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DECLARATION OF EASEMENTS

Whereas, ANTHONY I. EYRING and JANET F. EYRING, his wife (herein called Eyring) are parties in interest to the following described real property situate in King county, Washington:

That portion of the north 150 feet of Government Lot 2, Section 19, Township 24 North, Range 5 East, W. M., lying east of East Mercer Way and south of Walter B. Butterworth Revision Road as conveyed by deed recorded under auditor's No. 3707212, records of said county; Also that portion of the south 350 feet of the north 500 feet of said Government Lot 2 lying east of East Mercer Way; Together with Second Class Shorelands adjoining and lying south of the south line of the north 150 feet of said Government Lot 2 extended easterly; Except Walter B. Butterworth Revision Road as granted by the above mentioned deed;

Whereas, Eyring has caused a plat of the above described real property to be prepared and submitted for approval to the City of Mercer Island, which plat is entitled Tonja Estates, and as a part of such plat Eyring desire to establish certain easements, restrictions, covenants and provisions as herein provided with respect to such real property for the benefit of the properties subdivided by such plat as a part of a general plan of development and improvement of the above described real property.

Now, therefore, Eyring hereby declare and establish the following easements, restrictions, covenants and rights:

1. Butterworth Road Utility Easement: There is hereby created and established an easement ten feet in width

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along and contiguous to the southerly margin of Butterworth Road commencing at the easterly margin of East Mercer Way thence continuing along such southerly margin of Butterworth Road across Lots 12, 11, 10, 6, Tract A, and Lots 3 and 2 of Tonja Estates plat to the northerly margin of the platted property. Such easement shall be for the purpose of locating, constructing, repairing, replacing and maintaining storm drainage and utilities including electric, telephone, sewer, water and gas service and shall inure to the benefit of any municipal or private corporation authorized to provide and providing such storm drainage and utilities. Any such corporation using such easement for construction, replacement or repair of such utilities shall cause the premises to be restored to its original condition as existed at the commencement of such work. The location of the above easement is designated as Easement No. 1 on the plat of Tonja Estates.

2. Driveway Access to Lots 8 and 9: There is hereby created and established for the mutual benefit of Lots 8 and 9 of Tonja Estates an easement for private ingress and egress over and across the following portions of Lots 8 and 9 of Tonja Estates:

Commencing at the southeast corner of Lot 8, Tonja Estates, thence along the south line of such Lot 8 N. $88^{\circ}24'56''$ W. a distance of 122.41 feet, thence N. $53^{\circ}09'15''$ W. along the southwesterly line of such Lot 8 to the easterly margin of Butterworth Road and the true point of beginning; thence northerly along such easterly margin to the intersection of a line drawn parallel with and measured at right angles 10 feet northerly of the above mentioned southwesterly line of Lot 8; thence southeasterly along such parallel line to the south line of said Lot 8, thence westerly along such south line of said Lot 8 extended to

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the point of intersection of such extended south line and a line drawn parallel with and measured at right angles 10 feet southerly of the above mentioned southwesterly line of Lot 8; thence northwesterly along such parallel line to the easterly margin of Butterworth Road; thence northwesterly along such easterly margin to the true point of beginning (which area is designated as Easement No. 2 on the plat of Tonja Estates).

The owners of Lots 8 and 9 of Tonja Estates shall equally bear the cost of improving and maintaining such easement for vehicular access with a road of at least 10 feet in width surfaced with gravel or crushed rock. No part of such easement shall be used for parking or standing of vehicles and such easement shall be kept free and open for vehicular access at all times to Lots 8 and 9.

3. Drainage Easement: There is hereby created and established for the benefit of the City of Mercer Island an easement over and across the north 10 feet of Lots 1 and 2 of Tonja Estates (which is referred to as Easement No. 3 in such plat) for the purpose of constructing, replacing and maintaining an underground storm drain subject to the following conditions:

(a) In the event that the surface of the easement shall be disturbed incident to the use of such easement, it shall be restored to its original condition forthwith on completion of such work which shall be accomplished with reasonable dispatch.

(b) In the event that the City of Mercer Island shall secure an easement for drainage north of the plat of Tonja Estates which will provide drainage access to Lake Washington in lieu of the easement created hereby, then the easement created by this paragraph 3 shall cease and

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terminate and on request of the owners of Lot 2 of Tonja Estates, such City will make, execute and deliver a release of such easement in form adequate to file of record.

(c) No storm drain shall be constructed along such easement unless it shall extend easterly at least to the center line of the easement created for the Mercer Island Sewer District as recorded under Auditor's No. 5758750, records of King county, Washington.

(d) Any damage to any now or hereafter existing rip rap, breakwater, dock, sand, beach or other improvements along or near the shore whether in or out of the water arising because of any construction or repair of any drain in such easement shall be fully repaired or replaced and restored.

4. Common Area: Lot 1 of Tonja Estates together with an easement over and across the north 6 feet of Lot 2 of Tonja Estates is herein referred to as the common area and shall be dedicated to the use and enjoyment of the owners and residents of Lots 2, 3, 6, 7, 8, 9 and 10 of Tonja Estates, which lots are herein referred to as the dominant properties. Title to the common area shall be appurtenant to and a part of the title of each of the dominant properties to the extent of an undivided one-seventh interest in each. Each undivided one-seventh interest in the common area shall pass and be conveyed with the conveyance or passage of title to each of the dominant properties regardless of whether such interest is expressly referred to in any instrument of transfer, there being no power or authority on behalf of any person to sever

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the interest in the common area from the dominant properties. Thus, to the extent any person shall hold an interest in a dominant property, he shall hold a like interest in one-seventh of the common area.

