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Document Title(s) (or transactions contained therein): 1. Declaration of Covenants, Conditions and Restrictions for Oakview 2.
Grantor(s) Name (last, first, and initials): 1. Roy Meadows Development LLC 2. <input type="checkbox"/> Additional Names on Page _____ of Document
Grantee(s) Name (last, first, and initials): 1. Roy Meadows Development LLC <input type="checkbox"/> Additional Names on Page _____ of Document
Legal Description (Abbreviated i.e. lot/block and plat or section, township and range) <input type="checkbox"/> Legal Description is on Exhibit A of Document.
Reference Number(s) of Documents Assigned or Released: 1. Plat recording number: 2. <input type="checkbox"/> Additional Reference Numbers on Page _____ of Document
Assessor's Tax Parcel / Account Number(s)

# OAKVIEW

## DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

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## **DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by Roy Meadows Development Group LLC, a Washington limited liability company (“Declarant”).

### **Background**

1. The residential community commonly known as “Oakview” Subdivision is comprised of the real property located in the city of Roy, Pierce County, Washington, legally described on Exhibit “A-1” and depicted on Exhibit “A-2” (the “Property”). Oakview is a plat community subject to RCW Chapter 64.90.

2. Declarant currently holds fee simple title to 79 of the 79 Lots comprising the Property and therefore represents more than seventy-five percent (75%) of the Members of the Association.

3. Declarant will incorporate “Oakview Owners Association” as a nonprofit Washington corporation (the “Association”) to further the purposes outlined in this Declaration.

### **Declaration**

Declarant hereby declares that the Property is and shall be held, transferred, sold, conveyed and occupied subject to all of the terms and conditions set forth in this Declaration.

Declarant delegates and assigns to the Association, upon its incorporation, the power of: maintaining and administering the Common Areas defined below; administering and enforcing the covenants and restrictions; collecting and disbursing the Assessments and charges created in this Declaration; and promoting the recreation, health, safety and welfare of the residents.

## **ARTICLE I DEFINITIONS**

Section 1.1 “ACC” shall mean the Architectural Control Committee, as described in this Declaration.

Section 1.2 “Articles” shall mean the Association’s Articles of Incorporation.

Section 1.3 “Assessment” or “Assessments” shall mean individual or collective Assessments arising out of Article VI including, without limitation Annual and Special Assessments.

Section 1.4 “Association” shall mean the Oakview Owners Association, a Washington nonprofit corporation, its successors and assigns.

Section 1.5 “Board” or “Board of Directors” shall mean the Board of Directors of the Association.

Section 1.6 “Builder” shall mean any entity or person that shall purchase one or more Lots for the purpose of building homes for sale or lease to others.

Section 1.7 “Bylaws” shall mean the Association’s Bylaws.

Section 1.8 “Common Areas” shall mean: (i) portions of the Property in which the Owners have an undivided interest under the terms of the final Plat of Oakview; (ii) real and personal property that the Association either owns or in which it has an interest under this Declaration, or by virtue of the Oakview (except easements for maintaining lots as provided for in Section 6.3); and (iii) improvements which the Association is obligated to maintain under the terms of this Declaration.

Section 1.9 “Declarant” shall mean Roy Meadows Development Group LLC and its successors and assigns.

Section 1.10 “Declaration” shall mean all of the terms and conditions included in this Amended and Restated Declaration of Covenants, Conditions and Restrictions, including without limitation the covenants, restrictions, easements, charges, liens and all other provisions, as they may from time to time be amended.

Section 1.11 “Development Plan” shall mean the general plan illustrating the intended development of the Property that was approved by the city of Roy as shown on the attached Exhibit “A-2,” which is incorporated and made a part of the Declaration by this reference, together with any amendments thereto.

Section 1.12 “Federal Mortgage Agencies” shall mean those federal agencies that may have an interest in the properties, such as the Federal Housing Administration (“FHA”), the Veterans Administration (“VA”), the Federal National Mortgage Association (“FNMA”), the Federal Home Loan Mortgage Corporation (“FHLMC”), or the successors to their respective interests.

Section 1.13 “First Mortgagee” shall mean a lender who holds the first mortgage or first deed of trust on a Lot and who has notified the Association in writing of its holdings.

Section 1.14 “Lot” shall mean any numbered parcel of land shown upon any recorded subdivision map of the Property, with the exception of the Common Areas and other areas set aside for nonresidential use.

Section 1.15 “Manager” shall mean the person, firm, entity or corporation to whom the Board of Directors may delegate managerial duties.

Section 1.16 “Member” shall mean every person or entity that owns a Lot and holds membership in the Association. Membership shall be appurtenant to and may not be separated from ownership of a Lot.

Section 1.17 “Mortgage” shall mean a deed of trust or any other security instrument.

Section 1.18 “Notice” shall mean written notice delivered personally or mailed to the last known address of the intended recipient.

Section 1.19 “Owner” shall mean every person or entity, including Declarant, which is a record Owner of the fee simple title to any Lot, or if any Lot is sold under real estate

contract, the vendee or vendees under that contract; provided, however, that the term "Owner" shall not include those having an interest merely as security for the performance of an obligation.

Section 1.20 "Plat" shall mean the planned residential community commonly known as "Oakview," which is approved on the Property.

Section 1.21 "Property" shall mean the real property legally described on the attached Exhibit "A-1."

## **ARTICLE II PROPERTY; DEVELOPMENT PLAN**

Section 2.1 The Property. The real property that is subject to this Declaration is legally described on the attached Exhibit "A-1" and represents the planned residential community commonly known as "Oakview."

Section 2.2 The Development Plan. The Development Plan illustrated on the attached Exhibit "A-2" is the Declarant's intended design for the development of Oakview as a planned residential community. The Development Plan includes 79 single-family lots.

The Development Plan may be modified and amended as provided in this Declaration and as provided under city of Roy development regulations.

## **ARTICLE III DEVELOPMENT RIGHTS**

Declarant reserves the right to develop Lots 1 through 79 of Oakview for single-family residences or for any other legal and allowed purpose.

