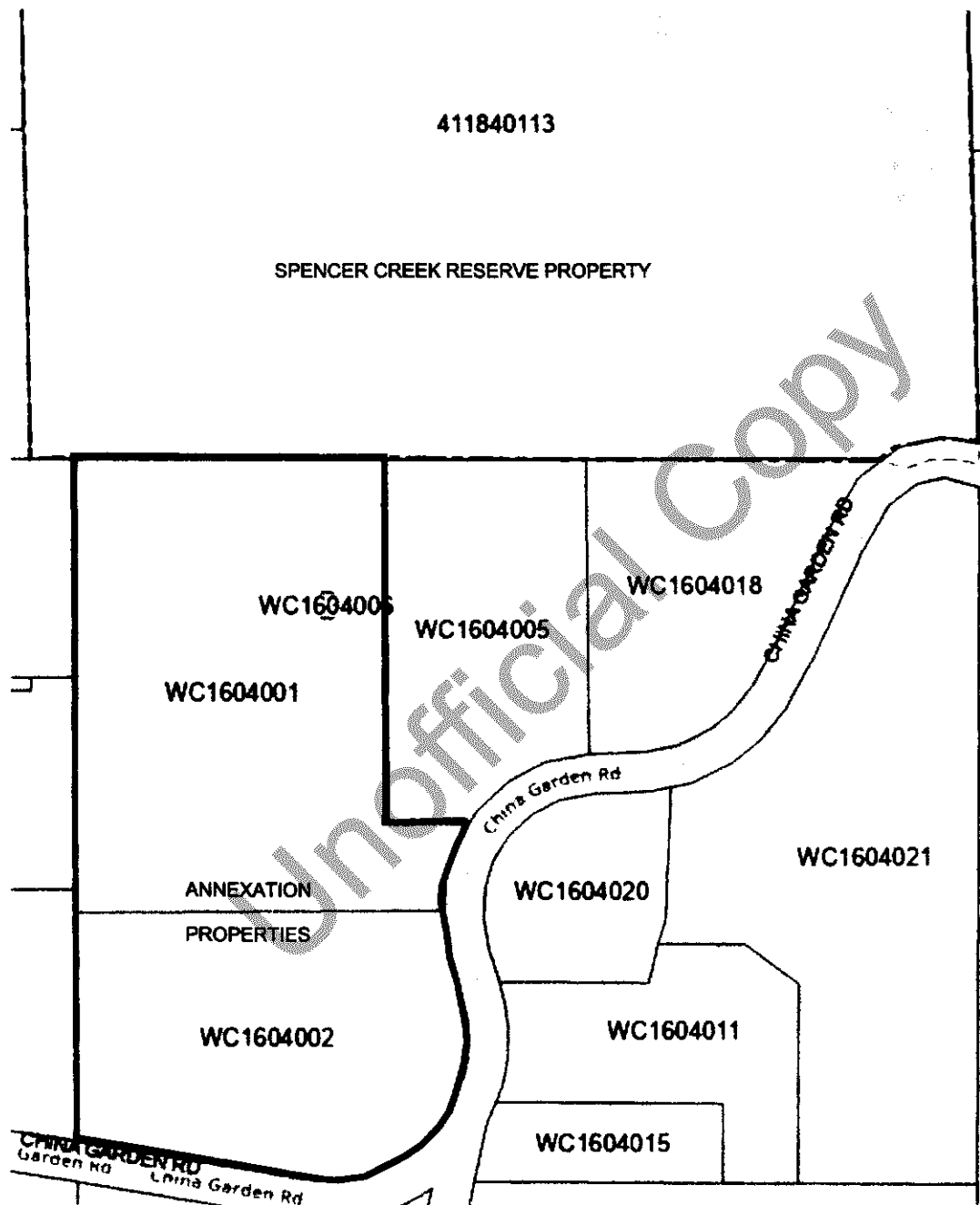


EXHIBIT "E"

**PARCEL A**

**A PORTION OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 6 NORTH, RANGE 1 WEST OF THE W.M., MORE PARTICULARLY AS FOLLOWS.**

**BEGINNING AT THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 6 NORTH, RANGE 1 WEST OF THE WILLAMETTE MERIDIAN; THENCE SOUTH 89°46' EAST ALONG THE NORTH LINE OF SAID LEGAL SUBDIVISION 416.12 FEET; THENCE SOUTH 0°2' EAST, PARALLEL WITH THE WEST LINE OF SAID LEGAL SUBDIVISION 540 FEET; THENCE SOUTH 89°46' EAST 170 FEET, MORE OR LESS, TO THE CENTER LINE OF THE COUNTY ROAD KNOWN AS LATERAL HIGHWAY NO. 4; THENCE SOUTHERLY ALONG SAID CENTER LINE 65 FEET, MORE OR LESS, TO A POINT THAT IS SOUTH 0°02' EAST 600 FEET FROM THE NORTH LINE OF SAID LEGAL SUBDIVISION; THENCE NORTH 89°46' WEST PARALLEL WITH SAID NORTH LINE AND ALONG THE NORTH LINE OF THAT TRACT CONVEYED TO GEORGE W. MOAWAD BY DEED RECORDED UNDER AUDITOR'S FILE NO. 246483, A DISTANCE OF 560 FEET, MORE OR LESS, TO THE WEST LINE OF SAID LEGAL SUBDIVISION; THENCE NORTH 0°02' WEST 600 FEET TO THE POINT OF BEGINNING.**

**EXCEPTING THEREFROM ALL OF THAT PORTION AS DEEDED TO THE CITY OF KALAMA UNDER AUDITOR'S FILE NO. 819079, ALSO SHOWN AS T-4E.**

**PARCEL B**

**A PORTION OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 6 NORTH, RANGE 1 WEST OF THE WILLAMETTE MERIDIAN MORE PARTICULARLY AS FOLLOWS.**

**BEGINNING ON THE NORTH RIGHT OF WAY LINE OF LATERAL HIGHWAY NO. 4 AT ENGINEER'S STATION 93+42.5 AS RECORDED IN THE OFFICE OF COUNTY ENGINEER, KELSO, COWLITZ COUNTY, WASHINGTON. SAID BEGINNING POINT BEGINNING POINT BEING ON THE WEST LINE OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 6 NORTH, RANGE 1 WEST, W.M.; THENCE NORTH 400 FEET ON SAID WEST LINE; THENCE EAST TO AN INTERSECTION WITH THE WEST RIGHT OF WAY LINE OF SAID LATERAL HIGHWAY NO. 4; THENCE FOLLOWING THE WEST RIGHT OF WAY LINE SOUTHERLY AND WESTERLY TO THE POINT OF BEGINNING.**