

**When Recorded Return to:**

Whatcom County Executive's Office  
311 Grand Avenue, Suite 108  
Bellingham, WA 98225

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**LOW-INCOME HOUSING COVENANT**

Grantor(s): Sean Humphrey House, a Washington nonprofit corporation Grantee(s): Beneficiary-Whatcom County Abbreviated Legal: PTN LOT 6 PADDEN COURT PARTITION PLAT IN SE ¼ SW ¼ SEC 6, T 37 N, R 3 E Additional legals on page: 1 Assessor's Tax Parcel Number(s): 370306 222101 0000 PID 22345
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THIS DECLARATION OF RESTRICTIVE COVENANTS (hereinafter referred to as "Covenant"), dated \_\_\_\_\_, 2022, by Sean Humphrey House, a nonprofit corporation, and its successors and assigns (hereinafter referred to as "Grantor"), is given as a condition precedent to the deferred loan of \$100,000 in 1406 Affordable and Supportive Housing Program funds (hereinafter referred to as "1406") funds, and as condition of a forgivable grant in the amount of \$100,000 in 1590 Housing and Services Use tax (hereinafter referred to as "1590") from Whatcom County (hereinafter referred to as "County"), a municipal corporation, together with any successor to its rights, duties, and obligations, for the acquisition and rehabilitation of real property ("Property") legally described below:

**PARCEL A:**

THE NORTH 150 FEET OF THE SOUTH 250 FEET OF THAT PART OF LOT 6, PADDEN COURT PARTITION PLAT, IN THE SOUTHWEST QUARTER OF SECTION 6, TOWNSHIP 37 NORTH, RANGE 3 EAST OF W.M.

**DESCRIBED AS FOLLOWS:**

BEGINNING 175 FEET WEST OF THE NORTHEAST CORNER OF SAID LOT 6, BEING THE NORTHEAST CORNER OF THE SOUTH HALF OF THE SOUTHWEST QUARTER; THENCE SOUTH 500 FEET; THENCE WEST 400 FEET; THENCE NORTH 500 FEET; THENCE EAST 400 FEET TO THE POINT OF BEGINNING.

SITUATE IN WHATCOM COUNTY, WASHINGTON.

PARCEL B:

AN EASEMENT FOR INGRESS, EGRESS AND UNDERGROUND UTILITIES AS DESCRIBED UNDER AUDITOR'S FILE NO. 1455310, RECORDS OF WHATCOM COUNTY, WASHINGTON.

SITUATE IN WHATCOM COUNTY, WASHINGTON  
(the "Property").

This Covenant will be filed and recorded in the official public land records of Whatcom County, Washington and shall constitute a restriction upon the use of the property described herein, subject to and in accordance with the terms of this Covenant, for twenty (20) years, beginning after project completion, or until all remaining funds owed to the County are repaid, whichever is longer, as set forth in the Agreement.

#### RECITALS

WHEREAS, Grantor was assisted with the aid of funds from County for the improvement of a nonprofit facility for the express purpose of providing housing for income-qualified households whose annual income, at the time of initial occupancy of the residential rental units, does not exceed sixty percent (60%) of the Whatcom County area median income by household size as published periodically by the U.S. Department of Housing and Urban Development, and

WHEREAS, Grantor as a recipient of these funds will provide housing to qualified low income households who also meet one or more of the following criteria of specialized populations: persons with behavioral health disability, veteran status, senior citizens, homeless or at risk of homelessness, unaccompanied homeless youth or young adult, disabled, and/or survivors of domestic violence; as defined and published periodically by the U.S. Department of Housing and Urban Development, and

WHEREAS Grantor will ensure that the Property remains affordable for at least as long as the 1406 deferred loan is invested in the Property or twenty (20) years from project completion whichever is longer, and

WHEREAS, the County requires, and Grantor agrees to the requirement, as a condition to the investment of County funds, that Grantor execute, deliver and record this Covenant in the Auditor's Office of the County in order to create certain covenants pertaining to the real Property legally described above, and these covenants shall run with the land for the purpose of enforcement of the affordability requirements of the County;

NOW THEREFORE, in consideration of the promises and covenants hereinafter set forth and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor intends, declares, and covenants that the restrictive covenants set forth herein governing the use, occupancy, and transfer of the Property shall be and are covenants pertaining to the Property and running with the land for the term stated herein and are binding upon all subsequent owners of the Property and for such term, except as specifically provided herein, and are not merely personal covenants of Grantor.

## SECTION 1 REPRESENTATIONS, COVENANTS AND WARRANTIES OF GRANTOR

Grantor hereby represents, covenants and warrants as follows:

- a. Grantor hereby covenants and agrees not to sell, transfer or otherwise dispose of the Property or any portion thereof without first providing a written notice to the buyer and obtaining the agreement of any buyer or successor or other person acquiring the Property or any interest therein, that such acquisition is subject to the requirements of this Covenant and to the affordability requirements of the County; *provided, however*, that nothing contained in this Covenant shall restrict transfers of interests in Grantor.
- b. Grantor will, at the time of execution, delivery and recording of this Covenant, have good and marketable title to the Property, free and clear of any liens or encumbrances (except encumbrances created pursuant to this Covenant or other permitted encumbrances (collectively, "Permitted Encumbrances"), including, without limitation, the exceptions set forth in the owner's policy of title insurance obtained by Grantor on or about the date hereof and the encumbrances described in that certain Priority and Subordination Agreement dated on or about the date hereof by and between the County, Grantor and certain other parties thereto (the "Priority and Subordination Agreement")).
- c. Grantor warrants that it has not and will not execute any other Covenant or deed restriction with provisions contradictory to, or in opposition to, the provisions hereof other than the Permitted Encumbrances or as otherwise approved by the County.

