

MULTIFAMILY HOUSING LIMITED PROPERTY TAX EXEMPTION CONTRACT

Commented [A1]: This document is provided as a boilerplate/standard representation of a typical MFTE contract for projects within the City of Bellevue.

[PROJECT NAME]

RECITALS

1. Definitions.
2. Conditional Certificate of Acceptance of Tax Exemption.
3. Agreement to Construct Multifamily Housing.
4. Agreement to Provide Affordable Housing.
5. Location and Design of Affordable Units; MFTE Covenant; Conversion.
6. Requirements for Final Certificate of Tax Exemption.
7. Agreement to Issue Final Certificate.
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10. Notification of Transfer of Interest or Change in Use.
11. Cancellation of Exemption - Appeal.
12. Duration.
13. Amendments.
14. Binding Effect.
15. Governing and Applicable Law.
16. Audits and Inspection of Records.
17. Notices.
18. Severability.
19. Exhibits.

EXHIBITS

- “A” LEGAL DESCRIPTION
- “B” PROJECT SITE PLANS
- “C” DESIGNATION OF AFFORDABLE UNITS
- “D” FORM OF MULTIFAMILY PROPERTY TAX EXEMPTION COVENANT

MULTIFAMILY HOUSING LIMITED PROPERTY TAX EXEMPTION CONTRACT
[PROJECT NAME]

THIS CONTRACT, entered into this _____ day of _____, 20____, between the City of Bellevue (the “City”), a State of Washington municipal corporation, and the Company Name, type of company (the “Applicant”), with the exhibits attached hereto and fully incorporated as if fully set forth herein, contains all terms and conditions agreed to by the City and the Applicant to undertake the activities described herein.

RECITALS

WHEREAS, the Applicant has applied for a limited property tax exemption as provided in Chapter 84.14 Revised Code of Washington (RCW) and Chapter 4.52 Bellevue City Code (BCC) for multifamily residential rental housing (“Multifamily Housing”) and the City’s Director of Community Development (the “Director”) has approved the application; and

WHEREAS, the Applicant has submitted to the City preliminary site plans and floor plans for new Multifamily Housing to be constructed as part of a _____-unit mixed-use project (Project) on property situated at _____ in Bellevue, Washington (“Property”), and as more particularly described in **Exhibit A**, which is attached hereto and incorporated by reference herein; and

WHEREAS, the Applicant is the owner of the Property; and

WHEREAS, the City has determined that the Multifamily Housing will, if completed, occupied, and owned as proposed, satisfy the requirements for a Final Certificate of Tax Exemption (“Final Certificate”).

NOW, THEREFORE, in consideration of the mutual promises herein, the City and the Applicant do mutually agree as follows:

1. **Definitions.**

a. Words and terms capitalized in this Contract, unless explicitly defined in this Contract, shall have the meanings ascribed them by Chapter 4.52 BCC as of the date this Contract was executed.

b. **Eligible Household.** One or more adults and their dependents, which adults certify that their household income does not exceed the applicable percent of the King County Median Income given in Section 4. of this Contract or certify that they meet all requirements for recertification on income eligibility.

c. King County Median Income. The median family income for the Seattle-Bellevue, WA HUD Metro FMR Area (“Seattle-Bellevue HMFA”) as most recently published by the United States Department Housing and Urban Development (“HUD”). In the event that HUD no longer publishes median family income figures for Seattle-Bellevue HMFA or King County, the Director may estimate the King County Median Family Income, in such manner as the Director shall determine by appropriate rule.

2. Conditional Certificate of Acceptance of Tax Exemption.

The City agrees, upon execution of this Contract, to issue a Conditional Certificate of Acceptance of Tax Exemption (“Conditional Certificate”), which shall expire three (3) years from the date the Director approved the Applicant’s application, unless extended by the Director as provided in BCC 4.52.070.

