

WHEN RECORDED, MAIL TO:  
City of Bellevue  
450 110<sup>th</sup> Ave NE  
P.O. Box 90012  
Bellevue, Washington 98009

ATTN: City Clerk  
Community Development Dept Housing Planner

**WASHINGTON STATE COUNTY AUDITOR/RECORDER/S INDEXING FORM**

<b>Document Title(s)</b> (or transactions contained therein): <b>MULTIFAMILY PROPERTY TAX EXEMPTION COVENANT-PROJECT NAME</b>
<b>Reference Number(s) of Documents assigned or released:</b> <input type="checkbox"/> Additional reference numbers on page ____ of document.
<b>Grantor(s)</b> (Last name first, then first name and initials): 1. OWNER NAME <input type="checkbox"/> Additional names on page __ of document.
<b>Grantee(s)</b> (Last name first, then first name and initials): 1. <u>CITY OF BELLEVUE, WASHINGTON</u> <input type="checkbox"/> Additional names on page __ of document.
<b>Legal Description</b> (abbreviated form; i.e., lot, block, plat name, section-township-range): _____ <input type="checkbox"/> Additional legal on Exhibit "A" of document.
<b>Assessor's Property Tax Parcel Account Number(s):</b>

The Auditor/Recorder will rely on the information provided on the form.  
The staff will not read the document.

**MULTIFAMILY PROPERTY TAX EXEMPTION COVENANT**

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

**PROJECT NAME**

- SECTION 1 – DEFINITIONS AND INTERPRETATION
- SECTION 2 – RESIDENTIAL RENTAL PROPERTY
- SECTION 3 – AFFORDABLE UNITS FOR ELIGIBLE HOUSEHOLDS
- SECTION 4 – REPORTING REQUIREMENTS
- SECTION 5 – SECTION 8 CERTIFICATE HOLDERS
- SECTION 6 – LEASE PROVISIONS
- SECTION 7 – SALE OR TRANSFER OF THE PROJECT
- SECTION 8 – TERM
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- SECTION 11 – ENFORCEMENT
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- SECTION 13 – ESTOPPEL CERTIFICATE
- SECTION 14 – AGREEMENT TO RECORD
- SECTION 15 – RELIANCE
- SECTION 16 – GOVERNING LAW
- SECTION 17 – NO CONFLICT WITH OTHER DOCUMENTS
- SECTION 18 – AMENDMENTS
- SECTION 19 – NOTICES
- SECTION 20 – MFTE CONTRACT
- SECTION 21 – SEVERABILITY
- SECTION 22 – CONSTRUCTION
- SECTION 23 – TITLES AND HEADINGS

**EXHIBITS**

- "A" LEGAL DESCRIPTION OF PROPERTY
- "B" DESIGNATION OF AFFORDABLE UNITS
- "C" CERTIFICATE OF HOUSEHOLD ELIGIBILITY
- "D" ANNUAL PROJECT CERTIFICATION

**MULTIFAMILY PROPERTY TAX EXEMPTION COVENANT**  
**PROJECT NAME**

THIS MULTIFAMILY PROPERTY TAX EXEMPTION COVENANT (the "Covenant") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the CITY OF BELLEVUE (the "City"), a Municipal Corporation of the State of Washington; and \_\_\_\_\_ (the "Owner"), a Washington type of company/corporation.

WITNESSETH:

This Covenant is predicated upon the following facts:

A. The Owner is the owner of property located at \_\_\_\_\_ in Bellevue, Washington (the "Property"). The Owner intends to develop said property by constructing and renting \_\_\_\_\_ dwelling units (the "Project"), subject to City approval and such other approvals by State and local agencies as required.

B. The Owner's proposed Project shall include \_\_\_\_\_ affordable rental units for Eligible Households. Such affordable rental units shall be of such bedroom quantity and quality as are in proportion to the overall proportion of bedroom quantity and quality of all of the rental units in the Project.

C. The City finds that the Project will benefit the City by providing affordable rental housing for Eligible Households.

D. The Owner has indicated its willingness to accept certain conditions affecting the use of the Property. It is the purpose of this Covenant to set forth the conditions under which the City has approved the Project and to impose enforceable restrictions on the use and occupancy of the rental portion of the Project.

E. The Owner has applied for a limited property tax exemption for twelve (12) years as provided for 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 Community Development Director has approved the application.

NOW, THEREFORE, for and in consideration of the mutual promises aforesaid and made and relied upon by the parties hereto, and for other valuable consideration, the receipt and sufficiency

of which are hereby acknowledged, the Owner and the City agree as follows:

SECTION 1 - DEFINITIONS AND INTERPRETATION

Capitalized terms used herein shall have the following meanings unless the context in which they are used clearly requires otherwise.

"Affordable Rent" means a monthly housing expense, including Utilities or an applicable Utility Allowance for tenant-paid utilities, and any expenses required by the Owner as a condition of tenancy (including but not limited to renter's insurance, pest control, and sewer system capacity charges), that is no greater than thirty percent (30%) of the monthly King County Median Income level for Eligible Households, as shown in Table 1, adjusted for Household Size. If a tenant pays for Utilities separately from rent, the Affordable Rent will be reduced by the amount of the applicable Utility Allowance.

"Affordable Units" means the \_\_\_\_\_ units in the Project as selected by the Owner and as approved by the City or its Designee, as set forth in **Exhibit B**, and reserved for occupancy by Eligible Households pursuant to Section 3.

"City" means the City of Bellevue, Washington.

"Completion Date" means the date of the completion of the acquisition, construction, purchase, reconstruction, and equipping, as the case may be, of the Project, as that date shall be certified as provided in Section 4.

"Covenant" means this Multifamily Property Tax Exemption Covenant between the City and the Owner.

"Designee" means A Regional Coalition for Housing ("ARCH") or such other agency as may be designated by the City in writing to the Owner. The City shall notify the Owner of any determination not to utilize ARCH as its Designee for purposes of this designation.

"Eligible Household" means one or more adults and their dependents, which adults certify that they meet the qualifications for eligibility set forth in Section 3.H. of this Covenant, and as set forth in the Certificate of Household Eligibility attached hereto as **Exhibit C** and incorporated by reference herein, and who

certify that their Household Income does not exceed the applicable percent of the King County Median Income, as set forth in Section 3.H. of this Covenant, adjusted for Household Size.

"Household Income" means all income from all household members over the age of eighteen (18) residing in the household. Income consists of those items listed in **Exhibit C**, Certificate of Household Eligibility (e.g., wages, interest income, etc.). Income of dependents who reside within a household for less than four (4) months of the year will not be counted toward Household Income.

