

±0.55 Acre Development Site For Sale
TOWNHOUSE DEVELOPMENT SITE

1301 Lombard Avenue
Everett, WA



PROPOSALS DUE BY TUESDAY, FEBRUARY 4th, 2025

LEE & ASSOCIATES
COMMERCIAL REAL ESTATE SERVICES

THERESA BAUCCIO-TESCHLOG, MBA, NIGP-CPP, CPPB
TBauccio@everettwa.gov
D 425-257-8901

±0.55 Acre Development Site For Sale TOWNHOUSE DEVELOPMENT SITE

1301 Lombard Avenue
Everett, WA

Lee & Associates has been retained by the City of Everett to present this opportunity to acquire the Townhouse Development Site. This site offers the rare opportunity to develop in North Everett with close proximity to amenities including the Everett Community College, Washington State University Everett, Seattle Children's North Clinic, and Providence Regional Medical Center.



ADDRESS	1301 Lombard Ave, Everett, WA
LAND AREA	Approximately 23,958 (±0.55 Acres)
PARCEL NUMBER	29051700301400
SITE CONFIGURATION	Rectangular-shaped, corner block site
ZONING	NB - Neighborhood Business (City of Everett)
PROPOSAL DUE DATE	February 4, 2025

DIRECT ALL QUESTIONS TO:

THERESA BAUCCIO-TESCHLOG, MBA, NIGP-CPP, CPPB

TBaucchio@everettwa.gov

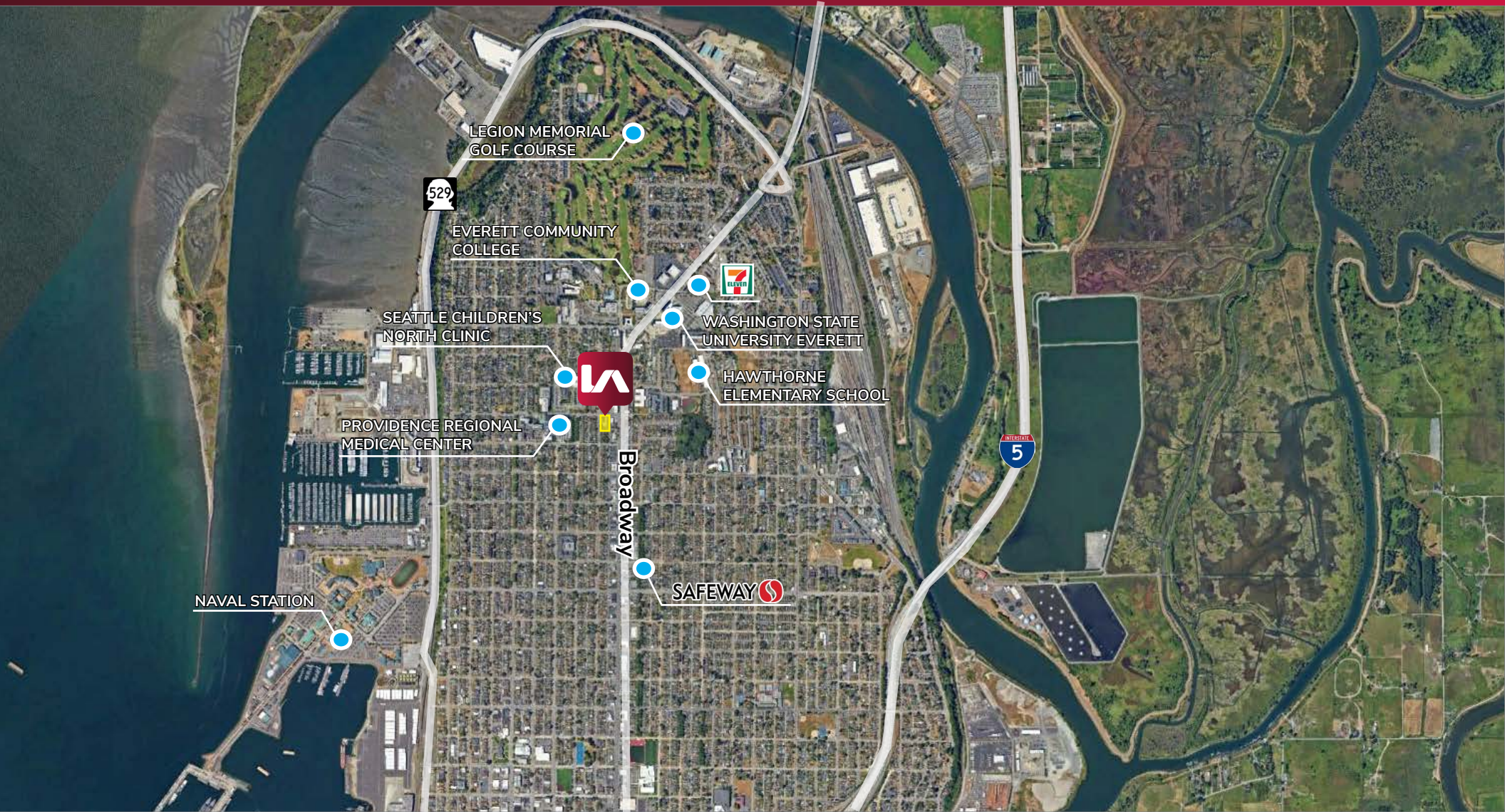
D 425-257-8901



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for Proposals**

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We obtained the information above from sources we believe to be reliable. However, we have not verified its accuracy and make no guarantee, warranty or representation about it. It is submitted subject to the possibility of errors, omissions, change of price, rental or other conditions, prior sale, lease or financing, or withdrawal without notice. We include projections, opinions, assumptions or estimates for example only, and they may not represent current or future performance of the property. You and your tax and legal advisors should conduct your own investigation of the property and transaction.

City of Everett
Request for Proposals



RFP No. 2024-164
Request for Proposals
1301 Lombard Redevelopment

City of Everett
REQUEST FOR PROPOSALS
RFP No. 2024-164
1301 LOMBARD REDEVELOPMENT

INTRODUCTION

Proposals will be received by the **City of Everett, City Clerk, 1st Floor, 2930 Wetmore Avenue, Everett, Washington 98201, or by email** until 2:00 p.m. on Tuesday, February 4, 2025, for the acquisition and redevelopment of the City’s 1301 Lombard property.

OBJECTIVE AND SUMMARY

The Everett City Council adopted an ordinance on August 2, 2023, to exercise eminent domain to condemn the Waits Motel at 1301 Lombard under the state blight condemnation statute, RCW 35.80A. The City took title to the property in January 2024. The motel has been demolished, and the 1301 Lombard property (Property) is vacant.

On 12/23/2024, the City Council approved rezoning the Property to Neighborhood Business (NB).

The City requests proposals for redevelopment of the Property as a townhouse or other “missing middle housing” project. It is desirable that the development commence construction in 2025, encourage owner occupancy and first-time homebuyers, and be environmentally friendly. The City’s intent is to sell the Property to the selected developer, who will then undertake the project as a private project.

RCW 35.80A requires that a property transfer to a developer from the City be “at not less than its fair market value,” taking into account any covenants or other restrictions on the Property.

As described in more detail below, the City is requesting proposals from developers with direct experience in the financing and developing of townhouse/middle housing projects.

Phase 1 Environmental Site Assessment and other preliminary due diligence document, ESA Report is provided as Exhibit C.

RFP FORMAT

This RFP contains three sections. Section One contains a description of the City’s goals and requirements. Section Two contains general information, including the RFP schedule and contact information for the RFP Coordinator. Section Three contains proposal submittal requirements and explains how the City will evaluate proposals.

SECTION ONE

I. PROJECT GOALS

The City's goals for the project are set forth below. Based on these goals and the highest-scoring proposer's proposal, the City and the highest-scoring proposer will develop written project requirements that will govern the project.

A. Goal: Missing Middle Housing

The project should be missing middle housing. There are likely many ways to accomplish this goal, and developers are encouraged to be creative in preparing proposals. As an example, the City views a project that satisfies the following as meeting the City's "missing middle housing" goal:

1. The project is a Townhouse project, constructed and legally separated so that individual Townhouse units may be purchased and sold in fee simple. "Townhouse" has the definition given to it in EMC 19.08.015.
2. All buildings and structures on the Property are Townhouses. No other buildings.
3. The Project contains approximately 16 or more Townhouse units based on the zoning code and design standards.

The City emphasizes that the above three points only represent an example of a project that would meet the City's "missing middle housing" goal. Developers are encouraged to consider and propose other projects, townhouses or otherwise, that could create a similar volume of missing middle housing. **However, developers should note that a multi-family apartment complex does not meet the goal and will not be considered.**

B. Goal: Fits the Neighborhood

The project should fit the neighborhood, which is a "Donovan" neighborhood. As an example, the City views a project that satisfies the following as meeting this goal:

1. No portion of the project exceeds three floors in height. This means the maximum height of any building is a ground-level floor plus two floors above the ground-level floor.
2. The roofs of at least 75% of the project buildings have a pitch of 6/12 or greater.
3. All windows on the primary façade are double or single-hung sash windows with operable lower sashes.
4. The windows are ganged in a group of three on the primary façade. The secondary facades may be paired or single windows.
5. The scale of the windows is comparable to the existing homes on the street.

The above five points only represent an example of a project that would meet this goal. However, because there is a limited universe of building styles that are consistent with the surrounding neighborhood, the City anticipates that the successful proposal will propose a project with characteristics similar to the above five points.

C. Goal: Property Kept Secure, Unoccupied, and Clean Until the Project is Constructed

The Property should stay secure, unoccupied, and clean until the project is substantially completed. As an example, the City views the following as meeting this goal:

1. Developer takes all necessary actions to secure the Property and prevent unauthorized occupants, including, without limitation, installing and maintaining perimeter fencing.
2. Developer maintains the Property in a neat, orderly and clean condition, ensuring that construction debris, litter, and other waste materials are regularly removed and properly disposed of.
3. The Developer maintains the grass and landscaping on the Property and ensures that the abutting rights of way are in good condition.
4. No construction or installation of temporary or permanent improvements or structures, except as necessary to construct the project.
5. No storage of vehicles, equipment, or materials on the Property, except as necessary to construct the project.
6. No rental, leasing, or any other grant of a right to occupy the Property, or any portion of the Property, to any person.

The above six points only represent an example of what would meet this goal. A proposer is free to propose other mechanisms for Property protection. However, because there are limited ways to keep a property secure, unoccupied, and clean, the City anticipates that the successful proposal will substantially incorporate the above six points.

D. Goal: Project is Environmentally Friendly

The project should be environmentally friendly. This could mean that the project meets a specific LEED standard. In lieu of such a standard, a project could include specific undertakings that the developer thinks are more appropriate.

E. Goal: Expeditious Construction Start Date.

The developer should commence project construction as soon as reasonably possible.

F. Goal: First Time Homebuyer / Owner Occupancy.

The project units should be owner-occupied, not leased, and first-time homebuyers should have a substantial opportunity to purchase them.

II. PROJECT REQUIREMENTS

Below are certain project requirements. These are required by law, and proposers must consider them in developing proposals.

A. Purchase Price

RCW 35.80A requires that Property sale to a developer be “at not less than its fair market value,” taking into account any covenants or other restrictions on the Property.

Proposers must be aware that the City cannot sell the Property for less than its fair market value. **Each proposer must take that into consideration when developing its proposal. Developers should not propose projects that would require the City to sell the Property for less than fair market value.**

B. Compliance with Underlying Zoning and Land Use Regulations

The Property is zoned NB - Neighborhood Business. The project must comply with all zoning, land use, and other applicable laws and regulations.

III. PROJECT DOCUMENTS

The City anticipates that the Property will be conveyed at closing to the selected developer pursuant to a Property Disposition Agreement. A draft of the Property Disposition Agreement is attached to this RFP.

The Property Disposition Agreement contains, as its Exhibit C, a form of Project Covenant that will be recorded against the Property at the closing of the conveyance of the Property to the Developer. The Project Covenant will contain specific enforceable project requirements that will govern the project. These project-specific requirements will be negotiated by the city and the highest-scoring developer in order to implement the city's project goals and legal requirements, all of which are described above.

