



CITY OF ELLENSBURG

Minutes of Affordable Housing Commission, Regular Meeting

Date of Meeting

August 2, 2023

Time of Meeting

4:30 PM

Place of Meeting

Zoom Only

1. Call to Order and Roll Call of Members

Present: Sarah Bedsaul, John Perrie, Sarah Beauchamp, Kim Funston, Dan Witkowski, Courtney Garzone

Commissioner Beauchamp arrived at 4:35 p.m.

Absent: Jordan Ruhle

Public Present: Stephen Greenfield

2. Approval of Agenda

Commissioner Perrie motioned to approve the Agenda. All in Favor. Passed

3. Approval of Minutes

Commissioner Perrie motioned to approve the minutes from June 7, 2023. All in favor. Passed

Commissioner Perrie motioned to approve the minutes from July 13, 2023. All in favor. Passed

4. New Business

a. Workplan Objective 1 Discussion

Draft Development Code regulations will be presented at the September 6, 2023 meeting. This is part of the objectives selected for the housing action plan.

b. Inclusionary Zoning Research Review

Staff member Johnston discussed his research on Inclusionary Zoning mandates. He found a variety of avenues other jurisdictions have used, such as recording covenants that address resale, refinancing, monitoring, and maintenance. Concern was expressed that staff may not be able to maintain the monitoring over the typical 30-year contract. Staffing would have to be verified prior to any mandates being considered. Perrie expressed concern over this being overcomplicated for owners and such a long commitment. Bedsaul sees the mandates as only applying to big projects. Property management agencies would be an extra cost and may raise rent, so a non-profit may be a better choice. The Lincoln Institute wished they'd done contracts longer than 30 years.

5. Unfinished Business

None

6. Citizen Comment

Stephen Greenfield requested an update on Catherine Park. When there is an update on Catherine Park, it will be put on the agenda. There is currently no updates on the project.

7. Staff Update/Discussion Items

None

8. Commission Representative Update

None

9. Adjournment

Meeting was adjourned at 4:54 p.m.

July 28, 2023

Due to the increase in materials and permitting costs over the last 15 months, coupled with current interest rate increases, the financing of the 57-unit project is being reevaluated to accommodate the increased cost of capital and commodities. The building design is also being reevaluated as the height limit in the zone the site is in was raised in 2022 and can now accommodate an additional 20 feet in height above what was allowed at the time of the original submittal. The states new energy code that will be implemented by the time of permit submittal will require updated design specs for several areas of the design. The potential redesign would keep the building height raise to 5 stories and consist of one building. The extra floor would allow a change from all studios to a mixture of studios, one beds, and possibly a 2 bedroom, along with an elevator. This change would also make the design of both aging in place type units and type A accessible units easier and create more than the IBC required amount of those units as desired by City Council for possibly addressing the increasing amount of low income seniors in need of housing.

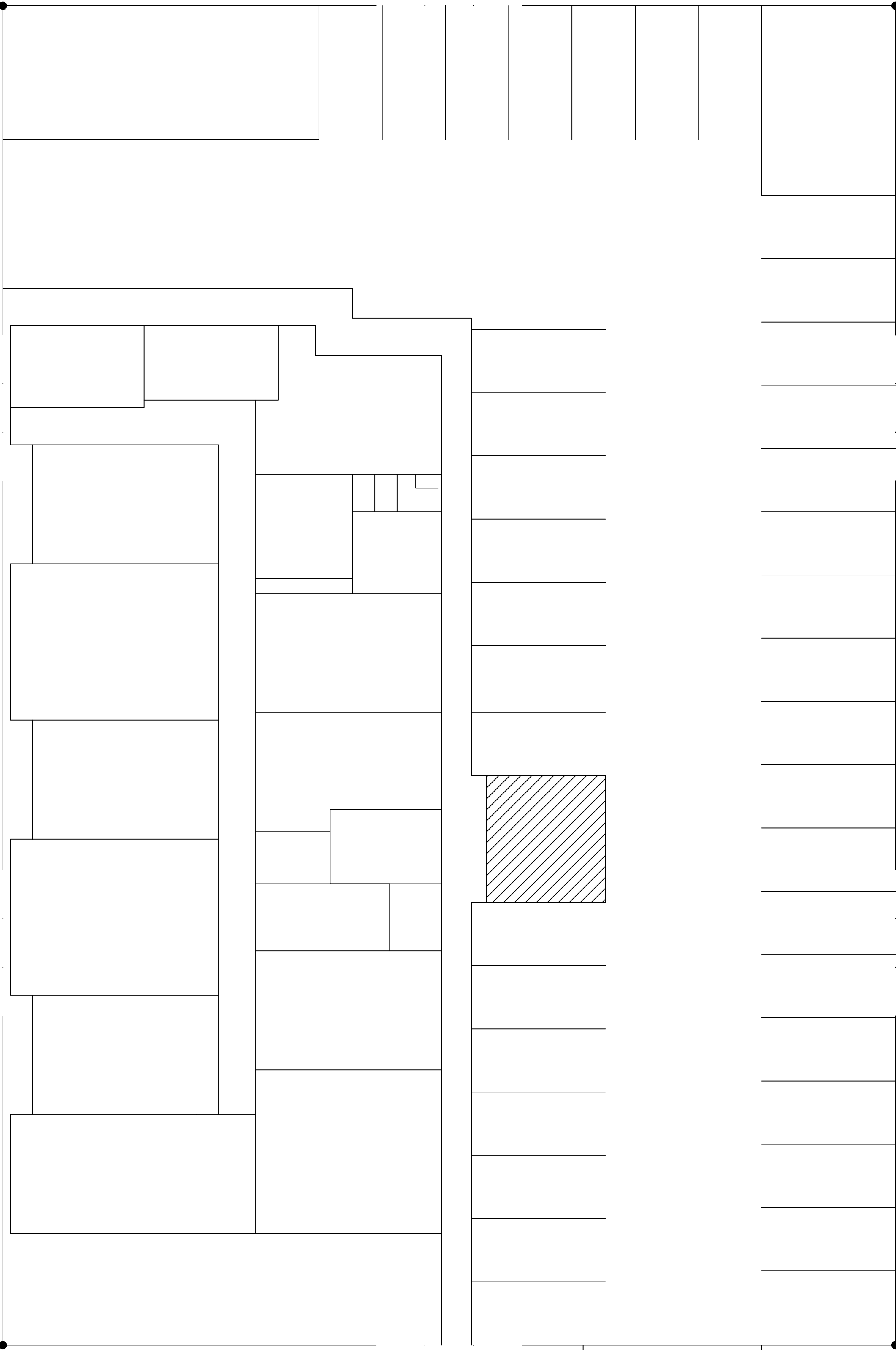
In addition, discussions with State and Federal HUD officials, USDA loan officials, and other low income developers in the state, a need has been shown, as a private developer, to have a high amount in liquid and reserve assets and connections with agency personnel to be considered for the programs. With this, the HUD 2023 80% AMI restrictions in Kittitas county have increased to \$1,350 for a 1-bed and \$1,260 for a studio which are at or above real market rate for the area. The project most likely not charge these amounts as there could be issues getting units rented at the rates, but even with lowered rent around the 60% AMI area, it becomes financially feasible for traditional financing and loan structure. There would also likely be an additional application for City funds for the additional architecture needed and increased City permitting fees, as well as a probable phase two environmental review with the possibility of a hydrocarbon contaminated site, this would not trigger prevailing wage as it would be non labor costs.

As such, the revised plan is for application of City, and possibly County, AH funds as wells as contracting an architect with a structural sub with ability for elevator design, beginning discussions with traditional financing options, possibly other non profit partnerships. Once an plan has been discussed, begin environmental review and initial pre app for the project.



Pine St

1st Ave



General Notes

No.	Revision/Issue	Date

Firm Name and Address

Project Name and Address

1st & Pine

#####

Project #####

Date

Scale

As Noted

Sheet

#

1st and Pine Timeline

10/13/2020- Application from Matt Stalder to utilize City-Owned property for affordable housing project.

06/7/2021 – General design approved by City Council

09/7/2021 – City conditionally approves use of property (parcels 617033 and 937033)

10/18/2021 – Resolution 2021-32 passed surplus of both parcels for AH purposes.

08/01/2022 – Affordable Housing Agreement

02/03/2023 – Affordable Housing Agreement intention letter

02/23/2023 - Affordable Housing Agreement Intention response letter

03/06/2023 – Letter from Director Ayling

06/28/2023 – Affordable Housing Agreement failure to meet conditions letter

7/28/2023 – Applicant response/ new proposal



CITY-OWNED PROPERTY CONTRIBUTION FOR AFFORDABLE HOUSING 2019 APPLICATION

APPLICATION COVER SHEET

Please refer to the Request for Proposals on the Community Development webpage:

<https://ci.ellensburg.wa.us/1069/Housing-In-Ellensburg>

A complete application must include a signed application and the following attachments:

1. Signed City of Ellensburg pre-funding application submittal
2. Documentation to support collaboration
3. Project site/development plan
4. Resident screening/monitoring tool

Prior to execution of contracts with successful applicants, applicants will be required to submit financial information for review. This will include 2 years of income statements (revenue/expenditures and net profit/loss, and past 2 years balance sheets (assets/liabilities).

Incomplete applications will not be considered. Missing or incomplete information will result in a forfeiture of application. Do not include any information beyond what is requested in the application. **Please note, all funding applications and associated materials are public record.**

- Questions on land use regulations and building codes, please contact the Community Development Department at 509-962-7231
- Questions on Affordable housing funding, please contact Angela San Filippo at 509-925-8653 or sanfilippoa@ci.ellensburg.wa.us

CERTIFICATION and AUTHORIZED SIGNATURE: To the best of my knowledge and belief, the information contained in this application, and in the additional required documentation submitted with this application, is true and correct. I understand that any false information or omission may disqualify my organization from further consideration for City assistance. I authorize the investigation of any or all statements contained in this application and any other information pertinent to this application and my organization and its employees and board members.

The signatory possesses the legal authority to apply for and receive City of Ellensburg assistance, and the person signing the application has the proper authority from the governing body of the organization. The applicant understands the City will not be responsible for any costs incurred by the applicant in developing and submitting this application, and that all applications submitted become the property of the City and applications are public record.

The applicant agrees that if this project is allocated City surplus property, the applicant will enter into a contract with the City of Ellensburg and will be required to submit annual reports attesting to compliance with the agreed upon retention of affordability and residents of housing developments funded through the City's local housing fund or constructed on property contributed by the City. The applicant further agrees that if this project is allocated City surplus property, it will comply with all federal, state, and local statutes, regulations, policies, and requirements applicable to City assistance. If the awarded project does not show substantial progress within two years of property allocation the property will revert back to the City for reallocation.


Signature of Authorized Applicant Representative

10/13/20
Date

Matt Stalder Stalder Interests
Name of Authorized Applicant Representative (Please Print or Type)

Partner
Title (Please Print or Type)

1. PROJECT DESCRIPTION AND ELIGIBILITY

A. Project Name:	1st & Pine Studios
Agency Name:	Stalder Interests
Contact Person:	Matthew Stalder
Mailing Address:	2000 Quartz Mtn Dr
City, State, Zip:	Ellensburg, WA 98926
Phone:	509 929 4820
Email:	staldermw@gmail.com

B. Project Location:	Corner of 1st st and Pine st
Primary Street Address:	N Pine St
City, State, Zip:	Ellensburg, WA 98926
Tax Parcel ID #:	937033 617033

C. Project Activity (check all that apply)

- | | | |
|---|---|--|
| ☐ Acquisition | ☐ Demolition/Redevelopment | ☒ New Construction |
| ☐ Adaptive Reuse | ☐ Mixed Use | ☐ Rehabilitation |
| | | ☐ Other |

If you checked Mixed Use or Other above, please explain:

D. Type of organization or company

- | | |
|---|--|
| ☐ Nonprofit organization 501(c)(3) | ☐ Public organization |
| ☒ For profit organization | ☐ Other: _____ |

E. Has this organization/developer previously received funding from the City of Ellensburg?

☐ Yes ☒ No If yes, please indicate funding source _____

F. City Property Request. Please indicate City property contribution parcel number.

City property contribution
parcel number: 937033 617033 Total Project Budget: \$ 5,000,000.00

G. Project Summary. Briefly summarize your proposed project in a couple of paragraphs; include a general statement of the project’s overall purpose, scope, and intent. **(300 words or less)**

The purpose of this project is to utilize the City owned property at 1st & Pine st to develop 57 studio units for multiple types of low income renter categories. The project would use the zone and street frontage types to build 3 buildings of 19 units each. As rents for single tenant units have surpassed \$1,000/month and pent up demand will continue to raise the price, units that do not have specifically limited rent at a much lower than market price will be gone in 3-5 years. This project would alleviate that using federal housing funds as leverage to complete a large scale build that would be financially feasible with rents well below market rate.

H. Populations to be served. Please select the household income for each unit proposed to be developed on one of the identified City-owned properties.

% of Area Median Income	# of Units	# of bedrooms	Tenant monthly rent/mortgage
Select item			
Select item			
Select item			
Select item			
Select item			
Select item			
Select item			
Select item			
Select item			
Select item			
Select item			
Total	0		

- I. Summary of all housing units.** Please include **ALL** housing units in the project. Projects proposed for City-owned property may be eligible for households earning 80% or below Area Median Income.

Area Median Income	Studio	1 Bedroom	2 Bedroom	3 Bedroom	4+ Bedroom	Total Units
At or below 30%						0
35%						0
40%						0
45%						0
50%						0
55%						0
60%	57					57
65%						0
70%						0
75%						0
80%						0
Total	57	0	0	0	0	57
# of ADA Compliant Units	3					3
Average Square feet	375					

2. COMMUNITY IMPACT

- A. Community impacts.** The following targets have been identified as having a tangible benefit for intended residents. Please check all that apply to the proposed project location.

- ☒ Within ½ mile of public transit stop
 ☐ Within ½ mile of senior center
☒ Within ½ mile of park or recreation area
 ☒ Within ½ mile of grocery store with fresh food
☒ Within ½ mile of public school
 ☒ Within ½ mile of medical services
☒ Other Downtown core/ large local employers

- B. Financial stability.** Please describe how this project will provide opportunities for beneficiaries to build financial stability. **(100 words or less)**

This project will improve financial stability as the combination of lowered rent and the cost savings of being close to groceries, employment, and public amenities will allow tenants to put more into savings while spending less hours on work related things and more on advancement.

- C. Sense of place and community.** Please describe how the proposed project will promote a sense of place and community for intended residents and the greater Ellensburg community. **(100 words or less)**

As the land is currently residentially vacant, the multiple building project and amount of inhabitants able to live in it will create a community in itself as well as an expanded community for the nearby residential district to the south. It will also increase the greater Ellensburg community by bringing more density to the boundary of the downtown core providing more patronage for the downtown area.

D. Other community impacts. Please describe other tangible benefits the project will have for the intended beneficiaries as well as the greater Ellensburg community. **(200 words or less)**

A large tangible benefit will be the monetary impact of the development. As almost everything in town was impacted by covid, the project will generate over a hundred thousand dollars in fees to the city for permitting as well as the amount above average amount going to the residents of the city as the project will be prevailing wage giving local contractors a boost.

3. RETENTION OF AFFORDABILITY

A. Please indicate how this project will help retain affordable housing units in the community. Please note housing projects receiving City property contribution will be required to maintain affordability for a minimum of 40 years. **(200 words or less)**

As the units will be rental units, there will be a multi decade requirement for decreased rent for the units and so affordability of the housing will be retained as it will be required to be.

4. HOUSING NEEDS AND INVESTMENT PRIORITIES

- A. Describe how the proposed project addresses Ellensburg's identified housing needs. Describe what this project will accomplish and how the proposed housing units will help meet the community's housing needs as identified in the current [Ellensburg Housing Needs Assessment](https://ci.ellensburg.wa.us/1609/Housing-In-Ellensburg) data available at: <https://ci.ellensburg.wa.us/1609/Housing-In-Ellensburg>. Please only include information not covered in Section 2 - Community Impacts. (500 words or less)

As the average multifamily designated project in Ellensburg is small in scale and the majority of current development push is single family housing, the housing crunch will continue to increase as population growth is projected to be about 2.5%, and in reality will be more. The number of units, both rental and owned, will not keep up with as the above mentioned scale of most builds is too small and the emphasis on duplexes, triplexes and townhouses instead of large scale complexes is only making the problem worse. It is also pointed out that as of 2018 half of Ellensburg housing stock is single family houses while almost three quarters of the population are renters. The units this project will create will allow renters to move out of single family houses into something more appropriate and allow the houses to become available to the open market where there is a very limited supply that is increasing home ownership prices. The project would also address the continuing issue of sub 1% vacancy rates by bringing a larger amount of units online at once and allowing low income renters to have a suitable unit instead of competing with professionals with much higher budgets.

5. PROPERTY MANAGEMENT AND DEVELOPMENT

A. Project Applicant/Developer

Firm Name:	Stalder Interests Inc
Contact person and title:	Matt Stalder
Phone Number:	509 929 4820
Email address:	staldermw@gmail.com
Address:	2000 Quartz Mtn Dr
City/State/Zip:	Ellensburg, WA 98926
Federal Tax ID #:	91-1565776
Unified Business Identifier:	601 395 858

B. Architect

Firm Name:	TBD
Contact person and title:	
Phone Number:	
Email address:	

C. General Contractor

Firm Name:	TBD
Contact person and title:	
Phone Number:	
Email address:	

D. Property Management Firm (as applicable)

Firm Name:	Hopesource (anticipated)
Contact person and title:	
Phone Number:	
Email address:	

6. PROPERTY MANAGEMENT AND DEVELOPMENT TEAM EXPERIENCE

A. Project Applicant/Developer Experience. For completed projects, list only projects completed in the last 5 years. For pipeline projects, list projects for which you plan to seek funding in the next 12 months or have received at least one funding commitment.

Projects Completed								
Project Type	Activity Type	Role (i.e. owner, developer)	City and State	# Units	Date project activities began	On Time, On Budget	Placed in service date	Type of financing
Multifamily	New Construction	Owner/Developer	Ellensburg	20	10/19	Yes, Yes	01/21	Cash Equity, Mezzanine Debenture, Debt
Multifamily	New Construction	Owner/Developer	Ellensburg	40	06/13	Yes, Yes	09/19	Equity, Debt
Select item	Select item					Select item		
Select item	Select item					Select item		
Select item	Select item					Select item		
Select item	Select item					Select item		
Select item	Select item					Select item		

Project Pipeline								
Project Type	Activity Type	Role (i.e. owner, developer)	City and State	# Units	Date project activities began	On Time, On Budget	Placed in service date	Type of financing
Multifamily	New Construction	Developer	Ellensburg	30	07/19	Yes, Yes	12/21	Cash
Multifamily	New Construction	Developer	Ellensburg	5	10/20	Yes, Yes	12/21	Cash, Grants
Select item	Select item					Select item		
Select item	Select item					Select item		
Select item	Select item					Select item		
Select item	Select item					Select item		
Select item	Select item					Select item		

B. Project Property Management Firm Experience. As applicable, please list up to 10 similar projects that your organization, or your selected Property Management firm, has managed or currently manages.

Project	City and State	# Units	Unit Type	Target population	Effective date of management contract	End date (current if still managing)
Place Apartments	WA	40	2-bed	Students	N/A	N/A
			Select item			
			Select item			
			Select item			
			Select item			
			Select item			
			Select item			
			Select item			
			Select item			
			Select item			

7. LEVERAGE AND COLLABORATION

A. Financing Sources. Please complete all information applicable to your project. Include all financing term assumptions even if they are funder's standard terms. Include funds contributed by applicant through initial start-up capital or expected applicant contribution.

Name	Type	Proposed Amount	Committed Amount	Date Applied	(Projected) award date	Grant/loan	Term	Payment structure
N Pine St	City property	\$ 0.00	\$ 0.00	10/13/20				
Sect. 221(d)(4)	Federal	\$4,000,000						
	Select Item							
	Select item							
	Select item							
	Select item							
	Select item							
	Select item							
	Select item							
TOTAL		\$4,000,000	\$ 0.00					
CITY PROPERTY REQUESTED		937033.617033						

B. Please describe how the City property contribution requested will be leveraged. Provide a brief narrative of financing sources listed above and the city funds will be leveraged. **(100 words or less)**

With the land being contributed as equity, outside bridge capital may be sought and the main funding will be through a Section 221 loan HUD loan up to 87% LTC.

C. Please describe in-kind contributions and/or volunteers/pro-bono services that support project development. Your narrative response must focus on the in-kind contributions, volunteers, and pro-bono services that will be used for the proposed project, and not the agency in general. **(100 words or less)**

The contributions to the project will be work on entitlements and applications as well as site planning. The design of the building and site plan will be done pro bono before being sent for final engineering. The project will also require a code departure request, SEPA, pre-application, and several other applications before application for permits will be allowed which will be contributed.

D. Collaboration and Partnership. Please describe activities that demonstrate active partnerships and/or regular coordination with other relevant public, nonprofit, and private entities that support similar goals or related activities. Examples might include membership on advisory groups, financial contributions, sharing data or best practices, and soliciting input from community partners. **Your narrative must focus on community partnerships that will be used for the proposed project, and not for the agency in general. (300 words or less)**

Active collaboration with Hopesource with consulting and development of other low income projects providing advisory and physical contributions. As the project is also large enough in size, public comment will be asked for during several parts of the entitlement process allowing for active public participation.

8. PROJECT SCHEDULE AND BUDGET

A. Project Schedule. Provide date completed and status information for the following project tasks. If a task does not apply to your project, enter N/A. To include additional tasks please attach additional sheets as necessary. Please only enter details for each task in the “Notes/Status” Column.

Category	Tasks	Date completed or expected completion	Notes/Status
Site Control	Purchase and Sale Agreement/Option		Land to be Contributed
Site Control	Closing		
Feasibility/Due Diligence	SEPA		SEPA to take 1-2 Months to Complete
Financing	Appraisal		
Financing	Financial underwriting		Underwriting during A&E
Financing	Application(s) for other funding source(s)		
Design/Permitting	Preliminary drawings completed		Preliminary drawings 75% done
Design/Permitting	Zoning approval		No rezone required, code departure
Design/Permitting	Site plan approval		Site plan part of full A&E, 6-9 months
Design/Permitting	Building/civil permit submitted		Civil part of full A&E
Design/Permitting	Building/civil permits issued		
Design/Permitting	Other agency permits issued		
Construction	Selection of general contractor		
Construction	Begin construction		
Construction	Issued certificate of occupancy		Const. to take 15-20 months
Occupancy	Selection of management firm		
Occupancy	Begin leasing/selling		

B. Project Budget. Amounts in the total project cost must be accounted for in full by assigning them to funding sources as appropriate. Do not combine funding sources in a column. All residential development costs should be included in this budget.

Total	%	Funding source	Funding source	Funding source	Funding source	Funding source	Funding source
		Federal	Select Item	Select item	Select item	Select item	Select item

Acquisition costs

(such as: existing structures, land, closing costs, etc.)	\$ 0.00	0.00%						
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Construction costs

(such as: demolition, new building, rehabilitation, contractor overhead and profit, site work and infrastructure costs)	\$ 3,700,000	90.3%	\$3,700,000					
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Soft costs

(such as: appraisal, legal fees, technical experts, environmental studies, project management, other consultants)	\$ 100,000	2.4%		\$100,000				
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Other development costs

(such as: permits, utility hook-ups)	\$ 250,000	6.1%	\$250,000					
--------------------------------------	------------	------	-----------	--	--	--	--	--

Financing costs

(such as loan fees, legal fees, etc.)	\$ 50,000.00	1.2%	\$50,000					
---------------------------------------	--------------	------	----------	--	--	--	--	--

Total	\$4,100,000		\$4,000,000	\$100,000	\$ 0.00	\$ 0.00	\$ 0.00	\$ 0.00
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C. Budget Narrative. As necessary, include budget narrative to support and/or supplement the information included in the project budget tables above. **(100 words or less)**

The generalized budget above was taken from a more detailed budget of costs deriving from recent costs to build on similar projects, adjusting for prevailing wage, general contractor preliminary bids and other cost data.