"Household Size" means the household size assumed for purposes of calculating Affordable Rents as follows:

<u>UNIT TYPE</u>	<u>ASSUMED HOUSEHOLD SIZE</u>
Studio	1 Person
1 Bedroom	1.5 Persons
2 Bedroom	3 Persons
3 Bedroom	4.5 Persons

"King County Median Income" means 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 of 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 Income, in such manner as the Director shall determine by appropriate rule.

"Lender" means HUD/FHA, Veterans Administration ("VA"), Federal National Mortgage Association ("FNMA"), Federal Home Loan Mortgage Corporation ("FHLMC"), or another party acquiring such loan upon foreclosure of a deed of trust or mortgage ("Deed of Trust") insured, made or held by HUD/FHA, VA, FNMA, FHLMC; or an institutional third-party lender or investor.

"MFTE Contract" means that agreement titled Multifamily Housing Limited Property Tax Exemption Contract between the City and Owner dated \_\_\_\_\_.

"Owner" means \_\_\_\_\_ and its heirs, successors and assigns, and any surviving, resulting or transferee entity.

"Owner Representative" means the person or persons (who may be employees of the Owner) designated from time to time to act

hereunder on behalf of the Owner in a written certification furnished to the City or its Designee, containing a specimen signature of such person or persons and signed by the Owner or on behalf of the Owner by a duly authorized representative of the Owner.

"Project" means the building, structures, and other improvements to be constructed on the Property, and all equipment, fixtures and other property owned by the Owner and located on, affixed to, or used in connection with, such buildings, structures, and other improvements and all functionally related and subordinate facilities.

"Property" means the real property which will be devoted to the Project as more particularly described in **Exhibit A** which is attached hereto, and incorporated by reference herein, and all rights and appurtenances thereunto appertaining.

"Qualified Project Period" means twelve (12) years from the date of initial occupancy of the last of the Affordable Units. The Qualified Project Period applies to the duration of the Owner's agreement to provide affordable housing pursuant to this Covenant and the MFTE Contract.

"Utilities" means basic residential utility services, including heat, gas, electricity, water, sewer, and solid waste and recycling services, but excluding sewer system capacity charges, telephone, internet, and television services.

"Utility Allowance" means a deduction to Affordable Rent, established by the City or its Designee, for tenant-paid Utilities.

## SECTION 2 - RESIDENTIAL RENTAL PROPERTY

A. **General Description.** The Owner will acquire and construct the Project for purposes of providing multifamily rental housing and neighborhood retail uses, and the Owner shall own, manage, and operate (or cause the management and operation of) the Project to provide multi-family rental housing comprising a building or structure or several inter-related buildings or structures, each consisting of more than one dwelling unit and neighborhood retail uses and facilities functionally related and subordinate thereto, and no other facilities. As used herein "facilities functionally related and subordinate" to the Project shall include facilities for use by the tenants, including, for example, recreational facilities, parking areas, and other

**Commented [A2]:** If applicable - otherwise, remove and/or add other project uses.

**Commented [A3]:** If applicable - otherwise, remove and/or add other project uses.

facilities which are reasonably required for the Project, for example, heating and cooling equipment, trash disposal equipment, or units of resident managers or maintenance personnel.

B. Similar Quality Construction. All of the dwelling units in the Project shall be constructed of similar quality, and each dwelling unit in the Project shall contain facilities for living, sleeping, eating, cooking and sanitation for a single person or a household which are complete, separate and distinct from other dwelling units in the Project and will include a sleeping area, separate bathing facility, and a cooking range, refrigerator and sink.

C. Conversion to Condominium. The BCC does not currently provide an affordable housing multifamily tax exemption incentive program for condominium, owner-occupied, or non-rental residential use. Should there be an amendment to 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 Owner must submit an application to the City for its approval to preserve affordable housing in this manner and the parties may renegotiate this Covenant accordingly. Any renegotiated and revised Covenant shall be duly recorded.

SECTION 3 - AFFORDABLE UNITS FOR ELIGIBLE HOUSEHOLDS

A. Number of Affordable Units. The Owner shall lease or rent, or make available for lease or rental, to the general public all of the Affordable Units in the Project. The Owner shall designate all of the Affordable Units, reserved for occupancy by Eligible Households, as follows:

Table 1. Dwelling Units

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

**Commented [A4]:** This column is for units smaller than 300SF in size.

**Commented [A5]:** 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 [A6]:** This column is for units that are used to satisfy both MFTE and Land Use Code incentive requirements for affordability simultaneously.

**Commented [A7]:** 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 [A8]:** This column is the default column for all units. Other requirements may bump certain units into other columns/required affordability levels.

Total						
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B. Designation/Re-designation of Affordable Units.

1. The Owner agrees to rent the dwelling units designated in **Exhibit B** as Affordable Units. Units so designated shall have substantially the same equipment and amenities as other dwelling units in the Project with the comparable number of rooms. The Affordable Unit(s) shall be intermingled with all other dwelling units and shall have a unit mix, configuration, and size comparable to the overall mix, configuration, and size of units in the Project. The City or its Designee shall approve or deny the proposed Affordable Units based upon the criteria set forth in this section.

2. The Owner, from time to time, may propose to change the particular units designated as Affordable Units provided that at all times at least \_\_\_\_\_ of all of the residential units in the Project are designated as Affordable Units, and provided that at all times the same unit mix, configuration, size and affordability **mix** is retained. The Owner shall notify the City or its Designee of the proposed change in writing for the City's or its Designee's approval. The City or its Designee will review the proposed changes and shall approve or deny the proposed changes based upon the criteria set forth in this Section.

**Commented [A9]:** Replace with "level" if all affordable units are the same affordability level.

C. Affordable Units Rent Level. The monthly rent for the Affordable Units occupied by Eligible Households shall not exceed the applicable Affordable Rent, and for each specific tenant, shall be adjusted no more than once every twelve (12) months, and in no event within the first twelve months of occupancy.

