City of Kenmore

City of Kenmore - 18120 68th Avenue NE - P.O. Box 82607 - Kenmore, WA 98028
Phone: 425-398-8900 - Fax: 425-481-3236 - E-mail: cityhall@kenmorewa.gov

CITY OF KENMORE

REVISED City Council Special Meeting

7:00 p.m., Monday, April 1, 2013

Kenmore City Hall

18120 68th Ave. NE, Kenmore, WA 98028

If you have any questions or to confirm agenda items prior to the meeting, or if you require special accommodations, please call the City Clerk at 425-398-8900. You may also stop by City Hall at 18120 68th Avenue NE, Kenmore. Council agendas are also available on our website at www.kenmorewa.gov.

I. CALL MEETING TO ORDER

II. BUSINESS AGENDA

A. Authorize Amendment No. 5 to Contract No. 12-C1037 Purchase and Sale Agreement with James and Martha Donovan

III. EXECUTIVE SESSION

Pursuant to RCW 42.30.110(1)(g), Personnel

IV. POSSIBLE ACTION RELATING TO EXECUTIVE SESSION

V. ADJOURNMENT

City Council Business Agenda Item
City of Kenmore, WA

Subject/Topic: **Amendment #5 to Contract No. 12-C1037 with James and Martha Donovan**	**For Council Meeting Agenda of: 1 April 2013** **Department:** Executive **Prepared by:** Nancy Ousley **Initial & Date** **Approved by Department Head:** NKG 28Mar2013 **Approved by City Attorney:** W.A.C. - email **Approved by Finance Director:** Jme 3/29/13 **Approved by City Manager:** RDK
Proposed Council Action/Motion: Motion to Authorize the City Manager to Execute Amendment #5 to Contract No. 12-C1037 with James and Martha Donovan	**Exhibits/Attachments:** Proposed Amendment #5 Contract No. 12-C1037 with Amendments #1-#4

Expenditure Required $0 **Amount Budgeted** $ **Appropriation Required** $0

INFORMATION/BACKGROUND:

The proposed amendment includes final easement language and other details to conclude the feasibility period of the Purchase and Sale Agreement between the City of Kenmore and James and Martha Donovan for property in the Kenmore Village area. The Agreement was initially executed in June, 2012 and has been amended four times to extend the feasibility period. The purchase price is $1.25M for the 1.24 acre parcel and existing building. The purchasers will also, per the terms of the agreement, reimburse the City for architectural and related expenses that were incurred prior to the Purchase and Sale Agreement execution. The agreement also requires the Buyer to coordinate site improvements and operational issues with the current (City) and future owner of the adjacent Kenmore Village properties as redevelopment occurs.

With this final amendment, the feasibility period will conclude and the transaction can proceed to closing.

FISCAL CONSIDERATION:

The revenue from the property sale will be directed to the Kenmore Village Fund.

COUNCIL GOAL/BUDGET OBJECTIVE BEING ADDRESSED:

Pursue Downtown Development

IIA. Authorize Amendment No. 5 to Contract No. 12-C1037
Purchase and Sale Agreement with James and Martha Donovan

AMENDMENT NO. 5 TO REAL ESTATE PURCHASE AND SALE AGREEMENT

Date: April 1, 2013 City Contract No.: 12-C1037

Between:

City of Kenmore, Seller

And

James M. and Martha W. Donovan, Buyer(s)

Recitals:

A. Seller and Buyers having entered into that certain Real Estate Purchase and Sale Agreement (the "Agreement") dated June 11, 2012 governing the real estate and personal property located at Block 13 Northlake Terrace, Vol. 33, Pg. 20, King County Washington more particularly described in Exhibit A thereto; and

B. Seller and Buyers wishing to finalize and approve the attachments and exhibits referenced in the Agreement (the "Attachments") described as follows:

1. Reciprocal Grant of Easements and Agreement For Joint Maintenance of Real Property;
2. Agreement As To Conditions, Restrictions, and Equitable Servitudes;
3. Statutory Warranty Deed;
4. Bill of Sale;
5. Real Estate Option and Right of First Refusal Agreement;

C. And to remove all further contingencies prior to closing the sale transaction including the review period under Paragraph 7.1 of the Agreement;

D. Agree that the amount due the City for Design Fees is $90,820.00.

Agreement: In exchange for the mutual promises contained herein and other valuable consideration the parties agrees as follows:

1. The foregoing recitals are true and correct and are hereby incorporated in this Amendment by reference.
2. Buyer hereby approves the feasibility of the purchase and sale. All of Buyer's Contingencies including the Feasibility Review under Paragraph 7.1 of the Agreement are removed by agreement of the Buyer;
3. The Attachments described above are hereby approved and incorporated in the Agreement;
4. Buyer approves the Preliminary Title Report and agrees there are no Intervening Exceptions as of the date of this Amendment;
5. The Design Fees due seller at closing as provided under Paragraph 3.1 of the Agreement are agreed to be $90,820.00.
6. The City Manager is authorized to execute all closing documents necessary to complete sale of the property based upon this Amendment and the final Agreement as amended herein.

Signatures Appear On The Following Page.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 5 to the Purchase and Sale Agreement effective as of the date set forth on page 1 hereof.

SELLER:

CITY OF KENMORE,
a Washington municipal corporation

By: ______________________
Name: ______________________
Title: ______________________
Date: ______________________

BUYERS:

____
JAMES M. DONOVAN

____
MARTHA W. DONOVAN

Date: ______________________

Exhibit A

LEGAL DESCRIPTION

THE WESTERLY 150 FEET OF THE FOLLOWING DESCRIBED TRACT:

ALL OF BLOCK 13 OF NORTHLAKE TERRACE, ACCORDING TO PLATE RECORDED IN VOLUME 33 OF PLATS AT PAGE 20, IN KING COUNTY, WASHINGTON; AND A 20 FOOT ALLEY LYING WITHIN SAID BLOCK AND ADDITION ADJOINING THE NORTHERLY LINE OF LOT 10 THEREOF;

AND THAT PORTION OF VACATED KENMORE AVENUE, NOW 67TH AVENUE NORTHEAST, WHICH LIES EASTERLY OF A LINE DRAWN 390 FEET WEST OF AND DISTANT FROM THE EAST BOUNDARY LINE OF BLOCK 13 OF SAID ADDITION.

EXCEPT THE SOUTH 122.00 FEET THEREOF WHICH INCLUDES 22.00 FEET DEDICATED TO THE CITY OF KENMORE FOR RIGHT OF WAY PURPOSES PER ORDER OF CONVEYANCE, RECORDING NO. 20120309001122

Exhibit B

AFTER RECORDING PLEASE RETURN TO:
WILLIAMS & WILLIAMS PSC
18806 BOTHELL WAY NE
BOTHELL, WA 98011

STATUTORY WARRANTY DEED

Grantor(s):	City of Kenmore, a Washington municipal corporation
Grantee(s):	James M. Donovan and Martha W. Donovan, husband and wife
Abbreviated Legal Description:	Ptn Block 13 of Northlake Terrace, Volume 33 of Plats, Page 20, King County, WA
Tax Parcel ID No.	6181700456
Reference No. of Document Released:	

THE GRANTOR, the City of Kenmore, a Washington municipal corporation, for and in consideration of Ten dollars ($10.00) in hand paid conveys and warrants to James M. Donovan and Martha W. Donovan, and the marital community composed thereof, the following described real estate, situated in the County of King, State of Washington.

See Exhibit A attached hereto and incorporated herein by this reference.

Subject to and excepting those matters listed in Exhibit B attached hereto and incorporated herein by this reference.

Dated _______________, 2013.

GRANTOR:

THE CITY OF KENMORE,
a Washington municipal corporation

By: ________________________
Name: Rob Karlinsey
Title: City Manager

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Rob Karlinsey is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the City Manager of the City of Kenmore, a Washington municipal corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: ________________________

____
Notary Public
Print Name ________________________
My commission expires ________________________

(Use this space for notarial stamp/seal)

Exhibit B

EXCEPTIONS

Exhibit C

AFTER RECORDING PLEASE RETURN TO:
WILLIAMS & WILLIAMS PSC
18806 BOTHELL WAY NE
BOTHELL, WA 98011

BILL OF SALE

Grantor(s):	City of Kenmore, a Washington municipal corporation
Grantee(s):	JAMES M . DONOVAN and MARTHA W. DONOVAN, husband and wife

Abbreviated Legal Description:

Tax Parcel ID No.

Reference No. of Document Released:

THIS BILL OF SALE ("Bill of Sale") is made as of April ____, 2013, and is by the CITY OF KENMORE, a Washington municipal corporation ("Seller"), in favor of JAMES M. DONOVAN and MARTHA W. DONOVAN, husband and wife, and the marital community composed thereof ("Buyer"), with reference to the following recitals.

RECITALS

A. Seller is the owner of the property legally described on Exhibit A attached hereto (the "Property").

B. Pursuant to the Purchase and Sale Agreement dated June 11, 2012, (the "Agreement") between Seller and Buyer, Buyer has contracted to purchase the Property from Seller. As of the date hereof, Seller has conveyed the Property to Buyer.

C. Seller desires to assign, transfer, sell and convey to Buyer of all of Assignor's right, title and interest in and to the Personal Property (as defined below).

ASSIGNMENT

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, Seller does hereby sell and convey to Buyer all of Seller's right, title and interest in and to any intangible personal property owned by Seller and used in connection with the operation of the Property, including, without limitation, any guaranty or warranty relating to the construction, use, maintenance, occupancy or operation of the Property, subject to any limitation contained in each such guaranty and warranty (the "Personal Property").

This Bill of Sale is made without recourse or warranty whatsoever except that Seller owns the Personal Property free and clear of all liens, exceptions, and encumbrances except the lien for personal property taxes not yet delinquent. Except as provided in the Agreement, Buyer acknowledges that Seller has not made and does not make any representations or warranties of any kind whatsoever, either express or implied, with respect to the Personal Property and the Personal Property is sold to Buyer in an "AS IS" condition.

IN WITNESS WHEREOF, Seller has executed this Bill of Sale as of the date first set forth above.

SELLER:

THE CITY OF KENMORE,
a Washington municipal corporation

By: ______________________
Name: Rob Karlinsey
Title: City Manager

/////

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Rob Karlinsey is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the City Manager of the City of Kenmore, a Washington municipal corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: ______________________

____
Notary Public
Print Name ______________________
My commission expires ______________________

Exhibit E

AFTER RECORDING PLEASE RETURN TO:
WILLIAMS & WILLIAMS PSC
18806 BOTHELL WAY NE
BOTHELL, WA 98011

AGREEMENT AS TO CONDITIONS, RESTRICTIONS AND EQUITABLE SERVITUDES

Grantor(s):	James Donovan and Martha Donovan, husband and wife
Grantee(s):	City of Kenmore, a Washington municipal corporation
Abbreviated Legal Description:	Ptn Block 13 of Northlake Terrace, Volume 33 of Plats, Page 20, King County, WA
Tax Parcel ID No.	6181700456
Reference No. of Document Released:	

THIS AGREEMENT AS TO CONDITIONS, RESTRICTIONS AND EQUITABLE SERVITUDES (this "Agreement"), dated and effective as of the _____ day of April, 2013, is made by and between JAMES DONOVAN and MARTHA DONOVAN, (the "Owner") and CITY OF KENMORE, a Washington municipal corporation ("City"). The Real Property (the "Real Property") described on **Exhibit A** hereto, has been conveyed by Grantor to Grantee subject to the following Covenants, Conditions, Restrictions and Equitable Servitudes.

1. The Real Property, and any and all lots, parcels, subdivisions, divisions and parts which may hereafter be created from the Real Property (all of which are deemed incorporated into the term "Real Property" as used herein), shall be held, sold, pledged, transferred and conveyed subject to the terms, provisions, limitations, restrictions, and conditions of these Conditions, Restrictions and Equitable Servitudes (collectively, these "Conditions"), all of which shall be deemed conditions, restrictions and equitable servitudes running with the land.

2. For the first five (5) years from the date of Closing, the Real Property shall be used exclusively for commercial retail purposes as a Kenmore Camera retail store. After this five (5) year period, the Real Property may be used, developed, leased, sub-leased, rented, or occupied solely for any permitted office, residential, and commercial retail purposes or any combination thereof subject to applicable zoning and land use laws, rules and regulations (the "Permitted Use") and without limitation on the foregoing, shall not at any time be used, developed, leased, sub-leased, rented or occupied for any of the following uses or purposes (the "Prohibited Uses") described in subsection a-j below. :

a. Industrial or manufacturing;

b. Any un-permitted use involving the manufacture or storage of Hazardous Substances, meaning flammable explosives, pollutants, contaminants, radioactive materials, asbestos, polychlorinated biphenyls, lead, lead-based paint, under and/or above ground tanks, hazardous materials, hazardous wastes, hazardous substances, oil, or related materials, which are listed or regulated by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 6901, et seq.), the Resources Conservation and Recovery Act of 1976 (42 U.S.C. Section 9601, et seq.), the Clean Water Act (33 U.S.C. Section 1251, et seq.), the Safe Drinking Water Act (14 U.S.C. Section 1401, et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Section 5101, et seq.), the and Toxic Substance Control Act (15 U.S.C. Section 2601, et seq.), and any other applicable federal, state or local laws, rules, regulations or governmental requirements;

c. Warehousing, storage or "mini-warehouse"

d. Automotive, boat or other vehicle sales, storage, repair or servicing;

e. Dry cleaner;

f. "Adult" entertainment sales or retail activities involving pornographic or "adult only" literature, videos, clothing, or products;

g. Flea market, going-out-of-business, distress or second-hand sales;

h. Agricultural use; or

i. Any use that is not a Permitted Use.

3. Except for special events for holiday sales, inventory clearance and promotional sales not exceeding 72 hours in duration, all retail sales activities must be conducted within the interior spaces of the building located on the Real Property and may not include sales conducted on or in any portion of the parking areas, drive aisles or landscaped areas on the Real Property.

Any and all reconstruction, remodeling or other material alteration of the structures and buildings located on the Real Property as of the date of recording of the Deed shall be in accord with local building codes and ordinances and shall be coordinated with adjoining landowners to minimize disruption or dislocation of property owner and tenant operations and invitees on and around the immediately surrounding properties.

4. These Conditions shall be binding on the Real Property and on Grantee and all future owners, lessees, grantees and occupants thereof and shall inure to the benefit of the Grantor and its respective successors and assigns. Grantor and/or its successors or assigns may enforce the provisions of these Conditions by any and all means and remedies allowed by law or equity, all of which shall be cumulative and not exclusive. In the event of any dispute involving these Conditions or their enforcement, the substantially-prevailing party in any such dispute shall be entitled, in addition to any and all other relief obtained, to reimbursement by the non-prevailing party for all costs and expenses incurred by the prevailing party in connection with such dispute, including without limitation, its actual attorneys' fees, whether or not suit may be commenced, and if suit is commenced then said amount shall include the amounts incurred prior to commencement of such suit, at the trial level, and in all subsequent appeals and collection efforts.

5. <u>Waiver or Breach</u>. No waiver or consent to any breach or default in the performance of any term, condition, or provision of this Agreement shall be deemed a waiver of any subsequent breach of the same

or any other term, condition, or provision. No failure or delay of any party to exercise any right or power or to insist upon strict compliance by another party with its obligations shall constitute a modification of this Declaration or a waiver of any right to demand strict compliance with the terms of this Declaration.

6. Definitions. Initially-capitalized terms used herein, if not defined herein, shall have the meanings of such terms set forth in the Agreement.

INWITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

OWNER: ______________________________
James Donovan

____
Martha Donovan

STATE OF WASHINGTON)
) ss.
COUNTY OF ___________)

On this day personally appeared before me JAMES DONOVAN and MARTHA DONOVAN, to me known to be the individuals described in and who executed the within and foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal this ___ day of _________________, 2013.

____
Type or Print Name: ___________________
NOTARY PUBLIC in and for the State of
Washington, residing at: ________________
My Commission Expires: _______________

/////

CITY: THE CITY OF KENMORE,
a Washington municipal corporation

By: ______________________
Name: Rob Karlinsey
Title: City Manager

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that ________________ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the __________________________ of the City of Kenmore, a Washington municipal corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: ______________________

____
Notary Public
Print Name ______________________
My commission expires ______________________

(Use this space for notarial stamp/seal)

Exhibit F

AFTER RECORDING PLEASE RETURN TO:

WILLIAMS & WILLIAMS PSC
18806 BOTHELL WAY NE
BOTHELL, WA 98011

RECIPROCAL GRANT OF EASEMENTS
AND
AGREEMENT FOR JOINT MAINTENANCE OF REAL PROPERTY

Grantor(s):	City of Kenmore, a Washington municipal corporation
Grantee(s):	James M. Donovan and Martha W. Donovan, husband and wife
Abbreviated Legal Description:	Ptn Lots 10 – 17, Block 13, Northlake Terrace
Tax Parcel ID Nos.	6181700350; 6181700410; 1126049152; & 6181700456
Reference No. of Document Released:	

This Reciprocal Grant of Easements and Agreement for Joint Maintenance of Real Property (this "Agreement") is made and entered as of the _______ day of April, 2013, by and between the **City of Kenmore**, a Washington municipal corporation ("Kenmore"), and **James M. and Martha W. Donovan**, husband and wife ("Donovan"). Kenmore and Donovan are at all times collectively referred to herein as the "Parties," which term includes all heirs, assigns and successors of each of Kenmore and Donovan.

RECITALS:

A. Kenmore is the owner of the real property described in **Exhibits A-1, A-2 and A-3** hereto and the improvements located thereon and therein (collectively, "Kenmore Property"). The real property described on **Exhibit A-1** is also referred to herein as the "Post Office Parcel," the real property described on **Exhibit A-2** is also referred to herein as the "Eastern Parcel," and the real property described on **Exhibit A-3** is also referred to herein as the "Park & Ride Parcel."

B. Donovan is the owner of the real property described on **Exhibit A-4** and the improvements located thereon and therein ("Donovan Property").

C. The Kenmore Property and Donovan Property are at times collectively referred to herein as the "Properties".

D. The Properties are adjoining and the Parties desire to provide for easements and agreements allowing for certain uses of each of the Properties for the benefit of the other Property or the owner, tenants, lessees, licensees and other lawful users of such other Property, and for joint use and maintenance of certain portions of the Properties, all under terms and conditions stated in this Agreement, which uses, terms and conditions are mutually accepted by the Parties.

IT IS THEREFORE AGREED BY THE PARTIES AS FOLLOWS:

1. Recitals True. Each of the foregoing Recitals is true and made a part of this Agreement the same as though re-stated here in full.

2. Grant of Easements by Kenmore. Subject to the Easement Conditions hereinafter stated, Kenmore hereby grants and conveys to Donovan and to Donovan's assigns and successors, and the tenants, lessees, licensees, vendors, suppliers and concessionaires thereof, and all employees, agents, contractors and invitees of any or all of the foregoing (all collectively "Donovan Permittees" or at times "Permittees") the following non-exclusive, perpetual easements for ingress and egress over those portions of Kenmore's Property, legally described in **Exhibit B** to this Reciprocal Grant of Easements as follows:

(A) Post Office Parcel Access Easement. An easement across a portion of the Post Office Parcel for vehicular and pedestrian ingress and egress between the Donovan Property and N.E. 181st Street (the "Post Office Parcel Access Easement," legally described in **Exhibit B as B-1** Post Office Parcel Access Easement);

(B) Eastern Parcel Access Easement. An easement across the south-westerly corner of the Eastern Parcel for vehicular and pedestrian ingress and egress between the Donovan Property and N.E. 181st Street (the "Eastern Parcel Access Easement," legally described in **Exhibit B as B-2** Eastern Parcel Access Easement);

(C) Rear Access Easement. An easement across a portion of the Eastern Parcel for vehicular ingress and egress between the rear (northern-most) portion of the existing building located, as of the date hereof, on the northern portion of the Donovan Property and 68th Avenue N.E. (the "Rear Access Easement," legally described in **Exhibit B as B-3** Rear Access Easement), which easement, however, shall be used solely for restricted access by commercial trucks and service vehicles for the purpose of pick-up and delivery of inventory, supplies and materials and similar commercial deliveries and for services to be provided through the service or loading areas of the building and for services to those portions of the building not accessible from the front (southern) side of the building. Kenmore shall have the right at any time while this easement is in place to install a gate, bollards, chain or other devices or structures to restrict access to the area covered by this easement solely to contractors, supplies, shippers, vendors and other commercial vehicles providing commercial services to the building located on the Donovan Property. Kenmore shall also have the right to propose a reasonably equivalent alternative access easement for approval by the owner of the Donovan Property and such approval shall not be unreasonably withheld. All costs associated with obtaining and providing such reasonably equivalent alternative shall be born by the owner of the Eastern Parcel.

(D) Eastern Pedestrian Easement. An easement across a portion of the Eastern Parcel providing a direct means of pedestrian access between N.E. 181st Street and the Park & Ride Parcel (the "Eastern Pedestrian Easement," legally described in **Exhibit B as B-4** Eastern Pedestrian Easement).

(E) Western Pedestrian Easement. An easement across a portion of the Kenmore Western Parcel providing a direct means of pedestrian access between N.E. 181st Street and the Park & Ride Parcel (the "Western Pedestrian Easement," legally described in **Exhibit B as B-5** Western Pedestrian Easement).

