

**PREDEVELOPMENT AGREEMENT FOR WILBURTON
TOD SITE IN BELLEVUE, WASHINGTON**

THIS PREDEVELOPMENT AGREEMENT (“Agreement”) is entered into as of the date of the last signature below by the **CITY OF BELLEVUE**, a Washington municipal corporation (“City”) and **BELLWETHER HOUSING**, a Washington nonprofit corporation (“Bellwether”), for the purpose of developing, constructing, and operating an affordable housing project on property commonly known as the Wilburton Transit-Oriented Development (“TOD”) site located at 12000 Bel-Red Road in the City of Bellevue, Washington.

RECITALS

A. The need for affordable housing in Bellevue is critical to supporting the City’s growth, economic diversity, and community well-being. The City is committed to addressing this essential issue and providing housing that is affordable to all income levels, including lower-income individuals and families.

B. The City is the owner of approximately 22,310 square feet of land located at 12000 Bel-Red Road, Bellevue, Washington (“Property”), commonly known as the Wilburton TOD site and legally described on Exhibit A attached to this Agreement and incorporated herein by this reference as if set forth in full. The Property was originally acquired by the City for street improvements, and a portion of the Property has been designated for redevelopment as part of the Wilburton TOD District.

C. The Property has been identified as a suitable location for a new affordable housing project near public transit that will spur further walkable development in the Wilburton TOD District.

D. On February 14, 2025, the City published a request for proposals for development of the Property with a mixed-use development consisting of at least 100 affordable housing units contained in an equitable, cost-efficient, and high-quality building that includes creative design elements such as public gathering spaces and ground floor activation through commercial retail uses.

E. On June 2, 2025, the City received ten proposals from potential development partners. Based on its review of the proposals, the City ultimately selected Bellwether for its strong alignment with the City’s affordable housing and sustainability goals and the potential of its proposal to provide up to 127 affordable units and community facility space. Bellwether has served the Puget Sound region for 40 years as a nonprofit affordable housing developer and has broad knowledge and experience in financing, constructing, and operating affordable housing projects.

F. The City and Bellwether executed a nonbinding term sheet on February 2, 2026, setting forth the parties’ expectations concerning the financing, development, construction, and operation of the affordable housing project on the Property and providing a framework for further binding agreements, including this Agreement and a long-term ground lease of the Property (“Ground Lease”).

G. The City and Bellwether now desire to set forth their binding agreements for the development and operation of an affordable housing project on the Property.

AGREEMENT

NOW, THEREFORE, for and in consideration of the mutual promises, terms, and conditions set forth below, and other consideration the receipt and sufficiency of which are mutually acknowledged, including without limitation the public interest, the City and Bellwether agree as follows:

1. Purpose and Intent. The purpose of this Agreement is to set forth the obligations of the City and Bellwether during the design of the affordable housing project (“Project”) defined herein and the process which Bellwether will undertake to finance development of the Project. Once financing for the Project is secured, the City and Bellwether intend to enter into the Ground Lease, which will thereupon supersede this Agreement and control the obligations of the City and Bellwether regarding the construction and operation of the Project. The City will at all times retain fee ownership of the Property.

2. Term of Agreement. This Agreement shall become effective upon the date of the last signature below. This Agreement shall automatically terminate and expire at the close of business on March 31, 2028, unless the Ground Lease referred to in Section 6 below is mutually executed on or before that date and this Agreement is superseded thereby, or unless the parties mutually agree to an extension hereof. The City will not unreasonably withhold its consent to a reasonable extension of the foregoing deadline if Bellwether is making diligent efforts to secure necessary permits, entitlements and financing for the Project. This Agreement may also be terminated as provided in Section 17 below.

3. Project. Subject to the terms and conditions of this Agreement, Bellwether agrees to design, develop, construct, own, and operate the Project on the Property. The Project shall be generally consistent with the proposal (“Proposal”) submitted by Bellwether on June 2, 2025, in response to the City’s request for proposals and shall contain the following elements:

A. **Residential Units – Affordability.** The Project shall contain a minimum of 100 multifamily dwelling units with a target of approximately 127 units. All dwelling units will be offered for lease to individuals and households whose annual income (adjusted for household size) at the time of initial occupancy is at or below eighty percent (80%) of the King County area median income (“AMI”). Individuals and households will be subject to an income certification and/or recertification as provided in the Covenant (defined below).