D. Rent Stabilization. Any rent increase for an existing tenant remaining in the same Affordable Unit, or in a similar type of affordable unit within the same Project, shall not exceed three percent in any given year as described herein: (1) When the King County Median Income increases by more than three percent in a given year, the Project shall be permitted to increase affordable rents up to three percent that year; (2) When the King County Median Income increases by three percent or less in a given year, the project shall be permitted to increase affordable rents by (i) the amount of the corresponding increase in median income; or (ii) three percent, to allow the Project's affordable rent to catch up with King County Median Income calculations after having been capped due to conditions set forth in subsection (2)(i) of this



Section. Under no circumstances may affordable rents exceed the current King County Median Income calculation. The provisions of this Section shall not apply to new tenants that move into Affordable Units, or existing tenants who move into a different type of affordable unit. In such event, the rent and income qualifications shall be calculated on the current, applicable King County Median Income at the time a lease agreement is executed.

E. Parking Discount. The Owner shall offer Affordable Unit tenants who choose to rent a parking space through the Project a 30 percent discount off the Market Rate Price. The "Market Rate Price" shall be the lesser of (a) the average actual cost of a parking stall of comparable type and configuration for market rate tenants in the preceding calendar year or (b) the stated price of a parking stall of comparable type and configuration offered to market rate tenants at the time of an Affordable Unit tenant's lease, inclusive of any discounts offered in promotional or marketing materials. The Owner is not required to set aside parking spaces for Affordable Unit tenants but shall rent available parking spaces on a first-come, first-served basis. The Owner shall not give preference to market-rate tenants over Affordable Unit tenants in providing any parking spaces that may be available. Any discounted parking space provided to an Affordable Unit tenant shall be non-transferable.

**Commented [A10]:** Applies only to projects outside Downtown Bellevue.

F. Renting Affordable Units to Eligible Households. During the Qualified Project Period, the Owner shall rent or lease the Affordable Units to Eligible Households and, if at any time the Owner is unable to rent or lease the Affordable Units, the Affordable Units shall remain vacant pending rental or lease to Eligible Households.

G. Equal Access to Common Facilities. Tenants in the Affordable Units shall have equal access to enjoyment of all common facilities of the Project.

H. Qualifying Eligible Household Income for Affordable Units at Initial Occupancy and Recertification. Qualifying Eligible Household Income at time of initial occupancy may not exceed the applicable percent of King County Median Income set forth in Table 1, above, adjusted for Household Size. At time of annual recertification, a household will remain eligible for an Affordable Unit as long as Household Income does not exceed the Maximum Recertification Income set forth in Table 2, below, adjusted for Household Size. If at the time of recertification

Household Income exceeds the Maximum Recertification Income limit for the income level initially qualified for by a household, then within 90 days either such household must pay market rent and the next available comparable market rate unit must be rented as an Affordable Unit; or the household must vacate the unit, unless otherwise prohibited by law, to make it available for an Eligible Household.

1. If at the time of recertification Household Income exceeds the Maximum Recertification Income under which the household initially qualified, but qualifies under a different Eligible Household income level, then such household must within 90 days either (a) pay the lowest Affordable Rent for which they qualify, and the Owner must rent the next available comparable Affordable Unit at the household's previous Affordable Rent level; or (b) vacate the unit, unless otherwise prohibited by law, to make it available for an Eligible Household.

2. If, however, at the time of recertification Household Income exceeds the Maximum Recertification Income for the income level initially qualified for by the Eligible Household, then such household must within 90 days either (a) pay market rent and the next available comparable market rate unit must be rented as an Affordable Unit, or (b) vacate the unit, unless otherwise prohibited by law, to make it available for an Eligible Household.

**Commented [A11]:** If the affordable units are all one affordability level, use this and delete paragraphs 1 and 2 below. If mixed affordability, delete this and use 1 and 2 below.

**Commented [A12]:** If the affordable units are of mixed affordability levels, use this and delete the referenced sentences above. If all one affordability level, delete this and use the above.

**Table 2. Maximum Permitted Income Levels**

Percent of King County Median Income	
Initial Occupancy	Recertification
45%	65%
55%	75%
65%	85%
70%	90%
80%	100%

I. Household Size Limits for Affordable Units. The Owner shall utilize the following occupancy standards for Affordable Units:

<u>Unit Size</u>	<u>Household Size</u>
Studio	1-2 Persons
1 Bedroom	1-2 Persons
2 Bedroom	2-4 Persons
3 Bedroom	3-6 Persons

#### SECTION 4 - REPORTING REQUIREMENTS

A. Notice of Occupancy Permit. Within thirty (30) days of issuance of any final inspection or, if applicable, certificate of occupancy, the Owner shall notify the City's its Designee of receipt of the first certificate of occupancy for the Project.

B. Mailing List. The City or its Designee maintains a mailing list of households interested in occupying Affordable Units. From time to time the City or its Designee will provide to the Owner the names of persons from the mailing list. In determining which eligible applicants shall be rented Affordable Units, the Owner shall, subject to Section 4.C. below, reasonably consider persons on the mailing list, and when they were placed on the mailing list.

C. Completion of Certificate of Household Eligibility. Prior to allowing any household to occupy any Affordable Unit, the Owner shall require the prospective tenant to complete a Certificate of Household Eligibility that shall be substantially in the form set forth in **Exhibit C**. The Owner shall also undertake a good faith effort to verify the applicant's Household Income, as reported on the completed Certificate. The Owner's obligation to verify the reported Household Income shall be limited to requesting copies of and reviewing the applicant's federal income tax returns, unless the Owner has actual knowledge, or reason to believe, that the information provided by the applicant is materially inaccurate. In the event federal income tax returns are not available, the Owner shall verify Household Income using wage or salary statements, or other income records that the City or its Designee may consider appropriate.

D. Annual Recertification of Residents.

1. On an annual basis, the Owner shall require all households occupying Affordable Unit(s) to complete and return to the Owner an updated Certificate of Household Eligibility. The Owner shall undertake a good faith effort to verify the reported Household Income, as reported in the completed Certificate. The Owner's obligation to verify the Household Income shall be limited to obtaining a copy of and reviewing the tenant's federal income tax returns, unless the Owner has actual knowledge or reason to believe that the information provided by the household is materially inaccurate. In the event federal income tax returns are not available, the Owner shall verify Household Income using

wage or salary statements, or other income records the City or its Designee may consider appropriate.

2. The Owner shall file certifications with the City or its Designee, by attachment to the Annual Project Certification required pursuant to Subsection E of this Section. The City or its Designee may investigate independently to verify certifications submitted by the Owner.

E. Annual Project Certification. After the Completion Date and until 90% of the rental units are occupied, the Owner shall, on a quarterly basis, file with the City or its Designee an Annual Project Certification, in substantially the form of **Exhibit D**. Thereafter, the Owner shall file such certification annually on or before March 31st, which must set forth the required information for the preceding year.