(F) Sign Easement. Donovan shall also have the right to temporarily install, at Donovan's sole expense, "Coming Soon", "Grand Opening" or similar banners on the Donovan's Property legally described in **Exhibit A-4**. This right shall include, but not be limited to, the installation of temporary grand opening tents or small kiosks during its grand opening or subsequent sales events, but no more frequently than twice each year, as consented to by Kenmore, which consent shall not be unreasonably withheld. Any such temporary signage must meet all applicable sign laws and ordinaces. Further, Donovan shall have the right to place permanent signage on any common signage that may be erected by the owner of the Eastern Parcel for use by occupants of the Property. The location of any such common signage shall be at or near 1) the junction of 181st Street and the Post Office Parcel Access Easement and 2) the junction of 181st Street and the Eastern Parcel Access Easement. The exact location and configuration shall be determined by mutual agreement between the owners of the Donovan and Kenmore

Properties. Any permanent signage placed on the common signage by Donovan shall conform to all parties agreed sign standards, if any, and be subject to all laws and ordinances in effect on the date of installation. Utilities and maintenance costs for common signage shall be paid for on an equitable basis as agreed by the Parties.

(G) Visibility Easements. Kenmore hereby grants and conveys to Donovan a non-exclusive, perpetual easement (the "Kenmore Village View Easement") for the non-exclusive use and benefit of Donovan for the preservation or enhancement of visibility and view of the Donovan Parcel from N.E. 181st Street. The Visibility Easements are graphically depicted on **Exhibit F** and are legally described in **Exhibit B-6**. Further, Kenmore shall not erect, construct, or install or allow to be erected, constructed, or installed any subsequent signage, buildings or other improvements, (either permanent or temporary in nature) within the Kenmore Village View Easement area without Donovans' consent which shall not be unreasonably withheld.

3. **Grant of Easements by Donovan.** Subject to the Easement Conditions hereinafter stated, Donovan hereby grants and conveys to Kenmore and to Kenmore's assigns and successors, and the tenants, lessees, licensees, vendors, suppliers and concessionaires thereof, and all employees, agents, contractors and invitees of any or all of the foregoing (all collectively "Kenmore Permittees" or at times "Permittees") the following non-exclusive, perpetual easements for ingress and egress over those portions of Donovan's Property, legally described in **Exhibit C** to this Reciprocal Grant of Easements as follows:

(A) Donovan Property Ingress-Egress Easement. An easement running east and west providing a direct means of vehicular and pedestrian ingress and egress between the Eastern Parcel and the Post Office Parcel (the "Donovan Property Ingress-Egress Easement," legally described in **Exhibit C as C-1** Donovan Property Ingress-Egress Easement);

(B) Western Pedestrian Access Easement. An easement that runs across the Donovan Parcel providing a direct means of pedestrian access between N.E. 181st Street and the Park & Ride Parcel (the "Western Pedestrian Access Easement," legally described in **Exhibit C as C-2** Western Pedestrian Access Easement);

(C) Eastern Pedestrian Easement. An easement that runs across the Donovan Parcel providing a direct means of pedestrian access between N.E. 181st Street and the Park & Ride Parcel. (the "Eastern Pedestrian Easement," legally described in **Exhibit C as C-3** Eastern Pedestrian Easement").

4. **Graphic Depiction of Easements.** The Post Office Parcel Easement, Eastern Parcel Easement, Rear Access Easement, Western Pedestrian Easement, Eastern Pedestrian

Easement, Donovan Property Ingress-Egress Easement, Access Easement DP, Access Easement EP, and Visability Easement are graphically depicted on **Exhibits D, E and F** hereto.

5. Access Easement – Donovan Property

(A) Access Easement - DP. Subject to the Easement Conditions hereinafter stated, Donovan hereby grants and conveys to Kenmore a non-exclusive, perpetual easement for the non-exclusive use and benefit of the Kenmore Permittees for vehicular and pedestrian ingress and egress over and across the portions of Donovan's Property depicted as the "Floating Access Easement" on Exhibit D (hereinafter the "Access Easement – DP".) The Kenmore Permittees shall have the non-exclusive right to utilize the Access Easement –DP as described herein for vehicular and/or pedestrian ingress and egress across Donovan's Property. The exact location of the Access Easement – DP may be adjusted from time to time in the general vicinity of the easement area depicted on Exhibit D depending upon the parking layout of the adjoining parking areas and by mutual agreement of the owners of the Donovan and Kenmore Properties. The parties agree to cooperate in developing a parking layout that maximizes the number and size of parking spaces as well as the utility of the Eastern Parcel Easement and the Access Easement, DP.

(B) Preservation of Access. To preserve the right of the Kenmore Permittees to use the Access Easement - DP, Donovan agrees not to construct any improvements or to make or permit the making of any alterations, the purpose or effect thereof is to reduce the reasonable use of the Access Easement - DP except with the express written consent of Kenmore, which consent may be withheld, conditioned or denied in Kenmore's sole and absolute discretion; *provided,* nothing herein shall bar Donovan from making alterations to the configuration or layout of the parking areas or parking spaces or drive aisles or from installing improvements thereto so long as following such alterations or installation of improvements the means of ingress and egress across the Donovan Property between the Eastern Parcel and the Post Office Parcel are not materially impaired, reduced or adversely affected.

(C) Reservation of Rights. Donovan reserves and retains the right of the Donovan Permittees to use Access Easement - DP, as described and limited herein, in common with the Kenmore Permittees for for access to and from the Donovan Property over the Post Office Parcel Easement and the Eastern Parcel Easement. In addition, Donovan shall have the right to make any use of the surface and subsurface of areas subject to Access Easement – DP and may construct or install any surface or subsurface improvements thereon for any use or purpose not inconsistent with the rights granted to the Kenmore Permittees under this Access and Parking Easement.

(D) Rules and Regulations. Donovan shall have the right to issue reasonable rules and regulations for the use and occupancy of the areas affected by the Access Easement - DP. Donovan agrees to adopt, maintain and enforce reasonable rules and measures to prevent improper use of the Access Easement – DP by its Permittees or by any other person for vehicular parking in any areas other than specifically marked and designated parking areas (including measures to prevent parking in fire lanes and other areas in which parking is prohibited by law) or for permanent storage of vehicles or equipment. Donovan shall not rent, lease or otherwise use areas otherwise subject to the Access and Parking Easement for parking by persons other than employees, contractors, customers, vendors and others using the buildings located on the Properties. Such rules and regulations shall be in such form and substance as Donovan deems reasonably appropriate for the use, safety, cleanliness and fair usage of the Access Easement -DP; *provided,* in no event shall any such rules or regulations impose any fee or tariff for access by pedestrians or vehicles over or across the Access Easement -DP or unreasonably limit the use by Kenmore Permittees of the Access Easement -DP, as prescribed in this Agreement. Donovan shall be solely responsible for the posting, publication and/or enforcement of any such rules and regulations, except that Kenmore agrees reasonably to cooperate with Donovan in making reasonable efforts to publish, publicize and otherwise make known such rules and regulations to Kenmore's Permittees.

(E) Parking Management. Nothing in this Agreement shall prohibit Donovan from retaining or contracting with a third-party parking management service to maintain the Access and Parking Easement, so long as such service manages the property in a manner which does not violate this Agreement or the rights of the Kenmore Permittees with respect to this Access and Parking Easement.

(F) Improvement Cooperation. Subject to existing and future zoning, regulations, and permitting standards, the owners of the Properties agree to coordinate all future improvements in order to avoid disrupting their respective use and improvement of their properties and the use and enjoyment of themselves and their tenants and permitttees. To that end, Donovan and Kenmore shall give each other at least six (6) months notice of their intent to begin any significant construction or improvement activities and will meet and confer within a reasonable time in order to mitigate the effects of such construction or improvement activities. Effort shall be made in the planning process and ultimate design of any significant construction of improvement to make the construction or improvement architecturally compatible between the Donovan and Kenmore properties. Significant construction or improvement activities are defined to include but are not limited to permanent signage or other physical restriction of parking areas for use of Donvan or Kenmore Permittees, structural alterations or improvements of buildings or structures in excess of an estimated gross cost of $100,000.00 or greater or similar physical alterations of their respective properties that can reasonably be expected to have a material effect on traffic or use of the neighboring property.

6. **Access Easement – Eastern Parcel.**

(A) Access Easement - EP. Subject to the Easement Conditions hereinafter stated, Kenmore hereby grants and conveys to Donovan non-exclusive and perpetual easements for the non-exclusive use and benefit of the Donovan Permittees for vehicular and pedestrian ingress and egress over and across Kenmore's Property, depicted as the "Floating Acess Easement" on Exhibit D (herinafter the "Access Easement – EP".) The Donovan Permittees shall have the non-exclusive right to utilize the Access Easement – EP as described herein for vehicular and/or pedestrian ingress and egress across Kenmore's Property to and from NE 181st Street in conjunction with the Eastern Parcel Easement subject to the rights and restrictions stated herein. The exact location of the Access Easement – EP may may be adjusted from time to time in the general vicinity of the easement area depicted on Exhibit D depending upon the parking layout of the adjoining parking areas and by mutual agreement of the owners of the Donovan and Kenmore Properties. The parties agree to cooperate in developing a parking layout that maximizes the number and size of parking spaces as well as the utility of the Eastern Parcel Easement and the Access Easement, EP.

(B) Preservation of Access. To preserve the right of the Donovan Permittees to use the Access Easement - EP, Kenmore agrees to not construct any improvements or to make or permit the making of any alterations the purpose or effect thereof is to reduce the use of the Access Easement – EP as access between 181st Street and the Donovan Property, except with the express written consent of the other party, which consent may not be unreasonably withheld, conditioned or denied. Further, nothing herein shall bar the parties from making alterations to the configuration or layout of the parking areas or parking spaces or drive aisles or from installing improvements thereto so long as following such alterations or installation of improvements, the number and size of parking spaces available for use on the Donovan or Kenmore Properties in the immediate vicinity of the Access Easement – EP are not reduced in number or size and the means of ingress and egress across the Eastern Parcel between the Donovan Parcel and N.E. 181st Street in general conformance with the access easements depicted on **Exhibits D, E and F** attached to this Agreement are reasonably maintained.

(C) Reservation of Rights. Kenmore reserves and retains the right of the Kenmore Permittees to use the areas on its property affected by the Access Easement – EP as described and limited herein, in common with the Donovan Permittees for parking and for access to and from the Eastern Parcel Property to N.E. 181st Street. In addition, Kenmore shall have the right to make any use of the surface and subsurface of its property and construct or install any surface or subsurface improvements thereon for any use or purpose not inconsistent with the rights granted to the Donovan Permittees under this Reciprocal Grant of Easements.

(D) Rules and Regulations. Kenmore shall have the right to issue reasonable rules and regulations for the use and occupancy of the areas affected by the Access and Parking Easement. Kenmore agrees to adopt, maintain and enforce reasonable rules and measures to prevent use of the Access Easement – EP by its Permittees or by any other person for vehicular parking in any areas other than specifically marked and designated parking areas (including measures to prevent parking in fire lanes and other areas in which parking is prohibited by law) or for permanent storage of vehicles or equipment. Kenmore shall not rent, lease or otherwise use the Access Easement – EP Area for parking by persons other than employees, contractors, customers, vendors and others using the buildings located on the Properties. Such rules and regulations shall be in such form and substance as the Parties deem reasonably appropriate for the use, safety, cleanliness and fair usage of the Access Easement – EP Areas; *provided,* in no event shall any such rules or regulations impose any fee or tariff for access by pedestrians or vehicles over or across the areas affected by the Access Easement – EP or unreasonably limit the use by the Parties Permittees of the Access and Parking Easement, as prescribed in this Agreement. The Parties agree to share the cost of posting, publication and/or enforcement of any such rules and regulations, on a proportionate and equitable basis.

(E) Parking Management. Nothing in this Agreement shall prohibit the parties from retaining or contracting with a third-party parking management service to maintain the areas affected by the Access Easement – EP, so long as such service manages the property in a manner which does not violate this Agreement or the rights of the Parties with respect to this Access Easement – EP.

(F) Parking Improvement Cooperation. Subject to existing and future zoning, regulations, and permitting standards, Donovan and Kenmore agree to coordinate improvements to their respective properties and areas on their properties affected by the Access Easement – EP in order to avoid disrupting their respective use and improvement of their properties and the use and enjoyment of themselves and their tenants and permitttees. To that end, Donovan and Kenmore shall give each other at least six (6) months notice of their intent to begin any significant construction or improvement activities and will meet and confer within a reasonable time in order to mitigate the effects of such construction or improvement activities. Effort shall be made in the planning process and ultimate design of any significant construction of improvement to make the construction or improvement architecturally and structurally compatible between the Donovan and Kenmore properties. Significant construction or improvement activities are defined to include but are not limited to permanent signage or other physical restriction of parking areas for use of Donovan or Kenmore Permittees, structural alterations or improvements of buildings, utilities, and/or structures in excess of an estimated gross cost of $100,000.00 or greater, similar physical alterations of their respective properties that can reasonably be expected to have a material effect on traffic or use of the neighboring property.

7. **Access and Parking Easement Areas Defined**. As used herein, "Access Easement" means the Access Easement – DP and the Access Easement – EP, collectively, and "Access Easement Areas" means the areas affected by either of the Access Easements.

8. **Agreement Not To Obstruct Easement Areas**. With respect to each of the Post Office Parcel Easement, the Eastern Parcel Easement, the Rear Access Easement, the Donovan Property Ingress-Egress Easement, and the Access Easements (collectively, the "Surface Easements"), Kenmore and Donovan agree, for themselves, their grantees, assigns and successors, never to place, locate, erect, construct, establish, suffer or otherwise permit the temporary or permanent placement, location, erection, construction or establishment of any structure, device, or apparatus of any nature within any of the Surface Easement Areas, the purpose or effect of which is the blocking, hindering or impairing of the free and unimpeded use of such easement area for the purposes described in this Agreement with respect to such easement.

9. **Restrictions and Conditions for Use of Surface Easements**. Kenmore and Donovan covenant and agree never (i) to establish, undertake, suffer, permit or tolerate the use of any of the Surface Easements by its Permittees for the benefit of any property other than the Properties, or (ii) to authorize or permit its Permittees to utilize any portion of the Surface Easement Areas or any portion of Donovan's Property for long term parking or storage of any nature, or, (iii) except as to vehicular parking allowed in designated parking areas within the Surface Easement Areas, to allow any of its Permittees to park any vehicle, temporarily or otherwise, within the area of any of the Surface Easements or otherwise to use any part of those areas of the Properties reserved for the Surface Easements for any purpose other than for ingress and egress as described in this Agreement.

10. **Parking, Costs of Maintenance, Repair and Replacement of Surfaces and Improvements within Easement Areas**. Except as otherwise specifically required by this Reciprocal Grant of Easements, each property owner shall pay for their own respective expenses related to the maintenance, repair, and replacement of the surfaces, structures, and capital improvements located within the boundaries of their property. Expenses related to repair, maintenance, and replacement of shared utilities, including stormwater, sewer, water, communications, and power, shall be equitably allocated between the property owners benefitting from the use of those shared utilities. The allocation shall be based upon the actual and reasonably probable use of the shared utilities over the useful life of the utilities.

11. **Landscape Islands and Lighting**. The Parties hereby agree to coordinate and cooperate with each other to provide uniform landscape islands and lighting located on and

within their respective properties. Installation, maintenance, and repair costs shall be borne by the owner of each respective parcel where the landscape islands and lighting are located

12. Agreement for Layout of Parking Areas. The Parties agree to coordinate and cooperate in developing a mutually acceptable parking layout in any future development of their respective properties.

13. Utility Easements. The parties hereto grant to each other mutual and reciprocal easements across, under or above the adjacent parcels of each other in order to accommodate the installation and maintenance of utilities to fully develop their respective parcels, provided that such installation does not unreasonably interfere with the other parties intended use. Utilities include but are not limited to telephone, cable, electrical, water, sewer and storm water. In the event that either party must relocate any existing utilities, the utilities shall be relocated at the sole expense of the party hereto requiring relocation in a place and manner consented to by the burdened party which consent shall not be unreasonably withheld. Further, the party installing, relocating, replacing or repairing the utility or utilities shall be responsible for immediately restoring the premises to their original condition and for all associated restoration costs.

14. Waiver of Adverse Possession. Each of Kenmore and Donovan waives and releases any claims or entitlements that may have accrued or which may accrue in the future under the theory of adverse possession, prescriptive easement or any other legal or equitable theory whereby the Kenmore or Donovan, or either of their grantees, successors and assigns are entitled to utilize any portion of the Property of the other Party pursuant to the easements herein granted.

15. Miscellaneous.

(A) Runs with the Land. The covenants, conditions, restrictions and rights set forth herein shall run with the land constituting the Properties and be obligatory upon the current fee owners thereof and upon their respective grantees, assigns and successors, tenants, sub-tenants, licensees and invitees; *provided*, anything herein to the contrary notwithstanding, no rights in or to the general public (except to the extent members of the public are also Permittees) are created hereby.

(B) Successors and Assigns Bound. The terms and conditions and all rights and entitlements stated herein and arising herefrom shall inure to the benefit of and be binding upon all heirs, assigns, successors, administrators, trustees and others claiming by or through the Parties hereto.

(C) Remedies. In the event of any violation or breach or threatened violation or breach of any provision of this Agreement or of any of the covenants, conditions or restrictions herein contained by the fee owner or future owner of either of Kenmore's Property or Donovan's Property or by any of their respective tenants, sub-tenants, licensees and invitees and their respective grantees, assigns and successors, then the non-breaching or non-defaulting fee owner shall, in addition to all other remedies at law or at equity, have the right to sue to specifically enforce the terms, covenants and/or conditions set forth in this Agreement.

(D) Attorneys' Fees. In the event of any lawsuit, arbitration or legal proceeding is brought to enforce any of the terms hereof, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs (including costs and fees on appeal) from the non-prevailing party.

(E) Severability. The provisions of this Agreement shall be independent and severable. The unenforceability or invalidity of any one provision shall not affect the enforceability of any other provision.

(F) Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Washington.

(G) Binding Effect. This Agreement and the provisions hereof shall be binding upon and shall inure to the benefit of the fee owners of Donovan's Property and the fee owners of Kenmore's Property, and their respective grantees, assigns and successors.

(H) Entire Agreement. This document, including exhibits hereto, constitutes the entire agreement between the parties with respect to the subject matter hereof.

(I) Headings. The captions and paragraph headings in this Agreement are inserted for convenience and reference only and are not intended to define, limit or amplify the interpretation or construction of any terms or provisions hereof.

(J) Amendment. This Agreement may be amended from time to time by the fee owners of Kenmore's Property, its grantees, assigns and successors and by the fee owners of Donovan's Property, its grantees, assigns and successors but only pursuant to a written instrument signed by all such persons or entities

(K) Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and with the same effect as if all parties hereto had signed the same document. All such counterparts shall be construed together and shall constitute one instrument, but in making proof hereof it shall only be necessary to produce one such counterpart.

DATED: __________________________, 2013.

GRANTOR/GRANTEE:

THE CITY OF KENMORE,
a Washington municipal corporation

By: __________________________________
Name: Rob Karlinsey
Title: City Manager

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Rob Karlinsey is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the City Manager of the City of Kenmore, a Washington municipal corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: ________________________

Notary Public
Print Name
My commission expires

(Use this space for notarial stamp/seal)

DATED: ______________________________, 2013.

GRANTOR/GRANTEE:

____

JAMES M. DONOVAN

GRANTOR/GRANTEE:

____

MARTHA W. DONOVAN

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

On this ______ day of April, 2013, personally appeared before me James M. Donovan and Martha W. Donovan, to me known to be the individuals described in and who executed the within and foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

Dated: ________________________

Notary Public
Print Name
My commission expires

(Use this space for notarial stamp/seal)

EXHIBIT INDEX

D. DEPICTION OF EASEMENTS –

Exhibit D	Depiction of Easements	
	B-1	Post Office Parcel Access Easement
	B-2	Eastern Parcel Access Easement
	B-3	Rear Access Easement
	B-4	Eastern Pedestrian Easement *(by Kenmore)*
	B-5	Western Pedestrian Easement *(by Kenmore)*
	C-1	Donovan Property Ingress-Egress Easement
	C-2	Western Pedestrian Access Easement *(by Donovan)*
	C-3	Eastern Pedestrian Easement *(by Donovan)*
Exhibit E	Depiction of Easements	
	B-1	Post Office Parcel Access Easement
	C-1	Donovan Property Ingress-Egress Easement
Exhibit F	Depiction of Easements	
	B-6	Kenmore Village View Easement

EXHIBIT A-1

PARCEL NO. 6181700350

LEGAL DESCRIPTION

VACATED LOTS 8 AND 9 IN BLOCK 12 OF NORTHLAKE TERRACE, ACCORDING TO PLAT RECORDED IN VOLUME 33 OF PLATS AT PAGE 20, IN KING COUNTY, WASHINGTON;

TOGETHER WITH THE SOUTH HALF OF VACATED NORTHEAST 182ND STREET ADJACENT THERETO;

AND TOGETHER WITH ALL OF THAT PORTION OF VACATED 67TH AVENUE NORTHEAST THAT LIES WEST OF A LINE DRAWN 390 FEET WEST OF THE EAST LINE OF BLOCK 13 OF SAID ADDITION AND SOUTH OF THE CENTER LINE OF NORTHEAST 182ND STREET EXTENDED EAST.