III. PROPOSED PROJECT SEQUENCE

A. Evaluation of Proposals

The City will first evaluate proposals and select three finalists. The City will give notice to all proposers regarding the finalist selection.

The three finalists will then be invited to submit updated proposals that represent their latest thinking. An updated proposal from a finalist must include a proposed specific dollar amount for a purchase price. The City will then determine the highest scorer from those three finalists. The City will give notice to all finalists regarding the highest scorer determination.

B. Negotiation and Execution of Property Disposition Agreement

The City will exclusively negotiate with the highest scorer until execution of a Property Disposition Agreement or until negotiations reach an impasse as determined by the City. With respect to purchase price, it is anticipated that the final purchase price will be substantially similar to the purchase price contained in the highest scorer's updated proposal. If negotiations with the highest scorer are not successful, as determined by the City, the City may initiate negotiations with the next-highest scorer.

The Everett City Council must approve the Property Disposition Agreement. **This approval is at the City Council's sole discretion.** Rejection of a Property Disposition Agreement may result in termination of this RFP and disposition of the Property by other means, additional negotiations with the developer, or the City terminating negotiations and opening negotiations with the next highest scorer. After the City Council approves the Property Disposition Agreement, the City and developer will execute it. No contract is formed until the Property Disposition Agreement is executed by the developer and the City.

C. Closing

Closing will occur in accordance with the Property Disposition Agreement. **The City will not close the conveyance to the developer unless the developer can demonstrate that the project is fully financed. After closing, the City is unlikely to entertain any requests from the developer to subordinate the Project Covenant to project financing. This means that any project lender requests to subordinate some or all of the Project Covenant must be negotiated prior to closing. In any case, the City is unlikely to agree to subordinate Project Covenant requirements related to missing middle housing, see RFP Section One, I.A, neighborhood fit, see RFP Section One I.B or Property security, see RFP Section One, 1.C.**

D. Project Permitting and Construction

Project permitting and construction will then occur in accordance with Project Covenant.

IV. RFP PROPOSED SCHEDULE

The following anticipated schedule for the RFP process contains major milestones and may be modified:

December 30, 2024,	Issuance of RFP
January 22, 2025, at 11:59 P.M.	Questions must be received no later than.
February 4, 2025, at 2:00 P.M.	Proposals Due no later than
February 21, 2025,	Possible Interviews
February 25, 2025,	Notice of Finalists
February or March 2025	Updated Proposals Due from Finalists -Finalists will be provided a specific due date.
March 2025	Notice of Highest Scorer
April 2025	Council Approval and Execution of Property Disposition Agreement

SECTION TWO
GENERAL INFORMATION

RFP COORDINATOR

Upon release of this Request for Proposals (RFP), all communications concerning this RFP must be directed to the RFP Coordinator listed below:

Theresa Bauccio-Teschlog, MBA, NIGP-CPP, CPPB
City of Everett Procurement
2930 Wetmore Avenue - #9E, Everett, WA 98201
Phone: (425) 257-8901
tbauccio@everettwa.gov

After issuance of the RFP, unauthorized contact regarding the RFP with other City of Everett employees may result in disqualification. Any oral communications will be considered unofficial and non-binding on the City of Everett. Proposers must only rely on written statements issued by the RFP Coordinator.

ADDENDA

Changes to this RFP will be made only by formal written addenda issued by the RFP Coordinator named above.

Respondents are responsible for checking the City of Everett website for the issuance of any addenda prior to submitting a Proposal.

The address is <https://www.everettwa.gov/2713/Bid-opportunities>

STATEMENT RESPONSE DATE AND LOCATION

The City Clerk may receive the Proposal and the updated Proposal from each finalist in a sealed envelope, in its entirety, which must be received no later than the applicable date and time and at the location listed in the introduction paragraph at the beginning of this RFP. Proposals arriving after the deadline may be returned unopened to their senders. All Proposals and accompanying documentation will become the property of the City of Everett and may not be returned. Proposals must be clearly marked:

Request for Proposal RFP #2024-164 1301 Lombard Redevelopment
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Senders assume the risk of the method of dispatch chosen. The City of Everett assumes no responsibility for delays caused by any delivery service. Postmarking by the due date will not substitute for the actual statement receipt.

In lieu of the paper delivery described above, Proposals and updated Proposals may be delivered by email to the following email address: tbauccio@everettwa.gov

NON-ENDORSEMENT

As a result of the selection of a proposer, the City of Everett is neither endorsing nor suggesting that the proposer's service is the best or only solution. The proposer agrees to make no reference to the City of Everett in any literature, promotional material, brochures, sales presentation, or the like without the express written consent of the City of Everett.

PUBLIC DISCLOSURE

1. Property of the City of Everett

All materials (including, for example, proposals, and updated proposals, and statements of qualification) submitted in response to this RFP shall become the property of the City of Everett. Selection or rejection of a proposal does not affect this. In this section, the term "proposal" is generic and refers to proposals, statements of qualification, letters of interest, and any other material submitted in response to this RFP.

2. Proposals are Public Records

Pursuant to Chapter 42.56 RCW and other statutes regarding public agencies, all materials (including, for example, proposals) submitted under this RFQ shall be considered public records and, with limited exceptions, will be available for inspection and copying by the public. Except to the extent protected by state and/or federal laws, proposals shall be considered public documents and available for review and copying by the public.

3. Public Records Exemption

Trade secrets (as defined in RCW 19.108.010) or other proprietary information submitted by a Proposer in connection with this RFP might not be subject to public disclosure under chapter 42.56 RCW if the proposer specifically states in writing the reasons why protection from disclosure is necessary and identifies the data or materials to be protected. Proposers shall specifically designate and clearly label as "CONFIDENTIAL" any and all such materials or portions thereof that they deem to contain trade secrets or other proprietary information. Proposers should carefully consider what is truly confidential and should not mark an entire proposal as confidential. The proposer shall provide the legal basis for the exemption to the City upon request. Proposers are advised that this exemption is subject to judicial review, and the proposer's designation of confidential may or may not be upheld by a Court.

4. Proposals Not Marked as Confidential

If a proposal or other material does not clearly identify the "CONFIDENTIAL" portions, the City will not notify the proposer that its proposal will be made available for inspection and copying, and the City may publicly disclose such non-clearly identified portion with no liability whatsoever to the proposer.

5. Process for Disclosing Information

If a request is made for disclosure of material or any portion marked "CONFIDENTIAL," the City will determine whether the material should be made available under the law. If the City determines that the material is subject to disclosure, the City will seek to notify the Proposer of the request and allow the proposer ten (10) business days after such notification to take appropriate legal action in Snohomish County Superior Court at the proposer's sole expense and liability. If the proposer does not within such ten (10) business days serve the Office of the City Attorney with a copy of an order entered by the Superior Court that expressly prohibits the City from disclosure of the material marked "CONFIDENTIAL,"

then the proposer will be deemed to have consented to the public disclosure of the material marked "Confidential," and the City may publicly disclose such material without any liability whatsoever to proposer.

6. Indemnification by Proposer

To the extent that the City withholds from disclosure all or any portion of proposer's material marked "CONFIDENTIAL", the proposer, by submitting a proposal in response to this RFP, agrees to indemnify, defend, and hold harmless the City of Everett from all lawsuits, liabilities, losses, damages, penalties, attorneys' fees and costs the City incurs arising from or relating to such withholding from disclosure.

7. Disclosure Prior to Notice of Highest Scorer

The City intends, subject to applicable law, to not disclose any proposals or scoring of proposals until after the City provides notice of the highest scorer. Upon the written request of a proposer not selected as a finalist, the City will provide the requester a summary of the scoring of the requester's proposal.

8. Consent to Procedure

Proposers, by submission of materials marked "CONFIDENTIAL", acknowledge and agree that the City will have no obligation to advocate for nondisclosure in any forum and has no liability whatsoever to any proposer for the disclosure of any material or record of any kind when that disclosure is in accordance with applicable law or in accordance with an order applying applicable law entered by the Snohomish County Superior Court or a Washington appellate court. By submitting a proposal, the proposer consents to the procedure in this Section as its sole remedy and waives and releases all claims against the City arising from the City's actions taken in accordance with this procedure.

NO OBLIGATION TO CONTRACT

The City of Everett reserves the right to refrain from contracting with any proposer. The release of this RFP does not compel the City of Everett to sell the Property.

COST OF PREPARING PROPOSALS

The City of Everett is not liable for any costs incurred by proposers in preparing, presenting, and updating proposals submitted in response to this RFP. **In addition, all costs incurred by a developer in negotiating a transaction with the City are at the developer's sole risk. In no event whatsoever does a proposer have any claim against the City for the City's failure to sign a Property Disposition Agreement with the proposer.**

SECTION THREE
PROPOSAL REQUIREMENTS AND EVALUATION

All proposals must meet the requirements of Section Three. As stated elsewhere in this RFP, finalists will be invited to update their proposals. An updated proposal must be in the same submittal format as the initial proposal.

SUBMITTAL INFORMATION

Respond to all sections in their entirety.

Title each page with your name or firm name and note the section number for each response.

Proposals and updated proposals must include the Signed Authorization on the last page of this RFP, or they may be deemed non-responsive and not evaluated.

SUBMITTAL FORMAT

Proposals will be evaluated on the completeness of the information supplied in the submittal.

Submit Proposals and updated Proposals with the following six-section format. Failure to clearly and completely provide all the information below may result in rejection as non-responsive.

1. TEAM INFORMATION

Provide a general overview of your organization. At a minimum, answer the following questions:

- A. What are the primary areas of expertise of our organization?
- B. What are your key goals in developing and operating the Project?
- C. Who are the persons outside your organization likely to be included as part of the team?

2. RELEVANT DEVELOPMENT EXPERIENCE

Provide three specific examples of projects that demonstrate your development capabilities and describe the ultimate outcome of each development project. What is your experience with residential construction, townhouses, and missing middle housing project construction in particular?

3. PROPOSED PROJECT DESCRIPTION & TIMELINES

Describe the transaction closing timeline and anticipated construction timeline for the project you propose to build. Sketches and simple drawings are encouraged. This should include, at minimum, the number of residential units, square footage of proposed units, etc.

4. PROPOSED PROJECT MEETING THE CITY'S PROJECT GOALS AND PROJECT REQUIREMENTS

A. Goal: Missing Middle Housing

State whether your proposed project is a Townhouse project as described in the example project in RFP Section One, I. A or if it is a different concept. If a different concept, describe how your proposed concept would provide at least the amount of missing middle housing as the example Townhouse project.

B. Goal: Fits the Neighborhood

State whether your proposed project will commit to the five example points stated in RFP Section One, I.B. If not, specifically describe the commitments you would make to assure that your project nevertheless would still meet the City's goal.

C. Goal: Property Kept Secure, Unoccupied, and Clean Until the Project is Constructed

State whether your proposed project will commit to the six example points stated in RFP Section One, I.C. If not, specifically describe how you would still meet the City's goal.

D. Goal: The project is Environmentally Friendly

Describe how your proposed project would meet the City's goal. Specifically, state the undertakings that you can commit to in this regard. This might be a LEED standard or other appropriate project-specific undertakings.

E. Goal: Expeditious Construction Start Date.

Describe how your proposed project would meet the City's goal. Specifically, state the undertakings that you can commit to in this regard. Such commitments should include a proposed schedule that includes timing for the closing of project financing, the closing of the Property sale from the City to the developer, the submission by the developer of complete project permit applications, and the construction start date.

F. Goal: First Time Homebuyer / Owner Occupancy.

Describe how your proposed project would meet the City's goal. Specifically, state the undertakings that you can commit to in this regard. Such commitments related to first-time homebuyers might include programs for first-time homebuyers, programs related to VA loans, or other ideas. With respect to owner occupancy, such commitments might include CCRs restricting leasing or other concepts.