F. Maintain Complete Records. The Owner shall maintain complete and accurate records pertaining to the Affordable Units and shall permit any duly authorized representative of the City, including, without limitation, its Designee, to inspect the books and records of the Owner pertaining to the Affordable Units, and if applicable, incomes of Eligible Households residing in the Project. The Owner's failure to maintain such records or failure to allow examination by the City or any duly authorized representative shall constitute a default hereunder.

G. Form of Certification. Notwithstanding anything in this Section to the contrary, the Owner shall submit all documentation required by this Section on the forms designated herein, which may be modified by the City or its Designee from time to time. Changes to forms by the City or its Designee shall not significantly enlarge the Owner's obligations hereunder.

#### SECTION 5 - SECTION 8 CERTIFICATE HOLDERS

The Owner shall accept as tenants for Affordable Units, on the same basis as all other prospective households, households who are recipients of Federal certificates for rent subsidies pursuant to the existing program under Section 8 of the United States Housing Act of 1937, as amended. The Owner shall not apply, or permit the application of, management policies or lease provisions with respect to the Project which have the effect of precluding occupancy of Units by holders of Section 8 certificates.

SECTION 6 - LEASE PROVISIONS

A. It is the Owner's responsibility to screen and select tenants for desirability and credit worthiness. Except as restricted in this Covenant, such selection is within the Owner's discretion. If written management policies exist, or exist in the future, with respect to the Project, the City or its Designee may review such written policies and may require changes in such policies, if necessary, so that they comply with the requirements of this Covenant.

B. All leases for Affordable Units shall contain clauses wherein each individual lessee: (i) certifies the accuracy of the statements made in the Certificate of Household Eligibility, (ii) agrees that the household income and other eligibility requirements shall be deemed substantial and material obligations of the tenancy, and (iii) agrees that misrepresentation in the certification is a material breach of the lease, entitling the Owner to terminate the lease for the Affordable Unit.

SECTION 7 - SALE OR TRANSFER OF THE PROJECT

The Owner hereby covenants and agrees not to sell, transfer, or otherwise dispose of the Project or any portion thereof without first providing a written notice from the purchaser stating that the purchaser understands, and will comply with the Owner's duties and obligations under this Covenant. Such notice must be received by the City or its Designee at least 10 days prior to the close of escrow.

SECTION 8 - TERM

This Covenant shall become effective upon its execution and delivery and shall continue in full force and effect throughout the Qualified Project Period, unless sooner modified or terminated in accordance with Section 12 hereof.

SECTION 9 - NO DISCRIMINATION

The Owner shall not discriminate on the basis of race, creed, religion, color, sex, sexual orientation, age, national origin, marital status, or presence of any mental or physical handicap as set forth in RCW 49.60.030, as now existing and as may be amended, in the lease, use, or occupancy of the Project or in connection with the employment or application for employment of persons for the operation and management of the Project.

SECTION 10 - COVENANTS RUN WITH LAND

A. The City and Owner hereby declare their understanding and intent that the covenants, conditions, and restrictions set forth herein directly benefit the land (i) by enhancing and increasing the enjoyment and use of the Project by certain Eligible Households, and (ii) by furthering the public purposes of providing housing for Eligible Households.

B. The City and the Owner hereby declare that the covenants and conditions contained herein shall bind and the benefits shall inure to, respectively, the Owner and their heirs, successors and assigns and all subsequent owners of the Project or any interest therein, and the City and its successors and assigns, all for the Qualified Project Period. Except as provided in Section 12 of this Covenant, each and every contract, deed or other instrument hereafter executed conveying the Project or any portion thereof or interest therein shall contain an express provision making such conveyance subject to the covenants and conditions of this Covenant; provided however, that any such contract, deed or other instrument shall conclusively be held to have been executed, delivered, and accepted subject to such covenants and conditions, regardless of whether or not such covenants and conditions are set forth or incorporated by reference in such contract, deed, or other instrument.

SECTION 11 - ENFORCEMENT

A. Enforcement Provisions. The Owner shall exercise reasonable diligence to comply with the requirements of this Covenant and shall correct any such noncompliance within sixty (60) days after such noncompliance is first discovered by the Owner or would have been discovered by the exercise of reasonable diligence, or within 60 days after the Owner receives notice of such noncompliance from the City or its Designee; provided however, that such period for correction may be extended by the City if the Owner is exercising due diligence to correct the noncompliance. If such noncompliance remains uncured after such period, then the Owner shall be in default and the City on its own behalf may take any one or more of the following steps:

1. By any suit, action or proceeding at law or in equity, require the Owner to perform its obligations under this Covenant or the MFTE Contract, or enjoin any acts or things which may be unlawful or in violation of the rights of the City

hereunder; it being recognized that the beneficiaries of the Owner's obligations hereunder cannot be adequately compensated by monetary damages in the event of the Owner's default;

2. Have access to, and inspect, examine, and make copies of, all of the books and records of the Owner pertaining to the Project; provided, however, the City or its Designee shall not divulge such information to any third party unless required by law or unless the same is necessary to enforce the City's rights hereunder; and

3. Take such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants, conditions, and agreements of the Owner under this Covenant.

4. The Owner hereby grants to the City or the Designee the option, upon Owner's default under this Covenant, for the Qualified Project Period to lease up to \_\_\_\_\_ of the units in the Project as mutually selected by the City or its Designee and the Owner for the purpose of subleasing such units to Eligible Households, but only to the extent necessary to comply with the provisions of this Covenant. The City or its Designee may lease from the Owner the units at the Affordable Rent level less a reasonable management fee to reimburse the City or its Designee for any expenses incurred in connection with such sublease. The City or its Designee may terminate its lease of the units in the Project upon determination that the Owner is no longer in default pursuant to this Covenant.

B. Assignment of Rents. Owner hereby assigns to the City or the Designee the right to receive the rents due or collected during the entire period an Affordable Unit or Units are occupied in violation of this Covenant. Any funds collected shall be deposited into the City's housing fund for use consistent with the City's affordable housing policies, plans, or initiatives. Owner shall be responsible for all costs to the City, including reasonable attorney fee, to recover such rents.

C. Hold Harmless. The Owner shall defend, indemnify, and hold the City, its officers, officials, employees, volunteers and its Designee and any other party authorized hereunder to enforce the terms of this Covenant, harmless from any and all claims, injuries, damages, losses, or suits, including attorney fees, arising out of or resulting from this Covenant.

