

WHEN RECORDED, MAIL TO:

Reference Number(s) of Documents assigned or released:

Tax Parcel ID:

Grantor(s) (Last name First, then first name and middle initial)

Grantee(s) (Last name first, then first name and middle initial)

Legal Description: (Additional legal is on page 16 of document)

**COVENANT RESTRICTING RESALE
AND OPTION TO PURCHASE AND ASSIGNMENT OF RENTS**

DEVELOPMENT NAME

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**COVENANT RESTRICTING RESALE
AND OPTION TO PURCHASE AND ASSIGNMENT OF RENTS**

DEVELOPMENT NAME

This COVENANT RESTRICTING RESALE AND OPTION TO PURCHASE AND ASSIGNMENT OF RENTS (“Covenant”) is entered into and made effective as of this ____ day of _____, by _____ (“Owner”) and Owner’s successors and assigns in interest for the purpose of implementing the City's goal of creating, preserving, maintaining and protecting housing in _____ (“City”) for households of low and moderate incomes.

The cooperation of the City and the (“Developer”) allows the Property to be sold at less than full market price to households who would not otherwise be able to afford the Property. The City wishes to establish resale controls to provide for the continued availability of the Property to low- and moderate-income households.

In consideration of the benefits received by the Owner, this Covenant shall govern and affect the Owner’s right to sell, convey, encumber, transfer or dispose of in any way the Owner’s interest in the real property described in **Exhibit A** attached hereto and incorporated herein by this reference (“Property”).

The Owner expressly acknowledges that this Covenant addresses a number of issues related to the purchase and resale of the Property, including without limitation that: (a) the Property must be occupied as the Owner’s principal residence; (b) at the time of purchase, the combined maximum income for all household members cannot exceed (____%) of the Seattle-Bellevue, WA HUD Metro FMR Area (“Seattle-Bellevue HMFA”) median income, adjusted for household size, unless modified by the City; and (c) the Maximum Resale Price of the Property will be based on the initial price, plus an appreciation factor, plus the value of certain improvements, less deferred maintenance, if any.

The City designates A Regional Coalition for Housing (“ARCH”) as its Designee to administer certain responsibilities of this Covenant and the Owner recognizes ARCH as the City’s Designee for any purpose the City assigns to ARCH. The City may designate in writing to the Owner any other agency as its Designee and shall notify the Owner of any determination not to utilize ARCH as its Designee for purposes of this designation.

SECTION 1. ELIGIBILITY REQUIREMENTS.

The Owner must meet the following requirements and by acceptance of a deed or otherwise acquiring an interest in the Property hereby warrants as follows:

1.1. **Principal Residence.** The Owner will occupy the Property as his or her principal residence for the term of this Covenant unless Owner is otherwise approved by the City or the City’s Designee to lease the Property pursuant to Section 1.2. The Owner shall be considered as occupying the Property as a principal place of residence if the Owner is living on the Property for at least ten (10) months out of each calendar year. In the event the Property is vacant while being actively offered for sale by Owner, this owner-

occupancy requirement shall not apply; however, Owner may not rent or lease the Property during such period, unless otherwise approved in writing by the City.

1.2. **Leasing.** During the term of this Covenant, the Owner shall not rent or lease the Property without prior written approval by the City. The City or the City's Designee may at its sole discretion approve renting or leasing the Property for a period of up to twelve (12) months in order to avoid hardships resulting from the Owner's employment transfer, reduction, termination, or similar reasons, or resulting from separation, dissolution, or similar domestic occurrences, or from the illness or disability of the Owner or Owner's dependents, or from similar reasons beyond the reasonable control of Owner; provided further, that a copy of any lease or rental agreement shall be provided to the City; and provided further, the City in the exercise of its reasonable discretion may extend said 12-month period. It is understood that the City's primary purpose is to provide the opportunity to acquire a personal residence for households of low and moderate income and not to create rental investment property; any lease in violation of this Covenant is void ab initio.

1.3. **Ownership Status Report.** Owner must submit a status report of Owner's occupancy of the Property within 10 days of receipt of any such request from the City. This report must include an explanation of any rental or vacancy questions raised by the City over the time period specified by the City in its request for a status report. Failure to respond to the request will be subject to the default and remedy provisions in Section 8.1 of the Covenant.