9. ATTACHMENTS TO APPLICATION

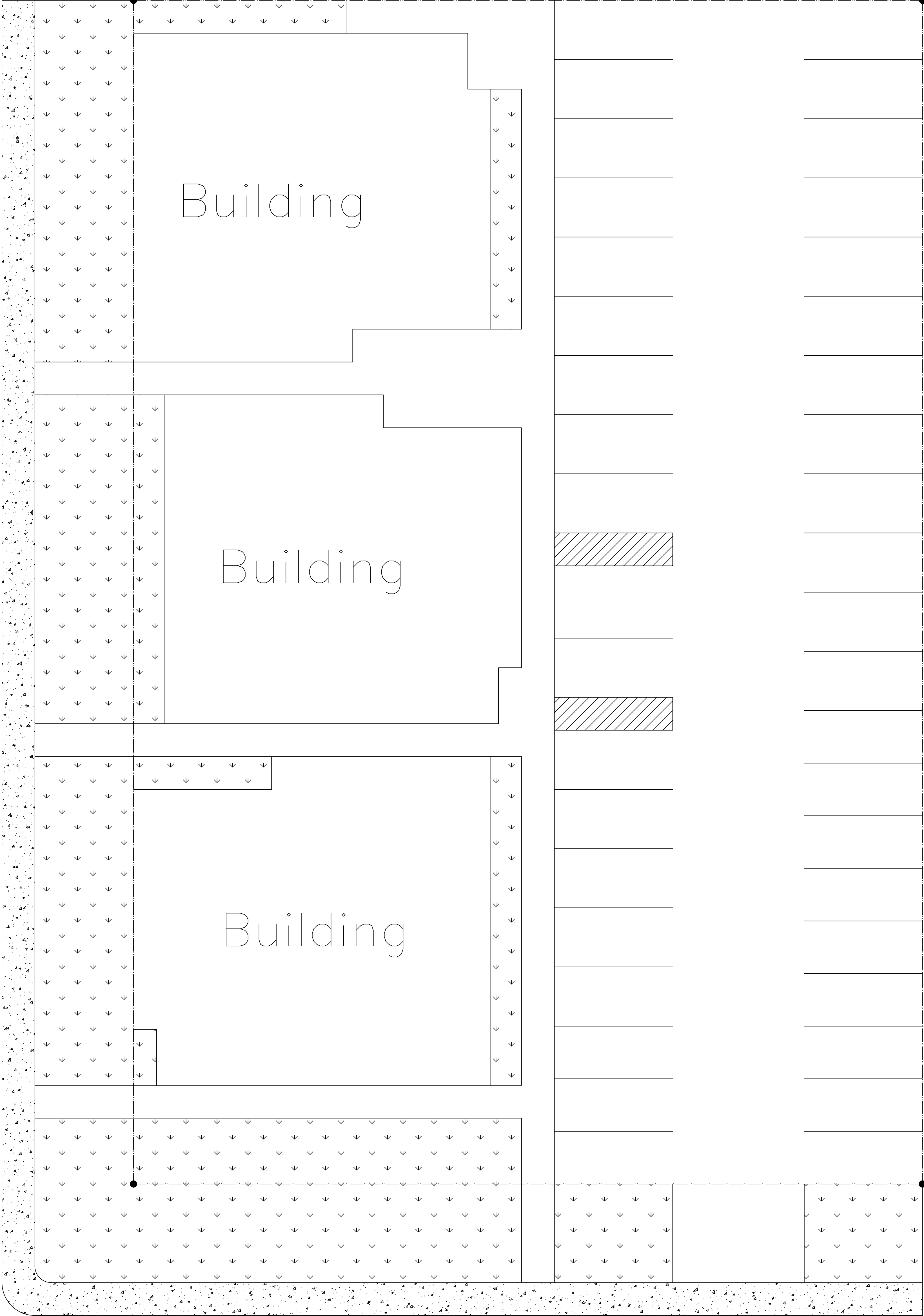
- ☒ Signed City of Ellensburg pre-funding application submittal
- ☐ Documentation to support collaboration
- ☒ Project site/development plan
- ☒ Resident screening/monitoring tool

N Pine St



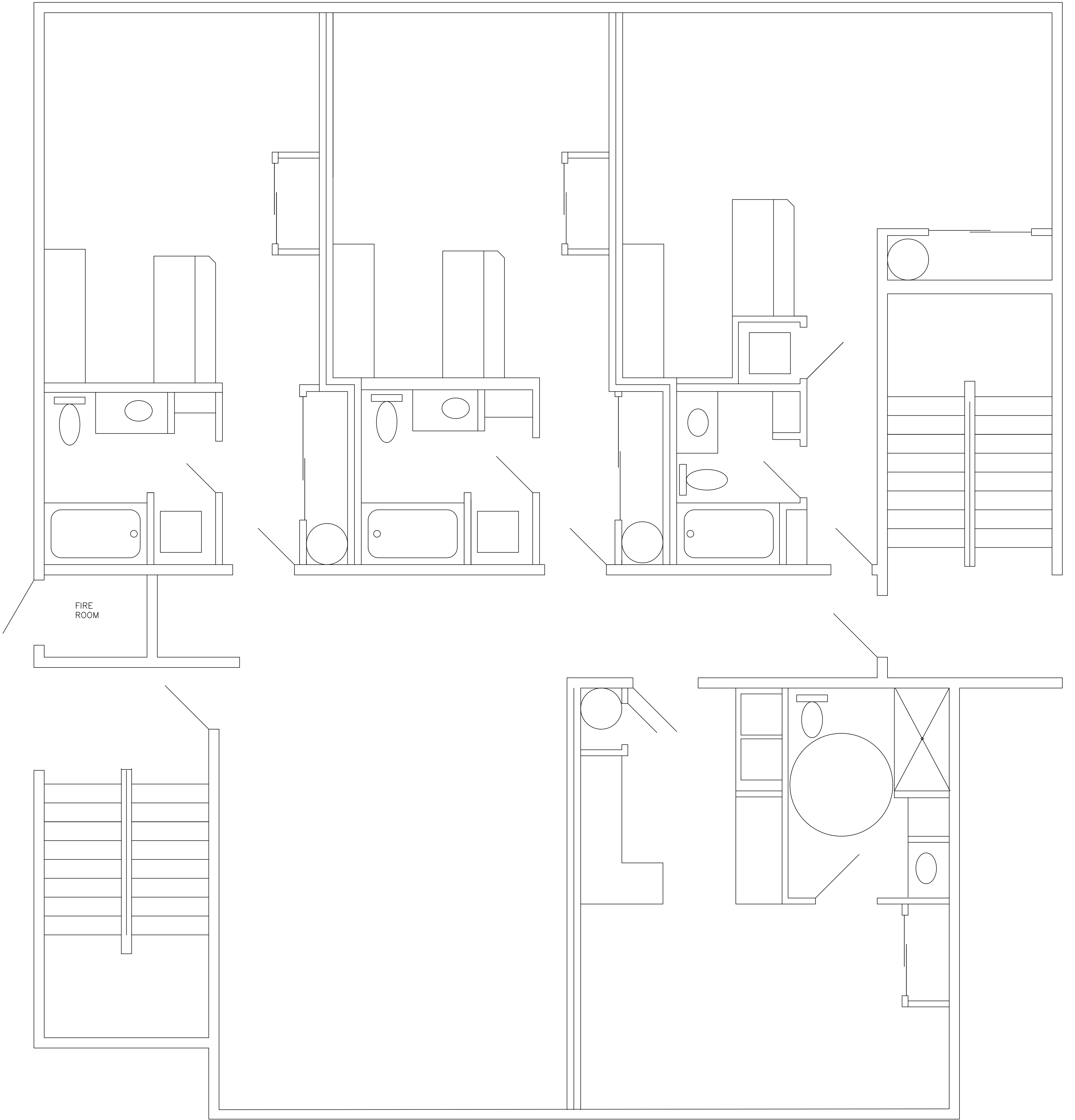
Existing City
Parking Lot

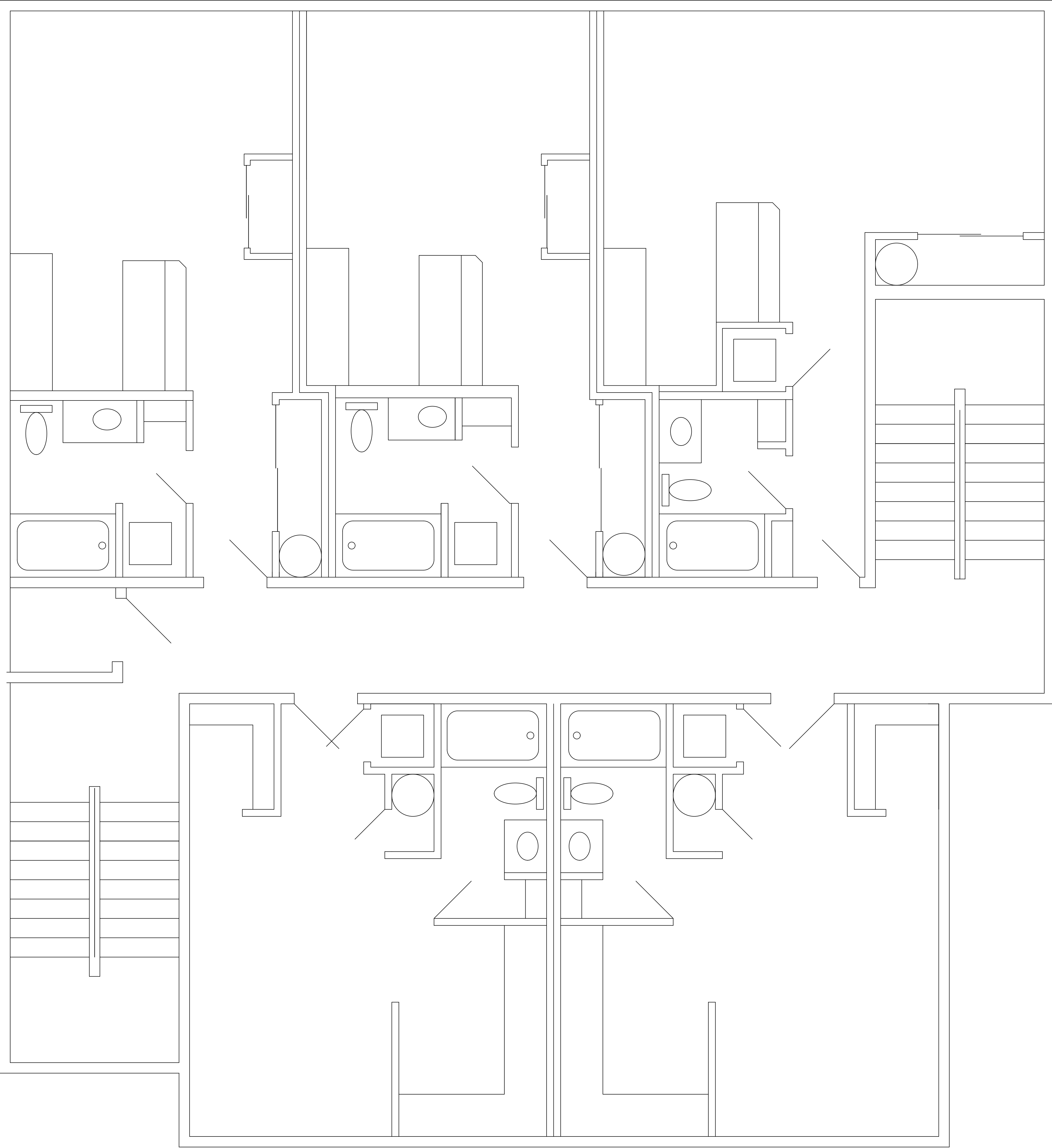
Property Corner



Alley

E 1st Ave





INITIAL APPLICATION FOR HOUSING

I. Applicant Information:

Please Print NEATLY In Ink

LAST NAME		FIRST NAME		MIDDLE INITIAL	
MAILING ADDRESS		APT. NO.	CITY	STATE	ZIP
		()		()	
EMAIL ADDRESS		CELL PHONE		WORK / MESSAGE PHONE	

PLEASE LIST ANY OTHER NAMES YOU MAY HAVE USED IN THE PAST (MAIDEN NAME, ALIAS, ETC.): _____

Primary Language: _____

Translation Services Needed: ☐ YES ☐ NO

II. Household Information:

1. Please list ALL HOUSEHOLD MEMBERS who will be living in the assisted unit. (List additional Members on a separate page if more space is needed):

Mbr #	LAST NAME	FIRST NAME	MI	SEX (M/F)	RELATION TO HEAD	DATE OF BIRTH (MM/DD/YYYY)	DISABLED	US MILITARY VETERAN
1					SELF		☐ YES ☐ NO	☐ YES ☐ NO
	SOCIAL SECURITY #	COUNTRY OF BIRTH	RACE: Select all that apply				Ethnicity: Select one	
			☐ Caucasian ☐ Black/African American ☐ Native American ☐ Asian ☐ Hawaiian/Pacific Islander				☐ Hispanic/Latino ☐ Non-Hispanic/Latino	

Mbr #	LAST NAME	FIRST NAME	MI	SEX (M/F)	RELATION TO HEAD	DATE OF BIRTH (MM/DD/YYYY)	DISABLED	US MILITARY VETERAN
2							☐ YES ☐ NO	☐ YES ☐ NO
	SOCIAL SECURITY #	COUNTRY OF BIRTH	RACE: Select all that apply				Ethnicity: Select one	
			☐ Caucasian ☐ Black/African American ☐ Native American ☐ Asian ☐ Hawaiian/Pacific Islander				☐ Hispanic/Latino ☐ Non-Hispanic/Latino	

Mbr #	LAST NAME	FIRST NAME	MI	SEX (M/F)	RELATION TO HEAD	DATE OF BIRTH (MM/DD/YYYY)	DISABLED	US MILITARY VETERAN
3							☐ YES ☐ NO	☐ YES ☐ NO
	SOCIAL SECURITY #	COUNTRY OF BIRTH	RACE: Select all that apply				Ethnicity: Select one	
			☐ Caucasian ☐ Black/African American ☐ Native American ☐ Asian ☐ Hawaiian/Pacific Islander				☐ Hispanic/Latino ☐ Non-Hispanic/Latino	

Mbr #	LAST NAME	FIRST NAME	MI	SEX (M/F)	RELATION TO HEAD	DATE OF BIRTH (MM/DD/YYYY)	DISABLED	US MILITARY VETERAN
4							☐ YES ☐ NO	☐ YES ☐ NO
	SOCIAL SECURITY #	COUNTRY OF BIRTH	RACE: Select all that apply				Ethnicity: Select one	
			☐ Caucasian ☐ Black/African American ☐ Native American ☐ Asian ☐ Hawaiian/Pacific Islander				☐ Hispanic/Latino ☐ Non-Hispanic/Latino	

Mbr #	LAST NAME	FIRST NAME	MI	SEX (M/F)	RELATION TO HEAD	DATE OF BIRTH (MM/DD/YYYY)	DISABLED	US MILITARY VETERAN
5							☐ YES ☐ NO	☐ YES ☐ NO
	SOCIAL SECURITY #	COUNTRY OF BIRTH	RACE: Select all that apply				Ethnicity: Select one	
			☐ Caucasian ☐ Black/African American ☐ Native American ☐ Asian ☐ Hawaiian/Pacific Islander				☐ Hispanic/Latino ☐ Non-Hispanic/Latino	

Mbr #	LAST NAME	FIRST NAME	MI	SEX (M/F)	RELATION TO HEAD	DATE OF BIRTH (MM/DD/YYYY)	DISABLED	US MILITARY VETERAN
6							☐ YES ☐ NO	☐ YES ☐ NO
	SOCIAL SECURITY #	COUNTRY OF BIRTH	RACE: Select all that apply				Ethnicity: Select one	
			☐ Caucasian ☐ Black/African American ☐ Native American ☐ Asian ☐ Hawaiian/Pacific Islander				☐ Hispanic/Latino ☐ Non-Hispanic/Latino	

Mbr #	LAST NAME	FIRST NAME	MI	SEX (M/F)	RELATION TO HEAD	DATE OF BIRTH (MM/DD/YYYY)	DISABLED	US MILITARY VETERAN
7							☐ YES ☐ NO	☐ YES ☐ NO
	SOCIAL SECURITY #	COUNTRY OF BIRTH	RACE: Select all that apply				Ethnicity: Select one	
			☐ Caucasian ☐ Black/African American ☐ Native American ☐ Asian ☐ Hawaiian/Pacific Islander				☐ Hispanic/Latino ☐ Non-Hispanic/Latino	

Mbr #	LAST NAME	FIRST NAME	MI	SEX (M/F)	RELATION TO HEAD	DATE OF BIRTH (MM/DD/YYYY)	DISABLED	US MILITARY VETERAN
8							☐ YES ☐ NO	☐ YES ☐ NO
	SOCIAL SECURITY #	COUNTRY OF BIRTH	RACE: Select all that apply				Ethnicity: Select one	
			☐ Caucasian ☐ Black/African American ☐ Native American ☐ Asian ☐ Hawaiian/Pacific Islander				☐ Hispanic/Latino ☐ Non-Hispanic/Latino	

2. Is anyone in the household expecting a baby? ■ YES ■ NO If YES, please list the name(s): _____

3. **HOUSEHOLD INCOME:** Please list ALL sources of income received by ALL members of your household:
 Examples: Wages, Pension, Child Support, SSI, SSA, L&I, TANF, and Regular Gifts. List additional income on a separate page if more space is needed.

MBR#	Type of Income (wages, etc.)	Amount Received	(Circle one)				Hrs. per wk. (if applicable)
1		\$	per	hour	week	month	
2		\$	per	hour	week	month	
3		\$	per	hour	week	month	
4		\$	per	hour	week	month	
5		\$	per	hour	week	month	
6		\$	per	hour	week	month	
7		\$	per	hour	week	month	
8		\$	per	hour	week	month	

III. Family Information:

1. Does anyone listed on your application have a Criminal Record? Answering YES, will not automatically exclude you from housing. A Criminal History background check will be run on you and your adult family members. ■ YES ■ NO

If YES, please list any criminal history, which will appear on your records and where it occurred: _____

2. Has anyone listed on your application previously lived in Public Housing? ■ YES ■ NO

If YES, please list who, along with when and where they lived in Public Housing: _____

3. Does your family require a handicapped-modified unit? (Examples: roll-in shower, wheelchair accessible, etc.) ■ YES ■ NO

4. Does any family member require a reasonable accommodation? (Example: live-in aid, etc.) ■ YES ■ NO

If YES, please complete a **Reasonable Accommodation form**, available from any KCHA office.

IV. Preferences:

Extremely Low Income Preference

1. Do you currently live in subsidized housing or receive a government rent subsidy?

☐ YES ☐ NO

If you answered “YES” you do not qualify for the **Extremely Low Income** preference. Go to Question 3.

If you answered “NO”, go to question 2.

2. Is your yearly income *at or below* the limits given for your family size on the chart below?

☐ YES ☐ NO

Family Size	Annual Income	Family Size	Annual Income	Family Size	Annual Income	Family Size	Annual Income	Family Size	Annual Income	Family Size	Annual Income
1	\$25,100	3	\$32,250	5	\$38,700	7	\$44,400	9	\$50,150	11	\$57,560
2	\$28,650	4	\$35,800	6	\$41,550	8	\$47,300	10	\$53,080		

3. Are you currently homeless?

☐ YES ☐ NO

Homeless is defined as lacking a fixed, regular and adequate nighttime residence and has a primary nighttime residence where the family is: (1) Living outside (i.e. no fixed roof, in a park, in a tent, etc.) (2) Living in a temporary publicly or privately owned shelter (3) Living in a car or a recreational vehicle.

- If you answered “YES”, please check the situation that most applies to you:
 - ☐ Living outside (i.e. no fixed roof, in a park, in a tent, etc.) or in a car or recreational vehicle
 - ☐ Living in a temporary publicly or privately owned shelter. Name of the shelter: _____
 - ☐ Living in other unstable temporary housing (i.e. “couch surfing, doubled up, etc.)
 - ☐ You are in the process of graduating from a KCHA-funded sponsor-based program
 - ☐ You are a graduate of the Shelter-Plus Care Program

4. Substandard Housing, Displaced, & Rent Burden Preferences (This Section applies to all applicants)

- a) Do you currently live in a dilapidated home or live in a home without one of the following: plumbing, toilet, tub/shower, kitchen, electricity, or heat? ☐ YES ☐ NO
- b) Are you currently displaced from your home by natural disaster, government action, domestic violence, or forced to move to avoid reprisal, due to hate crimes, owner action, or unit inaccessibility? ☐ YES ☐ NO
- c) Have you been paying more than 50% of your Gross Income (income *before* taxes are taken out) for rent and utilities for the last 90 days? Utilities do not include phone or cable. ☐ YES ☐ NO

**IF YOU ANSWERED “YES” TO ANY OF THE ABOVE QUESTIONS (4 A-C), YOU APPEAR TO QUALIFY FOR A PREFERENCE.
PLEASE NOTE: ALL PREFERENCES WILL BE VERIFIED PRIOR TO AN OFFER OF HOUSING.**

IF YOU DID NOT ANSWER “YES”, TO ANY OF THE ABOVE QUESTIONS, THEN YOU DO NOT APPEAR TO QUALIFY FOR A PREFERENCE AT THIS TIME AND WILL BE PLACED ON OUR WAITING LIST AS A NON-PREFERENCE.

V. Signature:

I hereby certify that the information provided in this application is true to the best of my knowledge and belief. I understand that any false statements made on this application may result in the cancellation of my application and if housed, my family will be subject to eviction. I also understand I must report any changes in the above information to the housing office in writing. Failure to report accurate information with regards to my family circumstances and any changes that may occur may result in delays in the application process and could ultimately lead to cancellation of my application, without further notice. I certify that I have read and understand this declaration and I understand that I will be required to successfully complete a criminal background check, a credit history check, provide landlord history for the past three years and update my local preference and income status, which will be verified by the Housing Authority before a final determination regarding the suitability of my application will be made. Failure to respond to any correspondence from the Housing Authority may result in delays in the application process and could ultimately lead to cancellation of my application without further notice.

Head of Household Signature: _____ **Date:** _____

Spouse/ Co-HOH Signature: _____ **Date:** _____

Adult Signature: _____ **Date:** _____

Adult Signature: _____ **Date:** _____

Adult Signature: _____ **Date:** _____



Matthew Stalder <staldermw@gmail.com>

Affordable Housing alternative option

4 messages

Matthew Stalder <staldermw@gmail.com>

Mon, Oct 12, 2020 at 7:00 AM

To: engels@ci.ellensburg.wa.us, goodloen@ci.ellensburg.wa.us, lambt@ci.ellensburg.wa.us, lillquistn@ci.ellensburg.wa.us, millerda@ci.ellensburg.wa.us, morganm@ci.ellensburg.wa.us, tabbb@ci.ellensburg.wa.us

Cc: Kirsten Sackett <sackettk@ci.ellensburg.wa.us>, aylingj@ci.ellensburg.wa.us, Craig Kelly <ckelly@hopesource.us>

Hello, this is in regard to the current situation of the affordable housing fund after the email that was presented last week to the Affordable Housing Commission from Crytl Enterprises in which the project at 113 Bender Rd was withdrawn from. As the contract for that development is now off and the funds for it now in limbo, I have an alternative project that would instead use the parcels 617033 and 937033 at the 1st and Pine property owned by the City. As I am a multifamily developer it would be a larger scale apartment complex that could tentatively hold 57 units. I have done the surface level numbers to include the prevailing wage in the costs and the lowered rent rates and the project looks like it would financially work. For the leverage part of the financing, a section 221(d)(4) loan would be used and with the resulting higher than average loan to cost amount allowed, the cash amount now free in the AH fund would be enough bridge capital to cover the remaining costs. I have done a basic site plan for it and some unit layouts along with a preliminary budget and pro forma for feasibility. I would like to present this project as an alternative for the now available AH funds and land. If this is something that would be of interest please let me know. Thanks.