D. No Third-Party Beneficiaries. The provisions of this Covenant and of the documents to be executed and delivered in connection herewith are and will be for the benefit of the Owner, the City and its Designee only and are not for the benefit of any third party (including, without limitation, any tenants or tenant organizations), and accordingly, no third party shall have the right to enforce the provisions of this Covenant or of the documents to be executed and delivered in connection herewith.

SECTION 12 - SUBORDINATION, TERMINATION, RIGHTS RESERVED BY HUD

A. Notwithstanding any provision in this Covenant to the contrary, all of the provisions of this Covenant shall terminate and have no further force and effect upon the occurrence of one of the following events:

1. Foreclosure of a HUD/FHA insured loan is initiated under which the Project is held as a security.

2. Title to the Project is acquired by Lender or HUD/FHA by deed in lieu of foreclosure of the Deed of Trust.

3. Title to the Project is acquired by HUD/FHA, Veterans Administration ("VA"), Federal National Mortgage Association ("FNMA"), Federal Home Loan Mortgage Corporation ("FHLMC") or another party upon foreclosure of a deed of trust or mortgage ("Deed of Trust") insured, made, or held by HUD/FHA, VA, FNMA, FHLMC; or an institutional, third-party lender or investor (collectively, "Lender").

4. The Deed of Trust, if insured by HUD/FHA, is assigned to HUD/FHA.

Notwithstanding anything in this Covenant to the contrary, enforcement of this Covenant shall not serve as a basis for (i) default under the Deed of Trust insured by HUD/FHA or any other Lender, or (ii) an acceleration of the loan secured by the Deed of Trust ("Loan"), or result in any claim against the Project, the Loan proceeds, any reserve or deposit required by HUD/FHA or any other Lender in connection with the Loan transaction or the rents or other income from the Project other than from available surplus cash as that term is defined by HUD/FHA or any other Lender.

B. Notwithstanding anything in this Covenant to the contrary:



1. All of the provisions of this Covenant are subordinate and subject to the Deed of Trust, the Loan, and all documents relating to the Loan ("Loan Documents"), if any, as well as all applicable HUD/FHA mortgage insurance regulations, related HUD/FHA administrative requirements, Section 8 of the U.S. Housing Act of 1937, as amended, and the regulations thereunder, as amended, and the rights of the Lender thereunder. In the event of any conflict between this Covenant and the provisions of any applicable HUD/FHA mortgage insurance regulations, related HUD/FHA administrative requirements, Section 8 of the U.S. Housing Act of 1937, as amended, and the regulations thereunder, as amended, the applicable HUD/FHA mortgage insurance regulations, related HUD/FHA administrative requirements, Section 8 of the U.S. Housing Act of 1937, as amended, and the regulations thereunder, as amended will control.

2. Lender shall take no role in monitoring compliance with state and federal use and occupancy requirements; nor shall Lender be required to provide notice to third parties of actions under the Deed of Trust, if any.

3. No amendment to this Covenant will be effective without the prior written consent of Lender, if any.

4. The Owner, its successors or assigns, will take all steps necessary to comply with this Covenant; provided that the Owner, its successors or assigns, shall not be required to take action prohibited by, or to refrain from action required by Lender, pursuant to the National Housing Act (as amended), applicable HUD/FHA mortgage insurance regulations, related administrative requirements, Section 8 of the Housing Act of 1937, as amended, and the regulations thereunder, as amended, or the Loan and the Loan Documents.

#### SECTION 13 - ESTOPPEL CERTIFICATE

The City agrees, upon the request of the Owner or its successor in interest, to promptly execute and deliver to the Owner or its successor in interest or to any potential or actual purchaser, mortgagor or encumbrance of the Project, a written certificate stating, if such is true, that the City has no knowledge of any violation or default by the Owner of any of the covenants or conditions of this Covenant, or if there are such violations or defaults, the nature of the same.

SECTION 14 - AGREEMENT TO RECORD

The Owner shall cause this Covenant to be recorded in the real property records of King County, Washington. The Owner shall pay all fees and charges incurred in connection with such recording and shall provide the City or its Designee with a copy of the recorded document.

SECTION 15 - RELIANCE

The City and the Owner hereby recognize and agree that the representations and covenants set forth herein may be relied upon by City and the Owner. In performing its duties and obligations hereunder, the City may rely upon statements and certificates of the Owner and Eligible Households, and upon audits of the books and records of the Owner pertaining to occupancy of the Project. In performing its duties hereunder, the Owner may rely on the Certificates of Household Eligibility unless the Owner has actual knowledge or reason to believe that such Certificates are inaccurate.

SECTION 16 - SECTION 16 - GOVERNING LAW

This Covenant shall be governed by and construed in accordance with the laws of the State of Washington, except to the extent such laws conflict with the laws of the United States or the regulations of federally insured depository institutions or would restrict activities otherwise permitted in relation to the operation of federally insured depository institutions. Code sections from the RCW and the BCC referenced in this Covenant shall refer to those in effect on the date of this Covenant.

SECTION 17 - NO CONFLICT WITH OTHER DOCUMENTS

The Owner warrants that it has not executed and will not execute, any other agreement with provisions contradictory to, or in opposition to, the provisions hereof, and that in any event the requirements of this Covenant are paramount and controlling as to the rights and obligations herein set forth and supersede any other requirements in conflict herewith except for the MFTE Contract referenced in Section 20 herein.

SECTION 18 - AMENDMENTS

This Covenant shall be amended only by a written instrument executed by the parties hereto or their respective successors in

title, and duly recorded in the real property records of King County, Washington. Amendments to **Exhibit B** shall be considered approved in writing when the revised **Exhibit B** is signed by the Owner and the City or its Designee without the need for a further written document attaching the revised exhibit and striking prior versions of the exhibit. In the event of conflict between versions of **Exhibits B**, the version maintained by the City or its Designee as the then-current version, signed by Owner and City or its Designee, shall prevail.

SECTION 19 - NOTICE

Any notice or communication hereunder, except legal notices, shall be in writing and may be given by registered or certified mail. The notice or communication shall be deemed to have been given and received when deposited in the United States Mail, properly addressed with postage prepaid. If given otherwise, it shall be deemed to be given when delivered to and received by the party to whom addressed. Such notices and communications shall be given to the parties hereto at their following addresses:

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

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

If to the Owner: name  
mailing address  
city, st, zip  
Attn: person name or title

Any party may change its address for notices upon ten (10) days prior written notice to the other parties. Legal counsel for a party may deliver notices on behalf of the represented party and such notice shall be deemed delivered by such party.