1.4. **Income Limitation.** At the time of purchase, the combined maximum income for all household members of the Owner shall not exceed ___ percent of the median family income in the Seattle-Bellevue HMFA as published by HUD from time to time, adjusted for household size, or such higher income limit as the City may determine. In the event HUD ceases to publish the median family income for the Seattle-Bellevue HMFA or has not updated it for a period of at least eighteen (18) months, the City may use or develop such other reasonable method as it may choose in order to determine the median family income in King County.

1.5. **Household Size.** The Owner's household at the time of purchase shall contain a minimum number of one member for a studio, one-bedroom, or two-bedroom unit; a minimum number of two members for a three-bedroom unit, and a minimum number of three members for a four-bedroom unit.

SECTION 2. RIGHT OF FIRST REFUSAL.

2.1. **City's Right.** Owner hereby grants and gives to the City a right of first refusal to purchase the Property and any improvements located thereon under conditions as hereinafter set forth. The City may designate a governmental or non-profit organization to exercise its right of first refusal, and the City or its Designee may assign this right to an individual private buyer who meets the City's eligibility qualifications. After the exercise of said right by the City, its Designee or assignee, in the manner as hereinafter prescribed, the City, its Designee or assignee, may assign said right of first refusal to purchase to any substitute, individual, or private buyer who meets the eligibility requirements and is approved by the City; provided, however, that such subsequent assignment shall not extend any time limits contained herein. Any transfer

of title to the Property or any interest therein by the Owner, or any attempt thereof, in violation of these covenants shall be void ab initio.

2.2. **Exception of FHA Loans.** Notwithstanding any provision in this Covenant to the contrary, the option granted by Section 2.1 shall not be exercised by the City when a deed of trust insured by the Federal Housing Administration, a division of HUD ("HUD/FHA"), is secured by the subject property, and

2.2.1. Owner is undergoing consideration by HUD/FHA for assignment forbearance relief; or

2.2.2. Owner is undergoing consideration for relief under HUD's Temporary Mortgage Assistance Payment (TMAP) program.

SECTION 3. PROCEDURE FOR PURCHASE/RESALE/REFINANCE.

3.1. Notice for Financing / Limitation on Financing.

3.1.1. Owner shall provide notice by certified mail return receipt requested to the City with at least 15 days advance written notice of any proposed financing that will be secured by a deed of trust recorded against the Property, which notice must include: (i) reasonable documentation evidencing the amount of such financing and (ii) the current Maximum Resale Price. Under no circumstances may the total amount of encumbrances recorded against the Property exceed Maximum Resale Price as defined in Section 4.2. The subordination of this Covenant pursuant to Section 11 shall not apply to any Deed(s) of Trust or mortgage(s) by an Institutional Lender (as defined in 7.2.1) that either separately or when accounting for other higher priority Deed(s) of Trust or mortgages(s) that in the aggregate exceeds the Maximum Resale Price as described in Section 4.2, absent specific written approval from the City. For example, if the Property had a Maximum Resale Price of \$200,000, then this Covenant would be subordinate to a first mortgage in the amount of \$180,000 but would not be subordinate to a first mortgage in the amount of \$220,000. As another example, if there was a first mortgage of \$160,000, a second mortgage of \$20,000 and a third mortgage of \$40,000, then this Covenant would be subordinate to the first and second mortgage but would not be subordinate to the third mortgage.

3.1.2. To assure continued affordability of the Property, no financing obtained or assumed by Owner which results in negative amortization shall be permitted unless approved by the City.

3.2. Notice for Resale/City First Right of Purchase.

3.2.1. Whenever the Owner no longer desires to own the Property, the Owner shall notify the City in writing to that effect. Such notice ("Notice of Intent to Sell") shall be personally delivered or deposited in the United States Mail, postage prepaid, or by certified mail and addressed to the City, its Designee or assignee.

3.2.2. The City, its Designee or assignee, shall then have the right to exercise its first right to purchase said Property by delivery of written notice, by personal delivery or certified mail to the Owner at any time within sixty (60) days from the receipt by the City of such written notice from the Owner of Owner's intent to sell or dispose of the Property.

3.3. **City Not Elect to Purchase.** If the City, its Designee or assignee, does not exercise its right to purchase said Property, then the Owner may proceed to sell the Property subject to the remaining provisions of this Covenant, including Section 1.