G. Requirement: Fair Market Value Purchase Price.

For the first-round proposal submittal, you need only state that you understand that the City cannot sell the Property for less than Fair Market Value and that your proposal takes that into account. This should not be lengthy statement: a single sentence stating that you understand and have taken it into account is sufficient.) The initial first-round proposal should not include a purchase price dollar amount.

If you are a finalist invited to submit an updated proposal, you must update this section to include a specific dollar amount for the proposed purchase price and a short narrative explaining why that proposed purchase price is fair market value.

5. ABILITY TO FINANCE THE PROJECT

Provide financial information that will allow the City to assess your ability to obtain financing for the project.

In addition, your response should specifically indicate that your proposal takes into account the following, which is a quote from Section One, III. D of this RFP:

“The City will not close the conveyance to the developer unless the developer can demonstrate that the project is fully financed. After closing, the City is unlikely to entertain any requests from the developer to subordinate the Project Covenant to project financing. This means that any project lender requests

to subordinate some or all of the Project Covenant must be negotiated prior to closing. In any case, the City is unlikely to agree to subordinate Project Covenant requirements related to missing middle housing (see RFP Section One, I.A), neighborhood fit (see RFP Section One, I.B), or Property security (see RFP Section One, 1.C).”

6. PROPERTY DISPOSITION AGREEMENT TERMS

- A. How much deposit will you provide at execution of the Property Disposition Agreement?
- B. What length of due diligence period do you require?
- C. State any proposed changes that you require to the draft Property Disposition Agreement.

EVALUATION

A numerical scale will be used to score each section for the written submittal. These track the submittal format on the previous pages. The total score for each section will not exceed the maximum number of points set for that section. Scoring will be as follows:

Team Information	10
Relevant Development Experience	10
Project Description & Timelines	10
Proposed Project Meeting the City’s Project Goals and Requirements	45
Ability to Finance Project	20
Property Disposition Agreement Terms Note: proposed changes to the project structure will result in a lower score if the change increases the City’s risk or cost.	5
Total	100

Oral Interview: Subsequent to the City’s review of written proposals, the City may conduct interviews. If the City elects to do this, identical questions will be prepared and distributed to each team to be interviewed, as well as questions that are customized for each team. Additional questions both for and to the team may be addressed during oral interviews. Each team’s demonstrated experience, qualifications, completeness, clarity, and professionalism, as demonstrated through its oral presentation and answers to questions, will be used in ranking proposers in order of preference. The City may adjust written proposal scores based on the interviews.

Finalists: After interviews, if conducted, the City will provide notice of the three finalists.

Updated Proposals: The three finalists will be invited to submit updated proposals by a specific due date stated in the invitation. The updated proposals must be in the same submittal format as the initial proposal, except that Section 4.G., “Requirement: Fair Market Value Purchase Price”, which must be updated by each finalist to contain a specific dollar amount for a proposed purchase price and a short narrative as to why that proposed purchase price is fair market value. The extent to which each finalist updates other parts of its initial proposal is at the discretion of each finalist -- no other updates are required. However, the hope is that each finalist will

have solidified some details of its proposed project during its analysis of its proposed purchase price and can provide some of that project detail in its updated proposal.

Final Scoring: Upon receipt of the updated proposals, the City will update each of the three finalists' scoring in light of the updated proposal. The highest scorer is the finalist, who has the highest score after that update.

<p>City of Everett REQUEST FOR PROPOSALS RFP No. 2024-164 1301 Lombard Redevelopment</p>
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The undersigned hereby declares that he or she is duly authorized to complete and submit this Proposal and that the statements contained herein are true and correct as of the date set forth below. Incomplete, incorrect, or misleading information may be the reason for proposal rejection by the City of Everett.

Company Name:		
Company Address:		
City:	State:	ZIP:
Tax ID #:	UBI #:	
Legal status of proposer organization, i.e., corporation, partnership, sole proprietorship.		
Diversity Certification (if applicable): <input type="checkbox"/> Disadvantaged Business Enterprise (DBE) <input type="checkbox"/> Minority Business Enterprise (MBE) <input type="checkbox"/> Women Business Enterprise (WBE) <input type="checkbox"/> Minority Women Business Enterprise (MWBE) Certification number:		
Website:	City of Everett Business License #	
Proposer Contact Name (if different from Authorizing Official):	Proposer Contact Title:	
Proposer Contact Email:	Proposer Contact Direct Phone:	
Proposer Contact Address (if different from above):		
City:	State:	ZIP:
Authorizing Official Name:	Authorizing Official Title:	
Authorizing Official Email:	Authorizing Official Phone:	
Authorizing Official Signature* and Date :		
<p>*A signature means an original signature, a copy of an original signature, a PDF scan of an original signature, or a DocuSign/AdobeSign electronic signature.</p>		



PROPERTY DISPOSITION AGREEMENT

This Property Disposition Agreement (this “**Agreement**”) is effective as of the date of last signature below (“**Effective Date**”), between the City of Everett, a Washington municipal corporation (“**Seller**”), and the Purchaser identified below in the Basic Provisions (“**Purchaser**”), (individually a “**Party**” and collectively the “**Parties**”). Seller desires to sell the Property as defined below, Purchaser desires to purchase such Property, and, in consideration of the mutual agreements set forth herein, the Parties agree as follows:

1. BASIC PROVISIONS. The following definitions and provisions apply and are part of this Agreement:

Purchaser Address	Enter Purchaser name
	Enter Purchaser street address
	Enter Purchaser city, state, zip
Purchaser Email Address	Enter Purchaser email address
Purchase Price	\$enter #
Earnest Money	\$enter # (if “0” or left blank, then there is no earnest money)
Land	Seller owns the land located at 1301 Lombard Ave., Everett, Washington. The legal description of the land is attached as <u>Exhibit A</u> and incorporated herein by this reference. If the parties determine that a drawing of the land is necessary, it will also be included as part of <u>Exhibit A</u> .
Title Company and Escrow Agent	Name and address of title company/escrow agent
Seller Address	Real Property Manager City of Everett 802 E. Mukilteo Blvd., Everett, WA 98203
Seller Email Address	Email address for notices

Preliminary Title Report	Select One If Preliminary Title Report (the “Commitment”) has already been delivered, enter report information: <i>Enter report date, file number, etc.</i>
Survey	Select One
Title Review, Inspection and Closing (must select one and fill it in)	<input type="checkbox"/> <u>Title Review Complete and Inspection Is Waived.</u> <ul style="list-style-type: none"> ➤ Purchaser has completed review of the Commitment and Survey (if any) and has no title objections under Section 7(b) below. Except for exceptions that are liens created by Seller (which Seller hereby agrees to remove prior to Closing under Section 7 below), all exceptions set forth in the Preliminary Title Report and Survey are Permitted Exceptions. ➤ Purchaser waives inspection. Purchaser has already completed all inspections, if any, that Purchaser deems necessary. ➤ The Closing Date shall be no later than <i>number of days</i> after the Effective Date of this Agreement, unless the Seller’s Real Property Manager and an authorized representative of Purchaser agree in writing to a later date. <input type="checkbox"/> <u>Title Review Complete but Inspection Period Is Still Required.</u> <ul style="list-style-type: none"> ➤ Purchaser has completed review of the Preliminary Title Report and Survey (if any) and has no title objections under Section 7(b) below. Except for exceptions that are liens created by Seller (which Seller hereby agrees to remove prior to Closing under Section 7 below), all exceptions set forth in the Preliminary Title Report and Survey are Permitted Exceptions. ➤ The Inspection Period begins on the Effective Date and ends <i>number of days</i> calendar days after the Effective Date, unless the Seller’s Real Property Manager and an authorized representative of Purchaser agree in writing to a later date. ➤ The Closing Date shall be no later than <i>number of days</i> calendar days after the date Purchaser’s Inspection condition under Section 6 is waived or deemed to be waived, unless the Seller’s Real Property Manager and an authorized representative of Purchaser agree in writing to a later date. <input type="checkbox"/> <u>Title Review and Inspection Period Are Both Still Required.</u> <ul style="list-style-type: none"> ➤ The Inspection Period begins on the Effective Date and ends <i>number of days (must be 30 or more)</i> calendar days after the Effective Date, unless the Seller’s Real Property Manager and an authorized representative of Purchaser agree in writing to a later date. ➤ The Closing Date shall be no later than <i>number of days</i> calendar days after the date Purchaser’s Inspection condition under Section 6 is waived or deemed to be waived, unless the Seller’s Real Property

	<p>Manager and an authorized representative of Purchaser agree in writing to a later date.</p>
<p>City Council Approval (must select one)</p>	<p><input type="checkbox"/> The Everett City Council has already approved this Agreement and authorized the sale and conveyance of the Property.</p> <p><input type="checkbox"/> Everett City Council action has not yet occurred. This Agreement terminates if the Everett City Council has not by the Closing Date approved this Agreement and authorized the sale and conveyance of the Property. If such approval and authorization for any reason does not occur by the Closing Date, then this Agreement shall terminate, the Earnest Money shall be returned to Purchaser upon demand, and Seller and Purchaser shall have no further rights or obligations hereunder except for those rights or obligations that expressly survive termination.</p>
<p>Seller's Broker</p>	<p>Seller's Broker is <u>Enter broker information or "none"</u></p> <p>Seller is solely responsible for payment of Seller's Broker's fees and commissions, which will be in accordance with separate agreement between Seller and Seller's Broker.</p>
<p>Purchaser's Broker</p>	<p>Purchaser's Broker is <u>Enter broker information or "none"</u> .</p> <p>If there is a Purchaser's Broker, select and fill-in one option below:</p> <p><input type="checkbox"/> Purchaser is solely responsible for payment of Purchaser's Broker's fees and commissions, which will be in accordance with separate agreement between Purchaser and Purchaser's Broker.</p> <p><input type="checkbox"/> If the transaction hereunder closes, Seller at Closing will pay Purchaser's Broker a commission equal to <u>Enter number</u>% of the Purchase Price.</p>
<p>Additional Provisions</p>	<p>At Closing, a construction and use restriction covenant in the form attached hereto as <u>Exhibit C</u> (the "Project Covenant") executed by Purchaser and Seller will be recorded against the Property.</p> <p>The following is added as a Seller closing delivery under Section 5(b) below:</p> <p><u>Project Covenant</u>. The Project Covenant, in the form attached hereto as <u>Exhibit C</u>, duly executed and acknowledged by Seller.</p> <p>The following is added as a Purchaser closing delivery under Section 5(c) below:</p> <p><u>Project Covenant</u>. The Project Covenant, in the form attached hereto as <u>Exhibit C</u>, duly executed and acknowledged by Purchaser.</p>

2. PROPERTY. For the consideration and upon and subject to the terms, provisions and conditions in this Agreement, Seller shall sell and convey to Purchaser, and Purchaser shall buy from Seller, the land located at and commonly known as described in the Basic Provisions, legally described on Exhibit A attached hereto (the “**Land**”), together with all of Seller’s right, title and interest in (a) all structures, fixtures, buildings and improvements situated on the Land (collectively, the “**Improvements**”), and (b) any and all assignable rights, titles, powers, privileges, easements, licenses, rights-of-way and interests appurtenant to the Land and the Improvements, including, without limitation, all assignable existing development rights, permits, applications and licenses appurtenant to or used in connection with the Land and Improvements (collectively, the “**Property**”).

3. PURCHASE PRICE. Purchaser shall pay and Seller shall accept a total purchase price for the Property in the amount stated in the Basic Provisions (the “**Purchase Price**”), payable in cash or other immediately available funds at Closing.

4. EARNEST MONEY. Within two (2) Business Days after the Effective Date, Purchaser will deliver to the Title Company identified in the Basic Provisions (the “**Title Company**”), as escrow agent, an amount equal to the Earnest Money stated in the Basic Provisions as earnest money (the “**Earnest Money**”), which the Title Company will deposit and hold in an interest-bearing account. If (A) Purchaser does not timely deliver the Earnest Money as provided in this Section 4 or (B) unless otherwise provided in the Basic Provisions, the Title Company is unable to immediately cash the check representing the Earnest Money and obtain the proceeds thereof, then this Agreement shall be null and void, and neither party shall have any right or obligation hereunder. If the transaction contemplated by this Agreement is closed, then the Earnest Money will be applied toward payment of the Purchase Price to be paid at Closing. If the transaction is not closed, then the Title Company will disburse the Earnest Money in accordance with the provisions of this Agreement.