SECTION 20 - MFTE CONTRACT

This Covenant is subject to the terms and conditions of the MFTE Contract. In the event of any conflict between the terms of this Covenant and the terms of the MFTE Contract, the terms of the MFTE Contract shall control. All amounts payable hereunder shall be paid without any set-off or deduction of any nature. This provision shall survive termination of the Covenant prior to expiration of the Qualified Project Period. Termination of this Covenant before termination of the MFTE Contract, for any reason, including foreclosure on the Project, shall have no effect on the terms of the MFTE Contract, including the imposition of additional taxes, interest, penalties, and other obligations pursuant to the MFTE Contract and State law.

SECTION 21 - SEVERABILITY

If any provision of this Covenant shall be invalid, illegal, or unenforceable, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

SECTION 22 - CONSTRUCTION

Unless the context clearly requires otherwise, words of the masculine, feminine or neuter gender shall be construed to include each other gender when appropriate and words of the singular number shall be construed to include the plural number, and vice versa, when appropriate. All the terms and provisions hereof shall be construed to effectuate the purposes set forth in this Covenant and to sustain the validity hereof.

SECTION 23 - TITLES AND HEADINGS

The titles and headings of the sections of this Covenant have been inserted for convenience of reference only, are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof or be considered or given any effect in construing this document or any provision hereof or in ascertaining intent, if any question of intent shall arise.

[Signature page follows.]

Commented [A13]: Delete if unneeded.

IN WITNESS WHEREOF, the Owner and City have each executed the Multifamily Property Tax Exemption Covenant on the Date first above written.

Owners:

City of Bellevue:

\_\_\_\_\_  
person name  
Its title

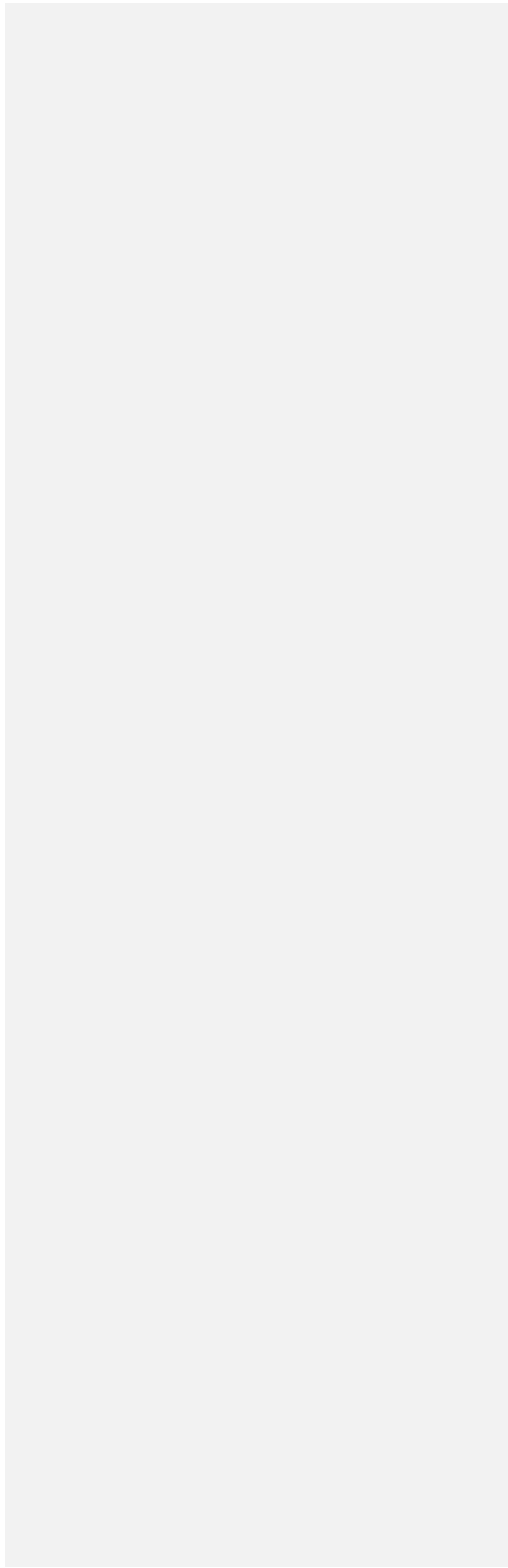
\_\_\_\_\_  
Mary Kate Berens  
Its: Deputy City Manager

Approved as to Form:

Kathryn L. Gerla, City Attorney

\_\_\_\_\_  
Brian Wendt  
Assistant City Attorney

DRAFT

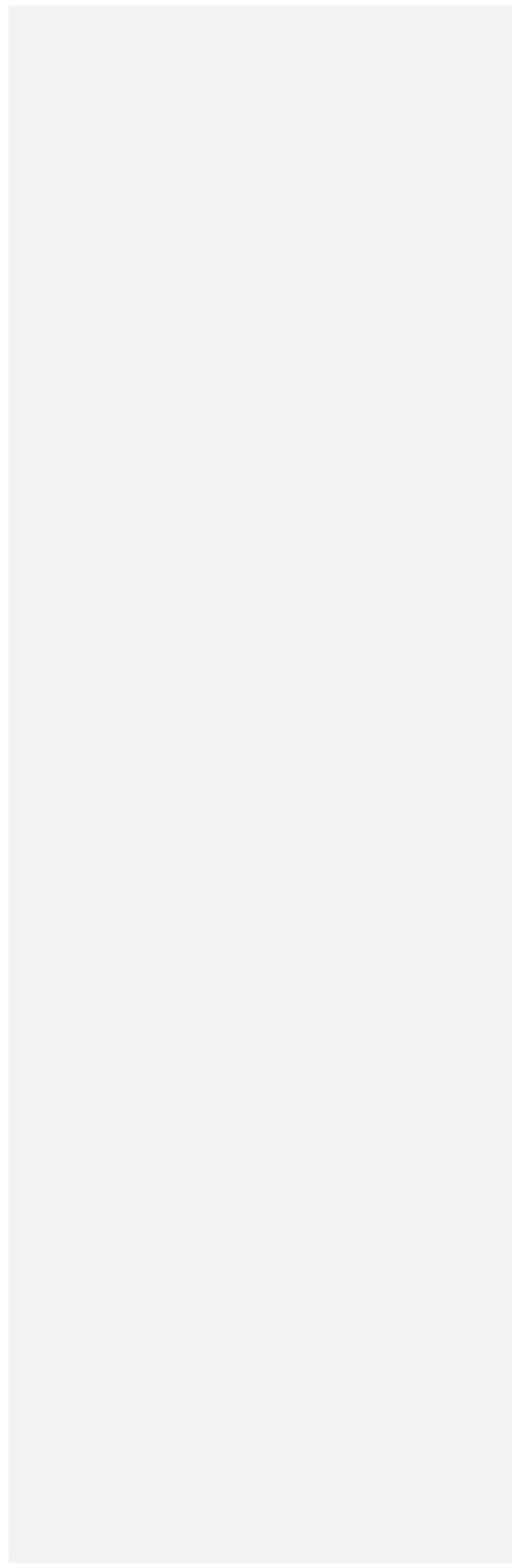


STATE OF WASHINGTON        }  
                                      }  
                                      }     ss.  
COUNTY OF KING            }