Matthew Stalder
509 929 4820

Craig Kelly <ckelly@hopesource.us>

Thu, Oct 15, 2020 at 4:37 PM

To: Matthew Stalder <staldermw@gmail.com>

Cc: "douglasstalder@gmail.com" <douglasstalder@gmail.com>

Matt, where you planning on partnering with us on your proposal? If so we should meet so we can help you with the application process.

[Quoted text hidden]

Matthew Stalder <staldermw@gmail.com>

Thu, Oct 15, 2020 at 4:42 PM

To: Craig Kelly <ckelly@hopesource.us>

I was planning on developing and having some sort of agreement on completion for management/ownership of the project if the city was interested but it still has to go through community development and the housing committee before the council will have their review but that will take at least a few weeks so I was going to wait for discussion as it is still an If with the departments being ok with it.

[Quoted text hidden]

Craig Kelly <ckelly@hopesource.us>

Thu, Oct 15, 2020 at 4:45 PM

To: Matthew Stalder <staldermw@gmail.com>

Understood.

[Quoted text hidden]



CITY OF ELLENSBURG

Date of Meeting

Time of Meeting

Place of Meeting

Minutes of City Council, Regular Meeting

June 7, 2021

7:00 PM

**Held Remotely per Governor Inslee's Proclamation
20-28.15, extended by Senate Concurrent
Resolution 8402**

Pledge of Allegiance

Councilmember Miller led the Pledge of Allegiance

1. Call to Order and Roll Call

Roll Call Present: Nancy Goodloe, Tristen Lamb, Nancy Lillquist, David Miller, Mary Morgan, Bruce Tabb

Councilmember Stacey Engel arrived at 7:10 pm

Also Present: City Manager Behrends Cerniwey; City Attorney Weiner; City Clerk Leader; Executive Assistant Gigstead; Engineering Manager Mayo; Planning Manager Ayling; Parks and Recreation Director Case; Ellensburg Police Chief Wade; Kittitas County Health Officer Dr. Mark Larson; Hanna Freeden and approximately 18 members of the public.

2. Proclamations

2.A. Lesbian, Gay, Bisexual, Transgender and Queer Pride Month Proclamation
Hanna Freeden read the proclamation for LGBTQ Pride Month.

Councilmember Nancy Goodloe moved to Approve the Mayor's signature on the Proclamation declaring June 2021 as LGBTQ Pride Month. **Motion Approved 6-0.**

2.B. Race Unity Day Proclamation
The Mayor read the Proclamation for Race Unity Day.

Councilmember Mary Morgan moved to Approve the Mayor's signature on the Proclamation. **Motion Approved 6-0.**

3. Awards and Recognitions

4. Approval of Agenda

Councilmember Mary Morgan moved to Approve the Agenda as presented. **Motion 6-0.**

5. Consent Agenda

- 5.A. Approve Minutes of May 17, 2021 Regular Meeting
- 5.B. Approve Minutes of the March 30, 2021 Special Meeting
- 5.C. Acknowledge Minutes of Arts Commission - April 8, 2021
- 5.D. Acknowledge Minutes of Diversity, Equity and Inclusion Commission - May 11, 2021
- 5.E. Acknowledge Minutes of Ellensburg Business Development Authority Board – April 14, 2021
- 5.F. Acknowledge Minutes of Environmental Commission - February 17, 2021
- 5.G. Acknowledge Minutes of Library Board - April 13, 2021
- 5.H. Acknowledge Minutes of Utility Advisory Committee - April 15, 2021
- 5.I. Resolution 2021-14 - 111 N Alder - Moody street tree removal
- 5.J. Purchase of Residential Gas Meters
- 5.K. Bid Award – Bid Call 2020-34 University Way and Reecer Creek Road Signalization
- 5.L. Accept Resignation of Helen Burrows from the Senior Citizens Advisory Commission
- 5.M. Accept Resignation of Shari Smith from the Parks and Recreation Commission.
- 5.N. Award RFQ #R21-18 - Currier Creek and Reecer Creek Primary Extension
- 5.O. Approve University Way Banner Request for 2021 CWU Commencement - June 7- 14, 2021
- 5.P. Approve Voucher Listing for June 7, 2021

Councilmember Mary Morgan moved to Approve the consent agenda as presented.
Motion Approved 6-0.

6. Petitions, Protests, and Communications

6.A. COVID-19 Update

Dr. Larson gave an update of the number of COVID cases for the County. He also spoke regarding the June 30th opening date.

6.B. Board and Commission Appointments

Councilmember Mary Morgan moved to Approve the Mayor's recommendation to appoint Daphne Condon to the Environmental Commission, Ali Brown to the Parks and Recreation Commission and Sigrid Davison to the Planning Commission. **Motion Approved 7-0.**

6.C. 2020 Police Department Annual Report

Ellensburg Police Chief, Ken Wade, presented information in the 2020 Ellensburg Police Department Report. Council asked questions of Chief Wade.

6.D. Unity Park Update

Parks and Recreation Director, Brad Case, presented an informational update concerning Unity Park. Council asked questions of Director Case. Councilmember Morgan inquired about Reed Park.

7. Citizen Comment on Non-agenda Issues

8. Business Requiring Public Hearings

8.A. Public hearing (legislative) to adopt a Resolution amending the City's Six-Year Transportation Improvement Plan (TIP) for 2021-2026 and revising a grant funded project.

The Mayor opened the public hearing. Engineering Manager, Derek Mayo, presented information in the staff report.

With no questions or comments from the public, the Mayor closed the public hearing.

Councilmember Mary Morgan moved to Approve adoption of Resolution 2021-15 amending the 2021-2026 Six-Year Transportation Improvement Plan. **Motion Approved 7-0.**

9. Introduction and Adoption of Ordinances and Resolutions

9.A. Ellensburg Business Incubator Purchase and Sale Agreement
City Attorney, Terry Weiner, presented information in the staff report.

Councilmember Mary Morgan moved to Approve Resolution 2021-16 for sale of the Ellensburg Business Incubator building to Steve & Susan Gunn and authorize the Mayor and City Manager to execute the agreement and all associated paperwork. **Motion Approved 7-0.**

10. Unfinished Business

11. New Business

11.A. Affordable Housing Commission Recommendation on City Property Contribution for Affordable Housing
Planning Manager, Jamey Ayling, presented information in the staff report.

Sara Omrani, 7790 Cook Canyon Rd, representing herself, spoke against removing the community garden.

April Binder, 102 S Pine St, spoke regarding the application.

Kara Gabriel, 104 S Pine St, representing herself, spoke against the application.

Ryan Romano, 103 N Pine St, representing himself, spoke regarding the proposed units and parking availability.

Sarah Haven, 103 N Ruby St., representing herself, spoke in favor of the community garden.

Susan Merrill, 105 N Pine St, representing herself, spoke regarding the proposed project.

Karen Stansbery, 101 N Ruby St, representing herself, spoke regarding traffic issues in the neighborhood.

Tiffany Harlan, 101 S Pearl St, representing herself, spoke against the project.

Paula McMinn, 2000 N Alder St, representing herself, spoke regarding the project and in favor of the community garden.

Rebecca Sandvig, 101 N Pearl St, spoke in favor of the community garden and concerns about potential traffic.

Blake Collins, 106 W 11th Ave, representing himself, spoke in favor of the community garden.

Councilmembers commented regarding the project. There was discussion regarding potential changes to the developer's submittal.

City Manager Behrends Cerniwey suggested a study session to discuss Council suggestions and for staff to present additional information.

Councilmember David Miller moved to table the request to authorize the Mayor's signature on the award letter to Stalder Interests until such time that Council completes further deliberation on the subject and schedule a special meeting for June 28, 2021 at 6 pm. **Motion Approved 7-0.**

11.B. Notice of intent to commence annexation proceedings – parcels 916833, 698633, 708633 and 528633 located at 805 Anderson Road
Planning Manager, Jamey Ayling, presented information in the staff report.

Councilmember Nancy Lillquist moved to Approve considering the notice of intent to commence annexation proceedings setting annexation area as shown on the attached map for parcels 916833, 698633, 708633 and 528633, including adjacent street right of way; simultaneously adopting zoning as of Industrial Light (IL) and including all or any portion of existing city or town indebtedness by the area annexed. **Motion Approved 7-0.**

12. Miscellaneous

12.A. Manager's Report

The City Manager presented the report.

There was a letter presented for the Mayor's signature representing mid-size cities. Council consensus was approval for the Mayor to sign the letter.

Councilmember David Miller moved to Approve setting a public hearing for the 2022-2026 STIP for the June 21, 2021 Council meeting. **Motion Approved 7-0.**

12.B. Councilmembers' Reports

- Councilmember Engel reported on the UGA interlocal agreement with the County and is being reviewed by City staff; she requested discussion of the funds from the sale of the incubator building for economic development; and she announced her resignation from Council effective July 31, 2021
- Councilmember Lamb attended meeting regarding boards and commissions
- Councilmember Goodloe attended the Law & Justice Council, Utility Advisory Committee, DEI Commission and Community Recovery Fund Committee. She also attended the Spurling Court dedication;
- Councilmember Miller attended the Spurling Court dedication, Washington Forestry Council and County Affordable Housing Committee and the Landmarks & Design Committee meetings;
- Councilmember Lillquist attended the Lincoln Elementary groundbreaking, tour of Ida Nason Elementary, Utility Advisory Committee meeting, airport open houses and broadband action team meeting with the County
- Mayor Tabb updated council regarding letters of support for varied projects.

13. Executive Session

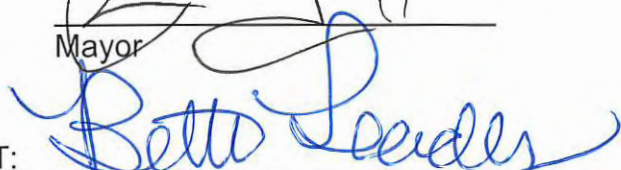
14. Adjournment

Meeting adjourned at 10:09 pm



Mayor

ATTEST:



City Clerk

ATTACHEMENT NO. 8

AWARD LETTER



501 North Anderson Street
Ellensburg, Washington 98926
Telephone: (509) 962-7221 | Fax: (509) 962-7143

September 7, 2021

Matthew Stalder
Stalder Interests, Inc.
2000 Quartz Mountain Dr.
Ellensburg, WA 98926

RE: Stalder Interests, Inc. Award Letter for City of Ellensburg Affordable Housing Property Contribution

Dear Mr. Stalder:

Congratulations! Your application for the City owned surplus property located at the corner of 1st and Pine for development of Affordable Housing has been conditionally approved by Ellensburg City Council.

This award is conditional and is not a guarantee of property. This letter provides an overview of City conditions and some details you can expect in the contractual agreement. Upon issuance of this letter, the City will initiate contract negotiations to initiate transfer of ownership of the "Community Garden" property.

This letter does not cover all local requirements or all the terms that will be included in contract documents including legal rights and obligations.

Please read this letter carefully and return a signed copy of the Acknowledgement of Conditions at the bottom to the City of Ellensburg Community Development Department.

The City's reservation of property is based upon representations made in your applications. Changes to those representations must be reported as specified in the Conditions and approved by Community Development in writing. Unreported changes may result in a delay and/or a loss of City-owned property contribution. These requirements are designed to ensure productive communication between the applicant and the City regarding project status prior to property transfer.

CONDITIONS

The City of Ellensburg will initiate contract negotiations after receipt of the signed Acknowledgement of Conditions. The City requires that the contract stipulate:

1. The contract term will be consistent with the development timeline in your application. Any extension of the timeline is subject to City approval.
2. The scope of work will be based on the applications submitted. However, in addition, and as was discussed by City Council with you at their June 7, 2021 meeting and your subsequent meetings with city staff, the design will incorporate a minimum of 6 fully accessible Type A ADA units and at least 6 additional ground floor units will be built to universal design standards Type B ADA units.

3. The proposal and contract must meet the requirements of the City of Ellensburg Affordable Housing Fund and RCW 39.33.015.
4. Applicant shall submit a written status report when changes to the project cause the proposal to differ from the application or previous status reports. Reports must explain any problems, or needed modifications, and propose a plan for addressing them.
5. The transfer of the City's property to Stalder Interests, Inc. for this project is subject to approval of your financing by the Department of Housing and Urban Development as well as approval of all contract documents by the Ellensburg City Council.

Please notify the Community Development Department as you reach each funding and other milestones or encounter challenges. The City anticipates reserving this award for the time period specified in your application. If you do not demonstrate the progress you proposed within two years of the date of this letter, or fail to meet any of the conditions herein, the City of Ellensburg reserves the right to withdraw this award.

Thank you for your commitment to make the City of Ellensburg more affordable for everyone in our community!

Sincerely,



Bruce Tabb, City of Ellensburg Mayor

Acknowledgement of Conditions

I acknowledge that I have read, understand and agree to the above conditions.

ORIGINAL SIGNATURE OF AUTHORIZED OFFICIAL

Signature:  Title: Partner
Name: Matt Stalder Date: 9/14/21
Organization: Stalder Interests Inc

AFFORDABLE HOUSING AGREEMENT

by and between

CITY OF ELLENSBURG

and

STALDER INTERESTS, INC.

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ATTACHMENTS

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ATTACHMENT NO. 2	LEGAL DESCRIPTION OF THE SITE
ATTACHMENT NO. 3	SCHEDULE OF PERFORMANCE
ATTACHMENT NO. 4	RESERVED
ATTACHMENT NO. 5	CERTIFICATE OF COMPLETION OF CONSTRUCTION
ATTACHMENT NO. 6	CITY DEED
ATTACHMENT NO. 7	AFFORDABLE HOUSING COVENANT
ATTACHMENT NO. 8	AWARD LETTER

AFFORDABLE HOUSING AGREEMENT

THIS AFFORDABLE HOUSING AGREEMENT (the “Agreement”), dated, for identification purposes only, as of _____, 2022 (the “Effective Date”) is entered into by and between the **CITY OF ELLENSBURG**, a municipal corporation (“City”), **STADLER INTERESTS, INC.**, a Washington corporation (the “Developer”).

RECITALS

A. City is a municipal corporation which, as part of its governmental operations, seeks to add to the community’s supply of affordable housing units that are actively managed, which constitutes a public use and purpose and an essential governmental function for which public moneys may be spent, and other aid given and a proper public purpose, necessary in the public interest.

B. City currently owns that certain property consisting of approximately one-half (0.5) of an acre, known as 1st and Pine (the “Site”) within the corporate limits of the City of Ellensburg. Pursuant to Resolution 2021-32, the City Council has declared such property surplus to the City’s needs and has authorized disposal of the Site pursuant to RCW 39.33.015 for the public benefit purpose described in Resolution 2021-32 and RCW 39.33.015, namely to provide affordable housing for low-income and related facilities that support the goals of affordable housing development in providing economic and social stability for low-income persons. For this purpose “low-income” refers to an earnings threshold of 80% of AMI as set forth in RCW 43.63A.510.

C. Developer will develop the Site with a fifty-seven (57) unit multifamily development (“Project”) providing permanent housing to persons and families of limited income, as more particularly provided herein, with all of the dwelling units on the Site to be restricted to occupancy by low-income residents. The Project will be substantially similar in overall design to the proposal submitted by the Developer and approved by the Ellensburg City Council at its June 7, 2021 meeting. The Project is also subject to the terms and conditions of the City’s September 8, 2021 Award Letter, a copy of which is included hereto as Attachment 8.

D. Developer has requested assistance from City in the form of contribution of the Site.

E. By this Agreement, and subject to the terms and conditions herein, City desires to aid in the implementation of the Project as more fully described herein. The permitted income levels of the tenants of each Housing Unit and the permissible rents price to be charged for occupancy of each Housing Unit are set forth in detail in this Agreement and the Regulatory Agreement, in order to ensure compliance with the requirements this Agreement and other applicable federal and state laws and regulations.

F. Initially capitalized terms used in these Recitals are defined in these Recitals and in Section 1.1.

G. The Project is in the vital and best interest of City and the health, safety and welfare of the residents of the City, and in accord with the public purposes and provisions of applicable federal, state and local laws and requirements.

NOW, THEREFORE, for and in consideration of the mutual promises, covenants, and conditions herein contained, the parties hereto agree as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Defined Terms. As used in this Agreement (and in all other Project Documents, unless otherwise defined), the following capitalized terms shall have the following meanings:

“Affiliate” means any person or entity directly or indirectly, through one or more intermediaries, controlling, controlled by or under common control with Developer which, if Developer is a partnership or limited liability company, shall include each of the constituent partners or members, respectively thereof. The term “control” as used in the immediately preceding sentence, means, with respect to a person that is a corporation, the right to the exercise, directly or indirectly, of at least 50% of the voting rights attributable to the shares of the controlled corporation and, with respect to a person that is not a corporation, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the controlled person.

“Affordability Period” means the duration of the affordable housing requirements that are required by this Agreement and set forth in the Regulatory Agreement. The Affordability Period shall continue until the later to occur of (i) the fifty-first (51st) anniversary of the Effective Date, or (ii) the fiftieth (50th) anniversary of the date the Certificate of Completion of Construction is issued to Developer.

“Area Median Income” or **“AMI”** means the Area Median Income for Kittitas County, Washington, as published annually, effective July 1, by the U.S. Department of Housing and Urban Development – HOME Income Limits.

“Building Permit” means the building permit(s) issued by City and required for the Improvements.

“Certificate of Completion of Construction” means Attachment No. 5.

“City” means the City of Ellensburg, a Washington municipal corporation.

“City Code” means the municipal code of City as amended from time to time.

“City Conveyance” means the conveyance by which Developer shall acquire title to the Site from City.

“City Deed” means a grant deed by which City will convey the Site to Developer. The form of the City Deed shall be substantially as set forth as Attachment 6.

“City Conveyance Developer Certificate” means the certificate delivered by Developer to the City as a condition of Closing.

“City-Developer Purchase Price” means the sum of \$158,188.73, which shall be deemed to be the value of the Site established upon conveyance of the Site to the Developer pursuant to Section 2.1 of this Agreement.

“City Manager” means the City Manager of City and the authorized designee(s) of the City Manager. Whenever the consent, approval or other action of the “City Manager” is required herein such consent may be provided by the City Manager or the authorized designee(s).

“Civil Permits” means the permit(s) issued by the City and required to construct the on-site utilities and infrastructure serving the Project.

“Conditions Precedent” shall have the meaning set forth therefor in Section 2.1.4 hereof.

“Construction” means the entire work of construction, development and improvement of the Site which is required pursuant to this Agreement, including as set forth in the Scope of Development and the Design Development Drawings.

“Construction Contract” means the contract entered into by and between General Contractor and Developer, if the General Contractor is not the Developer, for the construction of the Project, as approved by City Manager pursuant to this Agreement in the City Manager’s reasonable discretion.

“County” means the County of Kittitas, Washington.

“County Recorder” means the County Auditor or other official charged with recording of documents pertaining to title to land.

“Design Development Drawings” is defined in Section 4.2.

“Developer” means Stadler Interests, Inc., as defined in the first paragraph hereof.

“Effective Date” means the date of this Agreement.

“Eighty Percent Households” means households earning not greater than 80% of Kittitas County AMI, adjusted for household size.

“Environmental Claim” means (i) any judicial or administrative enforcement actions, proceedings, claims, orders (including consent orders and decrees), directives, notices (including notices of inspection, notices of abatement, notices of noncompliance or violation and notices to comply), requests for information or investigation instituted or threatened by any governmental authority pursuant to any Governmental Requirement; or, (ii) any suits, arbitrations, legal proceedings, actions or claims instituted, made or threatened that relate to any damage, contribution, cost recovery, compensation, loss or injury resulting from the release or threatened release (whether sudden or non-sudden or accidental or non-accidental) of, or exposure to, any Hazardous Materials, or the violation or alleged violation of any Governmental Requirement, or the general, manufacture, use, storage, transportation, treatment, or disposal of Hazardous Materials.

“Environmental Laws” as used in this Agreement means all laws, ordinances and regulations relating to Hazardous Materials, including, without limitation: the Clean Air Act, as amended, 42 U.S.C. Section 7401, et seq.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251, et seq.; the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. Section 6901, et seq.; the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (including the Superfund Amendments and Reauthorization Act of 1986), 42 U.S.C. Section 9601, et seq.; the Toxic Substances Control Act, as amended, 15 U.S.C. Section 2601, et seq.; the Occupational Safety and Health Act, as amended, 29 U.S.C. Section 651, et seq., the Emergency Planning and Community Right to Know Act of 1986, 42 U.S.C. Section 11001, et seq.; the Mine Safety and Health Act of 1977, as amended, 30 U.S.C. Section 801, et seq.; the Safe Drinking Water Act, as amended, 42 U.S.C. Section 300f, et seq.; all comparable state and local laws, laws of other jurisdictions or orders and regulations; and all laws, ordinances, statutes, codes, rules, regulations, orders and decrees of the United States, the state, the county, the city, or any other political subdivision in which the Site is located, and of any other political subdivision, agency or instrumentality exercising jurisdiction over City, Developer, or the Site.

“Escrow” means, unless the context requires otherwise, the escrow established for the recording of the City Deed and the Regulatory Agreement.

“Escrow Holder” means the holder of the Escrow, as designated by City.

“Event of Default” has the meaning set forth in Section 7.1.

“Fair Housing Laws” means the Fair Housing Act of 1968 as amended from time to time (42 U.S. Code Sections 3601-3619 and 3631), and State laws pertaining to housing including without limitation the Washington Law Against Discrimination, Chapter 49.60 RCW.

“Financing Plan” means a plan which accounts for all sources necessary for the construction of the Improvements; such Financing Plan is to be subject to review and approval by the City Manager.

“General Contractor” means the general contractor (which may be the Developer) engaged to supervise the subcontractors in the performance and completion of the construction of the Improvements. The General Contractor shall be reasonably acceptable to and approved by the City Manager, in the City Manager’s reasonable discretion. The parties acknowledge that the General Contractor may perform actual construction work for a portion of the Development, and may hire Subcontractors who shall be reasonably approved by the City Manager.

“Governmental Requirements” means all laws, ordinances, statutes, codes, rules, regulations, orders, and decrees of the United States, the state, the County, City, or any other political subdivision in which the Site is located, and of any other political subdivision, agency, or instrumentality exercising jurisdiction over Developer or the Project. The Governmental Requirements shall be deemed to require, without limitation, the payment of fees charged by governmental agencies having jurisdiction over the development of the Site.