B. **Unit Mix.** The target unit mix will include one-bedroom, two-bedroom, and three-bedroom apartments, with affordability levels set at 30%, 50%, 60%, and 80% of AMI, generally consistent with the Proposal and further detailed on Exhibit F attached hereto and incorporated herein by this reference as if set forth in full. A certain number of units will be set aside for families at risk of or exiting homelessness, as defined by the Washington State Housing Finance Commission (“WSHFC”).

C. **Nonresidential Space.** A ground floor community facility space of approximately 2,000 square feet is intended to be provided, subject to funder requirements, design constraints, permitting requirements, and site planning outcomes. This space is intended to be for uses that serve residents and the surrounding neighborhood, such as offices for nonprofits, culturally relevant services, or other community-supportive programming. Participation by community-based organizations (“CBOs”) is a key component of this effort. Bellwether will conduct community outreach during the design phase to help inform the final use of the community facility space. Bellwether has identified WheelLab, a Washington nonprofit corporation, as its initial CBO partner. If WheelLab is unable to participate, Bellwether will identify alternative CBOs that can occupy the space and contribute to the vitality and inclusiveness of the Project and notify the City of Bellwether’s proposed replacement CBO. The replacement CBO shall be subject to the City’s approval, which shall not be unreasonably withheld, conditioned, or denied. Bellwether may subject the community facility space to a leasehold condominium as provided in the Ground Lease, if

needed for financing and operational purposes and subject to the City 's approval, which will not be unreasonably withheld.

D. Parking and Site Amenities. Parking and other site amenities will be provided as required by the applicable standards set forth in the City of Bellevue Land Use Code ("LUC"), including without limitation the Wilburton Overlay District regulations, and as otherwise provided in this Agreement or the Ground Lease.

E. Final Approval of Project Elements. The final number and configuration of units and the income levels served are subject to funder requirements, design constraints, permitting requirements, and site planning outcomes. The number of units may not be reduced below 100, the number of 2 and 3 bedroom units may not be reduced below 25% of the overall project unit mix, and the average AMI of all units may not increase over 10 percentage points without the approval of the City Council. Average AMI means the project-wide, unit-weighted average of Area Median Income (AMI) percentages assigned to residential units, calculated by multiplying each unit's AMI designation by the number of units at that designation, summing these amounts, and dividing by the total number of residential units. A change in project sponsor will require the approval of the City Council. All other changes shall be subject to approval at the discretion of the City Manager or designee.

4. Design. Bellwether shall, at Bellwether's sole cost and expense, design the Project with the elements described in Section 3. The design shall comply with the following:

A. Design to Meet Codes and Proposal. The Project shall be designed to be generally consistent with the Proposal and to meet all applicable requirements of the LUC, including without limitation the Wilburton Overlay District, except where deviations, departures, and/or variances are applied for and approved according to applicable City land use processes.

B. Qualified Professionals. Bellwether will use qualified professionals to complete the design, including qualified architects and engineers licensed by and registered with the State of Washington to perform the necessary design services.

C. Sustainability. The Project will be designed and constructed to meet or exceed the Evergreen Sustainable Development Standard.

D. Vehicle Parking. The Project will be designed with parking that meets all applicable requirements of the LUC, including without limitation the Wilburton Overlay District regulations. Bellwether will pursue reductions in parking requirements consistent with affordable housing incentives in the Wilburton Overlay District. The City, as the owner of the Property, agrees to reasonably support Bellwether's efforts to secure the maximum feasible parking reduction in order to optimize site utilization and maximize the number of affordable units. However, Bellwether understands that the final approval of parking reductions will be made by the City exercising its regulatory authority and not its authority as owner of the Property. Electric vehicle charging stations will be provided in accordance with City code.

E. Bicycle Parking. Secure bicycle storage for residents will be provided for in the design, either in a centralized location or within individual units. In addition, a secure bicycle storage area will be provided for staff associated with the ground floor community facility space. Short-term bike racks will be installed near primary building entries and around the site perimeter to serve visitors and the broader neighborhood. All bicycle parking will be provided as required by the applicable standards set forth in the City of Bellevue Land Use Code ("LUC"), including without limitation the Wilburton Overlay District regulations.