5. CLOSING.

(a) **Time and Place.** Subject to the conditions in Section 8 and Section 9, the consummation of the purchase and sale of the Property in accordance with this Agreement (the “**Closing**”) shall occur on a date agreed to by Seller and Purchaser which shall be no later than the date as set forth in the Basic Provisions, unless the Seller’s Real Property Manager and an authorized representative of Purchaser agree in writing to a later date (the “**Closing Date**”). If Closing does not occur on or before such date through no fault or breach of this Agreement by Seller or Purchaser, and Seller’s Real Property Manager and Purchaser do not otherwise agree in writing to extend the Closing Date, then this Agreement shall automatically terminate, the Earnest Money shall be returned to Purchaser upon demand, and Seller and Purchaser shall have no further rights or obligations hereunder except for those rights or obligations that expressly survive termination.

(b) **Seller’s Closing Deliveries.** At the Closing, Seller will deliver or cause to be delivered to the escrow at the Title Company the following:

1. **Deed.** A Bargain and Sale Deed (the “**Deed**”), in the form attached hereto as Exhibit B, duly executed and acknowledged by Seller, conveying title in fee simple to

the Land and Improvements, free and clear of any and all liens, encumbrances, easements and assessments, created by, through or under Seller, except for Permitted Exceptions (defined below) and any others approved by Purchaser in writing.

2. **Possession**. Possession of the Property, subject only to the Permitted Exceptions.

3. **Non-foreign Affidavit**. A non-foreign affidavit, duly executed by Seller.

4. **Authority**. Evidence reasonably acceptable to the Title Company of Seller's capacity and authority for the closing of this transaction.

5. **Other Documents**. Any other documents that may be reasonably required by the Title Company to close this transaction, duly executed (provided however, no such additional document shall expand any obligation, covenant, representation or warranty of Seller or result in any new or additional obligation, covenant, representation or warranty of Seller under this Agreement beyond those expressly set forth in this Agreement).

(c) **Purchaser's Closing Deliveries**. At the Closing, Purchaser will deliver or cause to be delivered to the escrow at the Title Company the following:

1. **Purchase Price**. The Purchase Price (reduced by the amount, if any, of the Earnest Money applied for that purpose).

2. **Authority**. Evidence reasonably acceptable to the Title Company of Purchaser's capacity and authority for the closing of this transaction.

3. **Other Documents**. Any other documents that may be reasonably required by Seller or the Title Company to close this transaction, duly executed (provided however, no such additional document shall expand any obligation, covenant, representation or warranty of Purchaser or result in any new or additional obligation, covenant, representation or warranty of Purchaser under this Agreement beyond those expressly set forth in this Agreement).

(d) **Expenses of Closing**. Seller shall pay the real estate excise tax related to the transfer of the Property (if any), one half of any escrow fees and costs, and that portion of the premiums, costs and fees related to the standard coverage portion of the Title Policy, and any other expenses stipulated to be paid by Seller under other provisions of this Agreement. Purchaser shall pay any sales or use tax related to the transfer of the Personal Property, one half of any escrow fees and costs, if Purchaser desires an extended coverage owner's policy of title insurance, that portion of the premiums, costs and fees related to the extended coverage portion of the Title Policy, including, without limitation, any required survey, all recording fees, the cost and fees for all endorsements to the Title Policy requested by Purchaser, the costs of any lenders policies and endorsements thereto, recording fees, and any other expenses stipulated to be paid by Purchaser under other provisions of this Agreement.

(e) **Prorations.** At Closing, all real estate, personal property and ad valorem taxes, assessments and bonds ("**Taxes**") payable with respect to the Property shall be prorated between Seller and Purchaser as of the Closing Date for the year in which the Closing is held on the basis of the statements for such amounts for such year. If statements for the current year are not available as of the Closing Date, the proration between Seller and Purchaser shall be made on the basis of the amounts due for the immediately prior year and shall be subject to adjustment outside of escrow after the Closing within sixty (60) days after the bills for the applicable period are received. Buyer shall be solely responsible for any rollback taxes that become due and payable as a result of this transaction. The provisions of this Section 5(e) shall survive Closing.

6. Due Diligence and Inspection.

(a) **Inspection.** Subject to the terms and conditions of this Section 6, Purchaser may conduct an acquisition due diligence investigation of the Property (the "**Inspection**"), including a physical inspection of the Property to determine the condition of the Property including the existence of any environmental hazards or conditions during the period commencing on the Effective Date and ending as set forth in the Basic Provisions (the "**Inspection Period**") unless the Seller's Real Property Manager and an authorized representative of Purchaser agree in writing to a later date. The Inspection shall be conducted at Purchaser's sole cost and expense. During the Inspection Period, subject to the limits set forth in this Section 6, Seller shall provide Purchaser with full access to the Property. With Seller's permission, after Seller has received advance notice sufficient to permit it to schedule Purchaser's examination of the Property in an orderly manner, Purchaser or its agents or contractors may enter upon the Property for purposes of analysis or other tests and inspections deemed necessary by Purchaser for the Inspection; provided, however, Purchaser is not permitted to perform any intrusive testing, including, without limitation, a Phase II environmental assessment or boring, without (i) submitting to Seller the scope and inspections for the testing, and (ii) obtaining the prior written consent of Seller which may be withheld in Seller's sole and absolute discretion. Seller may have a representative present at any inspection or testing made by Purchaser on the Property. Purchaser shall not alter the physical condition of the Property without notifying Seller of its requested tests, and obtaining the prior written consent of Seller to any physical alteration of the Property, which may be withheld in Seller's sole and absolute discretion. Purchaser will exercise its best efforts to conduct or cause to be conducted all inspections and tests in a manner and at times that will not unreasonably interfere with Seller's use and occupancy of the Property. Purchaser shall promptly restore the Property to its original condition if damaged or changed due to the tests and inspections performed by Purchaser, free of any mechanic's or materialman's liens or other encumbrances arising out of any of the inspections or tests. Unless otherwise agreed in writing by the Seller's Real Property Manager in writing, prior to the date that Purchaser or its agents or contractors first enter the Property, Purchaser and Purchaser's agents and contractors shall procure and maintain throughout the term of this Agreement, commercial general liability insurance, including direct contractual and contingent liability, with limits of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate. Seller shall be included as an additional insured(s) under the required commercial general liability coverage. In addition, this insurance must include: (i) personal injury

liability with employee and contractual exclusions removed; and (ii) a waiver of subrogation in favor of Seller without exception for the negligence of any additional insured. Unless otherwise agreed in writing by the Seller's Real Property Manager in writing, neither Purchaser nor Purchaser's agents or contractors will be permitted to come onto the Property unless and until Purchaser has provided to Seller copies of the insurance policy or policies of Purchaser and Purchaser's agents and contractors evidencing this coverage, the additional insured status of Seller, and the waiver of subrogation. PURCHASER HEREBY INDEMNIFIES AND HOLDS SELLER HARMLESS FROM ALL CLAIMS, LIABILITIES, DAMAGES, LOSSES, COSTS, EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES AND COSTS), ACTIONS, AND CAUSES OF ACTION ARISING OUT OF OR IN ANY WAY RELATING TO THE INSPECTION PERFORMED BY PURCHASER, ITS AGENTS, LENDERS, CONTRACTORS, AND/OR EMPLOYEES. Purchaser further waives and releases any claims, demands, damages, actions, causes of action or other remedies of any kind whatsoever against Seller for property damages or bodily and/or personal injuries to Purchaser, its agents, lenders, contractors, and/or employees arising out of the Inspection or use in any manner of the Property.

(b) **Termination.** If Purchaser determines, in its sole judgment, that the Property is not suitable for any reason for Purchaser's intended use or purpose, or is not in satisfactory condition, then Purchaser may terminate this Agreement by written notice to Seller before the expiration of the Inspection Period, in which case this Agreement shall terminate, the Earnest Money shall be returned to Purchaser upon demand, and Seller and Purchaser shall have no further rights or obligations hereunder except for those rights or obligations that expressly survive termination. If this Agreement is not terminated by Purchaser in writing on or before the expiration of the Inspection Period, the Inspection condition and any objections regarding the Inspection shall be deemed to have been waived by Purchaser for all purposes, and the Earnest Money shall become non-refundable.

(c) **Waiver of Inspection.** If Purchaser has waived inspection in the Basic Provisions, then such waiver means that the Inspection Period is deemed to have expired on the Effective Date, and the Earnest Money is non-refundable as of the Effective Date.

(d) **Survival.** The provisions of this Section 6 shall survive the Closing or any termination of this Agreement and are not subject to any liquidated damage limitation on remedies, notwithstanding anything to the contrary in this Agreement.

7. Title Approval.

(a) **Commitment; Survey.** Seller will use reasonable diligence to cause to be delivered to Purchaser within ten (10) Business Days after the Effective Date: (i) unless the Basic Provisions state otherwise, a Preliminary Title Report with copies of all recorded instruments affecting the Property and recited as exceptions in the Preliminary Title Report (collectively, the "***Commitment***") and (ii) unless the Basic Provisions state otherwise, a copy of the most recent survey of the Property in Seller's possession, if any (the "***Survey***"). If Purchaser or the Title Company requires a new survey for any reason, then Purchaser, at Purchaser's cost, shall obtain a new survey ("***New Survey***") of the Property made on the ground by a registered professional land surveyor, reasonably acceptable to Seller, that conforms to the requirements of an ALTA/ACSM minimum standard detail survey and shall provide a copy of the New Survey to Seller.

(b) **Objections.** Unless the Basic Provisions state otherwise: If Purchaser has an objection to items disclosed in the Commitment or Survey, then Purchaser must give Seller written notice of its objections within ten (10) days after receipt of the latter of the Commitment and Survey, but in any event not later than twenty (20) days before the expiration of the Inspection Period. Any exception to title identified in the Commitment or Survey not objected to by Purchaser in the manner and within the time period specified in this Section 7(b) shall be deemed accepted by Purchaser. If Purchaser gives timely written notice of its objections, then Seller shall notify Purchaser in writing within ten (10) days after receipt of Purchaser's notice whether Seller elects to remove or to cause the Title Company to insure against the same. Seller's failure to deliver such written notice shall constitute Seller's election not to cure Purchaser's title objections. Seller shall have no obligation to expend any money, to incur any contractual or other obligations, or to institute any litigation in pursuing its efforts other than to remove at Closing liens of an ascertainable amount created by Seller. If within such ten-day period, Seller elects not to cure any of Purchaser's title objections, other than such liens, then, within five (5) days after such ten-day period, but in any event on or before expiration of the Inspection Period, Purchaser shall elect, as its sole and exclusive remedy to either: (i) terminate this Agreement, in which case the Earnest Money shall be refunded to Purchaser, upon demand and Seller and Purchaser shall have no further rights or obligations hereunder except for those rights or obligations that expressly survive termination; or (ii) waive the unsatisfied objection(s) (which shall thereupon become a Permitted Exception) and proceed to Closing. Purchaser's failure to give such notice of termination on or before such date shall constitute Purchaser's waiver of any title objections that Seller is unwilling to cure, and such title objections shall be deemed Permitted Exceptions, and Closing shall occur as provided in this Agreement without any reduction of or credit against the Purchase Price.

(c) **Permitted Exceptions.** The phrase "**Permitted Exceptions**" means those exceptions to title set forth in the Commitment or Survey and that have been accepted or deemed accepted by Purchaser under this Section 7 or the Basic Provisions. The failure of Seller to deliver a Commitment or a Survey satisfying the requirements of this Section 7 will not under any circumstances extend the period for review of the Commitment or Survey beyond the Inspection Period, and Purchaser's sole and exclusive remedy for Seller's failure, if any, shall be to terminate this Agreement before the expiration of the Inspection Period in accordance with the provisions of this Agreement. If Purchaser obtains a New Survey and the New Survey shows exceptions not previously shown on the Survey ("**New Exceptions**"), Purchaser may object to any New Exceptions in accordance with the mechanism contained in this Section 7; provided Purchaser may not object to any New Exceptions after the Inspection Period. If Purchaser fails to timely object to a New Exception, the New Exception shall constitute a Permitted Exception.