## **ARTICLE IV COMMON AREAS**

Section 4.1 Dedication. Upon the recording of the Plat, the portions of the Property designated as Common Areas were dedicated to the Association.

Section 4.2. Easement; Right of Association to Adopt Reasonable Rules. Each Owner shall have a right of enjoyment and use, together with a nonexclusive easement in, over and through the Common Areas for ingress and egress, which easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to adopt reasonable rules governing the use of the Common Areas and the personal conduct of persons authorized to use said Common Areas, and to establish appropriate penalties for the violation of those rules.

(b) The right of the Association to dedicate or transfer by deed or easement all or any part of the Common Areas to any public agency, authority, or utility. No such dedication or transfer shall be effective without the approval of two-thirds (2/3) of the Members.

Section 4.3 Delegation of Use. Any Owner may delegate its right of enjoyment to the Common Areas to its family, tenants and guests, subject to the limitations set forth in this Declaration.

Section 4.4. Association to Maintain. The Association shall maintain, repair, replace, and improve the Common Areas as appropriate for a first-class residential community, and shall pay the actual cost of the same from Annual or Special Assessments, as appropriate.

Section 4.5 Tract A. Tracts "A" is a common area set aside for the preservation of oak and other significant trees.

Section 4.6 Tracts B, D, and F. Tracts "B, D, and F" are common areas set aside for a community septic system. The Association shall maintain, repair, and replace Tracts B, D, and F and the community septic system located within and shall pay the cost of the same from Special Assessments as provided for in Section 7.7 below.

Section 4.7 Tract C. Tracts "C" is a common area set aside as a protected wetland habitat.

## ARTICLE V ASSOCIATION

Section 5.1 General. Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to each Lot and may not be separated from ownership of any Lot. Ownership of a Lot shall be the sole qualification for membership in the Association.

Section 5.2. Members. Members shall be all Owners and shall be entitled to one (1) vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be Members. The vote for such Lot shall be divisible and exercised as the Owners determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Section 5.3 Board of Directors. The Association shall be managed by a Board of Directors elected or appointed in accordance with the Articles of Incorporation and Bylaws of the Association. The provisions of the Association's Articles of Incorporation and Bylaws (including but not limited to any provisions related to the limitation or director liability or indemnification of directors) shall apply to and govern the Association's Board of Directors.

Section 5.4 Delegation to Manager. The Board of Directors may delegate any of its managerial duties, powers, or functions to any person, firm, entity or corporation (the "Manager"); provided that any management agreement may be terminated by the Association:

- (a) For cause upon delivery of thirty (30) days advanced written notice;
- and
- (b) Without cause upon delivery of ninety (90) days advance written notice.

The term of any such management agreement may:

- (a) Not exceed one (1) year; and
- (b) Be renewable by agreement of the parties for successive one (1) year periods.

The Members of the Board of Directors shall not be liable for any omission or improper exercise by the Manager of any duty, power, or function so delegated by written instrument executed by a majority of the Board of Directors.

Section 5.5 Declarant Control. The Declarant, or persons designated by the declarant may (i) appoint and remove officers and Board Members and/or (ii) veto or approve a proposed action of the Board or Association during the period of declarant control, which shall continue until sixty (60) days after the Declarant has sold and conveyed seventy-five percent (75%) of all of the lots held in the name of the Declarant, Declarant's heirs or assigns. This section is subject to RCW 64.90.415(3).

## **ARTICLE VI EASEMENTS**

Section 6.1 Utility, Drainage, and Septic Line Easements. In addition to or consistent with easements reserved on the face of the Plat or created by any instrument of record, nonexclusive easements for utilities and drainage are reserved for the Declarant and/or its assigns, over \_\_\_\_\_. **In addition, nonexclusive easements for septic lines are reserved for the Association, the Declarant and their agents, successors, and assigns, over \_\_\_\_\_ ("Septic Line Easement").**

A nonexclusive easement is reserved for Declarant and/or its assigns over, under, and on all of the Common Areas. Within all of the easements, no structure, planting or fill material shall be placed or permitted to remain which may, in the opinion of the Board of Directors, damage or interfere with the installation and maintenance of utilities, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all improvements within it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public agency, authority, utility company, and/or the Association is responsible.

Section 6.2 "Tracts B, D, and F" Septic Easement. **"Tract B" is set aside for a community septic system for the specific benefits of Lots 43 through 50. "Tract D" is set aside for a community septic system for the specific benefits of Lots 24 through 28. "Tract F" is set aside for a community septic system for the specific benefits of Lots 41 and 42. The Association, the Declarant and its successors and assigns shall have a nonexclusive easement over, under, and on "Tracts B, D and F" for the purposes of installing and maintaining the community septic system.**

Section 6.3 Easement for Association. The Association, the Declarant and its agents, successors and assigns shall have a nonexclusive easement for access to each Lot and to the exterior of any building located thereon during reasonable hours as may be necessary for the following purposes:



(a) The cleaning, maintenance, repair or replacement of any improvement as provided in Section 8.1 (this easement shall also include the reasonable right of entry to the interior of any building, to the extent necessary to perform the work described in Section 8.1).

(b) The maintenance, repair, replacement, or improvement of any Common Area accessible from a Lot.

(c) Emergency repairs necessary to prevent damage to the Common Areas or to another Lot, or the improvements thereon.

(d) The cleaning, maintenance, repair, or restoration work that the Owner is required to do, but has failed or refused to do.

(e) All other acts necessary to administer or enforce this Declaration.

Except in an emergency where advance notice is not possible, these easements shall be exercised only after reasonable notice to the Owner.

Section 6.4 Easement for Government Personnel. An easement for access by police, fire, rescue and other government personnel is reserved across all Common Areas as necessary or appropriate for the performance of their public duties.

Section 6.5 Easement for Declarant. The Declarant shall have an easement across all Common Areas for ingress, egress, storage and placement of equipment, materials or utilities, and such other actions necessary for or related to the development and/or maintenance of Oakview.