F. Transit Wayfinding. Bellwether will coordinate with the City to incorporate wayfinding signage into the design consistent with City design standards to enhance pedestrian access to nearby light rail and transit connections.

G. City Review. Bellwether will submit the Project architect's plan sets for review and comment by the City at the 100% Schematic Design, 100% Design Development and Permit Application stages. The City will use reasonably best efforts to respond in writing with comments within ten (10) business days from receipt of the plans. The City's review of the design under this section will be limited to determining whether the design complies with this Agreement and is generally consistent with the Proposal and not whether the design meets all City codes and permitting requirements. The City will use reasonable efforts to support Bellwether in securing affordable housing incentives, including, as applicable, the City's expedited permit review program and reduced permit fees, subject to the City's reserved regulatory authority under Section 19 of this Agreement.

5. **Project Schedule and Milestones**. A Project Schedule is attached to this Agreement as Exhibit B and incorporated herein by this reference as if set forth in full. Bellwether will use commercially reasonable efforts to advance the Project in accordance with the agreed-upon schedule. Bellwether's failure to adhere to the schedule shall be potential grounds for termination of this Agreement, as provided in Section 17 below.

6. **Closing – Parties to Execute Ground Lease and Regulatory Agreement or Covenant**.

A. Ground Lease. Upon satisfaction of all contingencies set forth in this Agreement, the parties will close the transaction detailed herein by executing the Ground Lease under which the City will retain ownership of the Property in fee and Bellwether will develop, construct, own, operate, and maintain the building and site improvements described in Section 3 for the term of the Ground Lease. The Ground Lease will be for a period of ninety-nine (99) years at a total rent of \$99.00 (\$1.00 per year), which shall be paid in full at Closing, as defined below. The form of the Ground Lease is attached to this Agreement as Exhibit C and incorporated herein by this reference as if set forth in full, provided, that the final terms and conditions of the Ground Lease will be subject to review and approval of the funders of the Project and, if changes are required by the funders, the changes will be subject to review and approval by Bellwether and the City Manager or designee, as provided in Section 3, which shall not be unreasonably withheld, conditioned, or delayed. The Ground Lease or a Memorandum of Lease shall be recorded at Bellwether's cost and expense. Upon recording, the Ground Lease shall supersede this Agreement and shall thereafter control the actions of Bellwether and the City regarding development, construction, operation, and maintenance of the Project.

B. Regulatory Agreement or Affordable Housing Covenant. As a condition of the Ground Lease and as partial consideration for Bellwether's use of the Property, Bellwether shall record an Affordable Housing Covenant ("Covenant") or Regulatory Agreement at or prior to execution of the Ground Lease. The Covenant or Regulatory Agreement will be binding on Bellwether and all successors, assigns, lenders, subtenants, and any other party with an interest in the Property or the Project. The City and Bellwether do not intend that any merger of estates will occur as the result of the recording of the Covenant or Regulatory Agreement, regardless of the retained ownership of the City or the leasehold interest of Bellwether. The Covenant or Regulatory Agreement will require Bellwether to develop, operate, and maintain the Property and Project as an affordable housing project generally consistent with the Proposal and in compliance with the City's affordable housing regulations. The levels of affordability for the Project units shall be agreed to and specified in the Covenant or Regulatory Agreement. The term of the affordability period shall be for 99 years or the longest term required by funding agencies, as agreed by the City and Bellwether. The Affordability Covenant or Regulatory Agreement shall be substantially in the

form attached hereto as Exhibit D and incorporated herein by this reference as if set forth in full, provided, that the final terms and conditions of the Covenant will be subject to review and approval of the funders of the Project and, if changes are required by the funders, the changes will be subject to review and approval by Bellwether and the City Manager or designee, as provided in Section 3, which shall not be unreasonably withheld, conditioned, or delayed.

C. Escrow Agent. Upon execution of this Agreement, the Parties agree to set up an escrow account with First American Title Company (the "Escrow Agent"). The Escrow Agent shall serve as closing agent for the transaction contemplated herein and the Closing shall occur in the offices of Escrow Agent.