3. Agreement to Construct Multifamily Housing.

a. The Applicant agrees to construct the Project on the Property, including the Multifamily Housing, substantially as described in the site plans, floor plans, and elevations attached hereto in **Exhibit B**, subject to such modifications thereto as may be required to comply with applicable codes and ordinances, including the design review process. In no event shall the Applicant provide fewer than four (4) new dwelling units designed for permanent residential rental occupancy, nor shall permanent rental housing comprise less than fifty percent (50%) of the gross floor area of the Project constructed pursuant to this Contract. At least fifteen percent (15%) of all the dwelling units of the Project must have two or more bedrooms, unless otherwise agreed herein.

b. The Applicant agrees to construct the Project on the Property, including the Multifamily Housing, and to comply with all applicable zoning requirements, land use regulations, and building and housing code requirements contained in Titles 14, 20, 21, 22, 23 and 24 BCC or other applicable law. The Applicant further agrees that execution of this Contract or issuance of a Conditional Certificate by the City pursuant to BCC 4.52.060 in no way constitutes approval of proposed improvements on the Property with respect to applicable provisions of Titles 14, 20, 21, 22, 23 and 24 BCC or other applicable law or obligates the City to approve proposed improvements.

c. The Applicant agrees that the Multifamily Housing will be completed within three years from the date of approval of the application for the tax exemption, unless extended by the Director for cause as provided in BCC 4.52.070.

4. Agreement to Provide Affordable Housing.

a. The Applicant agrees to provide _____ dwelling units for rent (“Affordable Units”), reserved for occupancy by Eligible Households and leased for a monthly housing expense, including rent, utilities or an applicable utility allowance, and other expenses required by the landlord as a condition of tenancy, that is no greater than thirty percent (30%) of the King County Median Income given in the following table, adjusted for household size (“Affordable Rent”).

Dwelling Units

Unit Type (Bedrooms)	Affordability (Percent of King County Median Income)					Total Units
	45%	55%	65%	70%	80%	
Units smaller than 300 sq ft		—	—	—	—	
Studio	—					
Open 1-bedroom	—					
1-bedroom	—					
2-bedroom	—	—		—		
Total						

Commented [A2]: This column is for units smaller than 300SF in size.

Commented [A3]: This column is for units smaller than 2-bedroom units that are used to satisfy both MFTE and Land Use Code incentive requirements for affordability simultaneously while within a project where 2-bedroom and larger units make up less than 15% of the total number of units and the applicant elects to set aside 20% of those units as affordable units.

Commented [A4]: This column is for units that are used to satisfy both MFTE and Land Use Code incentive requirements for affordability simultaneously.

Commented [A5]: This column is for studio, open 1-bedroom, and 1-bedroom units where 2-bedroom and larger units make up less than 15% of the total number of units and the applicant elects to set aside 20% of the total units as affordable units.

Commented [A6]: This column is the default column for all units. Other requirements may bump certain units into other columns/required affordability levels.

b. The Applicant agrees to rent or lease Affordable Units to Eligible Households as stipulated in the MFTE Covenant.

c. The Applicant agrees to limit rent increases for an existing, renewing tenants as stipulated in the MFTE Covenant.

5. Location and Design of Affordable Units; MFTE Covenant; Conversion.

a. The Affordable Units shall be those units indicated in **Exhibit C**. The Applicant may propose to change the particular units dedicated for the Affordable Units, provided that a total of _____ units are designated for Affordable Units, and the same unit mix, configuration, affordability levels and minimum sizes of Affordable Units are maintained. The Applicant shall request in writing the City's approval of any proposed change to the units dedicated for the Affordable Units. The City will review the proposed changes and shall base its approval or disapproval of the proposed changes upon the criteria set forth in this section.

b. The exterior designs of the Affordable Units are to be compatible and comparable with the market rate units. The Affordable Units will be constructed of similar quality and similar finishes as the other units in the Project.

c. Prior to issuing a certificate of occupancy, an agreement in a form acceptable to the City Attorney (“MFTE Covenant”) and substantially in the form of **Exhibit D** that addresses price restrictions, eligible household qualifications, long-term affordability, and any other applicable topics of the Affordable Units shall be recorded with the King County Recorder’s Office. This agreement shall be a covenant running with the land and shall be binding on the assigns, heirs and successors of the Applicant.

d. The BCC does not currently provide an affordable housing multifamily tax exemption incentive program for condominium, owner-occupied, or non-rental residential use. Should the City Council amend the BCC to provide an affordable housing multifamily tax exemption incentive program for condominium, owner-occupied, or non-rental residential use, and in the event the Project is proposed for conversion to condominium, owner-occupied, or non-rental residential use, the Applicant must submit to the City for its approval an application to preserve affordable housing in this manner and the parties may renegotiate this Contract accordingly. A new replacement agreement must be agreed upon by both parties to continue the affordable housing tax exemption incentive program for the Project.