EXHIBIT A-2

PARCEL NO. 6181700410

LEGAL DESCRIPTION

ALL OF BLOCK 13 OF NORTHLAKE TERRACE, ACCORDING TO PLAT RECORDED IN VOLUME 33 OF PLATS, PAGE 20, IN KING COUNTY, WASHINGTON;

AND A 20 FOOT ALLEY LYING WITHIN SAID BLOCK AND ADDITION AND ADJOINING THE NORTHERLY LINE OF LOT 10 THEREOF;

AND THAT PORTION OF VACATED KENMORE AVENUE, NOW 67^{TH} AVENUE NORTHEAST,WHICH LIES EASTERLY OF A LINE DRAWN 390 FEET WEST OF AND DISTANT FROM THE EAST BOUNDARY LINE OF BLOCK 13 OF SAID ADDITION;

EXCEPT THE WESTERLY 150 FEET THEREOF.

EXHIBIT A-3

PARCEL NO. 1126049152

LEGAL DESCRIPTION

That portion of the east 720 feet of Government Lot 1, Section 11, Township 26 North, Range 4 East, W.M., in King County, Washington, lying north of the Plat of Northlake Terrace Addition, according to the plat thereof recorded in Volume 33 of Plats, page 20, in King County, Washington and lying south of the following described line:

Beginning at a point that is 300.00 feet south of the northeast corner of said Government Lot 1 as measured along the east line thereof;
thence north 87°44'38" west parallel with the north line of said Government Lot 1, a distance of 190.34 feet to a point designated Point "A" (for reference purposes);
thence continue north 87°44'38" west along said line, a distance of 529.67 feet to the west line of said east 720 feet of Government Lot 1 and the terminus of said line;

EXCEPT the east 30 feet thereof conveyed to King County for road by deed recorded under Recording Number 2963377;

TOGETHER WITH an easement for ingress and egress over the following described tract of land:

Beginning at a point that is 300.00 feet south the northeast corner of Government Lot 1, Section 11, Township 26 North, Range 4 East, W.M., in King County, Washington, as measured along the east line thereof;

thence north 87°44'38" west parallel with the north line of said Government Lot 1, a distance of 190.34 feet to a point designated Point "A" and the TRUE POINT OF BEGINNING of this tract;
thence north 87°44'38" west parallel with the north line of said Government Lot 1, a distance of 446.01 feet to a point on a curve, from which the radial point of said curve bears north 84°37'32" west, a distance of 488 feet;
thence along said curve to the left, with a central angle of 07°36'03", an arc distance of 64.74 feet;
thence north 02°13'36" west, a distance of 93.92 feet;
thence on a 312-foot radius tangent curve to the right with a central angle of 04°45'55", an arc distance of 42.58 feet;

thence north 02°32'19" east, a distance of 89.14 feet, to the south right-of-way line of N.E. 185th Street as recorded under Recording Number 4791700, said point is 10.00 feet south of, when measured at right angles from, said north line of Government Lot 1;
thence south 02°32'19" west, a distance of 89.26 feet;
thence on a 488-foot radius tangent curve to the left, with a central angle of 04°45'55", an arc distance of 40.59 feet;
thence south 02°13'36" east, a distance of 93.92 feet;
thence on a 512-foot radius tangent curve to the right, with a central angle of 03°22'02", an arc distance of 30.09 feet to a point of reverse curvature;
thence on a 25-foot radius curve to the left, with a central angle of 88°53'04", an arc distance of 38.78 feet;
thence south 87°44'38" east parallel with said north line, a distance of 287.18 feet;
thence on a 502.90-foot radius tangent curve to the right, with a central angle of 12°32'32", an arc distance of 110.09 feet to Point "A" and the TRUE POINT OF BEGINNING of this description.

EXHIBIT A-4

PARCEL NO. 6181700456

LEGAL DESCRIPTION

THE WESTERLY 150 FEET OF THE FOLLOWING DESCRIBED TRACT:

ALL OF BLOCK 13 OF NORTHLAKE TERRACE, ACCORDING TO PLAT RECORDED IN VOLUME 33 OF PLATS, PAGE 20, IN KING COUNTY, WASHINGTON;

AND A 20 FOOT ALLEY LYING WITHIN SAID BLOCK AND ADDITION AND ADJOINING THE NORTHERLY LINE OF LOT 10 THEREOF;

AND THAT PORTION OF VACATED KENMORE AVENUE, NOW 67^{TH} AVENUE NORTHEAST,WHICH LIES EASTERLY OF A LINE DRAWN 390 FEET WEST OF AND DISTANT FROM THE EAST BOUNDARY LINE OF BLOCK 13 OF SAID ADDITION;

EXCEPT THE SOUTH 22.00 FEET DEDICATED TO THE CITY OF KENMORE FOR RIGHT OF WAY PURPOSES PER ORDER OF CONVEYANCE, RECORDING NUMBER 20120309001122.

EXHIBIT B

KENMORE VILLAGE ACCESS EASEMENT LEGAL DESCRIPTIONS

- CITY OF KENMORE TO DONOVAN -

B-1 POST OFFICE PARCEL ACCESS EASEMENT

AN ACCESS EASEMENT OVER, ACROSS AND THROUGH A PORTION OF THE FOLLOWING DESCRIBED TRACT:

> VACATED LOTS 8 AND 9 IN BLOCK 12 OF NORTHLAKE TERRACE, ACCORDING TO PLAT RECORDED IN VOLUME 33 OF PLATS AT PAGE 20, IN KING COUNTY, WASHINGTON;
> **TOGETHER WITH** THE SOUTH HALF OF VACATED NORTHEAST 182ND STREET ADJACENT THERETO;
> **AND TOGETHER WITH** ALL OF THAT PORTION OF VACATED 67TH AVENUE NORTHEAST THAT LIES WEST OF A LINE DRAWN 390 FEET WEST OF THE EAST LINE OF BLOCK 13 OF SAID ADDITION AND SOUTH OF THE CENTER LINE OF NORTHEAST 182ND STREET EXTENDED EAST.

SAID EASEMENT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID TRACT, THENCE S 02°33'07" W, ALONG THE EAST LINE THEREOF, A DISTANCE OF 190.00 FEET TO THE **TRUE POINT OF BEGINNING**;
THENCE S 02°33'07" W A DISTANCE OF 238.14 FEET TO THE BEGINNING OF A 19.66 FOOT RADIUS CURVE TO THE LEFT WITH A CENTER WHICH BEARS S 08°36'06" E;
THENCE SOUTHERLY, ALONG THE ARC OF SAID CURVE, A DISTANCE OF 40.69 FEET, THROUGH A CENTRAL ANGLE OF 118°36'47" TO THE NORTH RIGHT OF WAY LINE OF NORTHEAST 181ST STREET;
THENCE N 87°26'53" W, ALONG SAID NORTH RIGHT OF WAY LINE, A DISTANCE OF 28.69 FEET;
THENCE N 02°33'07" E A DISTANCE OF 28.56 FEET;
THENCE N 21°36'19" E A DISTANCE OF 49.01 FEET;
THENCE N 02°33'07" E A DISTANCE OF 195.11 FEET;
THENCE S 87°26'53" E A DISTANCE OF 24.00 FEET TO THE TRUE POINT OF BEGINNING.

B-2 EASTERN PARCEL ACCESS EASEMENT

AN ACCESS EASEMENT OVER, ACROSS AND THROUGH THE EAST 25.00 FEET OF THE WEST 110.00 FEET OF THE SOUTH 131.00 FEET OF THE FOLLOWING DESCRIBED TRACT:

ALL OF BLOCK 13 OF NORTHLAKE TERRACE, ACCORDING TO PLAT RECORDED IN VOLUME 33 OF PLATS, PAGE 20, IN KING COUNTY, WASHINGTON;
AND A 20 FOOT ALLEY LYING WITHIN SAID BLOCK AND ADDITION AND ADJOINING THE NORTHERLY LINE OF LOT 10 THEREOF;

AND THAT PORTION OF VACATED KENMORE AVENUE, NOW 67TH AVENUE NORTHEAST, WHICH LIES EASTERLY OF A LINE DRAWN 390 FEET WEST OF AND DISTANT FROM THE EAST BOUNDARY LINE OF BLOCK 13 OF SAID ADDITION;

EXCEPT THE WESTERLY 150 FEET THEREOF.

B-3 REAR ACCESS EASEMENT

AN ACCESS EASEMENT OVER, ACROSS AND THROUGH THE SOUTH 25.00 FEET OF THE NORTH 30.00 FEET OF THE FOLLOWING DESCRIBED TRACT:

ALL OF BLOCK 13 OF NORTHLAKE TERRACE, ACCORDING TO PLAT RECORDED IN VOLUME 33 OF PLATS, PAGE 20, IN KING COUNTY, WASHINGTON;
AND A 20 FOOT ALLEY LYING WITHIN SAID BLOCK AND ADDITION AND ADJOINING THE NORTHERLY LINE OF LOT 10 THEREOF;

AND THAT PORTION OF VACATED KENMORE AVENUE, NOW 67TH AVENUE NORTHEAST, WHICH LIES EASTERLY OF A LINE DRAWN 390 FEET WEST OF AND DISTANT FROM THE EAST BOUNDARY LINE OF BLOCK 13 OF SAID ADDITION;

EXCEPT THE WESTERLY 150 FEET THEREOF.

B-4 EASTERN PEDESTRIAN EASEMENT

A PEDESTRIAN ACCESS EASEMENT OVER, ACROSS AND THROUGH THE WEST 4.00 FEET OF THE NORTH 190.00 FEET OF THE FOLLOWING DESCRIBED TRACT:

ALL OF BLOCK 13 OF NORTHLAKE TERRACE, ACCORDING TO PLAT RECORDED IN VOLUME 33 OF PLATS, PAGE 20, IN KING COUNTY, WASHINGTON;

AND A 20 FOOT ALLEY LYING WITHIN SAID BLOCK AND ADDITION AND ADJOINING THE NORTHERLY LINE OF LOT 10 THEREOF;

AND THAT PORTION OF VACATED KENMORE AVENUE, NOW 67TH AVENUE NORTHEAST, WHICH LIES EASTERLY OF A LINE DRAWN 390 FEET WEST OF AND DISTANT FROM THE EAST BOUNDARY LINE OF BLOCK 13 OF SAID ADDITION;

EXCEPT THE WESTERLY 150 FEET THEREOF.

B-5 WESTERN PEDESTRIAN EASEMENT

A PEDESTRIAN ACCESS EASEMENT OVER, ACROSS AND THROUGH THE WEST 6.00 FEET OF THE SOUTH 100.00 FEET OF THE FOLLOWING DESCRIBED PROPERTY:

THE WESTERLY 150 FEET OF THE FOLLOWING DESCRIBED TRACT:

ALL OF BLOCK 13 OF NORTHLAKE TERRACE, ACCORDING TO PLAT RECORDED IN VOLUME 33 OF PLATS, PAGE 20, IN KING COUNTY, WASHINGTON;
AND A 20 FOOT ALLEY LYING WITHIN SAID BLOCK AND ADDITION AND ADJOINING THE NORTHERLY LINE OF LOT 10 THEREOF;

AND THAT PORTION OF VACATED KENMORE AVENUE, NOW 67TH AVENUE NORTHEAST, WHICH LIES EASTERLY OF A LINE DRAWN 390 FEET WEST OF AND DISTANT FROM THE EAST BOUNDARY LINE OF BLOCK 13 OF SAID ADDITION;

EXCEPT THE SOUTH 22.00 FEET DEDICATED TO THE CITY OF KENMORE FOR RIGHT OF WAY PURPOSES PER ORDER OF CONVEYANCE, RECORDING NUMBER 20120309001122.

EXHIBIT B-6 KENMORE VILLAGE VIEW EASEMENT LEGAL DESCRIPTION

- CITY OF KENMORE TO DONOVAN -

A VIEW EASEMENT OVER, ACROSS AND THROUGH A PORTION OF THE FOLLOWING DESCRIBED TRACT:

VACATED LOTS 8 AND 9 IN BLOCK 12 OF NORTHLAKE TERRACE, ACCORDING TO THE PLAT RECORDED IN VOLUME 33 OF PLATS AT PAGE 20, IN KING COUNTY, WASHINGTON;
TOGETHER WITH THE SOUTH HALF OF VACATED NORTHEAST 182ND STREET ADJACENT THERETO;
AND TOGETHER WITH ALL OF THAT PORTION OF VACATED 67TH AVENUE NORTHEAST THAT LIES WEST OF A LINE DRAWN 390 FEET WEST OF THE EAST LINE OF BLOCK 13 OF SAID ADDITION AND SOUTH OF THE CENTER LINE OF NORTHEAST 182ND STREET EXTENDED EAST.

SAID EASEMENT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID TRACT, THENCE N 87°26'53" W, ALONG THE SOUTH LINE OF SAID TRACT, 15.00 FEET TO THE TRUE POINT OF BEGINNING;
THENCE CONTINUE N 87°26'53" W, ALONG THE SOUTH LINE OF SAID TRACT, 25.00 FEET;
THENCE N 12°49'36" E 224.26 FEET TO THE EAST LINE OF SAID TRACT;
THENCE S 02°33'07" W, ALONG SAID EAST LINE, 174.53 FEET;
THENCE S 20°33'52" W 48.51 FEET TO THE TRUE POINT OF BEGINNING;

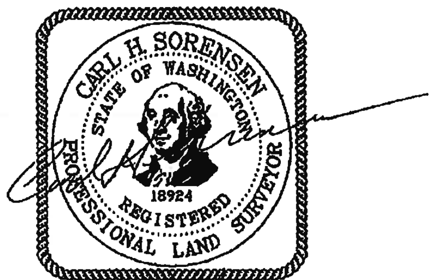
TOGETHER WITH A PORTION OF PARCEL B OF CITY OF KENMORE BOUNDARY LINE ADJUSTMENT NUMBER 2012-048 AS RECORDED UNDER RECORDING NUMBER 20121003900001, RECORDS OF KING COUNTY, WASHINGTON, SAID PORTION BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID PARCEL, THENCE N 02°33'07" E, ALONG THE WEST LINE OF SAID PARCEL, 24.13 FEET TO THE TRUE POINT OF BEGINNING;
THENCE CONTINUE N 02°33'07" E, ALONG SAID WEST LINE, 75.87 FEET;
THENCE S 87°26'53" E 24.67 FEET;
THENCE S 20°33'52" W 79.78 FEET TO THE TRUE POINT OF BEGINNING;

AND TOGETHER WITH A PORTION OF SAID PARCEL B MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID PARCEL, THENCE

N 87°26'53" W, ALONG THE SOUTH LINE OF SAID PARCEL, 130.00 FEET TO THE TRUE POINT OF BEGINNING;
THENCE CONTINUE N 87°26'53" W, ALONG THE SOUTH LINE OF SAID PARCEL, 25.00 FEET;
THENCE N 26°54'59" W 172.78 FEET;
THENCE N 02°33'07" E 110.62 FEET;
THENCE S 20°17'50" E 283.28 FEET TO THE TRUE POINT OF BEGINNING.



11/20/12

Perteet Inc.
Project No. 20110153.005
November 20, 2012
Carl H. Sorensen, PLS

EXHIBIT C

KENMORE VILLAGE ACCESS EASEMENT LEGAL DESCRIPTIONS

- DONOVAN TO CITY OF KENMORE -

C-1 DONOVAN PROPERTY INGRESS-EGRESS EASEMENT

AN ACCESS EASEMENT OVER, ACROSS AND THROUGH THE SOUTH 25.00 FEET OF THE NORTH 215.00 FEET OF THE FOLLOWING DESCRIBED PROPERTY:

THE WESTERLY 150 FEET OF THE FOLLOWING DESCRIBED TRACT:

ALL OF BLOCK 13 OF NORTHLAKE TERRACE, ACCORDING TO PLAT RECORDED IN VOLUME 33 OF PLATS, PAGE 20, IN KING COUNTY, WASHINGTON;
AND A 20 FOOT ALLEY LYING WITHIN SAID BLOCK AND ADDITION AND ADJOINING THE NORTHERLY LINE OF LOT 10 THEREOF;

AND THAT PORTION OF VACATED KENMORE AVENUE, NOW 67TH AVENUE NORTHEAST, WHICH LIES EASTERLY OF A LINE DRAWN 390 FEET WEST OF AND DISTANT FROM THE EAST BOUNDARY LINE OF BLOCK 13 OF SAID ADDITION;

EXCEPT THE SOUTH 22.00 FEET DEDICATED TO THE CITY OF KENMORE FOR RIGHT OF WAY PURPOSES PER ORDER OF CONVEYANCE, RECORDING NUMBER 20120309001122.

C-2 WESTERN PEDESTRIAN ACCESS EASEMENT

A PEDESTRIAN ACCESS EASEMENT OVER, ACROSS AND THROUGH THE WEST 8.00 FEET OF THE NORTH 190.00 FEET OF THE FOLLOWING DESCRIBED PROPERTY:

THE WESTERLY 150 FEET OF THE FOLLOWING DESCRIBED TRACT:

ALL OF BLOCK 13 OF NORTHLAKE TERRACE, ACCORDING TO PLAT RECORDED IN VOLUME 33 OF PLATS, PAGE 20, IN KING COUNTY, WASHINGTON;
AND A 20 FOOT ALLEY LYING WITHIN SAID BLOCK AND ADDITION AND ADJOINING THE NORTHERLY LINE OF LOT 10 THEREOF;

AND THAT PORTION OF VACATED KENMORE AVENUE, NOW 67TH AVENUE NORTHEAST, WHICH LIES EASTERLY OF A LINE DRAWN 390 FEET WEST OF AND DISTANT FROM THE EAST BOUNDARY LINE OF BLOCK 13 OF SAID ADDITION;

EXCEPT THE SOUTH 22.00 FEET DEDICATED TO THE CITY OF KENMORE FOR RIGHT OF WAY PURPOSES PER ORDER OF CONVEYANCE, RECORDING NUMBER 20120309001122.