D. Closing Date. This transaction shall be closed (the "Closing") by the Escrow Agent within thirty (30) days after satisfaction of all contingencies set forth in this Agreement, but in no event later than March 31, 2028, unless extended by mutual agreement of the City and Bellwether (the "Closing Date"). Neither party need be physically present at the Closing, but Closing may be accomplished remotely by the Escrow Agent. The parties may extend the Closing Date beyond thirty (30) days after satisfaction of contingencies by mutual agreement.

E. Delivery of Documents at Closing. The City and Bellwether agree to provide the Escrow Agent with the following documents at Closing: (1) the fully executed Ground Lease; (2) the fully executed Memorandum of Lease; (3) the fully executed Covenant or Regulatory Agreement; (4) signed escrow instructions from each party; and (5) any other documents required by the Escrow Agent.

F. Closing Costs. Bellwether will pay all closing costs in connection with the Closing, including, without limitation, the costs for recording the Ground Lease or a Memorandum of Lease (if applicable), the Covenant, title insurance (standard and extended ALTA coverage for the leasehold interest), and any associated escrow fees, costs, and expenses.

7. Bellwether's Due Diligence Contingency.

A. Feasibility Contingency. Bellwether shall satisfy itself, through investigation and inspection as provided in this Section, that the condition, suitability, and environmental status of the Property meets Bellwether's approval, and Bellwether's obligations to close as provided in this Agreement are contingent on such satisfaction ("Feasibility Contingency"). Bellwether shall have one hundred twenty (120) days following execution of the Right-of-Entry referred to below ("Due Diligence Period") to make such investigations and inspections of the Property as Bellwether deems necessary to satisfy the Feasibility Contingency. If Bellwether approves of the condition, suitability, and environmental condition of the Property prior to the end of the Due Diligence Period, Bellwether shall notify the City in writing of Bellwether's approval, thereby waiving and removing the Feasibility Contingency. If Bellwether notifies the City in writing prior to the end of the Due Diligence Period that the condition, suitability, or environmental condition of the Property is not reasonably acceptable to Bellwether, this Agreement shall terminate and the City and Bellwether shall thereafter be relieved of any obligation to close or otherwise perform under this Agreement. If Bellwether fails to notify the City prior to the end of the Due Diligence Period of Bellwether's satisfaction and waiver or disapproval, Bellwether shall be deemed to have approved the condition, suitability, and environmental status of the Property and to have waived the Feasibility Contingency.

B. No Representations. Bellwether acknowledges that the City has made no representations regarding the condition, suitability, or environmental status of the Property, and that

Bellwether is relying solely on its own due diligence as provided in this Section to determine such condition, suitability, and environmental status.

C. Right-of-Entry. The City shall permit Bellwether and its agents, employees, contractors, and consultants reasonable access to the Property to conduct inspections, assessments, and studies, including but not limited to, environmental, geotechnical, engineering, surveying, and other investigations that Bellwether deems necessary. Such access will be subject to the prior approval of the City Manager or designee, which shall be granted through the execution of a Right-of-Entry Agreement in the form attached hereto as Exhibit E and incorporated herein by this reference as if set forth in full. The City shall have the right, but not the obligation, to accompany Bellwether's agents, employees, contractors, and consultants during any access onto the Property, and Bellwether shall provide the City with forty-eight (48) hours' notice before accessing the site to allow for such accompaniment. Any invasive testing shall be subject to the City's approval, which shall not be unreasonably withheld, conditioned, or delayed. Bellwether shall use commercially reasonable efforts to avoid physical alteration of the Property and shall restore the Property to its original condition or better at Bellwether's sole cost and expense. Bellwether shall provide the City with copies of all reports, test results, and other materials produced by Bellwether's agents, employees, contractors, and consultants pursuant to this Section for informational purposes only and without any warranty.