“Hazardous Material” or **“Hazardous Materials”** means: (a) any substance, material, or waste which is or becomes regulated by any local governmental authority, the State of Washington, or the United States Government, including, but not limited to, any material or substance which is (i) defined as a “hazardous waste,” “dangerous wastes”, “hazardous substances”, “hazardous household substances”, “acutely hazardous waste,” “restricted hazardous waste,” or “extremely hazardous waste” under RCW Title 70, Chapter 70.105, (ii) petroleum, (iii) asbestos and/or asbestos containing materials; (iv) lead-based paint or any lead based or lead products; (v) polychlorinated biphenyls, (vi) designated as a “hazardous substance” pursuant to Section 311 of the Clean Water Act (33 U.S.C. Section 1317), (x) defined as a “hazardous waste” pursuant to Section 1004 of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, et seq. (42 U.S.C. Section 6903), (vii) Methyl-tertiary Butyl Ether; (xii) defined as “hazardous substances” pursuant to Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. Section 9601 et seq. (42 U.S.C. Section 9601); (viii) any other substance, whether in the form of a solid, liquid, gas or any other form whatsoever, which by any “Environmental Laws” (as defined above) either requires special handling in its use, transportation, generation, collection, storage, handling, treatment or disposal, or is defined as “hazardous” or harmful to the environment; and/or (ix) lead based paint pursuant to and defined in the Lead-Based Paint Poisoning Prevention Act, Title X of the 1992 Housing and Community Development Act, 42 U.S.C. §4800, et seq., specifically §§4821–4846, and the implementing regulations thereto. Notwithstanding the foregoing, “Hazardous Materials” shall not include such products in quantities as are customarily used in the construction, maintenance, rehabilitation, management, operation and residence of residential developments or associated buildings and grounds, or typically used in residential activities in a manner typical of other comparable residential developments, or substances commonly ingested by a significant population living within the Project, including without limitation alcohol, aspirin, tobacco and saccharine.

“Hazardous Materials Contamination” means the contamination (whether presently existing or hereafter occurring) of the improvements, facilities, soil, groundwater, air or other elements on, in or of the Site by Hazardous Materials, or the contamination of the buildings, facilities, soil, groundwater, air or other elements on, in or of any other property as a result of Hazardous Materials at any time (whether before or after the Effective Date) emanating from the Site.

“Housing Unit” or **“Housing Units”** means the fifty-seven (57) individual dwelling units at the Site to be constructed, leased, managed, and operated by Developer as long term affordable housing and in implementation of the Project.

“HUD” means the United States Department of Housing and Urban Development.

“HUD Loan” means a mortgage loan insured by the Federal Housing Administration under Section 221(d)(4) of the National Housing Act, as amended.

“Improvements” means all of the improvements all improvements required to be made under this Agreement and all other Project Documents.

“Indemnitees” means City and its elected officials, officers, employees, attorneys, contractors, elective and appointive boards and commissions, representatives, agents, and volunteers.

“Legal Description of the Site” means Attachment 2.

“Low-Income Household” means Eighty Percent Households.

“Map” means Attachment 1 hereof.

“Owner’s Title Policy” is defined in Section 2.4.

“Parties” means City and Developer.

“Project” is defined in Recital D above.

“Project Documents” means, collectively, this Agreement, the Regulatory Agreement, and the City Deed.

“RCW” means the Revised Code of Washington.

“Regulatory Agreement” means an instrument substantially in the form of Attachment 7 hereto.

“Remediation” is defined in Section 4.16.

“Rent” means the total of monthly payments by tenants of a Housing Unit for use and occupancy for the Housing Unit and facilities associated therewith, including utility allowance as established by the local public housing authority or as otherwise set by HUD.

“Schedule of Performance” means that certain Schedule of Performance attached hereto as Attachment 3, which generally sets forth the time for performing the various obligations of this Agreement. The time periods set forth in the Schedule of Performance for City approval of submittals, including without limitation any plans and drawings, submitted to City by Developer shall only apply and commence upon Developer’s complete submittal of all the required information. In no event shall an incomplete submittal by Developer trigger any of City Manager’s obligations of review and/or approval hereunder; provided,

however, that the City Manager shall notify Developer of an incomplete submittal as soon as is practicable. The Schedule of Performance is subject to modification from time to time upon prior written authorization of Developer and the City Manager on behalf of City. In addition to Section 8.2 extensions, the City Manager retains authority to extend times for performance for up to three hundred (300) days as all such extensions are aggregated.

“Scope of Development” shall have the meaning set forth in Section 4.1 hereof.

“Site” means that property so designated in the Legal Description of the Site and the Map.

“Subcontractor” and **“Subcontractors”** means, individually and collectively, one or more subcontractors hired by Developer or General Contractor for the Improvements to perform and complete, or to engage and supervise others to perform and complete, the construction of the Improvements. Developer shall submit to City information regarding the entity serving as the Subcontractor for any portion of the construction of the Improvements, including compliance with plans approved by City and the obtaining by Developer of all required licenses, certifications, insurance, etc., as reasonably requested by the City Manager.

“Title Company” means AmeriTitle or another title insurer designated by City.

“WAC” means the State of Washington Administrative Code as amended from time to time.

1.2 Singular and Plural Terms. Any defined term used in the plural in this Agreement or any Project Document shall refer to all members of the relevant class and any defined term used in the singular shall refer to any number of the members of the relevant class.

1.3 References and Other Terms. Any reference to this Agreement or any Project Document shall include such document both as originally executed and as it may from time to time be modified. References herein to Articles, Sections and Exhibits shall be construed as references to this Agreement unless a different document is named. References to subparagraphs shall be construed as references to the same Section in which the reference appears. The term “document” is used in its broadest sense and encompasses agreements, certificates, opinions, consents, instruments and other written material of every kind. The terms “including” and “include” mean “including (include) without limitation.”

1.4 Exhibits Incorporated. All attachments and exhibits to this Agreement, as now existing and as the same may from time to time be modified, are incorporated herein by this reference.

2. DISPOSITION OF THE SITE

2.1 Sale of the Site. As of the Effective Date, City holds fee title to the Site. Developer has completed its investigation of the Site and, provided all required permits and land use approvals are obtained with conditions acceptable to Developer, in its sole and absolute discretion, Developer shall deliver written notice to City of its intention to proceed with the Improvements. Developer’s investigation may have included, in Developer’s sole and absolute discretion: physical inspection of the Site, including, but not necessarily limited to, inspection and examination of soils, environmental factors, hazardous substances, archaeological information, geological, engineering and other tests, a review and investigation of zoning, permits and entitlements, review of all governmental matters affecting the Site, an appraisal of the Site, and such other matters pertaining to the Improvements as Developer deems appropriate. Developer shall have the right to, at any reasonable time and from time to time to inspect (or have its consultants inspect) the Site, and Developer shall not conduct any invasive soil, gas or groundwater sampling at the Site without first submitting a work plan to City which is acceptable to City in its reasonable discretion. No later than

ten (10) days after its receipt of any such proposed work plan from Developer, City shall notify Developer in writing whether it approves or reasonably disapproves of such work plan. All fees and other expenses incurred by Developer relating to the inspection of the Site shall be Developer's obligations. In the event Developer constructs the Improvements, all fees and expenses incurred by Developer relating to the inspection of the Site will be included in the total development cost. Developer agrees to repair any damage caused by Developer or Developer's consultants in making any inspection.

The purchase price for the sale of the Site by City to Developer, subject to all of the terms and conditions of this Agreement, shall be the City-Developer Purchase Price provided payment of such purchase price will be deferred and deemed satisfied if Developer performs its obligations under this Agreement including without limitation the renting of Housing Units to Low-Income Households in compliance with the Agreement.

2.1.1 Access to Site Prior to the Closing. Prior to the City Conveyance, representatives of the Developer shall have the right of access to all portions of the Site for the purpose of obtaining data and making surveys and tests necessary to carry out this Agreement, including without limitation the investigation of the environmental condition of the Site. The Developer agrees to notify the City in writing prior to undertaking any studies or work upon the Site prior to the City Conveyance. The City may require the Developer to execute a right of entry agreement satisfactory to City legal counsel prior to commencing such studies or work. Any preliminary work by the Developer shall be undertaken only after securing any and all necessary permits from the appropriate governmental agencies. The Developer shall indemnify, defend, and hold City harmless from any claims, losses, liabilities, and damages arising out of the activities of the Developer as set forth in this section. In addition, in the event that the Developer causes any damage to any portion of the Site, the Developer pursuant to this section shall promptly restore the Site as nearly as possible to the physical condition existing immediately prior to the Developer's entry onto the Site.

2.1.2 Conditions Precedent. City shall not convey title to any of the Site to, unless and until each and every one of the following conditions precedent (the "City Conveyance Conditions Precedent," which City Conveyance Conditions Precedent are solely for the benefit of City) has been fully satisfied, as determined in good faith by the City Manager (each of which conditions, if it requires action by Developer, shall also be a covenant of Developer):

(a) Financing Plan. Developer shall have submitted and shall have obtained approval of the City Manager of a Financing Plan. In addition, as a part of the Financing Plan, evidence of due formation and good standing shall have been filed with the Washington Secretary of State a copy shall be provided to City. In addition, Developer shall provide evidence that it has secured financing commitments for the Project that are sufficient to finance the Project, and shall provide a pro forma project budget that includes all funding sources for the Project. In addition, Developer shall have certified in writing to City that the financing commitments, affordable housing subsidies, and required equity contributions, are together projected to be sufficient to pay for the Construction of the Improvements through completion of the Project.

(b) Project Documents. Developer shall have delivered to the Escrow Holder, in recordable form, the Regulatory Agreement, duly executed by Developer.

(c) Civil Permits. Developer shall have satisfied all conditions to obtaining all Civil Permits to be obtained excepting for the payment of permit fees for all of the Site (the payment of which shall be made by Developer after Closing in conformity with City practices customarily applied to development within the corporate limits of City). Developer acknowledges and agrees that the plans prepared for the Improvements shall be subject to City's normal planning review process. If any parcel map

or lot line adjustment is required as to any of the Site, Developer shall bear the cost of preparing and procuring such parcel map or lot line adjustment.

(d) Land Use Approvals. Developer shall have obtained each of the land use approvals required for issuance of the Civil Permits.

(e) Environmental Risk and Documentation. City Manager shall supply documentation of completed environmental remediation through local and Department of Ecology records. The Developer acknowledges that in supplying such documentation and in conveying the Site, the City makes no warranties or representations regarding the compliance of the Site with any environmental laws or regulations.

(f) Insurance. City shall have received evidence, satisfactory to City Manager, that all of the insurance policies required by Section 4.5, below, are in full force and effect.

(g) Corporate Resolution. Developer shall deliver or shall have delivered to City a certified copy of a resolution of Developer's board of directors (or authorized executive committee) authorizing (or ratifying) the execution of the Project Documents (the "Developer's Resolution").

(h) Lease/Rental Agreement. Developer shall have submitted to City, and City shall have approved the standard form lease/rental agreement in conformance with the Regulatory Agreement for rental of the Housing Units to eligible tenants in accordance with the terms of this Agreement, which approval shall not be unreasonably withheld or delayed. Developer shall include certain terms in the standard form lease/rental agreement which clearly describe the requirements of qualification and rental to Low Income Households including without limitation: (i) the obligation to provide complete and timely income verifications, as and when reasonably requested by Developer and/or City, but not less frequently than prior to initial occupancy and then annually during the term of tenancy, (ii) the rules and regulations for use, occupancy, and quiet enjoyment of the Housing Units and the Site, (iii) tenant protections relating to notices, eviction, and (iv) such other terms as Developer and/or City deem reasonably necessary.

(i) Representations and Warranties. The representations and warranties of Developer contained in this Agreement shall be correct as of the close of Escrow as to the Site as though made on and as of that date, and City Manager shall have received a City Conveyance Developer Certificate to that effect signed by an officer of Developer.

(j) No Default under Agreement. No Event of Default by Developer shall have occurred under this Agreement, no event shall have occurred which, with the giving of notice or the passage of time or both, would constitute an Event of Default by Developer under this Agreement, Developer shall be in compliance with the provisions of this Agreement, and City Manager shall have received a City Conveyance Developer Certificate to that effect signed by an officer of Developer.

(k) No Other Defaults. Developer shall not be in default of this Agreement or any agreement with a lender, or prospective lender, for the Site or portion thereof, and no event shall have occurred which with the passage of time would constitute a default.

All conditions set forth in this section, or to City's obligations hereunder, are for City's benefit only and City Manager may waive all or any part of such rights by written notice to Developer and Escrow Holder. Closing of the acquisition shall constitute Developer's certification, to the best of Developer's knowledge, to the City that the City Conveyance Conditions Precedent have been satisfied.

2.1.3 Developer's Conditions of City-Developer Closing. Developer's obligation to proceed with the acceptance of conveyance of the Site is subject to the fulfillment or waiver by Developer of each and all of the conditions precedent (a) through (d), inclusive, described below ("Developer's Conditions Precedent"), which are solely for the benefit of Developer, and which shall be fulfilled or waived by the time periods provided for herein:

(a) Review and Approval of Title. Developer shall have reviewed and approved the condition of title of the Site.

(b) Title Policy. The Title Company shall, upon payment of Title Company's regularly scheduled premium, be irrevocably committed to issue the Owner's Title Policy for the Site upon close of Escrow, in accordance with Section 2.4 hereof.

(c) Property Condition. Developer shall have approved the condition of the Site.

(d) Permits. Developer is satisfied, in its sole discretion, that City is prepared to issue the Civil Permit and, after conveyance of the Site to Developer, all permits, subdivision approvals, and other entitlements to develop the Site on terms and conditions acceptable to Developer, in its sole satisfaction.

(e) City Conveyance Developer Certificate. Developer shall have delivered a City Conveyance Developer Certificate to the City Manager.

2.2 Escrow. The parties shall open Escrow with the Escrow Holder within fifteen (15) days after the Effective Date, for the recordation of the City Deed and Regulatory Agreement. City and Developer agree to execute such supplemental escrow instructions as may be reasonably required to implement this section. Developer shall be responsible to pay any premium, fees, costs and expenses for the Owner's Title Policy. Developer shall additionally pay, at its cost, all escrow fees, closing costs, and any amounts necessary to effect recording, escrow charges, and any costs necessary to cause the recording of the City Deed and Regulatory Agreement and closing of the transaction contemplated herein.

2.3 [Reserved]

2.4 Title Insurance, Disposition to Developer. Substantially concurrently with recordation of the City Deed, there shall be issued to Developer an ALTA owner's policy of title insurance ("Owner's Title Policy") in the amount of the Purchase Price, issued by the Title Company insuring fee simple title to the Site is vested in Developer in the condition required by this Agreement.

3. DEVELOPER ACTIVITIES FOLLOWING CONVEYANCE TO DEVELOPER

3.1 Property Taxes and Assessments. Ad valorem taxes and assessments levied, assessed or imposed on the Site for the period after the City Conveyance shall be borne by Developer.

3.2 Developer's Obligations after the City Conveyance. After the City Conveyance, Developer shall, at its sole cost and expense, promptly take: (i) all actions required by any federal, state or local governmental City or political subdivision or any Governmental Requirements with respect to the Site pursuant to this Agreement; (ii) all actions necessary to prepare the soil on the Site for the development required hereunder; and (iii) all actions necessary to make full use of the Site for the development and operation of affordable housing pursuant to this Agreement, which actions, requirements or necessity arise from the presence upon, about or beneath the Site of any Hazardous Materials regardless of when such Hazardous Materials were introduced to the Site and regardless of who is responsible for introducing such

Hazardous Materials to the Site. Developer shall take all actions necessary to promptly restore the Site to an environmentally sound condition for uses contemplated by this Agreement consistent with the standard of remediation required under applicable Governmental Requirements. The obligations under this section shall survive the issuance of the Certificate of Completion of Construction.

3.3 Duty to Prevent Hazardous Material Contamination. After the City Conveyance, Developer shall take all reasonably necessary precautions to prevent the release of any Hazardous Materials into the environment, in, on, under, or about the Site. Such precautions shall include compliance with all Governmental Requirements with respect to Hazardous Materials. In addition, during construction of the Improvements, Developer shall take all reasonably necessary precautions to prevent the release of any Hazardous Materials into the environment or onto or under the Site in violation of Environmental Laws. Such precautions shall include compliance with all Environmental Laws with respect to Hazardous Materials. In addition, Developer shall install and utilize such equipment and implement and adhere to such procedures as are consistent with applicable Environmental Laws and then-prevailing industry standards as respects the disclosure, storage, use, abatement, removal and disposal of Hazardous Materials.

3.4 Release of City by Developer. Developer hereby waives, releases and discharges forever City and its employees, officers, agents and representatives, from all present and future claims, demands, suits, legal and administrative proceedings and from all liability for damages, losses, costs, liabilities, fees and expenses, present and future, arising out of or in any way connected with Developer's ownership, improvement and/or disposition of the Site, any Hazardous Materials on the Site, or the existence of Hazardous Materials Contamination in any state on the Site, however they came to be located there.

3.5 "As Is" Conveyance. Developer expressly understands and agrees that Developer purchased the Site from City in an "AS IS" condition on the closing date. As of the closing, City specifically disclaimed the making of any representations or warranties, express or implied, regarding the Site or matters affecting the Site, including without limitation, the presence of Hazardous Materials on the Site, or the condition of the soil, its geology, the presence of known or unknown seismic faults, or the suitability of the Site for the development purposes intended hereunder.

4. SCOPE OF DEVELOPMENT; INSURANCE AND INDEMNITY, FINANCING

4.1 Scope of Development. Within a reasonable period of time after the Effective Date, and in any event, prior to commencement of construction of the Improvements Developer shall submit to City a reasonably detailed overview of the scope of the development of the Improvements that Developer intends to construct ("Proposed Scope of Development") for review by the City. The City may approve, disapprove, or modify the Proposed Scope of Development in its reasonable discretion. In the event the City disapproved or requests modifications to the Proposed Scope of Development, Developer shall make such needed or requested modifications and resubmit to the City for its review. This process shall continue until the City has approved the Proposed Scope of Development, which shall thereafter be referred to as the "Scope of Development". Developer shall develop the Improvements in accordance with the approved Scope of Development and the approved Design Development Drawings for the Improvements. The Improvements shall generally consist of not fewer than fifty-seven (57) dwelling units, as more particularly set forth in the Scope of Development. In the event of any inconsistency between the Scope of Development and the Design Development Drawings for the Improvements which have been approved by City, the approved Design Development Drawings for the Improvements shall control. Developer shall complete all off-site improvements required by City as condition(s) of approval included in the land use entitlement for the Project at no cost to City.

4.2 Design Review.

4.2.1 Developer Submissions. Before commencement of construction of the Improvements or other works of improvement upon the Site, Developer shall submit to City any plans and drawings (collectively, the “Design Development Drawings”) which may be required by City with respect to any permits and entitlements which are required to be obtained to develop the Improvements. Developer, on or prior to the date set forth in the Schedule of Performance, shall submit to City such plans for the Improvements as required by City in order for Developer to obtain Building Permits for the Improvements. The Design Development Drawings shall be consistent with the Scope of Development. Within forty-five (45) days after City’s disapproval or conditional approval of such plans, Developer shall revise the portions of such plans identified by City as requiring revisions and resubmit the revised plans to City.

4.2.2 City Review and Approval. City shall have all rights to review and approve or disapprove all Design Development Drawings and other required submittals in accordance with the City Code, and nothing set forth in this Agreement shall be construed to constitute City’s approval of any or all of the Design Development Drawings or to limit or affect City’s review and right to approve, approve subject to conditions, or disapprove Design Development Drawings, plans, drawings, applications, or submittals.

4.2.3 Revisions. Any and all change orders or revisions required by City and its inspectors which are required under the City Code and under other applicable laws and regulations shall be included by Developer in its Design Development Drawings and other required submittals and shall be completed during the construction of the Improvements.

4.2.4 Defects in Plans. City shall not be responsible either to Developer or to third parties in any way for any defects in the Design Development Drawings, nor for any structural or other defects in any work done according to the approved Design Development Drawings, nor for any delays reasonably caused by the review and approval processes established by this section.

4.2.5 Land Use Approvals. Before commencement of construction of the Improvements or other works of improvement upon the Site, Developer shall, at its own expense, secure or cause to be secured any and all land use and other entitlements, permits, and approvals which may be required for the Improvements by City or any other governmental agency affected by or having jurisdiction over such construction or work, except for those which are the responsibility of City as set forth herein. Developer shall, without limitation, apply for and secure, and pay all costs, charges and fees associated therewith, all permits and fees required by City, the County, and other governmental agencies with jurisdiction over the Improvements.

4.3 Time of Performance; Progress Reports. Developer shall submit all Design Development Drawings, commence and complete all Construction of the Improvements, and satisfy all other obligations and conditions of this Agreement within the times established therefor in this Agreement. Construction of the Improvements shall be commenced after the recording of the City Deed. Following the Effective Date, once Construction is commenced, it shall continuously and diligently be pursued to completion and without cessation for more than fifteen (15) days subject to Section 8.2. During the course of Construction and prior to issuance of the Certificate of Completion of Construction, Developer shall provide timely reports of the progress of Construction when requested by the City Manager. Developer shall complete construction of all of the Improvements on the Site by the time established therefor in the Schedule of Performance subject to Section 8.2.

Developer shall submit the Financing Plan by the time established therefor in the Schedule of Performance. In addition, Developer shall regularly (at least monthly) provide a progress report to the City Manager concerning the financing for and ongoing viability of the proposed development of the Improvements and leasing of the Housing Units to Low-Income Households in conformity with this

Agreement. Developer shall also meet monthly with the City Manager or the City Manager's designee to review progress; Developer shall also participate in such additional meetings, if any, as may be deemed appropriate by the City Manager. If requested by either party, such meetings shall be conducted as Zoom meetings, telephonic meetings, or other modes not involving in-person meetings. The meetings and reports shall continue until the completion of the Improvements.

4.4 Construction Costs. All costs of planning, designing, developing, obtaining permits for (including permit fees), and constructing the Improvements shall be borne solely by Developer.

4.5 Insurance Requirements. Until the Certificate of Completion of Construction has been issued upon completion of all of the Improvements, the following policies of insurance in form and substance reasonably satisfactory to City:

(a) workers' compensation insurance as required by the Industrial Insurance laws of the State of Washington in connection with the Improvements;

(b) upon commencement of the earlier to occur of clearing, demolition, or construction of the Improvements by Developer and at all times prior to completion of the Improvements, builder's risk-all risk insurance covering interests of the City, the Developer, Subcontractors, and Sub-subcontractors participating in the Construction. Builders Risk insurance shall be on a special perils policy form and shall insure against the perils of fire and extended coverage and physical loss or damage including flood, earthquake, theft, vandalism, malicious mischief, and collapse, covering 100% of the replacement cost of all Improvements (including offsite materials) during the course of construction and all other risks normally covered by "all risk" coverage policies in the area where the Site is located (including loss by flood if the Site is in an area designated as subject to the danger of flood)), and shall include coverage for temporary buildings, debris removal, and damage to materials in transit or stored off-site;

(c) following completion of the Improvements, fire and hazard "all risk" insurance covering 100% of the replacement cost of the Improvements in the event of fire, lightning, windstorm, vandalism, earthquake (if available at commercially reasonable rates), malicious mischief and all other risks normally covered by "all risk" coverage policies in the area where the Site is located (including loss by flood if the Site is in an area designated as subject to the danger of flood);

(d) public liability insurance in amounts reasonably required by the City Manager from time to time, and in no event less than \$2,000,000 for "single occurrence;" and

(e) property damage insurance in amounts reasonably required by the City Manager from time to time, and in no event less than \$2,000,000.

All such insurance shall provide that it may not be canceled or materially modified without 30 days prior written notice to City. City shall be an additional insured in the policies required under subparagraphs (d) and (e). No such insurance shall include deductible amounts to which City has not previously consented in writing. Certificates of insurance for the above policies (and/or original policies, if required by City) shall be delivered to City from time to time within 10 days after demand therefor. All policies insuring against damage to the Improvements shall contain an agreed value clause sufficient to eliminate any risk of co-insurance. No less than 30 days prior to the expiration of each policy, Developer shall deliver to City evidence of renewal or replacement of such policy reasonably satisfactory to the City Manager. The insurance requirements as set forth in this section may be modified from time to time upon mutual written agreement of the City Manager (for City) and Developer. It is contemplated that the construction lender may direct the use of insurance proceeds related to damage which occurs during construction so long as Developer demonstrates that completion of the Improvements is assured.

