

APPENDIX D

EXAMPLE OF PUBLIC ACCESS EASEMENT AGREEMENT



DEDICATION OF PUBLIC ACCESS EASEMENT AREA ON PRIVATELY OWNED SHORELINE

The undersigned persons, hereinafter referred to as "dedicator" and being all of the owners of the real property hereinafter described, do hereby make in perpetuity for the use of the general public, in a manner consistent herewith, the following easement dedication:

1. AREA TO BE DEDICATED

The area hereby dedicated is described in Exhibit A attached hereto and made a part hereof as though fully set forth herein.

2. PURPOSE OF DEDICATION

The real property herein described is dedicated to the City of Kirkland on behalf of the general public in order to allow pedestrian access and entry onto the dedicated area by the general public and all members thereof for the peaceful enjoyment of the dedicated area and the waters of Lake Washington adjoining. Dedicator reserves all rights and uses in and to the public access area which are not repugnant to the uses herein granted.

3. LIMITATION ON DEDICATION

The rights of the general public and all members thereof, granted herein, are subject to the following limitations:

- (a) Access to the dedicated area by land vehicle or watercraft is specifically excluded from this dedication. Access by land vehicle or watercraft shall be upon specific invitation of the dedicator only.
- (b) The entire dedicated area may be closed to public access by the dedicator each day from dusk to 10 a.m., of the following day.
- (c) All or any portion of the dedicated area may be temporarily closed to the public from time to time for the purpose of repairs and maintenance.
- (d) Pursuant to RCW 4.24.210, neither the dedicator, nor the City of Kirkland, nor the State of Washington, nor the officers, agents, employees of said City and State shall be responsible or held liable for injury or damage occurring to members of the general public availing themselves of the dedicated area, unless the injury or damage results from an immediate, direct, and negligent act of the party sought to be held, and in no event shall the dedicator, the City of Kirkland, or the State of Washington be responsible for any act or omission of a third party, or be responsible for the failure to provide security, supervision, or guards for members of the general public or to provide protection for the general public for acts or omissions of other members of the general public.
- (e) The dedicator shall have the sole and separate responsibility of maintaining any portion of the dedicated area to which the general public shall have access and shall defend and save harmless the City of Kirkland and the State of Washington, including their officers, agents, and employees from any claims real or imaginary asserted by any person for injury or damages resulting from improper maintenance of said dedicated area. The standard of

maintenance shall be equal to the standards of maintenance practiced by the City of Kirkland in regard to its waterfront parks. This covenant of maintenance and to defend and save harmless the City of Kirkland and the State of Washington shall run with the land. Copies of all conveyances by dedicator and its subsequent grantees conveying individual apartment units to apartment owners and/or interests therein to any association of apartment or condominium owners shall be recorded with the King County Department of Records and Elections and shall be filed with the City of Kirkland. The word, apartment, as used herein includes the word, "condominium."

- (f) Nothing in this dedication shall operate or be held to relieve the dedicator from the continuing requirements and conditions imposed by the permits issued to the dedicator under City of Kirkland File(s) No. _____.
- (g) Dedicator shall install and maintain, at such locations within or adjoining the dedicated property as may be designated by the City of Kirkland, "public access" signs meeting the standards for such signs established and adopted by the City of Kirkland. No other signs referring to public access or to the dedicated property shall be installed without prior written approval of the City of Kirkland.

4. AUTHORITY OF DEDICATOR

Dedicator warrants to the City of Kirkland that dedicator's ownership interest in the real property described herein includes the full power to enter into agreement and/or covenants which will run with the land and bind all owners of said property, their heirs, successors, and assigns.

5. DEFINITIONS

As used herein:

- (a) The word, "dedicator," shall include the heirs, successors, and assigns thereof;
- (b) The words, "land vehicle," shall include motor vehicles, bicycles, skateboards, and other vehicles designed to operate upon land whether self-propelled or not; provided that "land vehicle" shall not include a wheelchair or similar device whether or not self-propelled when used by individuals with disabilities.

6. RECORDING

This dedication document shall be recorded in the Department of Records and Elections for King County and shall further be included by inclusion or reference in any condominium documents that may hereafter be required to be recorded.

DATED this _____ day of _____, _____.

(Sign in blue ink)

(Individuals Only)

OWNER(S) OF REAL PROPERTY (INCLUDING SPOUSE)

(Individuals Only)

STATE OF WASHINGTON)

) SS.

County of King)

On this ____ day of _____, _____, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, _____ personally appeared _____ and

_____ to me known to be the individual(s) described herein and who executed the Dedication of Public Access Easement Area on Privately Owned Shoreline and acknowledged that _____ signed the same as _____ free and voluntary act and deed, for the uses and purposes therein mentioned.

WITNESS my hand and official seal hereto affixed the day and year first above written.

Notary's Signature

Print Notary's Name

Notary Public in and for the State of Washington, Residing at:

My commission expires: _____

(Corporations Only)

OWNER(S) OF REAL PROPERTY

(Name of Corporation)

By President

By Secretary

(Corporations Only)

STATE OF WASHINGTON)

) SS.

County of King)

On this ____ day of _____, _____, before me, the undersigned, a Notary Public in and for the State of Washington, duly commissioned and sworn, _____ personally appeared

_____ and _____ to me known to be the representative of _____ corporation that executed the

Dedication of Public Access Easement Area on Privately Owned Shoreline and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein set forth, and on oath stated that they were authorized to sign said instrument and that the seal affixed is the corporate seal of said corporation.

WITNESS my hand and official seal hereto affixed the day and year first above written.

Notary's Signature

Print Notary's Name

Notary Public in and for the State of Washington, Residing at: _____

My commission expires: _____

The foregoing Agreement is accepted by the City of Kirkland this ____ day of _____, _____.

CITY OF KIRKLAND

BY: _____