## SECTION 2 TERM OF COVENANT

- a. This Covenant, and the terms of affordability specified herein, apply to the Property immediately upon recordation, and Grantor shall comply with all restrictive covenants herein. This Covenant shall terminate only after the repayment to the County of 1406 funds originally invested in the Property.
- b. The repayment of 1406 funds will be satisfied when either (1) payment begins on January 1, 2026 and is payable monthly to the satisfaction of the terms and conditions of the

funding agreement and Promissory Note, (2) the Property is no longer subject to an affordability program that satisfies the affordability requirements of this Covenant, whichever comes first.

### SECTION 3 RECORDING AND FILING; COVENANTS TO RUN WITH THE LAND

a. Upon execution of this Covenant by Grantor, Grantor shall cause this Covenant and all amendments hereto to be recorded in the Auditor's Office of the County. Grantor shall pay all fees and charges incurred in connection therewith.

b. Grantor intends, declares and covenants, on behalf of itself and all future owners of the Property during the term of this Covenant, that this Covenant and the covenants and restrictions set forth in this Covenant regulating and restricting the use, occupancy and transfer of the Property (1) shall be and are covenants running with the land, encumbering the property for the term of this Covenant, binding upon Grantor 's successors in title and all subsequent owners of the Property; (2) are not merely personal covenants of Grantor; and (3) shall bind Grantor (and the benefits shall inure to the County and any past, present or prospective owner of the Property) and its respective successors and assigns during the term of this Covenant. Grantor hereby agrees that any and all requirements or privileges of estate are intended to be satisfied, or in the alternate, that an equitable servitude has been created to insure that these restrictions run with the land. For the term of this Covenant, each and every contract, deed or other instrument hereafter executed conveying the Property or portion thereof shall expressly provide that such conveyance is subject to this Covenant, provided, however, the covenants contained herein shall survive and be effective regardless of whether such contracts, deed, or other instrument hereafter executed conveying the Property or portion thereof provides that such conveyance is subject to this Covenant

### SECTION 4 ENFORCEMENT OF AFFORDABLE HOUSING REQUIREMENTS

a. The Property will be bound by the terms of this Covenant at each sale or transfer, and the Covenant will provide for the affordability of the Property, in accordance with the requirements of the County, for an income-qualified rental household whose annual income, at the time of its initial occupancy of the home, does not exceed sixty percent (60%) of the Whatcom County area median income by household size as published periodically by the U.S. Department of Housing and Urban Development and that qualifying occupants also identify with one of the specialized populations detailed above. Grantor hereby declares and covenants, on behalf of itself and all future owners of the Property, that, during the term of this Covenant, the County is a third-party beneficiary of and successor to each and every remedy provided in the Covenant or in law intended to insure the affordability of the Property. The County may, in the event of the failure or default of the Grantor to insure the affordability of the Property as provided for in Covenant, exercise all rights and remedies available to the County for that purpose.

b. Grantor covenants that it will not knowingly take or permit any action that would result in a violation of the affordability requirements of the County. The County, together with Grantor, may execute and record any amendment or modification of this Covenant and such amendment or modification shall be binding on third parties' rights granted under this Covenant.

c. Grantor acknowledges that the primary purpose for requiring compliance by Grantor with restrictions provided in this Covenant is to assure compliance with the affordability requirements of the County, AND BY REASON THEREOF, GRANTOR IN CONSIDERATION FOR RECEIVING COUNTY FUNDS FOR THE PROPERTY HEREBY AGREES AND CONSENTS THAT THE COUNTY SHALL BE ENTITLED, FOR ANY BREACH OF THE PROVISIONS HEREIN, AND IN ADDITION TO ALL OTHER REMEDIES PROVIDED BY LAW OR IN EQUITY, TO ENFORCE BY SPECIFIC PERFORMANCE, GRANTOR'S OBLIGATIONS UNDER THIS COVENANT IN A STATE COURT OF COMPETENT JURISDICTION. Grantor hereby further specifically acknowledges that the beneficiaries of Grantor's obligations hereunder cannot be adequately compensated by monetary damages in the event of any default hereunder. If legal costs are incurred by the County, such legal costs, including attorney fees and court costs (including costs of appeal), are the responsibility of, and may be recovered from Grantor.

#### SECTION 5 MISCELLANEOUS

a. Severability. The invalidity of any clause, part, or provision of this Covenant shall not affect the validity of the remaining portions thereof.

b. Notices. Any Notice shall be in writing and shall be given by depositing the same in the United States mail, postage paid and registered or certified, and addressed to the party to be notified, with return-receipt requested, or by delivering the same in person to an officer or principal of such party. Notices deposited in the mail in the manner hereinabove described shall be effective upon mailing.

c. Governing Law. This Covenant shall be governed by the laws of the State of Washington and, where applicable, the laws of the United States of America.

[signature pages follow]