Coverage provided hereunder by Developer shall be primary insurance and not be contributing with any insurance maintained by City, and the policy shall contain such an endorsement. The insurance policy or the endorsement shall contain a waiver of subrogation for the benefit of the City. None of the above-described policies shall require Developer to meet a deductible or self-insured retention amount of more than Five Thousand Dollars (\$5,000.00) unless approved in writing by the City Manager. All policies shall be written by good and solvent insurers qualified to do business in Washington and shall have a policyholder's rating of A or better in the most recent edition of "Best's Key Rating Guide -- Site and Casualty." The required certificate shall be furnished by Developer at the time set forth herein.

Developer acknowledges and agrees that the insurance requirements contained herein are the minimum requirements of the City and that if HUD or any other lender requires that Developer maintain higher amounts and/or additional insurance coverage, Developer shall comply with such insurance requirements.

4.5.1 Public Entity Full Availability of Contractor Limits. If the Developer maintains higher insurance limits than the minimums shown above, the City shall be insured for the full available limits of such insurance maintained by the Developer, irrespective of whether such limits maintained by the Developer are greater than those required by this contract or whether any certificate of insurance furnished to the City evidences limits of liability lower than those maintained by the Developer.

4.5.2 Other Insurance Provision. The Developer's insurance policies are to contain or be endorsed to contain that they shall be primary insurance as respect the City. Any insurance, self-insurance, or self-insured pool coverage maintained by the City shall be excess of the Developer's insurance and shall not contribute with it.

4.5.3 Subcontractors. The Developer shall cause each and every Subcontractor to provide insurance coverage that complies with all applicable requirements of the Developer-provided insurance as set forth herein, except the Developer shall have sole responsibility for determining the limits of coverage required to be obtained by Subcontractors. The Developer shall ensure that the City is an additional insured on each and every Subcontractor's insurance policy complying with this section.

4.6 Waiver of Subrogation. Developer hereby waives all rights to recover against City (or any officer, employee, agent or representative of City) for any loss incurred by Developer from any cause insured against or required by any Project Document to be insured against; provided, however, that this waiver of subrogation shall not be effective with respect to any insurance policy if the coverage thereunder would be materially reduced or impaired as a result. Developer shall use its best efforts to obtain only policies which permit the foregoing waiver of subrogation.

4.7 Obligation to Repair and Restore Damage Due to Casualty. If the Improvements shall be totally or partially destroyed or rendered wholly or partly uninhabitable by fire or other casualty required to be insured against by Developer, Developer shall promptly proceed to obtain insurance proceeds and take all steps necessary to begin reconstruction and, immediately upon receipt of insurance proceeds, to promptly and diligently commence the repair or replacement of the Improvements to substantially the same condition as the Improvements are required to be constructed pursuant to this Agreement, whether or not the insurance proceeds are sufficient to cover the actual cost of repair, replacement, or restoration, and Developer shall complete the same as soon as possible thereafter so that the Improvements can be occupied as an affordable housing project in accordance with this Agreement. In no event shall the repair, replacement, or restoration period exceed 12 months from the date Developer obtains insurance proceeds unless the City Manager, in his sole and absolute discretion, approves a longer period of time. City shall cooperate with Developer, at no expense to City, in obtaining any governmental permits required for the repair, replacement, or restoration. If, however, the then-existing laws of any other governmental agencies

with jurisdiction over the Site do not permit the repair, replacement, or restoration or the cost of such repair, replacement or restoration exceeds such insurance proceeds, Developer may elect not to repair, replace, or restore the Improvements by giving notice to City (in which event Developer will be entitled to all insurance proceeds) or Developer may reconstruct such other improvements on the Site as are consistent with applicable land use regulations and approved by City and the other governmental City or agencies with jurisdiction, and City may pursue remedies of its choosing under this Agreement, including without limitation termination.

4.8 Indemnity. Developer shall defend (by counsel satisfactory to City), indemnify and save and hold harmless City and its officers, contractors, agents and employees (collectively, the “Indemnitees”) from and against all claims, damages, demands, actions, losses, liabilities, costs and expenses (including, without limitation, attorneys’ fees and court costs) arising from the acts or omissions of the Developer, or those acting on its behalf, relating to: (i) a claim, demand or cause of action that any person has or asserts against Developer; (ii) any act or omission of Developer, any contractor, subcontractor or material supplier, engineer, architect or other person acting by or on behalf of Developer with respect to the Site; or (iii) the ownership, occupancy or use of the Site. Notwithstanding the foregoing portion of this section, Developer shall not be obligated to indemnify City with respect to the consequences of any act of gross negligence or willful misconduct of City. Developer’s obligations under this section shall survive the issuance of the Certificate of Completion of Construction (except that the issuance of such Certificate shall constitute conclusive evidence that construction of the Improvements has been completed), and termination of this Agreement. City will not unreasonably withhold approval of counsel proposed by an insurer under a policy provided under this Agreement.

In the event of a default or breach under this Agreement by Developer, Developer shall reimburse City immediately upon written demand for all costs reasonably incurred by City (including the reasonable fees and expenses of attorneys, accountants, appraisers and other consultants, whether the same are independent contractors or employees of City) in connection with the enforcement of the Project Documents and all related matters including the following: (a) City’s commencement of, appearance in, or defense of any action or proceeding purporting to affect the rights or obligations of the parties to any Project Document, and (b) all claims, demands, causes of action, liabilities, losses, commissions and other costs against which City is indemnified under the Project Documents. If such default remains uncured after any applicable cure period, such reimbursement obligations shall bear interest from the date occurring 10 days after City gives written demand to Developer at a rate equal to the lesser of 12% or the highest rate permitted by applicable law.

Subject to Section 8.19, Developer shall indemnify City from any real estate commissions or brokerage fees which may arise from this Agreement or the Site, including without limitation the acquisition of the Site by Developer, or marketing of Housing Units. Developer represents that it has engaged no broker, agent, or finder in connection with this transaction, and Developer agrees to hold City harmless from any claim by any broker, agent or finder in connection with this Agreement, the activities by Developer, or the Site.

4.9 Rights of Access. Prior to the issuance of the Certificate of Completion of Construction, for purposes of assuring compliance with this Agreement, representatives of City shall have the right of access to the Site, without charges or fees, at normal construction hours during the period of construction for the purposes of this Agreement, including but not limited to, the inspection of the work being performed in constructing the Improvements so long as City representatives comply with all reasonable safety rules. City representatives shall, except in emergency situations, notify Developer prior to exercising its rights pursuant to this section. Developer acknowledges that City is under no obligation to supervise, inspect, or inform Developer of the progress of construction, and Developer shall not rely upon City therefor. Any inspection by City is entirely for its purposes in determining whether Developer is in compliance with this

Agreement and is not for the purpose of determining or informing Developer of the quality or suitability of construction or any other work at the Site. Developer shall rely entirely upon its own supervision and inspection in determining the quality and suitability of the materials and work, and the performance of architects, subcontractors, and material suppliers. The rights of City under this section are in addition to and do not limit City's police power or exercise thereof.

4.10 Compliance with Laws. Developer shall carry out the design, construction and operation of the Improvements in conformity with all applicable laws, including all applicable state labor standards and federal prevailing wage laws, City zoning and development standards, building, plumbing, mechanical and electrical codes, and all other provisions of the City Code, and the Fair Housing Act, 42 U.S.C. Section 3601 et seq. (and 24 C.F.R. Part 100), and the Americans With Disabilities Act, 42 U.S.C. Section 12101, et seq., and the Fair Housing Act of 1968 as amended from time to time (42 U.S. Code Sections 3601-3619 and 3631), and State laws pertaining to housing including without limitation the Washington Law Against Discrimination, Chapter 49.60 RCW. The parties agree that the Conveyance of the Site by the City does not trigger the payment of prevailing wages by the Developer for the construction of the Improvements.

Without limitation as to other provisions of this Agreement providing for indemnification, Developer shall indemnify, protect, defend and hold harmless City and its officers, employees, contractors and agents, with counsel reasonably acceptable to City, from and against any and all loss, liability, damage, claim, cost, expense and/or "increased costs" (including reasonable attorney's fees, court and litigation costs, and fees of expert witnesses) which, in connection with the development, construction, and/or operation of the Improvements, including, without limitation, any and all public works (as defined by applicable law), results or arises in any way from any of the following: (1) the noncompliance by Developer of any applicable local, state and/or federal law, including, without limitation, any applicable federal and/or state labor laws (including, without limitation, if applicable, the requirement to pay state prevailing wages and/or federal prevailing wages); (2) the implementation of Prevailing Wage Laws; and/or (3) failure by Developer to provide any required disclosure or identification as required by Prevailing Wage Laws, as the same may be amended from time to time, or any other similar law. It is agreed by the parties that, in connection with the development of the Improvements, including, without limitation, any and all public works (as defined by applicable law), Developer shall bear all risks of payment or non-payment of prevailing wages under Washington law. The foregoing indemnity shall survive termination of this Agreement and shall continue after completion of the construction and development of the Improvements by Developer.

4.11 Nondiscrimination in Employment. Developer certifies and agrees that all persons employed or applying for employment by it, its Affiliates, subsidiaries, or holding companies are and will be treated equally by it without regard to, or because of race, color, religion, ancestry, national origin, sex, sexual orientation, age, pregnancy, childbirth or related medical condition, medical condition (cancer related) or physical or mental disability.

4.12 Property Taxes and Assessments. Ad valorem taxes and assessments, if any, on the Site, levied, assessed or imposed for any period prior to the City Conveyance shall be borne by City; ad valorem taxes and assessments levied, assessed or imposed on the Site for the period after the City Conveyance shall not be the responsibility of City.

Developer shall pay, prior to delinquency all applicable ad valorem real estate taxes and assessments on the Site. Developer shall remove or have removed any levy or attachment made on any of the Site or any part thereof which is owned or leased by Developer during its period of ownership, or assure the satisfaction thereof within a reasonable time, but in no event to exceed 60 days. Developer shall additionally defend, indemnify, and hold harmless City from and against any taxes, assessments,

mechanic's liens, claims of materialmen and suppliers, or other claims by private parties in connection with activities undertaken by Developer on the Site.

4.13 Liens and Stop Notices. Developer shall not allow to be placed on the Site or any part thereof any lien or stop notice related to its construction of Improvements. If a claim of a lien or stop notice is given or recorded affecting the Improvements Developer shall within 30 days of such recording or service or within five days of City's demand whichever last occurs:

- (a) pay and discharge the same; or
- (b) affect the release thereof by recording and delivering to City a surety bond in sufficient form and amount, or otherwise; or
- (c) provide City with indemnification from the Title Company against such lien or other assurance which City deems, in its sole discretion, to be satisfactory for the payment of such lien or bonded stop notice and for the full and continuous protection of City from the effect of such lien or bonded stop notice.

4.14 Certificate of Completion of Construction. Promptly after receipt of written request therefor from Developer after completion of the Improvements in conformity with this Agreement, City shall furnish Developer with a Certificate of Completion of Construction. The Certificate of Completion of Construction shall be a conclusive determination of satisfactory completion of the Improvements and the Certificate of Completion of Construction shall so state. Any party then owning or thereafter purchasing, leasing or otherwise acquiring any interest in the Site or such applicable portion shall not (because of such ownership, purchase, lease or acquisition) incur any obligation or liability under this Agreement except for those continuing covenants as set forth in documents recorded against the Site prior to the recordation of the Certificate of Completion of Construction for that phase. If City refuses or fails to furnish a Certificate of Completion of Construction after written request from Developer, City shall, within 30 days of written request therefor, provide Developer with a written statement of the reasons City refused or failed to furnish the Certificate of Completion of Construction. The statement shall also contain City's opinion of the actions Developer must take to obtain the Certificate of Completion of Construction.

4.15 Further Assurances. Developer shall execute and acknowledge (or cause to be executed and acknowledged) and deliver to City all documents, and take all actions, reasonably required by City from time to time to confirm the rights created or now or hereafter intended to be created under the Project Documents, to protect and further the validity, priority and enforceability of the Project Documents or otherwise to carry out the purposes of the Project Documents.

4.16 Property Standards. Developer agrees to ensure that Construction of the Project will comply with all applicable State and local codes, ordinances, and zoning requirements, including all applicable requirements set forth in the Governmental Requirements. The Project and all Housing Units and common areas at the Site must meet all such applicable requirements upon Project completion.

4.16.1 Construction Progress Inspections. Developer shall permit and facilitate progress and final inspections of Construction by the City to ensure that work is done in accordance with the applicable codes, the Construction Contract(s), and Design Development Drawings.

4.16.2 Ongoing Property Condition Standards. Developer shall maintain the Site and Improvements thereon in conformity with the Regulatory Agreement.

4.16.3 [Reserved]

4.16.4 Handicapped Accessibility. Developer shall comply with (a) Section 504 of the Rehabilitation Act of 1973, and implementing regulations at 24 CFR 8C governing accessibility of projects assisted with federal funds, if applicable; and (b) the Americans with Disabilities Act of 1990, and implementing regulations at 28 CFR 35–36 in order to provide handicapped accessibility to the extent readily achievable; and (c) the Uniform Federal Accessibility Standards (UFAS) pursuant to the Architectural Barriers Act of 1968, 42 U.S.C. 4151-4157, as amended.

4.16.5 Nondiscrimination, Equal Opportunity and Fair Housing. Developer shall carry out the Project and perform its obligations under this Agreement in compliance with all of the Governmental Requirements.

4.16.6 [Reserved]

4.16.7 Records and Reports. Developer shall maintain and submit to City annually such records, reports and information as City Manager may reasonably require in order to permit City to ensure Developer's compliance with the affordability requirements under this Agreement and the Regulatory Agreement and to permit the City to meet the recordkeeping and reporting requirements required of them pursuant to Governmental Requirements. Without limiting the following, Developer shall maintain records and submit annual reports as required by this Agreement.

4.17 Relocation. City represents and warrants to Developer that no individual or entity has possessory rights in the Site as of the Effective Date. Developer shall have no duties or responsibilities in relation to any relocation of persons from the Site or any portion thereof occurring prior to commencement of Construction of the Improvements.

4.18 HUD Loan Provisions. City hereby acknowledges that a HUD Loan may be utilized by Developer for the Construction of the Improvements, provided, that such acknowledgment shall not be deemed a requirement by the City that the Developer utilize a HUD Loan. For purposes of a HUD Loan, the conveyance of the Site to Developer by the City shall be considered contributed equity by the City.

5. DEVELOPER'S GENERAL REPRESENTATIONS AND WARRANTIES

As a material inducement to City to enter into this Agreement, Developer represents and warrants to City that:

5.1 Formation, Qualification and Compliance. Developer (a) is a Washington limited liability company, validly existing and in good standing under the laws of the State of Washington; (b) has all requisite authority to conduct its business and own, purchase, improve and lease its properties. Developer is in compliance in all material respects with all laws applicable to its business and has obtained all approvals, licenses, exemptions and other authorizations from, and has accomplished all filings, registrations and qualifications with any governmental City that are necessary for the transaction of its business; (c) Developer has and will in the future duly authorize, execute and deliver this Agreement and any and all other agreements and documents required to be executed and delivered by Developer in order to carry out, give effect to, and consummate the transactions contemplated by this Agreement; (d) Developer does not have any material contingent obligations or any material contractual agreements which could materially adversely affect the ability of Developer to carry out its obligations hereunder; (e) There are no material pending or, so far as is known to Developer, threatened, legal proceedings to which Developer is or may be made a party or to which any of its property is or may become subject, which have not been fully disclosed by Developer to City in this Agreement which could materially adversely affect the ability of Developer to carry out its obligations hereunder; and (f) There is no action or proceeding pending or, to Developer's best knowledge, threatened, looking toward the dissolution or liquidation of

Developer and there is no action or proceeding pending or, to Developer's best knowledge, threatened by or against Developer which could affect the validity and enforceability of the terms of this Agreement, or materially and adversely affect the ability of Developer to carry out its obligations hereunder. Each of the foregoing items (a) to (f), inclusive, shall be deemed to be an ongoing representation and warranty. Developer shall advise City in writing if there is any change pertaining to any matters set forth or referenced in the foregoing items (a) to (f), inclusive.

5.2 Execution and Performance of Project Documents. Developer has all requisite authority to execute and perform its obligations under the Project Documents. The execution and delivery by Developer of, and the performance by Developer of its obligations under, each Project Document has been authorized by all necessary action and do not and will not violate any provision of, or require any consent or approval not heretofore obtained under, any articles of incorporation, by-laws or other governing document applicable to Developer.

5.3 Covenant Not to Transfer Except in Conformity. Developer shall not sell or otherwise transfer or convey all or any part of the Site, or any interest therein (including Developer's interests in this Agreement), unless Developer has first obtained the prior written consent of the City Manager, which consent may be withheld in the City Manager's sole and absolute discretion. Developer's right to sell two years after Certificate of Occupancy shall not be unreasonably withheld. Any sale, lease, transfer or conveyance without such consent shall, at City's option, be void. In connection with the foregoing consent requirement, Developer acknowledges that City relied upon Developer's particular expertise in entering into this Agreement and continues to rely on such expertise to ensure the satisfactory completion of all of the Improvements, and the marketing and renting of the Housing Units to Low-Income Households to afford the community a substantial long-term, quality affordable housing resource. The City Manager's approval of a transfer or conveyance of all or a portion of the Site shall thus be based on a transferee's ability to ensure the long-term affordability and quality of the Housing Units. Notwithstanding the foregoing, consent from the City Manager shall not be required for the leasing of Housing Units to Low-Income Households in compliance with this Agreement.

6. AFFORDABLE HOUSING COVENANTS; MAINTENANCE, PROPERTY MANAGEMENT, AND OPERATION OF THE PROJECT.

The operation of the Project, including without limitation, repair and maintenance, income qualifications of tenants, rent, maintenance, monitoring, and reporting, shall be accomplished by Developer in conformity with the Regulatory Agreement, as more particularly set forth therein. The provisions of the Regulatory Agreement shall constitute portions of this Agreement as effectively as if set out at length herein.

6.1 Nondiscrimination. Developer by and for itself and any successors in interest covenants that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, physical or mental disability or medical condition, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Site, nor shall Developer itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the Site. The foregoing covenants shall run with the land.

Developer hereby covenants, by and for itself, its successors and assigns, and shall require all contractors and subcontractors providing work or services related to the Site to covenant, to comply with the following laws relating to nondiscrimination and equal opportunity: The Fair Housing Act (42 U.S.C. 3601-19) and implementing regulations at 24 CFR part 100 et seq.; Executive Order 11063, as amended by

Executive Order 12259 (3 CFR, 1959-1963 Comp., p. 652 and 3 CFR, 1980 Comp., p. 307) (Equal Opportunity in Housing Programs) and implementing regulations at 24 CFR part 107; title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4) (Nondiscrimination in Federally Assisted Programs) and implementing regulations at 24 CFR part 1; the Age Discrimination Act of 1975 (42 U.S.C. 6101-6107) and implementing regulations at 24 CFR part 146; Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at part 8 of this title; title II of the Americans with Disabilities Act, 42 U.S.C. 12101 et seq.; 24 CFR part 8; Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and implementing regulations at 24 CFR part 135; Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 (3 CFR, 1964-1965 Comp., p. 339; 3 CFR, 1966-1970 Comp., p. 684; 3 CFR, 1966-1970 Comp., p. 803; 3 CFR, 1978 Comp., p. 230; and 3 CFR, 1978 Comp., p. 264, respectively) (Equal Employment Opportunity Programs) and implementing regulations at 41 CFR chapter 60; Executive Order 11625, as amended by Executive Order 12007 (3 CFR, 1971-1975 Comp., p. 616 and 3 CFR, 1977 Comp., p. 139) (Minority Business Enterprises); Executive Order 12432 (3 CFR, 1983 Comp., p. 198) (Minority Business Enterprise Development); and Executive Order 12138, as amended by Executive Order 12608 (3 CFR, 1977 Comp., p. 393 and 3 CFR, 1987 Comp., p. 245) (Women's Business Enterprise).

Developer further covenants, by and for itself, its successors and assigns, and shall require all contractors and subcontractors providing work or services related to the Site to covenant, not to inquire about the sexual orientation or gender identity of an applicant for, or occupant of, the Project or any Housing Unit at the Site, for the purpose of determining eligibility for occupancy of such Housing Units or otherwise making such Housing Units available. This prohibition on inquiries regarding sexual orientation or gender identity does not prohibit any individual from voluntarily self-identifying sexual orientation or gender identity. Further, determinations of eligibility for occupancy of Housing Units at the Project shall be made in accordance with the eligibility requirements provided for such program by HUD, and such Housing Units shall be made available without regard to actual or perceived sexual orientation, gender identity, or marital status.

The covenants established in this section shall, without regard to technical classification and designation, be binding for the benefit and in favor of City and its successors and assigns, and shall remain in effect in perpetuity.

6.2 Effect of Violation of this Agreement after Completion of Construction. The covenants established in this Agreement, the City Deed, and the Regulatory Agreement, without regard to technical classification and designation, be binding for the benefit and in favor of City, its successors and assigns, as to those covenants which are for its benefit. The covenants contained in this Agreement shall remain in effect for the periods of time specified therein. The covenants against discrimination shall remain in effect in perpetuity.

City is deemed the beneficiary of the terms and provisions of this Agreement and of the covenants running with the land, for and in its own rights and for the purposes of protecting the interests of the community and other parties, public or private, in whose favor and for whose benefit this Agreement and the covenants running with the land have been provided. The Agreement and the covenants shall run in favor of City, without regard to whether City has been, remains or is an owner of any land or interest therein in the Site or in the Project Area. City shall have the right, if the Agreement or covenants are breached, to exercise all rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiaries of this Agreement and covenants may be entitled.

7. DEFAULTS AND REMEDIES

7.1 Events of Default by Developer. The occurrence of any of the following, whatever the reason therefor, shall constitute an event of default by Developer (an “Event of Default”):

7.1.1 Developer fails to perform any obligation for the payment of money (other than payments of principal or interest) under any Project Document, and such failure is not cured within 10 days after Developer’s receipt of written notice that such obligation was not performed when due;

7.1.2 Developer fails to perform any obligation (other than obligations described in subparagraph 7.1.1. above) under any Project Document, and such failure is not cured within 30 days after Developer’s receipt of written notice that such obligation was not performed; provided that, if cure cannot reasonably be effected within such 30-day period, such failure shall not be an Event of Default so long as Developer (in any event, within 10 days after receipt of such notice) commences cure, and thereafter diligently (in any event within 90 days after receipt of such notice) prosecutes such cure to completion;

7.1.3 Any representation or warranty in any Project Document proves to have been incorrect in any material respect when made;

7.1.4 Construction on the Improvements ceases for 30 consecutive days for any reason (other than governmental orders, decrees or regulations, acts of God, strikes or other causes beyond Developer’s control, including those described in Section 8.2);

7.1.5 Developer is enjoined or otherwise prohibited by any governmental entity from constructing and/or occupying the Improvements and such injunction or prohibition continues unstayed for 30 days or more for any reason, subject to extensions permitted under Section 8.2;

7.1.6 Developer transfers or conveys the Site (or attempts to transfer or convey the Site) in any manner that is not in conformity with this Agreement; or

7.1.7 Developer provides any certification to City Manager that contains any information that Developer knows, or should have discovered using reasonable diligence, to be false or misleading when made; or

7.1.8 Prior to the end of the Affordability Period, Developer is dissolved, liquidated or terminated, or all or substantially all of the assets of Developer are sold or otherwise transferred without the City Manager’s prior written consent.

7.1.9 (i) Developer is the subject of an order for relief by a bankruptcy court, or is unable or admits its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors; (ii) Developer applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitate or similar officer for it or any part of its property; (iii) any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of Developer and the appointment continues undischarged or unstayed for 90 days; (iv) Developer institutes or consents to any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, custodianship, conservatorship, liquidation, rehabilitation or similar proceeding relating to it or any part of its property; or any similar proceeding is instituted without the consent of Developer and continues undismissed or unstayed for 90 days; or (v) any judgment, writ, warrant of attachment or execution, or similar process is issued or levied against any property of Developer is not released, vacated or fully bonded within 90 days after its issue or levy.