TOGETHER WITH THE WEST 6.00 FEET OF SAID TRACT, EXCEPT THE NORTH 215.00 FEET AND THE SOUTH 100.00 FEET THEREOF;

C-3 EASTERN PEDESTRIAN EASEMENT

A PEDESTRIAN ACCESS EASEMENT OVER, ACROSS AND THROUGH THE EAST 4.00 FEET OF THE NORTH 190.00 FEET OF THE FOLLOWING DESCRIBED PROPERTY:

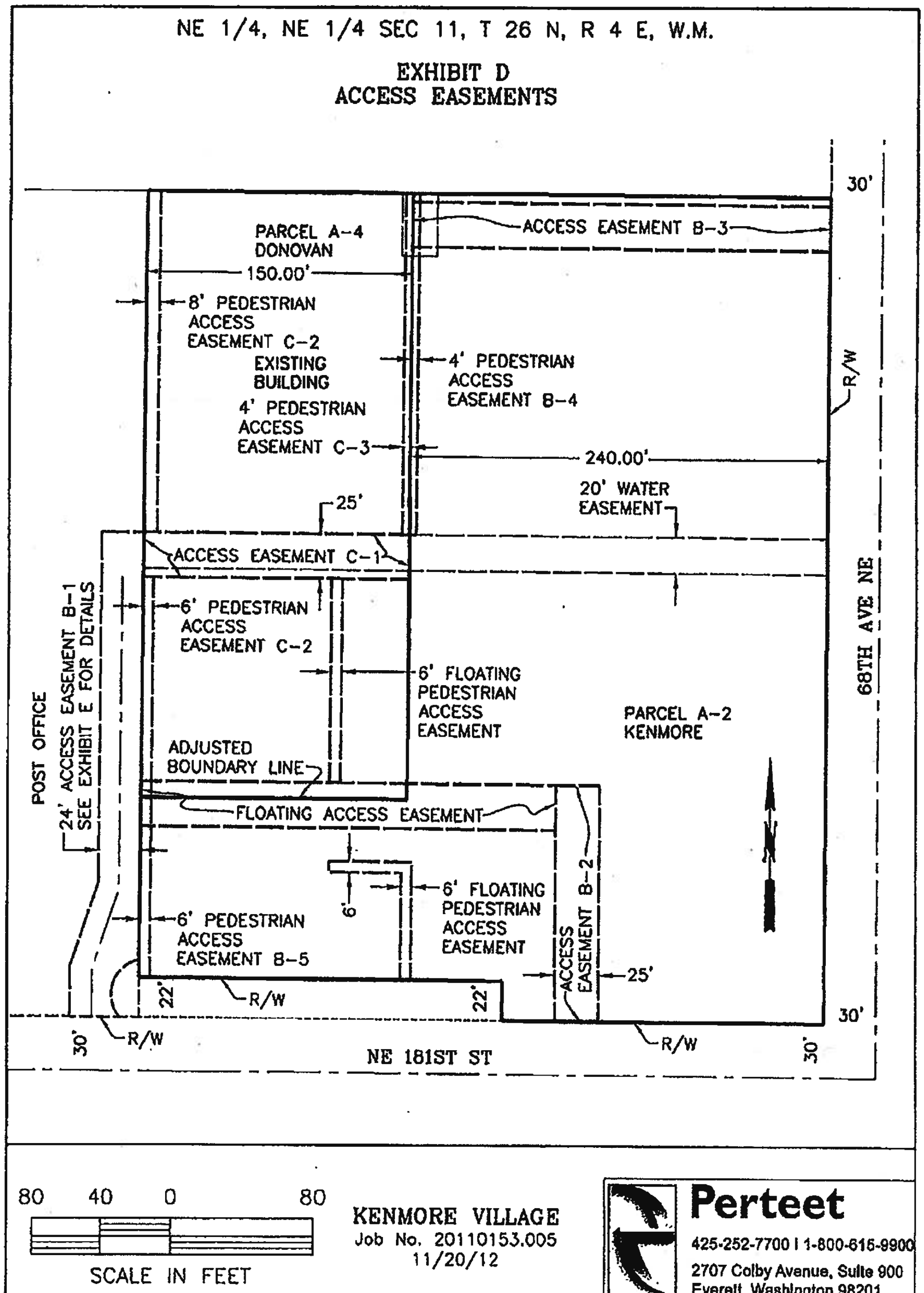
THE WESTERLY 150 FEET OF THE FOLLOWING DESCRIBED TRACT:

ALL OF BLOCK 13 OF NORTHLAKE TERRACE, ACCORDING TO PLAT RECORDED IN VOLUME 33 OF PLATS, PAGE 20, IN KING COUNTY, WASHINGTON;
AND A 20 FOOT ALLEY LYING WITHIN SAID BLOCK AND ADDITION AND ADJOINING THE NORTHERLY LINE OF LOT 10 THEREOF;

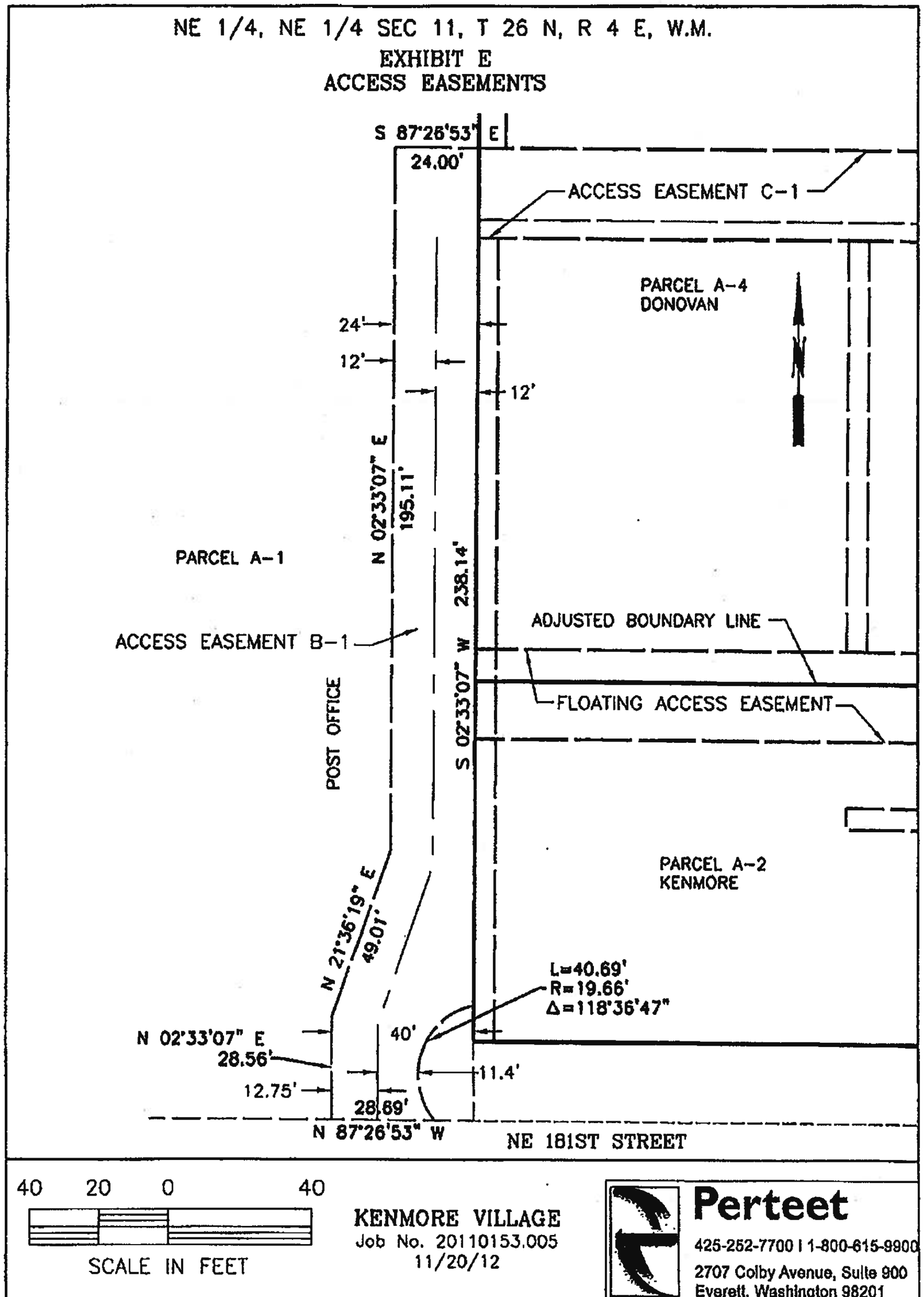
AND THAT PORTION OF VACATED KENMORE AVENUE, NOW 67TH AVENUE NORTHEAST, WHICH LIES EASTERLY OF A LINE DRAWN 390 FEET WEST OF AND DISTANT FROM THE EAST BOUNDARY LINE OF BLOCK 13 OF SAID ADDITION;

EXCEPT THE SOUTH 22.00 FEET DEDICATED TO THE CITY OF KENMORE FOR RIGHT OF WAY PURPOSES PER ORDER OF CONVEYANCE, RECORDING NUMBER 20120309001122.

11/20/12



Reciprocal Grant of Easements & Agreement for Joint Maintenance of Real Property – Page 29 of 31



Reciprocal Grant of Easements & Agreement for Joint Maintenance of Real Property – Page 30 of 31

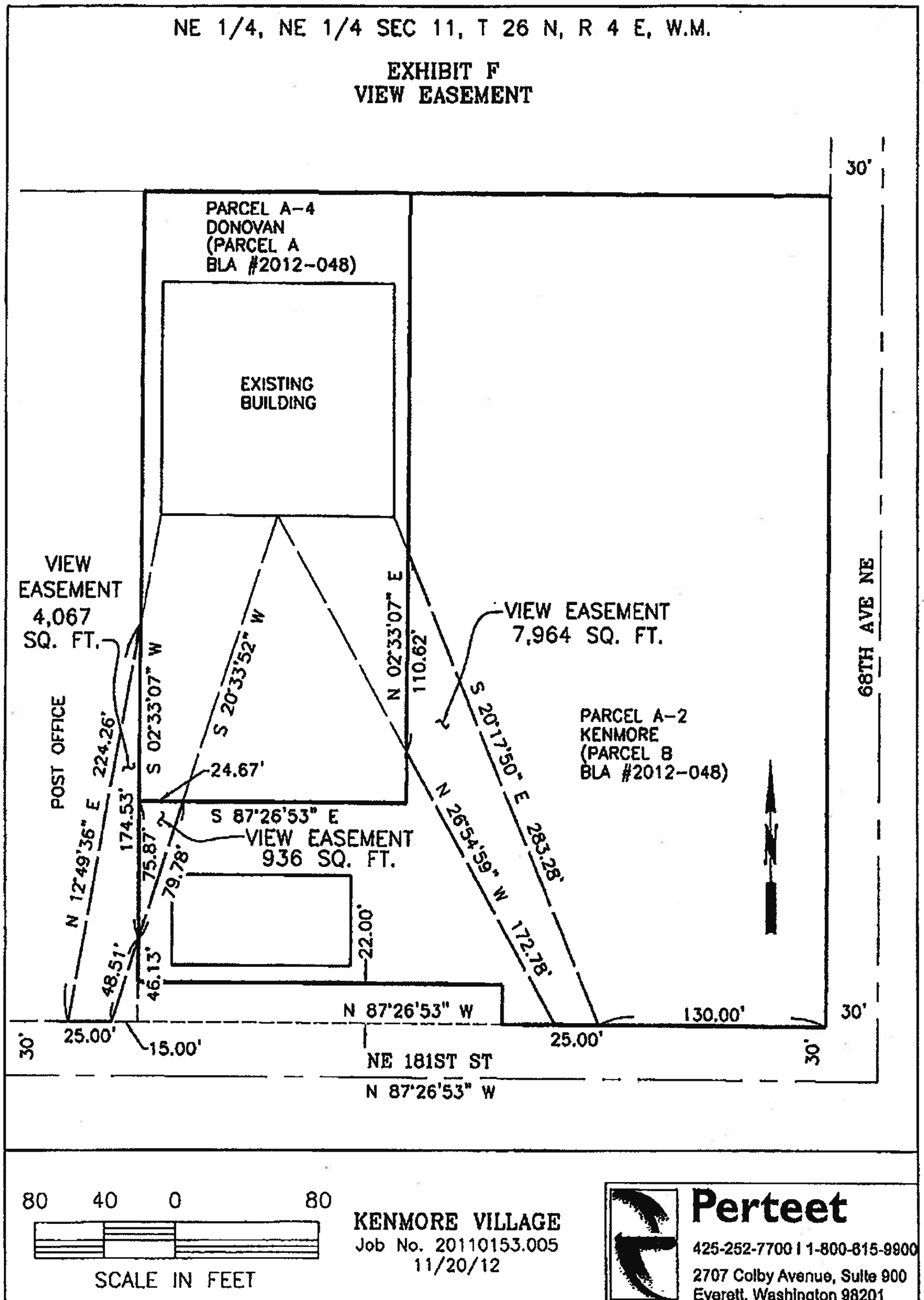

NE 1/4, NE 1/4 SEC 11, T 26 N, R 4 E, W.M.
EXHIBIT F
VIEW EASEMENT
PARCEL A-4
DONOVAN
(PARCEL A
BLA #2012-048)
EXISTING
BUILDING
VIEW
EASEMENT
4,067
SQ. FT.
VIEW EASEMENT
7,964 SQ. FT.
PARCEL A-2
KENMORE
(PARCEL B
BLA #2012-048)
68TH AVE NE
POST OFFICE
N 12°49'36" E 224.26'
S 02°33'07" W
S 20°33'52" W
N 02°33'07" E
110.62'
S 20°17'50" E
283.28'
N 26°54'59" W
172.78'
24.67'
S 87°26'53" E
VIEW EASEMENT
936 SQ. FT.
174.53'
75.87'
79.78'
48.51'
46.13'
22.00'
N 87°26'53" W
25.00'
15.00'
25.00'
130.00'
30'
NE 181ST ST
N 87°26'53" W
80 40 0 80
SCALE IN FEET
KENMORE VILLAGE
Job No. 20110153.005
11/20/12
Perteet
425-252-7700 I 1-800-615-9900
2707 Colby Avenue, Suite 900
Everett, Washington 98201

Exhibit G

AFTER RECORDING PLEASE RETURN TO:
WILLIAMS & WILLIAMS PSC
18806 BOTHELL WAY NE
BOTHELL, WA 98011

REAL ESTATE OPTION AND RIGHT OF FIRST REFUSAL AGREEMENT

Grantor(s):	James Donovan and Martha Donovan, husband and wife
Grantee(s):	City of Kenmore, a Washington municipal corporation

Abbreviated Legal Description:

Tax Parcel ID No.

Reference No. of Document Released:

THIS RIGHT OF FIRST REFUSAL AGREEMENT (this "Agreement"), dated and effective as of the ____ day of April, 2013, is made by and between JAMES AND MARTHA DONOVAN, (the "**OWNER**") and CITY OF KENMORE, A WASHINGTON MUNICIPAL COPORATION ("City"),

RECITALS

Owner entered into a purchase and sale agreement with City on June 11, 2012, for the purchase of certain real property as more particularly described on **Exhibit A** attached hereto and incorporated by this reference, located in Kenmore, Washington (the "**Property**").

The City is desirous of obtaining an option and right of first refusal to repurchase the Property back from Owner should the Owner fail to without good cause or excuse to open a retail outlet for Kenmore Camera on the Property within thirty (30) months of purchasing the Property or should Owner decide to sell the Property in the future. Owner agrees to give City certain rights to purchase the Property on the terms and subject to the conditions set forth herein.

Accordingly, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

AGREEMENT

1. **Right of First Refusal.** Should Owner decide to sell or fail to develop the Property, Owner hereby grants to City an option and right of first refusal to repurchase all right, title and interest held by the Owner, at the time, for the price and subject to such other terms and conditions as are set forth below. The rights of the Owner and City under this Section are hereinafter referred to as the "Option."

2. **Exercise of Right of First Refusal and Option.**

(a) Sale Of Property. In the event that the Owner decides to sell the Property or if Owner intends to accept a bona fide offer to purchase the Property within 10 years following closure of the sale of the Property under the Purchase and Sale Agreement identified above, the Owner shall give City notice of its intention to sell or intent to accept the Offer to purchase the Property (the "Offer") and shall deliver a copy of the Offer to the designee as identified in the Notice provisions as set forth in the Purchase and Sale Agreement referenced above. The City shall have a period of thirty (30) days from the date of receipt of the Offer to elect to exercise its Right of First Refusal by delivering written notice to the Owner of its election to do so and agree to purchase the property under the same terms and conditions of the bona fide offer, when a bona fide offer is made or in the event no bona fide offer has been made under the provisions of paragraph 3 below (the "RFR Election Notice"). All costs of the exercise of the Right of First Refusal, including without limitation any filing or recording fees and applicable transfer taxes, shall be paid by the City.

(b) Option To Purchase Due To Failure To Develop Property. In the event that the Owner fails without good cause or excuse to develop and occupy the Property as a Kenmore Camera retail outlet within thirty (30) months following closure of the sale of the Property under the Purchase and Sale Agreement identified above, the City may exercise its Option to Purchase by delivering written notice to the Owner of its election to do so (the "Option Election Notice") within ninety (90) days of the thirty month anniversary of closure of the sale of the Property. All costs of the exercise of the Right of First Refusal, including without limitation any filing or recording fees and applicable transfer taxes, shall be paid by the City.

(c) If the City fails to deliver the RFR Election Notice or the Option Election Notice within the applicable periods, then the City's Option to Purchase and the City's Right of First Refusal shall terminate. Thereafter, the Owner shall be permitted to sell the Project free of the Option to Purchase and the Right of First Refusal at any time thereafter.

(d) The terms of the sale of the Property in case the city exercises its Option or the Right of First Refusal shall be as follows:

1. Closing. Closing shall be within ninety (90) days of the determination of the Purchase Price as provided in this Agreement;

2. Deed. Conveyance of the Property as defined in the Purchase and Sale Agreement will be by warranty deed conveying marketable title to the City free of liens and encumbrances, unless accepted by the City;

3. Closing costs and charges will be prorated to the date of closing;

4. Payment of the Purchase Price shall be as provided herein;

5. Other Terms. The other terms for sale of the Property under this Option and Right of First Refusal shall be the same as those found in the Purchase and Sale Agreement other than those expressly provided for herein. The terms of this Option and Right of First Refusal shall take precedent. For instance, escrow shall be held at the same agency.

3. **Purchase Price.** The Property's purchase price under the Option To Purchase and the Right of First Refusal (where no bona fide offer has been made) shall be as follows:

(a) Option To Purchase. If the Owner has failed without good cause or excuse to not complete and open a retail outlet for Kenmore Camera on the Property within thirty (30) months following closure of the sale of the Property under the Purchase and Sale Agreement, the City will be entitled to purchase the Property for the lesser of 1) Fair Market Value as defined under Paragraph 3(b) of this Agreement; or 2) the purchase price paid by Owner under the initial Purchase and Sale Agreement plus actual cost of improvements to the Property. (collectively the "Option Purchase Price").

(b) Right Of First Refusal. If the parties are unable to agree on the Purchase Price based upon the City exercising its Right Of First Refusal (where a bona fide offer has not been presented) within 30 days of the City giving Owner a timely RFR Election Notice, the fair market value of the Property shall be determined by agreement of two MAI appraisers, one selected by Owner and one selected by City. Should the appraisers be unable to reach agreement within 60 days of the RFR Election Notice first being given, the fair market value shall be established as the average of the fair market determination of value of the two appraisers if the differential in value established by the two appraisers is less than Ten Percent (10%). Should the appraisers be unable to reach agreement when the differential of fair market value is greater than 10%, a third MAI appraiser shall be appointed who shall establish fair market value within the range of fair market values as determined by the two appraisers selected by the Owner and City within 90 days of the RFR Election Notice first being made. Each party shall be responsible for their own costs and fees incurred in establishing fair market value.

4. **Payment of Purchase Price.** The Purchase Price (as determined above) shall be paid at Closing in one of the following methods:

(a) The payment of all cash or immediately available good funds at Closing; or

(b) The assumption of any assumable Mortgage Loans if consent has been obtained of the Lenders to the assumption of such Mortgage Loans, which consent shall be secured at the sole cost and expense of City. Any Purchase Price balance remaining after the assumption of the Mortgage Loans shall be paid by City in immediately available funds.

5. **Conveyance and Condition of the Property**. The Owner's right, title and interest in the Property shall be conveyed by Statutory Warranty Deed. City shall accept the Property "as is," without any warranty or representation as to the condition thereof whatsoever, including without limitation, without any warranty as to fitness for a particular purpose, habitability, or otherwise and no indemnity for hazardous waste or other conditions with respect to the Property will be provided. It is a condition to Closing that all amounts due the Owner and from City be paid in full at Closing.

6. **Exceptions.** The rights granted herein are subject to and subordinate to any similar option or right of first refusal granted to a partner or relative of Owner and to all liens for borrowed money secured by the project. Further, this right of first refusal shall be inapplicable to any conveyance of the real estate as part of the sale of Owners business, or transfer by inheritance or intestate succession, provided that said purchaser and heir shall remain obligated by this Right of First Refusal pursuant to paragraph 9 of this agreement.

7. **Assignment**. This Right of First Refusal shall not be assigned to any party without express written consent of Owner.

8. **Term.** The Option To Purchase shall terminate Thirty (30) months following closure of the sale of the Property under the Purchase and Sale Agreement . The Right of First Refusal shall terminate ten (10) years following closure of the sale of the Property under the Purchase and Sale Agreement.

9. **Burden and Benefit.** The covenants and agreements contained herein shall be binding upon and inure to the benefit of the successors and assigns of the respective parties hereto. This Agreement or a memorandum thereof shall be filed on title upon Owner's purchase of the Property.

10. **Severability of Provisions.** Each provision of this Agreement shall be considered severable, and if for any reason any provision that is not essential to the effectuation of the basic purposes of the Agreement is determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or affect those provisions of this Agreement that are valid.

11. **Attorney Fees.** In the event of any action, arbitration, or proceeding at law or in equity to enforce any provision of this Agreement or to protect or establish any right or remedy of any party hereunder, the unsuccessful party to the litigation shall pay to the prevailing party all costs and expenses, including reasonable attorneys' fees incurred therein by the prevailing party, and if the prevailing party recovers judgment in any action, proceeding, or arbitration, the costs, expenses and attorneys' fees shall be included in and as a part of the judgment.

12. **No Continuing Waiver.** None of the parties hereto shall be deemed to have waived any rights hereunder unless such waiver shall be in writing and signed by such party. The waiver by any party of any breach of this Agreement shall not operate or be construed to be a waiver of any subsequent breach.

13. **Governing Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of Washington, County of King, without regard to principles of conflicts of laws.

14. **Binding Agreement.** This Agreement shall be binding on the parties hereto, their heirs, executors, personal representatives, successors and assigns.

15. **Headings.** All headings in this Agreement are for convenience of reference only and are not intended to qualify the meaning of any provision of this Agreement.

16. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed to be an original copy, and all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties shall not have signed the same counterpart.

IN WITNESS WHEREOF, the parties have executed this Right of First Refusal Agreement as of the date first above written.

OWNER: ______________________________
James Donovan

____
Martha Donovan

STATE OF WASHINGTON)
) ss.
COUNTY OF ___________)

On this day personally appeared before me JAMES DONOVAN and MARTHA DONOVAN, to me known to be the individuals described in and who executed the within and foregoing instrument, and acknowledged that they signed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal this ___ day of ________________, 2013.

____
Type or Print Name: ____________________
NOTARY PUBLIC in and for the State of Washington, residing at: ________________
My Commission Expires: _______________

/////

/////

CITY: THE CITY OF KENMORE,
a Washington municipal corporation

By: ________________________
Name: Rob Karlinsey
Title: City Manager

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Rob Karlinsey is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the City Manager of the City of Kenmore, a Washington municipal corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: ________________________

____
Notary Public
Print Name ________________________
My commission expires ________________________

(Use this space for notarial stamp/seal)

<u>**AMENDMENT NO. 1 TO REAL ESTATE PURCHASE AND SALE AGREEMENT**</u>

Date: September 11, 2012 City Contract No.: 12-C1037

Between:

City of Kenmore, Seller

And

James M. and Martha W. Donovan, Buyer(s)

<u>Recitals</u>:

A. Seller and Buyers having entered into that certain Real Estate Purchase and Sale Agreement (the "Agreement") dated June 11, 2012 governing the real estate and personal property located at Block 13 Northlake Terrace, Vol. 33, Pg. 20, King County Washington more particularly described in Exhibit A thereto; and

B. Seller and Buyers wishing to extend the Review Period provided for under paragraph 7.1 of the Agreement for 30 days;

<u>Agreement</u>:

In exchange for the mutual promises contained herein and other valuable consideration the parties agrees as follows:

1. The foregoing recitals are true and correct and are hereby incorporated in this Amendment by reference.
2. The Review Period described in paragraph 7.1 of the Agreement is agreed to be modified to 120 days from the effective date of the Agreement.
3. All other provisions of the Agreement shall remain in full force and effect.

Signatures Appear On The Following Page.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 1 to the Purchase and Sale Agreement effective as of the date set forth on page 1 hereof.

SELLER:

CITY OF KENMORE,
a Washington municipal corporation

By: RLK
Name: Rob Karlinsey
Title: City Manager

BUYERS:

James M Donovan
JAMES M. DONOVAN

Martha W Donovan
MARTHA W. DONOVAN

AMENDMENT NO. 2 TO REAL ESTATE PURCHASE AND SALE AGREEMENT

Date: October 8, 2012 City Contract No.: 12-C1037

Between:

City of Kenmore, Seller

And

James M. and Martha W. Donovan, Buyer(s)

Recitals:

A. Seller and Buyers having entered into that certain Real Estate Purchase and Sale Agreement (the "Agreement") dated June 11, 2012 governing the real estate and personal property located at Block 13 Northlake Terrace, Vol. 33, Pg. 20, King County Washington more particularly described in Exhibit A thereto; and

B. Seller and Buyers wishing to extend the Review Period provided for under paragraph 7.1 of the Agreement for 120 days;

Agreement:

In exchange for the mutual promises contained herein and other valuable consideration the parties agrees as follows:

1. The foregoing recitals are true and correct and are hereby incorporated in this Amendment by reference.
2. The Review Period described in paragraph 7.1 of the Agreement is agreed to be modified to 210 days from the effective date of the Agreement.
3. All other provisions of the Agreement shall remain in full force and effect.

Signatures Appear On The Following Page.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 1 to the Purchase and Sale Agreement effective as of the date set forth on page 1 hereof.

SELLER:

CITY OF KENMORE,
a Washington municipal corporation

By: ____________________
Name: Rob Karlinsey
Title: City Manager

BUYERS:

____
JAMES M. DONOVAN

Martha W Donovan
MARTHA W. DONOVAN

IIA. Authorize Amendment No. 5 to Contract No. 12-C1037
Purchase and Sale Agreement with James and Martha Donovan

AMENDMENT NO. 3 TO REAL ESTATE PURCHASE AND SALE AGREEMENT

Date: January 9, 2013 City Contract No.: 12-C1037

Between:

City of Kenmore, Seller

And

James M. and Martha W. Donovan, Buyer(s)

Recitals:

A. Seller and Buyers having entered into that certain Real Estate Purchase and Sale Agreement (the "Agreement") dated June 11, 2012 governing the real estate and personal property located at Block 13 Northlake Terrace, Vol. 33, Pg. 20, King County Washington more particularly described in Exhibit A thereto; and

B. Seller and Buyers wishing to extend the Review Period provided for under paragraph 7.1 of the Agreement for 60 days;

Agreement:

In exchange for the mutual promises contained herein and other valuable consideration the parties agrees as follows:

1. The foregoing recitals are true and correct and are hereby incorporated in this Amendment by reference.
2. The Review Period described in paragraph 7.1 of the Agreement is agreed to be modified to 270 days from the effective date of the Agreement.
3. All other provisions of the Agreement shall remain in full force and effect.

Signatures Appear On The Following Page.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 1 to the Purchase and Sale Agreement effective as of the date set forth on page 1 hereof.

SELLER:

CITY OF KENMORE,
a Washington municipal corporation

By: ____________
Name: Rob Karlinsey
Title: City Manager
Date: ____________

BUYERS:

JAMES M. DONOVAN

MARTHA W. DONOVAN

Date: 1-10-13

AMENDMENT NO. 4 TO REAL ESTATE PURCHASE AND SALE AGREEMENT

Date: February 25, 2013 City Contract No.: 12-C1037

Between:

City of Kenmore, Seller

And

James M. and Martha W. Donovan, Buyer(s)

Recitals:

A. Seller and Buyers having entered into that certain Real Estate Purchase and Sale Agreement (the "Agreement") dated June 11, 2012 governing the real estate and personal property located at Block 13 Northlake Terrace, Vol. 33, Pg. 20, King County Washington more particularly described in Exhibit A thereto; and

B. Seller and Buyers wishing to extend the Review Period provided for under paragraph 7.1 of the Agreement for an additional 30 days and having previously extended the Review Period in the three prior Amendments to the Agreement by 270 days;

Agreement:

In exchange for the mutual promises contained herein and other valuable consideration the parties agrees as follows:

1. The foregoing recitals are true and correct and are hereby incorporated in this Amendment by reference.
2. The Review Period described in paragraph 7.1 of the Agreement is agreed to be modified to 300 days from the effective date of the Agreement.
3. All other provisions of the Agreement shall remain in full force and effect.

Signatures Appear On The Following Page.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment No. 1 to the Purchase and Sale Agreement effective as of the date set forth on page 1 hereof.

SELLER:

CITY OF KENMORE,
a Washington municipal corporation

By: RJ Karlin
Name: Rob Karlinsey
Title: City Manager
Date: 2/25/13

BUYERS:

James M Donovan
JAMES M. DONOVAN

Martha W Donovan
MARTHA W. DONOVAN

Date: 2/25/13

IIA. Authorize Amendment No. 5 to Contract No. 12-C1037
Purchase and Sale Agreement with James and Martha Donovan

Contract No. 12-C1037

PURCHASE AND SALE AGREEMENT

CITY OF KENMORE
a Washington municipal corporation

"Seller"

and

James M. and Martha W. Donovan,
Husband and Wife and the marital community composed thereof

"Buyer"

Dated June 11, 2012

ORIGINAL

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Page

PURCHASE AND SALE AGREEMENT

This PURCHASE AND SALE AGREEMENT (the "Agreement") is made as of this 11 day of June 2012 (the "Effective Date"), by and between the City of Kenmore, a Washington municipal corporation ("Seller"), and James M. Donovan and Martha W. Donovan, husband and wife, and the marital community composed thereof or their assignee (collectively, "Buyer").

RECITALS

A. Seller is the owner of the real property and improvements located in the City of Kenmore, County of King, Washington, legally described in Exhibit A attached hereto (the "Real Property"). To the extent the legal description in Exhibit A requires amendment due to finalizing the Boundary Line Adjustment called for as a condition of closing in this Agreement, Seller and Buyer appoint and approve substitution and insertion of that final legal description upon completion and recording of the BLA.

B. The "Property" as used herein includes all of Seller's right, title and interest in and to: (i) the Real Property; (ii) all of Seller's interests in mineral, and water rights), (iii) all privileges, reversions, development rights, and easements that are appurtenant to the Real Property; (iv) all fixtures and improvements located in or comprising part of the Real Property; and (v) any intangible personal property owned by Seller and used in the operation of the Real Property, including all plans, licenses and permits (the "Intangible Property"). No tangible personal property, tenant leases or service contracts are included in the sale contemplated by this Agreement.

C. Buyer wishes to purchase and Seller wishes to sell the Property, on the terms and conditions of this Agreement.

AGREEMENT

NOW, THEREFORE, IT IS HEREBY AGREED as follows:

1. AGREEMENT TO BUY AND SELL.

Buyer hereby agrees to purchase from Seller and Seller hereby agrees to sell to Buyer the Property upon the terms and conditions hereinafter set forth.

2. OPENING OF ESCROW.

The parties shall be deemed to have opened escrow (the "Escrow") on the date (the "Opening of Escrow") that one fully executed copy of this Agreement is deposited with Laura Lau ("Escrow Holder") of the Seattle office of First American Title Insurance Company ("Title Company") located at 818 Stewart Street, Suite 800, Seattle, Washington 98101, who shall act as escrow holder.

3. TERMS OF PURCHASE.

3.1 Purchase Price. The total purchase price for the Property is One Million Two Hundred Fifty Thousand Dollars ($1,250,000) (the "Purchase Price"). The Purchase Price is based on the value of the land and Intangible Property with essentially no value being assigned to the structures on the premises. In addition, at Closing, Buyer shall pay to Seller an amount equal to the amount incurred by Seller for fees and costs related to pre-purchase architectural and engineering design services for the Property in the amount accrued as of the date of execution of this Agreement (the "Design Fees").

3.2 Deposits. Concurrently with mutual execution of this Agreement, Buyer shall deliver to Escrow Holder cash in the amount of Fifty Thousand and No/100 Dollars ($50,000.00) (the "Deposit"). Upon receipt, Escrow Holder shall deposit the Deposit into an interest bearing account, and the interest earned thereon shall become part of the Deposit. The Deposit shall be non-refundable except as expressly provided herein and shall be paid to Seller as liquidated damages under the circumstances described in Section 12 hereafter.

3.3 Payment of the Purchase Price. The Purchase Price and Design Fees shall be paid as follows: Buyer shall pay the Purchase Price less the Deposit and less any prorations or credits pursuant to this Agreement, together with the Design Fees by wire transfer ("good funds"), which shall be deposited in Escrow not later than as specified in Section 6.2 hereof.

4. PRELIMINARY TITLE REPORT AND UNDERLYING DOCUMENTS.

Seller will order within two (2 business days after the date hereof to Buyer a preliminary commitment (the "Preliminary Title Report") from the Title Company for an ALTA standard owner's title insurance policy (the "Title Policy") issued by the Title Company relating to the Property, together with copies of the exception documents shown therein as Special Exceptions in Schedule "B" to the Preliminary Title Report. In addition, within five (5) days after the Effective Date, Seller shall provide Buyer with its existing ALTA/ACSM survey, if and to the extent existing and in Seller's possession or control, of the Real Property (the "Survey"), which Buyer shall be responsible for updating if Buyer elects to do so. If there is no ALTA/ACSM Survey in Seller's possession or control, all references herein to "Survey" shall mean any such survey ordered by Buyer; if Buyer elects not to order such a survey, all references herein to "Survey" shall be disregarded. Buyer shall have a period of thirty (30) days after its receipt of the Preliminary Title Report (the "Title Review Period") to review and approve or disapprove title matters, including matters shown on the Preliminary Title Report or the Survey, in writing delivered to Seller. If Buyer fails to give written notice of disapproval by 5:00 p.m. on the last day of the Title Review Period as provided below, the Preliminary Title Report and the Survey shall be deemed approved by Buyer without objection or exception. If Buyer timely gives written notice of disapproval of any exception shown in the Preliminary Title Report or matters shown on the Survey, then Seller shall have until 5:00 p.m. on the fifth (5th) Business Day following receipt of such notice to notify Buyer in writing whether Seller will attempt to remove or cure such disapproved item(s).

If Seller does not so notify Buyer in writing that Seller shall cause all title matters as to which Buyer gave notice of objection or disapproval within the above-stated time period for Seller's notification, then Buyer may by 5:00 p.m. on the third (3rd) Business Day after receipt of notice from Seller that it will not attempt to remove or cure the disapproved exception (or, if no such notice is given, then on the Business Day after the last day for Seller to deliver such notice) terminate this Agreement by written notice to Seller and the provisions of Section 8.3 applicable to a termination of this Agreement without the fault of either party shall apply. If Buyer does not so elect to terminate this Agreement, Buyer shall be deemed to have approved of the title matters of which it had previously disapproved and all other matters affecting title to the Property and disclosed on either of the Preliminary Title Report or Survey. If Seller gives notice that it will attempt to remove or cure the disapproved title exception, then it shall have five (5) Business Days to do so. If such item is not so removed or cured within such five (5) day period, Buyer shall thereafter have until 5:00 p.m. on the second Business Day thereafter to terminate this Agreement. In such event, the provisions of Section 8.3 applicable to a termination without the fault of either party shall apply. If Buyer does not so elect to terminate this Agreement, Buyer shall be deemed to have approved of the title matters of which it had previously disapproved.

Notwithstanding anything to the contrary contained herein, Seller agrees at its expense to cause all liens evidencing monetary encumbrances, to be removed by Seller on or before Close of Escrow. In addition, Buyer shall be deemed to have approved the following: (a) nondelinquent taxes and assessments; and (b) exceptions created by Buyer. All title matters approved or deemed approved by Buyer are called "Permitted Exceptions."

Any matters affecting title to the Property that are created or are first disclosed to Buyer after Buyer's receipt of the Preliminary Title Report but before the Closing Date (each, an "Intervening Exceptions"), which disclosure may be by way of supplement to the Preliminary Title Report, delivery of the Survey or update thereto, or other notice given to Buyer in writing, shall be subject to Buyer's approval, such approval not to be unreasonably withheld, conditioned or delayed, and Buyer shall have until 5:00 p.m. on the third (3rd) Business Day after receipt of notice of any Intervening Exception to either accept it (whereupon the Intervening Exception shall be a Permitted Exception) or submit written disapproval. Seller shall have until 5:00 p.m. on the third (3rd) Business Day after receipt of such disapproval, to notify Buyer whether Seller will attempt to remove or cure the objectionable Intervening Exception before the Closing Date or inform Buyer that it will not remove or cure the Intervening Exception. Thereafter, the parties shall proceed as set forth in the second paragraph of this Section 4. If necessary to accommodate the time periods set forth in this paragraph or such second paragraph, Seller may elect to extend the Closing Date for up to two (2) Business Days for the purpose of such cure or removal.

5. CLOSE OF ESCROW.

Escrow shall close (the "Close of Escrow") no later than Ninety (90) days after the end of the Feasibility Review period set forth in Paragraph 7.1 of this Agreement (the "Closing Date"). The Closing Date may be extended at Seller's request pursuant to Section 4 to address Intervening Exceptions. If Escrow is not in a condition to close and neither party is in default, both parties shall use commercially reasonable efforts to put the Escrow in a condition to close as soon as possible; provided, however, if Escrow is still not in a position to close seven days following the scheduled Closing Date, then this Agreement shall terminate. If the Agreement and Escrow are terminated then the provisions of Section 8.3 applicable to a termination of this Agreement shall apply, except that, if the failure to complete Close of Escrow is due to the default of a party, termination shall not waive the other party's rights or remedies (including, if applicable, delivery of the Deposit to Seller) for the defaulting party's default.

6. DOCUMENTS AND SUMS REQUIRED FROM BUYER AND SELLER.

6.1 Seller. Not later than 3:00 p.m. on the last Business Day immediately preceding the Closing Date, Seller shall deliver to Escrow Holder the following documents:

(a) An executed and recordable statutory warranty deed for the Property in substantially the form attached hereto as Exhibit B (the "Deed") conveying fee title to the Property to Buyer subject only to the Permitted Exceptions and an accompanying excise tax affidavit. Said deed shall reflect completion of the boundary line adjustment or division of the parcel required as a condition of this sale, and will further be subject to the Covenants, Conditions and Restrictions, which will be incorporated into and made part of the Deed, in substantially the form of Exhibit E hereto and which, by signing this Agreement, the parties agree are accepted in substantially the form of Exhibit E;

(b) An executed assignment of all of Seller's right, title and interest in the Intangible Property, if any, in the form attached hereto as Exhibit C (the "Bill of Sale");

(d) A FIRPTA affidavit certificate evidencing that Seller is exempt from the withholding requirements of Section 1445 of the Internal Revenue Code;

(e) Any affidavits, certifications or instruments, including any lien affidavits or mechanic's lien indemnifications, duly executed and acknowledged by Seller, as reasonably may be required by the Title Company in order to issue the Title Policy;

(f) The Reciprocal Grant of Easements and Agreement for Joint Maintenance Of Real Property agreement in substantially the form of Exhibit F hereto (the "Easement Agreement"), the form and content of which are acceptable to the parties as evidenced by their signatures on this Agreement:

(g) Fully executed access easements and covenants securing commercially reasonable access and use of the premises by Buyer in the substantially the form of

Exhibits E and F hereto, and such other documents as are reasonably required by Escrow Holder (either in its capacity as escrow holder or as issuer of the Title Policy) to close the Escrow and complete the transactions contemplated by this Agreement.

(h) Fully executed Real Estate Option and Right of First Refusal Agreement in substantially the form of Exhibit G attached hereto.

6.2 Buyer. Not later than 3:00 p.m. on the last business day preceding the Closing Date, Buyer shall deliver to Escrow Holder the following good funds equal to all sums to be paid by Buyer and delivered to Escrow Holder under this Agreement, including the balance of the Purchase Price and Buyer's share of costs and prorations. In addition, by said date and time, Buyer shall also deliver to Escrow Holder a fully-executed original or Buyer-executed and acknowledged (where required) counterpart of the Bill of Sale and the Easement Agreement.

7. BUYER'S REVIEW.

7.1. Feasibility Review. Until 5:00 p.m. on the ninetieth (90th) day following execution of this Agreement (the "Review Period"), Buyer shall have the opportunity to examine and investigate all aspects of the Property, including without limitation, physical condition, title, zoning, environmental matters, leases, and contracts. Buyer's inspection of the Property is anticipated to include, among other things, soils and geotechnical tests and Phase I and Phase II environmental assessments.

Without any representation or warranty as to the accuracy of the information contained therein, Seller will deliver to Buyer within 5 days of the execution of this Agreement copies of all items that are in the possession or control of Seller and described in Exhibit D (the "Due Diligence Items") attached hereto.

At any time prior to the expiration of this Review Period, Buyer shall have the right, by written notice to Seller, either to proceed with Closing subject to the provisions of this Agreement and to waive Buyer's right of termination pursuant to this Section 7.1 or to terminate this Agreement, which election shall be in Buyer's sole and absolute discretion. If Buyer desires to proceed with the purchase of the Property subject to the remaining conditions set forth in this Agreement, then on or before the expiration of the Review Period, Buyer shall deliver written notice to Seller of such election to proceed (the "Notice to Proceed"). Buyer's delivery of a Notice to Proceed shall signify that Buyer has undertaken, conducted or received such reviews, inspections, tests, analyses, studies and evaluations of the Property as Buyer determined in its interest to undertake, conduct or receive and that Buyer has determined, independently and in its sole discretion, that Buyer accepts the Property in its present condition, as-is, without representation or warranty by Seller or any agent of Seller, except as may be expressly stated in this Agreement, that Buyer's purchase and use of the Property are feasible, and that the Property is suitable for Buyer's intended uses and purposes. If Buyer does not deliver its Notice to Proceed within the Review Period, then this Agreement shall automatically terminate. A qualified or conditional notice, including a notice stating Buyer will elect to proceed with this transaction only if Seller agrees to certain conditions, shall not constitute a Notice to Proceed for purposes of this Section. In the event Buyer does not deliver a Notice to Proceed by the end of the Review Period or otherwise terminates this Agreement under this Section 7.1, except for those indemnities and obligations expressly stated in this Agreement as surviving termination or Closing, neither party shall have any further obligations or liabilities hereunder (except for Buyer's indemnity obligations under this Agreement and its obligation to return the Due Diligence Items provided by Seller). In the event of such termination, the Earnest Money Note shall be returned to Buyer and the provisions of Section 8.3 applicable to a termination of this Agreement shall apply.

7.2 License to Enter. Between the date of this Agreement and Close of Escrow or earlier termination of this Agreement, with prior notice to Seller and in the presence of Seller or Seller's property manager, Seller agrees that Buyer and its agents, representatives, contractors and subcontractors may enter upon the Property to inspect the Property and to conduct tests, studies, surveys and investigations, including, without limitation, soils and groundwater environmental tests, so long as the activities do not damage the Property or unreasonably interfere with Seller's or Tenant's use of the Property. Such license is granted on the condition that Buyer keep the Property free and clear of any mechanics' liens and materialmen's liens arising out of any such activities. Buyer shall indemnify, defend and hold harmless Seller, Seller's members and employees against all actual injuries, damages, liabilities and claims, including, without limitation, Seller's attorneys' fees and defense costs (collectively, "Losses") to the extent caused by Buyer, its agents, representatives, contractors or subcontractors in exercise of its inspection rights hereunder. Prior to conducting any such tests on the Property, and as a condition to doing so, Buyer shall provide Seller with evidence of insurance in amounts and form reasonably acceptable to Seller, with coverage limits of not less than Two Million Dollars ($2,000,000) insuring Buyer and/or its contractor(s) or consultant(s) providing such work from all commercial and general liability for any loss, injury or damage caused by Buyer, its contractor(s) or consultant(s) in connection with any such inspection, testing or work on the Property. Buyer shall fully restore the Property following any such testing to its condition immediately preceding such work. If this Agreement terminates for any reason other than Seller's default, Buyer shall provide Seller with complete copies of all reports, studies, analyses and other documents or materials reporting on the type of tests and/or inspections conducted by or at the request of Buyer on or with respect to the Property, including soil tests, environmental tests, and property condition reports. Seller shall have the right to require termination of any tests or inspection activities or other on-site work by Buyer or any contractor or consultant thereof if undertaken contrary to the terms and conditions of this Section. Buyer's obligations under this Section shall survive termination of this Agreement, regardless of reason for termination, and shall further survive Closing. Buyer's agreements, including its agreement of indemnity, under this Section 7.2 shall survive the termination of this Agreement and/or Close of Escrow and delivery of the Deed.

7.3 Service Contracts. If Buyer elects to proceed with the purchase, Buyer shall not assume any Service Contracts (as defined in Section 11.1(i) below). Seller will arrange for all Service Contracts to terminate not later than the Closing Date.

7.4 Leases. Buyer shall not assume any leases for the Property.

8. CONDITIONS TO CLOSE OF ESCROW.

8.1 Conditions in Favor of Buyer. Close of Escrow is conditioned upon the satisfaction or waiver by Buyer of the following conditions:

(a) Seller has delivered each of the documents described in Section 6.1 above as and when required therein, and Seller has performed without material exception all of its obligations under this Agreement to the extent required to be performed prior to Closing;

(b) The Title Company is in a position, and has unconditionally and irrevocably committed, to issue to Buyer the Title Policy dated as of the date and time of the recordation of the Deed in the amount of the Purchase Price issued by Title Company showing title to the Property vested in Buyer, subject only to the Permitted Exceptions and the exceptions standard in an ALTA Standard Owner's polity of title insurance (or, if, but only if Buyer has provided an ALTA/ACSM Survey, an ALTA Extended Owner's policy of title insurance) ;

(d) Buyer has not terminated this Agreement before the end of the Review Period as provided in Section 7.1; and

(e) All representations and warranties of Seller are true and correct in all material respects as of the Close of Escrow.

8.2 Conditions in Favor of Seller. Close of Escrow is conditioned upon the satisfaction or waiver by Seller of the following conditions which are for the benefit of Seller:

(a) Buyer has delivered funds and documents to Escrow Holder as required by Section 6.2 above as and when required therein, and Buyer has performed all of its obligations under this Agreement required to be performed prior to Close of Escrow.

8.3 Failure of Conditions. In the event any of the conditions set forth in Section 8.1 or 8.2 above are not satisfied or waived by the Closing Date, the party entitled to benefit of such condition shall have the right to terminate this Agreement and the Escrow by giving written notice of such termination to the other party and to Escrow Holder. In the event of such termination, all Escrow charges shall be divided equally between the parties (unless one party is in default, in which case, the party which is in default shall be responsible for payment of all Escrow charges). All documents delivered to Escrow Holder shall be returned to the depositing party, Buyer shall return to Seller all due diligence items delivered by Seller to Buyer. Further, unless Seller is entitled to the Deposit pursuant to Section 12 (in which case Escrow Holder shall return the Deposit to Seller within two (2) Business Days after the termination and cancellation of Escrow), Escrow Holder shall return the Deposit to Buyer within two (2) Business Days after the termination and cancellation of Escrow. In addition, in the event of termination of this Agreement without the fault of either Party, the Deposit shall be returned to

Buyer and the parties shall proceed as provided in this Section 8.3. If Close of Escrow fails to occur due to the default of a party, termination of this Agreement shall be without prejudice to the remedies of the non-defaulting party for such default.

9. ESCROW PROVISIONS.

9.1 Appointment of Escrow Holder. Laura Lau of First American Title Insurance Company, 818 Stewart Street, Suite 800, Seattle, Washington 98101, is hereby appointed as Escrow Holder.

9.2 Escrow Instructions. This Agreement shall also constitute instructions to Escrow Holder.

9.3 Recordation of Deed; Delivery of Documents. Upon Close of Escrow, Escrow Holder shall cause to be recorded the Deed in the official records of King County and shall deliver executed counterparts of the other documents delivered to Escrow to each party.

9.4 Payment of Costs. Seller shall pay for the cost of the ALTA Owner's Standard Coverage Policy of Title Insurance and Buyer shall pay for any premium associated with extended coverage and endorsements, if the same are requested by Buyer. Each party shall pay its own attorneys' fees and the fees and costs of any advisor or consultant employed by it. Seller shall also pay any real estate transfer excise taxes (to the extent no exemption applies). Escrow Agent's fees and charges shall be split and paid equally, 50/50, between the parties. Buyer shall pay all costs of recording of documents required by Buyer's lender and all costs related to Buyer's financing. All other costs of Escrow not otherwise specifically allocated by this Agreement shall be paid by the parties based upon custom and practice in King County, Washington as determined by Escrow Holder.

9.5 Prorations.

(a) In General. All prorations shall be made to the date of Close of Escrow, with Buyer receiving all income and being responsible for all expenses for the entire day on which Close of Escrow occurs. Seller shall be responsible for all utilities due and payable before Closing. Escrow Holder shall prorate all nondelinquent general and special real estate taxes and assessments that are a lien upon the Property based on the most recent official information available from the applicable tax assessor's office. As an agreement that survives Close of Escrow and the delivery of the Deed, if the actual tax statement for the current tax year is not available by the Close of Escrow (or if a supplemental assessment is levied against the Property for any period prior to Close of Escrow), Buyer and Seller shall re-prorate said taxes outside of Escrow following the Close of Escrow when said tax statement and/or supplemental assessment becomes known. Rent shall be prorated in accordance with the provisions of Section 9.5(b). All other income or revenue with respect to the Property shall be prorated to the Close of Escrow based upon a statement approved by Buyer and Seller, which approval shall not be unreasonably withheld, conditioned or delayed. Prorations shall not occur as to any Service

Contracts that are being terminated, and Seller shall be responsible for all payments under such contracts.

The agreements contained in this Section as to things to be done after Close of Escrow shall survive the Close of Escrow and the delivery of the Deed.

9.6 Seller's Proceeds. Upon Close of Escrow, Escrow Holder is directed to wire Seller's net proceeds of this sale (net of Seller's share of costs and prorations) to Seller based upon written instructions to be furnished to Escrow Holder by Seller.

9.7 Closing Statements. Upon Close of Escrow, Escrow Holder shall provide Buyer and Seller with appropriate closing statements accounting for the funds used and transferred by Escrow Holder.

9.8 Reporting to the Internal Revenue Service. Any returns, statements or reports required to be filed under Section 6045(e) of the Internal Revenue Code (or any similar reports required by state or local law) relating to the Property shall be filed by Escrow Holder. In no event shall this Agreement be construed so as to require that such returns, reports or statements be filed by Buyer, Buyer's counsel, Seller or Seller's counsel. Escrow Holder shall provide evidence to Buyer and Seller of its compliance with the provisions of this section.

10. POSSESSION.

Buyer shall be entitled to possession of the Property (including all keys to the Property and all documents in Seller's possession or under its control relating to the Intangible Property) at the Close of Escrow.

11. REPRESENTATIONS AND WARRANTIES OF SELLER AND BUYER.

11.1 Representations of Seller. Seller represents and warrants to Buyer as follows:

(a) Seller is, and at the time of Closing will be, the sole owner of the Property, including, without limitation, any Intangible Property associated therewith. At Closing, Buyer will acquire the entire fee simple estate and right, title and interest in and to the Property, free and clear of all recorded or unrecorded liens, encumbrances, covenants, restrictions, reservations, easements, options, tenancies, leases, encroachments, claims or other matters affecting title or possession of the Property, subject only to the Permitted Exceptions;

(b) Seller has not been served with and Seller has no knowledge of any pending or threatened claims or lawsuits that could adversely affect Seller's interest in the Property or prohibit the sale contemplated by this Agreement;

(c) Seller has received no written notice of, and it has no knowledge of, any violation of any applicable environmental or other laws affecting or relating to the use, condition, or occupancy of the Property;

(d) Seller has delivered to Buyer true and complete copies of all Due Diligence Items (including all updates and amendments thereto) all of which are subject to Seller's disclaimer of any warranty or representation, express or implied, with respect thereto, as stated in Section 7.1 of this Agreement.

(e) Seller has not committed nor obligated itself in any manner whatsoever to sell or encumber the Property or any interest therein to any party other than Buyer;

(f) As of the Closing Date, there will be no brokerage or other leasing commissions due or payable on an absolute or contingent basis to any person in connection with the Property;

(i) All service, maintenance, repair, management, leasing, or supply contracts or other contracts (including, without limitation, janitorial and landscaping agreements) affecting the Property, oral or written (the "Service Contracts") are cancelable without cost at the option of Seller and all Service Contracts shall be cancelled by Seller on or before Close of Escrow;

(j) Seller is not the subject of a petition under the federal bankruptcy laws or any insolvency laws or any other laws for composition of indebtedness or for the reorganization of debtors;

(k) Seller is a State of Washington municipal corporation in good standing under the laws of the State of Washington;

(l) This Agreement and all instruments and documents to be executed pursuant to this Agreement are, and at Close of Escrow will be, duly authorized, executed and delivered by Seller; and

(m) No additional consent, approval or authorization by any individual or entity or any court, administrative agency or other governmental authority is required in connection with the execution and delivery of this Agreement or the consummation of the transactions contemplated by this Agreement by Seller.

These representations and warranties of Seller shall survive Close of Escrow.

11.2 Representations of Buyer. Buyer represents and warrants to Seller as follows:

(a) This Agreement and all instruments and documents to be executed by Buyer pursuant to this Agreement are, and at the Close of Escrow will be, duly authorized, executed and delivered by Buyer;

(b) Buyer hereby represents that Buyer has full power and authority to enter into this Agreement. All requisite action has been taken by Buyer in connection with the execution of this Agreement. Except as expressly set forth in this Agreement or the documents delivered at Closing, Buyer acknowledges that no warranties, guarantees or representations have been or are being made by Seller or any agent or representative of Seller concerning the Property. Except as expressly set forth in this Agreement or the documents delivered at Closing, Buyer accepts the Property, "AS IS, WITH ALL FAULTS" without any representations or warranties by Seller or any agent or representative of Seller, expressed or implied, and releases and indemnifies Seller from any and all liability therefor; and

(c) No consent, approval or authorization by any individual or entity or any court, administrative agency or other governmental authority is required in connection with the execution and delivery of this Agreement or the consummation of the transactions contemplated by this Agreement by Buyer.

12. LIQUIDATED DAMAGES.

IN THE EVENT BUYER FAILS, WITHOUT LEGAL EXCUSE, TO COMPLETE THE PURCHASE OF THE PROPERTY, THE DEPOSIT MADE BY BUYER SHALL BE FORFEITED TO SELLER AS THE SOLE AND EXCLUSIVE REMEDY AVAILABLE TO SELLER FOR SUCH FAILURE. THE PAYMENT OF THIS AMOUNT IS NOT INTENDED AS A PENALTY BUT RATHER IS INTENDED TO CONSTITUTE LIQUIDATED DAMAGES TO SELLER. IF THE CLOSE OF ESCROW FAILS TO OCCUR BY REASON OF BUYER'S DEFAULT, THE PARTIES AGREE THAT THE DAMAGES THAT SELLER WOULD SUFFER THEREBY ARE DIFFICULT OR IMPOSSIBLE TO DETERMINE. THE PARTIES AGREE THAT THE DEPOSIT IS A REASONABLE SUM, CONSIDERING ALL CIRCUMSTANCES THAT EXIST ON THE DATE OF THIS AGREEMENT, INCLUDING: (1) THE RELATIONSHIP OF THE FOREGOING SUM TO THE RANGE OF HARM TO SELLER THAT COULD REASONABLY BE ANTICIPATED; AND (2) THE ANTICIPATION THAT PROOF OF ACTUAL DAMAGES WOULD BE IMPRACTICABLE OR EXTREMELY DIFFICULT TO DETERMINE. THIS PROVISION IS NOT INTENDED TO APPLY TO OBLIGATIONS THAT SURVIVE A TERMINATION OF THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO THE PROVISIONS OF SECTION 10.2 ABOVE, AND SELLER SHALL BE ENTITLED TO RECEIVE AMOUNTS DUE THEREUNDER IN ADDITION TO THE DEPOSIT.

13. BUYER'S REMEDIES.

Notwithstanding any provision herein contained to the contrary, if the Close of Escrow fails to occur by reason of Seller's default, Buyer shall have the right to (a) specific performance of this Agreement; (b) to terminate this Agreement upon written notice to Seller, with a copy to Escrow Holder, and to receive the return of the Deposit; and/or (c) to pursue all other remedies available in law or in equity.

14. BROKERAGE COMMISSION.

Seller and Buyer each represent and warrant to the other that it has not been represented by any other real estate broker in connection with this transaction. Seller agrees to indemnify, defend and hold Buyer harmless from any commission due from Seller as a result of any agreement entered into by Seller. Buyer agrees to indemnify, defend and hold Seller harmless from any commission owing as a result of any agreement with a real estate broker entered into by Buyer.

15. SELLER COVENANTS.

15.1 Operation of the Real Property. During the pendency of the Escrow, Seller shall continue to operate the Property in a commercially reasonable manner consistent with past practices, maintain the Property in its present order and condition and deliver the Property at the Close of Escrow in substantially the same condition it is in on the date hereof.

15.2 Existing Leases. Prior to Close of Escrow, Seller has paid or will pay all leasing commissions due with respect to any existing Leases of the Property and shall indemnify, defend and hold Buyer harmless from any such commissions. Prior to Close of Escrow, Seller has paid or will pay all tenant improvement costs, allowances and other monetary concessions with respect to any existing Leases of the Property and shall indemnify, defend and hold Buyer harmless therefrom.

15.3 New Leases. After the Effective Date, Seller agrees that it will not enter into any lease for any portion of the Property, without Buyer's prior written consent.

15.4 Notice of Material Events. Seller shall notify Buyer within three (3) Business Days of Seller obtaining knowledge of any fact or event which renders Seller's representations and warranties hereunder untrue in any material respect.

15.5 Insurance. Until the Close of Escrow, Seller shall keep the Property insured against fire, vandalism and other loss, damage and destruction to the same extent as it has customarily insured the same, but not less than the full replacement value thereof.

16. DAMAGE AND DESTRUCTION AND CONDEMNATION.

16.1 Risk of Physical Loss. Risk of physical loss to the Property shall be borne by Seller prior to the Close of Escrow and by Buyer thereafter. If before the Close of Escrow, the Real Property is damaged by fire, flood, earthquake or other casualty in an amount in excess of Two Hundred Fifty Thousand and 00/100 Dollars ($250,000.00)(the "Threshold Amount"), Buyer may, at its option, elect not to acquire the Property. If Buyer does not so elect or if the damage involved is the Threshold Amount or less, Buyer shall close the purchase, in which event Seller shall assign to Buyer Seller's interest in all insurance proceeds relating to such damage and the right to collect the same. Any deductible under such insurance policies that covers such damage and destruction shall be offset against the Purchase Price to be paid hereunder. If damage in excess of the Threshold Amount occurs and Buyer elects not to purchase the Property, then this Agreement shall be terminated and the provisions of Section 8.3 applicable to a termination of this Agreement without fault by either party shall apply.

16.2 Condemnation. If, before the Close of Escrow, any governmental entity other than Buyer shall commence any actions of eminent domain or similar type proceedings to take any portion of the Property that would materially adversely affect the Property, in Buyer's sole option, Buyer shall have the option either to (a) elect not to acquire the Property or (b) complete the acquisition of the Property, in which event Buyer shall be entitled to all the proceeds of such taking.

17. BUYER'S INVESTIGATION

17.1 Acknowledgment of Right to Inspect. Buyer acknowledges and agrees that its delivery of a Notice to Proceed pursuant to Section 7.1 shall mean, in addition to the matters described in said Section, that Buyer has been given or will be given a full opportunity to inspect and investigate each and every aspect of the Property, either independently or through agents of Buyer's choosing, including, without limitation:

(a) All matters relating to title, together with all governmental and other legal requirements such as taxes, assessments, zoning, use permit requirements and building codes.

(b) The physical condition of the Property, including, without limitation, the square footage of the Property, the structure, seismic capabilities of the Property, the paving, the utilities, if any, and all other physical and functional aspects of the Property. Such examination of the physical condition of the Property shall include, but not be limited to, the Buyer's examination of the presence or absence of Hazardous Substances. For purposes of this Agreement, "Hazardous Substances" shall mean inflammable explosives, pollutants, contaminants, radioactive materials, asbestos, polychlorinated biphenyls, lead, lead-based paint, under and/or above ground tanks, hazardous materials, hazardous wastes, hazardous substances, oil, or related materials, which are listed or regulated by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 6901, et seq.), the Resources Conservation and Recovery Act of 1976 (42 U.S.C. Section 9601, et seq.), the Clean Water Act (33 U.S.C. Section 1251, et seq.), the Safe Drinking Water Act (14 U.S.C. Section 1401, et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Section 5101, et seq.), the and Toxic Substance Control Act (15 U.S.C. Section 2601, et seq.), and any other applicable federal, state or local laws, rules, regulations or governmental requirements (collectively "Environmental Laws").

(c) Any easements and/or access rights affecting the Property.

(d) All other matters of material significance affecting the Property.

17.2 Buyer's Waiver of Reliance. BUYER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT SELLER IS SELLING AND BUYER IS

PURCHASING THE PROPERTY ON AN "AS IS WITH ALL FAULTS" BASIS AND THAT BUYER IS NOT RELYING ON ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER, EXPRESS OR IMPLIED, FROM SELLER, ITS AGENTS, OR BROKERS AS TO ANY MATTERS CONCERNING THE PROPERTY EXCEPT AS OTHERWISE SET FORTH IN THIS AGREEMENT OR THE DOCUMENTS DELIVERED AT CLOSING, INCLUDING WITHOUT LIMITATION: (i) the quality, nature, adequacy and physical condition and aspects of the Property, including, but not limited to, the structural elements, seismic capabilities of the Property, appurtenances, access, sewage, utility systems, if any, the square footage of the Property, (ii) the quality, nature, adequacy, and physical condition of soils, geology and any groundwater, (iii) the existence, quality, nature, adequacy and physical condition of utilities serving the Property, if any, (iv) the development potential of the Property, and the Property's use, habitability, merchantability, or fitness, suitability, value or adequacy of the Property for any particular purpose, (v) the zoning or other legal status of the Property or any other public or private restrictions on use of the Property, (vi) the compliance of the Property or its operation with any applicable codes, laws, regulations, statutes, ordinances, covenants, conditions and restrictions of any governmental or quasi-governmental entity or of any other person or entity, (vii) the presence of Hazardous Substances on, under or about the Property or the adjoining or neighboring property, (viii) the quality of any labor and materials used in any improvements on the Property, (ix) the condition of title to the Property, (x) the contracts or other agreements affecting the Property and (xi) the economics of the operation of the Property.

17.3 Release of Seller Related Parties. Buyer, on behalf of itself and its successors and assigns, except as expressly set forth in this Agreement or the documents delivered at Closing, waives its right to recover from, and forever releases and discharges, the entities that constitute Seller, affiliates of such entities, the partners, trustees, beneficiaries, shareholders, members, directors, officers, employees, and agents of each of them, and their respective heirs, successors, personal representatives and assigns (collectively, the "Seller Related Parties") from any and all demands, claims, legal or administrative proceedings, losses, liabilities, damages, penalties, fines, liens, judgments, costs or expenses whatsoever (including, without limitation, attorneys' fees and costs), whether direct or indirect, known or unknown, foreseen or unforeseen, that may arise on account of or in any way be related to or connected with (i) the physical condition of the Property including, without limitation, all structural and seismic elements, all mechanical, electrical, plumbing, sewage, heating, ventilating, air conditioning and other systems, the environmental condition of the Property and Hazardous Substances on, under or about the Property, (ii) any matter within the scope of matters referred to in Section 12 above, or (iii) any Environmental Law.

18. LIMITATIONS ON DAMAGES AND TIME.

18.1 Time Limitation For Actions. [RESERVED].

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18.2 No Consequential, Incidental or Exemplary Damages. Notwithstanding any term or provision hereof to the contrary, neither Seller nor Buyer shall for any reason or under any theory or circumstance be liable to the other on any claim relating to the Property or arising from or relating to this Agreement for damages or relief in the nature of consequential, incidental, punitive or exemplary damages, including damages in the nature of "lost profits," "lost opportunity," "lost expectancies," "lost tax benefits or adverse tax effects," or the like.

19. MISCELLANEOUS.

19.1 Assignment. Neither Buyer nor Seller shall have the right to assign this Agreement or any of their rights hereunder without the prior approval of the other party, which approval shall not be unreasonably withheld, conditioned or delayed. This Agreement shall be binding upon and shall inure to the benefit of the permitted successors and assigns of the parties to this Agreement.

19.2 Attorneys' Fees. In any action or proceeding between the parties hereto concerning or arising out of this Agreement, the Escrow or the Property, the prevailing party in such action shall be entitled to have and to recover from the other party its reasonable attorneys' fees, expert witness fees, consultant fees and other reasonable expenses incurred in connection with such action or proceeding, in addition to its recoverable court costs, at trial and on any appeal.

19.3 Notices. Any notice required or permitted to be given hereunder shall be in writing and may be (a) personally served, (b) sent by reputable overnight courier, (c) sent by United States Mail or (d) sent by facsimile transmission (with a copy mailed concurrently by United States mail or concurrently sent by overnight courier), and shall be deemed to have been given (i) when personally served, (ii) the next Business Day if sent by overnight courier, (iii) two (2) Business Days after having been deposited in the United States mail, return receipt requested, postage prepaid and properly addressed, if sent by United States mail and (iv) on the day of transmission if a Business Day, or if not, on the next Business Day, if sent by facsimile transmission (with a copy concurrently mailed or sent by United States mail or overnight courier as above provided). Addresses for notice by overnight courier or for notice by United States mail and facsimile numbers are as follows:

If to Seller: City of Kenmore
18120 68th Avenue NE
PO Box 82607
Kenmore, Washington 98028
Attn: Rob Karlinsey, City Manager

with a copy to:
Inslee, Best, Dozie and Ryder
777 108th Avenue NE, Suite 1900
PO Box 90016
Bellevue, Washington 98009-9016
Attn: Bill Linton

If to Buyer: James M. and Martha W. Donovan
6360 NE 193rd Place
Kenmore, Washington 98028

with a copy to:
Williams & Williams PSC
18806 Bothell Way NE
Bothell, Washington 98011
Attn: Kinnon Williams

Either party may change its address for notice by giving the other party written notice thereof as herein provided. Notices shall not be given by email.

19.4 Integration. This Agreement and other documents expressly incorporated herein by reference contain the entire and exclusive understanding and agreement between the parties relating to the matters contemplated hereby and all prior or contemporaneous negotiations, agreements, understandings, representations and statements, oral or written, are merged herein and shall be of no further force or effect.

19.5 Construction. This Agreement shall be construed according to its fair meaning. Each of the parties hereto agrees that it has been represented by legal counsel, or has had the opportunity to be represented by legal counsel if it so desires, in connection with the negotiation and preparation of this Agreement, that it participated in the preparation of this Agreement and that this Agreement shall not be construed against either party as the drafter of this Agreement.

The term "Business Day" as used herein shall mean any day on which national banks located in Kenmore, Washington are open for business, excluding Saturdays. All times specified herein refer to Pacific Standard Time or Pacific Daylight Time as applicable.

As used herein, the term "including" means "including, but not limited to."

19.6 Titles and Captions. Titles and captions are for convenience only and shall not constitute a portion of this Agreement.

19.7 Gender. As used in this Agreement, masculine, feminine and neuter gender and the singular or plural number shall each be deemed to include the others wherever and whenever the context so dictates.

19.8 No Waiver. No delay or omission by either party hereto in exercising any right or power accruing upon the compliance or failure of performance by the other party hereto under the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either party hereto of a breach of any of the covenants, conditions or agreements hereof to be performed by the other party shall not be construed as a waiver of any succeeding breach of the same or other covenants, agreements, restrictions or conditions hereof.

19.9 Modifications. Any alteration, change or modification of or to this Agreement, in order to become effective, shall be made by written instrument or endorsement thereon and in each such instance executed on behalf of each party hereto.

19.10 Severability. If any term, provision, condition or covenant of this Agreement or the application thereof to any party or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this instrument, or the application of such term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

19.11 Time of the Essence. Time is hereby expressly made of the essence of this Agreement and each provision hereof.

19.12 No Third-Party Benefit. This Agreement is intended to benefit only the parties hereto and no other person or entity has or shall acquire any rights hereunder.

19.13 Counterparts. This Agreement and any documents required to be executed by the parties hereunder may be executed in several counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument as though all signatures appeared on one document.

19.14 Exhibits. Some of the attached Exhibits made part of this Agreement require additional terms and conditions. The Parties agree the final agreed terms and conditions of the Exhibits and the incorporated documents will be agreed and completed within ninety (90) days of the execution of this Agreement and such agreement concerning the final terms of the Exhibits is a condition precedent and requirement for the removal of the Buyer's feasibility contingency. Should the parties fail to agree to the terms of the Exhibits prior to expiration of the Review Period, either party may terminate this Agreement with the same legal effect as if Buyer had declined to waive its feasibility contingency.

19.15 Governing Law. This Agreement shall be governed by the laws of the State of Washington.

IN WITNESS WHEREOF, the parties hereto have executed this Purchase and Sale Agreement effective as of the date set forth on page 1 hereof.

SELLER:

CITY OF KENMORE,
a Washington municipal corporation

By: RH Karl
Name: ROB KARLINSEY
Title: CITY MANAGER

BUYER:

James M. Donovan
JAMES M. DONOVAN

Martha W. Donovan
MARTHA W. DONOVAN

IIA. Authorize Amendment No. 5 to Contract No. 12-C1037
Purchase and Sale Agreement with James and Martha Donovan

EXHIBITS

Exhibit A

LEGAL DESCRIPTION

THE WESTERLY 150 FEET OF THE FOLLOWING DESCRIBED TRACT:

ALL OF BLOCK 13 OF NORTHLAKE TERRACE, ACCORDING TO PLATE RECORDED IN VOLUME 33 OF PLATS AT PAGE 20, IN KING COUNTY, WASHINGTON; AND A 20 FOOT ALLEY LYING WITHIN SAID BLOCK AND ADDITION ADJOINING THE NORTHERLY LINE OF LOT 10 THEREOF;

AND THAT PORTION OF VACATED KENMORE AVENUE, NOW 67TH AVENUE NORTHEAST, WHICH LIES EASTERLY OF A LINE DRAWN 390 FEET WEST OF AND DISTANT FROM THE EAST BOUNDARY LINE OF BLOCK 13 OF SAID ADDITION.

EXCEPT THE SOUTH 122.00 FEET THEREOF WHICH INCLUDES 22.00 FEET DEDICATED TO THE CITY OF KENMORE FOR RIGHT OF WAY PURPOSES PER ORDER OF CONVEYANCE, RECORDING NO. XXXX

Exhibit B

FORM OF DEED

After Recording Return To:
WILLIAMS & WILLIAMS PSC
18806 Bothell Way NE
Bothell, WA 98011
Attn: Kinnon W. Williams

STATUTORY WARRANTY DEED

GRANTOR: City of Kenmore
GRANTEE: James M. Donovan and Martha W. Donovan, husband and wife

Legal Description:
Abbreviated Form: Ptn Block 13 of Northlake Terrace, Volume 33 of Plats, Page 20, King County, WA
Additional legal on Exhibit A

Assessor's Tax Parcel ID#: 6181700456

THE GRANTOR, the City of Kenmore, a Washington municipal corporation, for and in consideration of Ten dollars ($10.00) in hand paid conveys and warrants to James M. Donovan and Martha W. Donovan, and the marital community composed thereof, the following described real estate, situated in the County of King, State of Washington.

See Exhibit A attached hereto and incorporated herein by this reference.

Subject to and excepting those matters listed in Exhibit B attached hereto and incorporated herein by this reference.

Dated ________________, 2012.

GRANTOR:

THE CITY OF KENMORE,
a Washington municipal corporation

By: ________________________
Name: ________________________
Title: ________________________

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that __________________ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the ___________________________ of the City of Kenmore, a Washington municipal corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: ________________________

____
Notary Public
Print Name ____________________________
My commission expires ________________________

(Use this space for notarial stamp/seal)

Exhibit A
To Deed

LEGAL DESCRIPTION

THE WESTERLY 150 FEET OF THE FOLLOWING DESCRIBED TRACT:

ALL OF BLOCK 13 OF NORTHLAKE TERRACE, ACCORDING TO PLATE RECORDED IN VOLUME 33 OF PLATS AT PAGE 20, IN KING COUNTY, WASHINGTON; AND A 20 FOOT ALLEY LYING WITHIN SAID BLOCK AND ADDITION ADJOINING THE NORTHERLY LINE OF LOT 10 THEREOF;

AND THAT PORTION OF VACATED KENMORE AVENUE, NOW 67TH AVENUE NORTHEAST, WHICH LIES EASTERLY OF A LINE DRAWN 390 FEET WEST OF AND DISTANT FROM THE EAST BOUNDARY LINE OF BLOCK 13 OF SAID ADDITION.

EXCEPT THE SOUTH 122.00 FEET THEREOF WHICH INCLUDES 22.00 FEET DEDICATED TO THE CITY OF KENMORE FOR RIGHT OF WAY PURPOSES PER ORDER OF CONVEYANCE, RECORDING NO. XXXX

Exhibit B
To Deed

EXCEPTIONS

Exhibit C

FORM OF BILL OF SALE

THIS BILL OF SALE ("Bill of Sale") is made as of _____________, 2012, and is by the CITY OF KENMORE, a Washington municipal corporation ("Seller"), in favor of JAMES M. DONOVAN and MARTHA W. DONOVAN, husband and wife, and the marital community composed thereof ("Buyer"), with reference to the following recitals.

RECITALS

A. Seller is the owner of the property legally described on Exhibit A attached hereto (the "Property").

B. Pursuant to the Purchase and Sale Agreement dated ____________ (the "Agreement") between Seller and Buyer, Buyer has contracted to purchase the Property from Seller. As of the date hereof, Seller has conveyed the Property to Buyer.

C. Seller desires to assign, transfer, sell and convey to Buyer of all of Assignor's right, title and interest in and to the Personal Property (as defined below).

ASSIGNMENT

FOR VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, Seller does hereby sell and convey to Buyer all of Seller's right, title and interest in and to any intangible personal property owned by Seller and used in connection with the operation of the Property, including, without limitation, any guaranty or warranty relating to the construction, use, maintenance, occupancy or operation of the Property, subject to any limitation contained in each such guaranty and warranty (the "Personal Property").

This Bill of Sale is made without recourse or warranty whatsoever except that Seller owns the Personal Property free and clear of all liens, exceptions, and encumbrances except the lien for personal property taxes not yet delinquent. Except as provided in the Agreement, Buyer acknowledges that Seller has not made and does not make any representations or warranties of any kind whatsoever, either express or implied, with respect to the Personal Property and the Personal Property is sold to Buyer in an "AS IS" condition.

[signature on the following page]

IN WITNESS WHEREOF, Seller has executed this Bill of Sale as of the date first set forth above.

SELLER:

THE CITY OF KENMORE,
a Washington municipal corporation

By: ______________________
Name: ______________________
Title: ______________________

STATE OF WASHINGTON)
) ss.
COUNTY OF KING)

I certify that I know or have satisfactory evidence that _________________ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the _________________________ of the City of Kenmore, a Washington municipal corporation, to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: ______________________

____
Notary Public
Print Name ______________________________
My commission expires ______________________

<u>Exhibit A</u>
To Bill of Sale

LEGAL DESCRIPTION

THE WESTERLY 150 FEET OF THE FOLLOWING DESCRIBED TRACT:

ALL OF BLOCK 13 OF NORTHLAKE TERRACE, ACCORDING TO PLATE RECORDED IN VOLUME 33 OF PLATS AT PAGE 20, IN KING COUNTY, WASHINGTON; AND A 20 FOOT ALLEY LYING WITHIN SAID BLOCK AND ADDITION ADJOINING THE NORTHERLY LINE OF LOT 10 THEREOF;

AND THAT PORTION OF VACATED KENMORE AVENUE, NOW 67^{TH} AVENUE NORTHEAST, WHICH LIES EASTERLY OF A LINE DRAWN 390 FEET WEST OF AND DISTANT FROM THE EAST BOUNDARY LINE OF BLOCK 13 OF SAID ADDITION.

EXCEPT THE SOUTH 122.00 FEET THEREOF WHICH INCLUDES 22.00 FEET DEDICATED TO THE CITY OF KENMORE FOR RIGHT OF WAY PURPOSES PER ORDER OF CONVEYANCE, RECORDING NO. XXXX

Exhibit D

LIST OF DUE DILIGENCE ITEMS

Seller shall provide the following to Buyer, to the extent existing and in Seller's possession or control:

(a) Copies of all Contracts, Leases and Agreements Affecting the Property.

(b) Real Estate Tax Bills: Copies of the bills for the prior three (3) years as of the Agreement Execution Date.

(c) Survey: Copies of all standard lot line, A.L.T.A. and other surveys of the Property to the extent existing and in Seller's possession or control.

(d) Environmental and Inspection Reports and Appraisal: Copies of all environmental appraisals, studies and other information relating to environmental and other matters concerning the Property, including without limitation any and all remedial efforts, available to it, to the extent existing and in Seller's possession or control.

(e) Zoning, Land Use, Subdivision, Building and Construction Laws, Rules, Regulations and Ordinances: Copies of any and all permits, permit applications, notifications and other items Seller may have submitted to or received from any governmental or quasi-governmental agencies during the five (5) years preceding the Agreement Execution Date relating to the zoning, land use, subdivision, building, construction or other related issues relating to the Property as of the Agreement Execution Date.

The above consist of matter prepared by third parties not necessarily under control of Seller and matter which may no longer be complete or accurate due to change of circumstances, standards or passage of time, and are given to Buyer on the condition that Seller wholly disclaims, and makes no representation or warranty, express or implied, as to, the completeness, accuracy, usefulness, suitability or reliability of such materials but represents only that Seller shall provide the same to Buyer in the same condition as maintained by Seller in its records.

Exhibit E

RECIPROCAL GRANT OF EASEMENTS
AND
AGREEMENT FOR JOINT MAINTENANCE OF REAL PROPERTY

This Reciprocal Grant of Easements and Agreement for Joint Maintenance of Real Property (this "Agreement") is made and entered as of the _______ day of ____________, 2012, by and between the City of Kenmore, a Washington municipal corporation ("Kenmore"), and ___ __________________, a _______________ ("Donovan"). Kenmore and Donovan are at times collectively referred to herein as the "Parties," which term includes all heirs, assigns and successors of each of Kenmore and Donovan.

RECITALS:

A. Kenmore is the owner of the real property described on **Exhibits A-1, A-2** and **A-3** hereto and the improvements located thereon and therein (collectively, "Kenmore Property"). The real property described on **Exhibit A-1** is also referred to herein as the "Post Office Parcel", the real property described on **Exhibit A-2** is also referred to herein as the "Eastern Parcel", and the real property described on **Exhibit A-3** is also referred to herein as the "Park & Ride Parcel."

B. Donovan is the owner of the real property described on **Exhibit B** hereto and the improvements located thereon and therein ("Donovan Property").

C. The Kenmore Property and Donovan Property are at times collectively referred to herein as the "Properties" and are shown by graphic illustration on **Exhibit C** hereto.

D. The Properties are adjoining and the Parties desire to provide for easements and agreements allowing for certain uses of each of the Properties for the benefit of the other Property or the owner, tenants, lessees, licensees and other lawful users of such other Property, and for joint use and maintenance of certain portions of the Properties, all under terms and conditions stated in this Agreement, which uses, terms and conditions are mutually accepted by the Parties.

IT IS THEREFORE AGREED BY THE PARTIES AS FOLLOWS:

1. Recitals True. Each of the foregoing Recitals is true and made a part of this Agreement the same as though re-stated here in full.

2. Grant of Easements by Kenmore. Subject to the Easement Conditions hereinafter stated, Kenmore hereby grants and conveys to Donovan and to Donovan's assigns and successors, and the tenants, lessees, licensees, vendors, suppliers and concessionaires thereof, and all employees, agents, contractors and invitees of any or all of the foregoing (all collectively "Donovan Permittees" or at times "Permittees") the following non-exclusive, perpetual easements for ingress and egress over those portions of Kenmore's Property described as follows:

(A) An easement across the eastern-most ______ feet of the Post Office Parcel for vehicular and pedestrian ingress and egress between the Donovan Property and N.E. 181st Street (the "Post Office Parcel Easement");

(B) An easement across the south-westerly corner of the Eastern Parcel for vehicular and pedestrian ingress and egress between the Donovan Property and N.E. 181st Street (the "Eastern Parcel Easement");

(C) An easement across the northern-most ______ feet of the Eastern Parcel for vehicular ingress and egress between the rear (northern-most) portion of the existing building located, as of the date hereof, on the northern portion of the Donovan Property and 68th Avenue N.E. (the "Rear Access Easement"), which easement, however, shall be used solely for restricted access by commercial trucks and service vehicles for the purpose of pick-up and delivery of inventory, supplies and materials and similar commercial deliveries and for services to be provided through the service or loading areas of the building and for services to those portions of the building not accessible from the front (southern) side of the building. Kenmore shall have the right at any time while this easement is in place to install a gate, bollards, chain or other devices or structures to restrict access to the area covered by this easement solely to contractors, supplies, shippers, vendors and other commercial vehicles providing commercial services to the building located on the Donovan Property.

(D) An easement that runs across the western-most _____ feet of the Eastern Parcel [Insert property description of the pedestrian easement running partly on the Eastern Parcel and partly on the Donovan Parcel running North and South] providing a direct means of pedestrian access between N.E. 181st Street and the Park & Ride Parcel. (the "Eastern Pedestrian Easement").

3. Grant of Easements by Donovan. Subject to the Easement Conditions hereinafter stated, Donovan hereby grants and conveys to Kenmore and to Kenmore's assigns and successors, and the tenants, lessees, licensees, vendors, suppliers and concessionaires thereof, and all employees, agents, contractors and invitees of any or all of the foregoing (all collectively "Kenmore Permittees" or at times "Permittees") the following non-exclusive, perpetual easements for ingress and egress over those portions of Donovan's Property described as follows:

(A) An easement thirty (30) feet wide running east and west [Insert property description of access easement running from Eastern Parcel to Post Office Easement along the southern edge of the existing building to provide vehicle corridor along existing and future building lines] providing a direct means of vehicular and pedestrian ingress and egress between the Eastern Parcel and the Post Office Parcel (the "Donovan Property Ingress-Egress Easement").

(B) An easement that runs across the western-most _____ feet of the Donovan Parcel providing a direct means of pedestrian access between N.E. 181st Street and the Park & Ride Parcel. (the "Western Pedestrian Easement").

(C) An easement that runs across the eastern-most _____ feet of the Donovan Parcel providing a direct means of pedestrian access between N.E. 181st Street and the Park & Ride Parcel. (the "Eastern Pedestrian Easement").

4. Graphic Depiction of Easements. The Post Office Parcel Easement, Eastern Parcel Easement, Rear Access Easement, Western Pedestrian Easement, Eastern Pedestrian Easement, and Donovan Property Ingress-Egress Easement are graphically depicted on **Exhibit C** hereto.

5. Parking and Access Easement – Donovan Property.

(A) Access and Parking Easement - DP. Subject to the Easement Conditions hereinafter stated, Donovan hereby grants and conveys to Kenmore a non-exclusive, perpetual easement (the "Access and Parking Easement - DP") for the non-exclusive use and benefit of the Kenmore Permittees for vehicular and pedestrian ingress and egress and for vehicular parking, over and across the parking lot portions of Donovan's Property shown on **Exhibit D** hereto (the "Access and Parking Easement - DP Area"). The Kenmore Permittees shall have the non-exclusive right to utilize the Access and Parking Easement - DP for vehicular and/or pedestrian ingress and egress across the Access and Parking Easement - DP Area to and from the Eastern Parcel. In addition, the Kenmore Permittees shall have the non-exclusive right to utilize up to twenty (20) parking spaces for vehicle parking in conjunction with use of the buildings, structures and facilities now or hereafter located on the Eastern Parcel.

(B) To preserve the right of the Kenmore Permittees to use the Access and Parking Easement - DP Area for parking in the parking spaces reserved for that purpose herein, Donovan agrees not to construct any improvements or to make or permit the making of any alterations within or to the Access and Parking Easement - DP Area the purpose or effect thereof is to reduce the number or size of the parking spaces within the Access and Parking Easement - DP Area, except with the express written consent of Kenmore, which consent may be withheld, conditioned or denied in Kenmore's sole and absolute discretion; *provided*, nothing herein shall bar Donovan from making alterations to the configuration or layout of the parking areas or parking spaces or drive aisles within the Access and Parking Easement - DP Area or from installing improvements thereto so long as following such alterations or installation of improvements, the number and size of parking spaces is not reduced and the means of ingress and egress across the Donovan Property between the Eastern Parcel and the Post Office Parcel are not materially impaired, reduced or adversely affected.

(C) Kenmore and Donovan agree to adopt, maintain and enforce reasonable rules and measures to prevent use of the Access and Parking Easement - DP Area by its respective Permittees or by any other person for vehicular parking in any areas other than specifically marked and designated parking areas (including measures to prevent parking in fire lanes and other areas in which parking is prohibited by law) or for permanent storage of vehicles or equipment. Unless otherwise mutually agreed in writing and on a short-term (less than ten (10) days) basis, neither Kenmore nor Donovan shall rent, lease or otherwise use the Access and Parking Easement - DP Area for parking by persons other than employees, contractors, customers, vendors and others using the buildings located on the Properties.

(D) Donovan reserves and retains the right of the Donovan Permittees to use the Access and Parking Easement - DP Area, as described and limited herein, in common with the Kenmore Permittees for parking and for access to and from the Donovan Property over the Post Office Parcel Easement and the Eastern Parcel Easement. In addition, Donovan shall have the right to make any use of the surface and subsurface of the Access and Parking Easement - DP Area and construct or install any surface or subsurface improvements thereon for any use or purpose not inconsistent with the rights granted to the Kenmore Permittees under this Access and Parking Easement - DP.