D. Insurance and Indemnity. Bellwether shall ensure that Bellwether, and the agents, employees, contractors, and consultants of Bellwether who enter upon the Property, shall maintain commercial general liability insurance with an insurer reasonably acceptable to the City, naming the City as an additional insured, with a combined single limit of not less than \$2,000,000 and, prior to any such entry upon the Property, shall upon request provide the City with written evidence of such insurance. Bellwether shall indemnify, defend, save and hold the City, its officers, and employees harmless from any and all damage, expenses, liens or claims (including reasonable attorneys' fees and costs) arising from Bellwether's entry or the entry of any of its agents, employees, contractors, and consultants upon the Property prior to the Closing, provided that the foregoing indemnity shall not extend to the mere discovery of pre-existing conditions on the Property. The provisions of this Section shall survive the Closing without time limitation.

E. Due Diligence Documents. Bellwether acknowledges that the City posted a 2024 site appraisal, a 2012 Phase I Environmental Site Assessment, and a 2013 Phase II Environmental Site Assessment for the Property on the City's website concurrently with the February 14, 2025, request for proposals, and that Bellwether has had an ample opportunity to access and review said materials. The City shall provide Bellwether with access to any other documents regarding the Property in the City's possession upon reasonable request. Provided, the City makes no representations or warranties as to the accuracy of the appraisal, the Environmental Site Assessments, or any other documents provided, and Bellwether shall have no rights or cause of action against the City in the event of any inaccuracy.

F. Costs. All actions of Bellwether in conducting its due diligence under this Section shall be at Bellwether's sole cost and expense.

G. Property Accepted "As Is, Where Is". Upon satisfaction or waiver of Bellwether's Due Diligence Contingency, Bellwether agrees that by entering into the Ground Lease Bellwether will accept the Property "as is, where is", with all faults and defects and that Bellwether assumes all risk that adverse physical conditions may not have been revealed by its investigation. The terms of Bellwether's acceptance are further detailed in the Ground Lease.

8. Bellwether's Title Contingency.

A. Condition of Title at Closing. The City agrees that at closing title to the Property shall be free and clear of all monetary liens except for non-delinquent real estate taxes and any title exceptions approved by Bellwether as provided in this Section. Bellwether's obligation to close and enter into the Ground Lease is contingent upon the City providing clear title as provided in this Section.

B. Title Report. The City agrees to order an updated title report on the Property from First American Title Insurance Company (the "Title Company") showing all exceptions to the City's fee simple interest and including copies of all recorded documents referenced in the Title Report (collectively, the "Title Report"). The City will provide a copy of the Title Report to Bellwether or will cause the Title Company to do so.

C. Review of Title Report. Bellwether shall have a period of sixty (60) days after the effective date of this Agreement to review the Title Report and to notify the City in writing of any objections Bellwether may have to any matters shown or referred to in the Title Report. The City shall notify Bellwether in writing within fifteen (15) days of receipt of Bellwether's objections as to which objections that the City will not remove as of the Closing Date. Bellwether may, at its option by written notice within five (5) business days after the City's notice, (i) accept title subject to the objections that the City will not remove, in which event the Bellwether's title contingency shall be deemed to be waived for all purposes, or (ii) terminate this Agreement. Any exceptions or other items that are set forth in the Title Report and to which Bellwether does not object within the sixty (60) day review period shall be deemed to have been approved by Bellwether.

D. Legal Lot Status. As of the date of this Agreement, the City and Bellwether do not believe that a boundary line or subdivision will be required for execution of the Ground Lease and construction of the Project. Notwithstanding the foregoing, however, the City will request its Development Services Department to provide written confirmation that the Property is a legal parcel prior to entering into the Ground Lease and Bellwether's obligation to close is contingent upon such confirmation and upon confirmation from the Title Company that the Property is an insurable legal parcel.

9. Financing Plan and Contingency.

A. Required Submittals. Prior to closing and execution of the Ground Lease, Bellwether will submit a financing plan ("Financing Plan") consisting of the following elements to the City for review and reasonable approval by the City Manager or designee, which shall not be unreasonably withheld, conditioned or delayed:

1. A complete development budget for the Project, including proposed sources and uses of funds, detailed hard and soft costs, and appropriate contingencies. Bellwether will update the budget upon receipt of final construction contract pricing based on firm bids.

2. Copies of commitment letters, term sheets, or award notifications for all external funding sources identified in the development budget, including public, private, and philanthropic sources.