7.2 Remedies upon Default. In addition to the rights of the City pursuant to Section 7.4.2 below, upon the occurrence of any Event of Default, City may, at its option and in its sole and absolute discretion, do any or all of the following:

7.2.1 In its own right or by a court-appointed receiver, take possession of the Site, enter into contracts for and otherwise proceed with the completion of the Improvements on the Site (or portions thereof) by expenditure of its own funds;

7.2.2 Exercise any of its rights under the Project Documents and any rights provided by law, including the right to foreclose on any security and exercise any other rights with respect to any security, all in such order and manner as City elects in its sole and absolute discretion; and

7.2.3 Seek and obtain an order for specific performance.

7.3 Cumulative Remedies; No Waiver. City's rights and remedies under the Project Documents are cumulative and in addition to all rights and remedies provided by law from time to time. The exercise by City of any right or remedy shall not constitute a cure or waiver of any default, nor invalidate any notice of default or any act done pursuant to any such notice, nor prejudice City in the exercise of any other right or remedy. No waiver of any default shall be implied from any omission by City to take action on account of such default if such default persists or is repeated. No waiver of any default shall affect any default other than the default expressly waived, and any such waiver shall be operative only for the time and to the extent stated. No waiver of any provision of any Project Document shall be construed as a waiver of any subsequent breach of the same provision. City's consent to or approval of any act by Developer requiring further consent or approval shall not be deemed to waive or render unnecessary City's consent to or approval of any subsequent act. City's acceptance of the late performance of any obligation shall not constitute a waiver by City of the right to require prompt performance of all further obligations; City's acceptance of any performance following the sending or filing of any notice of default shall not constitute a waiver of City's right to proceed with the exercise of its remedies for any unfulfilled obligations; and City's acceptance of any partial performance shall not constitute a waiver by City of any rights relating to the unfulfilled portion of the applicable obligation.

7.4 Termination.

7.4.1 Termination by Developer. This Agreement may, at the option of Developer, be terminated by notice given to City upon the occurrence of the following events, as of the time described below (and if no time is described below, the time established therefor in the Schedule of Performance):

(a) On or before twelve (12) months after the Effective Date, Developer has provided City with written notice that Developer has not obtained Building Permits and all required land use approvals with conditions acceptable to Developer, in its sole and absolute discretion, and desires to terminate this Agreement; or

(b) one or more of the Developer Conditions Precedent is not satisfied; or

(c) Developer elects to terminate on the basis that the development of the Improvements in accordance with this Agreement has become impracticable under the terms and conditions of this Agreement; or

(d) in the event of any default of City prior to the conveyance of the Site which has not been cured.

From the date of the notice of termination of this Agreement by Developer to City, this Agreement shall be deemed terminated and there shall be no further rights or obligations among the parties, excepting that Developer shall immediately quitclaim to City all right, title and interest of Developer in the Site (including without limitation fee title and any beneficial interests under deeds of trust, promissory notes, and agreements in respect to the Site).

7.4.2 Termination by City. This Agreement may be terminated, at the option of City, 30 days after written notice thereof is delivered to Developer by the City, under the following circumstances:

(a) Developer (or any successor in interest) assigns or attempts to assign, encumber, transfer, or convey the Agreement or any rights therein or in the Site (or any portion thereof) in violation of this Agreement; or

(b) On or before six (6) months after the Effective Date, Developer has provided City with written notice in accordance with Section 7.4.1(a) of its desire to terminate this Agreement; or

(c) by the time set forth therefor in the Schedule of Performance for the conveyance of the Site, Developer is in default under this Agreement and City does not execute a deed to convey the Site to Developer in the manner and condition and by the date provided in this Agreement; or

(d) one or more of the City Conditions Precedent is not satisfied; or

(e) Developer elects to terminate on the basis that the development of the Improvements in accordance with this Agreement has become impracticable under the terms and conditions of this Agreement; or

(f) in the event of any default of Developer prior to the conveyance of the Site which has not been cured; or

(g) Developer fails to perform any other obligation for the payment of money (other than payments of principal or interest) under any Project Document, and such failure is not cured within 10 days after Developer's receipt of written notice that such obligation was not performed when due; or

(h) Developer fails to perform any obligation (other than obligations described in Section 7.1.1 above) under any Project Document, and such failure is not cured within 30 days after Developer's receipt of written notice that such obligation was not performed; provided that, if cure cannot reasonably be effected within such 30 day period, such failure shall not be an Event of Default so long as Developer (in any event, within 10 days after receipt of such notice) commences cure, and thereafter diligently (in any event within 90 days after receipt of such notice) prosecutes such cure to completion; or

(i) Any representation or warranty by Developer in any Project Document proves to have been incorrect in any material respect when made; or

(j) Work on the Improvements ceases for 30 consecutive days for any reason (other than governmental orders, decrees or regulations, acts of God, strikes or other causes beyond Developer's control as described in Section 8.2); or

(k) Developer is enjoined or otherwise prohibited by any governmental entity from constructing and/or occupying the Improvements and such injunction or prohibition continues unstayed for 30 days or more for any reason, subject to extensions allowed under Section 8.2; or

(l) Developer transfers or conveys the Site (or attempts to transfer or convey the Site) in any manner that is not in conformity with this Agreement; or

(m) Developer provides any certification to City Manager that Developer knows to be false or misleading when made; or

(n) Developer is dissolved, liquidated or terminated, or all or substantially all of the assets of Developer are sold or otherwise transferred without the City Manager's prior written consent; or

(o) Developer is the subject of an order for relief by a bankruptcy court, or is unable or admits its inability to pay its debts as they mature, or makes an assignment for the benefit of creditors; or Developer applies for or consents to the appointment of any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer for it or any part of its property; or any receiver, trustee, custodian, conservator, liquidator, rehabilitator or similar officer is appointed without the application or consent of Developer and the appointment continues undischarged or unstayed for 90 days; or Developer institutes or consents to any bankruptcy, insolvency, reorganization, arrangement, readjustment of debt, dissolution, custodianship, conservatorship, liquidation, rehabilitation or similar proceeding relating to it or any part of its property; or any similar proceeding is instituted without the consent of Developer and continues undismissed or unstayed for 90 days; or any judgment, writ, warrant of attachment or execution, or similar process is issued or levied against any property of Developer is not released, vacated or fully bonded within 90 days after its issue or levy; or

(p) There is a change in the ownership of Developer or the Site contrary to the provisions of Section 5.3 hereof; or

(q) Developer does not submit certificates of insurance, construction plans, drawings and related documents as required by this Agreement, in the manner and by the dates respectively provided in this Agreement therefor and such default or failure shall not be cured within 30 days after the date of written demand therefor by City; or

(r) Developer does not satisfy the Conditions Precedent by the time established therefor in the Schedule of Performance, subject to Section 8.2 extensions; or

(s) The completion of one or more of the Housing Units is not accomplished by the respective time(s) established therefor in the Schedule of Performance, subject to Section 8.2 extensions; or

(t) Developer is otherwise in default under this Agreement and has not cured or commenced to cure such default within the time period set forth in Section 7.1 herein (or has not diligently prosecuted such cure to completion).

From the date of the Notice of termination of this Agreement by City to Developer, this Agreement shall be deemed terminated and neither party shall have any further rights against the other under this Agreement, excepting that Developer shall immediately quitclaim to City all right, title and interest of Developer in the Site (including without limitation fee title and any beneficial interests under deeds of trust, promissory notes, and agreements in respect to the Site). The setting forth of events as grounds for termination shall not limit the ability of City to seek remedies in the event this Agreement has not been terminated. The termination of this Agreement shall not limit the rights of City to enforce the Regulatory Agreement or the City Deed.

8. MISCELLANEOUS.

8.1 Intentionally Deleted.

8.2 Enforced Delay; Extension of Times of Performance. In addition to specific provisions of this Agreement, performance by a party hereunder shall not be deemed to be in default, and all performance and other dates specified in this Agreement shall be extended, where delays or defaults are due to: war; insurrection; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics; litigation; unusually severe weather; acts or omissions of the other party; acts or failures to act of a public or governmental City or entity (other than City acting as required pursuant to this Agreement); or any other causes beyond the reasonable control or without the fault of the party claiming an extension of time to perform. Notwithstanding anything to the contrary in this Agreement, an extension of time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other parties within 30 days of the commencement of the cause. Any requests for extension shall be in writing. Times of performance under this Agreement may also be extended in writing by the mutual agreement of City and Developer.

Notwithstanding the foregoing portion of this section, with the prior written consent of the City Manager, Developer may obtain an extension of time to perform because of past, present, or future difficulty in obtaining suitable temporary, construction, or permanent financing for the acquisition, development or lease of Housing Units on the Site.

8.3 Nonliability of Officials and Employees of City. No member, official or employee of City shall be personally liable to Developer, or any successor in interest, in the event of any default or breach by City or for any amount which may become due to Developer or its successors, or on any obligations under the terms of this Agreement.

8.4 Obligations Unconditional and Independent. Notwithstanding the existence at any time of any obligation or liability of City to Developer, or any other claim by Developer against City, in connection with the Site or otherwise, Developer hereby waives any right it might otherwise have (a) to offset any such obligation, liability or claim against Developer's obligations under this Agreement (including without limitation the attachments hereto), or (b) to claim that the existence of any such outstanding obligation, liability or claim excuses the nonperformance by Developer of any of its obligations under the Project Documents.

8.5 Notices. Any notice to or demand upon the following parties shall be given by registered or certified mail, return receipt requested, or by express delivery service, as follows, or to such other address as is specified in writing by any of the following to the others:

If to Developer: Matthew Stadler
 Stadler Interests, Inc.
 501 W. 12th Avenue
 Ellensburg, WA 98926

If to City: City of Ellensburg
 501 North Anderson Street
 Ellensburg, Washington 92552
 Attention: City Manager

Addresses for notice may be changed from time to time by written notice to all other parties. All communications shall be effective when actually received; provided, however, that nonreceipt of any communication as the result of a change of address of which the sending party was not notified or as the result of a refusal to accept delivery shall be deemed receipt of such communication.

8.6 Survival of Representations and Warranties. All representations and warranties in the Project Documents shall survive the conveyance of the Site and have been or will be relied on by City notwithstanding any investigation made by City.

8.7 No Third Parties Benefited. This Agreement is made for the purpose of setting forth rights and obligations of Developer and City, and no other person shall have any rights hereunder or by reason hereof. There shall be no third-party beneficiaries of this Agreement.

8.8 Use of Consultants by City. City, at its sole cost, may engage consultants to assist City in connection with matters to be undertaken or reviewed under this Agreement, such as in connection with the calculation of allowable housing costs. Developer shall cooperate fully with any such consultants.

8.9 Binding Effect; Assignment of Obligations. This Agreement shall bind, and shall inure to the benefit of, Developer and City and their respective successors and assigns. Assignments or transfers of the Site and this Agreement shall be governed by Section 5.3 hereof. In connection with any assignment or transfer, Developer acknowledges that City relied upon Developer's particular expertise in entering this Agreement and continues to rely on such expertise to ensure the satisfactory completion of the Improvements and the qualification of eligible occupants of each Housing Unit in conformity with this Agreement.

8.10 Superiority of City Agreement. Developer agrees and acknowledges that any agreements between Developer and third parties, shall be subject and subordinate in all cases to this Agreement (including, without limitation, the Attachments hereto) and that in the event of conflict, this Agreement (including, without limitation, the Attachments hereto) shall control.

8.11 Prior Agreements; Amendments; Consents. This Agreement (together with the other Project Documents) contains the entire agreement between City and Developer with respect to the Site, and all prior negotiations, understandings and agreements with respect to such matters, including without limitation this Agreement, are superseded by this Agreement and such other Project Documents. No modification of any Project Document (including waivers of rights and conditions) shall be effective unless in writing and signed by the party against whom enforcement of such modification is sought, and then only in the specific instance and for the specific purpose given. This Agreement is executed in two duplicate originals, each of which is deemed to be an original. This Agreement includes pages 1 through 26 and Attachments 1 through 8 (which attachments are incorporated herein by reference), which constitutes the entire understanding and agreement of the parties.

This Agreement integrates all terms and conditions mentioned herein or incidental hereto and supersedes all negotiations or previous agreements between the parties or their predecessors in interest with respect to all or any part of the subject matter hereof.

All waivers of the provisions of this Agreement must be in writing by the appropriate authorities of City and Developer, and all amendments hereto must be in writing by the appropriate authorities of City and Developer; provided that after conveyance of the Site to Developer, only the consent of City shall be required.

8.12 Governing Law. All of the Project Documents shall be governed by, and construed and enforced in accordance with, the laws of the State of Washington. Developer irrevocably and unconditionally submits to the jurisdiction of the Superior Court of the State of Washington for the County of Kittitas or the United States District Court of the Central District of Washington, as City may deem appropriate, in connection with any legal action or proceeding arising out of or relating to this Agreement or the other Project Documents. Assuming proper service of process, Developer also waives any objection regarding personal or *in rem* jurisdiction or venue.

8.13 Attorney Fees. If either party places the enforcement of this Agreement, or any part thereof, in the hands of an attorney, or files suit upon the same, or seeks a judicial declaration of rights hereunder, the prevailing party shall recover its reasonable attorneys' fees, court costs, and collection agency charges. As used herein, "prevailing party" shall mean the party who substantially prevails in the matter at issue, including without limitation, a party who dismisses an action for recovery hereunder in exchange for payment of the sums allegedly due, performance of covenants allegedly breached or consideration substantially equal to the relief sought in the action.

8.14 Severability of Provisions. No provision of any Project Document that is held to be unenforceable or invalid shall affect the remaining provisions, and to this end all provisions of the Project Documents are hereby declared to be severable.

8.15 Headings. Article and section headings are included in the Project Documents for convenience of reference only and shall not be used in construing the Project Documents.

8.16 Conflicts. In the event of any conflict between the provisions of this Agreement and those of any other Project Document, this Agreement shall prevail; provided however that, with respect to any matter addressed in both such documents, the fact that one document provides for greater, lesser or different rights or obligations than the other shall not be deemed a conflict unless the applicable provisions are inconsistent and could not be simultaneously enforced or performed.

8.17 Time of the Essence. Time is of the essence of all of the Project Documents.

8.18 Conflict of Interest. No member, official or employee of City shall have any direct or indirect financial interest in this Agreement, nor participate in any decision relating to the Agreement which is prohibited by law.

8.19 Warranty against Payment of Consideration. Developer warrants that it has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Agreement.

8.20 Real Estate Commissions. Each of City and Developer represents to the other party that it has not engaged the services of any finder or broker and that it is not liable for any real estate commissions, broker's fees, or finder's fees which may accrue by means of the acquisition of all or part of the Site, and agrees to hold harmless the other party from such commissions or fees as are alleged to be due from the party making such representations.

8.21 Counterparts. Any Project Document (including this Agreement) may be executed in counterparts, all of which, taken together, shall be deemed to be one and the same document.

[Remainder of page blank; signature page follows.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the dates hereinafter respectively set forth.

DEVELOPER:

STADLER INTERESTS, INC.,
a Washington corporation

By: 

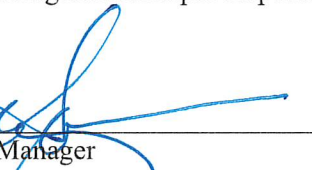
Name: Matt Stalder

Title: Partner

Date: 7/20/22

CITY:

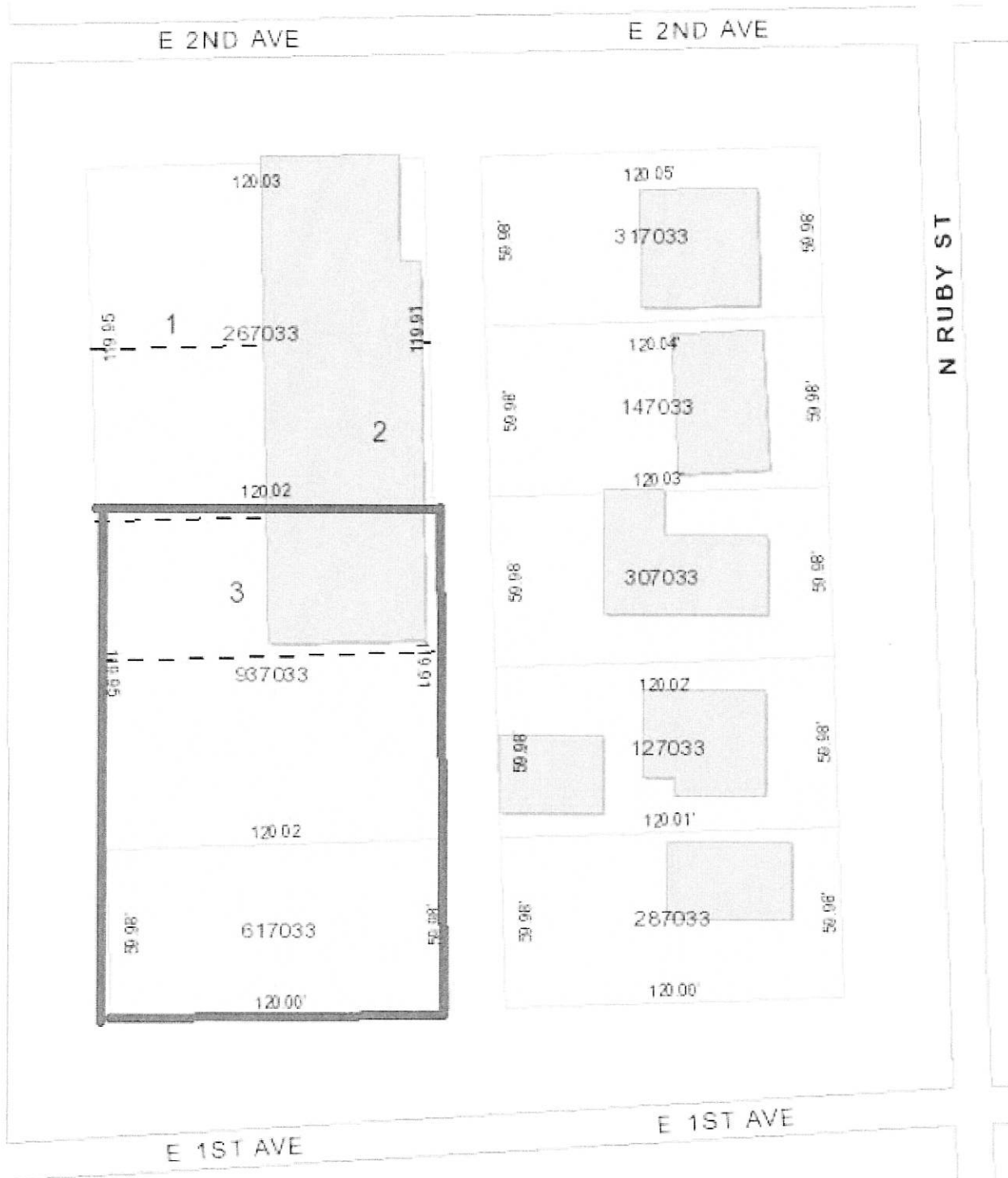
CITY OF ELLENSBURG,
a Washington municipal corporation

By: 
City Manager

Date: 8-2-22

ATTACHMENT NO. 1

MAP



ATTACHMENT NO. 2

LEGAL DESCRIPTION

Lots 3 And 4 (Parcel 3A), Block 21, Ellensburg, in the County of Kittitas, State of Washington, as per plat thereof recorded in Book 1 of Plats, Page 1, Records of said County.

AND

Lot 5, Block 21, Ellensburg, in the County of Kittitas, State of Washington, as per plat thereof recorded in Book 1 of Plats, Page 1, Records of said County;

ATTACHMENT NO. 3

SCHEDULE OF PERFORMANCE

For the purposes of this Schedule of Performance, the “Date of the Affordable Housing Agreement” is _____, 2022. The City Manager may extend by not more than ninety (90) days (as all such extensions are aggregated) the time under this Schedule of Performance by which any obligation of Developer shall be performed.

1. Submittal of Agreement. Developer shall execute and submit the Agreement to the City Manager for City Council approval and execution. On or before August 1, 2022.
2. Submission of Evidence of Financing. Developer shall submit to City evidence of a Financing Plan financing for the Project and pro forma budget as set forth in Section 2.1.2(a) of the Agreement. As a Condition Precedent to the close of Escrow.
3. Satisfaction of Conditions Precedent. Developer shall satisfy the Conditions Precedent. Not later than ninety (90) days after the Date of the Affordable Housing Agreement.
4. Deposit of Documents into Escrow. City and Developer shall cause to be fully executed the final form of the City Deed, the Regulatory Agreement, and such other Project Documents necessary for the closing of Escrow. Not fewer than two (2) calendar days prior to close of Escrow.
5. Close of Escrow. Escrow shall close when all Conditions Precedent thereof have been waived or satisfied. Within five (5) calendar days of notification by City to Escrow Holder that all Conditions Precedent are satisfied and/or waived.
6. Commencement of Construction. The Developer shall commence construction of the Improvements which consists of 57 Units and related Improvements. Within one hundred and twenty (120) days after the Closing Date.
7. Completion of Construction. Developer shall complete construction of the Improvements. Within eighteen (18) months after the Closing Date.

ATTACHEMENT NO. 4

RESERVED

ATTACHMENT NO. 5

CERTIFICATE OF COMPLETION OF CONSTRUCTION

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

(Space Above for Recorder's Use Only)

9. CERTIFICATE OF COMPLETION OF CONSTRUCTION

This CERTIFICATE OF COMPLETION OF CONSTRUCTION (the "Certificate") is made by the CITY OF ELLENSBURG, a public body, corporate and politic (the "City"), in favor of Stadler Interests, Inc., a Washington corporation (the "Developer"), as of the date set forth below.

RECITALS

A. City, the City of Ellensburg (the "City") and the Developer have entered into that certain Affordable Housing Agreement (the "Agreement") concerning the redevelopment of certain real property situated in the City of Ellensburg, Washington, as more fully described in Exhibit "A" attached hereto and made a part hereof (the "Property").

B. As referenced in Section 4.14 of the Agreement, City is required to furnish the Developer or its successors with a Certificate of Completion of Construction upon completion of construction of the "Improvements" (as defined in Section 1.1 of the Agreement), which Certificate is

required to be in such form as to permit it to be recorded in the Recorder's Office of Kittitas County. This Certificate is conclusive determination of satisfactory completion of the construction and development required by the Agreement.

C. City has conclusively determined that the construction of the Improvements has been satisfactorily completed.

NOW, THEREFORE, City hereby certifies as follows:

1. City does hereby certify that the construction of the Improvements required to be made to that portion of the Property described hereunder as the "Site", which Site constitutes a portion of the Property, have been fully and satisfactorily completed in conformance with the Agreement.

2. This Certificate shall not constitute evidence of compliance with or satisfaction of any obligation of Developer to any holder of a mortgage, or any insurer of a mortgage, securing money loaned to finance construction work on the Site, or any part thereof.

3. This Certificate shall not constitute evidence of Developer's compliance with those covenants in the Agreement that survive the issuance of this Certificate or Developer's compliance to construct Improvements other than those situated on the Site.

4. Nothing contained in this instrument shall modify in any other way any other provisions of the Agreement or documents recorded in connection therewith concerning the use of the Site.

IN WITNESS WHEREOF, City has executed this Certificate of Completion this _____ day of _____, 202_.

CITY OF ELLENSBURG,
a municipal corporation

By: _____

Name: _____

Its: City Manager

ACKNOWLEDGEMENTS

STATE OF WASHINGTON)
 :ss.
COUNTY OF KITTITAS)

I hereby certify that I know or have satisfactory evidence that _____ is the person who appeared before me and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument, and acknowledged it as the _____ of the City of Ellensburg, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 2022.