The common area shall be subject to the following restrictions and covenants:

(a) The easement over the north 6 feet of Lot 2 shall be used for the limited purpose of pedestrian access to Lot 1. No person entitled to use such easement shall cause any vehicle to be parked, placed or left upon such easement at any time. The common area shall be used for recreational purposes only by the owners and residents of the dominant properties, their families and guests.

(b) Each of the dominant properties shall have one vote in determining the management and regulation of use of the common area, which vote shall be exercised by the fee owner or contract vendee of each dominant property. Any persons entitled to a vote may give written notice of the time, place and general purpose of the meeting to each other person entitled to vote at least 10 days prior to such meeting by mail and then at such meeting the majority of the votes present may adopt such rules and regulations as they deem advisable for the use of the common area, take such other action as they deem advisable to the management and improvement of the common area, and adopt such bylaws and regulations for the conduct of meetings as they deem advisable.

(c) If written notice has been given by mail to owners of a dominant property of the duly adopted regulations concerning the use of the common area, then upon violation

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of such regulations by any person deriving a right to use the common area through that dominant right and after notice by mail, such person violating such rules may be suspended from use of the common area for such period as is deemed advisable, not to exceed one year by affirmative vote of the majority of votes. Such suspension may be enforced by any person entitled to use the common area by appropriate injunctive relief.

(d) By an affirmative vote of five votes, each of the dominant properties may be assessed a sum not to exceed \$100.00 each calendar year for maintenance and improvement of the common area. If such assessment is not paid when due, it shall become a lien upon the dominant property assessed when written notice thereof is filed with the auditor of King county, Washington, stating the amount delinquent and the description of the property subject to the lien executed by at least the fee owners of two dominant properties, and be enforceable as a mortgage.

(e) These restrictions pertinent to the common area may be amended by a written instrument signed by the owners in fee of the dominant properties, except for subparagraph (a) of this paragraph 6 and except that under no circumstances may any structure or improvement be placed upon Lot 1 exceeding in height six feet above average high-water level of Lake Washington without the prior written consent of the fee owners of Lots 2 and 4 of Tonja Estates.

5. Tract A: An undivided one-fourth interest in and to Tract "A" as shown on the plat of Tonja Estates shall

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be appurtenant and pass with the title to Lots 3, 4, 5 and 6 of Tonja Estates and Tract "A" shall be dedicated to private access to and from Butterworth Road to each of such Lots 3, 4, 5 and 6 for vehicles and pedestrians and for the installation of utilities to such lots. The owners of such lots shall each equally bear the cost of improving and maintaining Tract "A" at least improved by gravel or crushed rock surfacing adequate for vehicular access. No impediment to the free and ready use of such Tract "A" for access shall be permitted, other than temporary reasonable interruptions for utilities and no standing, parking or leaving of vehicles shall be permitted therein at any time.

6. Stream: The stream commencing at East Mercer Way and running generally easterly to Lake Washington through the above described property shall be subject to the following:

(a) No diversion, obstructing or damming shall be made of such stream from its natural course.

(b) No pollution or fouling of such stream shall be permitted.

(c) The existing ponds and stream beds which shall be divided by any lot line shall be maintained at the equal expense of the owners of lots in which such pond or stream bed shall lie.

(d) There exists an underground overflow drain system and pipe commencing in proximity to the first pond on Lot 6 of Tonja Estates, thence continuing onto Lot 5 to Lake Washington. Such system and drain pipe shall be kept

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and maintained in good working condition by the owners of Lots 5 and 6, who shall have the right to relocate the drain pipe at their sole cost. In the event that such overflow drain system shall fall into a state of disrepair resulting in threat of flooding or diversion of flow of the stream from ponds downstream of such overflow outlet, then if such overflow system has not been repaired and restored to good working order within 30 days after written demand therefor has been made by mail to the owners of Lots 5 and 6, the owner of any other lot in Tonja Estates who has made such demand may enter upon Lots 5 and 6 and make such repairs thereto as he deems necessary and shall be reimbursed therefor by the owners of Lots 5 and 6 as joint and several liability.

7. Rights: The rights and obligations hereof shall be covenants running with the land and shall be a burden upon and benefit to the lands affected hereby. Any provision hereof may be amended, altered or changed by a recorded instrument executed by the fee owners of the property described above exclusive of any other interest therein, provided that no easement for utilities or drainage may be modified or altered without the written consent of the City of Mercer Island. Any provisions hereof may be enforced by injunctive relief without waiver of any right to damages. No waiver of any provision hereof shall be deemed to be a waiver of any subsequent breach of the same provision or of any other provision hereof. In the event that any action is commenced to enforce or recover the provisions hereof the prevailing party shall recover a

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reasonable sum as attorney's fees. The provisions hereof are several and independent and any declaration of invalidity of any provision shall not affect the validity of any other provision.

DATED at Mercer Island, Washington, this 20th day of April, 1965.

Anthony I. Eyring
Anthony I. Eyring
Janet F. Eyring
Janet F. Eyring

STATE OF WASHINGTON)
COUNTY OF KING) ss.

I, the undersigned, a notary public in and for the state of Washington, hereby certify that on this 20th day of April, 1965, personally appeared before me ANTHONY I. EYRING and JANET F. EYRING, to me known to be the individuals described in and who executed the foregoing instrument, and acknowledged that they signed and sealed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal the day and year last above written.

Margaret M. M. Cray
Notary Public in and for the state
of Washington, residing at Seattle
Maple Valley

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