3. Evidence reasonably acceptable to the City that Bellwether has secured or will secure sufficient funds to cover any gaps between total Project costs and confirmed external financing.

B. Changes. Any material changes to the Financing Plan after City approval and prior to execution of the Ground Lease shall be submitted to the City for review and approval by the City Manager or designee, which shall not be unreasonably withheld, conditioned, or delayed.

C. City Responses. The City will use its best efforts to respond in writing with comments or approval within ten (10) business days of receiving the complete Financing Plan. If execution of the Ground Lease is scheduled within fourteen (14) days of submittal of the Financing Plan, the City will use its best efforts to respond with comments or approval within five (5) business days. The City shall review the plan solely to conform financial feasibility and alignment with the intended Project scope.

D. Closing Contingent. Closing is expressly conditioned upon the approval of the Financing Plan by the City and on Bellwether securing adequate financing to develop and construct the Project. Bellwether shall make its best reasonable efforts to obtain the financing specified in the Financing Plan.

10. Permits. Bellwether will, at its own expense, apply for and secure all necessary permits and approvals for construction of the Project from the City and any other regulatory agency responsible for permit issuance. All such permits and approvals shall be secured prior to Closing. If Bellwether is unable, through the exercise of reasonable diligence and the submittal of code-compliant applications, to timely obtain the necessary permits to develop and construct the Project or if permit approvals are unreasonably delayed, uncoordinated, conditioned, or delayed, Bellwether may terminate this Agreement and shall have no further obligation to close this transaction.

11. Right-of-Way Dedication. Bellwether will coordinate with the City during the permitting process to identify and implement any required street improvements or dedications of right-of-way to support the Project or comply with applicable City infrastructure standards. Any required dedication(s) will be documented and recorded prior to or concurrently with execution of the Ground Lease, subject to mutual agreement between the City and Bellwether. Any street improvements necessary to serve the Project shall be a Project cost to be paid by Bellwether as the developer of the Project.

12. City Easements. As part of the permitting process, Bellwether will coordinate with the City to identify and accommodate any necessary easements related to public utilities, access, drainage, and infrastructure improvements. Bellwether acknowledges that final site design and development approvals may require the dedication or reservation of certain easement areas to serve public functions or ensure conformance with the Wilburton Overlay District standards. Any such easements will be documented and recorded prior to or concurrently with the execution of the Ground Lease, subject to mutual agreement between the City and Bellwether.

13. Conditions to Closing. The obligations of the City and Bellwether to close this transaction and enter into the Ground Lease are subject to the following conditions precedent:

A. Bellwether's Due Diligence Contingency. As provided in Section 7, Bellwether's Due Diligence Contingency must be satisfied or waived.

B. Bellwether's Title Contingency. As provided in Section 8, Bellwether's Title Contingency must be satisfied or waived.

C. Title Commitment. First American Title Company must be committed to issue an owner's standard policy of title insurance insuring the leasehold interest of Bellwether against all liens and encumbrances except those approved by Bellwether and the City.

D. Financing Plan. As provided in Section 9, Bellwether must have submitted and the City must have approved a project financing plan demonstrating commitments for sufficient funding to complete development of the Project, including equity, debt, and public subsidies as applicable.

E. **Permits.** As provided in Section 10, Bellwether must have secured all necessary permits and approvals required to commence construction of the Project.

F. **Affordability Levels.** Bellwether and the City must have agreed on the Project's affordability levels, income targeting, and unit mix, which must remain generally consistent with the Proposal, including a minimum of 100 affordable housing units (targeting 127 units), serving households at 30%, 50%, 60%, and 80% of King County AMI. The final number and configuration of affordable units and AMIs served is subject to funder requirements, design constraints, permitting, and site planning outcomes and will be specified in the Ground Lease and the Affordable Housing Covenant or Regulatory Agreement. A certain number of units will be set aside for families at risk of or exiting homelessness, as defined by the WSHFC.

14. No Brokerage Fees. Bellwether and the City agree that they have not employed real estate brokers in connection with this transaction and that no brokerage fees will become due and payable as the result of this transaction.

15. Publicity – Inclusion as Project Funder. Bellwether will include the City as a project funder when and where other project funders area listed. Each party shall be given the opportunity to review press releases or other announcements disseminated by the other party about the Project.

16. Public Disclosure. Bellwether acknowledges that the City is a public agency subject to the Washington Public Records Act, Chapter 42.56 RCW, and may be required to disclose certain records or elements of this transaction, including without limitation, the Term Sheet executed by the parties, this Agreement, the Ground Lease, and any other documents referred to in this Agreement, provided by Bellwether in connection with this Agreement, or generated by the City as part of its internal review and approval processes, including any actions taken by the Bellevue City Council and other governing bodies.

17. Termination. In addition to the termination rights provided elsewhere in this Agreement, the parties may terminate this Agreement as follows:

A. **Termination by Mutual Consent.** The City and Bellwether may, in their mutual discretion, terminate this Agreement by voluntary consent. Any such mutual termination shall be effectuated through a writing signed by both parties.

B. **Termination for Breach.** Either party may terminate this Agreement for a material breach by the other party. Such termination shall become effective ninety (90) days after the non-breaching party gives written notice to the breaching party of the non-breaching party's intent to terminate; provided, that this Agreement shall not terminate if the breaching party cures the breach within the ninety (90) day period or, if the breach cannot reasonably be completely cured within the ninety (90), if the breaching party commences cure of the breach within that period and diligently pursues cure of the breach to completion.

C. **Termination for Impossibility of Performance.** If this Agreement or any material term hereof becomes impossible to perform for the foreseeable future due to any force majeure condition described in Section 25, either party may terminate this Agreement by providing ninety (90) days' written notice of such impossibility to the other party.

18. Assignment. The City acknowledges that Bellwether intends to form a limited liability limited partnership ("LLLP") to be initially owned and controlled by Bellwether, and to assign its rights and obligations under this Agreement and the Ground Lease, Covenant, and Regulatory Agreement to the LLLP. The City hereby approves such assignment in advance. Any other assignment shall be subject to the City's prior written consent, which shall not be unreasonably withheld, conditioned, or delayed.

19. Reservation of Regulatory Authority. It is expressly understood and acknowledged by the City and Bellwether that the City is entering into this Agreement and the Ground Lease in its capacity as the owner of the Property. Nothing in this Agreement or in the Ground Lease, Covenant, or Regulatory Agreement shall be construed as a waiver, abridgement, or limitation of the City's regulatory authority and police power, or the Bellevue City Council's legislative discretion, which are reserved in full. Without limitation of the foregoing, nothing herein or in the Ground Lease, Covenant, or Regulatory Agreement shall be construed as entitling Bellwether to the issuance of any permit, license, or other regulatory approval, or as excusing Bellwether's compliance with any applicable regulatory process and/or condition of regulatory approval.

20. Liens. Bellwether agrees not to permit any liens to attach to the Property during the term of this Agreement and agrees to indemnify and hold the City harmless from any such liens.

21. Remedies. All remedies and rights accorded herein, or otherwise available to the City or Bellwether shall be cumulative, and no one such remedy or right shall be exclusive of any other, and the pursuit of any such remedy or rights shall not be deemed to waive any other or different remedy or relief to which the City or Bellwether might otherwise be entitled, either at law or in equity.

22. Notices. Any notice required to be given under this Agreement to either of the parties hereto shall be in writing and shall be delivered personally or send by United States Mail certified mail, return receipt requested, postage prepaid, addressed as follows:

City:
City of Bellevue
Office of Housing
450 110th Ave. NE
Bellevue, WA 98004
Attn: Director

Bellwether:
Bellwether Housing
433 Minor Ave. N
Seattle, WA 98109
Attn: CEO

With a copy to:
City of Bellevue
City Attorney's Office
450 110th Ave. NE
Bellevue, WA 98004
Attn: City Attorney

or to such addresses as the parties may hereafter designate in writing. Notices and/or demands shall be sent by registered or certified mail, postage prepaid, or hand delivered. Such notices shall be deemed effective when mailed or hand-delivered at the addresses specified above.

23. Entire Agreement - Amendment. The Agreement, together with attachments or addenda thereto, represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended, modified, or added to only by written instrument properly signed by both parties.

24. Compliance with Laws. Bellwether and the City shall comply with all applicable state, federal, and local laws and ordinances in the use of the Property or the development, construction, operation, and maintenance of the Project.