Notary Public in and for the State of Washington
Printed Name: _____
Residing at: _____
My appointment expires: _____

Exhibit A

Legal Description

Lots 3 And 4 (Parcel 3A), Block 21, Ellensburg, in the County of Kittitas, State of Washington, as per plat thereof recorded in Book 1 of Plats, Page 1, Records of said County.

AND

Lot 5, Block 21, Ellensburg, in the County of Kittitas, State of Washington, as per plat thereof recorded in Book 1 of Plats, Page 1, Records of said County;

ATTACHMENT NO. 6

CITY DEED

After recording, return to:

City of Ellensburg
501 North Anderson Street
Ellensburg, Washington 92552
Attention: City Manager

STATUTORY WARRANTY DEED

Grantor: CITY OF ELLENSBURG,
a municipal corporation

Grantee: STADLER INTERESTS, INC.,
a Washington corporation

**Abbreviated Legal
Description:** _____
Complete legal description on Exhibit A.

Assessor's Tax Parcel ID#: 937033; 617033

CITY OF ELLENSBURG, a municipal corporation ("**Grantor**"), for the consideration of Ten and no/100 Dollars, and other valuable consideration, receipt of which is hereby acknowledged, conveys and warrants to **STADLER INTERESTS, INC.**, a Washington corporation ("**Grantee**"), the following described real estate, situate in Kittitas County, Washington:

See Exhibit A, attached hereto and incorporated herein by this reference;

SUBJECT TO the matters set forth in the public records.

[Remainder of page left intentionally blank; Signature and acknowledgment follows.]

Signature page to Statutory Warranty Deed

DATED this _____ day of _____, 2022.

GRANTOR:

CITY OF ELLENSBURG,
a Washington municipal corporation

By: _____
City Manager

ACKNOWLEDGEMENTS

STATE OF WASHINGTON)
 :SS.
COUNTY OF KITTITAS)

I hereby certify that I know or have satisfactory evidence that _____ is the person who appeared before me and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument, and acknowledged it as the _____ of the City of Ellensburg, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this _____ day of _____, 2022.

Notary Public in and for the State of Washington
Printed Name: _____
Residing at: _____
My appointment expires: _____

Exhibit A

Legal Description

Lots 3 And 4 (Parcel 3A), Block 21, Ellensburg, in the County of Kittitas, State of Washington, as per plat thereof recorded in Book 1 of Plats, Page 1, Records of said County.

AND

Lot 5, Block 21, Ellensburg, in the County of Kittitas, State of Washington, as per plat thereof recorded in Book 1 of Plats, Page 1, Records of said County;

ATTACHMENT NO. 7

AFFORDABLE HOUSING COVENANT

When Recorded Return To:

City of Ellensburg
501 North Anderson Street
Ellensburg, Washington 98926
Attention: City Manager

**AFFORDABLE HOUSING COVENANT
STADLER PROJECT**

GRANTOR: STADLER INTERESTS, INC.

GRANTEE: CITY OF ELLENSBURG, WASHINGTON

ABBREV. LEGAL DESCRIPTION: _____
Official legal description on Exhibit A attached

ASSESSOR'S TAX PARCEL NOS. 937033; 617033

REFERENCE NUMBERS: N/A

**AFFORDABLE HOUSING COVENANT
STADLER PROJECT**

This Affordable Housing Covenant ("Covenant") is made as of the ____ day of ____, 2022, by **STADLER INTERESTS, INC.**, a Washington corporation ("Grantor") in favor of the **CITY OF ELLENSBURG**, a Washington municipal corporation ("City" or "Grantee"), and is part of the consideration for the surplus property transferred to Grantor by the City pursuant to RCW 39.33.015 and an Affordable Housing Agreement dated on or about the date hereof (the "Agreement"), for the construction of a multifamily development, on real property legally described on Exhibit A hereto (the "Property").

WHEREAS, this Covenant will be filed and recorded in the official public land records of Kittitas County, Washington and shall constitute a restriction upon the use of the Property, subject to, and in accordance with, the terms of this Covenant for at least **fifty-one (51) years of affordability** ending on the later to occur of (i) the fifty-first (51st) anniversary of the Effective Date, as defined in the Agreement, or (ii) the fiftieth (50th) anniversary of the date the Certificate of Completion of Construction is issued to Grantor (the "Affordability Period").

WHEREAS, the covenants contained herein are to be taken and construed as covenants running with the land and shall pass to and be binding upon the Grantor, its respective successors and assigns, heirs, or grantees and lessees of the Property, beginning on the date of initial residential occupancy after the construction of the improvements on the Property contemplated by the Agreement. Each and every contract, deed, mortgage or other instrument covering or conveying the Property, or any portion thereof, shall be conclusively held to have been executed, delivered and accepted subject to such covenants, regardless of whether such covenants are set forth in such contract, deed, mortgage or other instruments. Capitalized terms not defined herein shall have the meaning given in the Agreement.

NOW THEREFORE, it is hereby covenanted during the Affordability Period as follows:

Section 1. Set-Asides; Reporting. The Grantor hereby represents, covenants and agrees as follows:

(a) **Fifty-seven (57)** of the residential units in the Property shall be rented to tenants who meet the eligibility criteria consistent with RCW 39.33.015. Consistent with Washington State law, surplus property transferred for affordable housing is required to serve households with gross annual household incomes at the time of initial occupancy no higher than **eighty (80) percent of median income** in Kittitas County, Washington adjusted for family size ("AMI") as published annually, effective July 1, by the U.S. Department of Housing and Urban Development ("HUD"), as HOME Income Limits. If HUD ceases to provide such determinations of median income, then median income shall mean such comparable figure for Kittitas County, Washington published or reported by a federal, state, or local agency as the City shall select.

(b) Rents payable by tenants may not exceed **Thirty (30) percent** of the maximum **eighty (80) percent AMI** tenant income for the unit, assuming occupancy of 1.5 persons per bedroom including a utility allowance ("Affordable Rent"). The amount of the utility allowance shall be as calculated annually by Grantor or at another level acceptable to the City. The foregoing provisions shall be subject to the provisions of the Agreement.

(c) Within 90 days after the end of each calendar year after the commencement of the Affordability Period, Grantor shall prepare and submit a certificate to the City, in a form acceptable to the City, certifying that it has complied in all respects with the requirements of this Covenant.

(d) Grantor shall keep any records and make any reports relating to compliance with this Covenant that the City may reasonably require. Grantor shall permit any duly authorized representative of the City to inspect, during regular business hours and upon reasonable notice, the Property, the residential units, and the books and records of Grantor pertaining to the incomes of the tenants who are residing or have resided in the Property.

Section 2. Covenants. The Grantor hereby represents, covenants and agrees as follows:

(a) Grantor shall use the Property to provide safe and sanitary housing, and shall comply with all Federal, State, and local housing codes, licensing requirements, and other requirements regarding the condition and the operation of the Property.

(b) Except as otherwise required or contemplated by this Covenant or allowed by applicable law for the purpose of providing low-income housing, Grantor will not discriminate in the provision of housing on the basis of race, creed, color, sex, national origin, religion, marital status, age, disability, the receipt of public assistance or housing assistance or any other characteristic protected from discrimination by applicable law.

Section 3. Covenants Run With the Land. Grantor hereby declares its express intent that the covenants, restrictions, charges and easements set forth herein shall be deemed covenants running with the land throughout the Affordability Period, and shall pass to and be binding upon the Grantor's successors in title including any purchaser, grantee or lessee of any portion of the Property and any other person or entity having any right, title or interest therein and upon the respective heirs, executors, administrators, devisees, successors and assigns of any purchaser, grantee or lessee (other than a resident) of any portion of the Property and any other person or entity having any right, title or interest therein. Each and every contract, deed or other instrument (other than residential resident leases) hereafter executed conveying the Property or any portion thereof or interest therein shall contain an express provision making such conveyance subject to the covenants, restrictions, charges and easements contained herein; 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, regardless of whether or not such covenants are set forth or incorporated by reference in such contract, deed or other instrument.

Section 4. Survival. This Covenant shall have priority over any deed of trust or mortgage recorded on the Property. The covenants herein are independent of and in addition to the covenants in the Affordable Housing Agreement between the Grantor and the City, any other covenants made for the benefit of the City. This Section shall not prohibit any mortgages, deeds of trust, regulatory agreements and covenants for the purposes of the future financing, nor prohibit any transfer upon foreclosure of a deed of trust or mortgage approved by the City, or in lieu of foreclosure thereof, or any subsequent transfer, but any transfer shall be subject to the terms of this Covenant.

Section 5. Default. If a violation of any of the foregoing covenants occurs, the City may, after thirty days' notice to Grantor, and if applicable, its successors and assigns, heirs, grantees, or

lessees of the Property, institute and prosecute any proceeding at law or in equity to abate, , prevent, or enjoin any such violation or to compel specific performance by Grantor of its obligations hereunder; provided that Grantor shall not be required by any provision herein to evict a residential tenant. No delay in enforcing the provisions hereof as to any breach or violation, shall impair, damage or waive the right of the City to enforce the provisions hereof or to obtain relief against or recover for the continuation or repetition of such breach or violations or any similar breach or violation hereof at any later time.

[Signatures on following page.]

IN WITNESS HEREOF, this Affordable Housing Covenant was executed as of the date set forth above.

STADLER INTEREST, INC.

a Washington corporation

By: _____

Name: _____

Title: _____

THE CITY OF ELLENSBURG, a Washington public corporation

By: _____

Name: _____

Title: _____

STATE OF WASHINGTON)
)ss.
COUNTY OF KITTITAS)

On this _____ day of _____, 2022, before me personally appeared _____, to me known to be the _____ of STADLER INTEREST, INC., that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said party for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument.

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)
Notary public in and for the State of Washington, residing
at _____

STATE OF WASHINGTON)
)ss.
COUNTY OF KITTITAS)

On this _____ day of _____, 2022, before me personally appeared _____, to me known to be the _____ of the City of Ellensburg, that executed the within and foregoing instrument, and acknowledged said instrument to be the free and voluntary act and deed of said party for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument.

(Signature of Notary)

(Legibly Print or Stamp Name of Notary)
Notary public in and for the State of Washington, residing
at _____

EXHIBIT A

LEGAL DESCRIPTION

Lots 3 And 4 (Parcel 3A), Block 21, Ellensburg, in the County of Kittitas, State of Washington, as per plat thereof recorded in Book 1 of Plats, Page 1, Records of said County.

AND

Lot 5, Block 21, Ellensburg, in the County of Kittitas, State of Washington, as per plat thereof recorded in Book 1 of Plats, Page 1, Records of said County;

ATTACHEMENT NO. 8

AWARD LETTER



**501 North Anderson Street
Ellensburg, Washington 98926**
Telephone: (509) 962-7221 | Fax: (509) 962-7143

September 7, 2021

Matthew Stalder
Stalder Interests, Inc.
2000 Quartz Mountain Dr.
Ellensburg, WA 98926

RE: Stalder Interests, Inc. Award Letter for City of Ellensburg Affordable Housing Property Contribution

Dear Mr. Stalder:

Congratulations! Your application for the City owned surplus property located at the corner of 1st and Pine for development of Affordable Housing has been conditionally approved by Ellensburg City Council.

This award is conditional and is not a guarantee of property. This letter provides an overview of City conditions and some details you can expect in the contractual agreement. Upon issuance of this letter, the City will initiate contract negotiations to initiate transfer of ownership of the "Community Garden" property.

This letter does not cover all local requirements or all the terms that will be included in contract documents including legal rights and obligations.

Please read this letter carefully and return a signed copy of the Acknowledgement of Conditions at the bottom to the City of Ellensburg Community Development Department.

The City's reservation of property is based upon representations made in your applications. Changes to those representations must be reported as specified in the Conditions and approved by Community Development in writing. Unreported changes may result in a delay and/or a loss of City-owned property contribution. These requirements are designed to ensure productive communication between the applicant and the City regarding project status prior to property transfer.

CONDITIONS

The City of Ellensburg will initiate contract negotiations after receipt of the signed Acknowledgement of Conditions. The City requires that the contract stipulate:

1. The contract term will be consistent with the development timeline in your application. Any extension of the timeline is subject to City approval.
2. The scope of work will be based on the applications submitted. However, in addition, and as was discussed by City Council with you at their June 7, 2021 meeting and your subsequent meetings with city staff, the design will incorporate a minimum of 6 fully accessible Type A ADA units and at least 6 additional ground floor units will be built to universal design standards Type B ADA units.

3. The proposal and contract must meet the requirements of the City of Ellensburg Affordable Housing Fund and RCW 39.33.015.
4. Applicant shall submit a written status report when changes to the project cause the proposal to differ from the application or previous status reports. Reports must explain any problems, or needed modifications, and propose a plan for addressing them.
5. The transfer of the City's property to Stalder Interests, Inc. for this project is subject to approval of your financing by the Department of Housing and Urban Development as well as approval of all contract documents by the Ellensburg City Council.

Please notify the Community Development Department as you reach each funding and other milestones or encounter challenges. The City anticipates reserving this award for the time period specified in your application. If you do not demonstrate the progress you proposed within two years of the date of this letter, or fail to meet any of the conditions herein, the City of Ellensburg reserves the right to withdraw this award.

Thank you for your commitment to make the City of Ellensburg more affordable for everyone in our community!

Sincerely,



Bruce Tabb, City of Ellensburg Mayor

Acknowledgement of Conditions

I acknowledge that I have read, understand and agree to the above conditions.

ORIGINAL SIGNATURE OF AUTHORIZED OFFICIAL

Signature:  Title: Partner

Name: Matt Stalder Date: 9/17/21

Organization: Stalder Interests Inc

RESOLUTION NO. 2021 – 32

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG declaring as surplus to the City of Ellensburg's needs the real estate consisting of two parcels described below in more detail that together total approximately 0.5 acres, known as the "1st and Pine Parcels," for the purpose of being developed as affordable housing.

WHEREAS, the subject properties commonly known as the 1st and Pine parcels are located between Pine and Ruby Streets, and north of 1st Avenue, in Ellensburg, Washington, and are described as:

Lots 3 And 4 (Parcel 3A), Block 21, Ellensburg, in the County of Kittitas, State of Washington, as per plat thereof recorded in Book 1 of Plats, Page 1, Records of said County.

AND

Lot 5, Block 21, Ellensburg, in the County of Kittitas, State of Washington, as per plat thereof recorded in Book 1 of Plats, Page 1, Records of said County;

and

WHEREAS, there is a significant need for affordable housing in the City for those households with incomes under 80 percent of area median income (AMI); and

WHEREAS, RCW 39.33.015 authorizes state or local governments to dispose of surplus property at no cost to the grantee for the development of affordable housing; and

WHEREAS, public notice of the hearing was first published in accordance with the provisions of ECC 2.07.060(A)(2), and City Council held a public hearing for the purpose of considering whether to surplus the 1st and Pine lot on October 18, 2021; and

WHEREAS, the City Council hereby finds the 1st and Pine lots to be surplus to the City's needs and no longer required for municipal purposes, and that disposition of each lot shall be through a process to be administered by the City Manager and consistent with Chapter 2.06 ECC and will best serve the common public benefit;

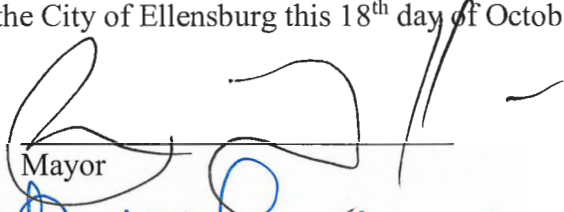
NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Ellensburg, Washington, as follows:

Section 1. The real property commonly known as the 1st and Pine parcels, except property and easements reserved for utilities, is hereby declared surplus to the City of Ellensburg's needs and is no longer required for providing municipal services.

Section 2. The means of disposal for all surplus property identified in this Resolution shall be by a no cost transfer to grantees conditioned upon an agreement with the City for development as affordable housing for the public benefit in conformance with RCW 39.33.015.

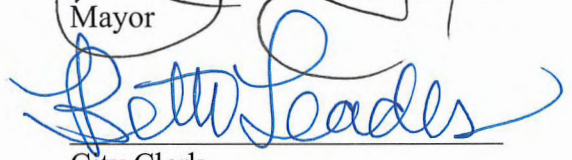
Section 3. The Mayor and/or City Manager are hereby authorized to execute any and all documents necessary to effectuate the property exchange described in Section 2 above.

ADOPTED by the City Council of the City of Ellensburg this 18th day of October, 2021.



Mayor

Attest:



Beth Seader
City Clerk

ACKNOWLEDGEMENTS

STATE OF WASHINGTON)
 :SS.
COUNTY OF KITTITAS)

I hereby certify that I know or have satisfactory evidence that Heidi Behrends Gernivoy is the person who appeared before me and said person acknowledged that she signed this instrument, on oath stated that she was authorized to execute the instrument, and acknowledged it as the City Manager of the City of Ellensburg, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated this 2nd day of August, 2022.



Beth A. Leader
Notary Public in and for the State of Washington
Printed Name: Beth A Leader
Residing at: Ellensburg
My appointment expires: 7-13-2025



**OFFICE OF THE
ASSISTANT CITY MANAGER/CITY ATTORNEY**

501 North Anderson Street
Ellensburg, WA 98926
(509) 962-7259
e-mail: weinert@ci.ellensburg.wa.us

February 3, 2023

VIA EMAIL ONLY

Matthew Stalder
Stalder Interests, Inc.
2000 Quartz Mountain Dr.
Ellensburg, WA 98926

RE: 1st and Pines Streets Affordable Housing Agreement

Dear Matt:

The Affordable Housing Agreement regarding the City's property at 1st and Pine Streets was approved by the parties effective August 1, 2022. The Schedule of Performance (Attachment No. 3) sets out a schedule for Stalder Interests, Inc. to meet several deadlines. Thus far, you have not met several of those deadlines, including Submission of Evidence of Financing (#2), Satisfaction of Conditions Precedent (#3) and Commencement of Construction (#6).

Please confirm to the City whether you intend to proceed with this project, and if so, provide a proposed modification of the Schedule of Performance. Any proposed modification of the schedule is subject to final approval by the City per the Agreement. Failure to provide a proposed modification of the schedule by February 24, 2023 may result in the City exercising its termination rights under the Agreement.

We look forward to hearing from you.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Terry Weiner", is written over a horizontal blue line.

Terry Weiner
ASST. CITY MANAGER/CITY ATTORNEY

cc: Jamey Ayling, Community Development Director

February 23, 2023

Due to the increase in materials and permitting costs over the last 15 months, coupled with current interest rate increases, the financing of the 57 unit project is being reevaluated to accommodate the increased cost of capital and commodities. The building design is also being reevaluated as the height limit in the zone the site is in was raised in 2022 and can now accommodate an additional 20 feet in height above what was allowed at the time of the original submittal. The potential redesign would keep the building height raise to 5 stories and consist of one building. The extra floor would allow a change from all studios to a mixture of studios, one beds, and possibly a 2 bedroom, along with an elevator. This change would also make the design of both aging in place type units and type A accessible units easier and create more than the IBC required amount of those units as desired by City Council for possibly addressing the increasing amount of low income seniors in need of housing.

These factors will cause a need for extending the timeline for the approval and drafting for the redesign to be implemented in the plan as well as raising an increased amount of investor funds to bridge the gap between a loan and cost to build.

Jeremy Johnston

From: Jamey Ayling
Sent: Monday, March 6, 2023 9:34 AM
To: Matthew Stalder; Terry Weiner
Subject: RE: [Ext] Re: 1st and Pine Affordable Housing Project

Matt, Thank you for responding to our request and providing the information about a possible redesign of the project. Because this project was presented through the Affordable Housing Commission to Council, any revisions of the project will need to go back through the Affordable Housing Commission for consideration. Do you have a timeframe for your re-evaluation process? Once you have a revised proposal put together, I would like to look at it and then work with you to present the new information for consideration. If you have any questions please let me know.

Thanks Jamey.

Jamey Ayling

Community Development Director
(509)925-8653
Aylingj@ci.ellensburg.wa.us
501 N Anderson Street
Ellensburg, WA 98926



From: Matthew Stalder <staldermw@gmail.com>
Sent: Thursday, February 23, 2023 3:40 PM
To: Terry Weiner <weinert@ci.ellensburg.wa.us>
Cc: Jamey Ayling <aylingj@ci.ellensburg.wa.us>
Subject: [Ext] Re: 1st and Pine Affordable Housing Project

CAUTION - EXTERNAL EMAIL: The email below is from an external source. Please exercise caution before opening attachments, clicking links, fulfilling requests, or following guidance.

See attached. Thanks.

On Fri, Feb 3, 2023 at 9:40 AM Terry Weiner <weinert@ci.ellensburg.wa.us> wrote:

Matt, please see the attached letter concerning this matter.

Thanks, Terry.

Terry Weiner

Assistant City Manager/City Attorney | City of Ellensburg

501 North Anderson Street | Ellensburg, WA 98926

P. (509) 962-7259 | F. (509) 962-7143

Ellensburg, WA | Official Website (ellensburgwa.gov)



Confidentiality Notice: This e-mail may contain confidential and privileged information. If you have received this message by mistake, please notify me immediately by replying to this message or telephoning me, and do not review, disclose, copy or distribute.

Advisory: Please be advised the City of Ellensburg is required to comply with the Public Records Act, Chapter 42.56 RCW. This act establishes a strong state mandate in favor of disclosure of public records. Therefore, the information you submit to the City via email, including personal information, may ultimately be subject to disclosure as a public record.

 **Reduce Reuse Recycle** | Please consider the environment before printing this email.

Jeremy Johnston

From: Matthew Stalder <staldermw@gmail.com>
Sent: Friday, July 28, 2023 9:25 AM
To: Heidi Behrends Cerniwey
Cc: Daniel Carlson; Jeremy Johnston; Terry Weiner
Subject: [Ext] Re: Notice of Action Required - Affordable Housing Agreement with the City of Ellensburg and Stalder Interests Inc.
Attachments: 1st Pine review (002).docx; 1st & Pine alternate.pdf
Follow Up Flag: Follow up
Flag Status: Flagged

CAUTION - EXTERNAL EMAIL: The email below is from an external source. Please exercise caution before opening attachments, clicking links, fulfilling requests, or following guidance.

Attached is a summary of the current situation and plan and proposed revised footprint for the community garden site. Thanks.

On Wed, Jun 28, 2023 at 5:27 PM Heidi Behrends Cerniwey <cerniweyh@ci.ellensburg.wa.us> wrote:

Dear Matt Stalder:

Please consider this message as formal notice of failure to meet Conditions 2 and 3 on the Schedule of Performance, Attachment No. 3, to the Affordable Housing Agreement by and between City of Ellensburg and Stalder Interests Inc., approved by the City Council on August 1, 2022 and executed thereafter. Section 7.4.2 (d) of the Agreement provides for termination by the City if one or more of the City Conditions Precedent is not satisfied.

The last documented communication received from you about this topic was on February 23, 2023 (attached) in response to a notice from our staff about the failure to meet timelines provided in the Agreement. Former CDD Director Ayling responded on March 6, 2023, requesting additional information and timeline for the project. To our knowledge, no communication has taken place or documentation received about this matter since that time.

According to the 2/23/2023 written response (attached as 1st Pine review), you have requested additional time to change the project design and to secure financing. To alter the project design would require approval of the Affordable Housing Commission and the City Council. Because this project is now several months behind schedule, we require written follow-up on revised plans be received by the City by July 31, 2023. Staff will facilitate review of these by the Affordable Housing Commission in a timely manner. If no substantial actions are taken by this date, the City will proceed with Notice of Termination per Section 7.4.2 of the Agreement.