3.4. **City Elects to Purchase.** If the City, its Designee or assignee, exercises its right to purchase said Property, then close of escrow for said purchase shall be within one hundred twenty (120) days of the City's receipt of Owner's Notice of Intent to Sell, unless such period is extended by the mutual agreement of the Owner and the City, its Designee or assignee.

3.5. **Inspections.** Buyers shall be entitled to an inspection contingency providing for inspection of the Property by a licensed home inspector, including a pest inspection. The Owner shall be responsible for payment of deferred maintenance, as further described in Section 4.24.

3.6. **New Covenant upon Transfer.** Prior to the close of escrow the Owner shall ensure that the proposed buyer executes a new resale covenant, in a form acceptable to the City, under which the proposed buyer shall assume the obligations and duties and agree to be bound by the provisions set forth in this Covenant. The buyer's resale covenant may contain provisions to reflect any changes to the City's adopted affordability policies. The recordation of the buyer's resale covenant shall be a condition of the City's approval of the proposed transfer. Upon Transfer, the Owner shall pay an administrative fee to the City or Designee equal to one percent (1%) of the sales price to cover the costs of administering the Covenant. Notwithstanding the foregoing, even if said buyer fails to execute and record a resale covenant, any person acquiring an interest in the Property from or through the Owner shall acquire such interest subject to and be bound by the provisions of the Covenant. Any buyer of the Property or of any portion of or interest in the Property, by the acceptance of a deed therefore, whether from Owner or from any subsequent owner of the Real Property, or by the signing of a contract or agreement to purchase the same, shall by the acceptance of such deed or by the signing of such contract or agreement be deemed to have consented to and accepted the covenants, conditions, restrictions and limitations set forth herein.

3.7. **Establishing the Purchase Price.** The purchase price shall be paid in cash at the close of escrow or as may be otherwise provided by mutual agreement between the buyer and the Owner. The maximum purchase price of the Property shall be fixed by the City or Designee in accordance with Section 4.2 at the time of receipt of the Notice of Intent to Sell.

3.8. **Closing Costs.** The Owner shall pay all seller closing costs including excise tax, Owner's title insurance, a portion of escrow fees, and any miscellaneous costs associated with unpaid balances on utility, homeowner's association, and other items. The buyer shall not pay the Owner's closing costs or any agent fees. The buyer shall be responsible for payment of any assumption or pre-payment fees imposed by any lender by reason of the sale of Property.

3.9. **Escrow Process.** Each Owner and proposed buyer shall approve and sign escrow instructions provided by the City, which instruct escrow regarding the requirements of this Covenant, if any. Owner and proposed buyer shall provide the City with a copy of the final sale contract, settlement statement, copy of signed assumption agreement, recording number of the assumption agreement, escrow instructions, and any other document that the City may reasonably request.

3.10. **Sale or Transfer in Violation.** In the event a sale or transfer is made in violation of the terms of this Covenant or false or misleading statements are made in any documents or certification submitted to the City for its approval of the sale or transfer, the City may declare a default under the Covenant. The City shall also have the right to file action at law or in equity to force the parties to terminate and rescind the sale contract and declare the sale void notwithstanding the fact that the sale or transfer may have closed and become final as between the seller and buyer. In any event, any costs, liabilities or obligations incurred by the seller and buyer for the return of any moneys paid or received in violation hereunder or for any costs and legal expenses, shall be borne by the seller and buyer, and not by the City. The seller and buyer shall hold the City and its designees harmless for any action the City reasonably takes in good faith in enforcing the terms of this Covenant.

SECTION 4. LIMITATION ON PURCHASE PRICE.

4.1. **Base Price.** The Base Price of the Property is \$ [REDACTED] the price the Owner paid to acquire the Property.

4.2. **Maximum Resale Price.** The City or its Designee shall fix the Maximum Resale Price of the Property at the Formula Value or the Current Market Value, whichever is less, as such values may be adjusted pursuant to this section. The Maximum Resale Price shall not be less than the Base Price. The Maximum Resale Price is not a guarantee of sales price.

4.2.1. **Formula Value.** The Formula Value shall be equal to the Base Price plus an Appreciation Factor. The Appreciation Factor shall be based on the change in median income in the Seattle-Bellevue HMFA as published by the United States Department of Housing and Urban Development (HUD). For this purpose, the median income prevailing on the date a recorded interest in the Property was first acquired by Owner shall be compared with the latest median income available on the date of receipt by the City of the Notice of Intent to Sell as provided under Section 3.1.1. The percentage increase in the median income, if any, shall be computed and the Base Price shall be adjusted by that percentage.

4.2.2. **Adjustments for Approved Improvement.** The Formula Value may be adjusted to account for expenses incurred by Owner to make significant capital improvements if the conditions of this Section are met. This Section is not intended to restrict the Owner's rights to make improvements to the Property, nor does it waive the Owner of meeting any homeowner's association requirements. It is for the purposes of calculating adjustments to the Formula Value in the event of improvements.

a. No price adjustment will be made unless approved by the City or the City's Designee prior to installing the improvement, and if Owner presents the City with written documentation of all expenditures made by the Owner for which an adjustment is requested.

b. The City may approve an increase in the Formula Value based on the value of certain substantial fixed improvements which cannot be removed without significant damage to the Property or significant or total loss of value of said improvement. Eligible improvements include replacement or upgrade of essential heating, plumbing, or electrical systems, and the addition of finished bedrooms that

increase the potential occupancy size of the home. The value of such improvements will be depreciated based on the life of the improvement, as determined by the City or Designee.

c. The approved value of improvements shall not cause the adjusted Formula Value to be unaffordable to subsequent eligible buyer households, as determined by the City or Designee.

4.2.3. **Current Market Value.** The City, its Designee or assignee, may have an appraisal of the Property prepared at its own expense by an MAI appraiser to establish the Current Market Value. The Owner may also have an appraisal prepared at the Owner's expense by a different MAI appraiser for the same purpose. If the two appraisals show different value, the average of the two values shall be deemed and established as the Current Market Value.

4.2.4. **Escrow for Deferred Maintenance.** Once determined under Sections 4.2.1 and 4.2.2 above, the purchase price shall be adjusted by decreasing said price by an amount to compensate for deferred maintenance cost, if any, which amount shall be determined as follows:

a. Upon receipt of the Notice of Intent to Sell, the City or its Designee shall be entitled to inspect the Property. The City or its Designee shall have an opportunity to determine: whether all plumbing, electrical, and heating systems are in working order; whether any violations of applicable building, plumbing, electric, fire, or housing codes exists; whether all appliances which were originally furnished to the Owner as part of the Property, or any replacement thereof, are in working order; whether walls, ceilings and floors are clear and free of holes or other defects (except for holes typical for picture hangers); whether doors, windows, screens and similar appurtenances are cracked, broken or torn; and whether carpets, drapes and similar features which were originally furnished to the Owner as part of the Property, or any replacement thereof are clean and free of holes; tears or defects; and when not maintained by the homeowners' association, whether the landscaping has been generally maintained.

b. In the event deficiencies are noted, the Owner shall cure the deficiencies in a reasonable manner acceptable to the City or its Designee within sixty (60) days of being notified of the results of the inspection, but in no event later than the close of escrow. At the option of the City or its Designee escrow may be closed, title passed and monies paid to the Owner subject to the condition that such funds as are necessary to pay for curing such deficiencies (based upon written estimates obtained by the City or its Designee) shall be separated from the monies due to the Owner and held by an escrow holder acceptable to the City or its Designee of the purpose of curing such deficiencies.

c. The City or its Designee shall cause such deficiencies to be cured. Upon certification of completion of work by the City or its Designee, escrow holder shall utilize such funds to pay for said work. Any remaining funds shall be paid to the Owner and thereupon, no other payment shall be due to the Owner.

SECTION 5. LIABILITIES.

In no event shall the City become liable to the Owner, or become obligated in any manner, by reason of the assignment of its first right of refusal to purchase, or after such an assignment become in any way obligated

or liable to the Owner for any failure of the City's Designee or assignee to consummate a purchase of the Property or to comply with the terms of any purchase and sale agreement.

SECTION 6. RESTRICTION ON DISPOSITION OF PROPERTY.

6.1 **City's Consent to Transfer.** The Property and any interest in title thereto shall not be sold, leased, rented, assigned, or otherwise transferred to any person or entity without express written consent of the City, or its Designee or assignee, as applicable, which consent shall be consistent with the City's goal of creating, preserving, maintaining, and protecting housing for low and moderate income households, and which consent shall not be unreasonably withheld or denied so long as the proposed transfer of an interest in the Property otherwise complies with this Covenant. Subject to the provisions of Sections 3, this provision shall not prohibit the Owner's right to encumber Owner's title to the Property for the sole purpose of securing financing; however, in the event of foreclosure or transfer by deed in lieu for foreclosure, the provisions of Section 2, Right of First Refusal, and Section 3, Procedure for Purchase, of this Covenant shall govern subject to the provisions of Section 11.

6.2 **Dispositions Not Restricted.** The following transfers of title or any interest therein are not subject to the right of first refusal provisions of this Covenant, and written consent by the City as provided in Section 6.1 will be based solely on the transfer being consistent with the provisions of this section: transfer by gift, devise, or inheritance to grantee's spouse or issue; taking of title by surviving joint tenant; transfer of title to a spouse as part of a divorce or dissolution proceedings; and acquisition of title or interest therein in conjunction with marriage; provided, however, that the covenants and restrictions created herein shall continue to run with the title to said Property following any of said transfers.

SECTION 7. TERMINATION OF RIGHT OF FIRST REFUSAL/COVENANT.

7.1 **Duration of City's Purchase Rights.** The provisions set forth in this Covenant shall be in effect for fifty (50) years from the date of this Covenant written above (or if no date is written above, the date this Covenant was recorded) subject to the following: Upon the first sale to occur after 50 years from the date of this agreement, any surplus of proceeds so distributed remaining after payment of encumbrances of said Property shall be distributed as follows: that portion of the surplus up to but not to exceed the net amount that the Owner would have received under the formula to purchase the Property on the date of sale pursuant to Section 3, shall be distributed to the Owner, and the balance of such surplus, if any, shall be distributed to the City or its successor or assignee in interest.

7.2 **Termination of Covenant.** Notwithstanding any provision in this Covenant to the contrary, and provided that this Section 7.2 applies only to transfers of title to lenders to which this Covenant is subordinate according to Sections 3.1 and 11, all of the provisions of this Covenant shall terminate and have no further force and effect upon the occurrence of one of the following events:

7.2.1 Title to subject property is acquired by HUD/FHA, Veterans Administration ("VA"), Federal National Mortgage Association ("FNMA"), Federal Home Loan Mortgage Corporation ("FHLMC") or another party upon foreclosure of a deed of trust or mortgage insured, made or held by HUD/FHA, VA, FNMA, FHLMC or an institutional lender or an institutional investor which is neither a

natural person nor directly or indirectly related to or affiliated with Owner or Owner's successors in interest (Institutional Lender).

7.2.2 Title to the subject property is acquired by HUD/FHA, VA, FNMA, FHLMC or another party by deed in lieu of foreclosure of a deed or trust or mortgage insured, made or held by HUD/FHA, VA, FNMA, FHLMC or an institutional lender or an institutional investor which is neither a natural person nor directly or indirectly related to or affiliated with Owner or Owner's successors in interest.

7.2.3 A deed of trust insured by HUD/FHA on the subject property is assigned to HUD/FHA.

Upon termination of the Covenant, on request of the then record owner of the fee title to the Property, the City shall execute, acknowledge and record a termination of the Covenant.

SECTION 8. DEFAULTS, REMEDIES, RESALE RESTRICTIONS, ASSIGNMENTS OF RENTS.

8.1 **Default and Remedies.** Upon violation of any of the provisions of this Covenant by Owner or Owner's proposed buyer, the City may give written notice to Owner specifying the nature of the violation. If the violation is not corrected to the satisfaction of the City within a reasonable period of time, not longer than thirty (30) days after the date the notice is mailed, or within such further time as the City determines is necessary to correct the violation, the City may declare a default under this Covenant. Upon the declaration of a default or if the Owner or Owner's proposed buyer makes any misrepresentation in connection with receiving any benefits under this Covenant, the City may apply to a court of competent jurisdiction for specific performance of this Covenant, for an injunction prohibiting a proposed sale or transfer in violation of this Covenant, for a declaration that a transfer in violation of this Covenant is void, or for any such other relief at law or in equity as may be appropriate. In the event of default by the Owner, and/or by the Owner's transferee in those circumstances where a transfer has occurred in violation of this Covenant, the Owner or the Owner's transferee shall hold the City and City's respective employees or other agents harmless and reimburse the expenses, legal fees and costs for any action the City takes in enforcing the provisions of these Covenants.

8.2 **City's Option to Purchase.** Notwithstanding, and in addition to, the remedies provided in Section 8.1, Owner hereby grants to the City, the option to purchase the Property effective upon the declaration of a default. Said option to purchase is given in consideration of the economic benefits received by Owner resulting from ownership of the Property made possible by the assistance of the City in developing the Property.

8.3 **Assignment of Rents.** Owner hereby assigns to City the right to receive the rents due or collected during the entire period the Property is occupied in violation of any of the terms of this Covenant.

SECTION 9. DEFAULT MORTGAGES.

9.1 **Notice of Default.** The Owner covenants to cause to be filed for record in the Office of the Recorder of the King County a request for a copy of any notice of default and of any notice of sale under

any deed of trust or mortgage with power of sale encumbering said Property pursuant to RCW 61.24.045. Such request shall specify that any such notice shall be mailed to the City.

9.2 **City's Right to Purchase.** Any notice of default and sale given to and received by the City shall constitute a Notice of Intent to Sell hereunder and the City, its Designee or assignee, may exercise its right of first refusal prior to any trustee's sale, judicial foreclosure sale, or transfer by deed in lieu of foreclosure; provided, however, the time by which the City, its Designee or assignee, may complete the purchase of the Property, shall be limited by the period of foreclosure prescribed in the RCW 61.12 or 61.24 and not the period allowed under Section 3 of this Covenant. In the event the Owner fail to file such request for notice, the City's right to purchase shall run from the date the City has actual knowledge of a sale or proposed sale, but the City's right to purchase shall not extend beyond the period of foreclosure prescribed in RCW 61.12 or 61.24 and a mortgagee's or trust deed beneficiary's rights of foreclosure shall not be affected.

9.3 **Surplus if City Not Purchase.** In the event the City elects not to exercise its right to purchase upon notice of default or sale, any surplus to which the Owner may be entitled shall be paid as follows: that portion of surplus (after payment of encumbrances), if any, up to but not exceeding the net amount that the Owner would have received after payment of encumbrances under the formula set forth above had the City exercised its right to purchase the Property on the date of the foreclosure sale, shall be paid to the Owner on the date of the foreclosure sale, and the balance of surplus, if any, shall be paid to the City or its successor assignee in interest.

SECTION 10. INSURANCE/CONDEMNATION PROCEEDS.

In the event that the Property is destroyed and insurance proceeds are distributed to the Owner instead of being used to rebuild, or if in the event of condemnation, or a dissolution of the homeowners' association and a liquidation and distribution of the associations' assets, any surplus of proceeds so distributed remaining after payment of encumbrances of said Property shall be distributed as follows: that portion of the surplus up to but not to exceed the net amount that the Owner would have received under the formula to purchase the property on the date of liquidation, shall be distributed to the Owner, and the balance of such surplus, if any, shall be distributed to the City or its successor or assignee in interest.

SECTION 11. PRIORITY OF MORTGAGE.

11.1 **Lender's Rights Not Impaired.** Notwithstanding any provisions herein, and provided that Owner complies with the requirements of Section 3.1.1., which among other items requires the total amount of encumbrances recorded against the Property not exceed the lower of the current Formula Value or Current Market Value, this Covenant shall not diminish or affect the rights (including the legal rights to take action following a default under an obligation secured by the Property) of HUD/FHA, FNMA, FHLMC, VA or the holder of any deed of trust or mortgage recorded on Property made, held, or insured by an institutional lender or an institutional investor which is neither a natural person nor directly or indirectly related to or affiliated with Owner or Owner's successors in interest, provided that this Section 11.1 shall not apply to any deed of trust or mortgage that causes the indebtedness against the Property to exceed the levels set forth in section 3.1.1, absent specific written approval from the City.

11.2 **Subordination.** Provided that pursuant to the requirements of Section 3.1.1., which among other items requires the total amount of encumbrances recorded against the Property not exceed the lower of the current Formula Value or Current Market Value, this Covenant shall be subordinate to any deed of trust or mortgage recorded on the Property made, held or insured by HUD/FHA, VA, FNMA, FHLMC or other institutional lender or an institutional investor which is neither a natural person nor directly or indirectly related to or affiliated with Owner or Owner's successors in interest. Any party, and its successors and assigns, receiving title to the Property through a trustee's sale, judicial foreclosure sale or deed in lieu of foreclosure, of such deed of trust or mortgage, and any conveyance or transfer thereafter, shall receive title free and clear of the provisions of the Covenant. Notwithstanding the foregoing, nothing shall prevent an Institutional Lender from selling the Property subject to this Covenant to an eligible buyer in any foreclosure proceeding or after acquisition of title to the Property. The subordination of this Covenant pursuant to this Section 11.2 shall not apply to any deed of trust or mortgage that causes the indebtedness against the Property to exceed the levels set forth in Section 3.1. absent specific written approval from the City.