## **ARTICLE VII ASSESSMENTS**

### Section 7.1 Covenants for Maintenance Assessments.

(a) Except as provided for in Section 7.7 and Section 7.14 below, each Lot shall be responsible for an equal 1/79 share of the common expenses of the Association. Each Owner of a Lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to agree to pay to the Association (i) "Annual Assessments" or charges; and (ii) "Special Assessments" for capital improvements.

(b) All Assessments under this Article, together with interest, costs and reasonable accounting fees and attorney's fees, shall be a charge and a continuing lien upon the Lot against which each such Assessment is made. Such lien may be foreclosed by the Association in like manner as a Mortgage on real property.

(c) Each Assessment, together with interest, costs, and reasonable accounting fees and attorney's fees shall also be the personal obligation of the person who is the Owner of the Lot assessed at the time the Assessment becomes due and payable. The personal obligation shall not pass to the Owner's successors-in-interest unless expressly assumed by the successor-in-interest. The new Owner shall be personally liable for Assessments that become due and payable on and after the date of sale (e.g., if sold by real estate contract) or transfer of a Lot to the new Owner (e.g., conveyance by deed).

Section 7.2 Purpose of Assessments. The Assessments levied by the Association shall be used exclusively for the purpose of:

- (a) Promoting the recreation, health, safety and welfare of the residents of the Property;
- (b) Improving, maintaining, replacing and/or repairing of the Common Areas and the services and facilities related to the use and enjoyment of said Common Areas;
- (c) Paying the costs associated with taxes and insurance related to the Common Areas.

Section 7.3 Maximum Annual Assessments. The Board of Directors shall establish the maximum Annual Assessment that may, from time to time, be increased subject to the following conditions and limitations:

- (a) Until January 1, 20\_\_\_\_, the maximum Annual Assessment shall be \_\_\_\_\_ Dollars (\$\_\_\_\_.00) per Lot.
- (b) After January 1, 20\_\_\_\_, the maximum Annual Assessment may not be materially increased without an affirmative vote of two-thirds (2/3) of the Members who are voting in person or by proxy, at a meeting duly called for such purpose pursuant to Section 7.9 of this Article. A “material increase” shall be an increase, which cumulatively for the Association’s fiscal year increases the Annual Assessment by more than ten (10) percent.

Section 7.4 Board to Fix Annual Assessment. The Board of Directors shall fix the Annual Assessment at an amount not in excess of the maximum at least fifteen (15) days prior to the start of the fiscal year. Written notice of the Annual Assessment shall be sent to every Owner. If the Board fails to fix an Annual Assessment for any fiscal year, then the Assessment established for the prior year shall automatically be continued until such time as the Board acts. The Annual Assessments shall be sufficient to:

- (a) Meet the obligations imposed by this Declaration and any supplementary declarations; and
- (b) Establish an adequate reserve fund for the maintenance, repair and replacement of those Common Areas that require such actions on a periodic basis.

Section 7.5 Special Assessments for Capital Improvements. In addition to the Annual Assessments authorized above, the Association may levy in any assessment year, a Special Assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Areas, including the necessary fixtures and personal property related thereto; provided, however, that any such Assessment shall have the assent of two-thirds (2/3) of the votes of Members who are voting in person or by proxy at a meeting duly called for this purpose pursuant to Section 7.9 of this Article.

Section 7.6 Rate of Assessments. Assessments shall be fixed at a uniform rate for all lots, except as noted elsewhere in this Declaration, including Section 7.7 and Section 7.14 below.

Section 7.7 Community Septic System Assessments. “Tracts B, D, and F” are set aside as a community drainfields and for on-site sewage disposal purposes. The pump chambers, effluent lines and drainfields on Tracts B, D, and F, together with conveyance lines in the Septic Line Easement are collectively referred to as the “Community Septic System.” The Community Septic System requires regular periodic maintenance. The Association shall be responsible to maintain, repair, and replace the Community Septic System. The Association shall keep in effect at all times a maintenance service contract with a company certified by the Tacoma-Pierce Community health Department (“TPCHD”), and shall pay all costs of maintaining, repairing and replacing the Community Septic System and shall assess the costs specifically to the Lots that are benefitted by the Community Septic System, as set forth below.

(a) Assessments Levied Against Lots 24 through 28 and 41 through 50. All costs associated with the maintenance, repair and replacement of the Community Septic System shall be paid by the Owners of Lots actually connected to the Community Septic System through a Septic System Assessment levied by the Association against Lots 24 through 28 and 41 through 50. Each such Lot shall pay an equal 1/15 share of the common expenses associated with the Community Septic System.

(b) Maintenance by Owners. Owners benefitted by the Community Septic System shall be responsible for maintaining the improvements connecting their home to the Community Septic System. If any Owner fails to maintain these improvements as required by TPCHD, the Association may do so at the Owner’s expense.

Owners not benefitted by the Community Septic System shall have the responsibility of installing and maintaining the individual septic systems on their respective Lots in compliance with the requirements of the TPCHD.

Section 7.8 Notice and Quorum for any Action Authorized Under Sections 7.3 and 7.5. Written notice of any meeting conducted pursuant to Sections 7.3 and/or 7.5 of this Article shall be sent to all Members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting and shall include a statement of the purpose for which the meeting is to be held. At the first meeting called for the purposes set forth in Sections 7.3 and/or 7.5, the presence of Members or of proxies entitled to cast sixty percent (60%) of all the votes shall constitute a quorum. If the required quorum is not forthcoming at any meeting, a subsequent meeting may be called, subject to the notice requirement set forth herein, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. However, no such subsequent meeting having a reduced quorum requirement shall be held more than sixty (60) days following the preceding meeting.

Section 7.9 Commencement of Annual Assessments; Working Capital. The Annual Assessments shall commence as to each Lot within the Property on the first (1<sup>st</sup>) day of the month following the conveyance of the Lot from the Declarant or a Builder to a third-party retail purchaser (“Initial Sale”). The first Annual Assessment shall be prorated

to December 31 of the then current calendar year and collected at the closing of the Initial Sale. In addition to the payment of a prorated Annual Assessment at the closing of the Initial Sale, purchaser shall pay to the Association the amount of One Hundred Fifty and 00/100ths Dollars (\$150.00) as a contribution to the working capital of the Association.

Section 7.10 Certificate. The Association shall, upon request, furnish a certificate in writing signed by an officer of the Association setting forth whether the Assessments on a specified Lot have been paid. The Association may make a reasonable charge for the issuance of these certificates. Such certificate shall be conclusive evidence of payment or nonpayment of any Assessment.

Section 7.11 Effect of Nonpayment of Assessments; Remedies of Association. Any Assessments that are not paid when due shall be delinquent. A late charge equal to five percent (5%) of the amount overdue shall be charged for any payment made more than ten (10) days past the due date. If the Assessment is not paid within thirty (30) days after the due date, the Assessment shall bear interest from the due date at the rate of twelve percent (12%) per annum, and the Association may bring an action at law against the Owner obligated to pay the Assessment, or may foreclose the lien against the Lot in a like manner as a Mortgage, and in either event, late charges, interest, costs, and reasonable attorney's fees shall be added to the amount of such Assessment lien. No Owner may waive or otherwise escape liability for Annual or Special Assessments by nonuse of the Common Area or by abandonment of his, her, their, or its Lot.

Section 7.12 Suspension of Voting Rights. In the event any Member shall be in arrears in the payment of the Assessments due or shall be in default of the performance of any of the terms of the Articles and Bylaws of the Association, the rules or regulations adopted by the Association, or the Declaration for a period of thirty (30) days, the Member's right to vote shall be suspended and shall remain suspended until all payments are brought current and all defaults are fully remedied. In addition, the Association shall have such other remedies against such delinquent Members as may be provided in the Articles, Bylaws, the Declaration, and/or reasonable rules adopted by the Association.

Section 7.13 Subordination of Lien to Mortgages. The lien of the Assessments provided for in this Declaration shall be subordinate to the lien of any First Mortgage. Sale or transfer of any Lot shall not affect the Assessment lien. However, where the mortgagee of a Mortgage of record or other purchaser of a Lot obtains possession of the Lot as the result of foreclosure of a Mortgage, or by deed or assignment in lieu of foreclosure, such possessor, or its successors and assigns, shall not be liable for the Assessments imposed by the Association chargeable to such Lot that became due prior to such possession. Such unpaid share of common expenses or Assessments shall be deemed to be common expenses collectible from all of the Owners, including such possessor, its successors and assigns.

Section 7.14 Exempt Property. The following Property shall be exempt from the payment of all Assessments:

- (a) All portions of the Property dedicated to and accepted by a public agency, authority and/or utility; and,

- (b) The Common Areas and other areas set aside for nonresidential use.
- (c) All Lots that are unimproved.

**ARTICLE VIII  
MAINTENANCE**

Section 8.1 Standard of Maintenance – Common Areas. The Association shall be obligated to do the following:

- (a) Maintain, repair and replace all community mailboxes, street lights, the entry signage and school bus pick-up point, if any, installed and constructed as part of the overall development of the Property.
- (b) Maintain, repair and replace when necessary the landscaping, fencing, recreational amenities and other improvements within the Common Areas.
- (c) Maintain, repair and replace the private stormwater system that runs parallel to the roadways within Oakview.
- (d) Storm and Open Space Tracts shall be maintained in accordance with the requirements of the city of Roy and reasonable environmental practices.

The Board shall be responsible to make all decisions as to the work required under this provision. All expenses incurred in performing the obligations described in this Article shall be paid for by the Association and become part of the Assessments described above in Article VI; provided, however, that if any of such work is required as the result of any negligent or intentional act or omission of any Owner, or his, her, their or its guests, family or tenants, the cost of such work shall be paid for exclusively by such Owner, and shall become part of the Assessment levied against the Lot owned by such Owner.

In the event the Association, in the judgment of the City, fails to maintain drainage facilities within the plat, or if the Association willfully or accidentally reduces the capacity of the drainage system or renders any part of the drainage system unusable, the Association agrees to the following remedy: After 30 days' notice by registered mail to the Association, the City will assess financial sanctions (E.M.C. 13.05.100) and/or initiate enforcement proceedings. In the event the City determines the lack of maintenance has resulted in a situation of imminent danger to life, limb or property, the City will correct the problem as necessary to restore the full design capacity of the drainage system. In this event, the City will bill the Association for all costs associated with such work to include engineering, administration, legal fees, construction, equipment and personnel. Costs or fees incurred by the City, including attorney's fees and expert's fees should legal action be required to collect such payments, shall be borne by the Association.

Section 8.2 Standard of Maintenance - Other Areas. Each Owner shall have the obligation to maintain his, her, their or its Lot and any building, landscaping, fencing or other improvements located on the Lot (and including as part of the Lot the planting strip located adjacent to the public street) to standards appropriate for a first-class residential community. Each Owner shall be responsible to maintain the portion of the storm drainage system located on its Lot from the downspout to the stormwater system that runs parallel to the roadways within Oakview.

Section 8.3 Remedies for Failure to Maintain. If the Owner of any Lot fails to so maintain the Lot, buildings, fencing, and/or other improvements to those standards (“Non-Conforming Owner”), the Association, after approval by two-thirds (2/3) vote of the Board, shall have the right, through its agents and employees, to enter upon the Lot and to clean, repair, maintain, and restore the Lot and the exterior of the buildings and other improvements. However, any alteration or demolition of constructed improvements may only take place after judicial proceedings are instituted. The cost of such exterior maintenance and all court costs, and attorney’s fees incurred in enforcing this provision shall be added to and become part of the Assessments for such Non-Conforming Owner’s Lot, fully subject to the remedial provisions set forth in Article VI.

## **ARTICLE IX ARCHITECTURAL CONTROL COMMITTEE**

Section 9.1 Membership. An Architectural Control Committee (“ACC”) consisting of three (3) members shall be appointed by the Declarant. The Declarant shall have the unilateral right to select the members of the ACC, at the Declarant’s sole and exclusive option, until sixty (60) days after the Declarant has sold and conveyed seventy-five percent (75%) of all of the lots held in the name of the Declarant, Declarant’s heirs or assigns. Thereafter, the ACC shall be appointed by the Board. The members of the ACC do not have to be Owners. A majority of the ACC may designate a representation to act for it, which representative shall be known as “Control Architect.”

Section 9.2 Authority. The ACC shall have the authority to review and act upon proposals and plans submitted and to perform other duties set forth in this Declaration. All decisions of the majority of the members of the ACC shall be final and binding.

Section 9.3 Adoption of Guidelines. The ACC shall have the authority to adopt and amend written guidelines to be applied in its review of plans and specifications, in order to further the intents and purposes of this Declaration and any other covenants or restrictions covering the Property. If such guidelines are adopted, they shall be available to all Members upon request.

Section 9.4 Meetings; Compensation. The ACC shall act as necessary to properly perform its duties and shall keep and maintain a record book of each and every action of the committee, including but not limited to date of action, property under discussion, and action taken. The purpose of such a record book is to provide a chronological record of actions and to avoid controversy. The members of the ACC, or the Control Architect, shall not receive any compensation for their services, unless authorized by the Association. The members of the ACC and the Control Architect shall be entitled to reimbursement for reasonable expenses incurred in connection with the performance of any ACC authorized duties.

Section 9.5 Nonwaiver. Approval by the ACC of any plans, drawings, or specifications shall not be a waiver of the right to withhold approval of any similar plan, drawing, specification, or matter submitted for approval. However, approval shall not be unreasonably withheld.

Section 9.6 Liability. Neither the ACC nor its members shall be liable to the Association or to any other Owner for damage, loss or prejudice resulting from any action taken in good faith on a matter submitted to the ACC for approval or for failure to approve any matter submitted to the ACC. The ACC or its member may consult with the Association or any Owner with respect to any plans, drawings, or specifications, or any other proposal submitted to the ACC.

Section 9.7 Approval of Plans Required. Except as provided for in Section 9.8 below, none of the following actions may be taken until plans and specifications for the same have been approved in writing by the ACC:

- (a) Construction of driveways;
- (b) Clearing or grading of any Lot, with trees to be removed flagged at time of approval of plans and specifications;
- (c) Construction or erection of any building, fence, wall, or other structure, including the installation, erection, or construction of any solar collection or satellite device;
- (d) Remodeling, reconstruction, or alteration of any road, driveway, building, or other structure;
- (e) The staining or painting of any house or fence, unless a re-staining of a shade or color previously approved by the ACC;
- (f) Initial landscaping of any Lot, and subsequent modifications to the approved landscaping plan for any Lot; or
- (g) Landscaping or alteration of any existing landscaping upon any area which is required to be maintained by the Association pursuant to this Declaration.

Section 9.8 Approval Not Required. Notwithstanding any other provision in this Declaration, the approval of the ACC shall not be required for each of the following:

- (a) Action taken by the Declarant to develop the Property in accordance with the Development Plan;
- (b) Construction by Declarant of any single-family home; and
- (c) Other development activity undertaken by Declarant (including, without limitation, clearing, landscaping, construction of driveways, parking areas, fences, etc.) on any Lot.

Section 9.9 Procedures for Approval. Any person wishing to take any actions described above shall submit to the ACC two sets of plans and specifications that meet the following requirements:

(a) Plans for the construction of the driveway shall show the proposed location, course and materials.

(b) Plans for construction and other matters covered under this Article shall include building elevation plans which, in addition to the details customarily shown on such plans, shall show the proposed location of the structure on the Lot, the exterior color scheme, the proposed outdoor lighting, proposed landscaping, and shall show and otherwise identify any special needs or conditions which may arise as a result of the installation, erection or construction of any solar collection device or proposed satellite dishes. At the request of the ACC, the person submitting such plans shall install stakes on the Lot which indicate the corners of the proposed structure. Approval of such plans and specifications shall be evidenced by written endorsement on such plans and specifications, one copy of which shall be delivered to the Owner of the Lot on which the proposed action is to be taken. The ACC shall not be responsible for any structural defects in such plans or specifications, or in any building or structure erected according to such plans or specifications.

(c) Plans for the landscaping of the Lot, including front and side yards, designating all areas to be planted in grass, all areas to be landscaped with shrubs and bushes, location of the sprinkler system, if any, and any other information which the ACC deems necessary for its approval of the landscaping plans.

Section 9.10 Criteria for Approval. Approval of plans and specifications may be withheld or conditioned if the proposed action is at variance with these covenants, other covenants covering the Property, or design guidelines adopted by the ACC. Approval may also be withheld or conditioned if, in the opinion of the ACC, the proposed action will be detrimental to the community because of, but not limited to: the grading and drainage plan, location of the improvement on the Lot, color scheme, finish design, proportions, size of home, shape, height, style, materials, outdoor lighting proposed, landscaping plan, or unreasonable view impact on neighboring properties. The ACC shall also have the right to withhold approval of the builder the Owner plans to employ, based upon the builder's experience, reputation or credit history. In evaluating view issues, the ACC shall consider: (1) the right of the Owner to utilize its property; (2) the interests of the Owner or future Owner with the impacted view; and, (3) the overall interest of the community in maintaining the value and quality of the overall project.

Section 9.11 Failure to Approve. In the event that the ACC fails to approve or disapprove an action within thirty (30) days following the date of the submission of the required information to the ACC or Control Architect, or in any event, if no suit to enjoin the action has been commenced within sixty (60) days after the completion thereof, approval will not be required and the related covenant shall be deemed to have been fully complied with.

Section 9.12 Conformance with Approved Plans. It shall be the responsibility of the ACC to determine that actions have been completed in accordance with the plans as submitted and approved. Such determination must be made within sixty (60) days of the



completion of the action. If the ACC shall determine that the action does not comply with the plans and specifications as approved, it shall notify the Owner within that sixty (60) day period, and the Owner, within such time as the ACC shall specify, but not less than thirty (30) days, shall either remove or alter the improvement or take such other steps as the ACC shall designate. If no action is taken by the ACC within sixty (60) days of the date of completing the improvement, the action shall conclusively be deemed to be satisfactory to the ACC.