We apologize for any delays due to changes in staffing in the Community Development Department. Please communicate any proposed design or other substantial changes that impact the formal Agreement in writing to our Community Development staff, Director Dan Carlson and Planning Manager Jeremy Johnston, copied here. They will facilitate review of the project design/scope changes with you and the Affordable Housing Commission in a timely manner.

Please contact me if you have any questions.

Kind regards,

Heidi

Attachments:

2-03-23 Letter to Stalder – Project Timelines

2-23-2023 Response from Matt Stalder (1st Pine review)

3-6-2023 Message from Director Ayling

8-01-22 Affordable Housing Agreement – Stalder Interests

Heidi Behrends Cerniwey, MPA, ICMA-CM

City Manager | **City of Ellensburg**

501 North Anderson Street | Ellensburg, WA 98926

P. (509) 962-7221

cerniweyh@ellensburgwa.gov

www.ellensburgwa.gov



Heidi Behrends Cerniwey, MPA, ICMA-CM

City Manager | **City of Ellensburg**

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July 28, 2023

Due to the increase in materials and permitting costs over the last 15 months, coupled with current interest rate increases, the financing of the 57-unit project is being reevaluated to accommodate the increased cost of capital and commodities. The building design is also being reevaluated as the height limit in the zone the site is in was raised in 2022 and can now accommodate an additional 20 feet in height above what was allowed at the time of the original submittal. The states new energy code that will be implemented by the time of permit submittal will require updated design specs for several areas of the design. The potential redesign would keep the building height raise to 5 stories and consist of one building. The extra floor would allow a change from all studios to a mixture of studios, one beds, and possibly a 2 bedroom, along with an elevator. This change would also make the design of both aging in place type units and type A accessible units easier and create more than the IBC required amount of those units as desired by City Council for possibly addressing the increasing amount of low income seniors in need of housing.

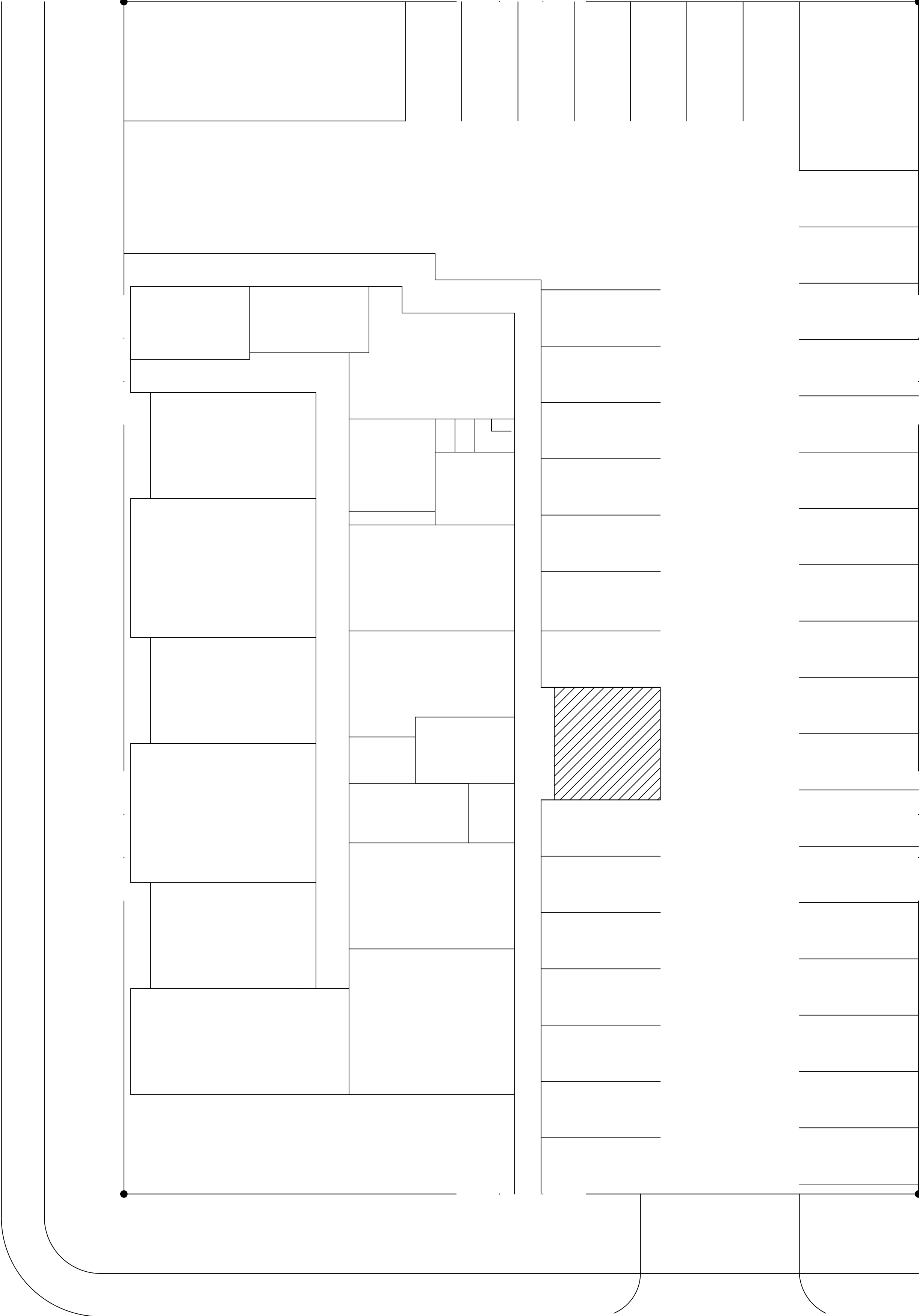
In addition, discussions with State and Federal HUD officials, USDA loan officials, and other low income developers in the state, a need has been shown, as a private developer, to have a high amount in liquid and reserve assets and connections with agency personnel to be considered for the programs. With this, the HUD 2023 80% AMI restrictions in Kittitas county have increased to \$1,350 for a 1-bed and \$1,260 for a studio which are at or above real market rate for the area. The project most likely not charge these amounts as there could be issues getting units rented at the rates, but even with lowered rent around the 60% AMI area, it becomes financially feasible for traditional financing and loan structure. There would also likely be an additional application for City funds for the additional architecture needed and increased City permitting fees, as well as a probable phase two environmental review with the possibility of a hydrocarbon contaminated site, this would not trigger prevailing wage as it would be non labor costs.

As such, the revised plan is for application of City, and possibly County, AH funds as wells as contracting an architect with a structural sub with ability for elevator design, beginning discussions with traditional financing options, possibly other non profit partnerships. Once an plan has been discussed, begin environmental review and initial pre app for the project.



Pine St

1st Ave



General Notes

No.	Revision/Issue	Date

Firm Name and Address

Project Name and Address

1st & Pine

#####

Project #####

Date

Scale

As Noted

Sheet

#

Affordable Housing Commission

September 6, 2023

Affordable Housing has arisen as a challenge to virtually every jurisdiction throughout the country. Drafting regulations and incentives to address this issue present challenges that are both universal and place specific.

Generally, solutions require relief/concessions within 1 of 3 categories: aesthetics, function, and economics. These categories overlap at times, but any effective strategy that results in more affordable housing will need to make concessions in one or more of these categories. Examples of each category are as follows:

- 1) **Aesthetics** – Elements such as structural design, open space requirements, and landscaping all serve to increase costs in favor of aesthetic considerations.
- 2) **Function** – Elements such as off-site parking minimums, density restrictions, site orientation standards, and streetscape requirements (also an aesthetic consideration) all add to the cost of housing development.
- 3) **Economics** – Economic elements can include reduction in permitting fees, jurisdictional subsidy (tax and land allowances), pre-approved plans, etc.

The City of Ellensburg Housing Action Plan identifies several opportunities for adjustments within these categories that could assist in encouraging production of more affordable housing.

The Housing Action Plan identifies specific residential development types and describes how they can be improved to encourage more affordable development.

An example of this can be found with Townhouses. Townhouses are a common residential type that can be well suited for affordability. The individual units generally require smaller footprints and are erected in groups, allowing for units that provide some similarities with single-family residences but at a higher density than single family development.

Ellensburg City Code allows for townhouses in almost all residential zones, with some restrictions in R-S and R-L zones. Despite this, townhouses are rarely proposed and developed within the City. The Housing Action Plan identifies several reasons why this residential type has been largely ignored. Design standards defined in ECC 15.540.060 include direction on entries, garages and driveways, open space, and building design. These standards can be difficult to navigate for developers and Community Development staff.

The Housing Action Plan notes five townhouse development elements that may be restricting or discouraging their development. The proposed changes relate primarily to aesthetics and function. I have highlighted specific elements identified in the Housing Action Plan that have informed the draft changes to Title 15.540.060.

opportunities for added flexibility to accommodate missing middle housing types across zones that allow residential development and modified regulations to improve the viability of these types on infill lots.

Townhouses

Townhouses, or townhomes, are single-family units with at least two floors that share a wall with another unit. They are often sized with 1 to 3 bedrooms and are sold on individual lots. The Policy Review identifies the following barriers to townhouse construction within the parameters of Ellensburg's development regulations:

- **Special approval is needed for townhouses as infill development.** Townhouses are not allowed adjacent to single-family dwellings without individual site approval. This is a barrier to infill development within existing neighborhoods.
- **Density maximums are a barrier.** Typical townhouse densities are 13 – 30 units/acre. Within R-S and R-L zones, the maximum density is six and eight units per acre, respectively. The density bonus for alternative housing types does not kick in for developments under 5 acres and even with the 10% or 15% bonus, typical townhouse density is not permissible.
- **Parking and driveway regulations are restrictive.** Features such as street-facing garages and parking for only one vehicle per unit are common in townhouse developments. In Ellensburg, townhouse garages cannot face a public street and a minimum of 2 parking spaces per unit is required.
- **Landscaping plans are required.** In Ellensburg, planter strips of at least 4 feet are required at each townhouse entrance. In addition, units with garages require planting areas near pedestrian entries of at least 20 square feet with a combination of shrubs or ground cover and a tree. There are no landscaping requirements for single-family homes.
- **In general, Ellensburg's townhouse development code is challenging to interpret and included photos are not helpful.** No townhouse development applications have been submitted in Ellensburg, making this review a new exercise of putting code language to use. Planners note that the current regulations are confusing and difficult to apply. Simpler code language with fewer site constraints could improve the efficiency of the review process, in addition to initial site planning from developers.

Cottage Housing

Cottage housing consists of small, usually single-level, detached units which can be on individual lots or clustered around common open space. Ellensburg's cottage housing standards were compared with those of two communities which have incorporated cottage housing into their housing stock, Kirkland and Poulsbo, for reference.

Takeaways from these comparisons include:

- **Ellensburg's current unit size maximums may be a barrier.** Maximum unit size could be increased from 1,200 SF to 1,500 SF. It could also be removed completely with site design and height constraints as the restricting factors for unit size.

Below is the code section for townhomes (ECC 15.540.060) with draft changes indicated in red. Similar changes could be proposed for other alternative housing types like cottage housing. Please review the code section below and come prepared to offer comments on the proposed changes as well as any additional proposed changes that you identify.

This proposal would eliminate the prohibition on garages facing public streets with townhome development (15.540.060). Additionally, this proposal would reduce the parking requirement for townhomes and duplexes to 1 space per unit for development with three or fewer bedrooms (15.550.040).

15.540.060 Townhouse design standards.

A. Purpose.

1. To ensure that [townhouse developments](#) enhance the pedestrian-oriented character of downtown [streets](#);
2. To provide adequate [open space](#) for [townhouse developments](#);
3. To reduce the impact of garages and driveways on the pedestrian environment;
4. To reduce the apparent bulk and scale of [townhouse buildings](#) compatible with adjacent uses; and
5. To promote architectural variety that adds visual interest to the neighborhood.



Figure 15.540.060(A). Desirable [townhouse](#) example. With units fronting on the [street](#) and garages placed to the rear accessible from an [alley](#) or shared driveway.

B. Entries.

1. [Townhouses](#) fronting on a [street](#) must all have individual ground-related entries accessible from the [street](#). Configurations where enclosed [rear yards](#) back up to a [street](#) are prohibited;
2. Separate covered entries at least three feet deep are required for all [dwelling units](#);
3. For sites without [alleys](#) or other rear vehicular access, new [buildings](#) must emphasize individual pedestrian entrances over [private garages](#) to the extent possible by using ~~both~~ of the following measures:
 - a. Enhance entries with a trellis, small porch, or other architectural features that provide cover for a [person](#) entering the unit and a transitional space between outside and inside the [dwelling](#); and
 - ~~b. Provide a planted area in front of each pedestrian entry of at least 20 square feet in area, with no dimension less than four feet. Provide a combination of shrubs or groundcover and a tree (refer to city arborist or street tree list if available); and~~
4. Planting strips with no dimension less than four feet are required adjacent to the primary entry of all [dwelling units](#). This includes [townhouses](#) located to the rear of [lots](#) off an [alley](#) or private internal drive.

C. Garages and Driveways.

1. Where [lots](#) abut an [alley](#), the garage or off-street parking area should take access from the [alley](#);
2. For [lots](#) without [alleys](#), individual driveways off of the [street](#) are prohibited (shared driveways are required);

~~3. Garages facing a public street are prohibited;~~

4. Internal Drive Aisle Standards.

- a. Must meet minimum fire code widths;
- b. Minimum [building](#) separation along uncovered internal drive aisles shall be 25 feet. The purpose is to provide adequate vehicular turning radius, allow for landscaping elements on at least one side, and to provide adequate light and air on both sides of the [dwelling units](#) and drive aisles, which often function as usable [open space](#) for residents; and
- c. Upper level [building](#) projections over drive aisles are limited to three feet, and must comply with provisions in subsection (C)(4)(b) of this section.



Figure 15.540.060(C). Good and bad examples of garage/entry configurations. The left example features a landscaped area and a trellis to highlight the entry. In the middle image, the balconies and landscaped areas deemphasize the garage. In the right image, the lack of landscaping is a glaring omission.

D. [Open Space](#). Townhouse residential units shall provide [open space](#) at least equal to 10 percent of the [building](#) living space, not counting automobile storage. The required [open space](#) may be provided by one or more of the following ways:

1. Usable private [open space](#) that is directly adjacent and accessible to [dwelling units](#). Such space shall have minimum dimensions of at least 12 feet on all sides and be configured to accommodate human activity such as outdoor eating, gardening, toddler play, etc.;
2. Common [open space](#) meeting the requirements of ECC [15.520.030](#)(E)(1);
3. Balconies, decks and/or front porches meeting the requirements of ECC [15.520.030](#)(E)(2); and/or
4. [Community garden](#) space meeting the requirements of ECC [15.520.030](#)(E)(5).

E. [Building](#) Design.

1. [Townhouse Articulation](#). [Townhouse buildings](#) shall comply with [multifamily building articulation](#) standards as set forth in ECC [15.530.030](#)(D) except that the [articulation](#) intervals shall be no wider than the width of units in the [building](#). Thus, if individual units are 15 feet wide, the [building](#) shall include at least three [articulation](#) features per ECC [15.530.030](#)(D) for all [facades](#) facing a [street](#), common [open space](#), and common parking areas at intervals no greater than 15 feet.
2. Repetition with Variety. (See Figures 15.540.060(E)(2) and 15.540.060(E)(3).) [Townhouse developments](#) shall employ one or more of the following “repetition with variety” guidelines:

- a. Reversing the [elevation](#) of two out of four [dwellings](#) for [townhouses](#);
- b. Providing different [building elevations](#) for external [townhouse](#) units (versus internal units) by changing the roofline, [articulation](#), windows, and/or [building modulation](#) patterns;
- c. Adding a different [dwelling](#) design or different scale of the same design, such as adding a one-story version of the basic [dwelling](#) design where two stories are typical (or a two-story design where three stories are typical); and/or
- d. Other design [treatments](#) that add variety or provide special visual interest. While the variable use of color on [buildings](#) can be effective in reducing the perceived scale of the [building](#) and adding visual interest, color changes alone are not sufficient to meet the purpose of the guidelines.



Figure 15.540.060(E)(2). Acceptable [townhouse](#) configuration employing the repetition with variety concept.



Figure 15.540.060(E)(3). An acceptable [townhouse building](#). Note the landscaped [front yards](#) and individual walkways and entries. The internal units each have distinct, but

identical windows and roof forms. The outside unit is differentiated through the use of [building](#) materials, window design, unit size, and [facade](#) detailing.

F. Energy Efficiency. [Townhouses](#) are subject to energy efficiency provisions set forth in ECC [15.530.070](#). [Ord. 4807 § 58, 2018; Ord. 4656 § 1 (Exh. O2), 2013.]

15.550.040 Computation of required off-street parking spaces.

A. Spaces Required. Except as modified in subsections below, off-street parking areas shall contain at a minimum the number of parking spaces as stipulated in the following table. Off-street parking ratios expressed as number of spaces per square feet means the usable or net square footage of [floor area](#), exclusive of nonpublic areas. Nonpublic areas include but are not limited to [building](#) maintenance areas, storage areas, closets or restrooms. If the formula for determining the number of [off-street parking spaces](#) results in a fraction, the number of [off-street parking spaces](#) shall be rounded to the nearest whole number with fractions of 0.50 or greater rounding up and fractions below 0.50 rounding down.

Table 15.550.040(A). Computation of required off-street parking spaces.

Category of Land Use¹	Minimum Parking Spaces Required
RESIDENTIAL/LODGING	
Dwelling, single-family	2.0 per dwelling unit ; for structures containing more than 4 bedrooms, 1 additional space for each bedroom in excess of 4 shall be provided. NOTE: Tandem parking to accommodate 2-car garages is permitted for single-family units.
Accessory dwelling unit	None required
Apartment:	
Duplex	1.02-0 per dwelling unit ; for structures containing more than 34 bedrooms, 1 additional space for each bedroom in excess of 34 shall be

**Table 15.550.040(A). Computation of required
off-street parking spaces.**

Category of Land Use¹	Minimum Parking Spaces Required
	provided. NOTE: Tandem parking to accommodate 2-car garages is permitted for duplex dwelling units.
Townhouse	1.02-0 per dwelling unit ; for structures containing more than 3 4 bedrooms, 1 additional space for each bedroom in excess of 3 4 shall be provided
Studio units	1.2 per dwelling unit
Studio and 1-bedroom units in C-C zone outside of the downtown historic district	0.7 per dwelling unit
1-bedroom units	1.5 per dwelling unit
2-bedroom residential units and larger in C-C zone outside of the downtown historic district	0.7 per bedroom
2-bedroom units or larger	1.0 per bedroom
Cottage housing	1.5 per dwelling unit
Senior housing	1.0 per dwelling unit (this may be reduced based on the characteristics of the use)
Adult family home	2.0 per dwelling unit ; for structures containing more than 4 bedrooms, 1 additional space for each bedroom in excess of 4 shall be provided. NOTE: Tandem parking to accommodate 2-car garages is permitted.
Senior citizen assisted housing	1.0 per 2 dwelling or sleeping units
Community residential facilities	1.0 per 2 bedrooms
Boarding houses , lodging houses	1.0 per bedroom
Hotel/motels (where restaurants and conference facilities are included, see standards for applicable use)	1.0 per guest room
Bed and breakfast guesthouse	1.0 per guest room, plus 2.0 per facility
GENERAL RETAIL AND SERVICE	
Offices, banks, medical clinics, supermarkets, retail shops, department stores, or similar uses	1.0 per 300 square feet of gross floor area
General retail or service use with drive-in facility	Same parking for retail and service as provided herein, plus sufficient off-street

**Table 15.550.040(A). Computation of required
off-street parking spaces.**

Category of Land Use¹	Minimum Parking Spaces Required
	drive-through stacking area to accommodate 3 vehicles without negatively impacting other required parking areas, ingress and egress into such parking areas, or traffic on public streets
Day care facility	1.0 per employee plus 1.0 temporary loading parking per each 8 full-day equivalent children
FOOD AND BEVERAGE	
Restaurant, taverns, or similar uses where patrons sit down for service	1.0 per 200 square feet of gross floor area for sit-down facilities with a minimum number of 5 spaces required
Drive-in restaurant	Same parking as restaurant plus sufficient off-street drive-through stacking area to accommodate 6 vehicles without negatively impacting other required parking areas, ingress and egress into such parking areas, or traffic on public streets
Drive-in coffee stand	2.0 per facility plus sufficient off-street drive-through stacking area to accommodate 6 vehicles without negatively impacting other required parking areas, ingress and egress into such parking areas, or traffic on public streets
PLACES OF ASSEMBLY	
Churches, funeral homes, mortuaries, clubs, lodges, museums , auditoriums, theaters , conference facilities, public or commercial recreational facilities, or similar uses	0.25 per person of maximum occupancy as established by the fire marshal with a minimum of 5 spaces required
INDUSTRIAL AND LAND CONSUMPTIVE USES	
Wholesale trade, warehousing (including miniwarehouse facilities), processing and manufacturing facilities, heavy equipment repair, lumber yard , car sales, or similar land consumptive but low traffic generation uses	1.0 per 1,500 square feet of gross floor area for structures up to 20,000 square feet in gross size with a minimum of 5 spaces required OR 1.0 per 2,000 square feet of gross floor

**Table 15.550.040(A). Computation of required
off-street parking spaces.**

Category of Land Use ¹	Minimum Parking Spaces Required
	area for structures greater than 20,000 square feet in gross size. NOTE: For vehicle sales lots , the sales area is not considered to be a parking facility and does not have to comply with the requirements of this chapter. However, all required parking must be designed and reserved for customer parking only.
PUBLIC AND QUASI-PUBLIC USES	
Hospital	1.5 per each 5 beds with a minimum of 5 spaces required
Elementary and junior high schools	1.0 per classroom, plus 1 per 50 students
High schools , college or university, trade school , or business school	1.0 per classroom, plus 1 per 10 students
Governmental office	1.0 per 350 square feet of gross floor area

Notes:

A. In those situations where a particular use is not specifically mentioned in this table, the requirements for off-street parking shall be determined by the [director](#) and in accordance with the most comparable use listed.

B. Uses in the C-C Zone. There are no off-street parking requirements for any uses in the C-C zone, except residential uses located outside of the downtown historic district shall provide at least 0.7 parking spaces per bedroom (studio [apartments](#) shall be considered a one-bedroom [apartment](#)).

C. Shell [Building Permit](#) Applications. When the [city](#) has received a shell [building permit](#) application, off-street parking requirements shall be based on the possible tenant [improvements](#) or uses authorized by the zone designation and compatible with the limitations of the shell [permit](#). When the range of possible uses results in different parking requirements, the [director](#) shall establish the amount of parking based on a likely range of uses.

For example, an [applicant](#) submits a [permit](#) for a 5,000-square-foot shell [building](#) in the C-H zone. The zone allows for a range of [retail](#), personal, and general service [retail](#) uses. Most permitted uses in this zone fall in the category of general [retail](#) and service uses in Table 15.550.040(A) which requires one space per 300 square feet of [gross floor area](#). Restaurants require more parking (one space per 200 square feet of [gross floor area](#)). While the [director](#) might find it unreasonable to require parking for the “worst case scenario” in terms

of possible use types, he or she will typically choose a requirement that falls between the possible use scenarios. In this case, the odds are that most possible uses fall in the general [retail](#) and service use category with a lower parking requirement, though a slightly higher parking requirement would make sense given the possibility of a use such as a restaurant, which requires greater parking. Thus, a compromise standard, requiring a minimum of one space per 275 square feet of [gross floor area](#), would be reasonable in this instance.

D. Other Provisions of Code. Where other provisions of this code stipulate reduced minimum parking requirements, those provisions shall apply.

E. Bicycle Parking. [Multifamily](#) and nonresidential [developments](#) shall provide for bicycle parking per the standards below: