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PIERCE COUNTY, WASHINGTON

After Recording Return To:
Carmen R. Rowe
Jay A. Goldstein Law Offices PLLC
1800 Cooper Point Road SW #8
Olympia, WA 98502

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
McKINLEY HILLSIDE VIEW HOMEOWNER'S ASSOCIATION**

Grantor: SB 4 Zone LEC
Grantees: (1) McKinley Hillside View Homeowner's Association
(2) The Public

Parcel A:
Legal Description:

Section 15 Township 20 Range 03 Quarter 32 : BEG 990 FT E & 660 FT N OF SW
COR L TH N 176 FT E TH E 370.3 FT TO ELY LI SD LOT TH S 30 DEG 20 MIN E
ALG SD ELY LI 60 FT M/L TH W 285.38 FT TH S 120 FT TH W 115 FT M/L TO
BEG LESS .21 AC IN 100 FT R/W FAC WATER LI SUBJ TO EASE CY OF TAC
ALSO S 15 FT L 7 & FRAC LOTS 8 THRU 13 B 8 JOHNSONS ADD (APPROX 2720
SQ FT) OUT OF 3-047 & 479500-012-0 SEG M-2534 DL EMS

Tax Parcel No. 0320153155

Parcel B:
Legal Description

Section 15 Township 20 Range 03 Quarter 32 : COM SW COR L 3
OUTSIDE RESERV TH E 990 FT TH N 438 FT TO POB TH N 222 FT
TH E 330 FT TH S 222 FT TH W 330 FT TO POB COMB 3-042 & 3-
094 SEG N-0678 SG EMS

Tax Parcel No. 0320153156

For reference only, not for re-sale.

Parcel C:
Legal Description

Section 15 Township 20 Range 03 Quarter 32 : A STRIP OF LD W OF TRUNK SEWER IN FOLL BEG 660 FT N OF S LI OF LOT 3 & 1100 FT E OF W LI OF SD LOT TH N 120 FT TH E 285.38 FT TO W LI OF PUY IND RES TH SWLY TO A PT 660 FT N OF S LI OF SD LOT 3 TH W 355.2 FT TO BEG

Tax Parcel No. 0320153048

Section 15 Township 20 Range 03 Quarter 32 : BEG 660 FT N OF S LI LOT 3 & 1100 FT E OF W LI SD LOT 3 TH N 120 FT TH E 285.38 FT TO W LI PUY IND RES TH S 30 DEG 07 MIN E ALG E LI LOT 3 TO PT 660 FT N OF S LI LOT 3 TH W 355.2 FT TO BEG LESS .24 AC 100 FT R/W TAC WATER LI ALSO LESS THAT STRIP OF LD LY WLY OF TRUNK SEWER

Tax Parcel No. 0320153068

Parcel D:
Legal Description

Section 15 Township 20 Range 03 Quarter 32 : BEG 440 FT N & 94.5 FT E OF SW COR OF SE OF NW OF SW TH N 220 FT M/L TH E 235.5 FT TH S 220 FT M/L TH W 235.5 FT TO BEG EXC COM AT SW COR OF SEC TH N 1334.82 FT TH E 854.37 FT TH N 475 FT TO POB TH N 150 FT TH E 100 FT TH S 150 FT TH W 100 FT TO POB LESS BEG AT A PT 435.47 FT N & 854.50 FT E OF SW COR OF NW OF SW TH N 223 FT M/L TO N LI OF SUBD TH W 100 FT TH S 223 FT M/L TH E 100 FT TO BEG SUBJ TO EASE

Tax Parcel No. 0320153081

THIS DECLARATION is made this 30th day of June, 2009, by SB 4 Zone LLC (Developer).

I. BACKGROUND

1. Developer is the Owner of certain property in Pierce County, Washington, which is legally described as follows:

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Tax Parcel No. 0320153155

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Legal Description

Section 15 Township 20 Range 03 Quarter 32 : COM SW COR L 3 OUTSIDE RESERV TH E 990 FT TH N 438 FT TO POB TH N 222 FT TH E 330 FT TH S 222 FT TH W 330 FT TO POB COMB 3-042 & 3-094 SEG N-0678 SG EMS

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Declaration of Covenants,
Conditions and Restrictions – Page 3

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Tax Parcel No. 0320153068

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(Hereinafter "McKinley" or the "property").

2. Developer intends to create on that property, together with other property which will be subject to this Declaration, a residential community known as McKinley.
3. Developer desires to preserve and enhance the property values, amenities and opportunities in the above-described residential community and to provide for health, safety and welfare of residents and, to this end, desire to subject the property herein described, together with such additions as may be made to the property to the covenants, restrictions, easements, charges and liens set forth in this Declaration, each and all of which are for the benefit of the property and each Owner.
4. Developer has incorporated the McKinley Hillside View Homeowner's Association to provide a means for meeting the purposes and intents set forth in this Declaration.

II. DECLARATION

1. Developer declares that the property is described in Paragraph I.1, and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens set forth in this Declaration, together with such other property as may be subsequently added in the future.
2. Further, Developer delegates and assigns to the McKinley Hillside View Homeowner's Association the power of maintaining, administering and enforcing the covenants and restrictions, collecting and disbursing the assessments and charges created in this Declaration, and promoting the health, safety and welfare of the residents.

Declaration of Covenants,
Conditions and Restrictions – Page 4

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III. DEFINITIONS

1. "ACC" shall mean the Architectural Control Committee as described in this Declaration.
2. "Articles" shall mean the Articles of Incorporation of the Association as defined below.
3. "Association" shall mean the McKinley Hillside View Homeowner's Association, a Washington non-profit corporation, its successors and assigns.
4. "Board" or "Board of Directors" shall mean the Board of Directors of the Association.
5. "Builders" shall mean persons or entities that purchase a Lot with the sole intention of building a home for subsequent re-sale, where the builder is not the intended first occupant of the home.
6. "By-Laws" shall mean the By-Laws of the Association as they may from time to time be amended.
7. "Common Area" shall mean the real property and easements as described in this Declaration.
8. "Developer" shall mean SB 4 Zone LLC., its successors and assigns, provided such successors or assigns acquire more than one (1) lot from Developer for purposes of development; and (2) be specifically assigned the rights and duties of Developer by written instrument in recordable form.
9. "Declaration" shall mean this Declaration of Covenants, Conditions, Restrictions and Reservations for McKinley Lots and any amendments thereto.
10. "Easement Areas" shall mean the real property described in the easement areas, which shall be used for the benefit of all residents.
11. "First Mortgagee" shall mean a lender who holds the first mortgage or deed of trust on a lot and who has notified the Association in writing of its holdings.
12. "Home" shall mean a structure located on a single-family lot, which is designed and intended for use and occupancy as a residence by a single family or which is intended for use in connection with such residence.
13. "Landscaping" shall mean any design, plantings, pathways, structure, or other elements of the front yards for each Lot, excepting a reasonable number, size and style of

container planters on the front porch. In case of a conflict, the ACC, pursuant to its authority herein, shall determine what is a reasonable number, size and style of containers.

14. "Limited Common Area" shall mean those areas available for the use of one or more, but not all, of the lot owners, as opposed to areas available for the use by all lot owners. Any such limited common areas will be identified in this Declaration, and the scope of their use and the lot owner(s) respective responsibilities outlined herein.

15. "Lots" shall mean the above-described property.

16. "Member" shall mean every person or entity who holds membership in the Association.

17. "Mortgage" shall include a deed of trust or other security instrument.

18. "Mortgagee" shall mean the beneficial Owner or the assignee of the beneficial Owner or its designee, of an encumbrance on a lot created by a mortgage, and also means the vendor or assignee or designee of vendor of a real estate contract for the sale of a lot. The Mortgagee shall be deemed a separate Mortgagee for each lot on which it holds a Mortgage, which constitutes a first lien on said lot for purposes of determining the percentage of first Mortgagees approving a proposed decision or course of action. Mortgagee shall have the same voting rights as the Owners on any lot subject to such Mortgage.

19. "Owner" shall mean every person or entity, including Developer, who is a record Owner of the fee simple title to any lot, or if any lot is sold under a real estate contract, the vendee or vendees under that contract, provided however, that the term "Owner" shall not include those having such interest merely as security for the performance of an obligation.

20. "Structure" shall mean any building, fence, wall, pole, driveway, walkway or the like.

IV. PROPERTY SUBJECT TO THIS DECLARATION AND ADDITIONS THERETO

1. The Property. The real property which is subject to this Declaration is described in Paragraph I.1. of this Declaration.

V. COMMON AND EASEMENT AREA

1. Description of Common and Easement Areas. The common areas shall include all easements as defined below, together with the following:

- (a) Streets.
- (b) Any recorded easements.

(c) Such other easements and areas as may be reserved, dedicated or granted to the Developer or the lot Owners for the benefit of the lot Owners within the Lots described above.

2. Declaration of Common Area. Developer does hereby declare and dedicate the common area described above as well as all the easements which are also common areas described below for the common use and enjoyment by the Owners for access, ingress, egress, recreation and related activities. The common area is not declared or reserved for the use by any other persons other than the guests, agents and invitees of the Owners of lots within the Plat of McKinley Lots.

3. Use of Common Areas. Each Owner shall have the right to use the common areas in common with all other Owners subject to this Declaration, the By-Laws, and any rules and regulations adopted by the Association as the following:

(a) The Association may totally bar or restrict the use of portions of the common area where ordinary use could be dangerous, unreasonably increase the Association's costs or be detrimental to the environment.

(b) The Association shall have the right to suspend the voting rights and the right to use of any facilities on the common area by any Owner for any period during which any assessment against said Owner's lot remains unpaid, for a period not to exceed sixty (60) days, for any and each separate infraction of the Association and public rules and regulations.

4. Easements as Set Forth in Plat. The Developer may also establish for the benefit of all Owners as described on the McKinley Lots' easements for drainage, storm sewer, sanitary sewer, entrance and monument areas, and fencing ("improvements"), all of which are referred to as easements. In the event the plat described above does not specifically show an easement for the construction, maintenance and repair of any of the foregoing, then the Developer does hereby reserve and declare an easement for their installation, construction, and maintenance for the benefit of all Owners within the plat and the Association. The location and size of such easements if they are not specifically delineated on the plat shall include all the property upon which any such improvements have been constructed as well as an easement for access for the construction, maintenance and repair of any such improvements. Developer may install landscaping on certain of the easement areas defined above as well as initial fencing along certain of the property lines.

5. Owners' Easements of Enjoyment. Each Owner shall have the benefit of the "easements areas" and the "common areas" as defined above which 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 Easement Areas and the personal conduct of persons authorized to use said areas, and to establish appropriate penalties for the violation of those rules.

(b) The right of the Association to dedicate or transfer all or any part of the Easement Areas to any public agency, authority, or utility for the purpose for which such Easement Areas were constructed.

(c) The right of the Association to designate portions of the individual Lots as pedestrian access or walkways, as deemed necessary by the Association.

6. Delegation of Use. Any Owner may delegate his right of enjoyment to the Easement Areas and the Common Areas and facilities to the members of his or her family, his or her tenants, or his or her guests, subject to the limitations set forth above.

7. Association to Maintain. The Association shall maintain, repair, replace, and improve the Common Areas and such other areas for which the Association has responsibility to maintain to include but not be limited to the following:

- (a) Utility charges for street lights.
- (b) Monument/entrance landscaped areas including irrigation charges for maintaining the same.
- (c) Fencing constructed by Developer for the benefit of the residents.
- (d) Mailbox areas.
- (e) All storm system retention/detention facilities, to the extent not maintained by the city or other responsible governmental agency.
- (f) Landscaping and irrigation.
- (g) Such other facilities as may be approved and adopted by the Association for the benefit of the residents

8. A Delegation to Manager. The Board of Directors may delegate any of its managerial duties, powers or functions to any person, firm or corporation provided that any management agreement for the project shall be terminable by the Association for cause upon thirty (30) days' written notice, and the term of any such agreement may not exceed one (1) year renewable by agreement by 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 functions so delegated by written instrument executed by a majority of the Board of Directors.

VI. HOMEOWNER'S ASSOCIATION

1. Membership. Every Owner of a Lot shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot. When more than one person holds an interest in any Lot, all such persons shall be Members. Ownership of a Lot shall be the sole qualification for membership.

2. Voting. Each Lot shall vest in its Owners with one vote on all matters. No Lot shall be entitled to more than one vote. Lots owned by a husband and wife, or jointly by more than one individual or entity, shall be entitled to only one vote per Lot by the Lot Owners cumulatively and not individually. Matters involving the capital improvements of the common areas shall require an affirmative vote of sixty-six percent (66%). Matters involving view rights, amendments to this Declaration and incorporation of the Homeowner's Association shall require an affirmative vote of seventy-five percent (75%). All other matters shall require an affirmative vote of fifty-one percent (51%) unless otherwise stated elsewhere in this Declaration or amendments thereto.

3. Meetings. The Association may schedule regular meetings at least once a year. Any Lot Owner may call a special meeting upon two weeks' written notice, which notice shall describe the date, time, location and purpose of the meeting. Minutes shall be kept of each meeting which shall include a record of all votes taken.

4. Liability Insurance. The Association may maintain liability and/or hazard insurance covering the common areas and work performed by or on behalf of the Association.

5. Dues; Assessments. Assessments as provided for herein shall be on an annual or other periodic basis as determined by the Board of Directors of the Homeowner's Association.

6. Common Expenses. That the expenses which shall be considered expenses in common with all the Lot Owners, are those set forth in Article V, Paragraph 7. Common expenses shall be inclusive of the cost of liability and casualty insurance whatever amount is reasonable and deemed appropriate. The responsibility for the common expenses shall be administered by the Association.

7. Lien for Failure to Pay. In the event any party fails to pay, within 30 days of receiving a bill for their portion of the expense, then the Association may file a lien, substantially in the form of a labor and material lien, and as further described and defined below:

(a) The lien shall be a lien against the property of the non-paying party and forecloseable in the same manner as a labor and materials lien, without, however, the requirement to file suit within eight (8) months.

(b) The lien shall have perpetual existence until paid and released by a recorded lien release.

(c) The unpaid balance shall bear interest at the highest legal rate until paid and the non-paying party shall be liable for costs and attorney's fees expended in any collection action including but not limited to the foreclosure of the lien.

(d) Sale or transfer of any Lot shall not affect the assessments as to payments thereof which became due prior to such sale or transfer whether a lien is filed prior to the sale or not. No sale or transfer shall relieve such Lot from liability for any assessment, dues or other charges thereafter becoming due or from the lien thereof.

(e) The word "Mortgage" shall include a "deed of trust" or real estate contract.

(f) That notwithstanding any of the provisions set forth herein, in the event of any sale or transfer of any Lot pursuant to or as the result of a foreclosure of a mortgage or deed of trust, or by deed or assignment in lieu of foreclosure, or any proceeding in lieu thereof, such possessor, its successor, and assigns shall not be liable for the share of the common expense or assessments made by the association chargeable to such Lot which became due prior to such possession.

(g) The unpaid share of common expenses or assessments shall be deemed to be a common expense collectible from all the Owners, including such possessor, his or her successors and assigns.

8. Subordination of Lien. Any lien allowed or provided by this Declaration shall be considered subordinate and inferior to any bona fide first mortgage or first position deed of trust (but not to a real estate contract) where the lender under such first mortgage or deed of trust is a bank, savings and loan, F.H.A., V.A., or other institutional lender. If required by such institutional lender, the holder of a lien provided for herein, whether the holder be the Developer, the ACC, the Association, a Lot Owner, or otherwise, will execute a standard form subordination agreement to effect the purposes of this provision. This provision shall also apply to refinancing of an existing first position mortgage or deed of trust where the refinancing lender is an institutional lender as above described. This provision shall not apply to any sale of all or part of any Lot where the Lot Owner, subject to an existing lien, carries the sale contract or deed of trust, or otherwise acts as lender to a purchase of the liened Lot. Except as provided above, no lien allowed or provided by this Declaration shall be affected by a sale, transfer or refinance of the liened Lot or Lots.

9. Personal Liability. Each assessment, dues or other charges, together with interest, costs and reasonable attorney's fees shall also be the personal obligation of the Owner of the Lot at the time such assessment, dues, or other charge became due. The personal obligation of such Owner shall not be relieved by sale or transfer of the Lot, and shall not become the personal obligation of the Owner's successors in interest unless expressly assumed

by them. The new Owner shall be personally liable for assessments, dues or other charges which become due on or after the date of sale or transfer. Provided that, nothing in this section shall relieve the Lot from liability for such dues, assessments or other charges, or the lien therefor.

10. Rate of Assessment. Except as provided for herein, annual and special assessments shall be at a uniform rate for all Lots.

11. Certificate. Upon demand, the Association shall furnish a certificate in writing signed by an officer of the Association stating whether assessments, dues or other charges against a specified Lot have been paid, or the amount due and owing. Such certificate shall be conclusive evidence as to the amount of any assessment, dues or other charges stated to have been paid. The Association may charge a reasonable fee for the issuance of such certificate.

12. Directors. The Homeowner's Association shall be governed by a Board of Directors and the initial term of the Board of Directors shall be appointed by the Developer. The Developer shall act as the Board of Directors until such time as one-hundred (100%) of the Lots have been sold and closed by the Developer or builders, or earlier at the Developer's discretion. After one-hundred (100%) of the Lots have been sold and closed by the Developer or builders, or at some earlier time selected at the Developer's discretion, the Developer shall call for a meeting at which time the Members will elect directors in accordance with the terms and provisions of the Articles of Incorporation and By-Laws in this Declaration.

13. Association Obligation. The Association shall be obligated to maintain and repair those portions of the common areas and improvements located thereon as is set forth in this Declaration. Provided that if any such work is required as the result of any negligent or intentional act or omission of any Owner, or an Owner's 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 such Owner's Lot or Lots.

VII. EASEMENTS

1. Easements for Association. The Association and its agents shall have an 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 maintenance, repair, replacement or improvement of any Common Area and such other areas for which the Association has responsibility to maintain that are accessible from that Lot.

(b) Emergency repairs necessary to prevent damage to the Easement Areas or to another Lot or the improvements therein.

(c) Cleaning, maintenance, repair or restoration work, which the Owner is required to do but has failed or refused to do.

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

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

VIII. OFFICERS

The Board of Directors shall appoint individuals to serve as President, Treasurer and Secretary. Each officer shall be a member of the Board. The term of each officer shall be one year. Officers may be elected to consecutive terms. Developer may act as President so long as Developer is acting on the Board of Directors.

IX. INCORPORATION

The Association shall be incorporated under the laws of the State of Washington and may apply for tax exempt status with the IRS. The Articles of Incorporation and By-laws shall not be contradictory to and shall supplement this Declaration.

X. EXTRAORDINARY USE COSTS

In the event that one or more Lot Owners should by their use of the Common Areas cause it to be subjected to other than reasonable wear and tear or by their actions damage those Common Areas or any improvements located thereon or therein, then the individual subjecting the Common Area to such use shall have the obligation to repair such damage upon demand by the Association and to restore such Common Area to the condition that existed prior to such use or action and all expenses therefor shall be paid by such individual.

XI. ASSESSMENTS

1. Covenants for Maintenance Assessments.

(a) Developer, for each Lot owned by it, agrees, and 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) The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge and a continuing lien upon the Lot against which

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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 attorney's fees, shall also be the personal obligation of the person who was the Owner of the Lot assessed at the time the assessment fell due. The personal obligation shall not pass to the Owner's successors-in-interest unless expressly assumed by them. The new Owner shall be personally liable for assessments which become due on and after the date of sale or transfer.

2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents of the Property, including the improvement, repair and maintenance of the Common Areas and the services and facilities related to the use and enjoyment of said areas, for the payment of insurance premiums on the Common Areas, and for the maintenance of other areas as provided for in this Declaration.

3. Board to Fix Annual Assessment. The Board of Directors shall fix the annual assessment at least thirty (30) days prior to the commencement of the annual assessment period. Written notice of the annual assessment shall be sent to every Owner. In the event the Board fails to fix an annual assessment for any assessment period, then the assessment established for the annual assessment for the prior year shall automatically be continued until such time as the Board acts. The annual assessment established for the prior year shall automatically be continued until such time as the Board acts. The annual assessments shall be sufficient to meet the obligations imposed by the Declaration and any supplementary declarations, and shall be sufficient to establish an adequate reserve fund for the maintenance, repair and replacement of those Common Areas which require such actions on a periodic basis. In the event there is any increase in the annual assessment of more than five percent (5%) of the annual assessment for the prior assessment period, it must be approved as provided for in Section 2, Article X of the By-laws of the Association which are incorporated herein as though fully set forth.

4. 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 capital improvements upon the Common Area, including the necessary fixtures and personal property related thereto. That any special assessment for capital improvements must be approved in accordance with the provisions of Section 3 of Article X of the By-laws of the Association, which are incorporated herein as though fully set forth.

5. Rate of Assessment. Both annual and special assessments shall be fixed at a uniform rate for all Lots.