8. Purchaser's Conditions to Closing. In addition to the conditions to Purchaser's obligations under Section 6 as to the Inspection and Section 7 as to title to the Property, Purchaser's obligation to close the transaction contemplated by this Agreement is subject to the satisfaction or waiver, in Purchaser's sole discretion, on or before the Closing Date or such other time as specifically set forth below in this Section 7, of the following conditions:

(a) **Representations.** The representations and warranties of Seller contained herein shall be true and correct as of the Closing Date.

(b) **Seller's Covenants.** Seller shall have materially performed all agreements, undertakings and obligations and complied with all conditions required by this Agreement to be performed and/or complied with by Seller.

(c) **No Actions.** No action, suit or proceeding shall have been instituted or threatened by any governmental agency or other individual or entity relating to the Property.

The conditions set forth in this Section 8 are solely for the benefit of Purchaser and may be waived only by Purchaser in accordance with the terms of this Agreement. Without limitation of any other terms of this Agreement, if the conditions set forth in this Section 8 are not satisfied in accordance with this Agreement, then Purchaser shall be entitled to terminate this Agreement by written notice to Seller and after such notice the Earnest Money shall be returned to Purchaser, upon demand, and Seller and Purchaser shall have no further rights or obligations hereunder except for those rights or obligations that expressly survive termination.

9. Seller's Conditions to Closing. Seller's obligation to close the transaction contemplated by this Agreement is subject to the satisfaction or waiver, in Seller's sole discretion, on or before the Closing Date, of the following conditions:

(a) **Representations.** The representations and warranties of Purchaser contained herein shall be true and correct as of the Closing Date.

(b) **Purchaser's Covenants.** Purchaser shall have performed all agreements, undertakings and obligations and complied with all conditions required by this Agreement to be performed and/or complied with by Purchaser.

(c) **City Council Approval.** The Everett City Council has approved this Agreement and authorized the sale and conveyance of the Property.

(d) **No Actions.** No action, suit or proceeding shall have been instituted or threatened by any governmental agency or other individual or entity relating to the Property.

The conditions set forth in this Section 9 are solely for the benefit of Seller and may be waived only by Seller in accordance with the terms of this Agreement. Without limitation of any other terms of this Agreement, if Purchaser does not terminate this Agreement in accordance with Section 6(b) and any of the conditions set forth in this Section 9 are not satisfied, then Seller shall be entitled to terminate this Agreement by written notice to Purchaser and Seller also shall have all of the rights and remedies available to Seller under Section 14(a).

10. Real Estate Broker or Agent Commissions.

(a) Except for commissions or fees to Seller's Broker and/or Purchaser's Broker identified in the Basic Provisions, Purchaser and Seller represent and warrant to each other that no real estate commissions, finders' fees, or brokers' fees have been or will be incurred in connection with the sale of the Property by Seller to Purchaser. Seller represents to the other that, except for Seller's Broker (if any) identified in the Basic Provisions, it has not authorized any broker or finder to act on its behalf in connection with the sale and purchase under this Agreement and that it has not dealt with any broker or finder purporting to act on behalf of any other party. Purchaser represents to Seller that, except for Purchaser's Broker (if any) identified in the Basic Provisions, it has not authorized any broker or finder to act on its behalf in connection

with the sale and purchase under this Agreement and that it has not dealt with any broker or finder purporting to act on behalf of any other party.

(b) Unless otherwise provided in the Basic Provisions, Purchaser is solely responsible for paying Purchaser's Broker and Seller is solely responsible for paying Seller's Broker. Except as to any commission or fee that a Party expressly agrees to pay in the Basic Provisions, Purchaser and Seller each hereby agree to indemnify, defend, and hold the other harmless from any claim, liability, obligation, cost, or expense (including attorneys' fees and expenses) for fees or commissions relating to Purchaser's acquisition of the Property asserted against either Party by any broker or other person claiming by, through, or under the indemnifying Party or whose claim is based on the indemnifying Party's acts. The provisions of this Section shall survive the Closing or any termination of this Agreement.

11. Representations and Warranties of Seller.

(a) **Representations and Warranties.** Seller hereby represents and warrants to Purchaser, which representations and warranties shall be deemed made by Seller to Purchaser as of the Effective Date and also as of the Closing Date, that to the actual knowledge of Seller:

1. **Parties in Possession.** There are no parties in possession of any portion of the Property except Seller or as otherwise disclosed to Purchaser in writing during the Inspection Period.

2. **Authority.** Subject to City Council approval and authorization as described in the Basic Provisions: Seller has the power and authority to sell and convey the Property as provided in this Agreement and to carry out Seller's obligations under this Agreement, and that all requisite action necessary to authorize Seller to enter into this Agreement and to carry out Seller's obligations under this Agreement has been, or on the Closing Date will have been, taken.

3. **No Litigation; Eminent Domain.** There are no actions, suits or proceedings pending for which Seller has received service of process, before or by any judicial, administrative or union body, any arbiter or any governmental authority, against or affecting Seller or the Property. Seller has not received any written notice of a pending or threatened eminent domain or similar proceeding that would affect the Land or Improvements.

4. **Not a Foreign Person.** Seller is not a "foreign person" as defined in Section 1445 of the Internal Revenue Code of 1986, as amended, and the Income Tax Regulations thereunder.

5. **OFAC.** Seller is not a person or entity described by Section 1 of the Executive Order (No. 13,224) Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism, 66 Fed. Reg. 49,079 (September 25, 2001), and does not engage in any dealings or transactions, and is not otherwise associated, with any of those persons or entities.

(b) **Survival Period.** Notwithstanding anything else to the contrary contained in this Agreement, all of Seller's representations and warranties, contained in this Section 11 of this Agreement shall survive the Closing for a period of nine (9) months (the "***Survival Period***").

Purchaser acknowledges that it is familiar with the ownership and operation of real estate similar to the Property, and Purchaser and Seller have negotiated and agreed upon the length of the Survival Period as an adequate period of time for Purchaser to discover any and all facts that could give rise to a claim or cause of action for a breach of a representation. Purchaser may bring an action against Seller on the breach of any Seller's representations and warranties in this Section 11, but only if: (i) Purchaser first learns of the breach after Closing and files the action within the Survival Period and (ii) the damage to Purchaser on account of the breach (individually or when combined with damages from other breaches) equals or exceeds Fifty Thousand and No/100 Dollars (\$50,000.00). Furthermore, Purchaser agrees that Seller's liability based on or through any breach of Seller's representations and warranties in this Section 11 or any other claim with respect to the Property, at law or in equity, shall not exceed, in the aggregate, one percent (1%) of the Purchase Price. As used in Section 11(a), the phrase "to the actual knowledge of Seller" means to the actual knowledge of Seller's Real Property Manager ("**Seller's Representative**") as of the Effective Date of this Agreement, without the duty of inquiry. The representations and warranties contained in Section 11 are the representations and warranties of Seller, not Seller's Representative, and shall not create any individual liability for Seller's Representative. The provisions of this Section 11 shall survive the Closing.

12. Representations and Warranties of Purchaser. Purchaser represents and warrants to Seller, which representations and warranties shall be deemed made by Purchaser to Seller as of the Effective Date and also as of the Closing Date:

(a) **Authority.** Purchaser has the full right, power and authority to purchase the Property as provided in this Agreement and to carry out Purchaser's obligations hereunder, and that all requisite action necessary to authorize Purchaser to enter into this Agreement and to carry out Purchaser's obligations hereunder has been taken.

(b) **OFAC.** Purchaser is not a person or entity described by Section 1 of the Executive Order (No. 13,224) Blocking Property and Prohibiting Transactions With Persons Who commit, Threaten to Commit, or Support Terrorism, 66 Fed. Reg. 49,079 (September 25, 2001), and to Purchaser's knowledge does not engage in any dealings or transactions, and is not otherwise associated, with any of those persons or entities.

13. Limitation of Seller's Representations and Warranties; Release.

(a) **Disclaimer.** The representations and warranties of Seller in Section 11 (or any deed or other document, affidavit or certificate executed or delivered in connection herewith) (collectively, the "**Express Representations**") are the sole and only representations and warranties of Seller with respect to the transaction contemplated by this Agreement. Except for Seller's Express Representations, Seller hereby specifically disclaims any warranty, guaranty, or representation, oral or written; past, present or future, of, as to, or concerning (i) the nature and condition of the Property, including but not by way of limitation, the water, soil, geology and the suitability thereof, for any and all activities and uses which Purchaser may elect to conduct thereon, income to be derived therefrom or expenses to be incurred with respect thereto, or any obligations or any other matter or thing relating to or affecting the same; (ii) the manner of construction and condition and state of repair or lack of repair of any Improvements located thereon; (iii) the nature and extent of any easement, right-of-way, lien, encumbrance or license

reservation; and (iv) the compliance of the Property or the operation of the Property with any laws, rules, ordinances, or regulations of any government or other body. EXCEPT AS STATED HEREIN, IN CONNECTION WITH THE CONVEYANCE OF THE PROPERTY AS PROVIDED FOR HEREIN, SELLER HAS NOT MADE AND DOES NOT MAKE, ANY REPRESENTATIONS, WARRANTIES OR COVENANTS OF ANY KIND OR CHARACTER WHATSOEVER, WHETHER EXPRESS OR IMPLIED, WITH RESPECT TO THE QUALITY OR CONDITION OF THE PROPERTY, THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH PURCHASER MAY CONDUCT THEREON, COMPLIANCE BY THE PROPERTY WITH ANY LAWS, RULES, ORDINANCES OR REGULATIONS OF ANY APPLICABLE GOVERNMENTAL AUTHORITY OR HABITABILITY, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND SPECIFICALLY, SELLER DOES NOT MAKE ANY REPRESENTATIONS REGARDING HAZARDOUS WASTE, AS DEFINED BY THE LAWS OF THE STATE OF WASHINGTON AND ANY REGULATIONS ADOPTED PURSUANT THERETO OR THE U. S. ENVIRONMENTAL PROTECTION AGENCY REGULATIONS AT 40 C.F.R., PART 261, OR THE DISPOSAL OF ANY HAZARDOUS WASTE OR ANY OTHER HAZARDOUS OR TOXIC SUBSTANCES IN, ON OR UNDER THE PROPERTY. Except for the Express Representations, Purchaser agrees to accept the Property at closing with the Property being in its present AS IS condition WITH ALL FAULTS.

(b) **Property Condition; No Reliance.** PURCHASER ACKNOWLEDGES AND AGREES THAT EITHER PURCHASER IS, OR HAS ENGAGED AND IS RELYING ON PERSONS WHO ARE, EXPERIENCED IN THE OWNERSHIP, DEVELOPMENT AND/OR OPERATION OF PROPERTIES SIMILAR TO THE PROPERTY. PURCHASER ACKNOWLEDGES AND AGREES THAT PURCHASER PRIOR TO THE CLOSING HAS HAD THE OPPORTUNITY TO INSPECT OR WILL HAVE INSPECTED THE PROPERTY OR CAUSED THE PROPERTY TO BE INSPECTED TO ITS SATISFACTION AND IS QUALIFIED TO MAKE SUCH INSPECTION. PURCHASER ACKNOWLEDGES AND AGREES THAT IT IS FULLY RELYING ON PURCHASER'S (OR PURCHASER'S REPRESENTATIVES') INSPECTIONS OF THE PROPERTY AND EXCEPT FOR THE EXPRESS REPRESENTATIONS, NOT UPON ANY STATEMENT (ORAL OR WRITTEN) WHICH MAY HAVE BEEN MADE OR MAY BE MADE (OR PURPORTEDLY MADE) BY SELLER OR ANY OF ITS REPRESENTATIVES. IF PURCHASER HAS WAIVED THE OPPORTUNITY TO INSPECT, PURCHASER ACKNOWLEDGES AND AGREES THAT SUCH WAIVER WAS AT PURCHASER'S ABSOLUTE DISCRETION AND WAS BASED ON PURCHASER'S OWN EVALUATION, NOT UPON ANY STATEMENT (ORAL OR WRITTEN) WHICH MAY HAVE BEEN MADE OR MAY BE MADE (OR PURPORTEDLY MADE) BY SELLER OR ANY OF ITS REPRESENTATIVES. PURCHASER ACKNOWLEDGES AND AGREES THAT PURCHASER HAS (OR PURCHASER'S REPRESENTATIVES HAVE), OR PRIOR TO THE CLOSING WILL HAVE, THOROUGHLY INSPECTED AND EXAMINED THE PROPERTY (OR HAVE HAD, BUT WAIVED, THE OPPORTUNITY TO SO INSPECT AND EXAMINE) TO THE EXTENT DEEMED NECESSARY BY PURCHASER IN ORDER TO ENABLE PURCHASER TO EVALUATE THE CONDITION OF THE PROPERTY AND ALL OTHER ASPECTS OF THE PROPERTY (INCLUDING, BUT NOT LIMITED TO, THE ENVIRONMENTAL CONDITION OF THE PROPERTY); AND PURCHASER ACKNOWLEDGES THAT PURCHASER IS RELYING SOLELY UPON ITS OWN (OR ITS REPRESENTATIVES') INSPECTION, EXAMINATION AND EVALUATION OF THE PROPERTY, EXCEPT FOR THE EXPRESS REPRESENTATIONS. PURCHASER HEREBY EXPRESSLY ASSUMES ALL RISKS, LIABILITIES, CLAIMS, DAMAGES AND COSTS (AND AGREES THAT SELLER SHALL NOT BE LIABLE FOR ANY SPECIAL, DIRECT, INDIRECT, CONSEQUENTIAL OR OTHER DAMAGES) RESULTING OR ARISING FROM OR RELATED TO THE OWNERSHIP, USE, CONDITION, LOCATION, MAINTENANCE, REPAIR

OR OPERATION OF THE PROPERTY ARISING OR ACCRUING FROM EVENTS OCCURRING FROM AND AFTER THE DATE OF CLOSING. PURCHASER EXPRESSLY WAIVES (TO THE EXTENT ALLOWED BY APPLICABLE LAW) ANY CLAIMS UNDER FEDERAL, STATE OR OTHER LAW THAT PURCHASER MIGHT OTHERWISE HAVE AGAINST SELLER RELATING TO THE USE, CHARACTERISTICS OR CONDITION OF THE PROPERTY EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED BY THIS AGREEMENT. ANY REPAIRS PAID FOR BY SELLER PURSUANT TO THIS AGREEMENT, IF ANY, SHALL BE DONE WITHOUT ANY WARRANTY OR REPRESENTATION BY SELLER, AND SELLER HEREBY EXPRESSLY DISCLAIMS ANY WARRANTY OR REPRESENTATION OF ANY KIND WHATSOEVER IN CONNECTION WITH SUCH REPAIRS. If Purchaser elects (i) not to inspect the Property, (ii) to terminate this Agreement on or before the expiration of the Inspection Period, or (iii) to proceed to Closing, such election will be made at Purchaser's absolute discretion, in reliance solely upon the tests, analyses, inspections and investigations that Purchaser makes, or had the right to make and opted not, or otherwise failed, to make, and not in reliance upon any alleged representation made by or on behalf of Seller, except for the Express Representations.

(c) **Release.** Except for the Express Representations, Purchaser, for itself and its successors in interest, releases Seller and its affiliates and their respective officials, agents employees, and advisors (collectively the "***Seller Parties***") from, and waives all claims and liability against the Seller Parties for, any structural, physical, environmental, economic, legal, financial or operational condition at the Property, and hereby releases the Seller Parties from, and waives all liability against the Seller Parties attributable to, the structural, physical, environmental, economic, legal, financial or operational condition of the Property, including, without limitation, (i) any damages arising out of a violation of any legal requirement with respect to the physical condition, maintenance or improvement of the Property; (ii) any damages arising out of the state of the physical condition, maintenance or improvement of the Property on or before the Closing Date; (iii) any damages arising out of the presence, discovery or removal of any hazardous materials or substances in, at, about or under the Property, or connected with or arising out of any and all claims or causes of action based upon any environmental law, including CERCLA (Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by SARA Superfund Amendment and Reauthorization Act of 1986 and as may be further amended from time to time) or any related claims or causes of action or any other federal, state or municipal based statutory or regulatory causes of action for environmental contamination at, in or under the Property.

(d) **Seller Disclosure Statement Waiver.** To the maximum extent permitted by law and pursuant to RCW 64.06.010(7), for valuable independent consideration, the receipt and sufficiency of which are hereby acknowledged by Purchaser, Purchaser expressly waives its right to receive from Seller a completed seller disclosure statement (the "**Seller Disclosure Statement**") for the Property as required to be provided by Seller pursuant to RCW 64.06.013, as amended. Notwithstanding the foregoing, if the answer to any of the questions in the section of the Seller Disclosure Statement entitled "Environmental" would be "yes," then Purchaser does not waive its right to receive the completed "Environmental" section of the Seller Disclosure Statement, and Seller shall provide Purchaser with such completed section of the Seller Disclosure Statement for the Property.

(e) The provisions of this Section 13 shall survive indefinitely any Closing or termination of this Agreement and shall not be merged into the Closing documents. Seller and Purchaser hereby specifically acknowledge and agree to the provisions of this Section 13:

Seller: _____ Purchaser: _____

14. Default.

(a) **Seller's Remedies.** If, at or prior to Closing (i) Purchaser fails to perform its obligations pursuant to this Agreement for any reason except failure by Seller to perform its obligations hereunder, or (ii) any one or more of Purchaser's representations or warranties are breached in any material respect, then Seller, as its sole and exclusive remedy, may terminate this Agreement and receive the Earnest Money and all interest thereon, upon demand, as liquidated damages and not as a penalty, in full satisfaction of claims against Purchaser hereunder. Seller and Purchaser agree that Seller's damages resulting from Purchaser's default are difficult, if not impossible, to determine, and the Earnest Money is a fair estimate of those damages and has been agreed to in an effort to cause the amount of damages to be certain. Notwithstanding anything in this Section 14(a) to the contrary, in the event of Purchaser's default or termination of this Agreement, Seller shall have all remedies available at law or in equity if Purchaser or any party related to or affiliated with Purchaser is asserting any claims or right to the Property that would otherwise delay or prevent Seller from having clear, indefeasible and marketable title to the Property. If Closing is consummated, then Seller shall have all remedies available at law or in equity if Purchaser fails to perform any obligation of Purchaser under this Agreement.

(b) **Purchaser's Remedies.** If Seller fails to perform its obligations pursuant to this Agreement for any reason except failure by Purchaser to perform its obligations hereunder, or if before Closing any one or more of Seller's representations or warranties are breached in any material respect, and this failure or breach is not cured within ten (10) Business Days after written notice from Purchaser to Seller, then Purchaser may, as its sole and exclusive remedy, either: (i) terminate this Agreement by giving Seller timely written notice of its election before or at Closing and recover the Earnest Money and all interest thereon upon demand or (ii) waive Seller's failure or breach and proceed to Closing in accordance with the terms of this Agreement as if such failure or breach had not occurred. To the extent Purchaser elects to waive such failure or breach and proceed to Closing, Purchaser will be deemed to have forever waived any right to recover from Seller on account of such failure or breach. If, prior to Closing, Purchaser obtains knowledge that any representation or warranty of Seller in this Agreement is incorrect in any material respect, Purchaser shall promptly notify Seller of such incorrectness. Purchaser's failure to notify Seller within three (3) days after Purchaser obtained such knowledge shall be deemed as Purchaser's election to proceed to Closing and Purchaser will be deemed to have forever waived any right to terminate the Agreement or recover from Seller on account of such failure or breach. Purchaser's remedies shall be limited to those described in this Section 14(b). The provisions of this Section 14(b) shall survive the Closing or any termination of this Agreement.

15. Assignment. Purchaser may not assign this Agreement without Seller's prior written consent, which consent shall be given or denied in Seller's sole and absolute discretion, except that Purchaser may make a one-time assignment of this Agreement to a title holding entity that is an affiliate of and controlled by Purchaser; provided, however, that (i) Purchaser shall not be released from any of its liabilities and obligations under this Agreement by reason of such designation or assignment; and (ii) such designation or assignment shall not be effective until Purchaser has provided Seller with a fully executed copy of such designation or assignment and assumption instrument at least ten (10) days prior to Closing, which shall (A) provide that Purchaser and such designee(s) or assignee(s) shall be jointly and severally liable for all liabilities and obligations of Purchaser under this Agreement, (B) include a representation and warranty in favor of Seller that all representations and warranties made by Purchaser in this Agreement are true and correct with respect to such designee(s) or assignee(s) as of the date of such designation or assignment, and will be true and correct as of the Closing, and (C) otherwise be in customary form and substance reasonably satisfactory to Seller.

16. Condemnation and Casualty.

(a) **Condemnation.** In the event that all or any substantial portion of the Property is taken in condemnation or under the right of eminent domain prior to the Closing Date, Seller shall promptly notify Purchaser thereof. Within five (5) Business Days after receipt of the foregoing notice, Purchaser shall notify Seller, electing either: (a) to proceed with this transaction and Closing in accordance with this Agreement notwithstanding such condemnation; or (b) to terminate this Agreement, receive a refund of the Earnest Money and neither party shall have any further rights or obligations under this Agreement except for those that expressly survive termination.

(b) **Casualty.** Seller agrees to give Purchaser prompt notice of any fire or other casualty affecting the Property between the Effective Date and the Closing.

i. If, before Closing, the Property is damaged (i) by an insured fire or other casualty that would cost more than fifty percent (50%) of the Purchase Price to repair (ii) by an uninsured casualty that Seller is unwilling or unable to repair on or before Closing (each, a "**Major Casualty**"), then either Purchaser or Seller may, at its option, elect to terminate this Agreement by written notice to the other party within twenty (20) days after the date of Seller's notice to Purchaser of the casualty or at the Closing, whichever is earlier, in which case the Earnest Money shall be refunded to Purchaser, and neither party shall have any further rights or obligations under this Agreement, other than rights and obligations that expressly survive termination. If neither Purchaser nor Seller timely makes its election to terminate this Agreement pursuant to this Section 16 and the casualty is insured, then the Closing shall take place as provided herein, the Purchase Price shall be reduced by an amount equal to Seller's deductible under its insurance policies, and Seller shall assign to Purchaser at the Closing all of Seller's interest in and to any assignable casualty insurance proceeds that may be payable to Seller on account of the occurrence. If neither Purchaser nor Seller timely makes its election to terminate this Agreement pursuant to this Section 16 and the casualty is uninsured, then the Closing shall take place as provided herein, Purchaser shall accept the Property in its condition at Closing and the Purchase Price shall not be reduced.

ii. If, before Closing, the Property is damaged by (i) a fire or other casualty that is not a Major Casualty or (ii) an uninsured casualty and Seller repairs the damage before Closing, then Purchaser may not terminate this Agreement, and if the casualty is insured, the Purchase Price shall be reduced by an amount equal to Seller's deductible under its insurance policies, and Seller shall assign to Purchaser at the Closing all of Seller's interest in and to any assignable casualty insurance proceeds that may be payable to Seller on account of the occurrence.

iii. Seller and Purchaser both agree to use the Seller's insurance adjuster's assessment to determine the amount of damages. In the event that Seller is self-insured in accordance with applicable law, Seller shall determine the amount of damages.