(E) Rules and Regulations. From time to time, Donovan shall have the right to issue reasonable rules and regulations for the use and occupancy of the Access and Parking Easement Area - DP. Such rules and regulations shall be in such form and substance as Donovan deems reasonably appropriate for the use, safety, cleanliness and fair usage of the Access and Parking Easement Area - DP; *provided,* in no event shall any such rules or regulations impose any fee or tariff for access by pedestrians or vehicles over or across the Access and Parking Easement Area - DP or unreasonably limit the use by the Kenmore Permittees of the Access and Parking Easement – DP as prescribed in this Agreement. Donovan shall be solely responsible for the posting, publication and/or enforcement of any such rules and regulations, except that Kenmore agrees reasonably to cooperate with Donovan in making reasonable efforts to publish, publicize and otherwise make known such rules and regulations to Kenmore's Permittees.

(F) Parking Management. Nothing in this Agreement shall prohibit Donovan from retaining or contract with a third-party parking management service to maintain the Access and Parking Easement - DP Area, so long as such service manages the property in a manner which does not violate this Agreement or the rights of the Kenmore Permittees with respect to this Parking and Access Easement.

(G) Improvement Cooperation. Subject to existing and future zoning, regulations, and permitting standards, Donovan and Kenmore agree to coordinate improvements to the Access and Parking Easement - DP Area in order to avoid disrupting their respective use and improvement of their properties and the use and enjoyment of themselves and their tenants and permitttees. To that end, Donovan and Kenmore shall give each other at least six (6) months notice of their intent to begin any significant construction or improvement activities and will meet and confer within a reasonable time in order to mitigate the effects of such construction or improvement activities. Effort shall be made in the planning process and ultimate design of any significant construction of improvement to make the construction or improvement architecturally compatible between the Donovan and Kenmore properties. Significant construction or improvement activities are defined to include but are not limited to permanent signage or other physical restriction of parking areas for use of Donvan or Kenmore Permittees, structural alterations or improvements of buildings or structures in excess of an estimated gross cost of $200,000.00 or greater, similar physical alterations of their respective properties that can reasonably be expected to have a material effect on traffic or use of the neighboring property.

6. Parking and Access Easement – Eastern Parcel. [To Be Determined, limit number of parking stalls and time periods available, similar provisions to Access and Parking Easement - - DP.]

7. Utility Easements. [Need locations of current utilities on Post Office and Eastern parcels, modify existing to allow relocation in case of development.]

8. Access and Parking Easement Areas Defined. As used herein, "Access and Parking Easements" means the Access and Parking Easement – DP and the Access and Parking Easement – EP, collectively, and "Access and Parking Easement Areas" means the areas affected by either of the Access and Parking Easements.

9. Agreement Not To Obstruct Easement Areas. With respect to each of the Post Office Parcel Easement, the Eastern Parcel Easement, the Rear Access Easement, the Donovan Property Ingress-Egress Easement, and the Parking and Access Easements (collectively, the "Surface Easements"), each of Kenmore and Donovan agrees, for itself and its grantees, assigns and successors, never to place, locate, erect, construct, establish, suffer or otherwise permit the temporary or permanent placement, location, erection, construction or establishment of any structure, device, or apparatus of any nature within any portion of their respective Properties affected by or reserved herein for any of the Surface Easements, the purpose or effect of which is the blocking, hindering or impairing of the free and unimpeded use of such easement area for the purposes described in this Agreement with respect to such easement.

10. Restrictions and Conditions for Use of Surface Easements.

(A) Parking. Each of Kenmore and Donovan covenants and agrees never (i) to establish, undertake, suffer, permit or tolerate the use of any of the Surface Easements by its Permittees for the benefit of any property other than the Properties, or (ii) to authorize or permit its Permittees to utilize any portion of the Access and Parking Easement Areas or any portion of Donovan's Property for long term parking or storage of any nature, or, (iii) except as to vehicular parking allowed in designated parking areas within the Access and Parking Easement Areas, to allow any of its Permittees to park any vehicle, temporarily or otherwise, within the area of any of the Surface Easements or otherwise to use any part of those areas of the Properties reserved for the Surface Easements for any purpose other than for ingress and egress as described in this Agreement.

11. Sharing and Allocation of Costs of Maintenance, Repair and Replacement of Surfaces and Capital Improvements with Easement Areas. [To be completed should include grounding of aerial wires when Eastern Parcel is improved.]

12. Agreement to Provide Landscape Islands and Lighting within Access and Parking Easement Areas. [to be completed]

13. Agreement For Layout of Parking Areas. [to be completed]

14. Sign Easements. [agreed locations of common signage, maintenance and cost sharing, to be completed]

15. Stormwater Sewer Easements. [if any, to be completed]

16. Visibility Easements. [To be completed. View window of Donovan building from access easement areas will not be obstructed.]

17. Waiver of Adverse Possession. Each of Kenmore and Donovan waives and releases any claims or entitlements that may have accrued or which may accrue in the future under the theory of adverse possession, prescriptive easement or any other legal or equitable theory whereby the Kenmore or Donovan, or either of their grantees, successors and assigns are entitled to utilize any portion of the Property of the other Party pursuant to the easements herein granted.

18. Miscellaneous.

(A) Runs with the Land. The covenants, conditions, restrictions and rights set forth herein shall run with the land constituting the Properties and be obligatory upon the current fee owners thereof and upon their respective grantees, assigns and successors, tenants, sub-tenants, licensees and invitees; *provided*, anything herein to the contrary notwithstanding, no rights in or to the general public (except to the extent members of the public are also Permittees) are created hereby.

(B) Successors and Assigns Bound. The terms and conditions and all rights and entitlements stated herein and arising herefrom shall inure to the benefit of and be binding upon all heirs, assigns, successors, administrators, trustees and others claiming by or through the Parties hereto.

(C) Remedies. In the event of any violation or breach or threatened violation or breach of any provision of this Agreement or of any of the covenants, conditions or restrictions herein contained by the fee owner or future owner of either of Kenmore's Property or Donovan's Property or by any of their respective tenants, sub-tenants, licensees and invitees and their respective grantees, assigns and successors, then the non-breaching or non-defaulting fee owner shall, in addition to all other remedies at law or at equity, have the right to sue to specifically enforce the terms, covenants and/or conditions set forth in this Agreement.

(D) Attorneys' Fees. In the event of any lawsuit, arbitration or legal proceeding is brought to enforce any of the terms hereof, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs (including costs and fees on appeal) from the non-prevailing party.

(E) Severability. The provisions of this Agreement shall be independent and severable. The unenforceability or invalidity of any one provision shall not affect the enforceability of any other provision.

(F) Governing Law. This Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Washington.

(G) Binding Effect. This Agreement and the provisions hereof shall be binding upon and shall inure to the benefit of the fee owners of Donovan's Property and the fee owners of Kenmore's Property, and their respective grantees, assigns and successors.

(H) Entire Agreement. This document, including exhibits hereto, constitutes the entire agreement between the parties with respect to the subject matter hereof.

(I) Headings. The captions and paragraph headings in this Agreement are inserted for convenience and reference only and are not intended to define, limit or amplify the interpretation or construction of any terms or provisions hereof.

(J) Amendment. This Agreement may be amended from time to time by the fee owners of Kenmore's Property, its grantees, assigns and successors and by the fee owners of Donovan's Property, its grantees, assigns and successors but only pursuant to a written instrument signed by such persons or entities

(K) Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and with the same effect as if all parties hereto had signed the same document. All such counterparts shall be construed together and shall constitute one instrument, but in making proof hereof it shall only be necessary to produce one such counterpart.

[Signatures and Acknowledgments]

EXHIBIT F

TO STATUTORY WARRANTY DEED

CONDITIONS, RESTRICTIONS AND EQUITABLE SERVITUDES

The Real Property (the "Real Property") described on **Exhibit A** to the Statutory Warranty Deed (the "Deed")to which this Exhibit ____ is attached and made a part, is conveyed by Grantor to Grantee subject to the following Covenants, Conditions, Restrictions and Equitable Servitudes, all of which are accepted by Grantee by its acceptance of the Deed.

1. The Real Property, and any and all lots, parcels, subdivisions, divisions and parts which may hereafter be created from the Real Property (all of which are deemed incorporated into the term "Real Property" as used herein), shall be held, sold, pledged, transferred and conveyed subject to the terms, provisions, limitations, restrictions, and conditions of these Conditions, Restrictions and Equitable Servitudes (collectively, these "Conditions"), all of which shall be deemed conditions, restrictions and equitable servitudes running with the land.

2. For the first five (5) years from the date of Closing, the Real Property shall be used exclusively for commercial retail purposes as a Kenmore Camera retail store. After this five (5) year period, the Real Property may be used, developed, leased, sub-leased, rented, or occupied solely for any permitted office, residential, and commercial retail purposes or any combination thereof subject to applicable zoning and land use laws, rules and regulations (the "Permitted Use") and without limitation on the foregoing, shall not at any time be used, developed, leased, sub-leased, rented or occupied for any of the following uses or purposes (the "Prohibited Uses") described in subsection a-j below. :

a. Industrial or manufacturing;

b. Any un-permitted use involving the manufacture or storage of Hazardous Substances, meaning flammable explosives, pollutants, contaminants, radioactive materials, asbestos, polychlorinated biphenyls, lead, lead-based paint, under and/or above ground tanks, hazardous materials, hazardous wastes, hazardous substances, oil, or related materials, which are listed or regulated by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. Sections 6901, et seq.), the Resources Conservation and Recovery Act of 1976 (42 U.S.C. Section 9601, et seq.), the Clean Water Act (33 U.S.C. Section 1251, et seq.), the Safe Drinking Water Act (14 U.S.C. Section 1401, et seq.), the Hazardous Materials Transportation Act (49 U.S.C. Section 5101, et seq.), the and Toxic Substance Control Act (15 U.S.C. Section 2601, et seq.), and any other applicable federal, state or local laws, rules, regulations or governmental requirements;

c. Warehousing, storage or "mini-warehouse"

d. Automotive, boat or other vehicle sales, storage, repair or servicing;

e. Dry cleaner;

f. "Adult" entertainment sales or retail activities involving pornographic or "adult only" literature, videos, clothing, or products;

g. Flea market, going-out-of-business, distress or second-hand sales;

h. Agricultural use;

i. [add other prohibited uses, particularly as to types of retail uses to be prohibited]; or

j. Any use that is not a Permitted Use.

3. Except for special events for holiday sales, inventory clearance and promotional sales not exceeding 72 hours in duration, all retail sales activities must be conducted within the interior spaces of the building located on the Real Property and may not include sales conducted on or in any portion of the parking areas, drive aisles or landscaped areas on the Real Property.

Any and all reconstruction, remodeling or other material alteration of the structures and buildings located on the Real Property as of the date of recording of the Deed shall be in accord with local building codes and ordinances and shall be coordinated with adjoining landowners to minimize disruption or dislocation of property owner and tenant operations and invitees on and around the immediately surrounding properties.

4. These Conditions shall be binding on the Real Property and on Grantee and all future owners, lessees, grantees and occupants thereof and shall inure to the benefit of the Grantor and its respective successors and assigns. Grantor and/or its successors or assigns may enforce the provisions of these Conditions by any and all means and remedies allowed by law or equity, all of which shall be cumulative and not exclusive. In the event of any dispute involving these Conditions or their enforcement, the substantially-prevailing party in any such dispute shall be entitled, in addition to any and all other relief obtained, to reimbursement by the non-prevailing party for all costs and expenses incurred by the prevailing party in connection with such dispute, including without limitation, its actual attorneys' fees, whether or not suit may be commenced, and if suit is commenced then said amount shall include the amounts incurred prior to commencement of such suit, at the trial level, and in all subsequent appeals and collection efforts.

5. <u>Waiver or Breach</u>. No waiver or consent to any breach or default in the performance of any term, condition, or provision of this Deed shall be deemed a waiver of any subsequent breach of the same or any other term, condition, or provision. No failure or delay of any party to exercise any right or power or to insist upon strict compliance by another party with its obligations shall constitute a modification of this Declaration or a waiver of any right to demand strict compliance with the terms of this Declaration.

6. Definitions. Initially-capitalized terms used herein, if not defined herein, shall have the meanings of such terms set forth in the Deed.

EXHIBIT G

REAL ESTATE OPTION AND RIGHT OF FIRST REFUSAL AGREEMENT

THIS RIGHT OF FIRST REFUSAL AGREEMENT (this "Agreement"), dated and effective as of the ____ day of__________, 2012, is made by and between JAMES AND MARTHA DONOVAN, (the "**OWNER**") and CITY OF KENMORE, A MUNICIPAL COPROATION ("City),

RECITALS

Owner entered into a purchase and sale agreement with City on____________, 2012, for the purchase of certain real property as more particularly described on **Exhibit A** attached hereto and incorporated by this reference, located in Kenmore, Washington (the "**Property**").

The City is desirous of obtaining an option and right of first refusal to repurchase the Property back from Owner should the Owner fail to without good cause or excuse to open a retail outlet for Kenmore Camera on the Property within thirty (30) months of purchasing the Property or should Owner decide to sell the Property in the future. Owner agrees to give City certain rights to purchase the Property on the terms and subject to the conditions set forth herein.

Accordingly, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

AGREEMENT

1. **Right of First Refusal**. Should Owner decide to sell or fail to develop the Property, Owner hereby grants to City an option and right of first refusal to repurchase all right, title and interest held by the Owner, at the time, for the price and subject to such other terms and conditions as are set forth below. The rights of the Owner and City under this Section are hereinafter referred to as the "Option."

2. **Exercise of Right of First Refusal and Option.**

(a) Sale Of Property. In the event that the Owner decides to sell the Property or if Owner receives a bona fide offer to purchase the Property at any time following closure of the sale of the Property under the Purchase and Sale Agreement identified above, and for ten (10) years thereafter, the Owner shall give City notice of its intention to sell or intent to accept the Offer to purchase the Property (the "Offer") and shall deliver a copy of the Offer to the designee as identified in the Notice provisions as set forth in the Purchase and Sale Agreement referenced above. The City shall have a period of thirty (30) days from the date of receipt of the Offer to elect to exercise its Right of First Refusal by delivering written notice to the Owner of its election to do so and agree to purchase the property under the same terms and conditions of the bona fide offer, when a bona fide offer is made or in the event no bona fide offer has been made under the provisions of paragraph 3 below (the "RFR Election Notice"). All costs of the exercise of the Right of First Refusal, including without limitation any filing or recording fees and applicable transfer taxes, shall be paid by the City.

(b) Option To Purchase Due To Failure To Develop Property. In the event that the Owner fails without good cause or excuse to develop and occupy the Property as a Kenmore Camera retail outlet within thirty (30) months following closure of the sale of the Property under the Purchase and Sale Agreement identified above, the City may exercise its Option to Purchase by delivering written notice to the Owner of its election to do so (the "Option Election Notice") within ninety (90) days of the thirty month anniversary of closure of the sale of the Property. All costs of the exercise of the Right of First Refusal, including without limitation any filing or recording fees and applicable transfer taxes, shall be paid by the City.

(c) If the City fails to deliver the RFR Election Notice or the Option Election Notice within the applicable periods, then the City's Option to Purchase and the City's Right of First Refusal shall terminate. Thereafter, the Owner shall be permitted to sell the Project free of the Option to Purchase and the Right of First Refusal at any time thereafter.

(d) The terms of the sale of the Property in case the city exercises its Option or the Right of First Refusal shall be as follows:

1. Closing. Closing shall be within ninety (90) days of the determination of the Purchase Price as provided in this Agreement;

2. Deed. Conveyance of the Property as defined in the Purchase and Sale Agreement will be by warranty deed conveying marketable title to the City free of liens and encumbrances;

3. Closing costs and charges will be prorated to the date of closing;

4. Payment of the Purchase Price shall be as provided herein;

5. Other Terms. The other terms for sale of the Property under this Option and Right of First Refusal shall be the same as those found in the Purchase and Sale Agreement other than those expressly provided for herein. The terms of this Option and Right of First Refusal shall take precedent. For instance, escrow shall be held at the same agency.

3. **Purchase Price.** The Property's purchase price under the Option To Purchase and the Right of First Refusal (where no bona fide offer has been made) shall be as follows:

(a) Option To Purchase. If the Owner has failed without good cause or excuse to not complete and open a retail outlet for Kenmore Camera on the Property within thirty (30) months following closure of the sale of the Property under the Purchase and Sale Agreement, the City will be entitled to purchase the Property for the lesser of 1) Fair Market Value as defined under Paragraph 3(b) of this Agreement; or 2) the purchase price paid by Owner under the initial

Purchase and Sale Agreement plus actual cost of improvements to the Property. (collectively the "Option Purchase Price").

(b) Right Of First Refusal. If the parties are unable to agree on the Purchase Price based upon the City exercising its Right Of First Refusal (where a bona fide offer has not been presented) within 30 days of the City giving Owner a timely RFR Election Notice, the fair market value of the Property shall be determined by agreement of two MAI appraisers, one selected by Owner and one selected by City. Should the appraisers be unable to reach agreement within 60 days of the RFR Election Notice first being given, the fair market value shall be established as the average of the fair market determination of value of the two appraisers if the differential in value established by the two appraisers is less than Ten Percent (10%). Should the appraisers be unable to reach agreement when the differential of fair market value is greater than 10%, a third MAI appraiser shall be appointed who shall establish fair market value within the range of fair market values as determined by the two appraisers selected by the Owner and City within 90 days of the RFR Election Notice first being made. Each party shall be responsible for their own costs and fees incurred in establishing fair market value.

4. **Payment of Purchase Price.** The Purchase Price (as determined above) shall be paid at Closing in one of the following methods:

(a) The payment of all cash or immediately available good funds at Closing; or

(b) The assumption of any assumable Mortgage Loans if consent has been obtained of the Lenders to the assumption of such Mortgage Loans, which consent shall be secured at the sole cost and expense of City. Any Purchase Price balance remaining after the assumption of the Mortgage Loans shall be paid by City in immediately available funds.

5. **Conveyance and Condition of the Property**. The Owner's right, title and interest in the Property shall be conveyed by Statutory Warranty Deed. City shall accept the Property "as is," without any warranty or representation as to the condition thereof whatsoever, including without limitation, without any warranty as to fitness for a particular purpose, habitability, or otherwise and no indemnity for hazardous waste or other conditions with respect to the Property will be provided. It is a condition to Closing that all amounts due the Owner and from City be paid in full at Closing.

6. **Exceptions.** The rights granted herein are subject to and subordinate to any similar option or right of first refusal granted to a partner or relative of Owner and to all liens for borrowed money secured by the project. Further, this right of first refusal shall be inapplicable to any conveyance of the real estate as part of the sale of Owners business, or transfer by inheritance or intestate succession, provided that said purchaser and heir shall remain obligated by this Right of First Refusal pursuant to paragraph 9 of this agreement.

7. **Assignment**. This Right of First Refusal shall not be assigned to any party without express written consent of Owner.

8. **Term.** The Option To Purchase shall terminate Thirty (30) months following closure of the sale of the Property under the Purchase and Sale Agreement . The Right of First Refusal

shall terminate ten (10) years following closure of the sale of the Property under the Purchase and Sale Agreement.

9. **Burden and Benefit.** The covenants and agreements contained herein shall be binding upon and inure to the benefit of the successors and assigns of the respective parties hereto. This Agreement or a memorandum thereof shall be filed on title upon Owner's purchase of the Property.

10. **Severability of Provisions.** Each provision of this Agreement shall be considered severable, and if for any reason any provision that is not essential to the effectuation of the basic purposes of the Agreement is determined to be invalid and contrary to any existing or future law, such invalidity shall not impair the operation of or affect those provisions of this Agreement that are valid.

11. **Attorney Fees.** In the event of any action, arbitration, or proceeding at law or in equity to enforce any provision of this Agreement or to protect or establish any right or remedy of any party hereunder, the unsuccessful party to the litigation shall pay to the prevailing party all costs and expenses, including reasonable attorneys' fees incurred therein by the prevailing party, and if the prevailing party recovers judgment in any action, proceeding, or arbitration, the costs, expenses and attorneys' fees shall be included in and as a part of the judgment.

12. **No Continuing Waiver.** None of the parties hereto shall be deemed to have waived any rights hereunder unless such waiver shall be in writing and signed by such party. The waiver by any party of any breach of this Agreement shall not operate or be construed to be a waiver of any subsequent breach.

13. **Governing Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of Washington, County of King, without regard to principles of conflicts of laws.

14. **Binding Agreement.** This Agreement shall be binding on the parties hereto, their heirs, executors, personal representatives, successors and assigns.

15. **Headings.** All headings in this Agreement are for convenience of reference only and are not intended to qualify the meaning of any provision of this Agreement.

16. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed to be an original copy, and all of which together shall constitute one agreement binding on all parties hereto, notwithstanding that all the parties shall not have signed the same counterpart.

INWITNESS WHEREOF, the parties have executed this Right of First Refusal Agreement as of the date first above written.

OWNER: ______________________________
James Donovan

____
Martha Donovan

CITY: THE CITY OF KENMORE,
a Washington municipal corporation

By: ________________________
Name: ________________________
Title: ________________________