6. Requirements for Final Certificate of Tax Exemption.

The Applicant may, upon completion of the Project and upon issuance by the City of a certificate of occupancy, request a Final Certificate of Tax Exemption (“Final Certificate”). The request shall be in a form approved by the City and directed to the City’s Department of Community Development, and at a minimum include the following:

a. A statement of expenditures made with respect to the overall Project and the residential and non-residential portions of the Project;

b. A description of the completed work, including floor area of residential and non-residential area, and a statement of qualification for the exemption;

c. Documentation that the Multifamily Housing was completed within the required three-year period or any authorized extension and in compliance with the terms of this Contract; and

d. Information regarding the Applicant’s compliance with the affordability requirements in BCC 4.52.090 and this Contract, which shall include the following:

(1) Identification of all Affordable Units, whether rented or held vacant to be rented by Eligible Households, including the sizes of the Affordable Units, and the maximum rents and household incomes for each affordable unit at time of initial leasing;

- (2) The total monthly rent of each dwelling unit in the Project;
- (3) The income of each renter household at the time of initial occupancy for each tax-exempt dwelling unit in the Project;
- (4) A copy of the application and income verification form used for rental of Affordable Units;
- (5) A copy of the form of lease or rental agreement to be used for Affordable Units; and
- (6) Any such further information that the Director deems necessary or useful to evaluate eligibility for the Final Certificate.

7. Agreement to Issue Final Certificate.

The City agrees to issue a Final Certificate granting a limited property tax exemption for a period of twelve (12) years and to file said Final Certificate with the King County Assessor within forty (40) days of submission of all materials required by paragraph 6, if the Applicant has:

- a. Successfully completed the Multifamily Housing in accordance with the terms of this Contract and Chapter 4.52 BCC;
- b. Filed a request for a Final Certificate with the Director and submitted the materials described in Paragraph 6 above;
- c. Paid to the City a fee in the amount of necessary to cover the Assessor's administrative costs; and
- d. Met all other requirements provided in Chapter 4.52 BCC for issuance of the Final Certificate.

8. Annual Certification.

Within thirty (30) days after the first anniversary of the date the City filed the Final Certificate and each year thereafter for the term of the MFTE Covenant, the Applicant agrees to file a certification or declaration with the Director, verified upon oath or affirmation, with respect to the accuracy of the information provided therein, containing at a minimum the following:

- a. A statement of the occupancy and vacancy of the Multifamily Housing units during the previous year; and

b. A statement that the Multifamily Housing has not changed use since the date of filing of the Final Certificate; and

c. A statement that the Multifamily Housing continues to be in compliance with this Contract, Covenant, and the requirements of Chapter 4.52 BCC; and

d. A description of any improvements or changes to the Project made after the filing of the Final Certificate or the previous certification; and

e. A statement of any change in ownership of all or any part of the Property since the Final Certificate was filed; and

f. Information and documentation sufficient to demonstrate, to the satisfaction of the Director, compliance with the affordability requirements of BCC 4.52.090 and this Contract, which shall, at minimum, include the following:

(1) Identification of each Affordable Unit, any Affordable Units substituted during the previous year pursuant to Section 5.a. of this Contract and, for each Affordable Unit, the current Household Income limits and maximum allowed rent.

(2) For each Affordable Unit that was initially occupied or that had a change of tenancy during the previous year, the date of each tenant's initial occupancy, the household size and Household Income of each tenant household at initial occupancy, and the rent charged at initial occupancy.

(3) For each Affordable Unit that was occupied by the current tenant prior to the previous year, the date of each tenant's initial occupancy, the tenant's current Household Income, the tenant's Household Income at initial occupancy, and current contract rent.

g. Any additional information requested by the City in regards to the units receiving a tax exemption.

9. No Violations for Duration of Exemption.

For the duration of the exemption granted under Chapter 4.52 BCC, the Applicant agrees that the Project and that portion of the Property on which the Project is constructed will have no violations of applicable zoning requirements, land use regulations, and building and housing code requirements contained in BCC Titles 14, 20, 21, 22, 23 and 24 or other applicable law for which the City shall have issued a notice of violation, citation or other notification that is not resolved by a certificate of compliance, certificate of release, withdrawal, or another method that proves either compliance or that no violation existed, within the time period for compliance, if any, provided in

such notice of violation, citation or other notification or any extension of the time period for compliance granted by the City.

10. Notification of Transfer of Interest or Change in Use.

The Applicant agrees to notify the Director within thirty (30) days of any transfer of the Applicant's ownership interest in the Project or that portion of the Property on which the Project is constructed. The Applicant further agrees to notify the Director and the King County Assessor within sixty (60) days of any change of use of any or all of the Multifamily Housing on the Property to another use. The Applicant acknowledges that such a change in use may result in cancellation of the tax exemption and imposition of additional taxes, interest and penalties pursuant to State law.

11. Cancellation of Exemption - Appeal.

a. The City reserves the right to cancel the Final Certificate if at any time the Multifamily Housing, the Project or that portion of the Property on which the Project is constructed no longer complies with the terms of this Contract, Covenant, or with the requirements of Chapter 4.52 BCC or for any other reason no longer qualifies for an exemption.

b. If the exemption is canceled for non-compliance, the Applicant acknowledges that state law requires that an additional real property tax is to be imposed in the amount of: (1) the difference between the tax paid and the tax that would have been paid if it had included the value of the non-qualifying improvements, dated back to the date that the improvements became non-qualifying; (2) a penalty of 20% of the difference calculated under subsection (1) of this paragraph; and (3) interest at the statutory rate on delinquent property taxes and penalties, calculated from the date the tax would have been due without penalty if the improvements had been assessed without regard to the exemptions provided by Chapter 84.14 RCW and Chapter 4.52 BCC. The Applicant acknowledges that, pursuant to RCW 84.14.110, any additional tax owed, together with interest and penalty, become a lien on that portion of the Property on which the Project is constructed and attach at the time the portion of the Property is removed from multifamily use or the amenities no longer meet applicable requirements, and that the lien has priority to and must be fully paid and satisfied before a recognizance, mortgage, judgment, debt, obligation, or responsibility to or with which the Property may become charged or liable. The Applicant further acknowledges that RCW 84.14.110 provides that any such lien may be foreclosed in the manner provided by law for foreclosure of liens for delinquent real property taxes.

c. Upon determining that a tax exemption is to be canceled, the Director shall notify the property owner by certified mail, return receipt requested. The property owner may appeal the determination in accordance with BCC 4.52.115.

12. Duration.

The affordable housing multifamily tax exemption shall have a duration of 12 years, beginning January 1st of the year immediately following the calendar year of issuance of the Final Certificate pursuant to BCC 4.52.090. The Applicant's agreement to provide affordable housing pursuant to this Contract shall commence beginning at initial occupancy of the first of the Project's Affordable Units and shall continue 12 years from the date of initial occupancy of the last of the Affordable Units.

13. Amendments.

No modification of this Contract shall be made unless mutually agreed upon by the parties in writing and unless in compliance with the provisions of BCC 4.52.065.

14. Binding Effect.

The provisions, covenants, and conditions contained in this Contract are binding upon the parties hereto and their legal heirs, representatives, successors, assigns, and subsidiaries.

15. Governing and Applicable Law.

This Contract shall be governed by and construed in accordance with the laws of the State of Washington. Venue for any action arising out of this Contract shall be in King County Superior Court. Code sections from the RCW and the BCC referenced in this Contract shall refer to those in effect on the date of this Contract.

16. Audits and Inspection of Records.

The Applicant understands and agrees that the City has the right to audit or review appropriate records to assure compliance with this Contract and Chapter 4.52 BCC and to perform evaluations of the effectiveness of the Multifamily Limited Property Tax Exemption program. The Applicant agrees to make appropriate records available for review or audit upon seven days' written notice by the City.

17. Notices.

All notices to be given pursuant to this Contract shall be in writing and shall be deemed given when hand-delivered within normal business hours, when actually received by facsimile or email transmission, or two business days after having been mailed, postage prepaid, to the parties hereto at the addresses set forth below, or to such other place as a party may from time to time designate in writing.

APPLICANT: [Owner/Developer Name]
[Address]
[City, ST, ZIP]
Attn: [Title]

CITY: City of Bellevue
Community Development Department
450 110th Ave NE
P.O. Box 90012
Bellevue, WA 98009
Attn: Housing Planner

With a copy to: A Regional Coalition for Housing (ARCH)
16225 NE 87th St, Suite A-3
Redmond, WA 98052

18. Severability.

In the event that any term or clause of this Contract conflicts with applicable law, such conflict shall not affect other terms of this Contract that can be given effect without the conflicting terms or clause, and to this end, the terms of the Contract are declared to be severable. However, if the severable term prevents the City from receiving the benefits of having affordable housing as set forth in RCW Chapter 84.14 and BCC Chapter 5.88, then this Contract shall be deemed terminated, or may be terminated, as soon as possible in compliance with any applicable law.

19. Exhibits.

The following exhibits are attached to this Contract and incorporated herein by this reference:

- Exhibit A Legal Description**
- Exhibit B Project Site Plans**
- Exhibit C Designation of Affordable Units**
- Exhibit D Form of Multifamily Property Tax Exemption Covenants**

[Signature page follows.]

Commented [A7]: Delete if unneeded.

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the dates indicated below.

THE CITY OF BELLEVUE

APPLICANT

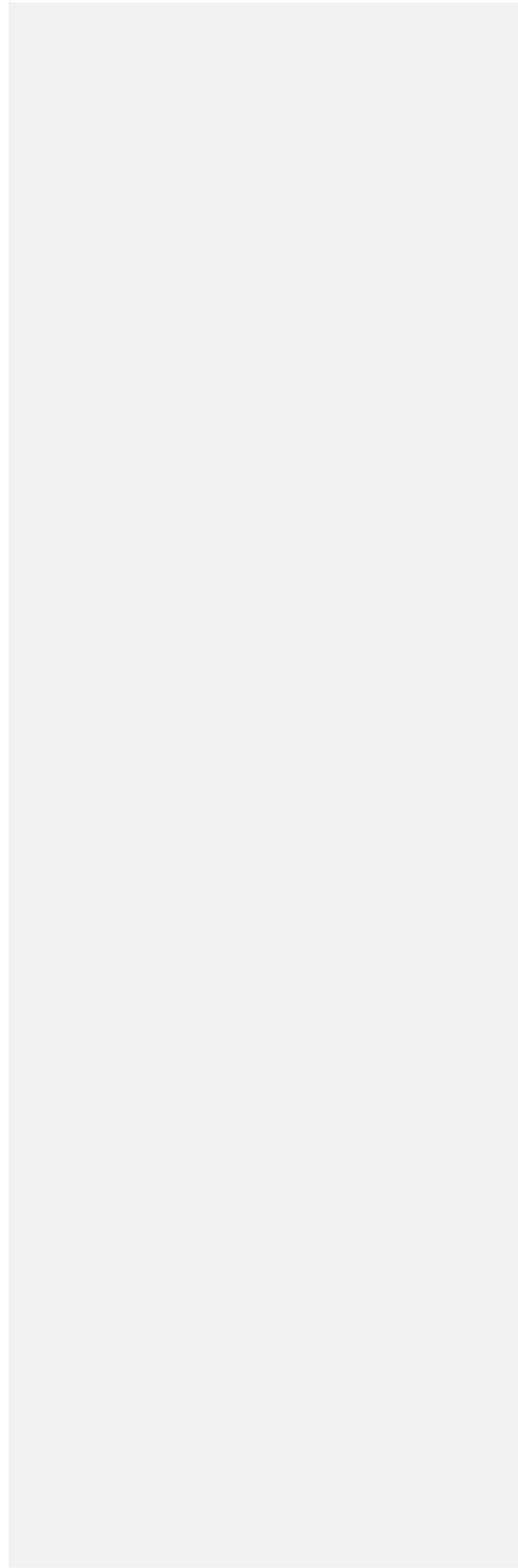
By: _____
Mary Kate Berens
Its: Deputy City Manager

By: _____
Name
Its: Title

Approved as to Form

Kathryn L. Gerla, City Attorney

Assistant City Attorney



STATE OF WASHINGTON }
 }
COUNTY OF KING } ss.

On this _____ day of _____, 20____, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared before me _____ known to me to be the _____ of the CITY OF BELLEVUE, who executed the foregoing document on behalf of said City, and acknowledged the said document to be the free and voluntary act and deed of said City, for the uses and purposes therein mentioned, and on oath stated that he or she was authorized to execute said document.

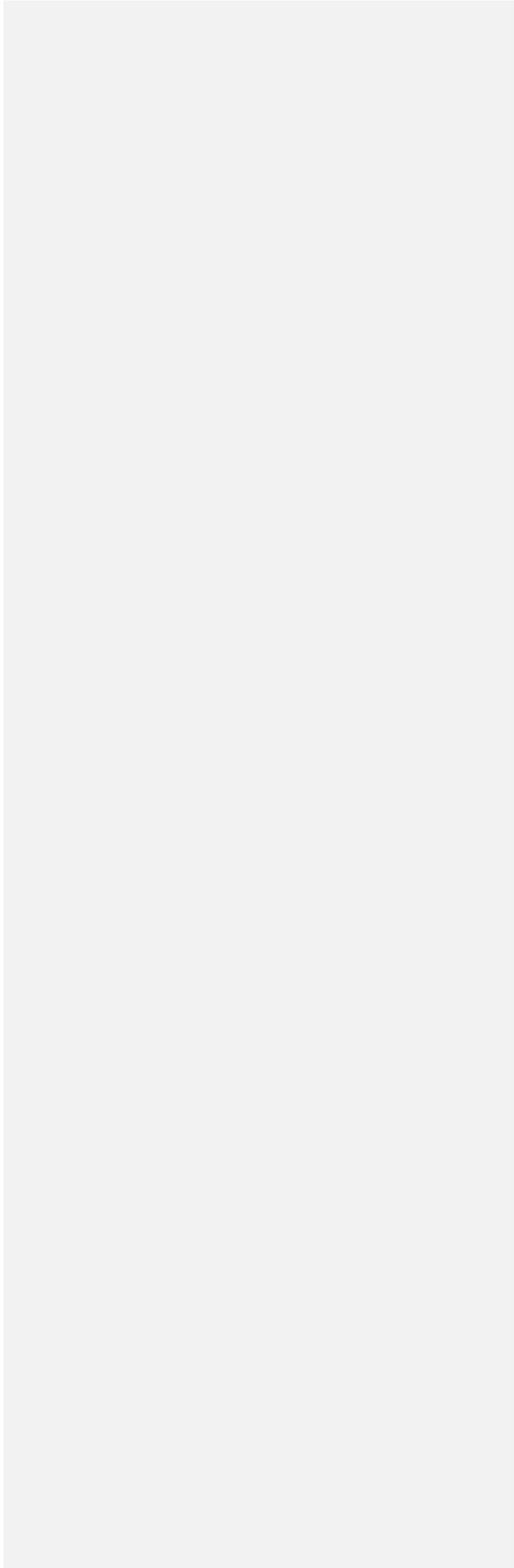
IN WITNESS WHEREOF I have given under my hand and official seal this ____ day of _____, 20____.

Notary Public in and for the State of Washington.

Print Name _____

Residing at _____

My commission expires _____



STATE OF WASHINGTON }
 }
COUNTY OF KING } ss.

On this _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared _____, to me known to be the _____ of _____, corporation, who executed the foregoing instrument on behalf of the said corporation, and acknowledged the said document to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned, and on oath stated that he or she was authorized to execute said document.

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

Notary Public in and for the State of Washington.

Print Name _____
Residing at _____
My commission expires _____

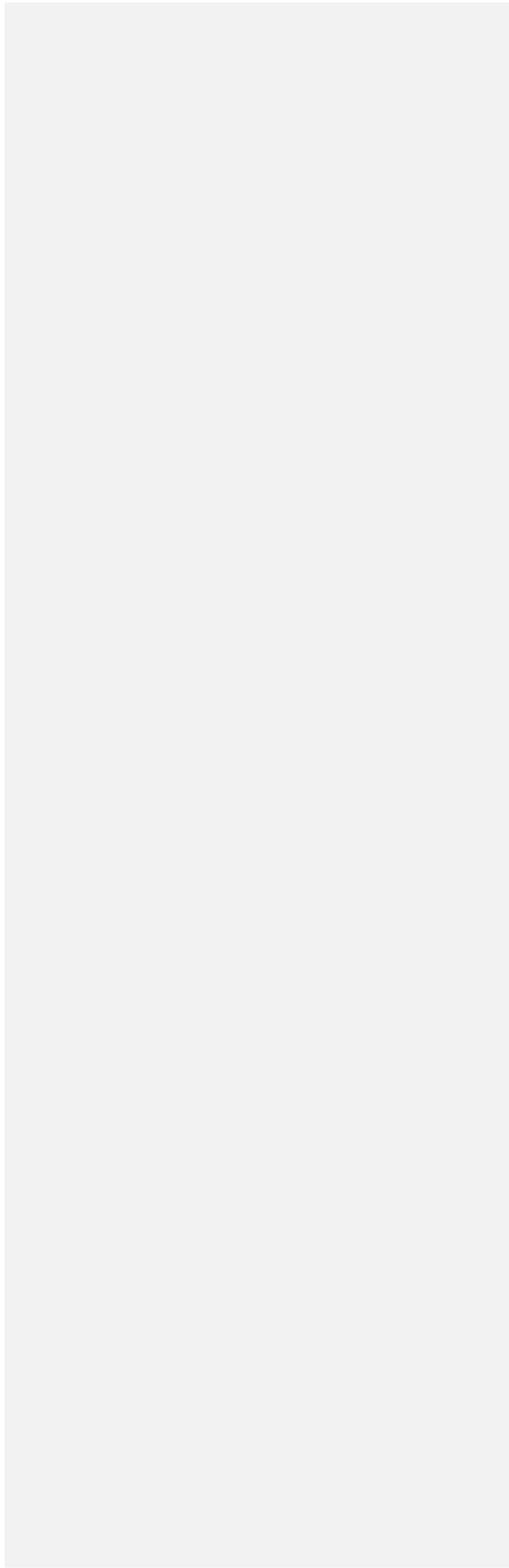


EXHIBIT A
LEGAL DESCRIPTION

EXHIBIT B
PROJECT SITE PLANS

See attached diagrams.

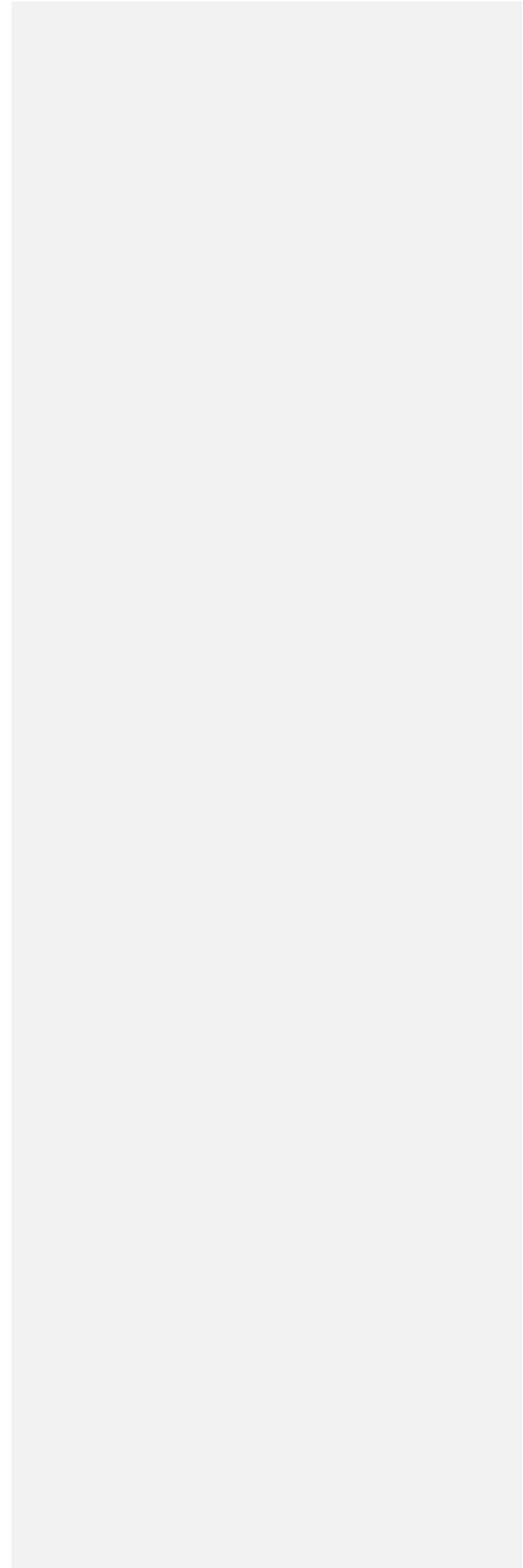


EXHIBIT D
FORM OF MULTIFAMILY PROPERTY TAX EXEMPTION COVENANT