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

DRAFT

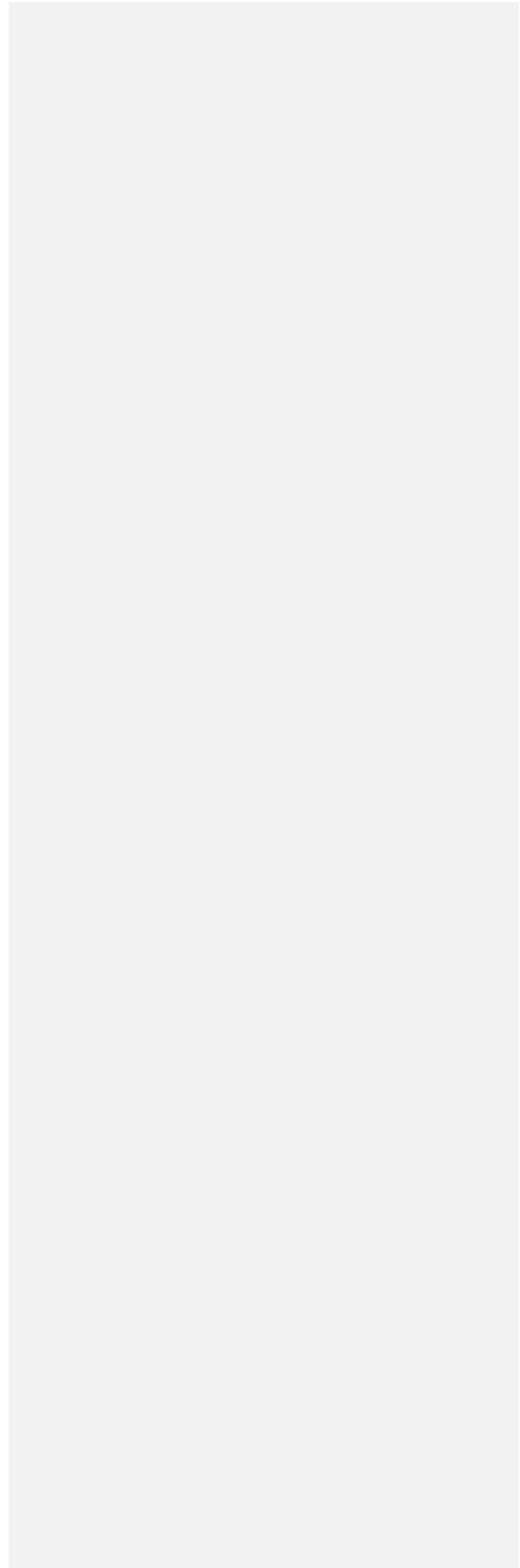






EXHIBIT C

FORM OF CERTIFICATE OF HOUSEHOLD ELIGIBILITY

Affordable Rental Housing Eligibility Form

1. *Head of household contact information*

Name: \_\_\_\_\_ Contact Phone Number: \_\_\_\_\_

Email: \_\_\_\_\_

2. *Name and Age of all Occupants (Household Member-HHM):*

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_

3. *Do you or anyone in your household currently work in east King County?*

Yes  No If yes, which city? \_\_\_\_\_

3. *What was your last city of residency?* \_\_\_\_\_

4. *What is your current living situation?*

- Renting a market rate apartment
- Renting a rent restricted apartment in another property (If yes, which one: \_\_\_\_\_)
- Renting a room
- Owning a home / Downsizing
- Other (Please explain: \_\_\_\_\_)

5. *How did you learn about this affordable housing opportunity?*

- ARCH (mailing list and/or apartment list)
- City newsletters and/or website
- Word of mouth
- On site signage
- Craigslist or other online marketing
- Other (Please explain: \_\_\_\_\_)

## Household Income Sources

"Household income" includes all items listed below, from all annual household members over the age of 18. Income of dependents over 18, who reside in the unit for less than four (4) months of the year will not be counted toward household income.

Yes	No	Income Source
<input type="checkbox"/>	<input type="checkbox"/>	I have a job or a verifiable start date within the next 12 months and receive wages, salary, overtime pay, commissions, fees, tips, bonuses and/or other compensation: <b>Annual Gross Wages/Salary</b>
<input type="checkbox"/>	<input type="checkbox"/>	I am presently employed at an additional job. (NOT self-employed)
<input type="checkbox"/>	<input type="checkbox"/>	I am self employed (Attach most recent signed tax return and appropriate schedules) Name of Business: _____
<input type="checkbox"/>	<input type="checkbox"/>	I am receiving or I have applied or will apply in the next 12 months: (check all that apply): <input type="checkbox"/> Social Security (SSA) <input type="checkbox"/> Supplemental Social Security (SSI) <input type="checkbox"/> WA State (SSI)
<input type="checkbox"/>	<input type="checkbox"/>	Do you receive child support? If no and there are children in the household, are you eligible for child support or is there a court order for child support? <input type="checkbox"/> Yes <input type="checkbox"/> No Number of court-ordered child support cases: _____
<input type="checkbox"/>	<input type="checkbox"/>	I receive alimony/spousal payments.
<input type="checkbox"/>	<input type="checkbox"/>	I receive Public Assistance Income (TANF, GAU, FIP, ADATSA).
<input type="checkbox"/>	<input type="checkbox"/>	I receive unemployment, Labor & Industries or disability benefits (not SSI).
<input type="checkbox"/>	<input type="checkbox"/>	I am receiving income from a pension, annuity, retirement fund, insurance policy payments, death benefits or Veteran's Benefits (not GI Bill benefits) Source of Benefits: Source of Benefits:
<input type="checkbox"/>	<input type="checkbox"/>	I am receiving money regularly from family, church, friends, or any other form or regular/periodic income (such as utility payments)
<input type="checkbox"/>	<input type="checkbox"/>	I have income or sources of income, other than those listed above.