## ARTICLE X PERMITTED AND PROHIBITED USES

Section 10.1 General. All Lots shall be used solely and exclusively for private single-family homes with appurtenant garages. A building site shall consist of not less than one (1) Lot as shown on the Development Plan. No Lot shall be divided except with the permission of the governmental entity having jurisdiction over the Property. The boundary between two Lots may be adjusted pursuant to a boundary line adjustment authorized by law.

Section 10.2 Land Use and Building Types. All Lots subject this Declaration shall be used only for residential purposes. No structures of any kind shall be erected or permitted to remain on any Lot other than single family homes, garages, workshops, and structures normally accessory to such homes. No carports will be allowed and all garages must have doors. All dwellings shall be "stick-built." Mobile homes, manufactured housing, and modular homes are specifically not permitted.

Section 10.3 Fences. No fence, wall or hedge shall be erected, placed or altered on any Lot nearer to any street than:

- (a) The building setback line, or
- (b) The front façade of the primary residence, excluding the garage.

Notwithstanding the foregoing, nothing shall prevent the erection of a necessary retaining wall (the top of which does not extend more than two (2) feet above the finished grade at the back of said wall).

Section 10.4 Sight Distance at Intersection. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between two (2) and six (6) feet above the roadways shall be placed or permitted to remain on any corner Lot within the triangular area formed by the street property lines and a line connecting them at points twenty-five (25) feet from the intersection of the street lines, or, in the case of a rounded Lot corner, from the intersection of the street property lines extended. The same sight-line limitations shall apply on any Lot within ten (10) feet from the intersection of a street-side property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distance of such intersection, unless the foliage line is maintained a sufficient height to prevent obstruction of such sight lines. In addition, with regard to Lots 12-15, no vegetation higher than 2 feet above grade, except for trees, shall be placed or permitted to remain in the area from the front face of the homes to the curb.

Section 10.5 Temporary Structures. No building or structure shall be moved onto any portion of the Property. No trailers or manufactured housing shall be maintained on any Lot as a residence. No building of any kind shall be erected or maintained on a Lot prior to the erection of either a detached or attached single family dwelling thereon, except that a garage or other small building or permanent structure may be erected for the storing of tools and other articles but shall not be used for residence purposes. Nothing in this Section shall prevent the temporary use of a construction shack and/or trailer during the construction of any permitted dwelling.

Section 10.6 Setbacks. No building shall be located on any Lot nearer to the front Lot line or nearer to the side street than the minimum building setback lines adopted by the governmental authority with jurisdiction over the Plat.

Section 10.7 Driveways. All driveways, including any access to the rear yard of any residence, shall be of a hard surface construction of concrete.

Section 10.8 Garbage and Refuse Disposal. No garbage, rubbish or cuttings shall be deposited on or left on the Lot premises, unless placed in an attractive container suitably located and screened from public view.

Section 10.9 Nuisances. No noxious or undesirable thing or noxious or undesirable use of the Property shall be permitted or maintained whatsoever. The Board of Directors determination of any undesirable or noxious: (a) thing; and/or (b) use of the Property, shall be conclusive. The Board may direct that steps be taken as is reasonably necessary, including institution of a legal action or the imposition of fines to abate any activity, remove anything or terminate any use which is determined to be or is described in this Declaration to constitute a nuisance.

Section 10.10 Signs. No sign of any kind shall be placed on the Property, except:

- (a) Signs identifying the Owner and address of the Lot; or
- (b) Signs designating a Lot or residence for sale or rent.

No such signs shall be of a size greater than two (2) feet square and shall not be of a nature offensive or obnoxious to Owners within the Plat. No business signs, advertising signs or signs in any way relating to occupation or profession shall be allowed. Political yard signs not more than six (6) square feet in area of a temporary nature (not to exceed thirty (30) days) will be allowed during campaign periods. Such sign must be removed within five (5) days after the date of the election to which the sign refers. The restrictions on the number of signs and the sign size limit shall not apply to signs approved by Declarant during the development of Oakview. Notwithstanding any provisions of this Section, no sign shall be allowed that violates applicable City ordinances or regulations.

Section 10.11 Oil and Mining Operations. Oil drilling or oil development operations, refining, mining operations of any kind or the operation of quarries, gravel and sand pit, solid removing or topsoil stripping shall not be permitted on any of the Lots. No oil wells, tanks, tunnels, mineral excavations or shafts shall be permitted. No derrick or other structures designed for use in boring for oil or natural gas shall be erected, maintained or permitted on any Lot.

Section 10.12 Clotheslines. No clothesline shall be located on any Lot.

Section 10.13 Fuel Tanks. No fuel tank shall be maintained above ground on any Lot, unless screened from view. No underground fuel tanks shall be placed, buried or maintained on the Property.

Section 10.14 Excavation. Except as may be necessary in connection with the construction of any improvement, no excavation shall be made on nor shall any dirt be removed from any Lot.

Section 10.15 Animals. No animals, livestock or poultry of any kind, other than household pets, shall be kept or maintained on any part of the Property. Dogs and cats, not to exceed a total of two (2), may be kept on any Lot, provided that they are not kept, bred or maintained for any commercial use or purpose. No reptiles shall be kept upon the premises. Any dogs must be kept so as to minimize excessive noise from barking or otherwise shall be considered a nuisance according to the terms of this Declaration. Animals shall not be allowed to roam loose outside the boundaries of any Lot on which they are kept.

Section 10.16 Natural Drainage. The Owner of any Lot shall not take any action which would interfere with surface water drainage across that Lot either through natural drainage or drainage easements.

Section 10.17 Vehicle Parking. No vehicle may be parked on any Lot, except on designated driveways or parking areas, which areas shall be hard-surfaced.