11.3 **Only Agreement.** This Section 11 shall be the whole and only agreement necessary with regard to the subjection and subordination of the provisions of the Covenant to a mortgage or deed of trust referred to in Section 11.2 above. In furtherance of the foregoing, the provisions of Section 11 shall fully apply with respect to (and for the benefit of anyone holding, making, insuring, or title insuring) mortgages and deeds of trust recorded subsequent to the recording of the Covenant without necessity of any other or further agreement of subordination being required. Notwithstanding the foregoing, the City and Owner shall execute and record such additional agreement as may reasonably be necessary to cause any Mortgagee's ALTA Title Insurance Policy to ensure that the Covenant is subordinate to any mortgage or deed of trust referred to in Section 11.2.

11.4 **Intent of City and Owner.** In accordance with the conditions hereof, the City and the Owner intentionally waive, relinquish, subject and subordinate the provisions of the Covenant together with all rights and privileges of the City thereunder in favor of the lien or charge of any mortgage or deed of trust referred to in Section 11.2 upon said Property and understand that in reliance upon, and in consideration of, this waiver, relinquishment, subjection and subordination, specific loans and advances will be or have been made and title insurance will be or has been issued and, as part and parcel thereof, specific monetary and other obligations have been entered into which would not have been made or entered into but for said reliance upon this waiver, relinquishment, subjection and subordination.

SECTION 12. SUPERIORITY OF AGREEMENT.

The Owner covenants that he or she has not, and will not, execute any other agreement with provisions contradictory to or in opposition to the provisions hereof except for documents executed pursuant to the requirements of the lenders with a security of interest in the Property superior to the position of the City and that, with the exception of the aforementioned lender documents, this Covenant is controlling as to the rights and obligations between and among Owner, the City and their respective successors.

SECTION 13. MISCELLANEOUS.

13.1 **Notice.** All notices required herein shall be sent to the following addresses:

CITY:

With a copy to: ARCH
 16307 NE 83rd Street
 Redmond, WA 98052

OWNER:

13.2 **Number/Gender.** The use of the singular or plural and the masculine and feminine or neuter pronouns shall be construed as interchangeable and such correct pronouns when referring to a particular person, persons, entity or entities shall be construed to have been used herein appropriately and correctly.

13.3 **Applicable Law.** This Covenant and the covenants, conditions and restrictions contained herein shall be construed under the laws of the State of Washington. References to statutes are construed to apply to later enactments on the same subject.

13.4 **Owner's Acceptance.** By execution of this Covenant and the acceptance of any interest in the Property, the Owner accepts and agrees to be bound by the covenants contained herein.

13.5 **Invalid Provision.** If any one or more of the provisions contained in this Covenant shall for any reason be held to be invalid, illegal, or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions contained in this Covenant, and this Covenant shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

13.6 **Successors and Assigns.** Unless otherwise limited and/or indicated herein, this Covenant shall constitute covenants that run with the land, as provided by law, and shall be binding upon and inure to the benefit of all parties and all persons who shall be or shall become the owner of, or otherwise have an interest in the Property.

13.7 **Amendments.** This Covenant may not be amended or terminated without the written consent of the City, unless otherwise specifically provided for in this Covenant.

Dated as of the date first above written.

OWNER:

Owner name

STATE OF WASHINGTON }
 }
COUNTY OF KING } ss.

On this _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) who executed this instrument and acknowledged it to be a free and voluntary act and deed for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF I have given under my hand and official seal this ____ day of _____, 20____.

Notary Public in and for the State of Washington.
Print Name _____
Residing at _____
My commission expires _____

On this _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) who executed this instrument and acknowledged it to be a free and voluntary act and deed for the uses and purposes mentioned in the instrument.

IN WITNESS WHEREOF I have given under my hand and official seal this ____ day of _____, 20____.

Notary Public in and for the State of Washington.
Print Name _____
Residing at _____
My commission expires _____

**EXHIBIT A
TO
COVENANT RESTRICTING RESALE AND OPTION TO PURCHASE**

Legal Description of Property

EXHIBIT B