## Certification of Household Eligibility

I, \_\_\_\_\_, and I, \_\_\_\_\_, as applicants for rental of the following Affordable unit, do hereby represent and warrant that I/we have disclosed all income sources projected for the year and that – to the best of my/our knowledge – our income level falls within the range of ARCH eligibility.

Project Name: \_\_\_\_\_

Project Address: \_\_\_\_\_

Unit #: \_\_\_\_\_ Number of Bedrooms: \_\_\_\_\_ Household size \*: \_\_\_\_\_

We have provided all materials required to evaluate eligibility and includes all income I/we received for the date I/we execute a rental agreement for an affordable unit, or the date on which I/we will initially occupy such unit, whichever is earlier.

This affidavit is made with the knowledge that it will be relied upon by the City to determine maximum income for eligibility. I/We warrant that all information set forth in this Certification of Household Eligibility is true, correct and complete based upon information I/We deem reliable, and that the estimate contained in the preceding paragraph is reasonable and based upon such investigation as the undersigned deemed necessary. I/we will assist the Owner in obtaining any information or documents required to verify the statements made in this Certification.

I/We acknowledge that I/we have been advised that the making of any misrepresentation or misstatement in this affidavit will constitute a material breach of my/our agreement with the Owner to lease the unit and will entitle the Owner to prevent or terminate my/our occupancy of this unit by institution of an action for eviction or other appropriate proceedings.

I/We do hereby swear under penalty of perjury that the foregoing statements are true and correct.

Applicant: \_\_\_\_\_ Applicant: \_\_\_\_\_

Phone: \_\_\_\_\_ Phone: \_\_\_\_\_

Date: \_\_\_\_\_ Date: \_\_\_\_\_

**EXHIBIT D**

FORM OF ANNUAL PROJECT CERTIFICATION

**2019 Affordable Housing Certification Report**

Instructions: Print this page and submit a scan with signature along with the Excel version of this report.

**Owner Information**

Date: \_\_\_\_\_

Property Name: \_\_\_\_\_ Owner Entity: \_\_\_\_\_  
Property Address: \_\_\_\_\_ Owner Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Owner Authorized  
Representative: \_\_\_\_\_  
Position: \_\_\_\_\_  
Agency: \_\_\_\_\_  
Phone: \_\_\_\_\_  
E-mail: \_\_\_\_\_  
Leasing website: \_\_\_\_\_

Report prepared by: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Email: \_\_\_\_\_

**CERTIFICATION**

The undersigned hereby certifies that he/she has verified the information provided in the Annual Project Certification to be true, and that the \_\_\_\_\_ Project is in compliance with the Affordable Housing Covenant or Agreement.

Signature of Authorized Representative: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title, Company: \_\_\_\_\_  
Date: \_\_\_\_\_

Submission Instructions

Please submit to following to [MMurado@bellevuewa.gov](mailto:MMurado@bellevuewa.gov) to complete your Annual Report

- Filled out Annual Certification and Report Form
- PDF of signed Cover Page
- Most recent rent roll for the property (market rate unit inclusive)

Note: Demographic information is required.

Let the "X" remain to answer each question accurately and delete the others.

Does contract rent include electricity and/or gas utilities?

<input checked="" type="checkbox"/>	Yes
<input checked="" type="checkbox"/>	No; tenants pay extra for electricity and/or gas.
If no:	
<input checked="" type="checkbox"/>	Cost is variable.
<input checked="" type="checkbox"/>	Cost is fixed:
\$ -	Amount
	Period (e.g., month, quarter)

Does contract rent include water and sewer utilities?

<input checked="" type="checkbox"/>	Yes
<input checked="" type="checkbox"/>	No; tenants pay extra for water and sewer.
If no:	
<input checked="" type="checkbox"/>	Cost is variable.
<input checked="" type="checkbox"/>	Cost is fixed:
\$ -	Amount
	Period (e.g., month, quarter)

Does contract rent include any King Co. Sewer Capacity Charge?

<input checked="" type="checkbox"/>	Yes
<input checked="" type="checkbox"/>	No; tenants pay extra for King Co. Sewer Capacity Charge.
If no:	
\$ -	Monthly Amount

Does contract rent include garbage and/or recycling services?

<input checked="" type="checkbox"/>	Yes
<input checked="" type="checkbox"/>	No; tenants pay extra for garbage and/or recycling.
If no:	
<input checked="" type="checkbox"/>	Cost is variable.
<input checked="" type="checkbox"/>	Cost is fixed:
\$ -	Amount
	Period (e.g., month, quarter)

Are affordable-unit tenants required to carry renter's insurance?

<input checked="" type="checkbox"/>	Yes
<input checked="" type="checkbox"/>	No

Do tenants have any mandatory charges after occupancy besides rent and utilities?

<input checked="" type="checkbox"/>	Yes
<input checked="" type="checkbox"/>	No
If yes, list the monthly amount and purpose of each charge:	
\$ -	_____
\$ -	_____
\$ -	_____
\$ -	_____
\$ -	_____
\$ -	_____

Project Name:

Project Address:

Project City:

Type of Report:

Reporting Period:

Number of Affordable Units:

**Instructions. Enter information in the green cells only.**

1. In the "Property" tab, answer questions on what is included in rent, and whether any additional charges apply.
2. In this Units tab, fill in one row for each household occupying an affordable unit during the reporting period, including both move-ins and move-outs.
3. Submit this form in Excel format along with a PDF of the most recent Rent Roll with Lease Charges.

Unit Information			Every cell in a row MUST be filled out in its entirety unless otherwise noted.						
Unit #	Unit Type (BRs)	Unit Affordability Level	Tenant Name (last name and first initial)	Is this tenant an employee of your company?	Move-in Date	Most Recent Lease Date	Move-out Date (if applicable)	Most Recent Contract Rent	If applicable, Monthly Amenity Expense paid on top of base rent (i.e., pet rent, storage etc.)
•									
•									
•									
•									
•									

Initial Income Certification		Income Recertification			Demographic Information (required)			
Annual Household Income at Move-in	Annual Household Size at Move-in	Date of Last Income Certification (N/A if not applicable)	Annual Household income at latest certification	Household Size at latest income certification	Ethnicity of Householder	Race of Householder	Household includes one or more people under 18 years of age	Household includes one or more people 65 years or older
•								
•								
•								
•								