Section 10.18 Inoperable Vehicles. No inoperable vehicles, motorcycles or other motorized apparatus shall be stored on the Lots, the Common Areas, the streets or anywhere within the Plat. If an Owner refuses to remove an inoperable vehicle, the Board shall have the power to remove the vehicle at the Owner's expense at anytime 24-hours after the posting of an intent to tow notice conspicuously on the vehicle.

Section 10.19 Recreational Vehicle Prohibition. Owners at no time shall keep or permit to be kept on their Lot any house trailer, unattached camper, recreational vehicle ("RV"), boat or boat trailer, unless the same is housed within a garage.

Section 10.20 Recreational Vehicle Limited Exception. An Owner that stores a recreational vehicle off-site may park the vehicle on the driveway or other unscreened area for twenty-four (24) hours for the purpose of loading, unloading and cleaning.

Section 10.21 Repair of Vehicles or Equipment. No repair or dismantling of any automobile, motorcycle, other vehicle or equipment shall be permitted on the premises; except within an enclosed garage which is kept closed. No mechanical repairs shall be conducted upon the premises; except minor maintenance and mechanical work by an Owner on said Owner's private vehicle; provided that any such activity be conducted in a manner that is not offensive to persons residing in the Plat, is not unsightly, does not result in unusual noise or debris being placed upon the Property and is in keeping with a first-class residential community.

Section 10.22 Utility Lines; Radio and Television Antennas and Dishes. All electrical service, telephone lines and other outdoor utility lines shall be placed

underground. No exposed or exterior radio or television transmission or receiving antennas or dishes shall be erected, placed, or maintained on any part of a Lot if it is visible from any street. Any waiver of these restrictions shall not constitute a waiver as to other Lots or lines, antennas or dishes.

Section 10.23 Firearms and Fireworks. No firearms or fireworks of any kind shall be discharged within the Plat.

Section 10.24 Dirt Bikes and/or ATVs. No unlicensed motor vehicles, including motorcycles, dirt bikes, motor scooters, ATVs, etc., shall be permitted on any road within the Plat, nor shall dirt bikes or ATVs be permitted to operate within the Property.

Section 10.25 Restriction on Rentals. No rental of any residence or Lot is permitted. This Section does not apply to property or Lots owned by the Declarant. Notwithstanding any other provisions to the contrary, this provision may not be amended or eliminated without the approval of all Members of the Association.

## **ARTICLE XI INSURANCE REQUIREMENTS**

The Association shall continuously maintain in effect such casualty, flood and liability insurance and/or fidelity bonds needed to meet the insurance and fidelity bond requirements, if any, for a planned unit development project established by Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Veterans Administration, and Government National Mortgage Association, so long as any of them are a mortgagee or Owner of a Lot within the project, except to the extent such coverage is not available or has been waived in writing by Federal National Mortgage Association, Federal Home Loan Mortgage Corporation, Veterans Administration, and Government National Mortgage Association.

## **ARTICLE XII DAMAGE OR DESTRUCTION**

Section 12.1 In the event of damage or destruction to all or part of the Common Areas, the insurance proceeds, if sufficient, shall be applied to repair, reconstruct or rebuild the damaged and/or destroyed Common Areas in accordance with the original plans. Such repair, reconstruction or rebuilding shall be arranged for promptly by the Board.

Section 12.2 If the insurance proceeds are insufficient to pay for the cost to repair the Common Areas, the Board shall promptly, but in no event later than ninety (90) days after the date of damage or destruction, give notice to and conduct a special meeting of the Owners to review the proposed repairs, replacement, and reconstruction, as well as the projected cost of such repairs, replacement or reconstruction. The Owners shall be deemed to have approved the proposed repairs, replacement, and reconstruction as proposed by the Board at that meeting, unless the Owners decide by an affirmative vote of fifty-one percent (51%) of the total votes cast at such meeting (provided a quorum exists), to repair, replace, or reconstruct any portion of the Common Areas in accordance with the original plan in a different manner than that proposed by the Board. In any case, however, use of hazard insurance proceeds for other than repair, replacement, or reconstruction of

any portion of the Common Areas in accordance with the original plans shall not be permitted without the prior written approval of at least sixty-seven percent (67%) of the First Mortgagees (based on one (1) vote for each First Mortgage owned) or Owners (if there is no First Mortgage on that Lot) of the Lots.

### **ARTICLE XIII CONDEMNATION**

In the event of a partial condemnation of the Common Areas, the proceeds shall be used to restore the remaining Common Areas, and any balance remaining shall be retained by the Association.

In the event that the entire Common Area is taken or condemned, or sold, or otherwise disposed of in lieu of or in avoidance thereof, the condemnation award shall remain in the Association as additional working capital.

No proceeds received by the Association as the result of any condemnation shall be distributed to any Owner or to any other party in derogation of the rights of the First Mortgagee of any Lot.

### **ARTICLE IX MORTGAGEES' PROTECTION**

Section 14.1 As used in this Declaration: (a) "mortgagee" includes the beneficiary of a deed of trust, a secured party, or other holder of a security interest; (b) "foreclosure" includes a notice and sale proceeding pursuant to a deed of trust or sale on default under a security agreement; and (c) "institutional holder" means a mortgagee which is a bank or savings and loan association or established Mortgage company, or other entity chartered under federal or state laws, any corporation or insurance company, or any federal or state agency.

Section 14.2 The prior written approval of at least seventy-five (75) percent of the First Mortgagees (based on one vote for each first Mortgage owned) of the individual Lot shall be required for each of the following:

(a) The abandonment or termination of the planned unit development status of the project, except for abandonment or termination, if any, provided by law in the case of substantial destruction by fire or other casualty or in the case of a taking by condemnation or eminent domain;

(b) Any material amendment to this Declaration or to the Articles of Incorporation or Bylaws of the Association, including, but not limited to, any amendment which would change the ownership interests of the Owners in the Plat, change the pro rata interest or obligation of any individual Owner for the purpose of levying assessments or charges or for allocating distributions of hazard insurance proceeds or condemnation awards;

(c) The effectuation of any decision by the Association to terminate professional management and assume self-management (however this shall not be deemed or construed to require professional management);

(d) Partitioning or subdividing any Lot;

(e) Any act or omission seeking to abandon, partition, subdivide, encumber, sell or transfer any portion of the Common Areas; provided, however, that the granting of easements for public utilities or other public purposes consistent with the intended use of the Common Areas shall not be deemed a transfer within the meaning of this clause;

(f) Any act or omission seeking to change, waive or abandon any scheme of regulations or enforcement thereof, pertaining to the architectural design or the exterior appearance of buildings and other improvements, the maintenance of common areas, landscaping, perimeter fencing, or to the upkeep of lawns and plantings on the Property;

(g) Any act or omission whereby the Association fails to maintain fire and extended coverage on insurable Common Areas or commonly owned property on a current replacement cost basis in an amount not less than one-hundred percent (100%) of the insurable value (based on current replacement costs); and

(h) Use of hazard insurance proceeds for losses to any common property for other than the repair, replacement or reconstruction of such damaged or destroyed Common Areas.

Section 14.3 Each First Mortgagee (as well as each Owner) shall be entitled to timely written notice of:

(a) Any significant damage or destruction to the Common Areas;

(b) Any condemnation or eminent domain proceeding effecting the Common Areas;

(c) Any default under this Declaration or the Articles of Incorporation or Bylaws which gives rise to a course of action against the Owner of a Lot subject to the mortgage of such institutional holder or insurer, where the default has not been cured in thirty (30) days;

(d) Any proposed abandonment or termination of the planned unit development status of this project; and

(e) Any material amendment of this Declaration or to the Articles of Incorporation or Bylaws of the Association.

Section 14.4 Each First Mortgagee shall be entitled, upon request, to:

(a) Inspect the books and records of the Association during normal business hours;

(b) Require the preparation of, at its sole expense, and, if preparation is so required, receive an annual audited financial statement of the Association for the immediately preceding fiscal year, except that such statement need not be furnished earlier than ninety (90) days following the end of such fiscal year; and

(c) Receive written notice of all meetings of the Association and be permitted to designate a representative to attend all such meetings.

Section 14.5 First Mortgagees of any Lot may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Areas, and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such Common Areas, and the First Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

## **ARTICLE XV GENERAL PROVISIONS**

Section 15.1 Binding Effect. All present and future Owners and/or occupants of Lots shall be subject to and shall comply with the provisions of this Declaration, and the Bylaws and rules and regulations of the Association, as they may be amended from time to time. The acceptance of a deed or conveyance or the entering into occupancy of any Lot shall constitute an agreement that the provisions of this Declaration, the Articles of Incorporation, the Bylaws, and rules and regulations of the Association, as they may be amended from time to time, are accepted and ratified by such Owner or occupant, and all such provisions shall be deemed and taken to the covenants running with the land and shall bind any person having at any time any interest or estate in such Lot, as though such provisions were recited and stipulated at length in each and every deed, conveyance, rental agreement or lease thereof.

Section 15.2 Enforcement. The Declarant, Association and any Owner shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Should the Declarant, Association or any Owner employ counsel to enforce any of the foregoing covenants, conditions, reservations, or restrictions, all costs incurred in such enforcement, including a reasonable fee for counsel, shall be paid by the party found to be:

- (a) In violation of said condition, covenant, reservation, restriction or any provision of this Declaration; or
- (b) Delinquent in the payment of said lien or charge.

Section 15.3 Failure to Enforce. No delay or omission on the part of the Declarant, Association or the Owners of Lots in exercising any rights, power, or remedy provided in this Declaration shall be construed as a waiver of or acquiescence in any breach of the covenants, conditions, reservations, or restrictions set forth in the Declaration. No action shall be brought or maintained by anyone whatsoever against the Declarant for or on account of its failure to bring any action for any breach of these covenants, conditions, reservations, or restrictions, or for imposing restrictions which may be unenforceable.

Section 15.4 Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall not affect any other provision included in this Declaration which shall remain in full force and effect.

Section 15.5 Interpretation. In interpreting this Declaration, the term "person" may include natural persons, partnerships, limited liability companies, corporations, associations, and personal representatives. The singular may also include the plural and

the masculine may include the feminine, or vice versa, where the context so admits or requires. This Declaration shall be liberally construed in favor of the party seeking to enforce its provisions to effectuate the purpose of protecting and enhancing the value, marketability, and desirability of the Property by providing a common plan for the development of the Plat.

Section 15.6 Amendment. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended at any time by a vote of seventy-five percent (75%) of the Members subject to the limitations set forth in this Declaration, including those limitations in Section 10.25. Any amendment must be in writing, signed by the approving Members or Owners, and prior to its effectiveness, must be recorded with the Pierce County Auditor's office.

Section 15.7 Power of Declarant to Amend to Meet Financing Requirements. Notwithstanding anything in this Declaration to the contrary, Declarant may without the consent of any Owner, at any time prior to the time it has sold and closed seventy-five percent (75%) of the Lots, amend this Declaration by an instrument signed by Declarant alone in order to satisfy the requirements of the Federal Mortgage Agencies.

Section 15.8 Certain Rights of Declarant. For such time as Declarant shall own Lots there shall be no amendments to the Declaration, the Articles of Incorporation, the Bylaws of the Association, or any Rules and Regulations adopted by the Association which:

- (a) Discriminate or tend to discriminate against the Declarant's rights as an Owner.
- (b) Change Article I ("Definitions") in a manner that alters Declarant's rights or status.
- (c) Alter the character and rights of membership or the rights of Declarant as set forth in Article IV.
- (d) Alter previously recorded or written agreements with public or quasi-public agencies.
- (e) Alter the basis for Assessments.
- (f) Alter the Declarant's rights as they appear under this Article.

IN WITNESS WHEREOF, the undersigned has caused this Declaration to be executed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.



Roy Meadows Development, LLC  
a Washington limited liability company

\_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT "A-1"**  
**LEGAL DESCRIPTION OF OAKVIEW**

**EXHIBIT "A-2"**  
**DEVELOPMENT PLAN OF OAKVIEW**