17. Miscellaneous.

(a) **Notice.** All notices, demands, and requests and other communications required or permitted under this Agreement must be in writing and will be deemed to be delivered when actually received by email or personal delivery or, if earlier and regardless whether actually received or not, (i) upon one (1) Business Day following deposit with a nationally recognized overnight courier for next Business Day delivery, charges prepaid, or (ii) upon three (3) Business Days following deposit in a regularly maintained receptacle for the United States mail, postage prepaid, in either event to be addressed to the addressee in the Basic Provisions.

(b) **Governing Law.** This Agreement will be construed under and in accordance with the laws of the State of Washington, and all obligations of the parties created hereunder are performable in Snohomish County, Washington.

(c) **Exculpation for Liability.** None of the Seller's officials, agents, employees, advisors or affiliates shall have any personal liability of any kind or nature, nor shall Purchaser have the right to receive any judgment or otherwise recover against the assets of the aforesaid, under or arising out of or in any way relating to this Agreement and the transactions contemplated under this Agreement. Purchaser hereby waives for itself and anyone who may claim by, through or under Purchaser any and all rights to sue or recover on account of any such alleged personal liability or to receive any judgment or otherwise recover against the assets of any official, agent, employee, advisor or affiliate of Seller.

(d) **Successors and Assigns.** This Agreement will be binding upon and inure to the benefit of the parties hereto, their respective heirs, executors, administrators, legal representatives, successors, and permitted assigns.

(e) **Severability.** If any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, that invalidity, illegality, or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if the invalid, illegal, or unenforceable provision had never been contained herein. Furthermore, in lieu of any invalid, illegal, or unenforceable provision, there shall be automatically added to this Agreement a provision as similar to the illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

(f) **Entire Agreement.** This Agreement (i) constitutes the sole and only agreement of the Parties hereto with respect to the subject matter hereof (ii) supersedes any prior understandings or written or oral agreements between the Parties respecting the subject matter hereof, and (iii) cannot be changed except by their written consent.

(g) **Time for Performance.** Time is of the essence with this Agreement.

(h) **References.** All references to “Sections” contained in this Agreement are, unless specifically indicated otherwise, references to articles, sections, subsections, and paragraphs of this Agreement. Whenever in this Agreement the singular number is used, the same shall include the plural where appropriate (and vice versa), and words of any gender shall include each other gender where appropriate. All references to “Exhibits” are, unless specifically indicated otherwise, references to exhibits, schedules, and attachments to this Agreement, which are incorporated into this Agreement by each reference.

(i) **Further Assistance.** In addition to the actions recited herein and contemplated to be performed, executed, and delivered by Seller and Purchaser, Seller and Purchaser agree to perform, execute and deliver or cause to be performed, executed and delivered at the Closing or after the Closing any and all such further acts, instruments, deeds and assurances as may be reasonably required to consummate the transactions contemplated hereby.

(j) **Survival.** None of the covenants or other obligations of Seller or Purchaser shall survive the Closing unless such survival is expressly provided for in this Agreement, in which case such covenants or obligations shall survive for the periods provided in this Agreement and shall not be deemed to have merged or terminated at the Closing or any termination or cancellation of this Agreement.

(k) **Counterparts/Signatures.** The Parties may execute this Agreement in one or more identical counterparts, all of which when taken together will constitute one and the same instrument. A facsimile or electronic mail transmission shall be binding on the Party or parties whose signatures appear thereon. If so executed, each counterpart is to be deemed an original for all purposes, and all counterparts shall, collectively, constitute one agreement, but in making proof of this Agreement, it shall not be necessary to produce or account for more than one counterpart. A Party’s signature may also be by DocuSign or AdobeSign, which is fully binding.

(l) **Rule of Construction.** The Parties hereto acknowledge that the Parties have each reviewed, and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Agreement or any amendments or exhibits hereto.

(m) **No Recording of Agreement.** Neither Party (nor any of their respective agents or representatives) shall record this Agreement (or any memorandum or short form of this Agreement) without the prior written consent of the other.

(n) **Waiver of Jury Trial.** Each Party hereto, knowingly and voluntarily, and for their mutual benefit, waives any right to trial by jury in the event of litigation regarding the performance or enforcement of, or in any way related to, this Agreement.

(o) **Business Day.** “Business Day” means a date that is not a Saturday, Sunday or holiday observed by federally chartered banks in the State where the Property is located. Whenever any determination is to be made or action to be taken on a date specified in this Agreement, if the date falls upon a date that is not a Business Day, the date for the determination or action shall be extended to the first Business Day immediately thereafter.

(p) **Exhibits.** The following exhibits are hereby incorporated into this Agreement:

- Exhibit A Legal Description of Land
- Exhibit B Bargain and Sale Deed
- Exhibit C Project Covenant

[signatures on following pages(s)]

IN WITNESS WHEREOF THE PARTIES hereto have executed this Agreement.

SELLER:

**CITY OF EVERETT
WASHINGTON**

Cassie Franklin, Mayor

ATTEST

Date

Office of the City Clerk

DRAFT

PURCHASER:

Enter Purchaser name – must match name in Basic Provisions

Signature: _____

Name of Signer: Enter signer's name

Title of Signer: Enter title

DRAFT

**EXHIBIT A
LEGAL DESCRIPTION**

ALL THAT PORTION OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 17,
TOWNSHIP 29 NORTH, RANGE 5 EAST, W.M., IN SNOHOMISH COUNTY, WASHINGTON, DESCRIBED AS
FOLLOWS;

BEGINNING AT THE QUARTER CORNER BETWEEN SECTIONS 17 AND 18 OF SAID TOWNSHIP AND RANGE;

THENCE EASTERLY ON CENTER LINE OF SAID SECTION 17, 966.57 FEET TO WEST LINE OF ALLEY BETWEEN
BROADWAY AND LOMBARD IN CITY OF EVERETT;

THENCE ANGLE RIGHT 90°36' FOR 28.39 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUE ON SAME STRAIGHT LINE FOR 200 FEET;

THENCE ANGLE RIGHT 90°, 120 FEET;

THENCE ANGLE RIGHT 90°, 200 FEET;

THENCE ANGLE RIGHT 90°, 120 FEET TO THE TRUE POINT OF BEGINNING.

**EXHIBIT B
FORM OF BARGAIN AND SALE DEED**

Recording requested by and
when recorded mail to:

[PURCHASER TO BE INSERTED]

Grantor: City of Everett, a Washington municipal corporation

Grantee: [PURCHASER TO BE INSERTED]

Legal Description: [TO BE INSERTED]

Assessor's Tax Parcel ID# [TO BE INSERTED]

Reference Nos. of Documents Released or Assigned: N/A

BARGAIN AND SALE DEED

CITY OF EVERETT, a Washington municipal corporation, as GRANTOR, for good and valuable consideration, the receipt and sufficiency of which is acknowledged, bargains, sells, and conveys to the [PURCHASER TO BE INSERTED], a [TO BE INSERTED], as GRANTEE, the real property situated in the County of Snohomish, State of Washington legally described as follows:

[TO BE INSERTED]

This conveyance is subject to the exceptions identified on Exhibit 1 attached hereto and incorporated herein by this reference.

DATED: _____,

City of Everett,
a Washington municipal corporation

By: _____
Cassie Franklin, Mayor

[APPROPRIATE ACKNOWLEDGEMENT AND EXHIBIT 1 (LEGAL DESCRIPTION) TO BE INSERTED]

**EXHIBIT C
FORM OF PROJECT COVENANT**

When Recorded Return to:

**CITY OF EVERETT
REAL PROPERTY MANAGER
3200 Cedar Street
Everett, WA 98201**

PROJECT COVENANT

Grantor:	_____
Grantee:	CITY OF EVERETT
Legal Description (abbreviated):	_____
<input checked="" type="checkbox"/> Complete legal also	_____
Assessor's Tax Parcel Identification No(s):	_____
Reference No. of Related Documents:	

PROJECT COVENANT

THIS PROJECT COVENANT (this "Covenant") is dated as of _____ (the "Effective Date"), between the CITY OF EVERETT, a Washington municipal corporation ("City"), and _____, a Washington _____ ("Developer").

RECITALS

A. City, as seller, and Developer, as buyer, are parties to the Property Disposition Agreement dated _____ (the "Disposition Agreement"). The real property that is the subject of the Disposition Agreement and this Covenant is located at 1301 Lombard Avenue in Everett, Washington and is legally described as follows (the "Property"):

ALL THAT PORTION OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 17, TOWNSHIP 29 NORTH, RANGE 5 EAST, W.M., IN SNOHOMISH COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS;

BEGINNING AT THE QUARTER CORNER BETWEEN SECTIONS 17 AND 18 OF SAID TOWNSHIP AND RANGE;

THENCE EASTERLY ON CENTER LINE OF SAID SECTION 17, 966.57 FEET TO WEST LINE OF ALLEY BETWEEN BROADWAY AND LOMBARD IN CITY OF EVERETT;

THENCE ANGLE RIGHT 90°36' FOR 28.39 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUE ON SAME STRAIGHT LINE FOR 200 FEET;

THENCE ANGLE RIGHT 90°, 120 FEET;

THENCE ANGLE RIGHT 90°, 200 FEET;

THENCE ANGLE RIGHT 90°, 120 FEET TO THE TRUE POINT OF BEGINNING.

The Property was acquired by the City pursuant to chapter 35.80A RCW.

B. As of the Effective Date of this Covenant, Developer is purchasing the Property from the City. Developer intends to develop a project on the Property as set forth hereunder. As part of the consideration to the City for the purchase of the Property, the Developer has agreed that its Project will meet certain requirements, which are set forth in this Covenant.

C. The parties intend by this Covenant to set forth their mutual covenants and undertakings with regard to the Property.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual undertaking and promises contained herein, and the benefits to be realized by each party and in future consideration of the benefit to the general public by the creation and operation of the Developer's project upon the Property, and as a direct benefit to the City and other valuable consideration, the adequacy of which is hereby acknowledged, the parties agree as follows:

Section 1. Definitions. In addition to the terms defined elsewhere in this Covenant, the following terms shall have the meanings set forth below:

“Construction Requirements” mean the Project requirements and restrictions set forth in Section B of the Attachment to this Covenant.

“Governmental Authorities” means any court, board, bureau, commission, department or body of any local, municipal, county, state or federal governmental or quasi-governmental unit, or any subdivision thereof, or any public utility provider serving the Property, having, asserting, or acquiring jurisdiction over or providing utility service to the Project, the Property, and/or the management, operation, use, environmental cleanup, or improvement thereof.

“Improvements” means all buildings, structures, improvements and fixtures now or hereafter placed or constructed in, under or upon the Property comprising the Project, all additions to or replacements thereof made from time to time, and all accessways, pedestrian areas, public amenities, paved areas, utility distribution facilities, lighting, signage and other infrastructure improvements to be built by Developer on the Property.

“Legal Requirements” means all local, county, state and federal laws, ordinances and regulations and other rules, orders, requirements and determinations of any Governmental Authorities now or hereafter in effect (to the extent that compliance with future laws or amendments is legally required), whether or not presently contemplated, applicable to the Property, the Project or the Improvements, or their ownership, operation or possession, including (without limitation) all those relating to parking restrictions, building codes, zoning or other land use matters.

“Other Requirements” mean the Project requirements and restrictions set forth in Section C to the Attachment to this Covenant.

“Pre-Construction Requirements” mean the Project requirements and restrictions set forth in Section A of the Attachment to this Covenant.

“Project” means the development to be constructed on the Property in accordance with this Covenant, including the Project-Specific Requirements and Legal Requirements.

“Project-Specific Requirements” refers collectively to the Pre-Construction Requirements, the Construction Requirements, and the Other Requirements, all as set forth in the Attachment to the Covenant.

“Substantial completion” or “substantially complete” means the date on which all of the following have occurred: (i) the Improvements comprising the Project, required to be developed and constructed by this Covenant are complete according to this Covenant, except for punchlist items that do not substantially prevent the use of the Improvements for their intended purposes; and (ii) the City has issued a temporary or final certificate of occupancy for the building portions of the Improvements.

Section 2. Use Restriction and Requirements Prior to Certificate of Completion.

2.1 Use Restriction. Until issuance and recording of the Certificate of Completion as set forth in Section 4 below, the Property is restricted to uses directly in connection with the

design, development, and construction of the Project in accordance with this Covenant (including, without limitation, the Project-Specific Requirements) and the Legal Requirements. By way of example and not of limitation, the following uses are not directly in connection with such design, development, or construction of the Project and are therefore prohibited on the Property until substantial completion of the Project: (a) any construction of any permanent building or structure that is not in accordance with this Covenant, its Project-Specific Requirements, and all Legal Requirements; (b) any rental, leasing, or other grant of a right to occupy the Property or any portion thereof; and (c) any storage of vehicles, equipment or materials not necessary for the construction of the Project.

2.2 Pre-Construction Requirements. Prior to substantial completion of the Project, to the extent practicable in light of Developer's Project construction activities, Developer shall comply with the Pre-Construction Requirements in the Attachment to this Covenant.

Section 3. Development and Construction.

3.1 Generally. Developer shall construct and complete the Project in accordance with the Construction Requirements, all Legal Requirements, and prudent construction practices. The parties agree that Developer has sole responsibility for construction, financing, obtaining all necessary permits and approvals and complying with the Construction Requirements and all Legal Requirements as they relate to ownership, design, construction, and operation of the Project. Developer shall at its own cost furnish all plans, engineering, supervision, labor, material, supplies, and equipment necessary for completion of the Project in accordance with the Construction Requirements and all Legal Requirements. City is entitled to refuse to issue permits (including, without limitation, building permits) for any activity (including, without limitation, construction) on the Property that is inconsistent with the Construction Requirements.

3.2 Approval Process for Modifications to Construction Requirements.

3.2.1 Construction Modification Definition. As used in this Covenant, a "Construction Modification" is any modification to the Construction Requirements.

3.2.2 Construction Modification Request. The Developer shall not construct any portion of the Project in non-compliance with the Construction Requirements without the prior written approval of the City issued under Section 3.2.3 below. In order to request approval for a Construction Modification, the Developer must submit a written notice to the City that is clearly marked "Construction Modification Request under Section 3 of the Project Covenant" (the "Construction Modification Request"). The Construction Modification Request must expressly state in reasonable detail the reasons for requesting a Construction Modification and must include such additional information as may be reasonably required by the City.

3.2.3 Approval of Modification Request. The City shall respond to the Construction Modification Request within 30 days of receipt with its written approval or disapproval. Failure to respond within such 30 days is disapproval. The City may withhold its approval of a Construction Modification Request in its sole discretion. No approval of a

Construction Modification Request by the City is effective unless signed by the City's Real Property Manager. Issuance of a building permit or any other permit or approval by the City that incorporates a Construction Modification of the Construction Requirements does not constitute approval under this Section. Developer may, upon receipt of a notice of disapproval, modify the Construction Modification Request, taking into account such objections, and promptly resubmit it to City for review and approval. Such process of submittal, review, comment and re-submittal by Developer shall continue until such time as the Construction Modification Request has been approved by City, or Developer determines to no longer seek approval. Upon approval of a Construction Modification, such approved Construction Modification will be deemed included in the Construction Requirements.

Section 4. Certificate of Completion.

4.1 Certificate of Completion. Upon completion of the Project in accordance with the Project-Specific Requirements, all Legal Requirements and prudent construction practices, the City will furnish Developer with a recordable "Certificate of Completion" signed by the Mayor of the City, which the Developer shall record. Notwithstanding the foregoing, the City shall not be required to issue the Certificate of Completion if uncured Event(s) of Default exist. Issuance by the City and the recording of the Certificate of Completion by Developer shall terminate this Covenant.

4.2 Procedure if City Does Not Issue. The City shall not unreasonably withhold, condition, or delay the issuance of the Certificate of Completion. If, within twenty (20) business days after receipt of written notice clearly marked "Request for Certificate of Completion" from Developer, the City has not issued the Certificate of Completion, then the City shall provide Developer with a detailed statement specifying the reasons for withholding the issuance of the Certificate of Completion and what measures or acts must be taken, in the opinion of the City, to cause the issuance of the Certificate of Completion (the "Disapproval Notice"). Following receipt of the Disapproval Notice, and cure of the reasons for withholding the issuance of the Certificate of Completion stated therein in a manner satisfactory to the City, the City will issue the Certificate of Completion. Failure by the City to furnish Developer with the Disapproval Notice within such twenty (20) business day period shall be deemed an approval by City of Developer's request for the Certificate of Completion.

Section 5. Default. Developer's failure to keep, observe, or perform any of its duties or obligations under this Covenant shall be a default hereunder, including, without limitation, any of the following specific events:

5.1 The failure of Developer to comply with the Project-Specific Requirements or any other requirement of this Covenant.

5.2 The failure of Developer to submit and obtain approval as to any Construction Modification of the Construction Requirements in accordance with Section 3.

Upon the occurrence of any of the above-described events, the City shall notify Developer in writing of its purported default or breach, failure or act above described. As to

each event described in this Section, Developer's failure to cure such default, breach, failure or act, within thirty (30) days from receipt of such notice (or if such failure cannot reasonably be cured within 30 days, if Developer fails to commence within 30 days and diligently pursue such cure to completion within an extended period of time not to exceed 90 days) shall be deemed an "Event of Default" hereunder.

Section 6. Remedies.

6.1 Remedies Upon Default. If an Event of Default shall occur, the City shall have all cumulative rights and remedies under law or in equity, including, without limitation, the following:

6.1.1 Withholding of Project Permits. To the extent allowed by law, in addition to any other rights the City may have under the Everett Municipal Code and applicable law regarding permit issuance, the City shall be entitled to refuse to issue permits (including, without limitation, building permits) for any activity (including, without limitation, construction) on the Property that is inconsistent with this Covenant.

6.1.2 Withholding of Certificate of Occupancy. To the extent allowed by law, in addition to any other rights the City may have under the Everett Municipal Code and applicable law regarding certificates of occupancy, the City shall be entitled to refuse to issue certificates of occupancy for any structure on the Property that is inconsistent with this Covenant.

6.1.3 Specific Performance. The City shall be entitled to specific performance of each and every obligation of Developer under this Covenant without any requirement to prove or establish that the City does not have an adequate remedy at law. Developer hereby waives the requirement of any such proof and acknowledges that the City would not have an adequate remedy at law for Developer's commission of an Event of Default hereunder.

6.1.4 Injunction. The City shall be entitled to restrain, by injunction, the actual or threatened commission or attempt of an Event of Default and to obtain a judgment or order specifically prohibiting a violation or breach of this Covenant without, in either case, being required to prove or establish that the City does not have an adequate remedy at law. Developer hereby waives the requirement of any such proof and acknowledges that the City would not have an adequate remedy at law for Developer's commission of an Event of Default hereunder.

Section 7. Miscellaneous.

7.1 Entire Agreement. This Covenant and the Disposition Agreement and any documents attached as exhibits thereto contain the entire agreement between the parties as to the subject matter hereof and supersedes all prior discussions and understandings between them with reference to such subject matter. Exhibit 1 attached hereto is incorporated into this Covenant.

7.2 Modification. This Covenant may not be amended or rescinded in any manner except by an instrument in writing signed by a duly authorized representative of Developer and by the Mayor of the City.

7.3 Successors and Assigns. This Covenant shall be binding upon and inure to the benefit of the heirs, administrators, executors, successors in interest and assigns of each of the parties hereto. Any reference in this Covenant to Developer shall be deemed to apply to any successor, heir, administrator, executor or assign of such party who has acquired an interest in the Property.

7.4 Notices. All notices which may be or are required to be given pursuant to this Covenant shall be in writing and delivered to the parties at the following addresses:

To City: City of Everett
2930 Wetmore Ave.
Everett, WA 98201
Attention: Real Property Manager

With a copy to: City of Everett
Office of the City Attorney
2930 Wetmore Ave. Ste. 10-C
Everett, WA 98201

To Owner:

Any such notices shall be either (a) sent by certified mail, return receipt requested, in which case notice shall be deemed delivered three (3) days after deposit, postage prepaid in the U.S. mail, (b) sent by a nationally recognized overnight courier, in which case notice shall be deemed delivered when actually delivered pursuant to the records of such courier, or (c) or hand delivered, in which case notice shall be deemed delivered when actually delivered. The above addresses and phone numbers may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice.

7.5 Execution in Counterparts. This Covenant may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same Covenant.

7.6 Waiver. No waiver by any party of any provision of this Covenant or any breach thereof shall be of any force or effect unless in writing by the party granting the waiver; and no such waiver shall be construed to be a continuing waiver. The waiver by one party of the performance of any covenant, condition, or promise shall not invalidate this Covenant nor shall

it be considered a waiver by such party of any other covenant, condition, or promise hereunder. The waiver by either or both parties of the time for performing any act shall not constitute a waiver of the time for performing any other act or an identical act required to be performed at a later time.

7.7 Applicable Law; Jurisdiction. This Covenant shall be interpreted under and pursuant to the laws of the State of Washington. In the event any action is brought to enforce any of the provisions of this Covenant, the parties agree that the sole forum for such action is the Snohomish County Superior Court for the State of Washington.

7.8 No Joint Venture. Nothing contained in this Covenant shall create any partnership, joint venture or other arrangement between the City and Developer.

7.9 Nonwaiver of Government Rights. The parties understand that the City, by making and entering into this Covenant, is not obligating the City to give governmental approvals, to take particular action, or to be financially responsible for any obligations of Developer. Developer further acknowledges that the City has made no representation or warranty with respect to Developer's ability to obtain any permit or approval, or to meet any other requirements for development of the Property or Project. Nothing in this Covenant is intended or shall be construed to require that the City exercise its discretionary authority under its regulatory ordinances to further the Project nor binds the City to do so. Developer understands that the City will process applications for permits and approvals in accordance with its normal processes.

7.10 Severability. If any term, provision, covenant, clause, sentence or any other portion of the terms and conditions of this Covenant or the application thereof to any person or circumstances shall apply, to any extent, become invalid or unenforceable, the remainder of this Covenant shall continue in full force and effect, unless rights and obligations of the parties have been materially altered or abridged by such invalidation or unenforceability.

7.11 Runs with the Land. This Covenant runs with the land and is binding on Developer, and its successors and assigns. This Covenant is not extinguished or otherwise limited in any way by any foreclosure, trustee sale, deed-in-lieu of foreclosure or transfer of the Property.

[Signatures on the following page]

IN WITNESS WHEREOF, the undersigned have executed this Covenant on the dates below their respective signatures, to be effective as of the Effective Date.

CITY: CITY OF EVERETT,
a Washington municipal corporation

By: _____

Name: Cassie Franklin
Title: Mayor

Attest:

Office of the City Clerk

STATE OF WASHINGTON)
) ss.
COUNTY OF SNOHOMISH)

On this day personally appeared before me Cassie Franklin, to me known to be the Mayor of the City of Everett, a Washington municipal corporation, the corporation that executed the within and foregoing instrument, and acknowledged the instrument to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that she was duly authorized to execute said instrument on behalf of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this ____ day of _____, 2024.

(print or type name)
NOTARY PUBLIC in and for the State of
Washington, residing at _____
My Commission expires:

DEVELOPER: _____, a Washington

By: _____

Name: _____

Title: _____

STATE OF WASHINGTON)
) ss.
COUNTY OF SNOHOMISH)

On this day personally appeared before me _____, to me known to be the
_____ of _____, a
_____, the entity that executed the within and foregoing
instrument, and acknowledged the instrument to be the free and voluntary act and deed of said
corporation for the uses and purposes therein mentioned, and on oath stated that s/he was duly
authorized to execute said instrument on behalf of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this ____ day of
_____, 2024.

(print or type name)
NOTARY PUBLIC in and for the State of Washington,
residing at _____
My Commission expires:

ATTACHMENT TO PROJECT COVENANT

1301 LOMBARD PROPERTY

PROJECT-SPECIFIC REQUIREMENTS

[to be attached in form as negotiated by City and selected developer]