25. **Force Majeure.** In no event shall the City or Bellwether be deemed to be in default or to have breached this Agreement by reason of any failure or delay in performing its obligations, if and to the extent such failure or delay is caused by any circumstances beyond the City's or Bellwether's reasonable control, including but not limited to acts of God, flood, fire, earthquake, pandemics, public health emergencies, explosion, war, terrorism, invasion, riot or other civil unrest, strikes, labor stoppages or slowdowns or other industrial disturbances, or passage of law or any action taken by a governmental or public authority, including imposing an embargo.

26. **Severability.**

A. If a court of competent jurisdiction holds any part, term, or provision of this Agreement to be illegal or invalid, in whole or in part, the validity of the remaining provisions shall not be affected, and the parties' rights and obligations shall be construed and enforced as if the Agreement did not contain the particular provision held to be invalid.

B. If any provision of this Agreement is in direct conflict with any statutory provision of the State of Washington, that provision which may conflict shall be deemed inoperative and null and void insofar as it may conflict and shall be deemed modified to conform to such statutory provision.

27. **Fair Meaning.** The terms of this Agreement shall be given their fair meaning and shall not be construed in favor of or against either party hereto because of authorship. This Agreement shall be deemed to have been drafted by both of the parties.

28. **Non-Waiver.** A waiver by either party hereto of a breach by the other party hereto of any covenant or condition of this Agreement shall not impair the right of the party not in default to avail itself of any subsequent breach thereof. Leniency, delay, or failure of either party to insist upon strict performance of any agreement, covenant, or condition of this Agreement, or to exercise any right herein given in any one or more instances, shall not be construed as a waiver or relinquishment of any such agreement, covenant, condition, or right.

29. **Non-Discrimination.** Bellwether, for itself and its successors and assigns, agrees that it will not discriminate against any employee, applicant for employment, contractor, tenant, or other person because of age, sex, marital status, sexual orientation, race, creed, color, national origin, citizenship or immigration status, honorably discharged veteran or military status, or the presence of any sensory, mental, or physical disability or the use of a trained dog guide or service animal by a person with a disability.

30. **Survival.** Any provision of this Agreement which imposes an obligation after termination or expiration of this Agreement, including but not limited to, the indemnification provisions, shall survive the term or expiration of this Agreement and shall be binding on the parties.

31. **Attorney's Fees.** In the event that any suit or action is instituted by either of the parties hereto against the other to enforce compliance with any of the terms, covenants or conditions of the Agreement, or to recover damages for the breach of the Agreement, the prevailing party in any such suit or action shall, in addition to costs and disbursements provided statute, be entitled to recover such sums from the non-prevailing party as any court of competent jurisdiction may adjudge reasonable as attorneys' fees in such suit or action, including reasonable attorneys' fees related to any appeal from any judgment rendered therein.

32. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington.

33. **Venue.** The venue for any action to enforce or interpret this Agreement shall lie in the Superior Court of Washington for King County, Washington.

34. **Authority.** Both parties represent and warrant that they have the full legal authority to enter into this Agreement and that the representatives of each party signing below are legally authorized to sign and to bind their respective parties.

35. **Recording.** This Agreement shall not be recorded.

36. **Attachments Incorporated.** The following attachments, as they now exist or may be hereafter modified by mutual agreement, are incorporated into this Agreement by reference:

- | | |
|-----------|--------------------------------------|
| EXHIBIT A | LEGAL DESCRIPTION OF LAND |
| EXHIBIT B | PROJECT SCHEDULE |
| EXHIBIT C | GROUND LEASE |
| EXHIBIT D | AFFORDABILITY COVENANT |
| EXHIBIT E | RIGHT OF ENTRY |
| EXHIBIT F | UNIT MIX AND LEVELS OF AFFORDABILITY |

EXECUTED by the parties and effective as of the last date of signature set forth below.

BELLWETHER HOUSING

CITY OF BELLEVUE

Date: _____

Date: _____

By: _____
Susan Boyd, Chief Executive Officer

By: _____
John Resha, Director of Finance
and Asset Management

Approved as to form: _____
Monica Buck, Assistant City Attorney